

# Local Rules of the 20th Judicial District Circuit, Chancery, Criminal, and Probate Courts Davidson County

Revised: \_\_\_\_\_

## Overview of the 20th Judicial District

The 20th Judicial District has two civil courts, Circuit Court and Chancery Court, and one Criminal Court, although Circuit Court also hears some criminal matters.

The Circuit Court is divided into eight “divisions,” and each division is commonly referred to as a “circuit court.” For example, Circuit Court, Division I, is known as “1st Circuit Court.”

4th Circuit Court is specifically designated to hear domestic relations matters; 3rd Circuit Court also primarily hears domestic relations matters.

7th Circuit Court is specifically designated to hear probate matters.

The Chancery Court is divided into four “parts,” Parts I, II, III, and IV.

The Criminal Court is divided into six “divisions,” Divisions I, II, III, IV, V, and VI.

In these rules, the word “Court,” with an upper case “C,” refers to the Circuit, Chancery, and Criminal Courts. The word “court,” with a lower case “c,” refers to the divisions and parts of the Circuit, Chancery, and Criminal Courts.

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### **GENERAL RULES**

#### **RULE 1 RULES OF COURT: APPLICABILITY, PURPOSE AND DEFINITIONS**

##### **§ 1.01 Adoption of Rules**

These rules replace all previous local rules.

##### **§ 1.02 Applicability**

**(a) General Rules.** Rules 1 – 8 apply to all types of cases in Circuit, Chancery, and Criminal Courts, unless a rule says otherwise. When a rule applies only to a particular type of

case (e.g., civil cases or criminal cases), it applies to all cases of that type regardless of which court is hearing the case.

Each court may have chamber rules that more specifically address matters in these Local Rules, or other requirements. Chamber rules are available on the Clerks' websites or from each trial court.

**(b) Criminal Court Rules.** Rules 9 – 17 apply only to criminal cases, unless a rule says otherwise.

**(c) Civil Court Rules.** Rules 18 – 36 apply only to civil cases, unless a rule says otherwise.

Some civil proceedings, such as administrative appeals, domestic relations cases, adoptions, probate cases, conservatorships, and guardianships have special procedures that control those cases. See Local Rules § 25, 37, 38, and 39. Where these rules are inconsistent with those special procedures, the special procedures control.

### **§ 1.03 Purpose of Rules**

The courts will construe the Local Rules to simplify procedure, administer cases fairly, and eliminate unnecessary expense and delay. Judges and Chancellors may suspend or vary a local rule where justice requires.

### **§ 1.04 Definitions**

The following definitions apply to terms used in these rules:

- (a) Clerk:** The Circuit Court Clerk, the Clerk & Master of the Chancery Court, and the Criminal Court Clerk, as applicable, or their designees
- (b) Calendar Clerk:** The deputy clerk assigned to a particular Chancery court
- (c) In-Court Clerk:** The deputy clerk assigned to a particular Criminal court
- (d) Assignment Clerk:** The deputy clerk who administers the Circuit Court's central assignment system
- (e) Case Coordinator:** The trial court staff member who coordinates judicial settlement conferences
- (f) Tenn. R. Civ. P.:** Tennessee Rules of Civil Procedure
- (g) Tenn. R. Crim. P.:** Tennessee Rules of Criminal Procedure
- (h) Tenn. Code Ann.:** Tennessee Code Annotated
- (i) Tenn. Sup. Ct. R.:** Rules of the Supreme Court of Tennessee
- (j)** References to **"attorney" or "counsel"** include self-represented parties, except in Local Rule § 5.04; and references to **"party" or "parties"** include attorneys or counsel, where appropriate

### **§ 1.05 Citation**

These rules may be cited as "Local Rule § \_\_\_\_."

## **RULE 2 THE PRESIDING JUDGE**

Every other year, the Judges and Chancellors of the 20th Judicial District select a Presiding Judge pursuant to Tenn. Code Ann. § 16-2-509 and Tenn. Sup. Ct. R. 11 to supervise the administration of the Courts.

### **RULE 3 CASE ASSIGNMENT AND DISPOSITION**

#### **§ 3.01 Initial Assignment of All Cases**

The Judges and Chancellors have ordered the methods by which cases are initially assigned to a particular court. The Clerks may not assign a case to a court by any other method.

#### **§ 3.02 All Matters in the Same Division or Part**

Once a case has been assigned to a court, all matters in the case will be heard in that court, except as referred to in Local Rules §§ 27.06 and 27.07 for Circuit Court jury and nonjury cases.

#### **§ 3.03 Interchange of Judges**

A Judge or Chancellor may hear and determine any matter by interchange for another Judge or Chancellor without transferring the case from one court to another.

#### **§ 3.04 Transferring Cases**

The Presiding Judge may transfer a case from one court to another. Judges and Chancellors may agree by order to transfer cases among themselves, except in cases of recusal, without the consent of parties or counsel.

#### **§ 3.05 Motions to Transfer**

A party requesting to transfer a case from one court to another must file a motion to transfer in the court in which the case is assigned. If the motion to transfer is prompted by a pending related case, the newer case should be transferred to the court with the oldest pending related case.

#### **§ 3.06 Consolidating Cases**

Cases must be pending in the same court before they can be consolidated. Cases can only be consolidated on motion, at the Judge's or Chancellor's discretion.

### **RULE 4 COURT SESSIONS**

Regular court sessions begin at 9:00 a.m. central time, or as the court directs. Judges, attorneys, self-represented parties, and anyone participating in hearings should be prompt for all court sessions.

### **RULE 5 CONDUCT OF COUNSEL AND OTHER COURT PARTICIPANTS**

#### **§ 5.01 Counsel of Record; Entry of Appearance**

All counsel who enter an appearance in a case are counsel of record. Counsel may enter an appearance by:

- (a) filing a notice of appearance;
- (b) filing pleadings;
- (c) appearing as counsel on behalf of a party without having filed a notice of limited scope representation or notice of limited appearance (see Tenn. R. Civ. P. 11.01(b));
- (d) appearing as counsel at an arraignment; or
- (e) court appointment.

#### **§ 5.02 Withdrawal of Counsel**

No attorney may withdraw as counsel of record except by leave of court for good cause upon motion after notice to all parties, including the withdrawing attorney's client, and order entered.

To effect efficient arraignment dockets in Criminal Court, any attorney appointed to represent an indigent defendant in Davidson County General Sessions Criminal Court under Davidson County General Session Criminal Court Local Rule of Practice 2 must provide written notice to the Clerk and the defendant immediately upon the conclusion of the General Sessions criminal matter whether or not counsel is willing to accept appointment at arraignment in Criminal Court.

**§ 5.03 [Deleted]**

**§ 5.04 Conduct of Counsel**

**NBA PROFESSIONALISM COMMITTEE  
LAWYER'S CREED OF PROFESSIONALISM**

PREAMBLE

A lawyer owes to the administration of justice personal dignity, integrity and independence and a duty to make the system of justice work fairly and efficiently. In order to carry out that responsibility, a lawyer must comply with the letter and spirit of the disciplinary standards applicable to all lawyers, as well as conducting himself or herself in accordance with the following Creed of Professionalism when dealing with a client, adverse parties, their counsel, the Courts and the general public.

WITH RESPECT TO MY CLIENT:

1. I will advise my client of my adherence to this Creed;
2. I will be loyal and committed to my client's cause, but I will not permit that loyalty and commitment to interfere with my judgment or ability to provide my client with objective and independent advice;
3. I will endeavor to achieve my client's lawful objectives in all matters of representation as expeditiously and economically as possible;
4. In approaching cases, I will counsel my client with respect to mediation, arbitration, and other alternative methods of resolving disputes;
5. I will advise my client against pursuing litigation (or any other course of action) that is without merit and against insisting on tactics which are intended to delay improperly resolution of a matter or to harass or to drain the financial resources of an adverse party;
6. I will advise my client that civility and courtesy are expected and are consistent with zealous representation;
7. While I must abide by my client's decision concerning the objectives of the representation, I nevertheless will counsel my client that a willingness to initiate or engage in settlement discussions is consistent with zealous and effective representation.

WITH RESPECT TO ADVERSE PARTIES AND THEIR COUNSEL:

1. I will conduct myself with candor, in a spirit of cooperation and scrupulously observe all agreements and mutual understandings;
2. I will be courteous and civil, both in oral and in written communications;
3. I will not knowingly make statements of fact or of law that are untrue;
4. I will agree to reasonable requests for extensions of time or for waiver of procedural formalities when the legitimate interests of my client will not be adversely affected;
5. I will endeavor to consult with adverse counsel before making scheduling decisions and before any required rescheduling, and I will cooperate with adverse counsel when scheduling changes are requested;

6. I will not use litigation or any other course of conduct to abuse or harass, such as seeking discovery which is clearly improper, abusive or excessive, or seeking sanctions or disqualification unless it is justified both by my client's lawful objective and by the interests of justice;
7. I will not use tactics which are intended to delay improperly resolution of a matter or to harass or to drain the financial resources of an adverse party;
8. In all matters of legal representation I will conduct myself with dignity, avoid making groundless objections and refrain from engaging in acts of rudeness or disrespect, including making disparaging personal remarks toward adverse parties, counsel and witnesses and making demeaning comments regarding race, religion, national origin or gender;
9. I will not provide drafts of time sensitive documents or serve pleadings, motions or briefs on another party or counsel at such a time or in such a manner as will unfairly limit the other party's opportunity to respond;
10. In business transactions I will not unreasonably quarrel over irrelevant matters of form or style, but will concentrate on matters of substance and content;
11. I will attempt to prepare and revise documents which correctly reflect the agreement of the parties, and will not purposely include provisions which have not been agreed upon or purposely omit provisions which are necessary to reflect the agreement of the parties;
12. I will clearly identify, for other counsel or parties, all changes that I have made in documents submitted to me for review;
13. Where consistent with my client's interest, I will communicate with adverse counsel in an effort to avoid litigation and to resolve litigation that has actually commenced;
14. I will not take action adverse to the interests of a party known to be represented by counsel without notice to adversary counsel sufficient to permit a response;
15. I shall respond promptly to attempts by other lawyers to contact me whether by telephone or by correspondence.

WITH RESPECT TO THE COURTS AND OTHER TRIBUNALS:

1. I will be a vigorous and zealous advocate on behalf of my client, while recognizing, as an officer of the Court, that excessive zeal may be detrimental to my client's interests as well as to the proper functioning of our system of justice;
2. I will treat with respect the Court, members of the jury, witnesses, adverse parties and adverse counsel;
3. I will voluntarily withdraw claims or defenses when it becomes apparent that they do not have merit;
4. I will make every effort to agree with other counsel, as early as possible, on a voluntary exchange of information and on a plan for discovery;
5. I will attempt to resolve, by agreement, my objections to matters contained in my opponent's pleading and discovery requests;
6. When hearings or depositions have to be canceled, I will notify adverse counsel, and, if appropriate, the Court as early as possible;
7. Before setting dates for hearings or trials (or if that is not feasible, immediately thereafter) I will attempt to verify the availability of key participants and witnesses so that I can promptly notify the Court and adverse counsel of any likely problem in that regard;
8. I will be punctual in attending Court hearings and depositions;
9. I will be candid with the Court at all times;

10. I will refrain from commentary that reflects or references race, religion, national origin or gender in a demeaning fashion.

WITH RESPECT TO THE PUBLIC AND TO OUR SYSTEM OF JUSTICE:

1. The law is a learned profession and I am committed to its goals of devotion to public service and improvement of the administration of justice;
2. I will keep myself current in the areas in which I practice and, when necessary, will associate with, or refer my client to counsel knowledgeable in another field of practice;
3. I will be mindful that the law is a self-regulated profession and it is my duty to report unprivileged knowledge of any violation of D.R. 1-102;
4. I will be mindful of the need to protect the interests of the public and promote the image of the justice system in the eyes of the public when considering methods and contents of advertising;
5. I will contribute my talents, time, resources and civic influence on behalf of those persons who cannot afford adequate legal assistance and those organizations which serve the public good;
6. I will give of my talents and time to the organized bar to better the professional education of the bar, assist in efforts to improve the law, aid in efforts to assist colleagues and to promote public understanding of the justice system.

**§ 5.05 Attorney Fee Awards**

Whenever the court is requested to determine an attorney fee award, the attorney must file an affidavit or declaration listing the service providers, the services provided, the time spent, the suggested fee award, and other relevant facts, including those required under Tenn. Sup. Ct. R. 8, RPC § 1.5, applicable case law, and any other information the court requests, to allow the court to determine whether the fees were reasonable and necessary.

**§ 5.06 Ex Parte Communications**

No attorney or party to a pending action may communicate ex parte with the Judge or Chancellor before whom the matter is pending except as allowed under the Rules of Professional Conduct, Tenn. Sup. Ct. R. 8, and the Code of Judicial Conduct, Tenn. Sup. Ct. R. 10, Canon 2, Rule 2.9.

**§ 5.07 No Smoking Policy**

Smoking and vaping is prohibited in all courts and during depositions.

**§ 5.08 Noise Generating Devices**

All cell phones and other noise generating devices must be silenced or turned off in court and during depositions.

**RULE 6 FILING AND SERVING PAPERS**

**§ 6.01 Filing with the Clerk**

All papers must be filed with or submitted to the Clerk.

All 20th Judicial District Courts have adopted electronic filing ("e-filing"). See Tenn. R. Civ. P. 5B; Tenn. R. Crim. P. 49.2. E-filed documents may be electronically served ("e-served"). See Tenn. Sup. Ct. R. 46A(1)(d). Electronic filing Rules govern e-filing practices and procedures in each Court and are available at each Clerk's office and website.

The following documents may not be e-filed, but must be filed or submitted in paper format:

- (a) Submissions for in camera review;

- (b) Original Wills and Codicils;
- (c) Probate Interim, Annual, and Final Settlement Accountings; and
- (d) Subpoenas and certain Summons in Chancery Court.

Papers should not be mailed to or left with the Judge or Chancellor unless the Judge or Chancellor specifically authorizes.

#### **§ 6.02 Certificate of Service**

Other than agreed orders signed by all attorneys or self-represented parties, all papers filed with the Clerk must contain a certificate of service signed by the filer showing the date of service, the specific manner of service, and the names of all persons served.

#### **§ 6.03 Signatures Required; Certifying Court Filings; Generative AI**

- (a) Every pleading, motion, brief, or other paper filed with the court must be personally signed by the attorney or self-represented party filing the paper, and must include the signer's printed name, address, telephone number, and email address, and the attorney's Tennessee Supreme Court Registration Number. Papers may be signed electronically. All papers must show the case style and number and the general nature of the paper filed.
- (b) By filing a signed pleading or paper with the court, an attorney or self-represented party certifies that the claims, defenses, or other legal contentions presented are warranted by existing law; that the factual contentions, or denials of factual contentions, have or are likely to have evidentiary support; and that the filing is not being presented for any improper purpose. See Tenn. R. Civ. P. 11.02.
- (c) Generative artificial intelligence, or "AI," is a tool or program that can create new content in response to a submitted prompt or question by learning from large sets of data (examples include ChatGPT, Grok, Co-Pilot, Gemini, Claude, Harvey, Westlaw Edge, CoCounsel, Lexis+, etc.).  
An attorney or self-represented party must not file with the court any pleading, motion, brief, or other paper prepared using generative AI without first confirming its accuracy, including all quotations, citations, paraphrased assertions, and legal analysis.  
Anyone who signs a pleading, motion, brief, or other paper filed with the court is responsible for the contents of the filing, even if a generative AI program drafted any part of the filing.
- (d) An attorney or self-represented party who violates this Rule may be subject to sanctions.

#### **§ 6.04 Pseudonyms**

A case may not be filed under a pseudonym without a court order allowing it. A motion to proceed by pseudonym must be supported by an affidavit or declaration stating specific facts explaining why the party's anonymity is necessary that are sufficient to overcome the presumption of public access to litigants' identities.

#### **§ 6.05 Class Actions**

In any case sought to be maintained as a class action, the complaint must state next to its caption: "Complaint – Class Action." (See Local Rule § 26.14 for further requirements.) The Clerk will bring the lawsuit to the attention of the Judge or Chancellor assigned to the case.

#### **§ 6.06 Redactions**

When a filing includes information that is confidential by law, the filer should redact or omit the information before filing the document. Tennessee law designates the following items as Confidential Information not open for public inspection:

- (a) Social Security Numbers

- (b) Taxpayer IDs
- (c) Employer and Taxpayer Account Numbers/PINs
- (d) Credit and Debit Card Account Numbers/PINs/Authorization Numbers
- (e) Bank or other Financial Account Numbers
- (f) Passport/Alien Registration Numbers
- (g) Biometric Data
- (h) Electronic Identification Numbers/Routing Codes
- (i) Driver License Numbers
- (j) Vehicle Identification Numbers (VINs)
- (k) Minors' names (use initials only)
- (l) Birth dates (omit month and day, include year only)

#### **§ 6.07 Statistical Sheets for Confidential Personal Information**

When a statute, rule, or order requires a party to file personal information such as a social security number, address, birthdate, etc., the party may provide the information on a separate "Statistical Sheet," or a "Spouse's Personal Information" form in divorce cases. Completed Statistical Sheets and Spouse's Personal Information Forms are filed under seal and not available for public inspection. These forms are available in the Clerks' offices and on their websites.

#### **§ 6.08 Court Files are Public Records**

All papers, documents, electronic documents, and court files are available for public inspection, unless they are specifically exempted from inspection by court order or state law.

### **RULE 7 PAPERS FILED IN TRIAL COURT**

#### **§ 7.01 Custody of Court Files**

The Court Clerks have custody of all Court papers, records, and electronic records. No one may remove original court files without a court order.

The Clerk will provide copies of file contents at a reasonable cost.

After a civil case is final, the Clerk will provide notice to the parties that they have 30 calendar days to retrieve any trial exhibits and discovery materials that were filed in paper format. The Clerk may destroy or dispose of materials left in the Clerk's possession after that time.

#### **§ 7.02 Motions for Leave to File Documents Under Seal**

Motions to file court documents under seal must state specific facts and compelling reasons sufficient to overcome the presumption in favor of public access to court records.

To file a motion to place documents under seal:

- (1) File the motion for leave to file documents under seal with the Clerk's office.
- (2) If the motion is to seal only portions of documents, file copies of the documents at issue with proposed redactions.
- (3) If the motion is to seal an entire document or documents, do not file the documents.
- (4) In either case, place complete unredacted copies of the documents in a sealed envelope, with a cover sheet listing the case style and number, and the filing attorney's name and contact information, marked "For In Camera Review."

- (5) Deliver the envelope to the court's staff in Circuit Court or Calendar Clerk in Chancery Court.
- (6) The Court will hear the motion, review the documents, and enter an order either granting or denying the motion with further instructions.

**§ 7.03 Clerks' Duties: Habeas Corpus and Post-Conviction Petitions**

The Clerk must immediately notify the Judge or Chancellor to whom the case is assigned when a petition for habeas corpus or post-conviction relief is filed, and of any subsequent filings, to ensure compliance with Tenn. Code Ann. § 29-21-108(a) or Tenn. Code Ann. §§ 40-30-105 and -106.

**RULE 8 RECORDING OF COURT PROCEEDINGS**

**§ 8.01 Audio-Visual Recordings of Court Proceedings**

The 6th Circuit Court is the only Court authorized to use audio-visual recordings as the official record of its proceedings. See Tenn. Sup. Ct. R. 26. The Clerk will only file and certify audio-visual records from the 6th Circuit Court as part of the record on appeal.

**§ 8.02 Access to Courtroom Video Servers**

Only Judges, Chancellors, and full-time court staff may access the Courts' video servers without written authorization from the affected Judge or Chancellor.

**CRIMINAL COURT RULES**

**RULE 9 EXTRAORDINARY RELIEF IN CRIMINAL CASES**

**§ 9.01 Unindicted and Unassigned Cases**

All requests for relief in unindicted and unassigned cases awaiting grand jury action must be presented to the Judge where the case will eventually be assigned under the Criminal Court's case assignment procedure.

**§ 9.02 Ex Parte Communications**

Under Tenn. Sup. Ct. R. 10, RJC 2.9(A)(5), Judges of therapeutic courts, mental health courts, and drug courts may engage in ex parte communications concerning the welfare and treatment of individuals with matters in those courts.

If a Judge believes that ex parte communications will influence any of the Judge's rulings, the Judge must immediately enter an order of recusal.

If a defendant feels that his or her right to due process has been affected by any ex parte communications, the defendant may petition the Judge for recusal, and the Judge must grant the petition upon good cause shown.

**RULE 10 DISCOVERY IN CRIMINAL CASES**

**§ 10.01 Discovery by the Defendant**

All relevant issues relating to discovery by the defendant must be addressed in the court's pre-trial scheduling order. See Local Rule § 14.

### **§ 10.02 Discovery by the State**

All relevant issues relating to discovery by the State must be addressed in the court's pre-trial scheduling order. See Local Rule § 14.

### **§ 10.03 Notice of Intent To Use Audio or Video Recording**

Any party who intends to offer an audio or visual recording as evidence in a jury trial must provide written notice to adverse counsel at least 10 business days before trial. Adverse counsel must be permitted to review the recording in the form it will be offered at trial and to copy the recording at his or her expense.

Adverse counsel must promptly advise the offering party of any objections to the recording. The parties must then attempt in good faith to resolve the objections. If they cannot, the objecting counsel must file a motion in limine, set for hearing sufficiently before trial to allow time for the court to rule on the objections and for any necessary editing. This rule does not affect the requirements of Tenn. R. Crim. P. 12(d).

## **RULE 11 SUBPOENAS IN CRIMINAL CASES**

### **§ 11.01 Subpoenas Issued by Clerk**

The Criminal Court Clerk issues all subpoenas for witnesses in criminal cases.

To request the issuance of a subpoena for a witness to appear at a hearing or trial, contact the In-Court Clerk of the court in which the case is pending. See *also* Tenn. R. Crim. P. 17.

### **§ 11.02 Time for Issuing Subpoenas**

Subpoenas for local witnesses must be issued by the Clerk no later than 5 business days before the date of trial unless the court has allowed issuance within a shorter time.

Subpoenas for out-of-county witnesses must be issued by the Clerk no later than 7 business days before the date of trial unless the court has allowed issuance within a shorter time.

The Clerk may not refuse to issue a subpoena, regardless of when it is requested.

### **§ 11.03 Addresses on Subpoenas**

The attorney or party requesting a subpoena must provide the street address and phone number, if known, of the witness on the requested subpoena.

### **§ 11.04 Prison Inmates**

The following rules apply to prison inmates' appearances in court:

- (a)** When an inmate is a defendant in a criminal case, the Clerk must request the inmate's presence from the Department of Correction at least 6 business days before the court date.
- (b)** Counsel who plan to call an inmate as a witness in a criminal case must obtain a court order for the inmate's appearance at least 10 business days before the trial or hearing date.
- (c)** Defense counsel in criminal cases should ensure that inmates are not brought to court for scheduled settlement dockets (see Local Rule § 14.02) unless the inmates' cases are for actual settlement or counsel needs to personally talk to the inmates.

## **RULE 12 MOTIONS IN CRIMINAL CASES**

### **§ 12.01 Time for Filing Pre-Trial Motions**

All pre-trial motions must be made under the Tennessee Rules of Criminal Procedure and the case's pre-trial scheduling order. See Local Rule § 14.01.

### **§ 12.02 Failure to Appear at a Motion Hearing**

If the movant's counsel does not appear at a scheduled motion hearing, the court may strike, deny, or otherwise dispose of the motion.

### **§ 12.03 Motions in Limine**

- (a) Counsel should raise appropriate evidentiary objections by filing a motion at least 5 business days before trial.
- (b) The court will set motions in limine for hearing at its discretion.
- (c) Local Rule § 10.03 governs motions in limine related to audio and visual recordings.

### **§ 12.04 Statement of Facts and Legal Authority**

Every motion and response that asks the court to resolve an issue of law or evidence must be supported by a brief statement of facts and legal authority.

### **§ 12.05 Remote Hearings and Witness Testimony**

Under Tenn. Sup. Ct. R. 55, the court may, in its discretion, upon sufficient factual findings and establishment of constitutional safeguards, conduct hearings remotely by teleconference or videoconference. Any party who requests to be heard remotely must, no later than 30 calendar days before the hearing, (i) contact the court's In-Court Clerk to request a remote hearing and (ii) provide written notice of the request to all parties.

Anyone allowed to testify remotely must treat the testimony as if it is being given in Court. All witnesses must be available when called, be appropriately dressed, have the necessary audio and video technology, and be in an appropriate setting.

## **RULE 13 SETTING TRIALS AND CONTINUANCES IN CRIMINAL CASES**

### **§ 13.01 Setting Criminal Trials**

Courts will set cases for trial on their final settlement dates. See Local Rule § 14.02.

### **§ 13.02 Continuances**

- (a) When a case is set for trial, it may only be continued by leave of court for good cause, which must be brought to the court's attention as soon as practicable before the trial date. Cases may not be continued by agreement.
- (b) A witness's absence is not a ground for a continuance unless the witness has been subpoenaed in accordance with these Rules and Tenn. R. Crim. P. 17.
- (c) If a case is continued, the court will assign a new trial date at the time of the continuance.

### **§ 13.03 Court Reporters**

The Administrative Office of the Courts does not provide court reporters for trials on misdemeanor charges.

## **RULE 14 SETTLEMENTS IN CRIMINAL CASES**

### **§ 14.01 Pre-Trial Scheduling Order**

At arraignment, the court will enter a pre-trial scheduling order setting deadlines for filing pre-trial motions, pre-trial motion hearing dates, and a settlement date.

The Clerk keeps the original scheduling order in its file, but does not copy it on the minutes.

### **§ 14.02 Settlement Date**

At arraignment, the court will set a final settlement date that is the last date by which the court will accept a negotiated disposition. If the case has not been disposed of by the settlement date, the court will set the case for trial.

Once a case is set for trial, the court will not accept a settlement except for good cause, which must be brought to the court's attention as soon as practicable before the trial date. On the day of trial, the case may be resolved only by trial, by the State's motion for dismissal with prejudice, or by the defendant's guilty plea to the offense or offenses charged in the indictment.

The defendant may enter a guilty plea to one or more counts of an indictment while demanding a trial on one or more counts of the same indictment. Likewise, the State may move to dismiss with prejudice one or more counts of the indictment while demanding a trial on one or more counts.

### **§ 14.03 Notice to Victims**

In recognition of the Victims' Bill of Rights, Tenn. Code Ann. § 40-38-101, *et seq.*, in cases involving plea agreements under Tenn. R. Crim. P. 11, the court may refuse to accept the plea unless the prosecuting attorney states on the record that before the plea, he or she communicated with the victim, or made a good faith effort to communicate with the victim, about the plea. This rule applies to pleas in cases where the defendant is indicted for the following offenses:

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

## **RULE 15 ORDERS AND JUDGMENTS IN CRIMINAL CASES**

### **§ 15.01 Orders and Judgments**

Unless the court directs counsel to prepare an order, the Clerk or the court will prepare all orders and judgments.

### **§ 15.02 Orders and Judgments Prepared by Counsel**

When the court directs, counsel will prepare orders for the court's entry. All proposed orders must be filed with the Clerk and served on opposing counsel within 7 calendar days of the court's ruling.

### **§ 15.03 Disagreements over Contents of Orders or Judgments**

Unless the court directs otherwise, the court will not immediately enter an order signed only by counsel who prepared the order. The Clerk will hold the order for 3 business days to allow opposing counsel time to notify the minute clerk that counsel objects to the order's contents. If opposing counsel has objections, the minute clerk will schedule a conference with counsel and the Judge.

### **§ 15.04 Orders for Mental Health Evaluations**

When a court orders a defendant to undergo a mental health evaluation under Tenn. Code Ann. § 33-7-301, the Clerk must provide a form to defendant's counsel, on which counsel must list (i) the reason for the requested evaluation, (ii) observed behavior, (iii) the nature of any changes in defendant's behavior, (iv) defendant's social history (including any prior mental health treatment), (v) defendant's prior criminal record, (vi) a copy of defendant's arrest warrant or indictment and, if available, (vii) the defendant's arrest report. The Clerk must provide the completed form to the individual or agency conducting the mental health evaluation.

## **RULE 16 BONDING COMPANIES**

### **§ 16.01 Qualifications and Operations**

The Criminal Court Judges hear and decide all matters involving qualifications and operations of bonding companies and their agents.

### **§ 16.02 Local Rules of Practice for Bail Bonds**

The local rules of practice for bail bonds are filed with the Criminal Court Clerk, where they are available for inspection and copying, and are available at [www.nashville.gov/trcourts/bond\\_rules.html](http://www.nashville.gov/trcourts/bond_rules.html). See *also* Consent Judgment and Decree entered Dec. 9, 2020, Case No. 3:20-cv-00103, U.S. District Court for the Middle District of Tennessee at Nashville.

## **RULE 17 [Deleted]**

## **CIVIL COURT RULES: CIRCUIT AND CHANCERY COURTS**

## **RULE 18 TIME STANDARDS FOR DISPOSITION OF CASES**

### **§ 18.01 Time Standards**

All civil cases must be concluded or set for trial within 12 months from the date the case was filed unless the court orders otherwise.

### **§ 18.02 Dismissal of Cases**

The court may take reasonable measures, including entering a scheduling order or dismissing a case, to enforce the 12-month time standard.

### **§ 18.03 Docket Calls or Status Conferences**

The court may hold docket calls or status conferences to determine the status of cases and set disposition deadlines.

## **RULE 19 EXTRAORDINARY RELIEF IN CIVIL CASES**

### **§ 19.01 Case Assignments**

Any pleading seeking a writ of certiorari, restraining order, or other extraordinary relief is first filed with the Clerk and assigned to a court. The pleading and exhibits are then presented to the Judge or Chancellor of the assigned court, or to another Judge or Chancellor by interchange if the assigned Judge or Chancellor is unavailable.

### **§ 19.02 Restraining Orders**

- (a) A court *will not* grant a restraining order without written or oral notice to the adverse party or its attorney unless:
  - (i) there are specific facts in an affidavit or declaration or verified complaint that clearly show the applicant will suffer immediate and irreparable harm before the adverse party can be heard; *and*
  - (ii) the applicant's attorney or the self-represented applicant certifies in writing the efforts he or she made to give notice of the application and the reasons why notice should not be required;
- (b) The applicant must submit a proposed restraining order with the application that provides space for the court to set a date, time, and location for a temporary injunction hearing. The court will set a temporary injunction hearing whether the restraining order is granted or denied.
- (c) Applications for temporary restraining orders are decided on the filed pleadings or applications and supporting documents.
- (d) In domestic relations cases, Judges may deviate from this Rule where they deem it appropriate. See Tenn. R. Civ. P. 65.07.

### **§ 19.03 Setting Hearings on Motions or Applications for Extraordinary Relief**

The hearing of a motion or application for injunctive or other extraordinary relief is set in one of the following ways:

- (a) under Local Rule § 19.02, if the party first sought a temporary restraining order;
- (b) by special setting under Local Rule § 26.07(a), if the court does not hear motions or applications for extraordinary relief on its regular motion docket; or
- (c) by notice of hearing under Local Rule § 26.05, if the court hears motions or applications for extraordinary relief on its regular motion docket.

Contact the court's staff in Circuit Court or Calendar Clerk in Chancery Court to determine whether the court hears motions or applications for extraordinary relief by special setting or on its regular motion docket.

### **§ 19.04 Temporary Injunction Hearings**

The court conducts all hearings on applications for temporary injunctions and other forms of extraordinary relief on affidavits, declarations, or depositions unless the court grants a party's request to hold an evidentiary hearing.

### **§ 19.05 Hearings for Injunctive Relief in Domestic Relations Cases**

Special procedures govern hearings for injunctive relief in domestic relations cases in 3rd and 4th Circuit Courts, and are found in those courts' respective Chamber Rules. Each court's Chamber Rules are available from the court's staff or on the Circuit Court Clerk's website.

## **RULE 20 GENERAL SESSIONS APPEALS TO CIRCUIT COURT**

- (a)** An attorney or self-represented party appealing a case from General Sessions Court to Circuit Court must file the appeal with the Circuit Court Clerk.
- (b)** Within 45 calendar days after the appeal is filed in Circuit Court, the appealing party must file a motion to set the case for trial. The motion to set the case for trial must include a notice of hearing date for the motion. See Local Rules §§ 26.03, 26.05.  
If the appealing party does not file a motion to set the case for trial within 45 calendar days that includes a notice of hearing, the Circuit Court will enter an order making the judgment of the General Sessions Court the judgment of the Circuit Court, and taxing costs to the appealing party.  
The Clerk must give the appealing party or attorney written notice of this rule when the appeal is filed.
- (c)** An attorney's or party's signature to an appeal from General Sessions Court to Circuit Court constitutes a certification under Tenn. R. Civ. P. 11.02.
- (d)** All Circuit Court final judgments from General Sessions Traffic Court appeals must be remanded to General Sessions Traffic Court for electronic reporting to the Tennessee Department of Safety.

## **RULE 21 REFERENCES TO A MASTER IN CIVIL CASES**

### **§ 21.01 Order of Reference**

All references to a master must be by order that specifies what issues are referred.

Partition references must address (1) ownership interests; (2) encumbrances; (3) partition type; (4) method of sale; and (5) property value.

### **§ 21.02 Statements of Claims and Responses**

In cases where parties claim funds or proceeds on deposit with the court, the parties must file itemized statements of their claims and responses to statements of claims as the master directs.

### **§ 21.03 Record of the Proceedings**

In any hearing before a master, the parties must provide a court reporter to make a record and preserve their rights to object to the master's report before the court.

### **§ 21.04 Objections to a Master's Report**

Objections to a master's report based on factual questions must be supported by a transcript of the hearing before the master. A party may object to a master's report by filing a motion noticed for hearing on the court's regular motion docket under Local Rule § 26.

## **RULE 22 DISCOVERY AND DISCOVERY-RELATED MOTIONS**

### **§ 22.01 Filing Discovery Materials Not Required**

Discovery material should not be filed with the Clerk unless and until a party asks the court to consider it for any purpose.

## **§ 22.02 Extension of Time to Respond to Discovery**

Parties may agree to extend their discovery response deadlines without court approval if the agreed extension does not conflict with a court order.

## **§ 22.03 Discovery Completion Deadline**

On a party's or the court's own motion, the court may order that the parties complete discovery by a certain date.

## **§ 22.04 Interrogatories**

- (a) A party may not serve more than 30 single-question interrogatories, including sub-parts, without leave of court. Any motion to serve more than 30 interrogatories must set out the additional interrogatories and establish good cause for serving them. A party who is served with more than 30 interrogatories without a court order may respond only to the first 30.

The domestic relations Judges have approved a set of interrogatories, containing more than 30 questions and sub-parts, and requests for production of documents to use in domestic relations cases without requiring prior court approval. (See 3rd and 4th Circuit Courts' Chamber Rules.) A party who receives the court-approved discovery requests must respond to all interrogatories, including sub-parts, and requests for production unless there is a valid objection.

- (b) A party serving interrogatories must provide a blank space after each separate question and sub-part reasonably calculated to allow the responding party answer. The responding party must verify the answers immediately after the answer to the last interrogatory.
- (c) The responding party must answer or object to each interrogatory within the space provided or use additional pages if necessary (repeating the interrogatory before the answer or objection), serve the responses containing the original or e-signed verification on the requesting party, and serve copies of the responses on all other parties.

## **§ 22.05 Requests for Admissions**

- (a) A party serving requests for admissions under Tenn. R. Civ. P. 36 must provide a blank space after each separate request reasonably calculated to allow the responding party to answer.
- (b) The responding party must answer or object to each request within the space provided or use additional pages if necessary (repeating the request before the answer or objection), serve the responses containing the responding party's original or e-signature on the requesting party, and serve copies of the responses on all other parties.

## **§ 22.06 Requests for Production of Documents**

- (a) A party serving requests for production of documents on another party under Tenn. R. Civ. P. 34 must provide a blank space after each separate request reasonably calculated to allow the responding party to answer.
- (b) The responding party must answer or object to each request in the space provided or use additional pages as necessary (repeating the request before the answer or objection); serve the responses containing the responding party's original or e-signature on the requesting party; and serve copies of the responses, including copies of all documents produced, on all other parties.

## **§ 22.07 Disclosure of Audio and Visual Recordings**

See Local Rule § 29.02.

### **§ 22.08 Efforts to Resolve Discovery Disputes**

The court will not rule on a discovery-related motion unless the moving party certifies that he or she has conferred with the opposing party in a good faith effort to resolve the discovery dispute and been unsuccessful.

### **§ 22.09 Motions to Compel Discovery**

Motions to compel discovery must:

- (a)** either
  - (1) quote verbatim the interrogatory, request, or question and the objection or response, or
  - (2) attach a copy of the interrogatory, request, or deposition excerpt showing the question and objection or response as an exhibit;
- (b)** state the reason for the motion; and
- (c)** be accompanied by a certificate of efforts made to resolve the discovery dispute. See Local Rule § 22.08.

Where a party has not responded to the discovery or has objected to the entire set of interrogatories or requests for production of documents, subsection (a) does not apply.

### **§ 22.10 Motions for Protective Orders and to Compel Compliance with Subpoenas**

Motions for protective orders filed under Tenn. R. Civ. P. 26.03; motions to compel testimony, production, or inspection in compliance with subpoenas filed under Tenn. R. Civ. P. 45.07; or any motion asking to postpone or restrict discovery must:

- (a)** either
  - (1) quote verbatim the interrogatory, request, question, or subpoena, or
  - (2) attach a copy of the interrogatory, request, subpoena, or deposition excerpt showing the question as an exhibit;
- (b)** state the specific grounds for the motion; and
- (c)** be accompanied by an affidavit or other evidence showing the need for the order.

### **§ 22.11 Motions to Compel; Agreements to Furnish Documents at Deposition**

Agreements to furnish exhibits made during the taking of depositions may be enforced by motion under either Tenn. R. Civ. P. 37, or Local Rule § 22.09, or both.

### **§ 22.12 Reference of Discovery Disputes to a Master**

The court may refer discovery disputes to a master and, if the master is not a court employee, may allocate the costs of the master among the parties.

### **§ 22.13 Serving Discovery Requests and Responses**

A party requesting discovery must serve a copy of the request on all parties, even if the request is directed to only one of multiple parties.

Parties responding to discovery requests must serve copies of their responses on all parties.

## **RULE 23 SETTLEMENTS IN CIVIL CASES**

### **§ 23.01 Judicial Settlement Conferences**

- (a) Settlement Judge or Chancellor.** Settlement conferences are conducted by a Judge or Chancellor other than the Judge or Chancellor to whom the case is assigned for trial, except when requested and agreed upon by the parties or when the Judge

or Chancellor to whom the case is assigned deems it appropriate to preside over the settlement conference because of the exigencies of the case.

**(b) Scheduling Settlement Conferences.** A Judge or Chancellor who is assigned to the case may schedule a settlement conference as part of the case management order or after discussions during a case management conference, with or without the parties' consent. A party may file a motion requesting a settlement conference if one is not otherwise provided in the case management order, or attorneys agreeing to a conference may contact the Case Coordinator to schedule a judicial settlement conference.

**(c) Party Attendance.** The assigned Judge or Chancellor will require the parties or their representatives with full settlement authority to attend the settlement conference except for good cause shown.

**(d) Settlement Statements.**

1. At least 5 business days before the settlement conference, each party must deliver in a sealed envelope, directly to the settlement Judge's staff or the settlement Chancellor's Calendar Clerk, an ex parte settlement conference statement stating the party's settlement position.

2. The settlement statement is confidential and given only to the court and not to any other party.

3. Do not file the settlement statement with the Clerk.

4. The settlement statement should (i) summarize the party's legal theories of liability and defense; (ii) identify factors compelling or blocking settlement, the status of discovery, and any essential or concerned third parties; (iii) state whether any settlement offers have been made and, if so, their terms and the status of the parties' settlement discussions; and (iv) candidly assess the strengths and weaknesses of both sides of the case, the issue of liability, and the cost of proceeding to trial.

5. Plaintiff's settlement statement should assess from plaintiff's viewpoint damages and the strengths and weaknesses of plaintiff's position.

6. Defendant's settlement statement should assess the plaintiff's damages, defendant's exposure to those damages, and the strengths and weaknesses of defendant's position.

7. Attorneys representing parties in settlement conferences should provide their clients with full written evaluations and opinions in sufficient time for their clients to give express instructions and extend full settlement authority before the settlement conference. Each party's settlement statement must state the party's full settlement authority.

**(e) Confidentiality.** Judicial settlement conferences are strictly confidential. Nothing that is disclosed during a judicial settlement conference, whether written or oral, may be used in the litigation, or any other litigation, or for any other purpose. This rule of confidentiality includes the protections provided by Tenn. R. Evid. 408 and 409.

Anything the parties or their attorneys disclose to the Settlement Judge or Chancellor will be held in the strictest confidence.

**(f) Domestic Relations Cases.** See the 3rd and 4th Circuit Courts' respective chamber rules, which are available from each court's staff or on the Circuit Court Clerk's website, for specific procedures governing judicial settlement conferences in domestic relations cases in those courts.

### **§ 23.02 Awards of Expenses**

If the parties settle a case within 2 business days of when trial was to begin, the court may compensate witnesses for lost income and travel expenses, and tax those amounts as costs.

### **§ 23.03 Court-Approved Settlements**

If a minor or incompetent person is not represented by counsel and the court is not satisfied that a proposed settlement is the minor's or the incompetent person's best interests, the court may appoint a guardian ad litem for the person and tax the guardian ad litem's fees as costs.

### **§ 23.04 Settlement Approvals**

Counsel should contact the court in which a matter is pending to set a hearing on any motion to approve a proposed workers' compensation, legitimation, or minor settlement.

8th Circuit Court hears all matters in which a motion to approve a proposed workers' compensation, legitimation, or minor settlement is filed as an initial pleading. Counsel should refer to the court's *Court Approved Settlement Procedures*, which are available on the Circuit Court Clerk's website.

### **§ 23.05 Notice Immediately Upon Settlement**

If the parties settle a case that is set for trial, they must immediately notify the Assignment Clerk in Circuit Court or the Calendar Clerk in Chancery Court, unless the court instructs otherwise, and file an agreed order removing the case from the trial calendar. Where notice is not timely given, the court may assess juror costs.

## **RULE 24 AGREED SUMMARY TRIAL**

### **§ 24.01 Agreement**

The court may order a special expedited proceeding if the following conditions are met:

- (a) The parties and their counsel must enter into and file with the court a signed written agreement to have their case heard under the expedited procedure established in Local Rule § 24 (the "Rule 24 Agreement").
- (b) The Rule 24 Agreement must state that the parties have agreed to upper and lower limits to the monetary award the plaintiff will receive as damages if liability is stipulated or eventually determined by the court. The amounts must not be disclosed to the court except as provided at Local Rule § 24.02(h).
- (c) The Rule 24 Agreement evidences the parties' intention that the court's decision will be final, unless they specifically reserve the right to appeal.
- (d) The Rule 24 Agreement must provide for the allocation of court costs.
- (e) The parties must submit an agreed order for an expedited proceeding under this Rule, certifying that they and their counsel have entered into a Rule 24 Agreement.

### **§ 24.02 Procedure**

The court conducts the special expedited proceeding as follows:

- (a) The Judge hears the case without a jury (or appoints a special Judge approved by counsel). The hearing is set by counsel's agreement after consulting with the Assignment Clerk in Circuit Court or the court's Calendar Clerk in Chancery Court.
- (b) The parties voluntarily furnish to each other whatever items they request that are subject to discovery.
- (c) The parties and their attorneys appear at the date and time of the hearing.

- (d) The plaintiff's attorney presents his or her proof on the issues to be tried, including liability, and argues the plaintiff's rights to recovery, including the amount of damages.
- (e) The defendant's attorney presents his or her proof and arguments in defense, and then the plaintiff's attorney is allowed a rebuttal.
- (f) Proof as used in (d) and (e) above includes stipulations, exhibits, live testimony, or whatever the parties agree on.
- (g) The Judge deliberates and renders an initial decision, which includes the amount of damages, if any.
- (h) If the initial decision includes an award of damages, then the parties disclose to the Judge the agreed-upon limits of recovery as provided in 24.01(b).
- (i) If the amount of damages awarded in 24.02(g) is between the parties' agreed-upon upper and lower limits, then the initial decision becomes the final decision.
- (j) If the amount of damages awarded in 24.02(g) exceeds the parties' agreed-upon upper limit, then the initial decision is modified to award damages equal to the agreed-upon upper limit and becomes the final decision.
- (k) If the amount of damages awarded in 24.02(g) is less than the parties' agreed-upon lower limit, then the initial decision is modified to award damages equal to the agreed-upon lower limit and becomes the final decision.
- (l) The Judge then enters an enforceable judgment based on the final decision.
- (m) The final order must refer to and attach the Rule 24 Agreement signed by the parties and their counsel.

## **RULE 25 JUDICIAL REVIEW OF ADMINISTRATIVE DECISIONS**

### **§ 25.01 Briefs Required**

The parties must file briefs in all cases for judicial review of administrative decisions.

If the petitioner does not timely file its brief, the court may dismiss the petition and affirm the agency decision.

If the respondent does not timely file its response brief, the court may decide the case solely on the administrative record and the petitioner's brief.

### **§ 25.02 Filing and Serving Briefs**

The petitioner must file and serve its brief within 30 calendar days after the agency files the administrative record.

The respondent must file and serve its response brief within 30 calendar days after the petitioner files and serves its brief.

The petitioner may file and serve an optional reply brief within 14 calendar days after the respondent files and serves its response brief.

The parties may request or the court may order a longer or shorter briefing schedule.

### **§ 25.03 Final Hearing on Oral Argument**

The petitioner must schedule a final hearing on oral argument under Local Rule § 27 within 10 business days after briefing is complete.

The court decides judicial review cases involving self-represented inmates on the administrative record and the parties' briefs, without oral argument.

#### **§ 25.04 Waiver of Oral Argument**

The parties may agree to waive oral argument by providing written notice to the Assignment Clerk in Circuit Court or the court's Calendar Clerk in Chancery Court, within 10 business days after all briefing is complete.

#### **§ 25.05 Expedited Procedure Involving Prior Restraint**

If a petitioner alleges that an administrative agency decision unlawfully results in the prior restraint of his or her rights guaranteed by the First Amendment to the U.S. Constitution or Article One, § 19 of the Tennessee Constitution, and either party requests an expedited hearing, the court will establish an expedited briefing schedule and final hearing date.

### **RULE 26 MOTIONS IN CIVIL CASES**

#### **§ 26.01 Motions for Summary Judgment**

- (a) Motions for summary judgment must be heard at least 60 calendar days before a scheduled trial date, unless the court orders otherwise.
- (b) The notice of hearing of a motion for summary judgment must be filed and served at least 37 calendar days before the scheduled hearing date, unless the parties agree otherwise.
- (c) Responses to motions for summary judgment must be filed and served on all other parties *no later than 5 business days before the date of the motion hearing* under Tenn. R. Civ. P. 56.  
For example, if the summary judgment motion will be heard on a Friday, the response to the motion must be filed and served the Friday before the scheduled motion hearing.
- (d) All materials supporting the motion for summary judgment or the response to the motion for summary judgment must be filed and served with the motion or response.
- (e) When filing and serving statements of undisputed material facts in support of a motion for summary judgment, or statements of additional facts in response to a motion for summary judgment, the party filing and serving the statement of facts must provide a space after each separate statement of fact reasonably calculated to allow the responding party to respond or object.
- (f) Some courts may require or allow motions for summary judgment to be specially set. See Local Rule § 26.07(a). Contact the court's staff in Circuit Court or Calendar Clerk in Chancery Court to determine whether a particular motion may be specially set or may be heard on the court's regular motion docket.

#### **§ 26.02 Time for Motion Hearings**

- (a) Motions are heard on Fridays at 9:00 a.m. central time, except for 6th Circuit court, 7th Circuit court, and Chancery Court, Part III, which hear motions at 9:30 a.m. central time.
- (b) The Clerks' offices will publish notices when any court will not hold a motion docket on a Friday.
- (c) Judges will do their best to arrange motion dockets to minimize delay. If a motion will require prolonged argument, counsel should contact the court's staff in Circuit Court or Calendar Clerk in Chancery Court to ask if the motion should be specially set.

### § 26.03 14-Day Minimum Notice of Hearing for Motions; Resetting Motions

- (a) Notice of hearing of any motion, other than a motion for summary judgment, must be filed and served at least 14 calendar days before the scheduled hearing date, unless the parties agree otherwise. See Local Rule 26.05.

Notice of hearing of a motion for summary judgment must be filed and served at least 37 calendar days before the scheduled hearing date unless the parties agree otherwise. See Local Rule § 26.01(b).

- (b) In Circuit Court, if a motion is reset by agreement or by court order, no further notice is required.
- (c) In Chancery Court, if a motion is reset by agreement, the moving party must file a notice of the new hearing date no later than 11:59 p.m. central time on the Monday before the Friday on which the motion will be heard.

### § 26.04 Motions, Responses, Replies, and Briefs

- (a) Every motion must state the specific factual and legal grounds for the motion and the specific relief or order requested.

- (b) Every motion or response that asks the court to resolve an issue of law and that relies on legal authority must be supported by a memorandum of law and facts. Any motion, response, brief, or memorandum of law that cites a transcript or deposition must cite the specific page and line.

If counsel cites unreported Tennessee decisions, or decisions from other state courts or from federal courts, counsel must provide copies of those decisions only to opposing self-represented parties. Counsel need not provide copies of unreported or foreign decisions to the court unless the cited authority is not available in any reporter or legal research database.

- (c) Any party filing a motion to amend a pleading must attach a copy of the proposed amended pleading to the motion.

If the court grants the motion, the moving party must file the amended pleading within 10 business days after the court enters the order granting the motion to amend unless the court orders otherwise.

- (d) Any party opposing a motion must file and serve a written response on all parties, stating the specific grounds for opposing the motion, supported by relevant legal authority. If no response is filed, the motion will be considered unopposed and, except for good cause shown, may be granted.

See Local Rule § 39 for exceptions to this Rule in certain probate matters.

Responses to motions are encouraged but not required in domestic relations cases.

- (e) Responses to motions, except motions for summary judgment, including all supporting materials, must be filed and served by 11:59 p.m. central time on Monday before the Friday on which the motion will be heard.

If Monday is a holiday and the Clerks' offices are closed, responses must be filed and served before 11:59 p.m. central time on Tuesday before the Friday on which the motion will be heard.

Responses to motions for summary judgment must be filed and served on all other parties *no later than 5 business days before the date of the motion hearing* under Tenn. R. Civ. P. 56. See *also* Local Rule § 26.01(c). For example, if the summary judgment motion will be heard on a Friday, the response to the motion must be filed and served the Friday before the scheduled motion hearing.

- (f) **If no response is timely-filed and served, the court will consider the motion to be unopposed and, except for good cause, may grant the motion, with no appearance required at the time and date scheduled for the hearing.**

The moving party must submit a proposed order consistent with Local Rule § 33, which should recite that no response to the motion was timely filed or served.

See Local Rule § 39 for exceptions to this Rule in certain probate matters.

Responses to motions are encouraged but not required in domestic relations cases.

- (g) Replies to responses, which are permitted but not required, must be filed and served by 11:59 p.m. central time on Wednesday before the Friday on which the motion will be heard.

#### **§ 26.05 Notice of Hearing Required**

Every motion must be noticed for hearing, either included with the motion itself or by a separate notice that is filed and served on all parties at least 14 calendar days before the hearing date, or 37 days before the hearing date of a motion for summary judgment, unless the parties agree otherwise. See Local Rules §§ 26.03(a); 26.01(b).

The notice of hearing must state the date, time, and place the motion will be heard and must state in bold type that the failure to timely file and serve a written response to the motion may result in the motion being granted without further hearing. See Local Rule 26.04(f).

Any party may file and serve a notice of hearing for any motion that is filed without a notice of hearing, regardless of which party filed the motion.

#### **§ 26.06 "Service" Defined**

"Service" means delivery by hand, mail, e-service, fax, or email such that the document served is physically or electronically received by the specified date and time.

"E-service" means the automatically-generated electronic transmission, by and through an e-filing system, of a notice to all participants in a case who are registered users of the e-filing system and who have elected to receive e-service that a document has been e-filed. Tenn. Sup. Ct. R. 46A. E-service does not include service of process or summons to gain jurisdiction over persons or property.

#### **§ 26.07 Specially Set and Expedited Hearings**

- (a) **Special Settings:** In cases governed by special procedures, where argument on a motion will be prolonged, or in some other circumstances, the court may specially set motion hearings at times other than on the regular motion docket. Counsel should contact the court's staff in Circuit Court or Calendar Clerk in Chancery Court to schedule a hearing date.

- (b) **Expedited Hearings:** When a matter is particularly urgent, the court may, in its discretion, hear it on an expedited basis.

The party should file a motion for relief, with a separate motion for an expedited hearing, and a proposed order on the motion for expedited hearing that includes blanks for the court to set the date and time for the expedited hearing if the court grants the motion for expedited hearing.

#### **§ 26.08 Failure to Appear at a Motion Hearing; Late Appearance**

If a party does not appear at a scheduled motion hearing, the court may strike or adjudicate the motion. Anyone who will be late for a motion hearing should notify the court's staff in Circuit Court or Calendar Clerk in Chancery Court before the hearing or have an announcement made at the call of the motion docket. If the movant fails to appear and the court strikes the motion, the court may award reasonable fees and expenses in favor of the opposing party who appeared at the scheduled hearing.

#### **§ 26.09 Striking or Continuing Motions**

After a motion is set for hearing, the movant may strike or continue the motion with timely notice to all parties and the court's staff in Circuit Court or Calendar Clerk in Chancery Court.

If the parties agree to strike or continue a motion, the movant must timely notify the court's staff in Circuit Court or Calendar Clerk in Chancery Court.

If a party strikes or continues a motion without giving notice, the court may award reasonable fees and expenses in favor of any party who appears at the scheduled hearing.

#### **§ 26.10 Resolving Motions by Agreement**

If the parties resolve a motion by agreement, counsel may either notify the court's staff in Circuit Court or Calendar Clerk in Chancery Court before the hearing or announce at the hearing that they will submit a proposed agreed order.

#### **§ 26.11 Motion Hearings**

(a) **Oral Argument.** Motions with responses are orally argued unless the parties agree to waive oral argument or the court orders otherwise, or where an inmate is self-represented. The court may, in its discretion and after allowing time for responses and replies, enter an order on a motion without oral argument, even if a party has requested it.

(b) **No Witnesses.** Except as may be permitted in domestic relations and Probate cases, motion hearings are argument only, and the court does not take any evidence.

(c) **Remote Hearings.** The court may, in its discretion, conduct hearings remotely by teleconference or videoconference. Any party who wishes to be heard remotely must contact the court's staff in Circuit Court or Calendar Clerk in Chancery Court to request a remote hearing, and provide notice to all parties of the request before the hearing.

#### **§ 26.12 Motions in Limine**

Local Rule § 30 governs motions in limine.

#### **§ 26.13 Motions to Compel Discovery**

Local Rules §§ 22.08 – 22.12 govern motions involving discovery disputes.

#### **§ 26.14 Determining Class Actions**

Within 60 calendar days after filing a class action complaint, the plaintiff must move the court to determine whether the plaintiff may maintain the suit as a class action under Tenn. R. Civ. P. 23. The plaintiff may seek an extension of the 60-day filing period by separate motion for good cause.

In ruling on the motion, the court may allow the class action, disallow and strike the class action allegations, or postpone the class determination pending discovery or other preliminary procedures. When the court extends the 60-day class determination filing requirement, the court must establish a date by which the plaintiff must renew the motion for class determination.

#### **§ 26.15 Default Judgment Motions**

Any motion for default judgment seeking liquidated damages must specifically state the amount sought and be accompanied by a Default Judgment Certificate that states:

- (i) the date the defendant was served;
- (ii) that the defendant has not filed an answer or otherwise responded to the complaint;
- (iii) the total amount due, including
  - the amount of the original obligation,
  - the amount the defendant has paid,
  - the amount of interest requested,
  - the amount of attorney fees and expenses requested, and

- the remaining balance due;
- (iv) if there is any difference between the balance due and the amount sought in the default judgment, the reason for the difference;
- (v) the written instrument, if any, that is the basis of the claim has been filed with the court or the reason why it has not been made part of the record; and
- (vi) the legal basis for any attorney fee request, with a copy of the written instrument attached if it is not already filed with the court.

A form Default Judgment Certificate is available on the Clerks' websites.

If the motion for default judgment includes a request for attorney fees and expenses, the attorney must also file an affidavit or declaration listing the service providers, the services provided, the time spent, the suggested fee award, and other relevant facts, including facts required under Tenn. Sup. Ct. R. 8, RPC § 1.5, applicable case law, and any other information the court requests, to allow the court to determine whether the fees were reasonable and necessary. See Local Rule § 5.05.

## **RULE 27 ADMINISTERING AND SCHEDULING CIVIL CASES AND TRIALS**

### **§ 27.01 Case Administration**

Cases in Chancery Court are administered by each court and, generally, under Local Rules §§ 27.02, 27.03, and 27.04.

Cases in 1st, 2nd, 5th, 6th, and 8th Circuit Courts (non-domestic relations and non-probate-related cases) are administered under Local Rules §§ 27.02, 27.03, 27.04, and 27.05.

Cases in 3rd and 4th Circuit Courts (domestic relations cases) are administered by each court under their respective Chamber Rules.

Cases in 7th Circuit Court (probate cases) are administered by the court and under Local Rule § 39.

### **§ 27.02 Setting Cases For Trial**

Cases are set for trial as follows:

#### **(a) Chancery Court:**

1. By agreement after consulting with the court's Calendar Clerk;
2. At a Scheduling Conference;
3. By motion; or
4. At the Chancellor's discretion, with notice to the parties.

#### **(b) 1st, 2nd, 5th, 6th, and 8th Circuit Courts:**

1. At a Scheduling Conference with the originating court;
2. By agreement for a date within the "open docket";
3. By motion on the Assignment Judge's regular motion docket; or
4. At the discretion of the Assignment Judgment, with notice to counsel, in expedited cases.

**(c) 3rd and 4th Circuit Courts:** Under those courts' respective Chamber Rules.

**(d) 7th Circuit Court:** Under Local Rule § 39.11.

### **§ 27.03 Certifying Cases Are Ready When Set**

When parties set a case for trial by agreement or by motion without objection, all counsel and self-represented parties certify that they are available for trial and that the case will be ready for trial in all respects on the trial date, subject to Tenn. R. Civ. P. 16.

### **§ 27.04 [Deleted]**

### **§ 27.05 Continuing Civil Trials**

- (a) Parties may not agree to continue a trial without court approval.

In Chancery Court, a trial may only be continued by leave of court on motion for good cause.

In 1st, 2nd, 5th, 6th, and 8th Circuit courts, a trial may only be continued with leave of the originating court, or by the Judge to whom the case is assigned for trial, by motion or by emergency request for good cause.

Trial continuances in 3rd and 4th Circuit Courts are governed by those courts' respective Chamber Rules.

Trial continuances in 7th Circuit Court are governed by Local Rule § 39.11

- (b) A witness' absence is not cause for a continuance unless a subpoena for the witness' presence at trial was issued 10 calendar days before trial for a local witness, or 14 calendar days before trial for an out-of-county witness, as required under Local Rule § 28.02.
- (c) When a trial is set by agreement, or set by motion without objection, the court will not continue the trial because the parties did not complete discovery, or were not able to take a deposition, or did not complete any other trial preparations.
- (d) If the court grants a continuance, the order granting the continuance must state the reason for the continuance and must continue the trial to a date certain or a date to be set by separate order.
- (e) If the court grants a continuance, the non-moving party may apply for an award of attorney fees and expenses, and may include compensating witnesses for travel or other related expenses taxed as court costs.

### **§ 27.06 Administering and Assigning Circuit Court Cases for Jury Trials**

- (a) The Presiding Judge designates a Circuit Court Judge as the Assignment Judge.
- (b) The Assignment Judge consults with the other Circuit Court Judges trying jury cases and schedules the jury trial weeks. The Assignment Judge then sets the "open" and "closed" dockets.
- (c) The Circuit Court Clerk assigns jury cases to the various courts for pre-trial proceedings as the cases are filed.
- (d) **Scheduling or Planning Conference**. Each court establishes a method by which the parties meet face-to-face within 4-6 months of when the case is filed. This conference may be held by the Judge, a law clerk, a court officer, a special master, or as the court otherwise directs.

During this conference, the parties discuss the case's track assignment (as outlined in subsection (g) below), mediation or other alternative dispute resolution ("ADR"), a scheduling order, a second conference or pre-trial conference if necessary, a trial date, and any other appropriate case management deadlines.

- (e) **Differentiated Case Management**. Every action filed in Circuit Court is designated as General Session Appeal ("GSA"), Expedited, Standard or Complex, which governs how the case is administered and scheduled. All General Sessions Appeals are presumptively designated "GSA"; all other cases are presumptively designated

"Standard." The parties may move the court to redesignate a case as "Expedited" or "Complex."

1. General Sessions Appeals ("GSA"). General Sessions Appeals are presumptively classified as "GSA". GSAs can be prepared for trial with minimal discovery and other pre-trial proceedings. The completion goal is 180 calendar days from the date of filing. GSA cases must be set for trial under Local Rule § 20.
2. Expedited. Personal injury cases involving soft tissue damage, with limited discovery needs, no agreement to use ADR, and no party insists on trial. The completion goal is 270 calendar days from the date of filing.
3. Standard. Cases with no unique circumstances requiring lengthy discovery or trial time. All cases are presumptively classified as "standard" unless they are designated otherwise. The completion goal is 1 year from the date of filing.
4. Complex. Cases involving multiple parties, claims, and defenses; complex facts; and difficult legal issues. Complex cases require customized Scheduling Orders allowing for longer discovery and trial preparation periods, for ADR, and for longer trials. The completion goal is 2 years from the date of filing.

**(f) Scheduling Orders.** In all cases, the court will require a Scheduling Order. The Scheduling Order must establish deadlines to complete discovery and ADR, and must either set a trial date or a date by which the trial must be set in the first numbered paragraph of the Order.

If the parties do not obtain an order setting the case for trial by the deadline established in the Scheduling Order, the court will dismiss the case without further notice.

The parties may not agree to change the Scheduling Order without leave of court.

**(g) Central Assignment System.** All Circuit Court jury trial cases are set on a central assignment docket, which is administered as follows:

1. The Assignment Clerk oversees and is responsible to the Assignment Judge for administering the Central Assignment System.
2. The Assignment Clerk keeps a central docket for setting jury trials.
3. The Assignment Judge, or his or her designee, assigns the cases set for trial in any given week to the courts conducting jury trials until the trials are completed.

If the trial of a case does not begin on the day it is set, the case will be continued to the next day until the court to which the case was assigned for trial, or another court, is available to conduct the trial.

If the trial of a case has not begun by the end of the second day, counsel may apply to the Assignment Judge to reset the case.

4. The Assignment Judge or the Judge in the originating court may enter an order exempting a case from the Central Assignment System and setting the case for trial in the originating court.

#### **§ 27.07 Administering and Assigning Circuit Court Cases for Non-Jury Trials**

**(a) By Agreement.** The parties may set a non-jury trial date by agreed order if the Assignment Clerk has approved the trial date. The parties must tell the Assignment Clerk if the trial will last more than 1 day.

**(b) By Motion.** A party must file a motion to set a non-jury trial in the originating court, only after obtaining available trial dates from the court's staff.

**(c) Orders to Set.** All orders setting non-jury trials must include an estimate of how long the trial will last.

## **RULE 28 SUBPOENAS IN CIVIL CASES**

### **§ 28.01 Subpoenas Issued by Clerk**

The Clerks issue all subpoenas in Circuit and Chancery Courts.

In Circuit Court, submit one copy of the subpoena electronically to the Clerk for issuance.

In Chancery Court, submit the subpoena by conventional paper form, in triplicate, to the Clerk for issuance.

### **§ 28.02 Time for Issuing Subpoenas for Trial**

Subpoenas for local witnesses must be issued no later than 10 calendar days before the date of trial unless the court has allowed issuance within a shorter time.

Subpoenas for out-of-county witnesses must be issued no later than 14 calendar days before the date of trial, unless the court has allowed issuance within a shorter time.

The Clerk must issue a subpoena even if it is requested after the deadlines established by this Rule.

### **§ 28.03 Addresses on Subpoenas**

The attorney or party requesting a subpoena must provide the street address and phone number, if known, of the witness on the requested subpoena.

### **§ 28.04 Prison Inmates**

Tenn. Code Ann. § 41-21-304 governs the attendance of prison inmates who are witnesses or parties in civil cases.

### **§ 28.05 Subpoenas For Medical Records**

All subpoenas to medical providers for medical records must comply with the Health Insurance Portability and Accountability Act (H.I.P.A.A.), see 45 C.F.R. § 164.512(e), and include the following notice:

#### **H.I.P.A.A. NOTICE**

A copy of this subpoena has been provided to the patient or the patient's counsel on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, so as to allow him or her 21 days to:

(A) serve the recipient of the subpoena with a written objection to the subpoena, and provide notice of the objection to the party that served the subpoena, and

(B) simultaneously file and serve a motion for a protective order consistent with the requirements of Tenn. R. Civ. P. 26.03, 26.07, and Local Rule § 22.10.

If no objection is made within 21 days of the above date, you must process this subpoena and produce the requested documents by the date and time specified in the subpoena. The signature of counsel or the party on the subpoena is his or her certification that the above notice was provided to the patient.

## **RULE 29 PRE-TRIAL PROCEDURE IN CIVIL CASES**

### **§ 29.01 Required Exchange of Witnesses and Documents**

At least 3 business days before trial, opposing counsel must either meet face-to-face or hold a telephone conference to:

- (a) exchange the names of witnesses they expect to call at trial, including anticipated impeachment or rebuttal witnesses, and the witnesses' addresses and home and business telephone numbers if that information was not provided in discovery; and
- (b) make available for viewing and discuss proposed trial exhibits.

If counsel hold a telephone conference rather than a face-to-face meeting, they must make the exhibits available for viewing before the conference.

### **§ 29.02 Notice of Intent to Use Audio or Video Recording or Animation at Trial**

Any party who intends to use an audio or video recording or animation in a jury trial must provide written notice to adverse counsel at least 10 business days before trial. Adverse counsel must be permitted to review the recording or animation in the form it will be offered at trial and to copy the recording or animation at his or her expense.

Adverse counsel must promptly advise the offering party of any objections to the recording or animation. Counsel must then attempt in good faith to resolve the objections. If they cannot resolve their dispute, objecting counsel must file a motion in limine set for hearing sufficiently before trial to allow time for the court to rule on the objections and for any necessary editing.

If the court has a chamber rule or has entered a pre-trial order establishing different deadlines or procedures, then the chamber rule or pre-trial order controls.

### **§ 29.03 Trial Briefs in Non-Jury Cases**

Trial briefs are required in all non-jury civil cases. The parties must file and serve their briefs at least 3 business days before trial.

If an issue being litigated at trial has been briefed in pre-trial motions and counsel wishes to rely on his or her earlier briefing, counsel may refer the court to the motion brief in lieu of briefing the issue for trial.

If the court has a chamber rule or has entered a pre-trial order establishing a different deadline or procedure, then the chamber rule or pre-trial order controls.

## **RULE 30 MOTIONS IN LIMINE**

- (a) Each court establishes its own procedures and deadlines governing motions in limine in its chamber rules or pre-trial orders.
- (b) Local Rule § 29.02 governs motions in limine related to audio or video recordings and animation.

## **RULE 31 JURY TRIALS IN CIVIL CASES**

### **§ 31.01 Procedure**

In any case in which a jury is demanded, the words "JURY DEMAND" must appear in capital letters on the first page of the pleading opposite the case style, below the case number.

### **§ 31.02 Number of Jurors**

The court will seat a 6-person jury unless a party has made a written request for a 12-person jury.

### **§ 31.03 Juror Challenges**

Agreeing to a jury of less than 12 does not affect the number of juror challenges or how challenges are made.

### **§ 31.04 Jury Instructions**

- (a) **Jury Instructions.** Parties must file and serve requests for special jury instructions at the end of the first day of trial or as the court otherwise directs. Special instructions may be requested after that only when counsel could not have reasonably anticipated the issue.

Make requests for a Tennessee Pattern Jury Instruction, verbatim, by reference to "TPI (Civil) No. \_\_\_\_\_", using the most recent edition.

Make requests for modified existing instructions by reference to the pattern instruction by number, with the addition or deletion, and cite to appropriate authority.

- (b) **Jury Interrogatories.** Parties must file and serve requests for jury interrogatories at the end of the first day of trial or as the court otherwise directs. Jury interrogatories may be requested after that only when counsel could not have reasonably anticipated the issue.

### **§ 31.05 Copies for Jurors**

Any party offering documentary evidence for jurors to read must provide a copy for each juror and one copy for the court.

## **RULE 32 COURT REPORTERS IN CIVIL CASES**

The parties must hire court reporters in civil cases. The court will not continue or delay proceedings because a court reporter is late or absent.

## **RULE 33 ORDERS AND JUDGMENTS IN CIVIL CASES**

### **§ 33.01 Preparing and Submitting Orders and Judgments**

Counsel for prevailing parties prepare orders for entry by the court unless the court directs otherwise. Proposed orders should be submitted to the Clerk and served on opposing counsel within 7 calendar days after the court's ruling.

### **§ 33.02 Disagreements over Contents of Orders and Judgments**

The Clerk will hold proposed orders signed only by the attorney who prepared the order for 3 business days. If opposing counsel believes the proposed order does not accurately reflect the court's ruling, he or she must notify the court's staff in Circuit Court or Calendar Clerk in Chancery Court within the 3-day period and submit a competing order for the court to consider. If the court's staff or Calendar Clerk does not receive a timely objection, the court's staff or Calendar Clerk will submit the proposed order to the Judge.

### **§ 33.03 Court Costs**

- (a) All final judgments must tax court costs. The Clerk may refuse to enter a proposed agreed final judgment or compromise and settlement order until court costs in the case are paid.
- (b) When a judgment has been satisfied but court costs have not been paid, the Clerk may apply to the court to re-tax costs. The Clerk must provide notice to the parties of the application and the date and time the court will consider it.

**§ 33.04 Payment and Satisfaction of Judgments**

(a) The Clerk holds funds paid on local bank checks for 10 calendar days after receiving the check before disbursing the funds.

The Clerk holds funds paid on out-of-town bank checks for 14 calendar days after receiving the check before disbursing the funds.

The Clerk may disburse alimony and child support checks sooner at the Clerk's discretion.

(b) Unless an order to disburse funds is an agreed order, the order must be final and not subject to appeal before the Clerk will disburse the funds.

(c) When a party receives payment in satisfaction of a judgment, whether through the Clerk or otherwise, the party must file a notice of satisfaction of judgment.

**RULE 34 FUNDS PAID INTO COURT**

The Clerk does not invest funds paid into Court unless the court has entered an order directing the Clerk to do so.

**RULE 35 [Deleted]**

**RULE 36 [Reserved]**

**RULE 37 DIVORCES AND DOMESTIC RELATIONS CASES**

Special procedures govern divorce and domestic relations cases in 3rd and 4th Circuit courts and are set out in those courts' respective Chamber Rules, which are available from each court's staff or on the Circuit Court Clerk's website.

**RULE 38 ADOPTIONS**

Adoptions are heard exclusively in 4th Circuit Court. The special procedures that govern adoption proceedings are set out in the 4th Circuit Court's Chamber Rules, which are available from the court's staff or on the Circuit Court Clerk's website.

**PROBATE RULES**

**RULE 39 PROBATE RULES**

**§ 39.01 Attorneys, Self-Represented Litigants, and Business Entities**

(a) Non-attorneys acting in an individual capacity may file documents. Non-attorneys acting in an individual capacity may appear, represent, and advocate for themselves in court.

Non-attorneys acting in a fiduciary capacity may file documents if authorized or required to do so by statute. Non-attorneys acting in a fiduciary capacity may appear, represent, and advocate for themselves in court if the matter does not require the professional judgment of an attorney. If the matter requires the professional judgment of an attorney, the court may require the fiduciary to be represented by an attorney.

(b) An attorney who files a document on behalf of an Interested Party (see Rule § 39.02(d)) becomes an attorney of record for that party. See Local Rule § 5.01. An attorney of record remains attorney of record until released by court order.

(c) Business entities may file creditor claims against decedents' estates without counsel of record, but a non-attorney officer or employee of a business entity may not

represent the business entity or make legal arguments in court proceedings to adjudicate creditor claims.

**§ 39.02 Definitions; Service of Process; Notice; Interested Parties**

(a) Service of Process. When required by statute or these Rules, a party must effect Service of Process by serving a petition and a summons under Tenn. R. Civ. P. 4.

(b) Notice. When required by statute or these Rules, a party must give Notice to all Interested Parties by mailing, faxing, e-serving, emailing, or hand delivering the required documents to each Interested Party (see Local Rule 39.02(d)) or their counsel under Tenn. R. Civ. P. 5.

If an Interested Party is a minor or incompetent person, Notice must also be given to the minor's legal guardian or guardians or custodial parent or parents and to the adult person's conservator or attorney in fact under a power of attorney.

If an Interested Party is under disability and has no custodial parent, legal guardian, conservator or attorney in fact under a power of attorney, the petitioner must bring that fact to the court's attention.

(c) Adversary Proceeding. Adversary Proceedings include civil actions under Tenn. R. Civ. P. 2 and proceedings:

- to probate a will or codicil in solemn form;
- to appoint a conservator;
- to appoint an expedited limited healthcare fiduciary;
- to appoint a guardian;
- to divest an interest in real property;
- to bring real property into the probate estate;
- to contest or set aside an instrument or transaction;
- to remove a fiduciary;
- to surcharge a fiduciary;
- to determine beneficiaries;
- to construe a document;
- to cancel a devise;
- to partition property for distribution;
- to determine a pretermitted share;
- to revoke probate of a will or codicil;
- to modify or terminate a trust;
- for declaratory judgment; and
- other proceedings the court declares as Adversary Proceedings.

The court conducts Adversary Proceedings under the Tennessee Rules of Civil Procedure, the Tennessee Rules of Evidence, and these Local Rules.

(d) Interested Parties. An Interested Party is a person or entity having an interest in a matter before the court. Depending on the type of proceeding or matter at issue, an Interested Party may include a spouse, beneficiary, creditor, fiduciary, or next of kin. Next of kin are persons entitled under Tenn. Code Ann. § 31-2-104 to inherit as if the decedent died intestate.

"Testate" means the decedent died with a valid will or codicil.

"Intestate" means the decedent died without a valid will or codicil.

A "solvent" estate means a decedent's estate that has sufficient probate assets to pay all of the decedent's debts, taxes, and expenses of administration.

An "insolvent" estate means a decedent's estate that does not have sufficient probate assets to pay all of the decedent's debts, taxes, and expenses of administration.

"Probate assets" include all assets passing under the decedent's valid will or codicil or by intestate succession, except for interests in real property that vested in the estate beneficiaries.

1. Interested Parties in the administration of Decedents' Estates are:

(A) In a testate estate:

- all beneficiaries named in the testamentary instrument(s) being offered for Probate;
- the decedent's intestate heirs under Tenn Code Ann. § 31-2-104, except that an heir ceases to be an Interested Party when testamentary instrument(s) are admitted to probate and the heir is not a beneficiary under the testamentary instrument(s); and
- the decedent's creditors who have filed claims to the extent that the claims have not been dismissed, withdrawn, or released.

(B) In an intestate estate:

- the decedent's intestate heirs under Tenn. Code Ann. § 31-2-104; and
- the decedent's creditors who have filed claims to the extent that the claims have not been dismissed, withdrawn, or released.

2. Interested Parties in the administration of Conservatorships and expedited limited healthcare fiduciary cases are:

- the respondent;
- the respondent's next of kin; and
- anyone who has been primarily responsible for the respondent's person or finances, or both.

3. Interested Parties in the administration of Guardianships are:

- the minor;
- the minor's parents;
- the minor's next of kin if both parents are deceased;
- the minor's legal guardians or custodians; and
- anyone who has been primarily responsible for the minor's person or finances, or both.

4. Interested Parties in Trust Proceedings are:

- all qualified beneficiaries;
- all fiduciaries; and
- the grantor, if the grantor is living.

5. It is not necessary to serve Notice or Service of Process on an Interested Party who is also a petitioner or who files a sworn waiver or consent.

**(e) Probate Court Masters.** The court may designate a judicial officer as "Special Master" or "Probate Master" in the Probate Court. The "Special Master" and "Probate Master" have the powers of a trial judge to hear matters as the court directs or refers, including proceedings:

1. to grant or deny name changes;
2. to admit wills and codicils to probate;
3. to appoint and remove fiduciaries;
4. to require, waive, increase, or decrease bond;

5. to require or waive inventories, property management plans, and accountings;
6. to review, approve, and disapprove inventories, property management plans, and accountings;
7. to review, approve, and disapprove notices of insolvency and plans of distribution;
8. to adjudicate creditor claims;
9. to adjudicate exceptions to inventories, property management plans, and accountings;
10. to adjudicate requests for approval of attorney fees and expenses;
11. to adjudicate requests for approval of fiduciary fees and expenses;
12. to adjudicate requests for surviving spouse entitlements including elective share, year's support allowance, exempt property, and homestead;
13. to conduct review and case management hearings;
14. to enter review and case management orders;
15. to make reports and recommendations; and
16. to preside over all matters as the court may refer.

### **§ 39.03 Decedents' Estates**

- (a) Petitions to Probate Testamentary Instruments (Wills and Codicils).** A verified petition to probate a testamentary instrument (will or codicil) must include all of the information required by statute and these Rules.

The petition must contain a paragraph that identifies the names, addresses, ages, and relationships to the decedent of all beneficiaries under the testamentary instrument.

In addition, the petition must contain a separate paragraph that identifies the names, addresses, ages, and relationships to the decedent of all the decedent's intestate heirs under Tenn. Code Ann. § 31-2-104. The petition must include sufficient explanation to enable the court to understand why the petitioner asserts that such persons are intestate heirs. For example, to the extent the circumstances require further explanation, the petitioner must provide details such as the decedent's (i) marital status at the time of death, (ii) surviving spouse and children, (iii) predeceased children who left surviving descendants, (iv) surviving and deceased parents, (v) surviving siblings, (vi) predeceased siblings who left surviving descendants, (vii) surviving grandparents, and (viii) deceased grandparents who left surviving descendants.

The petition must inform the court if any beneficiary or heir is under disability and represented by a parent, guardian, custodian, conservator, or attorney in fact under a power of attorney.

If any names, addresses, ages, or relationships are unknown to the petitioner, the petition must include an explanation of the reasonable efforts made to obtain the information.

The petition must state the approximate value of the probate assets (real property and personal property) unless (i) the testamentary instrument expressly waives bond as to the proposed personal representative, or (ii) all residuary beneficiaries under the testamentary instrument have filed written waivers of bond, or (iii) the petition seeks only the probate of the testamentary instrument as a muniment of title and without the issuance of letters of authority.

A copy of the testamentary instrument must be attached as an exhibit to the petition. The original testamentary instrument must be tendered to the Circuit Court Clerk within 5 business days after filing the petition.

- (b) Petitions to Administer Intestate Estates. A verified petition to administer an intestate estate must include all of the information required by statute and these Rules.

The petition must contain a paragraph that identifies the names, addresses, ages, and relationships to the decedent of all the decedent's intestate heirs under Tenn. Code Ann. § 31-2-104. The petition must include sufficient explanation to enable the court to understand why the petitioner asserts that such persons are intestate heirs. For example, to the extent that the circumstances require further explanation, the petitioner must provide details such as the decedent's (i) marital status at the time of death, (ii) surviving spouse and children, (iii) predeceased children who left surviving descendants, (iv) surviving and deceased parents, (v) surviving siblings, (vi) predeceased siblings who left surviving descendants, (vii) surviving grandparents, and (viii) deceased grandparents who left surviving descendants.

The petition must inform the court if any heir is under disability and represented by a parent, guardian, custodian, conservator, or attorney in fact under a power of attorney.

If any names, addresses, ages, or relationships are unknown to the petitioner, the petition must include an explanation of the reasonable efforts made to obtain the information.

The petition must state the approximate value of the probate assets (personal property) unless (i) all intestate heirs have filed written waivers of bond, or (ii) the petition seeks only the appointment of an administrator ad litem for the limited purpose of litigation and without the issuance of letters of authority.

- (c) Review on Record (Without Hearing). If the petitioner is represented by an attorney, the attorney may file a request for review and approval of the petition without a hearing. The request must conform to all applicable guidelines and forms issued by the court. The review on record option is not available beyond the limited circumstances and types of proceedings described and authorized in the court's guidelines. An attorney may obtain a copy of the guidelines from court staff or the Circuit Court Clerk.
- (d) Hearing of Petition. All petitions must be set for hearing under Local Rule § 39.11, unless the attorney requests review on record. The petitioner must serve Notice of the hearing to all Interested Parties.
- (e) Service of Process. Petitions to probate testamentary instruments in common form or to administer intestate estates are not Adversary Proceedings and do not require Service of Process. Petitions to probate testamentary instruments in solemn form are Adversary Proceedings and require Service of Process.
- (f) Status Report Requirement. All persons who have been issued letters of authority, other than to administer small estates, must file a status report updating the court on what is left to be done to fully administer the estate, and estimating how much time it will take, on the date which is 15 months after the date of the appointment, and then annually thereafter until the court enters an order closing the estate.

#### **§ 39.04 [Deleted]**

#### **§ 39.05 Conservatorships and Expedited Limited Healthcare Fiduciaries**

A petition to establish a conservatorship or for the appointment of an expedited limited healthcare fiduciary must be verified and contain the information required by statute and these Rules.

The petitioner must effect Service of Process on the respondent as required by statute.

The petitioner must provide Notice to the respondent's closest relatives, defined by statute, and the person or institution having care and custody of the respondent, or with whom the respondent lives. The petitioner must also provide Notice to any other Interested Parties.

The court will enter an order either appointing or waiving a guardian ad litem and an attorney ad litem and setting the petition for hearing.

#### **§ 39.06 Guardianships**

A petition to establish a guardianship for a minor must be verified and contain the information required by statute and these Rules.

The petitioner must effect Service of Process on the minor as required by statute.

The petitioner must provide Notice to the minor's closest relatives, defined by statute, and the person or institution having care and custody of the minor, or with whom the minor lives. The petitioner must also provide Notice to any other Interested Parties.

The court will enter an order either appointing or waiving a guardian ad litem and setting the petition for hearing.

#### **§ 39.07 Sale of Real Property**

The real property interests of decedents, respondents under conservatorships, and minors under guardianships may be sold as follows:

##### **(a) Decedent's Estate – When Court Approval Not Required.**

(i) If the decedent's estate is testate and solvent and the instrument admitted to probate expressly brings the decedent's real property into the probate estate subject to administration by the personal representative, then court approval is not required to sell real property.

(ii) If the decedent's estate is testate and solvent and the instrument admitted to probate does not expressly bring the decedent's real property into the probate estate subject to administration by the personal representative, then the personal representative does not have the authority to sell the real property and the beneficiaries of the real property may sell the real property without court approval.

(iii) If the decedent's estate is intestate and solvent, then the personal representative does not have the authority to sell the real property and the decedent's heirs may sell the real property without court approval.

##### **(b) Decedent's Estate – When Court Approval Required.**

(i) If the decedent's estate is testate and insolvent and the instrument admitted to probate does not expressly bring the decedent's real property into the probate estate subject to administration by the personal representative, then the personal representative may petition the court to bring the real property into the probate estate to be sold to pay the estate's financial obligations. This is an Adversary Proceeding.

The petitioner must effect Service of Process on all beneficiaries of the real property under the instruments admitted to probate and anyone else who claims an interest in the real property, and give Notice to all Interested Parties.

(ii) If the decedent's estate is intestate and insolvent, then the personal representative may petition the court to bring the real property into the probate estate to be sold to pay the estate's financial obligations. This is an Adversary Proceeding.

The petitioner must effect Service of Process on all heirs and anyone else who claims an interest in the real property, and give Notice to all Interested Parties.

**(c) Respondent Under Conservatorship – Court Approval Required.**

A conservator may not sell a respondent's interest in real property without court approval. The conservator must file a verified petition to sell real property. The petition must establish that the proposed sale either (i) is in the respondent's best interest, or (ii) is necessary to pay the respondent's financial obligations.

The petitioner must effect Service of Process on anyone who claims an interest in the real property, and give Notice to all Interested Parties, including the respondent.

**(d) Minor Under Guardianship – Court Approval Required.**

A guardian may not sell a minor's interest in real property without court approval. The guardian must file a verified petition to sell real property. The petition must establish that the proposed sale either (i) is in the minor's best interest, or (ii) is necessary to pay the minor's financial obligations.

The petitioner must effect Service of Process on anyone who claims an interest in the real property, and give Notice to all Interested Parties.

**(e) Order Granting Petition to Sell Real Property; Contract Requirements.**

Unless the court expressly directs otherwise, any order granting a petition to sell real property must authorize the fiduciary to obtain an appraisal, list the real property for sale, market the property, and enter into a contract for sale of the real property. Any contract for sale of the real property must list the fiduciary as the seller (on behalf of the decedent's estate, respondent under conservatorship, or minor under guardianship). Any contract for sale of the real property must expressly and conspicuously state that the sale of the real property is **Subject to Court Approval**. The fiduciary must sign the contract for sale in a fiduciary capacity and not in an individual capacity.

**(f) Motion to Approve Sales Contract When Court Approval Required; Post Closing Requirements.**

For sales of real property in which court approval is required, when the fiduciary enters into a sales contract, the fiduciary must file and serve a motion to approve the contract under Local Rules §§ 26 and 39.13, and give Notice to all Interested Parties, including the respondent if in a conservatorship.

The fiduciary must attach to the motion, (i) a copy of the sales contract, and (ii) the County Assessor of Property's report of the real property's assessed value or a professional appraisal of the real property.

The fiduciary may not close the sale of the real property until the court approves the sales contract.

Except in a decedent's estate in which inventory is waived by court order, within 30 calendar days after closing of the sale, the fiduciary must file (i) a copy of the HUD-1 or ALTA settlement statement and (ii) an inventory showing the amount and location of the funds received from the sale of real property.

**§ 39.08 [Deleted]**

**§ 39.09 Adversary Proceedings**

Adversary Proceedings are civil actions to which the Tennessee Rules of Civil Procedure, Tennessee Rules of Evidence, and these Local Rules apply. A party may initiate an Adversary Proceeding by filing a complaint or petition and effecting Service of Process on all defendants or respondents under Tenn. R. Civ. P. 4.

The party who initiates the Adversary Proceeding must also serve Notice of the Adversary Proceeding on all Interested Parties who are not defendants or respondents, but is not required to provide any further notice to Interested Parties unless they intervene in the Adversary Proceeding.

If an Adversary Proceeding is filed under the same docket number as a pending decedent's estate, conservatorship, or guardianship, the court may require the Adversary Proceeding to be assigned a new docket number and separately litigated.

**§ 39.10 Guardians Ad Litem**

- (a) The Court may appoint or waive the appointment of a guardian ad litem when a petition is filed to appoint a guardian, conservator, or expedited limited healthcare fiduciary.
- (b) The Court may also appoint a guardian ad litem in any matter:
- involving the sale, improvement, or mortgage of any real property in which a minor or other person under disability has an interest;
  - involving the sale or disposition of personal property;
  - involving possible impropriety by a fiduciary;
  - concerning unauthorized encroachments or questionable management by a fiduciary; or
  - in any matter if the court believes appointment of a guardian ad litem to be in the best interest of a minor, incompetent, absentee, unknown heir, or Interested Party, or to further the administration of justice.
- (c) The guardian ad litem must conduct an inquiry and file a report with the court at least 3 business days before the hearing. The report must contain the information required by statute and these Rules, and any additional information the court requires or the guardian ad litem deems necessary. The report should be brief unless the complexities of the case require otherwise.

**§ 39.11 Setting, Striking, and Continuing Hearings**

- (a) The Judge's staff schedules hearings on petitions to appoint guardians, conservators, and expedited limited healthcare fiduciaries. The court enters orders setting these hearings.
- (b) Attorneys and self-represented litigants may schedule hearings of their motions (other than dispositive motions) and petitions (other than petitions to appoint guardians, conservators, and expedited limited healthcare fiduciaries) on the court's recurring dockets so long as the hearing is expected to take no more than 20 minutes. Hearings are set by Notice to all Interested Parties. The attorney or self-represented litigant who scheduled the hearing may also strike or continue the hearing by Notice to all Interested Parties.
- (c) Any hearing that is expected to take more than 20 minutes and all hearings for dispositive motions must be specially set. The Judge's staff will designate available special settings by e-mail or online calendar. If all Interested Parties agree to schedule a hearing on an available special setting, they may submit an agreed order (signed by all Interested Parties or their counsel of record) to schedule the hearing. Otherwise, the attorney or self-represented litigant who wishes to schedule the specially set hearing must file a motion to set the hearing, with Notice to all Interested Parties.
- (d) If a hearing has been specially set, no attorney or self-represented litigant may unilaterally strike or continue the hearing. If all Interested Parties agree to strike or continue the hearing, they may submit an agreed order (signed by all Interested Parties or their counsel of record) striking or continuing the hearing. Otherwise, the attorney or self-represented litigant who wishes to strike or continue the hearing must file a motion to strike or continue the hearing, with Notice to all Interested Parties.

### **§ 39.12 Petitions for Elective Share, Year's Support, Homestead, and Exempt Property**

- (a) Petition and Notice. When a surviving spouse requests an elective share, year's support, homestead, or exempt property, the surviving spouse must give Notice to the estate's personal representative, the attorney of record, and all Interested Parties, including any creditors if the estate is or may become insolvent. If the surviving spouse is the estate's personal representative, the court may appoint an administrator ad litem.
- (b) Prerequisites for Final Hearing. No later than 3 business days before the final hearing of any petition for an elective share, year's support, homestead, or exempt property, each party must submit to the court, the opposing party, and all Interested Parties:
- a calculation of the value of the net estate
  - a written proposed amount to be awarded to the surviving spouse, that includes
    - the amount and percentage of an elective share,
    - the amount for year's support,
    - the amount of homestead,
    - the amount of exempt property, and
    - the parties' stipulations, if any, as to the values of the assets considered in arriving at the proposed award.

### **§ 39.13 Motions**

Motions must be in writing and comply with Local Rule § 26. Parties who are opposed to the motion must file and serve written responses under Rules §§ 26.04(d) and (e), or the court will consider the motion to be unopposed.

Other than motions for fiduciary or attorney fees (see Local Rule § 39.14(b)), for all matters that require the court's discretionary approval, the movant's attorney (or the movant if the movant is self-represented) should appear at the hearing and be prepared to present the motion.

If no response to a motion is timely filed, and the movant believes the motion is unopposed, the movant should file a proposed order granting the motion before the scheduled hearing.

The court, in its discretion, may grant unopposed motions before the scheduled hearing. If the court enters an order granting an unopposed motion before the scheduled hearing, or if the motion is on the fee docket and no written response is filed, then it is not necessary for the movant or the movant's attorney to appear for the hearing.

### **§ 39.14 Fiduciary and Attorney Fees**

#### **(a) Court Approval of Fees**

1. Decedents' Estates. Any request for fiduciary or attorney fees in a decedent's estate must be by motion, supported by affidavit or declaration, and when applicable, billing statements and receipts, with Notice of the motion and supporting documents to all Interested Parties.
2. Conservatorships, Guardianships, and Expedited Limited Healthcare Fiduciary Cases. In conservatorships, guardianships, and expedited limited healthcare fiduciary cases, no conservator, guardian, attorney, petitioner, guardian ad litem, or anyone else, may spend or receive, as fees, expenses, or otherwise, any of a respondent's or ward's funds without court approval.

Anyone who pays fees or expenses out of, or otherwise spends a respondent's or ward's funds without express court approval may be personally liable for the funds, and for all reasonable and necessary costs, fees, and expenses resulting from the unauthorized disbursement.

- (b) When Motion Is Required. Unless these rules allow for a fee application without a motion, all requests for fees, expenses, or costs must be made by motion filed, served, and set for hearing under Local Rules §§ 26 and 39.13.

The notice of hearing of a fee or expense request motion must expressly state in bold print:

**THIS MOTION IS EXPECTED TO BE HEARD AT \_\_\_\_\_ .M. CENTRAL TIME ON \_\_\_\_\_, \_\_\_\_\_, 20\_\_\_\_, IN COURTROOM \_\_\_\_\_. IF A WRITTEN RESPONSE IS NOT FILED BY 4:30 P.M. CENTRAL TIME 7 CALENDAR DAYS BEFORE THE DATE OF THE HEARING, THE COURT WILL REVIEW THE FEE REQUEST WITHOUT A HEARING.**

Review the chamber rules and other written guidelines for the particular court in which the case is pending to determine the applicable time, date, and courtroom for that court's motion hearings.

If an opposing party timely files a written response, the court will hold a hearing on the motion and may refer the matter for further proceedings before a Probate Court Master.

If no response is filed, the court still must determine whether the fees, expenses, or costs are reasonable and necessary, but no one need appear to present the motion. The court will review the motion, affidavit or declaration, and other supporting documents, and act on the fee request without a hearing. If the court needs further information or a hearing, the court's staff will notify the movant's attorney (or the movant if the movant is self-represented).

- (c) When Motion is Not Required – Fee Application. When the court approves a petition to create a conservatorship or guardianship or to appoint an expedited limited healthcare fiduciary, and in some other circumstances, the court may expressly direct a person to file a "fee application" rather than a motion, for reasonable and necessary fees incurred and for costs and expense reimbursement.

The applicant must serve Notice of the application and supporting documents on all Interested Parties, including notice that the court will review and act on the application without a hearing.

Fee applications are allowed only when the court expressly directs. Otherwise, all fee and expense requests must be made by motion under Local Rules §§ 26 and 39.13.

- (d) Motion and Fee Application. All motions for fees and expenses and fee applications must state:

- the total fee requested;
- the total hours worked;
- the hourly rate charged;
- the total expenses requested, if any; and
- facts necessary to support the fees and expenses requested.

Expense reimbursements should be supported by receipts.

Motions for fees and expenses and fee applications must be supported by affidavits or declarations with billing statements listing the service providers, dates of service, services provided, and time spent.

The person requesting fees and expenses must establish that they are reasonable and necessary and why they should be charged against the decedent's or ward's estate or other party.

Fee and expense request forms are available from the Circuit Court Clerk.

- (e) Written Consent to Fees and Expenses in Solvent Decedents' Estates Only. When a decedent's estate (i) is solvent, and (ii) all its residuary beneficiaries are competent adults or entities or persons represented by authorized fiduciaries (iii) who have

consented to specific fees and expenses stated in a signed written consent, court approval of the fees and expenses is *not* required.

Alternatively, a fiduciary or attorney may request fees and expenses by fee application under Local Rules §§ 39.14 (c) and (d), without a motion or hearing. The fiduciary or attorney must attach the residuary beneficiaries' written consents to the fee application, and the fiduciary's or attorney's affidavit or declaration that states:

**All residuary beneficiaries are competent adults or entities or persons represented by authorized fiduciaries and have expressly consented to the specific fees and expenses requested, the estate is solvent, and the approval and payment of the fees and expenses will not result in an insolvent estate or the inability to pay any valid creditor claims or any expenses of administration.**

This procedure is not available if the estate is insolvent or likely to become insolvent.

**(f)** Fee and Expense Requests in Conservatorships, Guardianships, and Expedited Limited Healthcare Fiduciary Cases.

1. Initial Request. Anyone who wishes to have fees or expenses paid by the respondent, minor, or any other party must inform the court of the request at the hearing in which the court either grants or dismisses the petition.

The court will direct the person to file the fee and expense request either by motion under Local Rule § 39.14(b), or by fee application under Local Rule § 39.14(c).

2. Interim Requests. During the ongoing administration of a conservatorship, guardianship, or expedited limited healthcare fiduciary case, all interim fee and expense requests must be made by motion under Local Rule § 39.14(b), with Notice to all Interested Parties.

Interim fee and expense requests should not be made more than quarterly, unless there is good cause for a more frequent request.

3. Final Request. When a conservatorship, guardianship, or expedited limited healthcare fiduciary case is to be closed, anyone requesting that fees or expenses be paid by the respondent, minor, or any other party must file a motion under Local Rule § 39.14(b), with Notice to all Interested Parties, before the case is closed. The court must enter an order or orders determining all motions for fees and expenses either before or concurrent with the order closing the case.

Do not file one motion to both approve fees and expenses and close the case; those matters require separate motions and orders. The court may deny any motion or application for fees or expenses filed after a case is closed unless good cause is shown for the late filing.

**(g)** Fee and Expense Requests in Decedents' Estates.

1. Interim Requests. Interim fee and expense requests must be made by motion under Local Rule § 39.14(b), with Notice to all Interested Parties.

Unless good cause is shown, requests for fiduciary or attorney fees and expenses should be made annually after the most recent annual accounting is approved or, if accountings are waived, when an annual accounting would have been made.

2. Final Requests. Anyone requesting that fees or expenses be paid by or charged against a decedent's estate or by any other party must file a motion under Local Rule § 39.14(b), with Notice to all Interested Parties, before the case is closed. The court must enter an order or orders determining all motions for fees and expenses either before or concurrent with the order closing the case.

Do not file one motion to both approve fees and expenses and close the case; those matters require separate motions and orders. The court may deny any

motion or application for fees or expenses filed after a case is closed unless good cause is shown for the late filing.

- (h) Notice to Interested Parties. Anyone filing a motion for fees or expenses under Local Rule § 39.14(b) must provide Notice of the motion, all supporting documents, and of the date and time of the hearing of the motion to all Interested Parties.

Anyone filing a fee application under Local Rule 39.14(c) must provide Notice of the application, all supporting documents, and that the court will review and act on the application without a hearing to all Interested Parties.

### **§ 39.15 Inventories, Accountings, and Closing Decedents' Estates**

- (a) The personal representative must file an initial inventory, then file annual accountings until the estate is fully administered and closed. The court may extend or shorten the time for filing the inventory, interim or final accountings for good cause.

Accountings, or inventories, or both, may be waived (i) by the court for good cause; (ii) by an express provision in the decedent's will; or (iii) by the express written waiver of all residuary beneficiaries.

- (b) The personal representative, or the personal representative's attorney, must give copies of the inventory, interim and final accountings to all Interested Parties.

- (c) A decedent's estate may be closed without a final accounting or motion to close if:

(i) the estate is solvent; and

(ii) the period for filing creditor claims has expired; and

(iii) the following have been filed in the record:

(a) Statement of proper distribution from each personal representative (also known as Statement in Lieu – Personal Representative);

(b) Specific bequest receipt from each beneficiary of a specific bequest under the testamentary instruments admitted to probate (if any);

(c) Receipt and waiver of final accounting from each residuary distributee of the estate (also known as Statement in Lieu – Distributee);

(d) Proof of payment, withdrawal, or dismissal (such as a receipt, release, withdrawal, or dismissal order) for each creditor claim;

(e) Proof of fiduciary's authority to sign (if a fiduciary has signed a receipt or waiver; for example: copy of trust or trust certification if trustee is a beneficiary, copy of letters of guardianship if minor is a beneficiary, copy of letters testamentary or of administration if beneficiary is deceased, or copy of power of attorney or letters of conservatorship if incompetent person is a beneficiary);

(f) TennCare release (if the decedent was age 55 or older at death);

(g) Tennessee inheritance tax release (if the decedent died before 2015); and

(h) Proposed order to close the estate.

### **§ 39.16 Orders and Decrees**

In addition to Local Rule § 33, which applies to Probate Court:

- (a) Orders that waive bond, inventory, or accountings must expressly state the grounds for the waiver.

- (b) Any order that states the basis for the court's ruling must state it correctly and without reciting matters that did not occur or findings the court did not make.
- (c) All orders should state the date the matter was heard or docketed for hearing, and be submitted to the court within 7 calendar days after the hearing unless the court grants additional time. If the petitioner or movant expects the petition or motion to be uncontested, the petitioner or movant should file the proposed order before the hearing.

#### **§ 39.17 Instructing Clerk to Invest Funds**

The Circuit Court Clerk will invest funds in an interest bearing account only when there is a specific order directing it to invest the funds in an interest bearing account.

The order must include the full legal name of the person whose funds are being invested and, if the person is a minor under a guardianship, the date of the minor's 18th birthday.

The party ordered to deposit funds with the Circuit Court Clerk must also provide certain confidential statistical data regarding the person or persons whose funds are being invested on a separate "Statistical Sheet" that is filed under seal. See Local Rule § 6.07. The Statistical Sheet form is available in the Circuit Court Clerk's office or on its website.

#### **§ 39.18 Chamber Rules**

7th Circuit Court is designated with probate jurisdiction. However, some probate and related cases may be assigned or transferred to other divisions of the Circuit Court by agreement of the judges. In addition to these Rules, parties and attorneys should review and follow the chamber rules and other written guidelines for the particular court in which the case is pending.

## **BUSINESS COURT RULES**

### **RULE 40 THE BUSINESS COURT DOCKET PILOT PROJECT**

In 2015, the Tennessee Supreme Court created the specialized Business Court Docket Pilot Project to expeditiously resolve complex business and commercial disputes and to create a uniform body of business law in Tennessee.

The Business Court Docket is governed by the Tennessee Rules of Civil Procedure, the Tennessee Rules of Evidence, and these Local Rules, as well as the *Guide to the Business Court Docket*, which establishes case eligibility criteria, Business Court Docket designation request procedures, and litigation plan requirements. The *Guide to the Business Court Docket*, Request for Designation forms, Business Court decisions, and other information about the Business Court Docket are available at <https://www.tncourts.gov/bizcourt>.