

**Local Rules of Practice
For the
Circuit Court
of the
Thirteenth Judicial District**

Clay County, Cumberland County, DeKalb County,
Overton County, Pickett County, Putnam County and White County

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Frequently Asked Questions About the Local Rules of Practice

1. Why did I not get a notice of the docket setting date? Answer. Cases are set on a docket setting day whether or not the attorneys are present. It is incumbent upon the attorneys to determine the date of the docket setting for their case. Twice a year the circuit judges make available through the clerks' offices and the Putnam County Circuit Court Clerk's website a schedule of Court Chambers and Docket Setting Dates. Attorneys should refer to that schedule and attend docket settings.

2. How is a case set for trial? See Local Rules of Practice for the Circuit Court of the Thirteenth Judicial District (L.R.P.) L.R.P. 17.01. Answer. First, determine which judge has been assigned to your case. The docket in any one of the seven (7) counties in the Thirteenth Judicial District should indicate which judge will hear a case. The clerk's office can help you with this information. Second, attend or send a representative to the docket setting in the county in which your case is filed. The docket setting dates for each county should be available through the Putnam County Circuit Court Clerk's website which is www.putnamco.org/dockets. The Putnam County dockets also are available at this website.

3. What is the most frequent reason that the judge will not sign my order? Answer. Because the order does not comply with the Tennessee Rules of Civil Procedure Rule 58. It says in pertinent part that an order of final disposition is only effective when it contains one of the following:
 - (1) the signatures of the judge and all parties or counsel; or
 - (2) the signatures of the judge and one party or counsel with a **certificate of counsel** that a copy of the proposed order has been served on all other parties or counsel; . . .

4. How do I get a trial continued or moved to another date? Do I have to file a motion? Can we submit an agreed order? Can we do it by conference call with the judge? Answer. L.R.P 17.04 [a] Cases can be continued only by leave of court. They are not to be continued by agreement. Agreed orders are not accepted. A motion to continue is appropriate. In extraordinary circumstances a conference call will be allowed.

5. Can trial dates be continued so the parties can participate in a judicial settlement conference? What happens if the trial date is just a few weeks away and there are no settlement conference dates available? Answer. Judicial settlement conferences must

be scheduled early enough so they will not affect the trial date. Judicial settlement conference dates for both judges are listed on the schedule of Court Chambers and Docket Setting Dates.

6. How are judicial settlement conferences scheduled? What do I do if opposing counsel won't agree to a settlement conference or won't cooperate in picking a date? Answer. Get a date from the judge who will be holding the judicial settlement conference and get an "Order Establishing Judicial Settlement Conference" signed by the judge to whom the case has been assigned. Supreme Court Rule 31 provides for obtaining a settlement conference. All attorneys should cooperate. If an attorney is uncooperative a conference call with the judge to whom the case is assigned would be appropriate.
7. How are motions scheduled? Does the clerk schedule them? Does the clerk forward a hard copy of the motion to the judge? If I send a copy of the Notice of Hearing to the judge's office, do I also have to call the judge's office to get it on the docket? Do I have to send a copy of the motion to the judge? Answer. The legal assistant in the judge's office schedules all motions heard on a Chambers date. Friday is the usual date for Chambers. Chambers dates are listed on the schedule of Court Chambers and Docket Setting Dates (see FAQ #1). None of the seven clerks are required to forward the motion to the judge. Therefore, the attorney must forward by mail or fax a copy of the motion and pertinent authority to the judge at least two days prior to the date of hearing.
8. Do I have to bring the court file for motion hearings? Answer. If the judge will need the court file to rule on any motion set for a hearing the moving party's attorney must check out and bring the court file with them to the hearing. That attorney is also responsible for returning the file to the clerk in a timely manner.
9. Can Motions in Limine be heard the day of the trial? Answer. Routine motions must be scheduled on a Chambers date prior to the day of trial. The courts will not delay commencement of the trial on the date of the trial because attorneys have not scheduled motions prior to the trial date.
10. Can pre-trial briefs and expert depositions be submitted to the judge via fax machine? Answer. Yes, as long as the information is legible.
11. Are condensed copies of depositions acceptable? Answer. Yes. However, they should not be sent via fax machine. If an emergency arises and they are sent by fax, the sender is obligated to determine if the fax copy is legible.

12. Where do I send orders that need to be signed by the judge? Do I send them to the clerk or to the judge's office? Answer. L.R.P. 23.01 [e]. After an order is circulated and has the signature of all attorneys or pro se litigants, the order should be sent directly to the judge's office. Do not send them to the clerk's office. All orders mailed to the judge's office for signature shall be accompanied by an envelope properly addressed to the clerk of the county in which the action is filed with sufficient postage affixed thereto to carry it to its destination.
13. Under the five day rule, are orders "lodged" in the clerk's office or in the judge's office? Answer. L.R.P. 23.01 [c]. The order must be lodged in the judge's office.
14. What if I want to use audio/visual equipment during a trial? Answer. L.R.P. 11. Twenty-one (21) days notice to all adverse counsel is required.
15. What are the attorneys' obligations when a case is removed to federal court? Answer. L.R.P. 29.01 [b].

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RULE 1: APPLICABILITY, SUSPENSION AND DEFINITIONS

1.01 Former Rules Abrogated

All former rules of local practice of the Circuit Court except as re-adopted herein are abrogated.

1.02 Applicability

Each rule is applicable in the Circuit Court of the Thirteenth Judicial District. Each rule is applicable in all types of cases unless otherwise indicated by a particular rule. When a rule’s applicability is designated to apply to a particular type of case (e.g., civil cases or criminal cases), it is applicable to all cases of that type. Criminal rules herein are applicable to criminal cases being tried by the Circuit Judges. In the event any rule herein conflicts with substantive law, T.R.C.P. or Tenn.R.Crim.P., the local rule will not be enforced.

1.03 Suspension of Rules

Whenever the Court determines that justice requires it, it may suspend any of these rules unless in violation of T.R.C.P or Tenn.R.Crim.P.

1.04 Definitions

The following definitions apply to terms used in these rules:

Clerk	The Circuit Court Clerk
T.R.C.P.	Tennessee Rules of Civil Procedure
Tenn.R.Crim.P.	Tennessee Rules of Criminal Procedure
L.R.P.	Local Rules of Practice

10.5 Citation

These rules may be cited as “L.R.P. _____.”

RULE 2: PRESIDING JUDGE

The Presiding Judge selected pursuant to T.C.A. Section 16-2-509 and Rule 11 of the Rules of the Supreme Court of Tennessee will supervise the administration of the respective courts.

RULE 3: COURT SESSIONS

3.01 Time

Regular sessions of court will open at 9:00 a.m. (central time) or at such other time as the court directs. Judges and attorneys shall be prompt at all sessions.

3.02 Schedules

Effective from and after _____, and until further modified, the Circuit Court sessions for the counties of the Thirteenth Judicial District are as set out in the schedules on file at the various clerks' offices and are available from the legal assistant to each Circuit Judge.

RULE 4: APPEARANCE AND CONDUCT OF COUNSEL

4.01 Counsel of record; entry of appearance

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

1. The filing of pleadings;
2. The filing of a formal notice of appearance; or
3. Appearance of counsel at an arraignment;
4. A qualified appearance may be made by counsel at arraignment only if approved by the court.

[b] Whenever a defendant in a criminal case is determined by the court to be indigent and counsel is appointed, an order shall be entered setting forth the indigence finding and identifying the appointed counsel.

4.02 Withdrawal of Counsel

[a] No attorney will be allowed to withdraw except for good cause and by leave of the court upon motion and hearing after notice to the party or by agreed order signed by the attorney and client and approved by the court.

[b] Appointed counsel in a criminal case shall continue to represent the defendant until entry of a court order to the contrary. Counsel shall represent the defendant subsequent to final judgment in such matters that deal with any correction of the judgment and through

the initial appellate correction of the judgment and through the initial appellate review. Such appointment, however, shall not extend to post conviction relief petitions, parole matters or matters unrelated to the case or cases upon which the appointment was made. When appointed counsel represents a defendant in matters subsequent to final judgment, the court may enter an order reappointing counsel so as to authorize the attorney to seek compensation pursuant to T.C.A. 40-14-201 et seq.

4.03 No appearance entered; copies of pleadings

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

4.04 Conduct of Counsel

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

[b] Bench conferences should be requested by counsel only when absolutely necessary in aid of a trial. Counsel may never lean upon the bench nor appear to engage the court in conversation in a confidential manner.

[c] Counsel should refrain from interrupting the court or opposing counsel until the statement being made is fully completed, except when absolutely necessary to protect the client, and should respectfully await the completion of the Court's statement or opinion before undertaking to point out objectionable matters. When objection is made to a question asked, counsel should refrain from asking the witness another until the court has had an opportunity to rule upon the objection. Objecting counsel shall state the legal grounds without argument or discussion except by leave of court.

[d] Attorneys shall stand while examining witnesses, or addressing the jury or the court, unless excused by the court.

[e] The following Standards of Intra-Professional Conduct are hereby adopted as standards which govern the conduct of counsel.

Standards of Intra-Professional Conduct

1. A lawyer should avoid taking action adverse to the interests of a litigant known to be represented without notice to adversary counsel sufficient to permit response.
2. A lawyer should promptly respond to attempts by other lawyers to contact him or her, whether by telephone or correspondence.
3. A lawyer should respect his or her opponent's schedule by seeking agreement on deposition dates and court appearances (other than routine motions) rather than merely serving notice.
4. A lawyer should avoid making ill-considered accusations of unethical conduct toward an opponent.
5. A lawyer should not engage in intentionally discourteous behavior for the purpose of obtaining an advantage.
6. A lawyer should never intentionally embarrass another attorney and should avoid personal criticism of him or her in the presence of his or her client or other counsel.
7. A lawyer should not seek sanctions against or disqualification of another attorney unless necessary for the protection of a client and fully justified by the circumstances, and never for the mere purpose of obtaining a tactical advantage.
8. A lawyer should strive to maintain a courteous tone in correspondence, pleadings and other written communications.
9. A lawyer should never intentionally mislead or deceive an adversary and should honor promises or commitments made.
10. A lawyer should acknowledge that the conflicts within which he or she is involved are professional and not personal and should endeavor to maintain a friendly and collegial relationship with his or her adversaries. In short, a lawyer should "leave the argument at the courtroom door."

4.05 Setting Attorney Fees

Whenever it is necessary for the court to fix fees of attorneys, the attorney shall file a statement of time spent on the case, a suggestion of the amount of a proper fee, and any other

information requested by the court. This rule may not apply where fees are set or suggested by statute.

RULE 5: COURT FILES

All papers and records of the court shall be in the custody of the clerk. Files may not be withdrawn by any person other than attorneys, or their employees, at any time except by leave of court. Any files withdrawn shall not be retained for more than five [5] days without leave of court. The person withdrawing the file shall be responsible for maintaining its contents and returning it to the clerk. Copies of the files shall be furnished by the clerk at a reasonable cost. No criminal court file or evidence from a criminal court file may be withdrawn from clerk's custody without court approval.

RULE 6: FILING AND SERVICE OF PAPERS

6.01 Certificate of Service

All papers, other than the complaint, must contain a certificate of service which must include the date of service and the name of the person or persons served.

6.02 Signature of Counsel

All pleadings, orders, briefs and other papers submitted for consideration by the court shall show the style and number of the case, the general nature of the paper filed, and the name, address, and telephone number of the attorney filing the pleading, and the filing attorney's Tennessee Supreme Court Registration Number, and shall be signed by counsel.

6.03 Clerk's duties - Final Orders

The clerk, at the time of filing of any orders signed by the judge, other than non-minute orders, shall forward a copy of the order with the filing date thereon to all counsel of record.

RULE 7: JURY DEMAND: CIVIL CASES

7.01 Procedure

For the benefit of the clerk, in any civil case in which a jury is demanded, the words "JURY DEMAND" shall be typewritten in capital letters on the first page of the pleadings opposite the style of the case above the space for the case number.

7.02 Number of Jurors

In all civil cases, the parties may stipulate that the jury will consist of any number of persons less than twelve (12).

7.03 Challenges

The stipulation shall not affect the number of challenges nor the manner of making them.

RULE 8: DISCOVERY: CIVIL CASES

8.01 Filing Required Only for Use by Court

Interrogatories and requests for production or any other discovery material need not be filed with the clerk unless and until it is to be used in court or considered by the court for any purpose.

8.02 Extension of Time for Responses to Discovery

As provided in Rule 29, T.R.C.P., stipulations extending the time for responding to interrogatories to parties, requests for production and requests for admissions shall not be made without approval of the court. Court approval may be obtained by submitting an agreed order extending the time for response. Any party unable to respond to discovery within the time provided in T.R.C.P. and who cannot obtain the agreement of the other parties for an agreed order extending the time for responding, may move the court for an extension of time for responding.

8.03 Discovery Completion Deadline

Upon motion of a party or upon its own motion, the court may order that discovery be completed by a certain date.

8.04 Interrogatories to Parties

No party shall serve on any other party more than thirty (30) single question interrogatories, including subparts, without leave of court. Any motion seeking permission to serve more than thirty (30) interrogatories shall set out the additional interrogatories the party wishes to serve. The motion will be accompanied by a memorandum giving reasons establishing good cause for the service of additional interrogatories. If a party is served with

more than thirty (30) interrogatories without an order of the court, he or she shall respond only to the first thirty in the manner provided by T.R.C.P.

8.05 Discovery Conference

To curtail undue delay, the court will refuse to rule on any motions for discovery unless moving counsel shall first file with the court at the time of filing of the motion, a statement certifying that he or she has conferred with counsel for the opposing party in a good faith effort to resolve by agreement the issues raised and that counsel has not been able to do so. If counsel for any party advises the court in writing that an opposing counsel has refused or delayed a discussion of the problems covered in the subsection, the court may take such action as appropriate to avoid delay.

8.06 Motion to Compel Discovery

Motion to compel discovery shall:

[a] Either (1) quote verbatim the interrogatory, request, or question and any objection or response thereto, or (2) be accompanied by a copy of the interrogatory, request or excerpt of a deposition which shows the question and objection or response. This requirement shall not apply where a party has submitted no response or objection to the entire set of interrogatories or requests;

[b] State the reason supporting the motion; and

[c] Be accompanied by a discovery conference statement as provided by Rule 8.05 of these rules.

8.07 Motions for Protective Orders; To Quash Subpoena

Motions for protective orders filed pursuant to Rule 26.03, T.R.C.P., motions to quash subpoenas for discovery filed pursuant to Rule 45.02, T.R.C.P., or any motion asking that discovery be postponed or restricted shall:

[a] Either (1) quote verbatim the interrogatory, request, question, or subpoena, or (2) be accompanied by a copy of the interrogatory, request, subpoena, or excerpt of a deposition which shows the question;

[b] State with particularity the grounds for the motion;

[c] Be accompanied by an affidavit or other evidence showing the need for the order;

[d] Be accompanied by a proposed protective order; and

[e] Be accompanied by a discovery conference statement as provided by Rule 8.06 of these rules.

8.08 Motion to Compel; Exhibits to Depositions

Agreements to furnish exhibits made during the taking of depositions may be enforced by motion made pursuant to Rule 37, T.R.C.P., and Rule 8.06 of these rules.

8.09 Service

Whenever a request for discovery is made, the party seeking discovery shall serve each party with a copy of the request. Such service shall be made regardless of whether the discovery sought is directed to only one of multiple parties. Likewise, each response to a request for discovery shall be served on each party in the case.

RULE 9: TRIAL DOCKETS AND CHAMBER DOCKETS

9.01 Daily dockets

Daily trial dockets will be prepared by the clerk.

9.02 Cases not Reached

In the event a jury case is not reached for trial on the day it is set, it may be carried over to the following trial day without loss of its place in the order of trial or may be reset by the court later in the session.

9.03 Chambers Docket

The judge's legal assistant/secretary shall schedule all matters to be heard at chambers.

RULE 10: MOTIONS - CIVIL CASES

10.01 Time for Filing and Disposition of Pre-Trial Motions

Pre-trial motions which may be dispositive of one or more issues in a case on the merits

must be filed and set for hearing at least sixty (60) days prior to the trial date in a jury case, and thirty (30) days prior to the trial date in non-jury cases. Any such pre-trial motion shall be docketed by the movant within ninety (90) days of filing in any case.

10.02 Response to Motions

____[a] If a motion is opposed, a response to the motion must be filed. The response shall be made in writing and shall state with particularity the grounds for opposition to the motion. If no response is filed, the court may dispose of the motion as unopposed.

[b] Responses to motions including counter affidavits, depositions, briefs, etc. must be served on opposing counsel prior to the day of hearing the motion except as to T.R.C.P. Rule 56 motions which are governed by that rule.

10.03 Briefs of Motions and Responses

Every motion which may require the resolution of an issue of law and every motion in which legal authority is relied upon shall be accompanied by a short memorandum of law and facts in support thereof. Responsive memoranda is required and shall be submitted and furnished to opposing counsel prior to the day of the hearing on the motion. If no responsive brief is filed, the court may dispose of the motion as unopposed. When motions are to be heard at chambers, copies of motions, briefs, and responses shall be sent to the judge sufficiently prior to the hearing to allow review. Whenever a memorandum cites an unreported Tennessee decision or a decision from a court of another state, counsel shall attach to the memorandum a complete copy of the opinion; counsel also shall furnish a copy of any unreported decision to opposing counsel.

10.04 Time for Hearings

Motions will be heard by agreement by order of the court, or on notice on any chambers day commencing at 9:00 a.m., or by consent of court on any regular day of a session in the county in which the motion is pending, or at such other times and places as may be designated by the court.

10.05 Places of Chambers

[a] Circuit Court Part I Chambers shall be held at 9:00 a.m. (central time) on designated Fridays at locations designated on schedule (see L.R.P. 3.02) or at such other times and places as the court may designate.

[b] Circuit Court Part II Chambers shall be held at 9:00 a.m. (central time) on designated Fridays at the Putnam County Justice Center, 421 East Spring Street, Cookeville, Tennessee, or at such other times and places as the court may designate.

[c] Notice of Hearing: Any party docketing a motion for hearing shall serve written notice of the date and time of the hearing upon all other parties.

10.06 Striking or Postponement of Motions

After a motion has been docketed, no party may strike or postpone a motion without the agreement of all parties. In the absence of an agreement, the court may order postponement of a motion hearing upon motion. If a motion is to be stricken or postponed by agreement, counsel shall notify the clerk or judge's administrative assistant/secretary as soon as practical. If any party strikes or postpones a motion without agreement of all parties of record, or without leave of court, the court may tax as costs reasonable fees and expenses in favor of any party who appeared at the scheduled hearing.

10.07 Failure to Appear at a Motion Hearing; Late Appearance

If any party does not appear at a scheduled hearing on a motion or any other matter scheduled to be heard on the motion docket, the court may strike or adjudicate the motion. Counsel who will be late for a motion hearing shall notify the judge's administrative assistant/secretary in advance of the hearing or have an announcement to that effect made at the call of the motion docket.

10.08 Motion for new trial - hearings

[a] Motions for a new trial and/or modification of an order/judgment shall be docketed by the movant for hearing within thirty (30) days of the date of filing of the motion.

[b] The failure to docket a hearing within thirty (30) days shall be considered a waiver of the motion and an order adjudicating the motion may be entered by the court.

RULE 11: USE OF AUDIO/VISUAL RECORDINGS: CIVIL AND CRIMINAL CASES

When a party intends to offer an audio and/or visual recording as evidence in any jury trial, counsel shall provide written notice to all adverse counsel at least twenty-one (21) days before trial. Adverse counsel shall be permitted to review the recording in the form in which it is intended to be offered at trial. Additionally, counsel, at his/her expense, shall be allowed

to copy said recording. Adverse counsel shall promptly advise the other attorney of each objection to the recording. The attorneys shall then attempt in good faith to resolve such matters among themselves. If the attorneys cannot resolve the objections, then they shall advise the trial court sufficiently before trial in order that said objections may be ruled upon in time to allow editing of the recording. This rule applies in civil and criminal cases. By way of example only, this rule applies to video taped depositions, "Day in the Life" recordings, surveillance films and confessions, interviews or statements. This does not apply to rebuttal or impeachment evidence and does not abrogate the requirements of Rule 12, Tenn.R.Crim.P.

RULE 12: MOTIONS: CRIMINAL CASES

12.01 Time for Hearings on Motions

Pre-trial motions will be heard on a date set by the court. Such hearings may be set on the negotiations deadline day or at such other time as the court may direct.

12.02 Failure to Appear at a Motion Hearing

If counsel for a movant does not appear at a scheduled hearing on a motion or any other matter scheduled to be heard on the motion docket, the court may adjudicate the motion.

RULE 13: NEGOTIATIONS AND SETTLEMENTS: CIVIL CASES

13.01 Awards of Expenses

If any case is settled within forty-eight (48) hours of when it is to begin, the court may award compensation to witnesses for lost income and/or travel expenses and tax the same as costs.

13.02 Court Approval of Settlement

All joint petitions for the approval of workers' compensation, legitimation and minor's claims must be filed with the clerk before being presented to a judge. In the event a minor or incompetent person is not represented by counsel, the court may require that a Guardian ad Litem be appointed for the person if the court is not satisfied with the proposed settlement, and in that event, the fee of said Guardian ad Litem will be taxed as part of the costs.

13.03 Notice Immediately Upon Settlement

If a case is set for trial and the parties subsequently reach a settlement, the parties shall give immediate notice of the settlement to the clerk and judge and shall promptly file an agreed order. Strict adherence to this requirement will allow the court to better plan for the trial of other pending cases.

RULE 14: NEGOTIATIONS AND SETTLEMENTS: CRIMINAL CASES

14.01 Plea Negotiations

Any offer the District Attorney chooses to make will be made in writing no later than seven (7) days prior to the negotiations deadline. Defense counsel should deliver a written response to the offer no later than twenty-four (24) hours prior to the negotiations deadline.

14.02 Settlement Date; Settlement Deadline

At arraignment, the court will assign a court date for settlement of the case which will be the deadline for acceptance of a negotiated disposition. If the case does not resolve at the deadline, it will be set for trial before one of the judges then presiding over criminal cases.

14.03 Pre-Trial Order

At arraignment, the court shall notify the parties of the deadline for filing pre-trial motions, the date for the hearing on pre-trial motions, and the settlement date. The above dates may be provided to the parties in the form of a blanket pre-trial order dealing with all cases on the arraignment docket or, when deemed necessary, all individual case orders may be entered. The clerk will retain the original order in its file, but need not copy it on the minutes.

RULE 15: COURT REPORTERS: CIVIL CASES

It is the responsibility of litigants to arrange for court reporters in civil cases. Proceedings will not be postponed or delayed because of a court reporter's absence or tardiness where counsel have not been diligent in this regard.

RULE 16: GENERAL SESSIONS APPEAL IN CIRCUIT COURT

[a] It shall be the duty of the Appellant and/or their attorneys to notify opposing parties or counsel at the time a General Sessions court case has been appealed to Circuit Court. The clerk shall also notify opposing parties or counsel that a case has been appealed and the date same will be on the Circuit Court docket.

[b] Every such appealed case is scheduled for trial on the first day of the next succeeding session of Circuit Court in that county, except that on timely motion the court may set the case at an earlier or later time.

[c] The signature of an attorney or party to an appeal from General Sessions court shall constitute a certificate under Rule 11, T.R.C.P.

RULE 17: SETTING CASES FOR TRIAL AND CONTINUANCES: CIVIL CASES

17.01 Method of Setting

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

- [a] By agreement of counsel after consultation with the court;
- [b] By motion; or
- [c] By the court with notice to counsel;
- [d] At docket call and setting as follows:

1. The Circuit judges of Part I and Part II shall call and set the trial docket for cases assigned to that judge on the first day of each session of court in each county. The judges may set cases upon request of attorneys made between sessions or on their own motion.

2. Except in cases where all parties or their attorneys are present before the court, or a case is set by agreement of the parties, the clerk shall notify all parties or their attorneys of the time and place where the matter will be heard.

17.02 Certifying Cases Ready When Set

When a case is set for trial, all counsel are certifying they are available for trial and that the case will be in all respects ready for trial on the trial date.

17.03 Deadline for Trial Preparation

When a party objects to having a case set because trial preparation is not complete, the court may establish a deadline for completing trial preparation.

17.04 Continuances

[a] Cases may not be continued by agreement and may be continued only by leave of court. Cases will not be continued except for good cause which shall be brought to the

attention of the court as soon as practicable before the date of the trial.

[b] Absence of a witness will not be considered by the court as a ground for a continuance unless the witness has been subpoenaed in accordance with the requirements of these rules and T.R.C.P.

[c] When a case has been set, failure to have completed discovery, inability to take a deposition, or failure to have completed any other trial preparation will not be grounds for a continuance. The court should be timely notified of problems in scheduling depositions or other preparation (such as refusal of a deponent to promptly schedule a deposition) and the court may take such action to insure that depositions are given in a timely fashion so as to insure that parties are ready for trial on the scheduled trial date.

[d] A case may not be continued or delayed more than once and not exceeding sixty (60) days to assure the compliance of installment or partial payment agreement of parties.

17.05 Award of Fees and Expenses

If a case is continued, the court may award expenses and attorney fees, including compensation to witnesses for lost income and/or travel expenses and tax the same as court costs.

17.06 Motion to Continue Civil Jury Trials

[a] All motions to continue a jury trial shall specify the trial date.

[b] All motions to continue a jury trial shall be heard by the judge to whom the case is assigned.

RULE 18: SETTING CASES FOR TRIAL AND CONTINUANCES: CRIMINAL CASES

18.01 Method of Setting

Cases will be set for trial in accordance with Rule 14.02.

18.02 Continuances

[a] Cases may not be continued by agreement and may be continued only by leave of court. After a case has been set for trial, it will not be continued except for a good cause

which shall be brought to the attention of the court as soon as practicable before the date of the trial.

[b] Absence of a witness will not be considered by the court as a ground for a continuance unless the witness has been subpoenaed in accordance with the requirements of these rules and Tenn.R.Crim.P.

[c] If a case is continued, a new trial date will be assigned at the time of the continuance.

RULE 19: SUBPOENAS

19.01 Issuance of Subpoenas

[a] All subpoenas for witnesses, except for subpoenas issued in “blank” shall be issued and signed by the clerk in triplicate. One copy shall be designated “service copy” and it is to be left with the witness. One copy shall be designated “file copy” and retained in the court file. The original shall be the return copy.

[b] Subpoenas issued in blank shall be signed by the clerk, shall be completed by the party requesting it, and three (3) copies shall be filed with the clerk within the time frame set out in Rule 19.03[a] [b].

19.02 Clerk’s Duty Upon Issuing of Subpoena: Removal of File Copies

When a subpoena is issued, the clerk shall:

[a] Place the file copy of the subpoena in the file of the case;

[b] Deliver the service copy and original to the Sheriff or other authorized person for service; and

[c] When the original subpoena is returned to the clerk, the clerk may remove the file copy and discard it.

19.03 Time for Issuing Subpoenas

[a] Non-Jury cases: Subpoenas for a local witness must be issued and dated by the clerk no later than five (5) days before the date of trial. If the witness is out of county, the subpoena must be issued by the clerk and mailed or otherwise transmitted to the out of county sheriff or other authorized person no later than seven (7) days before the date on which the case is set for trial.

[b] Jury cases: Subpoenas for a local witness must be issued and dated by the clerk no later than seven (7) days before the trial and ten (10) days for out of county. If an attorney is aware that any witness such as a state toxicologist requires more notice than set out above to insure that a prior served subpoena will not take precedence, a subpoena must be issued within five (5) days of the date of first notice of the setting of the case.

19.04 Responsibility of Counsel

Counsel of record shall be responsible for insuring the subpoenas are issued in accordance with this rule and the applicable rules of Civil and Criminal Procedure. Noting in Rule 19 prohibits counsel from preparing subpoenas. The clerk may not refuse to issue a subpoena requested by counsel at any time.

RULE 20: PRE-TRIAL PROCEDURE: CIVIL CASES

20.01 Required Procedure

At least seventy-two (72) hours (excluding weekends and holidays) prior to the trial of a civil case, opposing counsel shall either meet face-to-face or shall hold a telephone conference for the following purposes:

[a] To exchange names of witnesses, other than impeachment or rebuttal witnesses;

[b] To make available for viewing and to discuss proposed exhibits, other than impeachment or rebuttal exhibits. In the event that the parties hold a telephone conference rather than a face-to-face meeting, the exhibits shall be made available for viewing before the conference.

[c] Trial proceedings will not be delayed to allow counsel to view or copy exhibits.

[d] Trial exhibits shall, when possible, be marked and numbered prior to the taking of the witness stand by the witness the exhibit[s] is expected to be introduced through.

20.02 Medical or Expert Depositions - Workers' Compensation Cases

In all contested cases, a copy of all medical or expert depositions or reports of vocational experts relied upon by any party as proof in a workers' compensation case shall be delivered to the judge's office at least four (4) working days prior to the hearing date.

RULE 21: EXHIBITS

21.01 Depositions and Discovery Material

Depositions and discovery material submitted to the court as evidence which are not read to the court shall be made trial exhibits.

21.02 Custody of the clerk

All trial exhibits shall be accounted for and placed in the custody of the clerk unless otherwise directed by the court.

21.03 Disposition of Exhibits in Civil Cases

Upon the order in any civil case becoming final, the parties shall have thirty days to withdraw exhibits. The clerk may destroy or dispose of exhibits not withdrawn.

RULE 22: REQUESTS FOR SPECIAL INSTRUCTIONS AND SPECIAL VERDICTS

22.01 Requests for Special Instructions

When counsel submits special requests pursuant to Rule 51, T.R.C.P., or Rule 30, Tenn.R.Crim.P., copies shall be furnished to adversary counsel. When a request for an instruction is made and the request is for a Tennessee Pattern Jury Instruction verbatim, the request shall be made by reference to “TPI (Civil) No. _____” or “TPI (Crim.) No. _____.” If the request is for modification of an existing instruction, the request shall identify the instruction to be modified by number and identify the deletion or addition. When a request for an instruction is made and there is no instruction on the subject in the Tennessee Pattern Jury Instructions, this fact must be stated in the request. Any request which seeks to alter or modify a Tennessee Pattern Jury Instruction shall cite authority relied on and be accompanied by a complete copy of such authority.

22.02 Special Verdicts in Civil Cases

Requests for special verdicts or written interrogatories made pursuant to Rule 49, T.R.C.P., must be made before commencement of the trial and must be accompanied by proposed verdict forms, proposed written interrogatories and proposed instructions which will be given to the jury along with the special verdict forms or interrogatories. The court shall inform counsel of its proposed action on the requests prior to their arguments to the jury.

RULE 23: ORDERS AND JUDGMENTS: CIVIL CASES

23.01 Preparation and Submission of Orders and Judgments

[a] In all judgments by default and orders in uncontested matters, the attorney or party taking a judgment or order shall prepare and lodge such order **with the judge** for signature within seven (7) days from the date that such judgment or order is granted.

[b] Unless the court directs otherwise, in all cases wherein orders or judgments are granted in contested matters, the attorney for the prevailing party shall prepare the order for signature by the court. If said order is signed by all parties or counsel, it shall be submitted directly to the court for signature within fifteen (15) days of the date of the court's decision.

[c] Orders in contested matters containing the signatures of less than all the parties or their attorneys shall be submitted **to the judge** within fifteen (15) days from the date of the court's decision and the same shall not be entered immediately, but will be held by the judge for five (5) days. When opposing counsel or party receives a copy of a proposed order, he or she shall notify the judge immediately of any objection to the same. If the judge received no objection within the five (5) day period, the order will be signed by the court. Where there is a disagreement as to the terms of the order, each party will submit a proposed order.

[d] All orders prepared by counsel and not signed by all parties or their counsel shall be accompanied by a certificate of counsel that copies of the order or judgment have been served on all parties or counsel of record.

[e] All orders mailed directly to the court for signature shall be accompanied by an envelope properly addressed to the clerk of the county in which the action is filed with sufficient postage affixed thereto to carry it to its destination.

23.02 Court costs

[a] All final judgments shall provide for the taxing of court costs. The clerk may refuse to enter any agreed final judgment or compromise and settlement order that does not provide for the taxing of costs.

[b] Whenever it appears to the clerk that a judgment has been satisfied but that court costs have not been paid, the clerk may apply to the court for a re-taxing of court costs. The clerk shall notify the parties of the application, the date and time it will be considered by the court.

23.03 Non-Minute Entry Orders: Civil and Criminal

Orders not affecting the legal course of an action, such as orders assigning a case to a court, setting a case for trial, pre-trial conference or scheduling orders, actions upon a request for a continuance, or notice of enhanced punishment in DUI cases, criminal court negotiation deadline orders are designated as non-minute entry orders. Such orders shall be placed in the file of the case, but not spread upon the minutes of the court.

23.04 Payment and Satisfaction of Judgments

[a] Funds paid to the clerk by check on local banks will not be disbursed until five (5) days after the clerk receives the check. Funds paid to the clerk by checks drawn on out-of-town banks will not be disbursed until ten (10) days after the clerk receives the check. Alimony and child support checks may be disbursed sooner at the discretion of the clerk.

[b] Orders for disbursing funds, other than agreed orders, must be final before the clerk will disburse the funds.

[c] Upon receipt of payment in satisfaction of a judgment, whether through the clerk or otherwise, counsel will satisfy the docket by certifying receipt of the judgment on the docket book.

RULE 24: ORDERS AND JUDGMENTS: CRIMINAL CASES

24.01 Preparation and Submission of Orders and Judgments

Unless the court directs counsel to prepare an order for entry by the court, all orders and judgments will be prepared by the District Attorney General with copy certified to defense counsel.

24.02 Preparation and Submission of Orders and Judgments by Counsel

When directed by the court, counsel will prepare orders for entry by the court. All orders must be sent to the judge and served on opposing counsel within ten (10) days following the day on which the ruling is made by the court.

RULE 25: DIVORCES: SPECIAL PROCEDURES

25.01 Uncontested Divorce Cases

[a] When a party in default desires to be heard on any matter other than the basic cause of action, he or she shall notify the court at least seven (7) days prior to the hearing of the

matters upon which he or she desires to be heard and shall file a brief statement setting forth the nature of the matter.

[b] If a property settlement agreement in a divorce action based on irreconcilable differences is delivered through personal service, as allowed by T.C.A. 36-4-103, the statutory requirements regarding service will be strictly construed.

25.02 Time for Hearing

[a] No divorce case where the parties have children under 18 years of age not otherwise emancipated, shall be heard until the same shall have been filed at least sixth (60) days unless the court finds some compelling reason why the same should be so heard.

[b] No divorce shall be heard in any case until thirty (30) days have expired from the date of service of process. When service is had by publication the thirty (30) days does not commence to run until the date of the last publication.

25.03 Contested Divorce Cases

[a] In all contested divorce cases both parties shall file in substantially the form contained on Appendix "A" to these rules a certificate of readiness and sworn financial statements subject to such protective orders as may be applied for and granted. Note: In the event both attorneys do not sign or one disagrees to filing, the attorney seeking a court date shall file a motion asking the court to enter a certificate of readiness and set the case. The motion should state that the case is at issue and adverse counsel refuses to sign the certificate of readiness. Where a case is set by the court at docket setting, the certificate above shall be filed no later than two [2] days prior to trial.

[b] Pre-Trial Joint Stipulation and Statement in a Domestic Relations Case: At least forty-eight (48) hours before the day of trial, the parties through their attorneys shall file with the clerk and deliver to the judge's office a Pre-Trial Joint Stipulation and Statement in a Domestic Relations Case. This eight-page document is attached hereto as Appendix "C". This document shall include all the information requested. There will be only one document and that document, or photocopies thereof, shall be the only ones relied upon during the trial. It shall be prepared pursuant to the criteria set out in T.C.A. 36-4-121.

25.04 Contested Divorces and Custody: Order of Proof

In contested divorce cases, the court will hear the parties to the action before hearing other witnesses unless, for good cause appearing, the court finds it desirable to proceed

otherwise.

25.05 Pendente Lite Child Support and Alimony Hearings

Motions and applications for child support and alimony pending the final hearing of a case will be submitted and heard on affidavits. The moving party shall include in the complaint, petition or motion allegations in support of such child support or alimony justifying the relief sought, and prior to the hearing, the parties will submit affidavits in support or opposition to the relief sought.

25.06 Restraining Orders and Temporary Injunctions

[a] In domestic relations cases, all restraining orders or temporary injunctions obtained without notice to the adverse party and hearing shall provide for the setting of a hearing thereon within fifteen (15) days unless the court is unable to hear said matter within said time, in which event the court or clerk may direct that the hearing be set at a later date, but, in any event, the same shall be set as soon after the fifteen (15) days as may be practical and the date of the hearing shall be stated in said notice. Such restraining order or temporary injunctions and accompanying notice shall be served on the party at least five (5) days before the date of the hearing and shall include language which shall clearly notify the defendant or respondent that he or she shall file a written declaration of intention with the clerk stating whether he or she will or will not be present for the hearing. Failure to so respond by filing the declaration with the clerk not later than twenty-four (24) hours prior to the time set for the hearing shall be deemed and treated as a waiver of the hearing, in which event the restraining order or temporary injunction shall remain in effect pending the final hearing unless sooner modified or dissolved by the court. The notice of hearing and notice of defendant's or respondent's declaration of intention to attend or not attend the hearing shall be prepared by counsel for the complaining party and filed in triplicate with one copy to be retained by the clerk and the other two copies to be attached to the service copy of the restraining order or temporary injunction and such notice shall be substantially in the form attached as Appendix "B" to these rules.

[b] No restraining order or temporary injunction shall be issued in a domestic relations case without notice and hearing unless the verified complaint or petition or accompanying affidavit clearly shows that the applicant's rights have been violated or that there is a substantial likelihood that the same will be violated by the adverse party and that the applicant will suffer immediate and irreparable injury, loss or damage before notice can be given and a hearing had.

[c] Except in cases prosecuted in forma pauperis, the court may require the applicant

to make bond before a restraining order or temporary injunction is issued.

[d] In domestic relations cases, a restraining order or temporary injunction may be signed and issued by the clerk by fiat from the court or the same may be granted by the court.

If the judge of the court in which the action is pending or is to be filed is disqualified, disabled or absent from the county, such fiat, restraining order or temporary injunction may be granted by any judge having statutory power to enjoin or restrain.

RULE 26: EXTRAORDINARY INTERLOCUTORY RELIEF: CIVIL CASES

26.01 Restraining Orders in Cases Other than Domestic Relations Cases

Proposed restraining orders shall be prepared by counsel prior to submitting the request for relief to the court. All restraining orders shall provide for the setting of a hearing of a temporary injunction and shall provide a place thereon for the court to set a date, time and location for such a hearing. The proposed restraining order shall also provide a place for the setting of the amount of the bond except in cases prosecuted in forma pauperis.

RULE 27: GUARDIAN AD LITEM: SPECIAL PROCEDURE

27.01 Appointment

[a] A Guardian ad Litem shall be appointed by the clerk or by the court. The clerks of the respective counties shall maintain a roster of the active practicing attorneys from which Guardian ad Litem shall be selected.

[b] It shall not be permissible for the plaintiff or other parties to the action of their representative to nominate the Guardian ad Litem; provided, however, if there are certain reasons why a particular attorney should be appointed as Guardian ad Litem in a particular case, it shall not be improper for such reasons to be made known to and considered by the clerk or the court in making such appointment.

27.02 Disqualification as Guardian ad Litem

No attorney shall be appointed as Guardian ad Litem if he or she has a pecuniary interest in the outcome of the cause; if he or she is a member of the firm of, partner or associate of any of the other attorneys involved in the cause, or if any other facts exist which would in any way interfere with said Guardian ad Litem fully representing the best interest of the person for whom such appointment is made.

27.03 Compensation of Guardian ad Litem

At the conclusion of the matter, the Guardian ad Litem shall file with the clerk a statement detailing the nature and extent of his/her services including the amount of time spent, what he/she considered to be a reasonable fee for services rendered and any other facts which might assist the court in fixing the fee for such services.

27.04 Fees of Guardian ad Litem

Fees for Guardian ad Litem shall be treated and taxed as costs.

RULE 28: JURORS

In order to ensure that jury duty is not unfairly avoided by any eligible citizen, prospective jurors shall be excused from jury service only upon a showing of undue hardship or other statutory grounds. Clerks, judges and counsel should impress the importance of jury trials in our system of justice upon those seeking to be excused from jury service. At the same time, clerks, judges and counsel should be aware of the sacrifices that jury service involved and attempt to make the experience of being a juror as pleasant and productive as possible. Lengthy delays before or during trial that require jurors to wait should be avoided if possible and explained by the judge if the delay cannot be avoided.

RULE 29: TIME STANDARDS FOR THE DISPOSITION OF CASES

29.01 Time Standards

All cases must be concluded or set for trial within twelve (12) months from date of filing unless the court has directed a shorter or longer period of specific cases. These time standards will be implemented by appropriate orders from the court.

29.01 Dismissal of Cases

[a] To expedite cases, the court may take reasonable measures to purge the docket of old cases by entry of orders of dismissal which shall be considered without prejudice unless otherwise indicated.

[b] Removal to Federal Court: In any case where a petition for removal to Federal Court under 28 U.S.C.S. 1446 is filed, the clerk will send copies of all pleadings in the case to the Federal Court, remove said case from the docket, and bill costs to the party who filed the petition for removal.

[c] Bankruptcy: In any civil case where the court has received notice of filing of bankruptcy of a defendant, the case will be purged from the docket at the expiration of six (6) months from the notice of filing of bankruptcy, with costs assessed to plaintiff.

[d] Dismissal for Want of Prosecution: Copies of the order dismissing a case for want of prosecution shall be mailed to all counsel of record or to any party in default without counsel of record, if his or her whereabouts can be ascertained upon reasonable inquiry by the clerk.

RULE 30: PROSECUTION OF A CASE IN FORMA PAUPERIS

[a] Cases prosecuted in forma pauperis shall contain the oath as set out in T.C.A. 20-12-127.

[b] An individual prosecuting a case in forma pauperis need not repay fees, costs, bond or litigation tax.

These rules adopted this the _____ day of _____, 2004, to be effective and in full force and effect this the _____ day of _____, 2004.

John Maddux, Circuit Judge, Part II
Thirteenth Judicial District
228 East Broad Street, Room 206
Cookeville, TN 38501
Telephone: 931/526-6692
Fax: 931/520-1193
email: Judge.John.Maddux@tscmail.state.tn.us

John A. Turnbull, Circuit Judge, Part I
Thirteenth Judicial District
1010 East Main Street, P. O. Box 68
Livingston, TN 38570
Telephone: 931/823-6453
Fax: 931/823-3253
email: Judge.John.Turnbull@tscmail.state.tn.us

Appendix "A" - Rule 25.03

In the _____ Court of _____ County, Tennessee

		v.		No. _____

Certificate of Readiness for Trial for Contested Divorce Cases

The undersigned hereby certifies that:

1. The case is at issue;
2. That the grounds for divorce have been ascertained insofar as they can be;
3. That all necessary or desires discovery has been taken;
4. That the party has had reasonable time to be ready for trial;
5. That all witnesses have been located, insofar as deemed possible;
6. That the case is ready for trial in all respects and will require approximately _____ for trial.
7. That a list of assets including marital property, separate property and inherited property, and a proposed division, has been filed with the court or will be filed by court date;
8. A sworn financial statement shall be filed on forms provided by the clerk.

Therefore, all counsel requests that the cause be placed on the trial docket.

Dated: _____, 20____.

Attorney for Plaintiff

Attorney for Defendant

I hereby certify that a copy of this certificate of readiness has been filed with the clerk and mailed to: _____

Note: In the event both attorneys do not sign or one disagrees to filing, the attorney seeking a court date shall file a motion asking the court to enter a certificate of readiness and set the case. The motion should state that the case is at issue and adverse counsel refuses to sign the certificate of readiness. If cases set by the court at docket setting, the certificate above shall be filed no later than two [2] days prior to trial.

Appendix "B" - Rule 25.05

In the _____ Court of _____ County, Tennessee

v. _____ No. _____

To: _____
(Name of Defendant)

A hearing is scheduled before the Judge of the _____ Court at _____ on _____, 20____, at _____ a.m., to determine if the restraining order/temporary injunction herewith served upon you shall remain in force and effect pending the final hearing of this cause. You may appear at said time and place and have a hearing for the court to determine if the restraining order/temporary injunction should remain in force and effect pending the final hearing of this cause, or you may waive said hearing, in which event the same will remain in force and effect. You shall declare your intention by stating whether you will or will not appear at the hearing by signing a copy of the appended written declaration and by filing the same in the clerk's office at _____, Tennessee, at least twenty-four [24] hours before the hearing date. Your failure to file this declaration within said time shall be deemed and treated as a waiver by you of the hearing in which event the restraining order/temporary injunction shall remain in force and effect pending the final hearing.

This the _____ day of _____, 20_____.

Clerk

Declaration: I hereby declare that I _____ will _____ will not be present and participate in the hearing on the above restraining order/temporary injunction. This the _____ day of _____, 20_____.

Signed: _____

Appendix "C"
JOINT STIPULATION AND STATEMENT
IN DOMESTIC RELATIONS CASE

IN THE _____ COURT OF _____ COUNTY, TENNESSEE

_____)	
)	
Plaintiff,)	
)	
vs.)	No. _____
)	
_____)	
)	
Defendant.)	

JOINT STIPULATION AND STATEMENT
IN DOMESTIC RELATIONS CASE

INSTRUCTIONS:

1. The purpose of this document is to facilitate settlements as well as to narrow issues. Lawyers and litigants are to jointly prepare this document. If counsel or their respective clients fail to prepare this document and send it to the judge at the judge's office by noon no later than 72 hours prior to the trial, or if any party fails to attend any settlement conferences, the non-complying party could be responsible for court costs, attorney's fees and the loss of the court date scheduled. Any party who has attempted to comply with the requirements set out in this document, but was unsuccessful, shall notify this Court by letter with a copy to opposing counsel.

2. Copies of all depositions intended for submission as evidence in chief, as well as an exhibit list, shall be sent to the judge's office no later than 72 hours prior to the trial.

I. The contested issues in this cause include:

_____ custody of child(ren)	_____ division of retirements
_____ child support amounts	_____ payment of attorney's fees
_____ visitation	_____ payment of court costs
_____ payment of debts	_____ separate property
_____ division of property	_____ other: _____
_____ payment of alimony	

II. The Plaintiff expects to testify and expects to call the following persons who will testify as to the issue stated below:

Name, Address and Phone No. of Witness	General Statement as to Testimony of Witness
1. _____	_____
_____	_____
2. _____	_____
_____	_____
3. _____	_____
_____	_____
4. _____	_____
_____	_____
5. _____	_____
_____	_____
6. _____	_____
_____	_____

The Defendant expects to testify and expects to call the following persons who will testify as to the issue stated below:

Name, Address and Phone No. of Witness	General Statement as to Testimony of Witness
1. _____	_____
_____	_____
2. _____	_____
_____	_____
3. _____	_____
_____	_____
4. _____	_____
_____	_____
5. _____	_____
_____	_____
6. _____	_____
_____	_____

III. Income and Expenses of the Parties (Husband and Wife):

A. _____, the (Plaintiff/Defendant), would show to the Court as follows:
(Name of Party)

1. He/she is employed at _____ located at _____

His/her weekly gross income is \$_____ and his/her net income per week is \$_____.

If wages are paid hourly, the hourly wage is \$_____ per hour. Sources of additional income:

_____.

1a. His/her spouse is employed at _____ located at _____
_____. The spouse has weekly gross income of \$_____ and net income per
week of \$_____. If wages are paid hourly, the hourly wage is \$_____ per hour.

Sources of additional income: _____.

2. He/she submits the following as an estimate of the necessary weekly or monthly
expenses, as indicated, for support of him-herself (and children where applicable):

Item	Weekly	Monthly
Rent/House Payment	\$	\$
Utilities (gas, electricity, water)	\$	\$
Telephone	\$	\$
Milk for Child(ren)	\$	\$
School Lunches (Child(ren))	\$	\$
School Supplies (Child(ren))	\$	\$
Work Lunches	\$	\$
Automobile Payments	\$	\$
Transportation To and From Work	\$	\$
Clothing Replacement (self)	\$	\$
Clothing Replacement (Child(ren))	\$	\$
Laundry and Dry Cleaning	\$	\$
Child Care While Working	\$	\$
Haircuts and Beauty Shop	\$	\$
Insurance	\$	\$

Medical and Dental Expense	\$	\$
Drugs and Medicines	\$	\$
Furniture Payments	\$	\$
Cigarettes	\$	\$
Groceries	\$	\$
Miscellaneous Expenses	\$	\$
TOTAL EXPENSES	\$	\$

B. _____, the (Plaintiff/Defendant), would show to the Court as follows:
(Name of Party)

1. He/she is employed at _____ located at _____

His/her weekly gross income is \$_____ and his/her net income per week is \$_____.

If wages are paid hourly, the hourly wage is \$_____ per hour. Sources of additional income:

_____.

1a. His/her spouse is employed at _____ located at _____

_____. The spouse has weekly gross income of \$_____ and net income per week of \$_____. If wages are paid hourly, the hourly wage is \$_____ per hour.

Sources of additional income: _____.

2. He/she submits the following as an estimate of the necessary weekly or monthly expenses, as indicated, for support of him-herself (and children where applicable):

Item	Weekly	Monthly
Rent/House Payment	\$	\$
Utilities (gas, electricity, water)	\$	\$
Telephone	\$	\$
Milk for Child(ren)	\$	\$
School Lunches (Child(ren))	\$	\$
School Supplies (Child(ren))	\$	\$
Work Lunches	\$	\$

Automobile Payments	\$	\$
Transportation To and From Work	\$	\$
Clothing Replacement (self)	\$	\$
Clothing Replacement (Child(ren))	\$	\$
Laundry and Dry Cleaning	\$	\$
Child Care While Working	\$	\$
Haircuts and Beauty Shop	\$	\$
Insurance	\$	\$
Medical and Dental Expense	\$	\$
Drugs and Medicines	\$	\$
Furniture Payments	\$	\$
Cigarettes	\$	\$
Groceries	\$	\$
Miscellaneous Expenses	\$	\$
TOTAL EXPENSES	\$	\$

IV. Martial Assets/Personalty (property conceded to husband or wife):

Description	Value	Conceded to Husband	Conceded to Wife

V. Martial Property (disputed as to division):

Description	Value

Property Disputed as to Whether Martial or Separate (and in dispute as to division):

Description	Value

VI. Separate Property (stipulated):

Description	Value	Husband's	Wife's

VII. Marital Debts:

Description	Monthly Payment	Balance	Accepted By Husband	Accepted By Wife	Disputed

VIII. Separate Liabilities:

Description of Liability	Monthly Payment	Balance	Accepted Husband	Accepted Wife

IX. Are grounds for divorce stipulated? Yes _____ No _____

X. Factual Issues (completed by plaintiff and defendant):

- 1.
- 2.
- 3.
- 4.
- 5.

XI. Legal Issues (completed by plaintiff and defendant):

1.
 - 1a. Proposition of law and citations (submitted by _____)
2.
 - 2a. Proposition of law and citations (submitted by _____)
3.
 - 3a. Proposition of law and citations (submitted by _____)

NOTE: BRIEFS MAY ALSO BE SUBMITTED AT THE OPTION OF THE PARTIES

Agreed to this _____ day of _____, 20____.

Plaintiff

Plaintiff's Attorney

Agreed to this _____ day of _____, 20____.

Defendant

Defendant's Attorney

Appendix “D”
Amended Local Rule Governing Procedures
to be followed
in the Thirteenth Judicial District
Regarding T.C.A. Sec. 36-6-401 et seq (2000)
(Parenting Legislation)

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

2. General Order: The General Order for the Thirteenth Judicial District is hereby adopted. It is attached hereto as Form 1.

3. Duties of Clerks:

A. When a complaint for divorce or petition for modification in a post-divorce case is filed with the clerk’s office, the clerk shall assure that the parenting plan package has been attached to the summons and has been made available to the filing party. If the filing party is represented by an attorney, the package shall be attached to the summons by the filing attorney. If the filing party is not represented by an attorney, the clerk shall give the filing party a package. The same package will be included in the summons to the defendant/respondent.

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

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

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

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

D. Check List: A check list (Form 10) will be attached by the clerk to each case file involving divorce proceedings with minor children. The check list will be completed by the clerk as items are furnished to parties, or filed by parties, attorneys, providers, or the court.

E. Issue **and forward by certified mail** a show cause order (Form 6) to any party who has not submitted a Certificate of Attendance from a parenting education seminar within 10 days of the date attendance is required (30 days from filing for plaintiff, 30 days from service for defendant.)

F. Submit to the judge for signature an Order to Mediate (Form 13) if the parties have not filed an agreed parenting plan within 120 days of service of process.

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

A. Secure from the clerk's office or otherwise all approved forms utilized under this rule;

B. Furnish a copy of the package (3 B. of this rule) to their client and explain the contents to the client;

C. Attach a copy of the package to any summons filed on behalf of plaintiff/petitioner. **If defendant is waiving service of process, plaintiff's attorney shall furnish a copy of the package to the defendant, and secure written verification from defendant that the package has been received.**

D. Monitor their clients timely attendance at a parent education seminar.

E. Assist client in selecting/reaching agreement as to an appropriate mediator if a parenting plan has not been timely agreed to by the parties.

F. File with the complaint or answer an agreed to or proposed parenting plan on Form 20. If a temporary parenting plan is sought, a proposed temporary parenting plan (Form 19) will be submitted to be acted on by the court, if appropriate, ex-parte or at an early hearing. It is strongly suggested that the blanks in the form be filled out by hand and/or highlighted for easier review by the court.

G. Follow the Attorney's Guide to Mediation (Form 8).

H. The agreed or ordered parenting plan will be attached to the Marital Dissolution Agreement or Decree as an exhibit and will not be duplicated in the MDA or decree.

5. Duties of Providers:

A. The Education Committee consisting of Judge John Maddux, Judge Steve Douglas, Judge Sam Benningfield, and Judge Nolan Goolsby will receive and act upon applications from providers who seek approval to provide parent education seminars. A list of approved providers will be furnished to the clerks to be included in the package. **A provider which is approved in another judicial district is an authorized provider under this rule.**

B. The Educational Providers will make all arrangements for time, place and fees for seminars to be conducted in no less than two hour blocks. Seminar schedule for each provider will be provided to the clerk to be made available to parents and attorneys.

C. Educational Providers will notify the courts by filing with the appropriate clerk a copy of a certificate of attendance given to parents attending the classes. Certificates shall include the following: Name; Social Security numbers; docket number; name of educational provider; date class was attended; and be signed by a representative from the seminar facilitator.

D. Fees: The fee or costs of the parenting seminars shall be borne by the parties. Fees may be reduced or waived for indigent persons **who shall be required to file an appropriate affidavit of indigency.** The Educational Provider will be expected to provide an appropriate number of pro bono slots for indigent persons.

E. **Mediators:** [1] At anytime during the divorce proceedings, parents may choose to participate in a method of alternative dispute resolution and select their own mediator or arbitrator. However, if the court is involved, either by the court's own motion or by motion of one or both parties, the court will appoint a mediator pursuant to Supreme Court Rule 31. If the parties are unable to reach an agreement on a permanent parenting plan within 120 days after the commencement of the action, the parties may submit a scheduling order to the court including a referral to mediation or alternative dispute resolution or request for a waiver for just cause. The court may designate a Rule 31 family mediator by court order. A list of mediators who have met the court's criteria will be provided to the attorneys and parents. The mediators' fees may be taxed as court costs or the court may determine the case is appropriate for pro bono mediation to be coordinated through legal services. The mediator is responsible for reporting to the court pursuant to Supreme Court Rule 31.

[2] **Mediation Assignment:** If the court is involved, either by the court's own motion or by motion of one or both parties, a family mediator will be appointed pursuant to Supreme Court Rule 31. A Rule 31 Family Mediator will be appointed by court order (Form 14) **OR**, a referral to mediation is ordered by the court (Form 13) **OR**, a referral to pro bono mediation is ordered by the court (Form 16).

[3] **Scheduling Order for Mediation** If the parties have been unable to reach an agreement on a permanent parenting plan within 120 days after the commencement of the action, the parties may submit a scheduling order to the court including a referral to mediation or alternative dispute resolution or request a waiver for just cause.

[4] **Mediation Fees and Agreement to Mediate** The parents may directly negotiate the fees with the mediator. An agreement to mediate (Form 15) shall be executed at the beginning of mediation by the parents and mediator, **OR**, The Court may, upon motion, determine that the case is appropriate for pro bono mediation and the fees will be waived. Pro bono mediations will be coordinated by legal services. Each mediator must provide proof of 3 pro bono mediations to the Administrative Office of the Court for annual reapproval.

[5] **Invoicing Procedures** [a] If the court has ordered that mediator fees are to be taxed as court cost, the invoice must be submitted with the original final report to the clerk's office.

[b] It is the mediator's responsibility to notify the clerk's office that an invoice is included in the final report.

[c] The invoice should include a docket number to ensure correct filing and payment.

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

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

Adopted this the _____ day of December, 2000. The Clerk is ordered to place same on the minutes.

Presiding Judge

IN THE CIRCUIT/CHANCERY COURT
FOR _____ COUNTY, TENNESSEE

Thirteenth Judicial District

GENERAL ORDER CONCERNING PARENTING PLAN

Pursuant to T.C.A. 36-6-401 et seq., all divorcing parents with minor children are mandated to participate in the Parenting Plan. It is therefore **ORDERED** that in all actions involving custody and support of minor children the provisions of this legislation shall apply. It is further **Ordered** that the parties shall have the following duties and responsibilities:

- Both parents shall attend, within thirty (30) days of receipt of this order, a parent education seminar sanctioned by the Courts of at least four-(4)hours duration and shall be required to file with the Court a certificate of attendance.
- The plaintiff or petitioner shall file with the Complaint or Petition a "parenting plan" defined in the Act (forms included in parenting plan package) agreed upon by both parties, or if no agreement has been reached, the proposed "parenting plan" of the plaintiff or petitioner.
- The defendant or respondent shall, if no agreement has been reached, file with the Answer to the Complaint or Petition the proposed "parenting plan" of the defendant or respondent.
- Unless a party has sworn under oath that the conduct specified in T.C.A. Sec. 36-6-406 exists, disputes over the "parenting plan" shall first be addressed by mediation.

It is further **ORDERED** that a failure to comply with the provisions of this **Order** shall be treated as contempt and may be punished accordingly.

ENTER this _____ day of _____, 20_____.

Vernon Neal
Chancellor

John A. Turnbull
Circuit Judge, Part I

John Maddux
Circuit Judge, Part II

FORM 2

In the _____ Court for _____ County, Tennessee
Thirteenth Judicial District

_____, 20__

Dear Parent,

The Tennessee Legislature has mandated that divorcing couples with minor children attend a Parent Education Seminar. The Seminar teaches the importance of protecting and enhancing the child's emotional development and informs parents of the legal process. This law applies to your dispute and how your parenting responsibilities, including financial support, will be allocated.

In addition, the new law requires that parents attempt to resolve their disputes over parenting responsibilities through mediation before having a trial. You, as parents, know the needs of your children and how those needs can be met through your mutual efforts. The purpose of the law, which we support, is to encourage parents to work together to reduce the impact and trauma of separation on their children. The law states that a Court may consider the refusal of a parent to participate in this program when the Court makes decisions (1) about the residence of the child, and (2) who, if anyone, will be allowed sole decision making authority concerning the child.

We appreciate your mutual efforts to work out your differences and reduce the emotional harm to your children. We will assist your efforts in any way the law permits.

Very truly yours,

Vernon Neal
Chancellor

John A. Turnbull
Circuit Judge, Part I

John Maddux
Circuit Judge, Part II

FORM 3

In the Circuit/Chancery Courts for _____ County, Tennessee
Thirteenth Judicial District

PARENTS' GUIDE TO EDUCATION SEMINAR

Date _____

Dear Parent:

The Tennessee Legislature has mandated that divorcing couples with minor children attend a Parent Education Seminar. The Seminar teaches the importance of protecting and enhancing the child's emotional development and informs parents of the legal process. As indicated in the General Order Concerning Parenting Plan:

Both Parents shall attend, within thirty (30) days of receipt of this order, a parent education seminar sanctioned by the Courts of at least four- (4) hours duration and shall be required to furnish the Court with a certificate of attendance.

It will be necessary for **YOU** to contact a parent education seminar provider for scheduling your class. (list attached)

It is **NOT** necessary that you attend the same class with your spouse.

If you have any questions about the class or attendance requirement or difficulty in scheduling the class, please contact your attorney or the clerk.

Failure to comply with the provisions of this order shall be treated as contempt and may be sanctioned accordingly.

If you have attended a class and have not filed the certificate of attendance with the Clerk's office, please complete this process immediately.

If you have attended a class and have filed the certificate, please disregard this notice.

Thank you for your cooperation and timely response to this opportunity to reduce the emotional harm to your children during the divorce proceedings.

PARENTS GUIDE TO MEDIATION

Developing parenting plans through mediation

When parents come before the court with a complaint for divorce, the court mandates the submission of a "parenting plan". Mediation is often used to develop such a plan.

Mediation is a process in which parents who are in conflict come together with a neutral third person who assists them in reaching a mutually agreeable settlement. The mediator helps parents clarify the issues, consider the options, and reach a workable agreement that fits the needs of their children.

Mediation:

- encourages direct communication between the parents.
- helps parents decide for themselves what is in the best interest of their child/ren.
- explores creative ways to solve problems.
- promotes cooperation.
- provides an informal setting which saves time and lowers the cost of a divorce.
- preserves the strengths of an ongoing relationship as parents.
- is confidential.

The mediator:

- will remain impartial throughout the process.
- will not give legal advice.
- is not a judge.
- will not decide the dispute.
- will provide each party with a full opportunity to effectively express his or her interests.

Mediation is used by the court to assist parents in developing a parenting plan that describes how they will work together to continue parenting their children. During mediation parents have complete decision-making power for their parenting plan. Attorneys for each parent may attend the mediation, unless requested not to by the parent. Additionally, the attorney will review any and all agreements before allowing their clients to sign mediated agreements.

The court expects each parent and attorney to act in good faith and to fully and honestly disclose all relevant information as requested by the mediator. One or both parties can request mediation of the court at any time during the divorce process.

**Parents guide to developing the Parenting Plan
Maintaining a sense of Family**

PERMANENT PARENTING PLAN

The Tennessee Parenting Plan is a program designed to empower the court system with legislation and parents with necessary tools and skills to provide a better comfort level for children of divorce. The Permanent Parenting Plan recognizes the fundamental importance of the parent-child relationship to the welfare of the child. In most situations, children do best when they receive the emotional and financial support of both parents. Every component of the parenting plan is designed to focus on the child's best interest:

- Development of the permanent parenting plan provides parents with an opportunity to establish a road map for future parenting of the child.
- This plan can serve as a successful tool in reducing conflict when it is prepared in thoughtful, rational discussions rather than in heated emotional exchanges.
- It removes legal jargon and replaces it with common, everyday terms, and sets the framework to develop a family reorganization.
- It can work to preserve family relationships.
- It encourages both parents to make their children the number one priority, and to see the need for the children to maintain a close, continuing relationship with each parent.
- It enables both parents to remain involved in major decisions including education, religion, and medical care.

The Permanent Parenting Plan attempts to move away from the concepts of "custody" and "visitation" to emphasize the concept of "parenting responsibilities". The overall goal and objective of the plan is to lessen the hostility and encourage parents to work cooperatively in the best interest of their children. As parents working together you will make the major decisions including education, religion, and medical care. You will make the decisions on how to resolve future issues as you continue to parent your children.

ATTORNEY'S GUIDE TO MEDIATION
Representing clients in the Mediation Process

Mediation is only required when parties have not been able to agree on a parenting plan. Attorneys should attempt to reach an agreement prior to mediation. The role of the attorney in mediation differs greatly from that of the attorney in litigation. In a mediation session, the attorney plays the role of counselor for his or her client. Instead of presenting an argument, the attorney is asked to allow the client to speak for him/herself and to be present to support and advise the client through the process. The mediation process is geared towards reaching a workable agreement for both parties.

- The attorney should encourage his/her client to enter the mediation with the idea of working with rather than against the opposing side.
- The attorney is encouraged to help the clients review the mediated agreement before signing the contract. The mediator assists the parties in drafting the mediated agreement. Additionally, the attorney should review any and all agreements before allowing the clients to sign such documents.
- Attorneys are encouraged to attend mediations, unless requested otherwise by the client. If an attorney is unable to attend a session he/she should arrange a method of communication with the client, as his/her advice may be needed during the sessions.
- Rule 31 makes mediation mandatory in parenting cases where an agreement has not been reached. A good attorney will assist his/her client in mediation by treating the process not as a burden, but as a fair, positive form of dispute resolution.
- The attorney should inform the mediator of any special needs his/her client may require at the beginning of the first session.

The mediator functions as a **neutral facilitator**, and **will not make decisions, will not give legal advice, or lead either party in any one direction**. The mediator helps the clients to communicate with each other, so that they may hear each other's concerns. The mediator aids the clients in identifying common issues and developing possible solutions to these issues. The mediator then helps the clients work through the solutions to find those which are workable for both parties. Each mediator has individual rules for taking breaks, holding separate sessions with clients, etc. The mediator will explain exactly how he/she conducts mediation sessions.

Mediation is private and confidential. What is said in mediation stays in mediation. Any offers of settlements or negotiation will be inadmissible to prove liability in court.

Tennessee Parenting Plan Check List for Clerk's Office

- _____ Date of Filing
- _____ Date of Service
- _____ Parenting Plan Package distributed to Plaintiff/Petitioner
- _____ Parenting Plan Package distributed to Defendant/Respondent
- _____ Parent Education Certificate of Attendance-Plaintiff/Petitioner _____
date
- _____ Parent Education Certificate of Attendance-Defendant/Respondent _____
date
- _____ Show Cause Order - Education Seminar - Plaintiff
- _____ Show Cause Order - Education Seminar - Defendant
- _____ Court order for mediation
- _____ Final report of mediator
- _____ Mediator's invoice
- _____ Temporary Parenting Plan -Plaintiff/Petitioner
- _____ Temporary Parenting Plan- Defendant/Respondent
- _____ Permanent Parenting Plan with both parents signatures
- _____ Permanent Parenting Plan - Plaintiff/Petitioner
- _____ Permanent Parenting Plan - Defendant/Respondent

FORM 12

IN THE _____ COURT FOR _____ COUNTY, TENNESSEE

Plaintiff

vs.

NO. _____

Defendant

THIRTY (30) DAY MEDIATION PROGRESS REPORT

■ Mediation was ordered on _____.

■ Has mediation commenced in this case? Yes, start date _____; No _____

If yes, list sessions. If no, please explain status of mediation.

■ Name of Plaintiff's attorney _____

■ Name of Defendant's attorney _____

■ Name, address, phone and fax number of mediator:

Mediators Signature

Date

Please file the original in the Clerk's office.

FORM 12a

IN THE _____ COURT FOR _____ COUNTY, TENNESSEE

Plaintiff

vs.

NO. _____

Defendant

FINAL REPORT OF MEDIATOR

■ Mediation was ordered on _____.

■ Mediation was actually completed on _____.

■ Result of referral to mediation:

_____ Both parties appeared and participated in the mediation.

_____ Case settled by mediation.

_____ Case settled in part.

_____ Case did not settle.

■ Name of Plaintiff's attorney _____

■ Name of Defendant's attorney _____

■ Name, address, phone and fax number of mediator: _____

■ I do _____, do not _____ request that fees be charged as court costs. (attach an itemized invoice if fees are to be charged as court costs)

8. _____ Pro Bono Case

Mediators Signature

Date

Please file the original in the Clerk's office.

IN THE _____ COURT OF _____ COUNTY, TENNESSEE

Plaintiff/Petitioner

vs.

NO. _____

Defendant/Respondent

ORDER TO MEDIATE

The Court, having determined that referral to mediation is appropriate in this case either on the Court's own motion or on the motion of one of the parties, it is hereby

ORDERED that in accordance with Rule 31 of the Rules of the Tennessee Supreme Court that mediation will be conducted upon the following issue(s):

_____ ; and it is

further

ORDERED that both parties shall participate in mediation. Attorneys may participate as agreed by the parties and mediator. Once the parties have decided on the mediator, the attorneys are to contact the court. This will ensure that all paperwork is filed accordingly.

And it is further

ORDERED that the mediator will file a report pursuant to sections 8 and 12(j) of Rule 31 with the Clerk of this court, and it is further

ORDERED that the attorneys will file an Order reflecting any agreement reached

IN THE _____ COURT OF _____ COUNTY, TENNESSEE

Plaintiff/Petitioner

vs.

NO. _____

Defendant/Respondent

ORDER TO MEDIATE DESIGNATING A MEDIATOR

The Court, having determined that referral to mediation is appropriate in this case either on the Court’s own motion or on the motion of one of the parties, it is hereby

ORDERED that in accordance with Rule 31 of the Rules of the Tennessee Supreme Court _____ is hereby designated to conduct mediation in this case; and it is further

ORDERED that mediation will be conducted upon the following issue(s):

_____ ; and it is further

ORDERED that the mediator will file a report pursuant to sections 8 and 12(j) of Rule 31 with the Clerk of this court, and it is further

ORDERED that the attorneys will file an Order reflecting any agreement reached as a result of a successful mediation within _____ () hours of the mediation; and it is further

ORDERED that the fees of the mediator will be paid by the parties at the time of

AGREEMENT TO MEDIATE

We, the undersigned, understand and consent to the following:

This mediation is being conducted pursuant to the guidelines of Rule 31 of the Tennessee Supreme Court.

ROLE OF THE MEDIATOR:

The court may order the parties to appear at the first session, but mediation is a voluntary, cooperative process in which the parties work on resolving their own disputes outside the court process with the assistance of a trained and impartial mediator. The mediator serves as a guide to the parties during their negotiation efforts. The mediator helps the parties to communicate effectively, gather and analyze information, define issues, generate alternatives, explore consequences and reach agreements acceptable to both parties. The mediator does not make decisions or create agreements for the parties; the parties are responsible for the terms of their own agreement.

ATTENDANCE AT SESSIONS:

The average session for family law mediation lasts approximately three and one-half hours. The number of sessions required to resolve a dispute varies with the number and complexity of the issues to be decided. Because mediation is a voluntary process, each party has the right to terminate mediation at any time and for any reason, as does the mediator. **All parties agree to appear on time for the session(s). If there is some conflict in schedule, that party will immediately notify the mediator.**

CONFIDENTIALITY:

All communications made during or in connection with the mediation which are related to the dispute, and all materials in this case file of the mediator, shall be and remain confidential, as provided by the statute. Neither party shall call the mediator as a witness in any judicial proceeding. No confidential material shall be disclosed in any such proceeding, except as agreed by the parties. Allegations of child abuse and threats of future harm to any person shall not be held confidential as per the statutes. In addition, in the event that there are any complaints against the mediator resulting from this mediation, confidentiality shall be waived in order for each party and the mediator to present and defend the complaints.

FULL DISCLOSURE:

Each party shall provide full and complete disclosure of all relevant and material property and financial matters necessary to reach a just agreement in family law mediation. Failure to provide such disclosure may make the future agreement void or subject the parties to allegations of perjury.

REPRESENTATION BY ATTORNEYS:

The mediator may provide legal information, but not legal advice. Parties are encouraged

to seek such legal advice. **Each party has the opportunity to have counsel present during mediation or to consult with independent legal counsel at anytime during mediation and is strongly encouraged to do so.** Each party to the mediation should have any draft agreement reviewed by independent counsel prior to signing the agreement.

FEES FOR MEDIATOR:

The parties shall pay the required fee, in advance, per session in family mediation. If a court-ordered mediation, payment may be as a part of court costs if ordered by the court.. Additional fees may be charged for the time spent drafting the agreement. At the time the parties review the agreement, they shall pay for the time spent drafting the agreement.

Mother _____

Date _____

Father _____

Date _____

Mediator _____

Date _____

IN THE _____ COURT OF _____ COUNTY, TENNESSEE

Plaintiff/Petitioner

vs.

NO. _____

Defendant/Respondent

ORDER TO PRO BONO MEDIATION

The Court, having determined that referral to mediation is appropriate in this case either on the Court's own motion or on the motion of one of the parties, it is hereby

ORDERED that in accordance with Rule 31 of the Rules of the Tennessee Supreme Court that mediation will be conducted upon the following issue(s):

_____; and it is further

ORDERED that both parties shall participate in mediation. Attorneys may participate as agreed by the parties and mediator. And it is further

ORDERED that the mediator will file a report pursuant to sections 8 and 12(j) of Rule 31 with the Clerk of this court, and it is further

ORDERED that the attorneys will file an Order reflecting any agreement reached as a result of a successful mediation within _____ () hours of the mediation; and it is further

ORDERED, the fees of the mediator will be waived and this case is referred to legal services to coordinate pro bono mediation. Pro Bono mediation hours shall not exceed _____. And it further

ORDERED that the parties and their counsel shall proceed in a good faith effort to resolve the issues in this case. The mediation shall be private and confidential. Everything said or done in the mediation is confidential and may not be used in any subsequent judicial proceedings, except as allowed by statute. Allegations of child abuse or threats of future harm shall not be confidential.

ENTERED this day of , 20__.

Judge

CERTIFICATE OF SERVICE

I hereby certify the foregoing has been delivered by U.S. Mail to the parties in this action or their attorney of record as follows:

This _____ day of _____, 20_____.

Clerk/Clerk and Master

IN THE _____ COURT FOR _____ COUNTY,
TENNESSEE

AT _____

)	
)	
Plaintiff,)	DOCKET # _____
vs.)	
)	DIVISION _____
Defendant)	
)	
)	

ORDER TO ATTEND THE PARENT EDUCATION SEMINAR

To the above name parents of the minor children involved in this proceeding:
This case was assigned to the _____ Court on _____. You, as
parents of minor children are hereby ordered to attend a four- (4) hour
educational program, _____ on the following
dates:

Plaintiff is ordered to attend on _____ the class provided by

Defendant is ordered to attend on _____ the class provided by

Failure to attend without good cause may result in a finding of contempt.

Entered this ____ day of _____, 20__.

Chancellor/Judge

CERTIFICATE OF SERVICE

I hereby certify the foregoing has been delivered by personal delivery of the
U.S. Mail to its destination upon all the parties to this action or their
attorney or record as follows.

_____	_____
_____	_____
_____	_____

This _____ day of _____, 20__.

Clerk/Clerk and Master

IN THE _____ COURT OF _____ COUNTY, TENNESSEE

_____))
 Parent) Case No. _____
 _____)
 _____)
 Parent)

TEMPORARY PARENTING PLAN

This parenting plan applies to the following children:

<u>Name</u>	<u>Birthdate</u>
_____	_____
_____	_____

RESIDENTIAL SHARING SCHEDULE

The ___ mother ___ father shall have responsibility for the care of the child(ren) , except for the following days and times when the other parent shall have the responsibility for the care of the child(ren) beginning ___ day of _____:

From: _____ to _____
 (Day/Time) (Day/Time)
 ___ every week ___ every other week ___ other: _____

and from: _____ to _____
 (Day/Time) (Day/Time)
 ___ every week ___ every other week ___ other: _____

HOLIDAY SCHEDULE DURING THE NEXT THREE MONTHS, IF NECESSARY

TRANSPORTATION ARRANGEMENTS

Transportation arrangements for the child[ren], other than costs, between parents shall be as follows:

DAY TO DAY DECISIONS

Each parent shall make decisions regarding the day-to-day care and control of each child while the child is residing with that parent. The parents shall otherwise confer with each other. The Standard Parenting Rights pursuant to T.C.A. 36-6-101(a) is attached.

CHILD SUPPORT

The ___ mother ___ father will pay child support, in accordance with the Tennessee Child Support Guidelines, in the amount of \$ _____ per ___ week ___ month ___ twice per month(sem-monthly) ___ every two weeks (bi-weekly) plus _____ as 5% clerks fee [if applicable] for a total amount of _____, beginning _____ day of _____ 20__.

This support shall be paid

___ Directly to the other parent.

___ To the Central Child Support Receiving Unit

P.O. Box 305200, Nashville, Tenn. 37229 and sent to the other parent at _____

___ Direct Deposit to other parent at _____ Bank

___ wage assignment (see attached order) _____

HEALTH, DENTAL AND LIFE INSURANCE and UNCOVERED EXPENSES

These policies shall remain in effect during the duration of the divorce proceedings. The ___ mother ___ father will maintain medical/hospital insurance on the minor child(ren) . The parents will split all uncovered medical and dental payments, including deductibles and co-payments between the parties.

Attorney or Mother

Date

Attorney or Father

Date

STANDARD PARENTING RIGHTS

Pursuant to *Tennessee Code Annotated*, §36-6-101(a) both parents are entitled to the following rights :

1. To unimpeded telephone conversations with the child at least twice each week at reasonable times and for a reasonable duration;
2. To send mail to the child which the other parent shall not open and will not censor;
3. To receive notice and relevant information as soon as practical (but within 24 hours) in the event of hospitalization, major illness, or death of the child;
4. To receive directly from the school, upon written request, which includes a current mailing address and upon payment of reasonable costs of duplicating, copies of the child's report cards, attendance records, names of teachers, class schedules, standardized test scores, and any other records customarily made available to parents.
5. Unless otherwise provided by law, the right to receive copies of the child's medical, health or other treatment records directly from the physician or health care provider who provided such treatment or health care upon written request which contains a current mailing address and upon payment of reasonable costs of duplication; provided, that no person who receives the mailing address of a parent as a result of this requirement shall provide such address to the other parent or a third person.
6. To be free of derogatory remarks made about such parent or such parent's family by the other parent to or in the presence of the child.
7. To be given at least forty-eight (48) hours notice, whenever possible, of all extra curricular activities, and the opportunity to participate or observe, including, but not limited to, the following:
 - (i) School activities;
 - (ii) Athletic activities;
 - (iii) Church activities; and
 - (iv) Other activities as to which parental participation or observation would be appropriate.
8. To receive from the other parent, in the event the other parent leaves the state with the minor child or children for more than two (2) days, an itinerary including telephone numbers for use in the event of an emergency.
9. Access and participation in education, including the right of access to the minor child or children for lunch and other activities, on the same basis that is provided to all parents, provided the participation or access is reasonable and does not interfere with day-to-day operations or with the child's educational performance.

when the other parent shall have responsibility for the care of the child(ren):

From: _____ to _____
(Day/Time) (Day/Time)

___ every week ___ every other week
___ other _____

and from: _____ to _____
(Day/Time) (Day/Time)

___ every week ___ every other week
___ other: _____

Beginning ___ day of _____, 20__.

B. SCHEDULE OF HOLIDAYS RELEVANT TO YOUR FAMILY, SCHOOL SCHEDULE or SPECIAL OCCASIONS

Indicate when child(ren) will be with each parent.
(In ODD numbered years, EVEN numbered years or EVERY year.)

	Mother	Father
Martin Luther King Day	_____	_____
Presidents' Day	_____	_____
Easter	_____	_____
Passover	_____	_____
Mother's Day	_____	_____
Memorial Day (if no school)	_____	_____
Father's Day	_____	_____
July 4th	_____	_____
Labor Day	_____	_____
Thanksgiving Day & Friday	_____	_____
Child(ren)'s Birthdays	_____	_____
Other school- free days	_____	_____
Mother's Birthday	_____	_____
Father's Birthday	_____	_____
Other:	_____	_____

A holiday shall begin at 6:00 p.m. on the night preceding the

holiday and end at 6:00 p.m. the night of the holiday unless otherwise noted:

C. SCHEDULE FOR WINTER HOLIDAY VACATION.

The ___ mother ___ father shall have the child(ren) in even years from the day school is dismissed at ___ p.m. until December 25 at ___ .m. The other parent will have the child(ren) from December 25 at ___ .m. until 6:00 p.m. on the evening before school resumes.

OR as agreed upon by the parents as follows:

D. SCHEDULE FOR SPRING VACATION.

The mother and father shall share or alternate Spring Break as follows:

Beginning: _____

E. SUMMER SCHEDULE

The ___ mother ___ father shall be responsible for the care of the child(ren) during the summer, except for the following days and times when the other parent will be responsible for the care of the child(ren):

___ Same as school year schedule ___ Two Weeks
___ Two weeks every month ___ One month ___ Six weeks
Other _____
Beginning _____

F. TRANSPORTATION ARRANGEMENTS.

Transportation arrangements for the child (ren), between parents shall be as follows:

Long Distance Transportation Costs: [If Applicable]:

G. OTHER:

The following special provisions apply to the schedules or residential considerations of the child (ren):

II. DECISION MAKING

A. DAY TO DAY DECISIONS

Each parent shall make decisions regarding the day-to-day care and control of each child while the child is residing with that parent. Regardless of the allocation of decision making in this parenting plan, either parent may make emergency decisions affecting the health or safety of the children.

B. CHILD NURTURE

Mother and Father will behave with respect to each other and the child(ren) so as to provide a loving, stable, consistent and nurturing relationship with the child(ren) even though they, themselves, are being divorced. Mother and Father agree they will not speak badly of each other or the members of the family of the other parent. They will encourage the child to continue to love the other parent and be comfortable in both new families.

C. MAJOR DECISIONS

Major decisions regarding each child shall be made as follows:

Education decisions	___ mother	___ father	___ joint
Non-emergency health care	___ mother	___ father	___ joint
Religious upbringing	___ mother	___ father	___ joint
Extracurricular activities	___ mother	___ father	___ joint
_____	___ mother	___ father	___ joint
_____	___ mother	___ father	___ joint

D. PRIVATE SCHOOL AND COLLEGE : [Optional]

The parties agree as follows regarding private school [elementary and high school] and college or vocational training after high school:

[If parents wish to include a detailed list of the plans for special or private schooling, they may attach a separate sheet.]

III. FINANCIAL SUPPORT FOR CHILD(REN)

A. CHILD SUPPORT PER TENNESSEE GUIDELINES OR DEVIATIONS *

The ___ mother ___ father will pay child support, in accordance with the Tennessee Child Support Guidelines, in the amount of \$_____ per ___ week ___ month, ___ twice per month (semi-monthly), or ___ every two weeks (bi-weekly), plus \$_____ as 5% clerks fee [if applicable] for a total amount of

\$_____ beginning the ___ day of _____, 20____,

Deviations:_____

This support shall be paid

___ Directly to the other parent.

___ To the Central Child Support Receiving Unit, P. O. Box 305200, Nashville, TN 37229, and sent to the other parent.

Address:_____

___ Direct Deposit to the other Parent at _____ Bank.

___ By Wage Assignment Order [Attach Order]

The parties affirmatively acknowledge that Court approval must be obtained before child support can be reduced or modified, unless such payments are automatically reduced or terminated under the terms of the Parenting Plan

* Attach sworn statement of income if this is a Proposed Plan.

B. TAX DEDUCTION

The ___ mother ___ father shall receive the tax deduction for the child(ren), [so long as the child support is current on the 15th day of January of each year] in

___ alternate years starting _____

___ each year

Other: _____

C. TAX RETURN NOTICE

The parent(s) paying child support shall send to the other parent by or before April 15 of every year [OR August 15, if an extension is sought], a copy of their respective W-2(s), 1099(s) and first two pages of their tax return.

D. HEALTH INSURANCE

The ___ mother ___ father will maintain medical/hospital insurance on the minor child(ren) and he/she shall provide proof of continuing coverage annually.

Uncovered medical expenses, which include deductibles or co-payments, eyeglasses, contact lenses, routine annual physicals , will be paid by the

___ mother or ___ father or ___ divided equally by the parties.

___ Other: _____

(This may also include a provision for counseling.)

After insurance has paid its portion, the parent receiving the bill will send the bill to the other parent within 10 days. The other parent will pay his/her share within 30 days of receipt of the bill.

E. LIFE INSURANCE [OPTIONAL FOR PARENT NOT PAYING CHILD SUPPORT]

The ___ father shall insure his own life in the minimum amount of \$ _____, whole or term.

The ___ mother shall insure her own life in the minimum amount of \$ _____, whole or term.

The policy(ies) shall name the ___ other parent OR ___ other parent as trustee of the funds to serve without bond or

accounting, as beneficiary for the support of the children OR
Other: _____

F. DENTAL/ORTHODONTIC CARE

If available to either parent through their work, the ___
mother ___ father will maintain dental/orthodontic care on
the minor child(ren). Uncovered dental/orthodontic
expenses will be paid by
___ mother ___ father or ___ divided equally by the parties.

IV. DESIGNATION SOLELY FOR STATE AND FEDERAL STATUTES:

The children named in this parenting plan are scheduled to reside
the majority of the time with the ___ mother ___ father. SOLELY
for purposes of any other state and federal statutes which require
a designation or determination of parental responsibility, this
parent is designated the "Custodian of the Child". If the parents
are joint decision makers as listed in Section II. for purposes of
obtaining health or other insurance, they shall be considered
"joint custodians." THIS DESIGNATION SHALL NOT AFFECT
EITHER PARENT'S RIGHTS AND RESPONSIBILITIES UNDER THIS
PARENTING PLAN.

**V. DISAGREEMENTS ABOUT JOINT DECISIONS OR
MODIFICATIONS OF PLAN**

Should a disagreement arise about the Parenting Plan or the
parties wish to modify the plan, the parties shall make a good
faith effort to resolve the issue through the dispute resolution
process, before returning to court.

Unless a limiting factor listed in T.C.A. 36-6-406 precludes a
dispute resolution process prior to court action, or an emergency
court action is necessary to protect the welfare of the child or a
party, the parties agree to the following dispute resolution
method:

Disputes between the parties, other than the child support disputes, shall be submitted to:

- ___ Mediation by Rule 31 Mediator
- ___ Arbitration by arbitrator selected by parties or the court
- ___ Settlement Conference with judge not presiding in parents' case.
- ___ Court process DUE TO ORDER OF PROTECTION OR RESTRICTIONS

The cost of this process shall be assessed to the parties by the Court based upon their incomes. The out-of-court process shall be commenced by notifying the other party and the Court by

___ written request ___ certified mail _____

Other: _____.

In the dispute resolution process:

- (a) Preference shall be given to carrying out this Parenting Plan.
- (b) The parents shall use the designated process to resolve disputes relating to implementation of the plan.
- (c) A written record shall be prepared of any agreement reached in the mediation, arbitration or settlement conference and shall be provided to each party to be drafted into a consent order of modification.
- (d) If the court finds that a parent willfully failed to appear at a scheduled dispute resolution process without good reason, the court, upon motion, may award attorney fees and financial sanctions to the prevailing parent.

VI. STANDARD PARENTING ORDERS

Pursuant to *Tennessee Code Annotated*, §36-6-101(a) both parents are entitled to the following rights:

1. To unimpeded telephone conversations with the child at least twice each week at reasonable times and for a reasonable duration;
2. To send mail to the child which the other parent shall not open and will not censor;

- 3. To receive notice and relevant information as soon as practical (but within 24 hours) in the event of hospitalization, major illness, or death of the child;**
- 4. To receive directly from the school, upon written request, which includes a current mailing address and upon payment of reasonable costs of duplicating, copies of the child's report cards, attendance records, names of teachers, class schedules, standardized test scores, and any other records customarily made available to parents.**
- 5. Unless otherwise provided by law, the right to receive copies of the child's medical, health or other treatment records directly from the physician or health care provider who provided such treatment or health care upon written request which contains a current mailing address and upon payment of reasonable costs of duplication; provided, that no person who receives the mailing address of a parent as a result of this requirement shall provide such address to the other parent or a third person.**
- 6. To be free of derogatory remarks made about such parent or such parent's family by the other parent to or in the presence of the child.**
- 7. To be given at least forty-eight (48) hours notice, whenever possible, of all extra curricular activities, and the opportunity to participate or observe, including, but not limited to, the following:
 - (i) School activities;**
 - (ii) Athletic activities;**
 - (iii) Church activities; and**
 - (iv) Other activities as to which parental participation or observation would be appropriate.****
- 8. To receive from the other parent, in the event the other parent leaves the state with the minor child or children for more than two (2) days, an itinerary including telephone numbers for use in the event of an emergency.**
- 9. Access and participation in education, including the right of access to the minor child or children for lunch and other activities, on the same basis that is provided to all parents, provided the participation or access is reasonable and does not interfere with day-to-day operations or with the child's educational performance.**

SIGNATURE OF PARTY[IES] FOR PROPOSED PARENTING PLAN OR FOR FINAL PARENTING PLAN

I hereby make oath that this plan has been proposed in good faith and that it is in the best interests of the children. (Notary requirement for Proposed Plan only.)

Mother

Date and Place of Signature

Father

Date and Place of Signature

SWORN TO AND SUBSCRIBED BEFORE ME THIS _____ OF _____, 20____.

My Commission Expires:

Notary Public

ORDER OF THE COURT

It is ORDERED, ADJUDGED AND DECREED that the Parenting Plan set forth above is adopted and approved as an order of this court.

Dated: _____

Judge

Presented by Counsel:

Signature Name _____
BPR # _____

Address _____

Signature Name _____
BPR # _____

Address _____

Phone _____

Phone _____

Address of Mother

Address of Father

Date Attended Parenting Seminar

Date Attended Parenting Seminar

(If applicable) Mediation Services provided by:
