

LOCAL RULES OF CRIMINAL PRACTICE AND PROCEDURE
OF THE
CIRCUIT COURT
OF
FOURTH JUDICIAL DISTRICT TENNESSEE
(COCKE, GRAINGER, JEFFERSON, SEVIER COUNTIES, PARTS I – IV)

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APPENDIX Bonding Company Rules and Regulations

RULE 1. ADOPTION, CITATION, PURPOSE AND SUSPENSION OF LOCAL RULES OF CRIMINAL PRACTICE AND PROCEDURE AS ADOPTED JANUARY 30, 2009.

1.01 Abrogation of Prior Rules and Practice Procedure. Effective March 16, 2009, the Circuit Court of the 4th Judicial District (Cocke, Grainger, Jefferson and Sevier Counties), of Tennessee abrogates all existing rules of practice and procedure and adopts these rules. Citations to these rules may be in the form of “Local Rules of Criminal Procedure.”

1.02 Judicial Economy and Uniform Application. The purpose of these rules is to facilitate the just determination of every criminal proceeding in this Court by securing simplicity in procedure and fairness in administration and eliminating unjustifiable expense and delay in addition to the unnecessary claims on the time of jurors. A judge may suspend the rules as justice requires or enter a scheduling order in a particular case that sets deadlines other than those set forth herein.

RULE 2. ATTORNEYS

2.01 Ethical Standards. The ethical standards relating to the practice and the administration of law in this Court shall be as set forth pursuant to Rule 8 of the Rules of the Tennessee Supreme Court, and shall be cited as: “Code of Professional Conduct.”

2.02 Tennessee Counsel Requirements. In order to practice law in this Court an attorney who is a resident of Tennessee must be licensed to practice law in this State in accordance with Rule 7 of the Tennessee Supreme Court Rules; and must be duly qualified and registered with the State Board of Professional Responsibility pursuant to Rule 9 of the Rules of the Tennessee Supreme Court.

2.03 **Non-resident Attorney Requirements.** Non-resident attorneys shall be entitled to practice in a particular case upon compliance with Tennessee Supreme Court Rules 19 and 20.

2.04 **Continued Representation From General Sessions Court Until Indictment.** The Office of the Fourth Judicial District Public Defender and any other member of the private bar appointed to represent an indigent defendant in the General Sessions Courts of the Fourth Judicial District are considered to be in continual representation of any defendant who has been held to the action of the Grand Jury until such time as the defendant appears for arraignment after an indictment is returned, or an order dismissing the warrant holding the defendant is subsequently entered with the Court – all prior to the formal arraignment of the defendant. Representation of prior appointed counsel is extinguished once the defendant appears for arraignment or if the Grand Jury “no true billed” the pending charge and said order thereafter entered. The Criminal Court Judge to whom any such indictment is assigned will again determine indigence for the purpose of appointing Criminal Court counsel upon arraignment, pursuant to Tenn. Code Ann. § 40-14-202 and Rule 44 of the Tennessee Rules of Criminal Procedure. Any petition for compensation for representation between the binding over of the case and the issuing indictment(s) shall be filed at the termination of such representation in the Criminal Court having jurisdiction of the indictment.

2.05 **Privately Retained Counsel.** All attorneys, *other than those appointed by the Court to represent indigent defendants*, will, upon their employment to represent a defendant, immediately notify the clerk’s office and the office of the District Attorney General of their representation of such defendant in order that their name be entered as counsel of record in the case.

2.06 **Counsel for Limited Purpose.** An attorney becomes counsel of record by: (1) appearing for a defendant in open court without announcing that he or she is appearing

for a special and/or limited purpose only; (2) by filing any pleading or motion for a defendant without expressly limiting the appearance; or (3) by receiving an appointment from the Court.

2.07 **Withdrawal of Counsel.** An attorney of record may only withdraw from a case by filing a written motion to withdraw and, *in open court*, obtaining permission to withdraw. For a motion to withdraw counsel shall also append a notice of the date and time of the hearing stating specifically the defendant's obligation to attend; and a certificate of service on the defendant, any surety, and the District Attorney General's Office. **Note:** Said scheduling shall be coordinated with the Judge's secretary in addition to the appropriate Court Clerk in order to ensure that the matter is properly reflected upon the Court docket for said hearing date.

2.08 **Counsel's Duties to Client, etc.** It will be the responsibility of the attorneys to determine the nature of charge(s) against their clients, obtain copies of the appropriate charging instrument(s), and advise their client(s) of the day on which they are to appear.

2.09 **Orders of Transport** It will be the responsibility of the attorney whose client is incarcerated in another jurisdiction to prepare an Order of Transport to ensure the defendant's presence for any court date. The Order shall be filed at least ten (10) days before a hearing date.

RULE 3. ALLOCATION AND MANAGEMENT OF CASES.

3.01 **Administrative Responsibility.** For the purpose of the efficient administration of justice, the Judges of the four (4) parts of the Fourth Judicial District shall have the administrative responsibility of managing the criminal caseload as follows:

Part I – Cocke County

Part II – Sevier County

Part III – Sevier County

Part IV – Jefferson and Grainger Counties

3.02 **Unnecessary Transfers Between Parts.** When necessary for the efficient administration of justice, a Judge can hear and determine any matter for another Judge without the necessity of transferring the case from one part to another part.

3.03 **Arraignment.** At arraignment, the Court will assign a date to address non-jury issues, including, *but not limited to*, motions and recommendations of Plea Agreements, scheduling orders, and trial dates.

3.04 **Necessity of Appearance at Arraignment(s).** Attorneys and their clients shall appear on the next arraignment day after a case against their client has been held to the action of the Grand Jury unless:

- 1) A “No True Bill” was returned by the Grand Jury in the case; or
- 2) Express permission has been granted by the Court to waive the appearance of the defendant or their attorney.

3.05 **Counsel Excused from Appearance at Arraignment(s).** In the event the attorney for the defendant is excused from appearance at the defendant’s arraignment, the attorney shall:

- 1) Have an agreement in writing with the District Attorney’s office in regard to their client’s next appearance date and trial date; or
- 2) Ensure that someone from the attorney’s office with full scheduling authority is present.

3.06 **Plea Cut-Off/Deadline.** Unless otherwise authorized by the Court, the Court **will not** accept Plea recommendation following the last non-jury date in which the case is scheduled for trial except for good cause, which shall be brought to the Court’s attention as soon as practicable before the trial date(s). On the defendant’s trial date the case may be resolved only by (1) trial; (2) the State’s motion for dismissal with prejudice; or (3) the defendant’s plea of guilty to the charges in the indictment.

3.07 **Continuance(s).** For good cause shown, the Court may grant a continuance. Whether absence of a witness is such cause depends on compliance with provision of Rule 4.03 of these Local Rules of Criminal Procedure and Tenn. Rules of Criminal Procedure Rule 17 regarding subpoenas. At the time of said continuance, the Court will assign a new trial date.

RULE 4. **PRE-TRIAL DEADLINES**

4.01 **Sufficient Time Necessary for Filing Pre-trial Motions and Specifics to Motions to Compel.** For the convenience of witnesses and jurors and the avoidance of delay, the parties shall file any motion(s) that require a pre-trial hearing in sufficient time for the Court to hear the motion(s) on a non-jury day prior to trial. Before filing a motion to compel discovery, counsel shall seek to resolve each discovery dispute with adverse counsel. Motions to compel shall be filed no later than twenty (20) days before trial.

4.02 **Disclosure of Audio and/or Video Recordings as to Trial Evidence.** A party who intends to offer an audio or visual recording as evidence in its case-in-chief in a jury trial shall so notify all other parties in writing and file a copy of the notice at least twenty (20) days before trial. Counsel may review the recording in the form in which the offering party intends to offer it and may copy the recording at his or her expense. If counsel has any objection to the recording, he or she shall promptly advise counsel for the offering party and counsel shall attempt to resolve the objection. If resolution cannot be accomplished, counsel for the objecting party shall file a motion *in limine* within a sufficient time for the Court to rule on the matter prior to trial. Said time period should be expedited in an effort to allow the offering party to complete any necessary editing should the same be ordered by the Court.

4.03 **Subpoenas.** The parties shall request any subpoena in sufficient time for the clerk or other court officer to issue the subpoena at least fifteen (15) days before trial or

deposition. Any subpoena issued shall be returned to the Court at least five (5) days before trial or deposition. Subpoenas issued pursuant to these rules and Tenn. Rules of Criminal Procedure Rule 17 shall direct witnesses to appear in court or deposition only. Subpoenas for the production of documents and objects pursuant to these rules and Tenn. Rules of Criminal Procedure Rule 17 shall direct the custodian or person in control of the items sought to produce those items in Court or deposition only.

4.04 **Jury Instructions – Special Requests.** The parties shall file any special request for jury instructions before jury selection begins. If an issue is not then apparent, the parties shall file any such request as soon as practicable thereafter.

RULE 5. PREPARATION AND DISSEMINATION OF ORDERS.

5.01 **Responsibility of Whom to Prepare, Format and Necessary Procedure.** The District Attorney General’s office shall prepare all judgments and shall provide defense counsel with a copy thereof. In other cases, the judge may direct the clerk or party to prepare an order or allow a party to submit an order. When a party prepares an order, the party shall include spaces for the signatures of all parties or counsel on the left margin under the space for the signature of the judge. The same party who prepares the order shall sign it and submit it to the other parties or counsel for their approval. If any party fails to agree that the order accurately states the judgment of the Court, the party who prepares the draft shall so indicate in a cover letter as to said disagreement and submit his or her proposed order to the judge. The party who disagrees with the accuracy of the draft may then prepare his or her own order. A party submitting a draft of an order shall submit the original with a copy for each adverse party.

5.02 **Notice Requirement By Clerk’s Office.** It is the duty of the clerk to notify all parties of the entry of written orders and judgments by providing them with a copy thereof. It is also the duty of the clerk to notify any person who has a duty to execute any part of

the order or judgment, *e.g.*, the sheriff, the department of correction, a probation officer, or a court reporter, and any other person for notice to whom the order or judgment provides.

5.03 **Defense Counsel’s Responsibility in Preparing Orders.** All orders granting or denying motions for new trial shall be prepared by defense counsel and shall be submitted to the Court within ten (10) days of the Court’s ruling.

RULE 6. **RECORDS**

6.01 **Custody of the Court Records.** The clerk shall, *at all times*, have custody and control of the records of the Court and be responsible for their safekeeping. No one other than the clerk or a deputy clerk may remove a record from a case file. No one may withdraw a case file for the purpose of taking it to the courtroom except the judges of the Court, the clerk or deputy clerks, or, ***with permission of the clerk***, attorneys.

RULE 7. **CONDUCT IN THE COURTROOM**

7.01 **Reserved Space Within The Bar.** The space within the bar is reserved for the parties engaged in the case on trial, attorneys, court officials, and representatives of various news media. No one else shall be permitted in this area at any time including, *but not limited to*, recessed periods called by the Court. Parties to a case include representatives, employees, and witnesses of the State and of the defendant.

7.02 **Procedure and Conduct of Parties While Bailiff Opening Court.** At each opening of each session of the court, all persons in the courtroom will arise, and along with the Judge remain standing until court is formally opened by the Bailiff.

7.03 **Expected Conduct While of All Parties While Court is in Session.** While court is in session, all parties, attorneys, participants and spectators in the courtroom are expected to conduct themselves in a manner consistent with the respect due to all courts of law.

Generally, any activity not related to Criminal Court business must be conducted outside the courtroom. Further, actions that distract participants from court business such as reading newspapers, idle conversation or unnecessary moving about in the courtroom is prohibited. There shall be no demonstrations, noise, loud talking or any act of misconduct permitted in any area of close proximity to the courtroom so as to interfere with or distract the orderly proceedings of the Criminal Court.

7.04 **Approaching the Bench and Bench Conferences.** Attorneys will not approach the bench without first requesting permission to do so, and no conference will take place at the bench without counsel from both sides being present.

7.05 **Courtroom Attire.** All lawyers and court attendants will be properly attired and will not dress in a manner to distract from proper decorum in the court. For example, no tank tops, midriff tops, shorts, hats, low rise jeans or pants, etc.

7.06 **Addressing the Court.** Whenever addressing the Court, counsel should arise and remain standing while making any objection, argument, or statement to the Court, including such time as the Court may be addressing counsel, except those suffering from a physical or other disability.

7.07 **Addressing Witnesses.** Attorneys should stand while interrogating witnesses.

7.08 **Compliance Officers as to Courtroom Conduct.** The Bailiff and other officers serving the Court will be charged with the responsibility of requiring compliance with the standard courtroom conduct and decorum.

7.09 **Location of Individuals Near Jurors.** While a case is pending before a jury and the jury is occupying the jury box or a jury room, no one, other than officers who are in charge of the jury and attorneys who are presenting or arguing a case, may stand, walk, or sit in the immediate vicinity of the jury box or jury room.

RULE 8. OPERATION OF MEDIA

8.01 **Media Access.** Media and their agents who record and/or broadcast in a courtroom shall understand and comply with Tenn. Sup. Ct. Rule 30, which governs media access to public judicial proceedings in the courts of this state, prohibits the recording or broadcasting of certain participants, proceedings, and conferences, limits the number, sensitivity, and obtrusiveness of certain media devices and the number of the operators of such devices, and authorizes pooling arrangements.

RULE 9. BAIL AND RELIEF FROM FORFEITURE

9.01 **Cash Deposit in Lieu of Bail.** No official may accept a personal check as a cash deposit in lieu of bail. Any official accepting a cash deposit in lieu of bail shall proceed as follows:

- 1) The official shall mark “cash bond” on the bond form;
- 2) The official shall have the defendant execute the bond form by signing it and inscribing his or her address thereon;
- 3) The official shall ascertain the name and address of the depositor and inscribe them on the bond form; and
- 4) The official, *if other than the clerk or a deputy clerk*, shall transmit the bond form with the deposit to the office of the clerk.

9.02 **Principal and Surety Request for Relief.** After a preliminary forfeiture on a bail bond and within one hundred eighty (180) days of the service on the surety or, *if there is no service*, the return of *scire facias*, the principal and surety may file a request for relief. All matters regarding forfeiture or relief on bail bonds shall be heard in open court.

9.03 **Professional Bondsman.** Any surety who is a professional bondsman within the meaning of Tenn. Code Ann. § 40-11-301(4) shall understand and comply with

applicable provisions of Tenn. Code Ann. §§ 40-11-101 thru 405. Professional bondsmen are also subject to additional rules of this Court that appear in an Appendix attached hereto.

RULE 10. **WAIVER OF RULES**

10.01 **Particulars of Waiver.** Whenever a particular instance *in the opinion of the trial judge* for good cause shown and justice so requiring these rules may be waived.

Appendix **Bonding company rules and regulations**

WHEREFORE, IT IS CONSIDERED, ORDERED, AND ADJUDGED, the foregoing Rules are hereby adopted and shall be forthwith entered upon the Minutes of each county of the Fourth Judicial District.

IT IS FURTHER ORDERED, that copies of these Rules be made available for distribution, without charge, through the Circuit Court Clerks' Offices, to all practicing attorneys and the public at large.

IT IS FURTHER ORDERED, that a copy of these Rules adopted by this Court shall be furnished to the Administrative Office of the Courts of Tennessee, and a copy of all amendments thereafter made shall, upon their promulgation, be filed in said office.

IT IS FURTHER ORDERED AND ADJUDGED, that these Rules shall become effective on the 16th day of March, 2009.

ENTER THIS the _____ day of March, 2009,

Honorable Ben W. Hooper, II
Circuit Judge, Part I

Honorable Rex Henry Ogle
Circuit Judge, Part III

Honorable Richard R. Vance
Circuit Judge, Part II

Honorable O. Duane Slone, Presiding Judge
Circuit Judge, Part IV