

# **LOCAL RULES OF PRACTICE**

Applicable in the Circuit and Chancery Courts

of

Cheatham, Dickson, Houston, Humphreys and  
Stewart Counties

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**LOCAL RULES TWENTY-THIRD JUDICIAL DISTRICT**  
**INTRODUCTION**

**JUDGES**

The 23rd Judicial District as presently established embraces Cheatham, Dickson, Houston, Humphreys and Stewart Counties. All Judges of the 23rd Judicial District have full civil and criminal jurisdiction therein and are assigned areas of responsibility by the Presiding Judge.

**CLERKS**

Each county within the District has a Circuit Clerk and a Clerk and Master with powers and duties prescribed by statute for such offices generally. The Clerk and Master is clerk of the Probate Division of the Chancery Court in Cheatham, Houston and Stewart Counties. The Clerks are expected to perform all of the acts, including the issuance of writs of attachment and fixing the bonds therefore, which the Clerks are authorized to perform under the applicable statutes. As used in these Rules, "CLERK" includes the Circuit Clerk and/or the Chancery Clerk and Master.

**CLERK AND MASTER**

The Clerk and Masters of Cheatham, Houston and Stewart counties have the authority to exercise the powers set forth in T.C.A 16-16-201(b). Any action taken by the Clerk and Master shall be subject to review by the Chancellor by simple motion, petition or the filing of exceptions as may be appropriate.

## **GRAND JURIES**

**Cheatham County-** The Grand Jury is empanelled in December, April and August and meets on the last Monday and Tuesday of the Month preceding the regular terms of February, April, June, August, October, and December.

**Dickson County-** The Grand Jury is empanelled in January, May and September and meets beginning the fourth Monday of the Month preceding the regular terms of January, March, May, July, September, and November, and continues until completion.

**Houston County-** The Grand Jury is empanelled in March, July, and November and meets the 1st Monday of January, March, May, July, September, and November.

**Humphreys County-**The Grand Jury is empanelled the 1st Monday in April, August and December. The Grand Jury meets the 1st Monday in April, June, August, October, and December.

**Stewart County-** The Grand Jury is empanelled on the 3rd Monday in March, July and November and meets the 3rd Monday in January, March, May, July, September, and November.

## **TERMS OF COURT**

Unless otherwise indicated by these rules, the term of court begins on the 1<sup>st</sup> Monday of the Month. Stewart County starts on the 3<sup>rd</sup> Monday of the month.

## **CHANCERY DAYS**

Not withstanding any other rule to the contrary, the Clerk and Master shall set cases on designated Chancery days listed below.

### **DICKSON COUNTY:**

In odd months, Division I Chancery days will be the 1st 8 working days of the term beginning on the 1st Monday of the Month and continuing through the 2nd Wednesday of the Month. Divisions II and III Chancery days will be the Thursday and Friday following the fourth Monday of the term.

In even months, Division I Chancery days will be the 2nd and 3rd Thursdays of the term.

**CHEATHAM COUNTY:**

In odd months, Division I Chancery days will be four days beginning with the 2nd Thursday of the term and continuing through the 3<sup>rd</sup> Tuesday of the term.

In even months, Divisions II and III Chancery days will be the fourth Thursday and Friday of the term with the exception of December when Chancery days will be the 3<sup>rd</sup> Thursday and Friday of the term.

**HUMPHREYS COUNTY:**

In odd months, Division I Chancery Days will be for three days beginning on the 3<sup>rd</sup> Wednesday of the term and continuing through the 3<sup>rd</sup> Friday of the term.

In even months, Divisions II and III Chancery days will be the fourth Thursday and Friday of the term with the exception of December when Chancery days will be the 3<sup>rd</sup> Thursday and Friday of the term.

**HOUSTON COUNTY:**

In even months, Division I Chancery Day will be the 2<sup>nd</sup> Friday following the 1<sup>st</sup> Monday of the month.

In odd months, Divisions II and III Chancery Days will be on the 2<sup>nd</sup> Friday of the term.

**STEWART COUNTY:**

In even months, Division I Chancery Day will be held on the 3<sup>rd</sup> Friday following the 1<sup>st</sup> Monday of the month.

In odd months, Divisions II and III Chancery Days will be on the 2<sup>nd</sup> Friday of the term.

## **LOCAL CIVIL RULES**

### **RULE 1. GENERAL RULES NOT ABROGATED**

Section 1.01 The Tennessee Rules of Civil, Criminal and Appellate Procedure, of Evidence, and the Codes of Professional Responsibility and Judicial Conduct, will be given full faith and credit.

### **RULE 2. FILING AND SERVING OF PAPERS**

Section 2.01. Filing with the Clerk. All pleadings, motions, proposed judgments and orders shall be filed with or submitted to the Clerk. Briefs shall be filed with the Clerk with a copy to the Judge scheduled to hear the motion or trial.

Section 2.02. Certificate of Service. All papers must contain a certificate of service to opposing parties/counsel which must contain the date of service, the name of the person or persons served, address where served, and the method of service. The Clerk may refuse to file papers not having a certificate which complies with these rules and all applicable rules of Civil, Criminal or Appellate Procedure.

### **RULE 3. JURY TRIAL**

Section 3.01. Demand Procedure. In any civil case in which a jury is demanded, the words "JURY DEMAND" shall be typewritten in capital letters on the 1st page of the pleading opposite the style of the case above the space for the case number.

Section 3.02. Peremptory Challenge Procedure. At trial, peremptory challenges will be written on a sheet of paper provided the respective attorneys for that

purpose. These challenge sheets will be taken up by the court officer and then shown to opposing counsel.

Any objection with regard to a challenge based upon systematic racial or sexual discrimination will be made by any party at this time. The failure to object at the time of returning the opponent's challenge sheet to the court officer constitutes a waiver of such objection.

#### **RULE 4. TRIAL AND MOTION SCHEDULES AND CALENDARS**

Section 4.01. Days designated for motions, are as follows:.

Cheatham, Dickson, and Humphreys Counties: Civil Motion day shall be the Wednesday following the 2nd Monday of the term.

Houston and Stewart: Civil Motion day shall be on the 2nd Monday of the term beginning at 1:00 p.m.

Clerks should be notified of any and all motions expected to be heard on these days.

#### **RULE 5. PRETRIAL MOTIONS**

All pretrial motions must be filed or scheduled for hearing not later than the Court's last regular motion day before the scheduled trial date. Except for good cause shown, no motions, including motions to exclude testimony, will be heard on the day of trial.

#### **RULE 6. MOTIONS**

Section 6.01. Motions will be set on scheduled motion days by notice as provided in the Tennessee Rules of Civil Procedure.

Section 6.02. Motions for new trial, motions for judgment n.o.v. and motions to alter or amend will not be set for hearing except upon direction of the Judge. Such motions should be accompanied by any citation of authorities and written argument which the moving party wishes the Judge to consider. No such motion will be sustained by the Judge without affording the adverse parties an opportunity either to file responsive briefs and written argument or to be heard in oral argument. If one party requests oral argument, both parties shall be given an opportunity to be heard.

Section 6.03. Motions To Compel/ Efforts to Resolve Discovery Conflicts. The Court will refuse to rule on any motion related to discovery unless moving counsel files with the motion a statement which certifies that the lawyer has conferred with opposing counsel in a good faith effort to resolve the discovery dispute and that the effort has not been successful.

## **RULE 7. SETTING CASES FOR TRIAL AND CONTINUANCES**

Section 7.01. Except for Chancery days which may be set by the Clerk & Master, cases shall be set for trial in one of the following ways:

- (a) By agreement of counsel after consultation with the Judge's Administrative Assistant, such agreement to be evidenced by a court order;
- (b) By motion; or
- (c) By the court with subsequent notice to counsel.

Non-jury trials which are anticipated to require 2 hours or less may be set by agreed order on the regularly scheduled non-jury days. Cases requiring longer than 2 hours may be set by agreement after consultation with the Judge's Office. All motions to set and orders setting a case for trial will include a statement of how long the attorney anticipates the case will take for trial.

Section 7.02. Certifying Cases Ready When Set. When a case is set by agreement or by motion without objection, all counsel are certifying that they,

their clients and their necessary witnesses, will be available for trial on the trial date, that all discovery has been completed or will be completed prior to the selected trial date. Where a case is set by the Court or by motion over the objection of one or more of the parties, the court will specify a reasonable time within which discovery is to be completed and specify a trial date which falls at least 15 days thereafter. The 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.

In accordance with Rule 5, all pretrial motions, including motions to exclude evidence, must be filed and scheduled in time to permit oral argument before the scheduled trial date. (Preferably, not later than the last regular motion day before the scheduled trial) No motions will be argued on the morning of trial, except for good cause shown.

Section 7.03. Special Master and Mediation. Before a case is set for trial, proof of payment of any and all Court ordered mediation services and/or special master fees shall be filed with the Clerk. If a party refuses to pay their Court ordered share of the expenses, the case may be set for trial and it will be presumed the party refusing to pay has agreed to pay the total amount of all such services provided.

Section 7.04. Continuances.

- (a) Cases may be continued only by leave of Court.
- (b) Motions for continuance must be supported by sworn affidavit.
- (c) An agreement to continue may be allowed without an affidavit with leave of the Court.
- (d) Absence of a witness will not be grounds for a continuance unless a subpoena has been issued for that witness, as provided for by the rules of procedure affecting the case, more than ten (10) days prior to the date of trial.

(e) Motions set for hearing may be continued by agreement with notice to the clerk.

**RULE 8. GENERAL SESSIONS APPEALS.**

Section 8.01.

All General Sessions appeals will be placed upon the docket for the following Civil Motion day for the purpose of obtaining a trial date by the judge.

**RULE 9. PRE-TRIAL PROCEDURE IN CIVIL CASES.**

Section 9.01 In all civil actions set for trial on the merits, at least 10 days prior thereto:

- (a) The names and addresses of all witnesses shall be furnished to opposing counsel. (Not applicable to rebuttal witnesses.)
- (b) Copies of all exhibits which are proposed to be offered shall be furnished to opposing counsel. When it is impractical to copy exhibits, the proposed exhibits shall be made available for inspection upon reasonable notice.
- (c) In all civil non-jury cases (domestic cases excluded), and all motions for summary judgment, a pre-trial brief along with courtesy copies of any and all depositions expecting to be entered shall be provided to the Judge no later than ten (10) days prior to trial or date of hearing. Responsive briefs shall be filed within 5 days. The Judge's copy may be sent by any electronic means available. (This rule does not alter the requirements of T.R.C.P. 56. It is only intended to provide the judge a copy prior to the hearing and/or trial.)

Section 9.02 Interrogatories in all cases shall be limited to no more than fifty (50) questions including subparts, unless permission is granted by the Court to file additional questions.

## **RULE 10. EXHIBITS**

Section 10.01. Depositions and Discovery Material. Depositions and discovery material submitted to the Clerk as evidence that is not read to the Court may be made trial exhibits at the request of either party.

Section 10.02. Custody of the Clerk. All trial exhibits shall be marked by, accounted for and placed in the custody of the Clerk unless otherwise directed by the Court.

Section 10.03. Disposition of Exhibits in Civil Cases. After final determination of any case, the parties shall have 30 days to withdraw exhibits. The Clerk may destroy or dispose of exhibits not so withdrawn after 10 days notice to the party that submitted the exhibit.

## **RULE 11. ORDERS AND JUDGMENTS**

Section 11.01. Preparation and Submission. Unless the court directs otherwise, attorneys for prevailing parties will prepare orders for entry by the court. Orders approved for entry by counsel for all affected parties must be received not more than 20 days following the day on which the ruling is made by the court. Orders not approved for entry by counsel for all affected parties must be received within 20 days following the day on which the ruling is made by the Court. If, within 10 days following receipt of such an order there has been no proposed order submitted by opposing counsel, the Judge will assume that opposing counsel waives any objection with respect to accuracy and form. If the Clerk has not received an order in a case within 30 days, a show cause shall issue for the next civil motion day. If the order is filed prior to the next civil day, the show cause will be stricken.

Section 11.02. Non-Minute Entry Orders. Orders not affecting the legal course of

an action, such as orders setting a case for trial or acting upon a request for a continuance, may be designated by the Clerk as a non-minute entry order. Such designated order shall be placed in the file of the case but not spread upon the minutes of the Court.

Section 11.03. Court Costs.

(a) All final judgments shall provide for the taxing of court 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 and the date and time it will be considered by the Court.

**RULE 12. DIVORCES AND CHILD PARENTING HEARINGS.**

Section 12.01. All divorces shall be filed in Chancery Court.

Section 12.02. Temporary Parenting and Support Hearings and Orders.

(a) Agreement of the Parties. Where the parties with minor children can agree upon temporary parenting and support arrangements, a Temporary Parenting Plan substantially in the form available at the Administrative Office of the Courts website: [www.tsc.state.tn.us](http://www.tsc.state.tn.us), shall be prepared and submitted to the Court. If approved by the Court, the plan will govern the parenting and support arrangements between the parties during the pendency of the divorce action.

(b) Failure of the Parties To Reach An Agreement. If the parties cannot agree upon a Temporary Parenting Plan, the issue may be mediated or brought before the Court on motion. At the hearing of this issue, each of the parties to the divorce action shall submit a proposed Temporary Parenting Plan and shall submit an affidavit of income and expenses in the form available at the Administrative Office of the Courts' website: [www.tsc.state.tn.us](http://www.tsc.state.tn.us). The court will either adopt one of the plans submitted, appropriately alter and adopt one of

them or may, in the court's discretion, hear additional testimony before determining a Temporary Parenting Plan.

(c) Parenting plans and income and expense forms will be available in each clerk's office.

#### Section 12.03. Contested Divorce and Parenting Actions.

(a) Contested Divorce Actions. Within 10 days of the date of hearing on the motion to set, each of the parties shall file and serve upon the adverse party:

1. their agreed or proposed Permanent Parenting Plan (Available at the Administrative Office of the Courts' website: [www.tsc.state.tn.us](http://www.tsc.state.tn.us))
2. an Asset and Liability Statement (Available at the Administrative Office of the Courts' website: [www.tsc.state.tn.us](http://www.tsc.state.tn.us))
3. their request for relief
4. whether they have attempted mediation and, if not, a statement justifying their refusal to mediate
5. their certificate of attendance from the parent education seminar

(b) Hearings On Motions To Set. Prior to setting a case for trial on divorce and parenting actions, the court or Clerk and Master will review and determine:

- (1) whether parties have attended the parenting seminar as required by Rule 12.01, above;
- (2) whether the parties have attempted mediation and, if not, whether the case is appropriate for mediation;
- (3) whether the Court should appoint a special master or Court's expert for the purpose of assisting the Court in determining the value of the assets of the parties; and
- (4) whether other orders of the Court might facilitate the proceedings. If at this hearing the Court is satisfied the case is ready for trial the action will be set for a date certain.

#### Section 12.04. Non-contested Divorces and Parenting Actions.

(a) Hearings. Where divorce cases are grounded on irreconcilable differences or are submitted on stipulated grounds, it is not necessary to move for a default judgment provided the facts giving the Court jurisdiction of the parties and the subject matter are recited under oath either in the complaint or by separate affidavit. A defendant who has not filed an answer must specifically waive service of process and the filing of an answer in the marital dissolution agreement or by separate affidavit. The waiver of service must appear on page one (1) of the Marital Dissolution Agreement.

(b) Children. Parties to a parenting action who have reached an agreement with regard to their disputed issues may submit to the Court a Permanent Parenting Plan in the form available at the Administrative Office of the Courts' website: [www.tsc.state.tn.us](http://www.tsc.state.tn.us). Parties to a non-contested divorce action who have minor children may incorporate a permanent parenting plan in the same form into their marital dissolution agreement. A plaintiff with minor children who seeks a divorce after a judgment for default shall submit to the court a proposed permanent parenting plan in the same form at the final hearing for divorce.

Section 12.05. Effective Date. The provisions of this section (Rule 12) shall apply to all actions filed after the filing of these rules.

### **RULE 13. ADOPTIONS.**

Section 13.01. Filing. All adoption petitions shall be filed with the Chancery Court Clerk.

Section 13.02. Adoption by Step-Parents and Relatives. Cases where the adopting parents are the grandparents, the aunt or uncle or the step-parent of the child or children to be adopted, shall not be set for adjudication by the Clerk until the following documents have been filed:

- (a) The birth certificate or certificates of the child or children.
- (b) A certified copy of the marriage license of the adopting petitioners.

(c) A certified copy of the final judgment of divorce in the event either of the adopting petitioners have previously thereto been married to another spouse.

(d) A death certificate if either natural parent be deceased.

(e) A death certificate of either petitioners' former spouse if said spouse is deceased.

Section 13.03. Presentation of Testimony. The testimony of adopting petitioners may be presented in person or, in the event the adopting petitioners are not within the State of Tennessee at the date of the adjudication, by interrogatory or deposition.

Section 13.04. Attendance of Adoptive Child. The child or children involved in said adoption shall attend the adjudication.

#### **RULE 14. ACCOUNTINGS - RETURN OF SUPPORTING DOCUMENTATION TO FIDUCIARY.**

Section 14.01 In connection with any accounting where the fiduciary is required to produce supporting documentation, such as, but not limited to, canceled checks, bank statements, receipts, etc., the clerk shall have the right, as set forth below, to return the supporting documentation to the custody of the fiduciary for safekeeping. Such a return of documentation shall not occur until the clerk has reviewed and approved the accounting and at least 30 days have elapsed from the date the Court approves the accounting and it is recorded.

#### **RULE 15. EXTRAORDINARY INTERLOCUTORY RELIEF.**

Section 15.01. Restraining Orders. Proposed restraining orders shall be prepared by counsel prior to submitting the request for relief to the Court. Except in domestic relations cases, the restraining order shall provide for the setting of a bond as a condition to the entry of the restraining order. The restraining order

shall further provide for the setting of a hearing for temporary injunction and shall provide a place thereon for the Court to set a date, time and location for such a hearing. Requests for extraordinary relief must comply in all respects with Rule 65, T.R.C.P. Section 15.02 Hearings. Except for domestic relations cases, all applications for temporary injunctions and other forms of extraordinary interlocutory relief shall be heard upon sworn pleadings or affidavit and/or deposition unless a party, prior to the time of the hearing, requests and obtains permission of the Court for the introduction of oral testimony and so notifies all other counsel of record.

### **RULE 16. SWORN STATEMENT IN DIVORCE ACTION**

Section 16.01. In all contested divorce actions, both parties shall file a sworn statement of assets, liabilities and sources and amounts of income at least ten (10) days prior to the hearing of the action. A copy of the sworn statement shall be served upon opposing counsel. Sworn financial statements shall include, but not be limited to the following:

1. A statement of current earnings;
2. A list of specific present assets accumulated during the marriage;
3. Assets owned by each spouse but not accumulated during the marriage; and
4. A list of present liabilities accumulated during the marriage.

Section 16.02. Complaints which include requests for pendente lite relief which are set for hearing shall include a statement of facts justifying the relief sought and, prior to the hearing, all parties will submit affidavits in support or opposition to the relief sought.

Section 16.03. In divorce hearings, either final or temporary, involving alimony, child support issues, a property, income and expense statement in the forms available at the Administrative Office of the Courts website: [www.tsc.state.tn.us](http://www.tsc.state.tn.us), as appropriate, shall be filed with the Clerk and a copy furnished opposing

counsel. The parties may also include a proposed division of property and indebtednesses.

16.04. A violation of the above may be grounds for a continuance but shall not be grounds for exclusion of the evidence. The party not in compliance may expect sanctions including but not limited to taxing of attorney fees.

### **RULE 17. DISMISSAL FOR LACK OF PROSECUTION**

Section 17.01 Whenever a cause has remained on the rule docket for twelve (12) months or more without steps being taken by the plaintiff to dispose of the cause, the Clerk or opposing parties shall be entitled, upon motion, to request the Court for a dismissal of the cause with prejudice at plaintiff's costs.

### **RULE 18. INVESTING FUNDS PER COURT ORDER**

Section 18.01 The Clerk's office shall invest litigant funds paid into court only if there is a court order directing them to do so. The order should state the name of the financial institution in which the funds are to be invested and the specific type of account to be utilized. At the time of payment or when the order is entered, if later, it shall be the DUTY OF THE ATTORNEY seeking investment of funds to specifically notify the Clerk receiving payment that the funds are to be invested and to provide an IRS form W-9 to the Clerk's bookkeeping department for the party responsible for tax liability.

### **RULE 19. WORKER'S COMPENSATION CASES.**

Section 19.01. All worker's compensation cases shall be filed in the Chancery Court.

**RULE 20. SUSPENSION OF RULES.**

Section 20.01. Whenever the Court determines that justice requires it, the Court may suspend any of the foregoing local rules.

## LOCAL CRIMINAL RULES

### RULE 1. TRIAL AND MOTIONS SCHEDULES AND CALENDARS.

Section 1.01.

Days designated for criminal motions are as follows:

**Humphreys County:** Criminal Docket Call and Criminal Appearance Days shall be on the 2<sup>nd</sup> Monday of each term. Probation Violations will be on the fourth Wednesday of the term with the exception of December when it shall be the 3<sup>rd</sup> Wednesday of the term.

**Cheatham County.** Criminal Docket Call shall be on the 2<sup>nd</sup> Monday of each term. Criminal Appearance Day shall be on the Friday following the 2<sup>nd</sup> Monday of each term. Probation violations will be on the fourth Tuesday of the term with the exception of December when is shall be the 3<sup>rd</sup> Tuesday of the term.

**Dickson County:** Criminal Docket Call shall be on the 2<sup>nd</sup> Monday of each term. Criminal Appearance Day shall be on the Friday following the 2<sup>nd</sup> Monday of each term. Probation violations will be on the fourth Wednesday of the term.

**Houston County:** Criminal Docket Call, Violations of Probation and Appearance Day shall be on the 2<sup>nd</sup> Monday of the term.

**Stewart County:** Criminal Docket Call, Violations of Probation and Appearance Day shall be on the 2<sup>nd</sup> Monday of the Term.

In the event one of the above days falls on a Holiday, the day shall be passed to either the day after or in some cases, the day before. Please check with the clerk for verification.

Section 1.02

23<sup>rd</sup> Judicial District Recognized Holidays:

January 1<sup>st</sup>, New Years' Day Observance

Martin Luther King, Jr. Day

Presidents' Day  
Good Friday  
Memorial Day  
July 4<sup>th</sup>, Fourth of July  
Labor Day  
Columbus Day  
Veterans' Day  
Thanksgiving Day & the Friday Following  
December 24<sup>th</sup> and 25<sup>th</sup>

Section 1.03. Trials are set on arraignment day by the Judge.

**RULE 2. MOTIONS, DISCOVERY AND PRETRIAL DIVERSION.**

Section 2.01. From the time of arraignment, each defendant shall have a period of 30 days within which to file pretrial motions as defined by Rule 12(b), T.R.Cr.P., except that requests for discovery shall be filed within 20 days from arraignment and motions to suppress evidence must be filed within 20 days of the date the state has complied with a request for discovery. The Court at arraignment or thereafter upon motion may extend the period for filing pretrial motions upon good cause shown.

Section 2.02. Applications for pretrial diversion shall be filed with the Office of the District Attorney within 30 days from the date of arraignment unless otherwise extended by the Court. (The time shall be extended if discovery has not been answered by the state.) The district attorney may, in his or her discretion, refuse to consider any such application not timely filed and denial of pretrial diversion on that basis shall not be deemed an abuse of his discretion, nor shall the trial of the case be continued pending a review of such denial.

Section 2.03. At the time of arraignment, the court shall designate an appearance date and a trial date. On the appearance date, the court will:

- (a) consider any plea bargain agreements between the district attorney general and the defendant and his or her attorney;
- (b) hear or set for date certain any pretrial motions filed by either party, or the motion will be waived; and
- (c) determine whether there are pretrial motions which cannot be heard either in accordance with these rules or for reasons of fairness to the respective parties and, if so, set those motions for appropriate disposition.

Section 2.04. On the appearance date for each particular case, it shall be the responsibility of the defendant or his or her attorney to advise the court of the following:

- (a) That an application for pretrial diversion is pending.
- (b) That an application for pretrial diversion has been denied and the defendant intends to seek review of that denial.
- (c) That there has been an adverse determination upon a review of the denial of pretrial diversion and the defendant intends to appeal that determination.
- (d) That a pretrial motion is pending or that the time for filing pretrial motions in accordance with these rules has not expired; and
- (e) That the state has failed to respond to a request for discovery filed pursuant to Rule 16, T.R.Cr.P.

On the appearance date for each particular case, it shall be the responsibility of the district attorney, or his or her assistant to advise the Court that the defendant has failed to respond to a reciprocal request for discovery pursuant to Rule 16, T.R.Cr.P. Upon the determination of the existence of any of the circumstances set forth in this section, the trial Court may continue the appearance date and may make such further orders as may be appropriate for the timely disposition of pretrial proceedings. Any circumstance not called to the attention of the Court in

accordance with this section shall not be considered as a ground for continuance of the trial of the case.

### **RULE 3. SETTING CASES FOR TRIAL.**

Section 3.01 Cases will be set for trial

- (a) on the arraignment date, referred to in Rule 1.02
- (b) on the date set for trial when crowded off the docket, by agreement between the district attorney or an assistant district attorney and the defendant and his or her attorney, or
- (c) by the court upon motion of either party or on its own motion with notice to the respective parties or attorneys.

### **RULE 4. CONTINUANCES.**

Section 4.01.

- a. Cases may be continued only with the approval of the court.
- b. All motions for continuance made prior to the date of trial or hearing shall be filed in writing, shall state the reason the continuance is being sought and shall either be sworn to or be supported by sworn affidavit. No agreements to continue a case will be approved unless a date has been agreed upon for resetting the hearing or trial being continued.
- c. Absence of a witness will not be grounds for a continuance unless a subpoena has been issued for that witness, as provided for by the rules of procedure affecting the case, more than ten (10) days prior to the date of trial.
- d. Absent an agreement, continuances may be granted by the court upon written motion after notice to opposing counsel specifying the time and place a continuance will be sought.
- e. Any request for a continuance in a case where the defendant is charged with the crime of violence involving death or serious bodily

injury that will cause the trial of the case to be delayed beyond 180 days from the date of the indictment shall be accompanied by a proposed certificate in compliance with T.C.A. §40-38-105 setting forth the reasons the case is still pending before the court.

- f. It is expected that a case where the defendant is charged with a crime of violence involving death or serious bodily injury shall be given priority in scheduling and selection of cases for trial over cases not involving such a charge.

#### **RULE 5. REQUEST FOR SEQUESTRATION OF JURY.**

Section 5.01 Except in capital cases, both the defendant and the state shall be deemed to have waived any right they may have to a sequestered jury unless a written request has been filed with the clerk of the court at least 48 hours prior to the trial date.

#### **RULE 6. ORDERS AND JUDGMENTS**

Section 6.01. Once sentencing has been completed, a proposed judgment document shall be prepared by the district attorney for approval. All other orders and judgments shall be prepared by the clerk unless the court otherwise directs pursuant to Rule 6.02 and shall be submitted directly to the judge.

Section 6.02. When directed by the court counsel will prepare orders for entry. All orders prepared by counsel, except for judgment documents, shall be filed with the clerk and served on opposing counsel.

Section 6.03. Counsel who has been served with a proposed order prepared by counsel at the direction of the court shall immediately notify the judge of any disagreement with the contents of the proposed order. Objecting counsel shall,

within 3 days, submit a revised order and serve a copy on opposing counsel. Opposing counsel shall immediately notify the judge of any objection to the contents of the revised order. The court will either approve one of the orders submitted with notice to counsel, schedule a chambers conference or set the matter for hearing. If the court does not receive notice of any objection to any proposed order or to any revised order submitted in accordance with this rule, the order will be presumed correct and will be entered unless amended by the judge.

**RULE 7. SUSPENSION OF RULES.**

Whenever the court determines that justice requires it, the court may suspend any of the foregoing local rules.

**ORDER**

The foregoing Local Rules of Practice applicable in the Circuit, Chancery and Criminal Courts of the Twenty-Third Judicial District. All standing orders not incorporated in these rules are declared invalid and shall have not effect. Adopted and effective as of the \_\_\_\_\_ day of February, 2007.

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**ROBERT BURCH, JUDGE  
DIVISION I  
23rd JUDICIAL DISTRICT**

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**LARRY WALLACE, JUDGE  
DIVISION II  
23rd JUDICIAL DISTRICT**

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**GEORGE C. SEXTON, JUDGE  
JUDGE, DIVISION III  
23rd JUDICIAL DISTRICT**