Rule 1 – Definitions, Suspension of Rules

Sec. 1.01 Definitions

Unless indicated otherwise, the following definitions apply:

(a) Judge: The Circuit Judge or the Chancellor of the Chancery Court. ***Sometimes in these rules the Judge is referred to as the Court.***
(b) Clerk: The Circuit Court Clerk or the Clerk and Master of the Chancery Court.
(c) Calendar Clerk: The secretary of the respective Judge.
(d) T.C.A.: Tennessee Code Annotated.

Sec. 1.02 Suspension of Rules

The Court may suspend any of these rules when justice requires.

Rule 2- Court Sessions

Sec. 2.01 Times

Sessions of Court will open at 9:00 a.m. or at such other times as the Court directs except that the Circuit Court will open at 9:30 a.m. on Thursdays and Fridays. Judges, attorneys, parties and witnesses will be prompt at all sessions.

Sec. 2.02 Terms Abolished

Terms of Court are abolished. Court shall be considered available for setting continuously.

Sec. 2.03 Empaneling of Grand Juries and Trial Juries

Weakley County: 1st Monday of January, May and September.
Obion County: 1st Monday of February, June and October.

Rule 3 – Withdrawal of Attorneys

All counsel who enter an appearance in a case will be counsel of record and may not withdraw except for good cause and by leave of the Court upon motion and notice to all parties. The Motion to withdraw must include a Certificate of Service stating that copies of the Motion and the Notice of the court hearing were served on all parties and attorneys.

Rule 4 – Pro Se Litigants

(a) All parties permitted by the Court to represent themselves in civil cases without representation by attorneys are obliged to comply with these Rules.

(b) Parties requesting the right to represent themselves shall file a written notice with the Clerk of the Court stating their intentions to represent themselves. A copy of the notice shall be forwarded by the party to all attorneys of record and to all parties not

represented by attorneys and shall contain a signed certificate of service as required by Rule 6. The notice shall include full names of all parties seeking to represent themselves, the mailing addresses where court documents are to be forwarded, and, if available, a current telephone number for each such party. All parties representing themselves shall notify the Clerk of the Court, all other parties, and attorneys of record of any changes of address or telephone number.

(c) The Clerk is **not** to file any pleadings or documents for parties representing themselves unless those documents and pleadings contain a certificate of service identifying all persons to whom the pleadings or documents are being delivered.

(d) All references in these Rules to the obligations of counsel or attorneys are applicable to parties representing themselves.

Rule 5- Court Files

Sec. 5.01 Control of Files

All papers and records of the Court shall be at all times under the custody and control of the Clerk. Persons wishing to review Court files, records, tape recordings or filed exhibits may do so only under the supervision of the Clerk in a space provided in the Clerk's office.

Sec. 5.02 Withdrawal of Files

No files shall be withdrawn from the office of the Clerk except by attorneys or their staff on permission of Court or as provided in Sec. 5.03 below.

Sec. 5.03 Receipt

No file will be withdrawn from the Clerk's custody by an attorney or their staff without first obtaining permission from the Court or the Clerk and signing a receipt to return the file on a specific date. The Clerk shall prepare a proper receipt form with a space for the Court or the Clerk to sign, and for the attorney to sign.

Rule 6 - Filing of Papers/ Depositions in Worker's Compensation Cases

Sec. 6.01 Filed with the Clerk

Pleadings, motions, briefs, and proposed judgments and orders shall be filed with the Clerk. Copies of motions and briefs shall be sent to the Judge prior to the hearing.

Sec. 6.02 Depositions in Worker's Compensation Cases

Depositions in worker's compensation cases are to be filed with the Clerk and a copy provided to the Judge 48 hours prior to trial.

Rule 7 – Discovery

Sec. 7.01 Filing Required Only for Use by Court

Interrogatories, requests for production of documents or admissions, depositions and other discovery material which is filed with the Clerk will be stamped filed by the Clerk and returned to the filing party. Such material will not be retained by the Clerk unless it is to be used in Court or considered by the Court for a purpose other than impeachment.

Sec. 7.02 Interrogatories to Parties

(a) Written interrogatories and sub-questions shall not exceed thirty (30) in number, without an order from the Court.

(b) The party to whom the interrogatories are directed shall answer or object to each interrogatory and shall serve the answers and responses, with the original verification, on the party propounding the interrogatories.

Sec. 7.03 Discovery Disputes

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 motions, a statement certifying that he has conferred with counsel for the opposing party in a good faith effort to resolve by general agreement the issue raised and that counsel have not been able to do so. If counsel for any party advises the Court in writing that any opposing counsel has refused or delayed a discussion of the problems covered in this subsection, the Court may take such action as is appropriate.

Rule 8 - Pretrial and Settlement Conferences

Sec. 8.01 Scheduling Conferences

Scheduling conferences may be set in the discretion of the Court.

Sec. 8.02 Pretrial Conferences

(a) Pretrial conferences will be held at the request of the parties or at the discretion of the Court.

(b) Each party appearing in the action shall be represented at the pretrial conference by counsel who will conduct the trial or by co-counsel with full knowledge of the case, and with the authority to bind such party by stipulation.

(c) Counsel shall obtain the names, addresses and nature of testimony of witnesses to be called at the trial and, if requested, furnish names to opposing counsel at or prior to the pretrial conference.

(d) Counsel shall discuss, in advance of the pretrial conference, the facts, issues, documents, and exhibits involved in the case so that as many stipulations and agreements as possible may be made in advance, between the parties.

Rule 9 – Motions

Sec. 9.01 Setting Motions for Hearing

(a) Obion County Circuit Court: Every Friday is motion day.
Weakley County Circuit Court: Every Thursday is motion day.

(b) Obion County Chancery Court: Every first and third Monday is motion day.
Weakley County Chancery Court: Every second and fourth Monday is motion day.

(c) Motions will be set by the Judge or Calendar Clerk of the respective Court at the request of counsel. It is the responsibility of counsel upon filing a motion to confer with opposing counsel to secure a mutually agreeable time for hearing. Upon failure to agree, moving counsel shall give formal notice of a hearing date secured from the Judge or the Calendar Clerk. All motions are set for hearing at 9:00 a.m. in Chancery Court and 9:30 a.m. in Circuit Court. Copies of the motions shall be mailed to the Judge. The Court may upon its own initiative or by agreement of counsel hear the motion by telephone or decide the motion without argument.

(d) Uncontested divorces, support pendente lite, worker's compensation settlements, minor's settlements, adoptions and other uncontested matters may be heard on motion days.

Sec. 9.02 Briefs on Motions and Responses

Every motion which seeks resolution of doubtful or infrequently encountered issues of law and every motion which seeks summary disposition of a case shall be accompanied by a brief setting forth the essential facts, and the principles of law relied on, with citations to authorities. Reply briefs must be filed and served no later than 24 hours in advance of the hearing on the motion. A copy of the motion and brief shall be sent to the Judge at his office. PARTIES ARE ENCOURAGED TO LIMIT THEIR BRIEFS TO TEN PAGES OR LESS.

Sec. 9.03 Special Setting of Motion

Where special circumstances warrant, motions may be specially set at a time other than on the motion docket by agreement of all parties and approval of the Judge or Calendar Clerk.

Sec. 9.04 Court's Own Motion

Motions may also be set upon the Court's own motion by notice to counsel.

Rule 10 - Setting Civil Cases for Trial

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

(a) by agreement of counsel and approval of such date by the Judge or Calendar Clerk. Counsel must, upon receiving date, forward letter of confirmation to all parties, the Judge and Clerk of the Court;
(b) by motion to set;
(c) by the Court with notice to counsel; or
(d) at a scheduling or pretrial conference.

Rule 11 - Continuances

Continuances are looked upon with disfavor by the Court. Once set, cases may not be continued by agreement of counsel, but may only be continued by the Court for good cause shown. Requests shall be made by written notice with affidavit or oral motion in open Court except in emergencies. There should be no ex parte communications regarding a continuance. The Court desires to hear from all counsel simultaneously.

Rule 12 - Findings of Fact and Conclusions of Law

Requests for written findings of facts and conclusions of law must be made in compliance with Rule 52 T.R.C.P. The Court may decline to make written findings and conclusions if findings and conclusions have been stated from the bench into the record.

Rule 13 - Preparation and Submission of Orders and Judgments in Civil Cases

Unless the Court directs otherwise, attorneys for prevailing parties will prepare orders for entry by the Court. All proposed orders must be submitted to the Judge within ten (10) days following the day on which the ruling is made by the Court. Unless the order is approved by all counsel, it shall contain an appropriate certificate of service. Counsel who do not approve the proposed order shall submit their own order within ten (10) days of receipt of the proposed order and designate the disputed issues to the Court. The Court will either approve one of the proposed orders or enter its own order.

Rule 14 – Interchange

Sec. 14.01 Order of Interchange

The trial judges within the district may freely interchange without necessity of notice or entry of a formal order of interchange.

Sec. 14.02 Presentation of Uncontested Divorces, Worker's Compensation Settlements and Other Uncontested Matters.

Uncontested divorces, worker's compensation settlements, minor's settlements and other uncontested matters may be heard by either Judge regardless of the Court in which

the matter was filed. No order of interchange shall be required. The purpose of this rule is to expedite such uncontested matters when the Judge of the Court in which the matter is pending may not be readily available. Under such circumstances, counsel may set matters with either Judge without first having to secure the approval of the Judge of the Court in which the matter is pending.

Rule 15 - Procedure in Criminal Cases

Sec. 15.01 Grand Jury

(a) Weakley County: New grand juries will be impaneled the first Monday in January, May and September. Special grand juries will be impaneled at such other times as set by the Court.

(b) Obion County: New grand juries will be impaneled the first Monday in February, June and October.

Special grand juries will be impaneled at such times as set by the Court.

Sec. 15.02 Arraignments

Arraignments for those indicted in Obion and Weakley Counties shall be conducted on the second Monday of the month of the indictment in the respective county beginning at 9:00 a.m.

All persons indicted as well as retained or appointed attorneys must be present on said date and time.

At arraignment, an appearance date will be set.

Sec. 15.03 Representation

If during arraignment, an attorney advises the Court of his/her representation of the defendant, that attorney shall remain counsel of record for the defendant until final disposition of the case in the trial court unless excused by the Court for good cause shown.

Sec. 15.04 Plea Agreement Deadline

After the case is set for trial, the Court will not accept a plea agreement except for good cause shown.

Rule 16 - Bail Bonds

Bail bonds may be made by: (a) a qualified professional bondsman; (b) a cash bond; (c) property bond; or (d) other bonds approved by the Court.

For a property bond, the assessed value of the property must be at least twice the amount of the bond. The property bond must be secured by a deed of trust with the Clerk as Trustee, payable to the State of Tennessee. In addition, a title opinion must be provided

by an attorney. Additional information may be obtained in the Clerk's office as to title opinion requirements.

Rule 17 - Drug Court

Sec. 17.01 Purpose and Nature of Program

The mission of the Drug Court is to reduce the crime rate by targeting and treating severe substance abusers within the 27th Judicial District. The Drug Court is a post plea court. In most cases, a period of incarceration will be required; however, the length of confinement will generally be less than the defendant will receive if the defendant is not in Drug Court. After confinement has been completed, the defendant will be on probation, but supervised by Westate Corrections as a condition of probation. Persons who do not successfully complete the program will not receive credit for the time on probation. The program lasts approximately twenty-four (24) months and consists of four phases.

Sec. 17.02 Eligibility Requirements

To be eligible for Drug Court a defendant must:

* Be charged with or convicted of a non-violent criminal offense in the 27th Judicial District
* Have had no past conviction involving violence
* Have a substance abuse problem
* Be willing to accept the terms and conditions of the program
* Have transportation available
* Reside in the 27th Judicial District
* Not be acutely mentally ill or suicidal.

Sec. 17.03 Application Procedure

Applications should be submitted immediately after arrest or indictment. If a defendant is accepted for the Drug Court and has not been indicted, he or she will proceed to the Circuit Court through a criminal information. Persons who have already been convicted and sentenced are also eligible for the Drug Court.

The application procedure is as follows:

* Submission of written application to the District Attorney General. Defendant's attorney must assist in the preparation of the application.
* Interview by probation officer
* Assessment by treatment provider
* Approval or rejection by the Drug Court Team
* If approved, appearance in Circuit Court for guilty plea (if not previously convicted) and sentence. A written contract will be signed by the defendant, the attorneys and the Court.

Sec. 17.04 Treatment

Treatment begins with a comprehensive assessment designed to identify the presence and extent of a Substance Use Disorder, mental status, motivation, strengths, weaknesses and general appropriateness for treatment of an applicant. If accepted by the Drug Court Team, the defendant will begin the Program and will attend counseling four days per week. Defendants complete each phase by achieving certain treatment goals including abstinence, employment, attendance and compliance with group and supervision goals. Defendants spend less time in counseling with each successive stage. All treatment is individually tailored to address each person's addictive and criminal behaviors.

Sec. 17.05 Supervision

Defendants in the Drug Court will:

* Be subject to curfew restriction and/or electronic monitoring and will be seen at home by case officer and law enforcement officer at least once per week.
* Report to case officer twice per week.
* Complete a minimum of 100 hours community service work.
* Obtain and maintain employment.
* Make regular payments toward fines, court costs, restitution and supervision fees.
* Be subject to random drug screening in addition to being screened by treatment provider.

Sec. 17.06 Court Sessions

The Drug Court will meet on Fridays at the Obion County Detention Center. Defendants in the program shall appear in Court as directed by the Court.

Sec. 17.07 Incentives and Sanctions

Incentives will be given to those who successfully complete various steps of the program. Sanctions will be imposed upon those who violate the terms of the probation. The severity of the sanctions will depend upon the type of violation and the number of prior violations. The most severe sanction will be expulsion from the Drug Court which will require a sentence in the Tennessee Department of Corrections.

Sec. 17.08 Completion of Program

Those persons who successfully complete the program will be placed on probation which shall be supervised or unsupervised in the discretion of the Court.

Rule 18 - Divorce Cases

Sec. 18.01 Hearing Dates

Divorce cases shall not be heard any sooner than sixty (60) days after filing. Uncontested cases may be set on motion days or on such other dates set by the Court.

Sec. 18.02 Affidavits Required in Contested Cases

At least 48 hours before the date of the uncontested divorce trial, the parties shall file with the Clerk and provide a copy to the Court, the affidavit, executed by the party as to the real and personal property, setting forth, pursuant to the criteria of T.C.A. § 36-4-121:

(1) The real and personal separate property of each of the parties and the value thereof;

(2) The real and personal marital property of the parties and the value thereof and

(3) The remaining real and personal property of the parties and the value thereof, the character of which is to be decided by the Court.

If either party desires, they may additionally propose to the Court, at the trial, after complying with the foregoing paragraph, a division of all or part of the marital property. The Court is not bound by the proposals, but will give proper consideration to the wishes of the parties.

In all contested divorces, alimony, child support, and modification hearings, an affidavit of income and expenses in accordance with T.C.A. § 36-4-116 shall be filed with the Clerk at least 48 hours prior to the hearing. Each party shall make a separate affidavit concerning income and expenses during the prior calendar year and each month of the present year up to and including the month of the hearing. A copy shall be served on opposing counsel and a copy shall be made available to the Court.

Form affidavits are available from the Clerk & Master.

Sec. 18.03 Permanent Parenting Plan, Parenting Education Seminar and Mediation in Domestic Relations Cases with Minor Children

General Provisions: This rule is adopted to promulgate procedures to be followed in the Courts of Record in the 27th 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.

A. **General Order**: The General Order for the 27th Judicial District is hereby adopted. All forms are available with the Clerk.

B. **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 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.

C. **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 (§ 18.03 B. 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;
D. Monitor their client's 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.

D. **Duties of Providers:**

A. The Judges 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.

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. 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 the 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] **Mediation Fees and Agreements 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 mediation will be coordinated by legal services. Each mediator must provide proof of 3 pro bono mediations to the Administrative Office of the Courts for annual reapproval.

[4] **Invoicing Procedures**

[a] If the Court has ordered that mediator fees are to be taxed as Court costs, 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.

[5] **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).

[6] **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 education not appropriate.

Rule 19 – Probate

(a) The verified petition filed to seek the appointment of a Personal Representative must comply with all provisions of T. C. A. § 30-1-117, including listing the names and addresses of the next-of-kin and estate beneficiaries. To assure compliance, the paragraphs of the Petition should correspond with the subsections of the statute.

A petition for Letters of Administration or Letters Testamentary which does not comply with this statute will not be filed by the Clerk.

(b) At the time of the appointment, each Personal Representative is to sign a statement, furnished by the Clerk, acknowledging the duty to file required documents within sixty days.

(c) The attorney for the Personal Representative shall file a motion within seventy days of the issuance of the Letters Testamentary or Letters of Administration seeking additional time to file documents and pleadings if all required notices, affidavits, and other pleadings have not been filed. Required documents include the affidavit that the required notice to the residuary beneficiaries and next-of-kin has been sent, the affidavit that the Bureau of TennCare has been notified; and the Inventory, unless the Inventory is waived by the Will filed for probate or by all residuary beneficiaries.

If a motion seeking additional time, or the required documents, have not been filed, the Clerk is to schedule a hearing before the Court, with Notice to the Personal Representative, and the Notice is to identify the documents which are to be filed. All court costs for this hearing, at the discretion of the Court, are to be assessed to the Personal Representative.

(d) If an Accounting cannot be timely filed, and unless waived by all interested parties, the Personal Representative is to file a motion seeking additional time to file any Accounting required by T. C. A. § 30-2-601. This Motion is to include a Notice of the scheduled hearing with a Certificate of Service to all estate beneficiaries, attorneys of record, and interested parties.

(e) Fees payable to the Personal Representative and to the attorney for the Personal Representative can be denied or reduced, at the discretion of the Court, for failure to timely file required documents.

(f) In lieu of filing a Motion as required by Rule 19(c) or Rule19(d), the Personal Representative may cause an agreed Order to be submitted for consideration by the Court postponing the action until a time certain if the Agreed Order is signed by all parties affected and their counsel, and approved by the Court.

(g) Fees for the Personal Representative and attorneys are to be approved by the Court prior to payment from estate funds.

Adoption of Rules

These Uniform Local Rules of Court for the Twenty-Seventh Judicial District are hereby adopted and shall take effect on the 1st day of January, 2012.

William B. Acree, Jr.
Circuit Court Judge

Michael Maloan
Chancellor