

**CIVIL ISSUES**  
**GENERAL SESSIONS COURT**

**BASIC OVERVIEW**

**AUGUST 21, 2014**  
**TENNESSEE JUDICIAL ACADEMY**  
**2014**

**Dwight E. Stokes**  
**General Sessions Judge**  
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**Sevier County, TN**



**CIVIL ISSUES IN GENERAL SESSIONS COURT**  
**BASIC OVERVIEW**

**Judge Dwight E. Stokes**

**I. Jurisdiction of General Sessions Court— T.C.A. § 16-15-501**

- 1) The jurisdiction of General Sessions Court shall extend to the sum of \$25,000 in all civil cases, both law and equity.
- 2) The Court shall have unlimited jurisdiction in cases of forcible entry and detainer, and in actions to recover personal property (which includes jurisdiction to award an alternate money judgment). General Sessions Judges shall also have jurisdiction to issue restraining orders and to enforce the penalty provisions for violations of those restraining orders.
- 3) In calculating the amount of a judgment for purposes of jurisdictional limits, the following shall not be included:
  - (A) Any amount for attorney fees;
  - (B) Any court costs assessed by the court; and
  - (C) Any discretionary costs assessed by the court.
- 4) T.C.A. § 16-15-503 states that jurisdiction of General Sessions Courts is geographically coextensive with the limits of their respective counties.
- 5) Objections to jurisdiction of General Sessions Courts shall be made before the hearing, or such issues will be considered as waived. T.C.A. § 16-15-505.

**II. Types of Cases**

- 1) Collection actions
- 2) Tort/negligence
- 3) Contract disputes
- 4) Landlord/Tenant
- 5) Various small claim actions
- 6) Personal injury
- 7) Property damage

**III. Use of Local Rules**

- 1) General rules-rules of general application in most or all counties
- 2) Special rules-rules which apply in your local court addressing specific issues
- 3) Discovery rules-consider adopting discovery rules of Rules of Civil Procedure

**IV. Guidelines for Self-Represented Parties/Benchbook for Judges**

- 1) Approved by General Sessions Judges Conference
- 2) Adapted by Tennessee Supreme Court
- 3) Ethical Issues—Board of Judicial Conduct

**V. Collection Actions**

- 1) Be aware of allowing collection attorneys to have control of docket or files
- 2) Appearance of impropriety or lack of control by court
- 3) Script for Collection Docket (ATTACHMENT I)

**VI. Civil Dockets**

- 1) Contested (Outline-ATTACHMENT II)
- 2) Uncontested (Outline-ATTACHMENT III)

**VII. Landlord/Tenant**

- 1) Each jurisdiction—be aware of whether the Landlord/Tenant Act applies in your county
- 2) Notice provisions (ATTACHMENT IV)

**VIII. Corporations/Limited Liability Companies**

Neither a corporation nor limited liability company may be represented in a court of law by an officer, director, or member who is not licensed to practice law in Tennessee.

Old Hickory Engineering v. Henry, 937 S.W. 2<sup>nd</sup> 782 (Tenn. 1996)  
Opinion, Tennessee Attorney General No.05-036 (03/29/05)

**IX. Contempt— exercise caution in use of contempt powers**

- 1) Ethical considerations
- 2) Disasters (New York ethics case—cell phone)

**X. Service of Process**

- 1) Require service on parties pursuant to statute (T.C.A. § 16-15-901 et seq)
- 2) Strict compliance with rules of service
- 3) Possession only/no damages in detainer actions without actual service of process

**XI. Sworn Accounts (T.C.A. § 24-5-107)**

- 1) Make sure sworn affidavits of accounts are attached (better practice by local rule even if not required by statute)
- 2) Proper service
- 3) Sworn denials
- 4) Appearance of defendants—opportunity to deny and contest
- 5) Responsibilities of clerks

- XII. Standard of Proof**—Be knowledgeable and consistent with application of the “preponderance of the evidence” standard
- XIII. Evidence**—Know the rules of evidence and make clear rulings on evidentiary issues. T.C.A. § 16-15-721 states that the Tennessee Rules of Evidence shall be fully applicable in General Sessions Courts in the absence of any provision otherwise.
- XIV. Appeals**—Discuss clearly the right of any party to appeal to Circuit Court within the 10 day period for appeals.
- XV. Execution**—Advise parties that judgments become final after 10 days and execution process goes through the clerk’s office.
- XVI. Ten Commandments of Complaint Avoidance** (ATTACHMENT V)
- XVII. The Life of a General Sessions Judge: Relationships, Ethical Dilemmas and Pressures**— (ATTACHMENT VI)

**CIVIL****TODAY IS UNCONTESTED DAY -**

**THE DOCKET INVOLVES CASES FILED ON SWORN ACCOUNTS WHERE NO SWORN DENIAL HAS BEEN FILED PUTTING THE CASES IN A CONTESTED STATUS.**

**WHEN A SWORN DENIAL IS FILED, THEN A CASE IS SET ON A CONTESTED DOCKET. WHEN NO SWORN DENIAL IS FILED, IT IS PLACED ON UNCONTESTED DAY IN ANTICIPATION OF LIKELY DEFAULT.**

**BY APPEARING TODAY, ANY DEFENDANT OR PARTY SUED CAN PLACE THE CASE IN CONTEST AND THE CASE CAN BE SET FOR TRIAL. SO BY APPEARING TODAY, YOU CAN DENY THE CLAIM AND WE CAN PLACE THE CASE ON A CONTESTED TRIAL DOCKET.**

**OPTIONS TODAY FOR A PERSON SUED ARE THE FOLLOWING:**

- A) DENY THE CLAIM AND ASK FOR CASE TO BE SET FOR TRIAL**
- B) DISCUSS THE CASE FOR POSSIBLE SETTLEMENT OR RESOLUTION AND ANNOUNCE THE AGREEMENT. THE AGREEMENT CAN INCLUDE A PAYMENT PLAN OR JUST AGREE ON THE AMOUNT ITSELF.**
- C) YOU CAN REQUEST PROOF OF THE CLAIM OR DOCUMENTATION SUPPORTING THE CLAIM AND ALL ASPECTS OF THE CLAIM, INCLUDING AMOUNT OF ANY ATTORNEY FEES OR INTEREST. GENERALLY, NO ATTORNEY FEES CAN BE AWARDED UNLESS PROVIDED FOR BY A CONTRACT BETWEEN THE PARTIES.**

**YOU DO NOT HAVE TO REACH AN AGREEMENT TODAY OR ACCEPT THE AMOUNT SUGGESTED. YOU CAN REQUEST SUBSTANTIATION OF THE CLAIM OR DOCUMENTATION TO SUPPORT THE CLAIM OR SIMPLY REQUEST A TRIAL SETTING. THE PLAINTIFF (COMPANY OR PERSON SUING) WILL HAVE THE BURDEN AT ANY TRIAL TO PROVE THE CLAIM BY A PREPONDERANCE OF THE EVIDENCE. IF THE PLAINTIFF CANNOT PROVE ITS CLAIM, THE PLAINTIFF CANNOT PREVAIL.**

**-IF THE CASE IS RESET FOR TRIAL, YOU CAN CERTAINLY CHOOSE TO HIRE COUNSEL, AN ATTORNEY TO REPRESENT YOU, UNLESS THE DEFENDANT SUED IS A CORPORATION IN WHICH CASE LEGAL REPRESENTATION IS REQUIRED.**

**SELF-REPRESENTED PARTIES ARE ENTITLED TO BE TREATED WITH RESPECT BUT ALSO NEED TO HAVE A BASIC UNDERSTANDING OF RULES OF EVIDENCE OR PROCEDURE IF AT ALL POSSIBLE. FOR INSTANCE, HEARSAY EVIDENCE IS GENERALLY INADMISSIBLE, SUCH AS LETTERS FROM PEOPLE NOT PRESENT IN COURT, OR AFFIDAVITS OR ESTIMATES OF PEOPLE NOT PRESENT IN COURT. (COURT IS DIFFERENT FROM A "JUDGE JUDY" TV SHOW.)**

**A LAWYER CAN USUALLY HELP IN A PERSON'S PRESENTATION OF EVIDENCE AND IN DEALING WITH RULES OF PROCEDURE AND EVIDENCE.**

**I WILL ALWAYS ATTEMPT TO TREAT ALL PARTIES, REPRESENTED BY COUNSEL OR NOT, WITH RESPECT AND COURTESY. SOME PEOPLE SIMPLY CANNOT AFFORD TO HIRE ATTORNEYS OR IT IS NOT FINANCIALLY BENEFICIAL TO HIRE AN ATTORNEY DUE TO THE AMOUNT OF THE CLAIM. PROCEEDINGS ARE ALSO LESS FORMAL IN SESSIONS COURT AND THERE IS AN APPEAL PROCESS FROM SESSIONS COURT TO CIRCUIT COURT SO THAT ANY AGGRIEVED PARTY MAY APPEAL WITHIN 10 DAYS OF THE DECISION. ON APPEAL, A CASE IS HEARD BEFORE ANOTHER JUDGE DE NOVO (BRAND NEW) WITH NO PRESUMPTION OF CORRECTNESS.**

**THESE ARE SOME GENERAL PRINCIPLES ABOUT GENERAL SESSIONS COURT. REMEMBER: A JUDGE DOES NOT SERVE AS ANY PARTY'S LAWYER OR ADVOCATE BUT MUST REMAIN FAIR, NEUTRAL AND UNBIASED IN HEARING A CASE.**

CONTESTED CIVIL DOCKET

1. Take up brief or emergency matters
2. Sound the docket
  - A. Parties present
  - B. For trial or resolved
  - C. Represented by counsel
  - D. Other status
  - E. Ascertain projected time
3. Take announcements/brief dispository matters
4. Begin trials
  - A. In order of setting
  - B. Consider brief hearings first
5. Trial process
  - A. Swear witnesses
  - B. Brief statement of position
  - C. Plaintiff's proof
  - D. Defendant's proof
  - E. Rebuttal/surrerebuttal
  - F. Closing
  - G. Ruling
  - H. Advise of appeal rights (10 days)
6. Try cases until complete docket or reasonable stopping point

NEED:

1. JUDGE
2. CLERK
3. DOCKET
4. CIVIL WARRANTS
5. AUTHORITY ON ANY NOVEL/COMPLEX ISSUES

UNCONTESTED CIVIL DOCKET

1. Greeting
2. Docket sounding
  - A. Defaults
    1. Sworn account (amount of judgment/costs)
    2. Sworn testimony
      - a. swear in
      - b. testimony
      - c. attorney fees/contract
      - d. statutory relief/authority
  - B. Announcements
  - C. Additional time/continuances
  - D. Nonsuit/dismissals
3. Consider hearing any contested cases/or reschedule
4. Complete all docket

NEED:

1. JUDGE
2. CLERK
3. CIVIL WARRANTS
4. DOCKETS

# Were You Sued *Before* the Date You Had To Move?

*Example:*

On May 25, the landlord said, "You must move out by June 30."  
 On June 22, the landlord filed a paper in court to evict you.  
 This paper says you must go to court on July 12.

May							June							July						
1	2	3	4	5	6	7				1	2	4	5				1	2	3	
8	9	10	11	12	13	14	6	7	8	9	10	11	12	4	5	6	7	8	9	10
15	16	17	18	19	20	21	13	14	15	16	17	18	19	11	12	Date you go to court				
22	23	24	25	23	27	28	20	21	22	23	24	25	26							
29	30	31	Notice from Landlord				27	28	29	30 Deadline to Move										
							Landlord files court papers													

In other words, the landlord sued you on June 22.

(The lawsuit is called a "Detainer Warrant.")

But the landlord said you did not have to move until June 30!

What happens if the landlord files a Detainer Warrant before the date the tenant has to move?

Tennessee law says the judge must "dismiss" the lawsuit.

*Why does the judge have to dismiss the lawsuit?* A judge may decide who wins a lawsuit only if the court has “jurisdiction” over the lawsuit. If the court does not have “jurisdiction,” the judge cannot listen to the lawsuit.

*Why does the court not have jurisdiction?* If the landlord’s lawsuit is a “Detainer Warrant,” the landlord must prove that the tenant is “unlawfully detaining” the property. The tenant is not “unlawfully detaining” the property until after the deadline to move out. If the landlord sued the tenant before that deadline, the tenant would not be “unlawfully detaining” the property when the landlord sued.

*What if the trial is held after the deadline for the tenant to move?* It does not matter. The court has to look at the date the landlord filed the lawsuit – not the date of the trial.

#### **Another Example of When a Court Has To Dismiss a Case**

Every day, Bill drives too fast on Mary’s street. Mary knows that *one day* Bill will hit her car when she backs out of her driveway. On February 1, Mary sues Bill for hitting her car – even though Bill has not hit her car yet. The trial for Mary’s lawsuit will be on March 1. On February 10, Bill *does* hit Mary’s car. The judge must dismiss the case Mary filed on February 1 because Bill had not done anything wrong when Mary sued him. Mary can sue Bill for what he did on February 10. But she cannot go to court on March 1 by using the lawsuit she filed on February 1.

*If the judge dismisses the lawsuit, may the landlord evict the tenant later?* Yes. The landlord may file a *new* Detainer Warrant after the deadline for the tenant to move (if the tenant has not moved out before then).

*Where can I find this law?* Read the attached copy of a 2003 Tennessee Court of Appeals decision called *Mason Manor Apartments v. Anthony*.

*Compliments of*

THE PRO BONO PROJECT  
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Only the Westlaw citation is currently available.

SEE COURT OF APPEALS RULES 11 AND 12

Court of Appeals of Tennessee.  
MASON MANOR APARTMENTS,  
v.  
Tawana ANTHONY.  
No. W2002-01769-COA-R3-CV.

March 4, 2003.

A Direct Appeal from the Circuit Court for Tipton County, No. 5591; Joseph H. Walker, Judge.

Mary C. Mayham, Covington, For Appellant, Tawana Anthony.

T.D. Forrester, Covington, For Appellee, Mason Manor Apartments.

W. FRANK CRAWFORD, P.J., W.S., delivered the opinion of the court, in which ALAN E. HIGHERS, J. and DAVID R. FARMER, J., joined.

OPINION

W. FRANK CRAWFORD, P.J., W.S.

\*1 Appellee, a privately owned, government subsidized apartment complex, filed an unlawful detainer action seeking to evict Appellant for numerous infractions of the lease. On the same day that the action was filed, Appellee had given Notice to Vacate to Appellant. The Notice to Vacate gave Appellant thirty (30) days to vacate the apartment. The General Sessions Court of Tipton County and the

Circuit Court of Tipton County, on appeal, entered judgment for possession in favor of Appellee. Appellant appeals on the basis that the unlawful detainer action was filed prematurely in light of the additional thirty (30) days given by the Notice to Vacate. We reverse and remand.

Mason Manor Apartments ("Mason Manor," "Appellee," or "Plaintiff") operates a government-subsidized housing complex located in Mason, Tennessee. The complex is managed by Abbey Cross ("Ms.Cross"). [FN1] In 2000, Tawana Anthony ("Ms. Anthony," "Appellant," or "Defendant") entered into a written one-year lease agreement with Mason Manor. The leases are renewed every year and Ms. Anthony's lease was renewed on February 14, 2001 and again on February 8, 2002.

FN1. As of the date of trial, July 1, 2002, Ms. Cross had served as the resident manager of Mason Manor for six (6) years, except for a period from April-October 2001.

The Dwelling Lease dated February 8, 2002 (the "Lease") was effective at the time of trial and provides, in pertinent part, as follows:

9. RULES AND REGULATIONS:

The OCCUPANCY RULES AND REGULATIONS attached hereto form an integral part of this lease. Failure to abide by these RULES AND REGULATIONS is cause for termination of tenancy.

10. OCCUPANTS:

The premises will be occupied by the following persons:

Name	Age	Sex	Relationship
Tawana Anthony	24	F	Self
De'Vante Muguire	9	M	Son
Tyrone Brewer	5	M	Son

Tenant may be permitted to have a guest(s) visit their household. However, an adult person(s) making recurring visits or one continuous visit of 14 days and nights in a 45-day period *without consent* of management will be counted as a household member(s).

\*\*\*

18. OBLIGATIONS OF THE TENANT:

The tenant agrees that the attached RULES AND REGULATIONS are his/her obligation and

responsibility.

I agree I must immediately notify the (landlord or cooperative) when there is a change in my gross income or persons living in the household. I understand my rent or benefits may be affected as a result of this information. I also understand that failure to report such changes may result in my losing benefits to which I may be entitled or may result in the landlord taking corrective action if benefits were mistakenly received. I understand the corrective action the landlord may take includes the initiation of a demand for repayment of any benefits or rental subsidies improperly received, initiation of a notice to cancel any rental assistance of Section 8 assistance being received for the balance of my certification period, initiation of notice to increase my monthly rent to \$595.00 per month (note rate rent for Plan II projects or 125 percent of rent in Plan I projects), or initiation of a notice of termination. I understand that one or more of these remedies may be initiated at the option of the (landlord or cooperative).

\*2 During her tenure at Mason Manor, Ms. Anthony received approximately ten (10) Notices of Infraction. [FN2] These Notices were for a number of different violations, including "failure to maintain unit in a clean and sanitary condition," [FN3] "alteration or addition to property not authorized by Landlord or his agent in writing." [FN4] Ms. Anthony was also consistently cited with the violation of "allowing unauthorized persons to live in the unit." Allegedly, Ms. Anthony allowed her paramour, Willie Byrd, to live in the apartment without the consent of the management. In addition, the police were called to the Mason Manor on September 2, 2001 due to a domestic disturbance between Ms. Anthony and Mr. Byrd. This incident led to another infraction, "unlawful activities causing police action on the property."

FN2. These Notices of Infraction were dated 3/8/01, 7/16/01, 8/4/01, 8/25/01, 9/8/01, 11/10/01, 1/11/02, 4/3/02, 4/11/02, and 4/16/02.

FN3. Specifically, this violation stemmed from the oven being dirty, and the kitchen ceiling having food "splashed over it."

FN4. According to the Notice of Infraction, Ms. Anthony had put up wallpaper in her apartment without obtaining the prior consent of the manager. She was also cited for "marker on wall behind door of small bedroom," and for the smoke detector being unplugged.

Following the September 8, 2001 Notice of Infraction, Ms. Anthony was issued a Notice of Termination of Lease: Non-Compliance Notice to Vacate (the "First

Notice to Vacate"). The First Notice to Vacate listed as the reasons for termination the various infractions noted above. However, this First Notice to Vacate did not specify an effective date for termination of the lease.

Ms. Anthony's apartment was inspected several more times following her receipt of the First Notice to Vacate. Each time, Ms. Cross found the violations, including Mr. Byrd's living in the apartment, unresolved. On April 4, 2002, Ms. Anthony was issued a Notice of Termination of Lease: Notice to Vacate (the "Second Notice to Vacate"). The Second Notice to Vacate gave Ms. Anthony until April 8, 2002 to correct the infractions and informed her of her right to an informal meeting with management to attempt a resolution. Pursuant to this notice, Ms. Cross met with Ms. Anthony and Ms. Anthony's attorney on April 8, 2002. Ms. Cross again informed Ms. Anthony that Mr. Byrd's living in the apartment violated the lease.

On April 11, 2002, a Notice of Infraction was issued to Ms. Anthony for failure to maintain the unit in a sanitary condition. Ms. Anthony was notified that the apartment would be inspected again on April 16, 2002. When Ms. Cross inspected the apartment on April 16, 2002, she found that Ms. Anthony had remedied some of the sanitary issues but that Mr. Byrd was still in the apartment. Another Notice of Infraction was issued. Ms. Anthony was notified that Ms. Cross would return on April 18, 2002 with the district manager, Angie Duncan. On April 18, 2002, Ms. Cross and Ms. Duncan inspected the apartment and found Mr. Byrd there. On April 18, 2002, Mason Police Officer Jason Collins met with Willie Byrd and advised him that "the management wanted to bar him from the premises and warn him for trespassing." Mr. Byrd was arrested for being at the apartment complex on April 30, 2002.

On May 1, 2002, Ms. Cross sent a Notice of Termination of Lease: Notice to Vacate (the "Third Notice to Vacate"). The Third Notice to Vacate reads, in pertinent part:

\*3 In accordance with the provisions of the dwelling leased [sic] executed by you as resident of Mason Manor Apartments and Intervest Corporation, Inc. As management, you are hereby notified that said dwelling lease is terminated effective 30 days from the date of this notice.

On the same day, May 1, 2002, Mason Manor filed a Detainer Warrant in the Tipton County General Sessions Court. Ms. Anthony was served on May 2, 2002 and the case was set for hearing on May 22, 2002 in General Sessions, and on this date judgment was entered for Mason Manor.

On June 3, 2002, Ms. Anthony filed a Notice of Appeal to the Circuit Court and a Petition for Writ of Certiorari

and Supersedeas. [FN5] A hearing was set for July 1, 2002. Following that hearing, judgment was entered for Mason Manor.

FN5. The appeal was timely filed, but without a supersedeas bond provided for in T.C.A. § 29-18-128. Although the circuit court issued a writ of certiorari and supersedeas, no bond was required.

On July 26, 2002, Ms. Anthony filed a Notice of Appeal and a Motion to Stay Execution Pending Appeal. On August 5, 2002, Ms. Anthony filed a Motion to Proceed In Forma Pauperis, which was granted on August 6, 2002. No order was entered on the Motion to Stay; however, Ms. Anthony is still residing in the apartment.

Ms. Anthony raises three (3) issues for our review as stated in her brief:

- I. Plaintiff/Appellee's Detainer Warrant was filed prematurely and should have been dismissed.
- II. The evidence presented at trial was insufficient to support the court's decision that Defendant/Appellant had breached her lease in such a way that eviction was an appropriate action.
- III. Appellee was obliged to honor the parties' agreement that gave Appellant the opportunity to cure the alleged violations.

Because we find for Appellant on the first issue, we pretermit discussion of the second and third issues.

**I. Plaintiff/Appellee's Detainer Warrant was filed prematurely and should have been dismissed.**

Where a tenant "willfully and without force, holds over the possession from the landlord," she is guilty of unlawful detainer. T.C.A. § 29-18-104. The words "holds over possession from the landlord" mean "a holding over after the tenancy has ended. Until then[,] the possession belongs to the tenant, and he is not holding over ... and is not guilty of unlawful detainer." *Smith v. Holt*, 193 S.W.2d 100, 102 (Tenn.Ct.App.1945).

Based on the foregoing, the question before us is whether Ms. Anthony's tenancy ended on or before May 1, 2002, when the Detainer Warrant was filed in General Sessions Court. We hold that it had not. The lease agreement between the parties specifically provides for a termination by the landlord in certain circumstances. The agreement requires notice to be given to the tenant that the tenancy is terminated. The effect of the Third Notice to Vacate, given on May 1, 2002, was to allow Ms. Anthony thirty (30) more days (a full rent payment period) until she had to vacate the premises. By the clear terms of the Third Notice to Vacate, Ms. Anthony had until May 31, 2002 to

leave the apartment. Ms. Anthony was not, therefore, unlawfully detaining the premises when the unlawful detainer suit was filed, or even when the General Sessions judgment was rendered on May 22, 2002. *See, e.g., Morrison v. Smith*, 757 S.W.2d 678 (Tenn.Ct.App.1988).

\*4 This case was not ripe for judicial consideration. Accordingly, the judgment of the trial court is reversed and the case dismissed. The Opinion should not be construed to obviate Appellant's obligations under the lease, including payment of rent for the period of occupancy. If procedures are again instituted, we suggest that in the event of an appeal by the tenant, the parties consult the statutes concerning bond requirements in tenant's relinquishment of possession of the property. *See Ammons v. Coker*, 124 Tenn. 676, 139 S.W. 732 (1911); *see also Newport Housing Authority v. Ballard*, 39 S.W.2d 86, 90 (Tenn.1992). Costs of the appeal and the costs in the trial court below are assessed against the Appellee, Mason Manor Apartments.

Not Reported in S.W.3d, 2003 WL 21068435  
(Tenn.Ct.App.)

END OF DOCUMENT

TEN COMMANDMENTSCOMPLAINT AVOIDANCE

1. VIEW ALL PROCEEDINGS AS FIELDS FOR POTENTIAL COMPLAINTS.  
-- (60% are from domestic proceedings -- divorce, child custody, juvenile, dependent and neglect) emotions run so high.
2. FOLLOW THE LAW.  
-- be knowledgeable; do what requires
3. MAKE FINDINGS OF FACT AND CONCLUSIONS OF LAW -- GIVE REASONS.  
-- (Why you make decisions you are)
4. SCRUPULOUSLY AVOID EXPARTE COMMUNICATIONS.  
-- don't allow
5. BE CAREFUL AROUND COURTHOUSE.  
-- maybe innocent conversations but people will "think" it is about "their" case.
6. TREAT PEOPLE WITH RESPECT.  
-- (important)
7. REMEMBER YOU ARE ONLY ON THE BENCH FOR A SEASON.  
-- someone else will be there someday  
-- don't say "my" courtroom/refrain from anger
8. REMEMBER GOLDEN RULE.  
-- do unto others as would have them do unto you.  
-- do not degrade/give respect and dignity
9. CONDUCT PRIVATE AND EXTRA JUDICIAL CONDUCT IN PROPER MANNER.
10. LEARN TO LAUGH AT YOURSELF.  
-- ("Live from New York, it's Saturday Night")

**RULES OF COURT  
FOR  
GENERAL SESSIONS COURT  
FOR SEVIER COUNTY, TENNESSEE**

**JEFF D. RADER  
GENERAL SESSIONS JUDGE, PART I**

**DWIGHT E. STOKES  
GENERAL SESSIONS JUDGE, PART II**

**EFFECTIVE**

**AUGUST 2012**

# RULES OF COURT FOR THE GENERAL SESSIONS COURT OF SEVIER COUNTY, TENNESSEE

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\* \* \* \* \*

## **RULE 1. AUTHORITY AND ABROGATION OF FORMER RULES**

The rules of General Sessions Court of Sevier County, Tennessee, are adopted under the authority of Tenn. Code Ann. § 16-15-406 and § 16-15-714. All former rules are abrogated except as readopted herein.

## **RULE 2. CODE OF PROFESSIONAL RESPONSIBILITY**

The ethical standards for the practice and the administration of law in General Sessions Court shall be governed by the Tennessee Court Rules Annotated, Rules of the Supreme Court, Rule 8, "Code of Professional Responsibility."

## **RULE 3. GENERAL SESSIONS COURT RECORDS**

The General Sessions Court Clerk shall be responsible for the custody, control, and safekeeping of all court records and documents.

Only the Court Clerk or the Clerk's representative shall remove civil warrants, criminal warrants, or any other court documents from the courtrooms or the Clerk's office.

All written pleadings, orders, judgments, and executions shall be filed with the Court Clerk. Documents submitted for filing shall be in compliance with forms provided by the Clerk as to:

- a. Information contained
- b. Paper size
- c. Print size
- d. Color
- e. Number of copies

Not all pleadings have forms or rules at this time but may be implemented from time to time.

Documents not meeting required criteria **will not** be accepted for filing.

**ALL ORDERS SHALL BE ACCOMPANIED BY AN ATTORNEY'S CERTIFICATE SERVING THE OTHER PARTY WITH A COPY OF THE SAME OR SHALL BE SIGNED BY ALL PARTIES OR ATTORNEYS INVOLVED IN THE CASE.**

## **RULE 4. GENERAL SESSIONS COURT DOCKETS**

The dockets for all divisions of General Sessions Court shall be posted daily in a conspicuous place at the General Sessions Court Clerk's office near the General Sessions Clerk's office and courtroom.

Docket scheduling shall be done through the office of the General Sessions Court Clerk. Unless changed by the Presiding Judge because of necessity or convenience, the schedules of the courts are:

1. General Sessions Court operates two courts daily, including criminal, civil, probate and juvenile jurisdiction.
2. All courts open at 9:00 a.m. for the daily docket. A lunch recess is generally taken at noon. The Court has a 1:30 p.m. docket on certain days announced in advance. All attorneys and parties are expected to be on time for any type of scheduled hearing.

## **RULE 5. COURTROOM DECORUM AND PROCEDURES**

Each division of General Sessions Court shall have at least one (1) Court Officer and one (1) Deputy Clerk in attendance at all times while in session. The Bailiff and other officers serving General Sessions Court shall be responsible for compliance with courtroom procedures and decorum.

At the opening of each session of court, everyone shall rise and remain standing until the court is formally opened by the Bailiff. The area within the bar is reserved for lawyers, the participants in the case before the court, witnesses for the case, and court officers. All other people shall be seated outside of the bar.

The behavior of all participants, attorneys, witnesses, and spectators shall conform to strict standards of decency, dignity, etiquette, and propriety. Everyone shall remove hats, overcoats, raincoats and sunglasses before entering the courtroom. Demonstrations, acts of misconduct, loud talking, or noise will not be permitted inside or outside the courtroom if it is near enough to interfere with or disrupt orderly court proceedings. Loitering, loafing, or congregating will not be permitted outside the courtrooms or in the halls adjacent to the courtrooms when court is in session.

The conduct and attire of all attorneys and court attendants shall conform to the professional dignity expected of officers of the court.

All attorneys shall note their representation on civil warrants and criminal warrants. Attorneys will ensure the orderly behavior of their clients and be personally accountable to the court for all acts of misconduct or unruly behavior of their clients reasonably within the attorney's control.

Attorneys shall rise and remain standing when addressing the court, making a statement, argument, or objection to the court or questioning a witness.

Audience seats shall be occupied first by people conducting business with the court and their immediate relatives (i.e., spouses, children, parents, sisters, and brothers).

When possible, people testifying for the defense should sit on the side of the courtroom directly behind the defendants and their attorneys.

People testifying for the prosecution should sit on the side of the courtroom directly behind the prosecutors.

The defendant shall be seated at the defense table during any hearing or trial, unless waived by the defendant in writing and ordered by the Presiding Judge. Issues of identification shall be resolved with the court before any proceedings.

Unoccupied seats may be used by spectators on a first come, first served basis. When all audience seats are filled, the Bailiff shall not admit anyone into the courtroom without the court's permission. Standing will not be permitted in the audience unless absolutely necessary.

A dress code has been adopted and shall be attached as an addendum (addendum #1) to these rules and will be posted in a public place.

## **RULE 6. REPRESENTATION AND ATTORNEYS**

Representation in General Sessions Court may be by licensed attorneys, attorneys representing legal entities, owners of single proprietorships or litigants representing themselves. No persons, corporations, L.L.C., and/or other legal entities shall be represented in any court proceeding by any person other than a duly licensed attorney in good standing in the State of Tennessee. Corporations must be represented by counsel and not by any lay person by Supreme Court ruling.

Attorneys representing litigants must be residents of and licensed to practice law in Tennessee pursuant to the *Tennessee Court Rules Annotated, Rules of the Supreme Court*, Rule 7 and qualified and registered with the State Board of Professional Responsibility pursuant to the *Tennessee Court Rules Annotated, Rules of the Supreme Court*, Rule 9.

Nonresident attorneys who do not wish to practice law regularly in Tennessee may be associated with a resident attorney in good standing. Then, as a matter of courtesy, nonresident attorneys may be allowed to appear in a case before the court without procuring a Tennessee license, after being introduced by the associated attorney, if all courts of the nonresident attorney's state grant a similar courtesy to attorneys licensed in Tennessee.

## **RULE 7. COURTROOM SECURITY**

The Judge of each division of General Sessions Court may require all persons entering the courtroom to consent to a search of their person and belongings to ensure the safety of participants, court personnel, and government property. Sheriff Deputies will deny admission into the courtroom of anyone refusing to be searched.

## **RULE 8. SECURITY OF CHAMBERS AND ADJACENT AREAS**

The purpose of Court security access control measures is to prevent movement of unauthorized persons into the areas occupied by Judges of General Sessions Courts. The Sevier County Sheriff's Department shall enforce these policies and procedures to ensure the integrity of the secured area.

## **RULE 9. CIVIL CASE DOCKETS**

Civil cases shall be docketed not less than seven (7) days from the date of issuance of the civil warrant, unless an earlier date is agreed upon by all participants, or mandated by law.

Civil warrants filed on a pauper's oath shall be accompanied by a completed Affidavit of Indigency which is available at the Court Clerk's office. The court may require the affiant to appear and answer questions before ruling on the application.

Motions to set installment payments on judgments and motions to stay executions of garnishments shall be filed in duplicate by the defendant or defense counsel, signed by the defendant and sworn to before a notary or the Court Clerk. The hearing will be set not less than five (5) days after the filing date, and a copy of the motion immediately mailed to the adversary party by the defendant or defense counsel.

Process shall be accomplished as soon as possible after receipt of the civil warrant by the serving officer and return made not less than five (5) days before the trial date to the Court Clerk, unless otherwise provided for by law.

Attorney preference for a particular day for an initial case setting must be noted on the top of the civil warrant.

## **RULE 10. CIVIL CASE CONTINUANCES**

When both parties fail to appear for a trial, the case will be continued and rescheduled for trial in approximately four (4) weeks by the Court's motion. If neither party appears at the second scheduled trial, and the Court Clerk does not receive a request for a continuance from either party, the case shall be dismissed and costs assessed to the plaintiff.

The plaintiff's proof will be heard and a judgment entered by the court when the plaintiff appears and the defendant fails to appear at the first scheduled trial. Proof by way of a sworn account pursuant to statute will be satisfactory if there is not sworn denial of the defendant or appearance by the defendant.

The case will be dismissed for failure to prosecute when the defendant appears and the plaintiff fails to appear at the first scheduled trial.

The plaintiff may have a continuance to present evidence through witnesses in collection cases filed on sworn statements when a sworn denial by the defendant is not filed before the trial date.

Sworn accounts should be filed with civil warrants and served on defendants in order to be the basis of a default judgment pursuant to a sworn act.

Attorneys taking defaults are representing to the court that appropriate service has been made on defendants, that appropriate credits have been given to defendants for all payments made, and that any amounts claimed as interest and attorney fees are pursuant to contract or applicable law.

## **RULE 11. COURT SCHEDULE**

The General Sessions Judges have compiled a regular schedule of hearing criminal and civil cases. A copy shall be attached as an appendix to these rules (appendix #2).

## **RULE 12. GARNISHMENTS**

An execution may be issued only on the written garnishment application by the plaintiff, the plaintiff's attorney or agent of record.

Applications must:

- (1) Be completely filled out to be accepted by the Court Clerk.
- (2) Show the amount of the unpaid judgment for each case.
- (3) Interest may be claimed.

Garnishments shall be released on authorization of a Judge or the Court Clerk.

The Court Clerk may dismiss all garnishments at the plaintiff's cost when:

- (1) The amount sought is more than the amount owed.
- (2) The defendant shows proof of payment after judgment indicating a balance less than the amount sought; or
- (3) The docket or receipts indicate the plaintiff received monies and failed to pay court costs.

Second or subsequent Petitions to Pay by Installments shall be set for a court hearing to determine good cause. The Court Clerk shall not issue any Stay of Garnishment until the court determines good cause and approves the Petition to Pay by Installments.

Motions to stay executions of garnishments shall be:

- (1) Filled out in duplicate by the defendant or defense counsel.
- (2) Signed by the defendant.
- (3) Sworn to before a notary or the Court Clerk before filing.
- (4) May be set for hearing not less than five (5) days after the filing date.

The defendant or defense counsel must immediately mail a copy of the motion with the hearing date to the adversary.

All monies received through garnishments shall be paid to the Clerk of Court.

## **RULE 13. CRIMINAL CASE DOCKETS**

All defendants have the duty to:

- (1) Know when they are scheduled to appear in court.
- (2) Appear at each hearing, trial setting, subsequent settings, trial, and report back dates.
- (3) Be physically present during each hearing or trial unless:
  - (a) Waived in advance by the defendant in writing, and
  - (b) Approved and ordered by the court.

Failure to appear shall constitute contempt of court and be the basis of the issuance of a warrant for the defendant's arrest.

Issues of defendant's identification shall be resolved with the court before any proceedings.

All defendants shall behave in an orderly, dignified manner. Failure to do so may result in the removal of the defendant from the courtroom pursuant to the *Tennessee Court Rules Annotated, Rules of Criminal Procedure, Rule 43*.

As officers of the court, all attorneys shall be held accountable for the orderly behavior of their clients reasonably within the attorney's control.

## **RULE 14. CRIMINAL CASE CONTINUANCES**

Motions for continuance may be granted by the Court upon agreement of the Attorney General and defense counsel (see appendix #3 for current continuance rule). Clerks of Courts are not authorized to grant continuances.

Motions for continuance will be acted upon in open court whenever practicable.

Motions for continuances will generally not be granted because of the absence of witnesses unless the witnesses were subpoenaed.

Witnesses shall be notified as far in advance as possible for any continuance granted by the Court by the party expecting to call such witness.

Once a continuance is granted to either side, the case will be reset at a date both parties agree on. The case will be heard on the new date absent extremely compelling reasons for an additional continuance.

## **RULE 15. PROBATION VIOLATION**

Failure of a defendant to complete any condition of probation as ordered may result in the defendant being charged with a violation of probation. The case shall be set back on the Court's regular docket for a hearing before the Judge who sentenced the defendant and may result in the defendant serving the jail sentence. Defendants are expected to fully comply with all conditions of probation and cooperate with probation officers.

## **RULE 16. SUBPOENAS**

Subpoenas shall be issued not less than seven (7) days prior to the trial date in all civil cases and criminal cases. If not, the party issuing the subpoena will be denied any continuance request due to nonappearance of a material witness.

It is the duty of the defense and the prosecution to ensure the presence of their subpoenaed witnesses. Failure to subpoena witnesses shall not be grounds for a continuance.

## **RULE 17. SERVICE OF PROCESS**

Service of process shall be accomplished by the serving officer as soon as possible after receipt of the civil warrant. Return shall be made to the Court Clerk not less than five (5) days before the trial date unless otherwise provided for by law. Officers serving process must serve the actual defendants unless service of process is pursuant to any exception of the Tennessee Civil Rules of Procedure.

## **RULE 18. EXPUNGEMENT ORDERS**

The General Sessions Court Clerk will only accept completed expungement orders.

- (1) Expungement order must include the following information:
  - (a) Name of defendant, warrant number, charge and date of arrest.
  - (b) Name of trial judge and the court.
  - (c) Signature of defendant or his attorney.
  - (d) Attorney General's approval and signature.
  - (e) A copy of the defendant's arrest warrant with the final judgment.
- (2) Multiple arrests may be put on one order as long as the date of arrest is the same. Different arrest dates on one defendant require separate orders.
- (3) Records will be expunged without cost on charges that have been dismissed or *nolle prossed*.
- (4) A fee will be paid to the Clerk for each record expunged where the defendant was placed on a diversion program pursuant to Tenn. Code Ann. § 40-35-312 and § 40-15-102 - 40-15-105.
- (5) When the expungement order is completed in accordance with (1) above, deliver the order to the Attorney General's Office. The Attorney General will review and approve the order, if appropriate, and deliver the signed order to the Sessions Clerk or to defense counsel. After the order is signed by the Judge, the attorney of record will be notified.
- (6) Only records listed on the order will be expunged.
- (7) The Clerk's Office is responsible for expungement of records of the General Sessions Court. The certified copies will be distributed to all other agencies included in the arrest process. They are responsible for the expungement of their records.

(8) The Clerk's Office expunges records in the order they are filed. The law allows 60 days for this process to be completed.

NOTE: THE FORM AVAILABLE IN THE CLERK'S OFFICE MUST BE USED FOR EXPUNGEMENTS.

## **RULE 19. JUDICIAL COMMISSIONERS**

Judicial Commissioners may sign warrants for prosecutions initiated by private citizens, but only if a police report or offense report has been filed with appropriate law enforcement agency. A copy of the police report must be presented to the Judicial Commissioner on duty by the complaining individual before the warrant is signed, or a judicial commissioner may satisfy this requirement by telephone confirmation with appropriate authorities.

## **RULE 20. FEE PETITIONS FOR COURT APPOINTED ATTORNEYS**

All fee petitions shall be submitted directly through the Administrative Office of the Court's online procedure (I.C.E.). A copy of the order appointing counsel for an indigent defendant will be attached to the warrant provided by the Court Clerk to each appointed attorney. If the Public Defender is initially appointed but cannot represent the defendant due to a conflict of interest, the order will be amended to correctly show the appointed attorney.

Claims for attorney fees submitted pursuant to Tenn. Code Ann. § 40-14-201, et seq., Tenn. Ct. Rules Ann., *Rules of the Supreme Court*, Rule 13, and 1983 Tenn. Priv. Acts 77, by attorneys appointed by the court to represent indigent criminal defendants shall be accompanied by:

- (1) The signed court order appointing them as legal counsel.
- (2) A completed order stating the Public Defender's office has a conflict of interest in the case.

Claims for attorney fees submitted pursuant to Tenn. Code Ann. § 33-3-503, Tenn. Ct. Rules Ann., *Rules of the Supreme Court*, Rule 15, and 1976 Tenn. Pub. Acts 763, by attorneys appointed by the court to represent indigent clients in proceedings under Chapter 3 through 8 of Title 33 of the *Mental Health Act*, shall be accompanied by a signed court order appointing them as legal counsel.

General Sessions Court Judges will not approve petitions unless they are accompanied by the above required documentation.

## **RULE 21. MEDIA COVERAGE**

Pursuant to Tennessee Supreme Court Rule 30, the following procedures have been adopted by the General Sessions Court for Sevier County in order to facilitate the media coverage contemplated by the rules.

### 1. Requests for Media Coverage

Media requests for coverage of a particular proceeding (other than print media) shall be made in writing to the Judge and Clerk of Court not later than 4:30 PM on the third business day before the event to be covered. The Clerk shall immediately notify all counsel of record of the request for coverage. **THE JUDGE WILL DETERMINE WHAT, IF ANY, COVERAGE IS ALLOWED INSIDE THE COURTROOM.**

### 2. Operation of Equipment

- a. All equipment shall be battery powered to eliminate the use of wires, cables, and leads that pose a hazard for people to trip over. If the anticipated length of the proceeding is so great as to make battery-powered equipment impractical, all wires, cables, and leads shall be placed against baseboards of walls, taped down, or otherwise placed to minimize or eliminate the hazard of tripping over them.
- b. All equipment requiring installation shall be installed before the Court commences the proceeding to be covered. All equipment take down or dismantling shall take place during recess or after the Court has adjourned for the day.
- c. All photographic equipment shall be situated so as to produce the point of view of the audience. Under no circumstances, unless expressly permitted by the Presiding Judge, are any cameras, still or otherwise, to be taken beyond the Bar of the Court.

### 3. Courtroom Decorum

All media personnel will conduct themselves quietly and respectfully in the courtroom. In the event the Presiding Judge orders that a particular witness or other not be photographed, or that one or more cameras be turned off, said order will be followed without debate. Arguing with the Judge as well as disobeying the Judge will constitute grounds for terminating any or all photography of the proceeding.

#### 4. Incorporation of Tennessee Supreme Court Rule 30

In all remaining aspects, media coverage of courtroom proceedings shall be governed by the letter and intent of Tennessee Supreme Court Rule 30.

### **RULE 22. APPEARANCE OF REPRESENTATIVE FROM DISTRICT ATTORNEY GENERAL'S OFFICE**

It is the responsibility of the district attorney general's office to provide representation to the public and protection for the public for all criminal court days. The court's current schedule provides for misdemeanor (including DUI trials) trials on Tuesdays, Wednesdays and Thursdays, and felony preliminary hearings and some misdemeanor trials on Fridays. The Court must be able to have regular hearings and trials on these days. If there is no representative of the district attorney's office present, it will be assumed that the attorney general's office has vested authority in local law enforcement to make decisions regarding proceeding to trial, plea bargaining and other matters. If the district attorney's office can not be present on any particular day, it may request a continuance in compliance with these rules.

### **RULE 23. APPEARANCE OF LAW ENFORCEMENT OFFICERS.**

Officers must appear on any date in which their cases are scheduled. If not present, cases may be dismissed for failure to prosecute. Such a dismissal would not prevent refile of a case or taking the case to the Grand Jury where deemed appropriate by the Attorney General's office. **NOTE:** Officers up all night prior to trial will be given priority where possible on a court date. Officers need to bring this to the attention of the court at the beginning of the docket by signing the court form and telling the court during docket sounding.

### **RULE 24. JUDGE CONFLICTS OF INTEREST/NEED FOR RECUSAL.**

The General Sessions Judges always desire to avoid any impropriety in hearing a case due to conflicts of interest, appearance of impropriety or any lawful or ethical reason. Attorneys or litigants need to bring any such issue to the attention of the Court. See Supreme Court Rule concerning recusal.

### **RULE 25. PRELIMINARY HEARINGS**

Preliminary hearings are conducted to determine issues of probable cause. Tennessee law recognizes reasonable discovery purposes in preliminary hearings and this Court will allow reasonable discovery. The Court can restrict proof where probable

cause has been established but will exercise reasonable discretion in allowing/disallowing proof.

## **RULE 26. PROBATION OFFICERS**

The Court expects criminal defendants and attorneys to respect all probation officers and rules. Criminal defendants are subject to violation of probation warrants or contempt of court citations for any mistreatment of probation officers.

Probation officers shall have a duty to see that criminal defendants fully meet their conditions for probation including payment of fines, costs and restitution, public service work, and any other special conditions of probation.

## **RULE 27. CLERK/COURT PERSONNEL**

The Court expects all litigants, attorneys, parties, witnesses and participants of any nature to respect all clerks and court personnel. The Court will not tolerate abuse of these public servants. Serious, chronic or repeated problems will subject any person to restricted access to Sessions Court.

## **RULE 28. BONDING COMPANIES**

Bonding companies must comply with the strict duties and obligations of the law. Bonding companies must secure the appearance of criminal defendants whose bond the company makes or be subject to prompt payment pursuant to law. No demands shall be made of court personnel or clerks by bonding companies or agents.

Bonding companies shall apply for all relief by written motion with the clerk. All outstanding bonds where defendant has absconded shall be reviewed every six months by the court.

## **RULE 29. PRETRIAL MOTIONS OR MOTIONS TO SUPPRESS**

Pretrial motions or motions to suppress must be made in writing to the opposing side, whenever reasonably possible. Attorneys must bring to the attention of the Court any pretrial motions, including suppression of evidence motions and any motions pertaining to inadequacy of warrants or criminal pleadings, prior to trial or hearing on the date of the trial or hearing. The Court will seriously consider suppression motions if properly brought to the Court's attention. Failure to address any of these types of issues in advance may result in waiver of any of said issues.

### **RULE 30. AVAILABILITY OF ATTORNEY GENERAL'S OFFICE**

The criminal days of the Sessions Court have been scheduled to encourage defense counsel to meet and consult with the Attorney General's office prior to the day of trial or hearing.

The County Prosecutor has been assigned by the Attorney General's office to handle DUI/misdemeanor trials on Tuesdays, Gatlinburg and Pigeon Forge DUI and misdemeanor trials on Wednesdays, and misdemeanor hearings in Sevierville on Thursdays. Said county prosecutor is available at his office on Mondays and Fridays for discussion of cases and other potential days following court.

The Assistant District Attorney will try the felony docket on Friday and be available to discuss these cases on other days according to their trial schedule in other courts.

The court's schedule anticipates and requires that defense counsel and the District Attorney's office discuss cases in advance of the hearing date so as to expedite the trial process and facilitate handling of numerous cases on each hearing day.

The Attorney General's office is also expected to be available for discussions at least 30 minutes (8:30 a.m.) prior to beginning the day's docket (9:00 a.m.).

### **RULE 31. DISCUSSIONS/STIPULATIONS BETWEEN PARTIES**

All parties in civil and criminal cases are expected to discuss their cases in advance of trial and narrow the issues where possible. Discussions need to take place in advance of the trial date when possible.

### **RULE 32. ISSUES OF RESTITUTION IN CRIMINAL CASES**

If restitution is claimed by the state as a proper issue for probation, reasonable proof of valid restitution amounts needs to be submitted on the date of trial or shortly thereafter (not to exceed 30 days) in order for the court to consider or order the same. The defendant shall be entitled to contest the amount of restitution as restitution must relate to the actual reasonable loss under the law.

### **RULE 33. DUI/CRIMINAL VIDEOS AND ARREST REPORTS**

When law enforcement agencies video DUI stops or make other videos which are potentially to be used in General Sessions Court, said agencies must reasonably make said videos available for review by the defendant or defense counsel and by the State or allow for copying of the same. Reasonable costs for reproduction may be charged.

Arrest reports are to be made available to attorneys prior to trial if request is made for the same.

## **RULE 34. WRITTEN ESTIMATES OR REPORTS AS PROOF**

If any party intends to use a written estimate or report as substantive evidence at a trial or hearing without having such witness who made the estimate or report available at the hearing, such party shall submit said report to the other side at least **10** days in advance of trial. The receiving party shall advise the submitting party of any objections in writing within **5** days of seeing such report. If no objection is made, the party desiring to submit this evidence may do so. If objection is made, the submitting party must produce the witness for the hearing as a live witness or by deposition, unless otherwise allowed by law or rule of evidence.

Parties are encouraged to cooperate in a reasonable manner so as to avoid unnecessary expenses, particularly on cases involving limited amounts or small claims.

## **RULE 35. PRETRIAL CONFERENCES**

Parties can request a pretrial conference for purposes of discussing complex or dispositive issues with the Court or to request or suggest a special setting due to the nature of the case or issues. The judges have dates available for pretrial conferences with their judicial secretary. Phone requests or written requests can be made with the secretary who will coordinate a date with the appropriate judge.

## **RULE 36. INITIAL APPEARANCE/ARRAIGNMENT**

The regular schedule of General Sessions Court now has initial appearance/arraignment days on each Monday and Friday except for holidays or special occasions.

The defendant shall appear unless waived in writing by defendant's attorney. A waiver form is attached to these rules.

At the initial appearance, the Court shall do the following:

1. Read rights to each criminal defendant as set out on the plea forms.
2. Give each defendant the opportunity to fill out a form to request a court appointed attorney. The Court will rule on this issue prior to the defendant leaving the courtroom. If the defendant does not fill out a form on the date of the initial appearance and/or no earlier than four weeks before trial or preliminary hearing, the defendant shall be deemed to have waived counsel. The defendant must be ready to proceed on the date of the hearing.
3. Address issues regarding bond for incarcerated defendants.
4. Give each defendant the date, time and location of his/her preliminary hearing or trial.

**RULE 37. JUVENILE COURT RULES OF COURT**

Juvenile Court Rules of Procedure are provided separately and are available with the General Sessions Clerk and/or the Juvenile Court Clerk.

The Court's policy is to try cases on the trial or hearing date absent justifiable or compelling reasons.

**ENTERED** this the 27<sup>th</sup> day of August, 2012, effective immediately.

S/ \_\_\_\_\_  
JUDGE JEFF D. RADER

S/ \_\_\_\_\_  
JUDGE DWIGHT E. STOKES

# DRESS CODE

## IN THE GENERAL SESSIONS, PROBATE & JUVENILE COURTS SEVIER COUNTY, TENNESSEE

### ORDER

Effective September 1, 1998, anyone appearing in the General Sessions, Probate and/or Juvenile Courts of Sevier County, Tennessee must comply with the following dress code.

- 1) No tank tops or halter tops are permitted.
- 2) No shorts. All dresses, skirts, and like clothing must be of an appropriate length.
- 3) Tee shirts or other types of clothing with profane language, illegal substances or offensive logos shall not be worn.
- 4) Shoes or sandals will be worn at all times.
- 5) Hats, caps, etc., will not be worn in the courtroom.
- 6) With the exception of law enforcement officers, no firearms or other weapons will be allowed in the courtroom. All officers appearing in the courtroom on cases shall have their badges visible.

**ORDERED** this the 8<sup>th</sup> day of September, 1998.

S/ \_\_\_\_\_  
Jeff D. Rader, Judge

S/ \_\_\_\_\_  
Dwight E. Stokes, Judge

APPENDIX #1

**GENERAL SESSIONS COURT SCHEDULE  
PART I & II**

**WEEK ONE**

	<u>MONDAY</u>	<u>TUESDAY</u>	<u>WEDNESDAY</u>	<u>THURSDAY</u>	<u>FRIDAY</u>
<u>PART I</u>	MISDMNR TRAFFIC	CRIMINAL DUJ***	GBURG/PF CRIMINAL	CIVIL UNCTD CTY SPDG	CRIMINAL FELONY
<u>PART II</u>	CIVIL CONTESTED	JUVENILE CRIMINAL	JUVENILE CIVIL	CRIMINAL DUJ***	TROOPER

**WEEK TWO**

<u>PART I</u>	CIVIL CONTESTED	JUVENILE CRIMINAL	JUVENILE CIVIL	CRIMINAL DUJ***	TROOPER
<u>PART II</u>	MISDMNR TRAFFIC	CRIMINAL DUJ***	GBURG/PF CRIMINAL	CIVIL UNCTD CTY SPDG	CRIMINAL FELONY

\*\*\*This indicates a 9:00 A.M. and a 1:30 P.M. docket  
All other courts begin at 9:00 A.M.

APPENDIX #2

## CONTINUANCE POLICY

1. If State or Defendant desires a continuance, and the case is less than 90 days old and is a 1<sup>st</sup> setting:
  - a. contact opposing side and request continuance at as early a date as possible.
    - i. If it is agreeable, contact appropriate deputy clerk(Connie for Judge Stokes, Penny for Judge Rader) and obtain new date which will be a date certain and available to all parties.

Make sure all witnesses and parties are contacted and notified of new date.
    - ii. If not agreeable to each side, file a written motion for continuance with facts and circumstances for justifying continuance. Judge will rule on motion without argument.
    - iii. After one continuance, no continuance will be granted absent compelling circumstances of illness, death in family or like problems.
2. If older than 90 days and/or is not a first setting, court approval must be obtained.

**IN THE GENERAL SESSIONS COURT FOR  
SEVIER COUNTY, TENNESSEE**

**ORDER**

Based upon General Sessions Court having problems regarding continuing cases due to failure of law enforcement and defense counsel to exchange videotapes (or review evidence) on a timely basis, the General Sessions Court Judges desire to make it clear that there are duties on law enforcement and defense counsel to cooperate to exchange the videos (or review evidence) in order not to delay trials or disposition of cases.

Due to this, the General Sessions Judges order the following in keeping with Local Rule 33:

1. Defense counsel shall make a request for videos (or review evidence) as soon as possible and preferably at least 30 days prior to trial. If retained as attorney for an accused closer to the trial date, request should be made immediately upon being hired. A copy of the written request shall also be sent to the Attorney General's Office. The request shall include the date of the hearing and the video/information requested.

2. Law enforcement agencies shall make copies of videos and send the copies to (or allow to be picked up by) defense counsel to allow preparation for trial. A reasonable charge may be required due to preparation time and expense.

3. If the video is not made available (or review of appropriate evidence) at least 10 days before the trial date, defense counsel should bring said fact to the attention of the judge immediately for corrective action so as not to delay trial. Corrective action should NOT be necessary and should be the great exception, as cooperation should take place.

4. If the video is not made available prior to trial after reasonable request pursuant to this order, the defendant upon motion may possibly have the video suppressed or the charge dismissed or other appropriate court order according to a review of all the circumstances by the hearing judge.

This shall take effect immediately in the interest of justice.

**ENTER** this the 27<sup>th</sup> day of August, 2012.

S/ \_\_\_\_\_  
Honorable Jeff D. Rader, Part I

S/ \_\_\_\_\_  
Honorable Dwight E. Stokes, Part II

**MEETING THE CHALLENGES OF  
SELF-REPRESENTED LITIGANTS**

**A BENCH BOOK FOR GENERAL SESSIONS JUDGES  
OF THE STATE OF TENNESSEE**

**AN INITIATIVE OF THE TENNESSEE SUPREME COURT  
ACCESS TO JUSTICE COMMISSION**

**APPROVED BY THE  
TENNESSEE GENERAL SESSIONS JUDGES CONFERENCE  
AND ENDORSED BY THE TENNESSEE SUPREME COURT**

**May 2013**

## INTRODUCTION

A challenge for judges in seeking justice in their courts increasingly involves the issue of how to interact with self-represented litigants. There is a growing and accepted school of thought that a judge must be pro-active in seeking and adopting policies and procedures that are friendly to all parties, including those represented by counsel and those representing themselves. Many authorities now recognize, as does the Tennessee Supreme Court, that for a judge to do nothing to address the needs or problems faced by self-represented litigants actually advances injustice and contributes to the loss of respect for the judicial system by a substantial portion of the public.

This particular Benchbook seeks to address these issues in a compact and economical manner that can be used by courts on a daily basis. It can serve as a guide for judges in seeking to administer justice to all parties. For this reason, this Benchbook will not go into great detail regarding all reasons or foundations for the policies stated but will instead go directly to the heart of the recommended procedures. Many articles and documents have been formulated across the United States and beyond on these issues. This Benchbook is intended to be informative and concise for the busy judge. It recognizes that judges must balance many cases every day and use their discretion to make decisions, while at the same time considering rules of procedure, rules of evidence, and judicial ethics. Judges also have their own styles, and courts have their own culture.

The bottom line is for all courts and judges to seek “justice for all” in as neutral and unbiased and ethical a manner as possible.

Our desire is that this Benchbook be of assistance to the judiciary and the judicial system as a whole by serving the interest of courts, parties, communities, and jurisdictions.

# A DAY IN THE LIFE OF A TYPICAL COURT: A SUGGESTED FORMAT

## I. Before Court Begins: Establishing the Framework of Achieving Justice

A. LOCAL GUIDELINES (OR RECOMMENDATIONS) AND HANDOUTS: Each court should draft and maintain local guidelines (or recommendations) dealing specifically with self-represented litigants. For your consideration, a model set of local guidelines (or recommendations) has been drafted that can be used by any court that chooses to do so. Each court is free to create its own set of guidelines or to modify this set of guidelines for each specific jurisdiction.

The local guidelines should be made available in handbook or brochure form as well as online through a county or court website if possible. The local guidelines can describe for all litigants and attorneys the policies and procedures of the local court system. The guidelines can and should also address specific issues dealing with self-represented litigants, including:

- (1) The importance of considering the use of legal counsel prior to filing an action in court or after being served with court process on a case.
- (2) A brief explanation of local procedures in court. These can include:
  - (a) Calling of the docket
  - (b) Dress code expectations and rules regarding cell phones, proper court etiquette, emphasis on need to be on time, etc.
  - (c) Need to have live witnesses and not just written reports.
  - (d) Exchange of exhibits with opposing side prior to beginning of trial or hearing.
  - (e) Simple terminology of courts.
  - (f) Procedures of plaintiff's case and direct examination and cross examination, followed by procedures of defendant's case, etc.

- (g) Other specific rules of local court
- (h) Explanation of the appeal process, including deadlines for appeal.

B. **HANDOUTS/BROCHURES FOR PRO SE LITIGANTS:** Each court is encouraged to have simple rules or handouts which can be read easily by self-represented parties and other non-lawyers which give simple information about the court and “what to expect in court.”

C. **COURTHOUSE KIOSK:** Your county or court can sponsor a location for a kiosk/service center for assisting self-represented litigants and other non-lawyers who have cases in court.

**D. USING PROGRAMS OR TRAINING TO ASSIST SELF-REPRESENTED PARTIES AND OTHER NON-LAWYERS WITH THEIR ACTIONS IN COURT:**

Courts are encouraged to utilize or develop programs to help self-represented parties with court actions and to help streamline court procedure for all who are involved in judicial proceedings. Examples to be used by judges:

(i) **“LAWYER OF THE DAY” PROGRAMS:** Use of “lawyer of the day” or similar programs are specifically endorsed as ethically acceptable as long as they operate within the confines of ethical rules and guidelines.

Any lawyer operating within a “lawyer of the day” program should, of course, avoid real conflicts of interest, improper contact with parties, and other ethical violations.

As long as the self-represented party understands the limitations under which a “lawyer of the day” is operating, such limited roles of lawyers are acceptable ethically. This includes advising litigants of court procedures and rules of evidence, attempts to resolve or mediate issues, and other simple acts of representation or “unbundled services.”

(ii) **“LEGAL ADVICE CLINICS”:** Pro bono legal advice clinics are where lawyers meet with pro se litigants and give advice on what to do or what not to do, or advise litigants of what to expect in court, and

provide other valuable legal and common sense advice.

(iii) **“PRO SE DOCKET DAY”**: Where lawyers are assigned on a rotating basis to assist pro se parties on what is clearly explained to be a one-day event only.

“Pro Se Docket Days” can also be a time when judges have a day of special instructions for people representing themselves where courts can give explanations of judicial expectations, simple rules of evidence and procedure, and assist self-represented parties in having a greater understanding of what is going to happen in court.

E. **LEGAL AID BROCHURES**: Legal Aid organizations should be allowed and encouraged to develop and distribute issue specific information brochures or pamphlets to assist pro se litigants.

F. **ROLE OF CLERKS**: Judges and clerks should coordinate and understand limitations of clerks and their staffs, along with judicial secretaries or administrators. The Guidelines for Tennessee Court Clerks Who Assist Self-Represented Persons should be followed by all clerks and their personnel, which allows clerks to assist the public in a cordial and pleasant manner without providing legal advice.

G. **FORM DEVELOPMENT AND USE**: The Tennessee Supreme Court Access to Justice Commission is in the process of creating standardized pleadings or other forms for use by the public. Any form approved by the Tennessee Supreme Court shall be considered universally acceptable as legally sufficient in all Tennessee courts. To date, the Court has approved several forms, including forms for divorces without children, and additional forms will be made available as those forms are approved by the Court.

Judges should permit use of such forms and make allowances for self-represented litigants to access and file the forms in an atmosphere friendly to self-represented persons. Clerks and judicial administrators and secretaries should be familiar with the forms and the procedures for filing the forms. The public’s confidence in the judicial system will be enhanced by an efficient and professional approach to the use of court-approved forms.

**H. COLLABORATION WITH LOCAL BAR ASSOCIATIONS AND STAKEHOLDERS:** Courts are encouraged to work with local bar associations and other stakeholders to promote development and improvement of programs to assist self-represented parties. All of these programs shall be designed to accommodate the reality of the abundance of self-represented parties in today's world, not to discourage the use of attorneys.

**I. ETHICS OPINIONS:** All policies and rules formulated by judges and courts should be regularly re-evaluated to take into consideration developing law in the area of self-represented litigants. This is an ongoing ethical responsibility of judges.

**J. USE OF PRO SE MEDIATION SERVICES:** The use of mediation services for self-represented litigants is consistent with the orderly administration of justice. It is appropriate for courts to encourage use of mediation services for self-represented litigants. (See suggested script.)

## **II. Judicial Greeting and Address to the Public at the Beginning of Each Docket**

1. Be courteous and respectful to all parties.
2. Be in control of your courtroom but realize achieving justice in each case is a work-in-progress. Use your ability, training and common sense to deal with all parties, whether represented by counsel or not. You are here for a season, and you are a servant of the people who elected you and the Constitution and laws that guide you. Enjoy the experience and honor, and advance the cause of justice.

# A Suggested Script---for the Judge

## INTRODUCTION

“Good Morning.

Today, \_\_\_\_\_ Court of \_\_\_\_\_ County is handling a Civil docket; that means we hear non-criminal cases. This includes automobile accidents, debt collection, and landlord/tenant cases. We also hear home improvement, property, employment and auto repair contract cases.

What I will do first is read the list of cases I will hear today. I need complete silence in the court. That means no talking or making noises. Turn off your cell phones. When I call your name, please hold up your hand and answer “here.” We need to know if you are here and have a lawyer. I may also ask questions about your case. This helps me know how long it will take to hear each case.

After I go over the case list, you will have time to go outside the courtroom and talk to people on the other side of your case. This is a last chance to settle the case yourselves. If you still can’t agree, you will get a trial.

You must give each other any papers, pictures, or proof you plan to use in court (that you plan to hand to the judge as an exhibit). Give the other side copies if you have them. If you don’t have copies, let the other side read your papers or see your pictures. The other side must then return your papers and pictures to you. This will save time when we start your case. This is what lawyers must do and we expect the same if you represent yourself. Everyone must be polite in court. No cursing, yelling or being rude to anyone. The bailiff can help with this if there is a problem.

Lawyers are here only to help their client. They don’t speak for the court.

## OPTIONAL SCRIPT REGARDING MEDIATION

(For General Sessions Court with mediation programs, please insert optional script for mediation services here. See mediation script on page 10.)

## RULES FOR THE TRIAL

**1. Burden of Proof.** The person who filed the lawsuit is called the plaintiff. If you are the plaintiff, you must prove you should win based on the law and the facts. That means that you have stronger evidence or proof than the other side, no matter how slight the difference is. It is not based on the greater number of witnesses or number of papers or exhibits but is based on who has the most convincing overall proof. For instance, looking at the scales of justice, the plaintiff must show the evidence tilts the scales in his or her favor.

The person who was sued is called the defendant. If you are the defendant, you have a chance to tell your side. You also have the right to sue the plaintiff before the trial date. This is called a **counter-complaint**. If you file a counter-complaint, you are now a counter-plaintiff and must prove your case. You must also show the proof tilts the scales of justice in your favor on your counter-complaint.

**2. It May Help to Have a Lawyer.** Before the trial, either side can hire a lawyer. A lawyer is trained in the law and can help you present your case. The lawyer also knows the rules for giving proof and when to object to something. Both sides should think about getting a lawyer.

The court knows you may not be able to afford a lawyer. You have the right to speak for yourself in court if that is what you choose to do.

The court will be fair to both sides if they have a lawyer or not.

**3. How the Trial Works.** If you are the plaintiff, you go first. Your witnesses will testify. Then the other side can question your witnesses. Everyone must show respect and be polite. That means no yelling, cursing, rude comments, or name-calling. Ask the witness questions. Don't testify yourself while a witness is on the witness stand. Don't make personal comments about the witness or what they say. If you have exhibits, your witnesses (or you) will identify them.

After the plaintiff finishes, it is the defendant's turn. If you are the defendant, you can testify and have witnesses testify. The other side gets to question all your witnesses. If you have exhibits, your witnesses (or you) will identify them.

**4. Rules about Proof.** There are rules about the proof you can use. These are called Rules of Evidence. One of the rules says you cannot use hearsay as

testimony. **Hearsay** is when you say what you heard from someone else. Most of the time, you can only testify about what you know or saw. You cannot testify about what someone else knows.

There are many rules about proof. You may not know all these rules unless you are a lawyer. You may not know when to object to the other side's proof. The judge cannot act as your lawyer. The judge can stop a witness if the testimony is not helping to explain the case or is simply repeating what another witness has already testified about.

**5. The Judge Does Not Take Sides.** The judge must be fair and treat everyone the same. The judge must let both plaintiff and defendant tell their side.

**6. Getting More Time.** There are rules that may let you get more time before the trial starts. This is called a continuance. You may be able to ask for more time to get your case ready for trial. Ask the judge if you think you need more time and wish to delay the case. The decision to hear the case today or delay the case to a new date is up to the judge.

**7. Rules About Use of Exhibits.** You may have letters, estimates or other proof that a witness is testifying about. These are called exhibits. Have the witness look at the proof. The witness must testify that they know about the proof. Then you can ask the court to accept the proof. You can only use the proof if the witness personally knows about it.

**8. Rules and Recommendations About How You Act.** The rules are the same for both sides. Talk to the judge. Don't talk to or argue with the other side once the trial starts. Show respect and be polite. No yelling, arguing, cursing or name-calling. Do what the judge tells you. This is a court of law. If you don't show respect, the judge may say it is contempt of court. Then you may have to pay a fine or go to jail. It can also make you lose your case.

**9. Start of Trial.** Mr./Ms. \_\_\_\_\_, you may now testify yourself or call your first witness.

**10. During the Trial.** The judge may tell you or any witnesses to stick to the point. This is to keep the case moving. The judge may remind you to ask the witness questions and not testify yourself. Do what the judge says.

The court wants to find the truth. The judge may ask questions about the case. This is to make sure you get to the point. **Example:** You said the defendant harmed you. Did this cause damages? What are your damages?

**11. End of Trial.** Both sides present their witnesses and proof and then rest their case. The judge may let both sides give a closing argument. This is not testimony. It is a last chance to say what proof you gave showing that you should win. You remind the judge what testimony your witnesses gave. The person who filed the lawsuit goes first, then the defendant. The judge may let the Plaintiff answer what the defendant says. This is because the person who filed the suit must prove he or she should win. The judge may give you a time limit. You must stop when the time is up. So tell your most important points first.

**12. Appeal.** The judge will say who won the case. In General Sessions Court, both sides have 10 days to file an appeal. If you disagree with the judge's decision, an appeal is a chance to change the decision. When you appeal, the case will be sent to Circuit Court for a brand new trial in front of a different judge.

There are rules for how to appeal. Ask the General Sessions Clerk's Office how to appeal and how much it costs.

If you can't afford the fees, tell the Clerk. You may be able to file for free if you meet the rules. The other side in your case will be told you appealed.

If the other side in your case files the appeal, they pay the court fees to appeal. You will be told if they appeal.

Even if someone is allowed to appeal for free or at a reduced cost, a judge can later order all costs to be paid by either side or both sides.

## **OPTIONAL SCRIPT REGARDING MEDIATION**

You may want to try mediation. Mediation is a way to try to settle any kind of case outside a courtroom. You and the person on the other side of your case meet with a mediator. If you have a lawyer, they should come, too. Both of you talk about the things you disagree on. You talk about the things each one of you want. Mediators don't take either side. The mediator is not a judge. They don't make the decision. They try to help you agree on something that is fair for everyone. They help you write out an agreement. Both sides must feel OK about the agreement and ask the court to OK it.

If you can't agree during mediation, you can always come back to court. Then we will have a hearing on your case.

If you are not a lawyer and are representing a corporation or Limited Liability Corporation, listen closely. Under Tennessee law, only a lawyer can speak for a corporation or an LLC. If you don't have a lawyer with you, I can't hear your case. But you can try mediation.

**[Note For Judges:** Court systems are encouraged to use/recommend mediation services as available. Your local rules can specify what the parties need to do to seek mediation. Your court system can make it clear whether mediation services are available on the day of the hearing or must be accessed in advance.

If your court works with a community mediation center, has a mediator of the day program, or frequently uses local mediators, you can provide the self-represented litigant with information on the mediation program in your county. If you are unsure as to what to tell the parties about mediation, ask the mediation program to provide you with correct information.

If your court does not use a community mediation center or does not frequently work with mediators, you can tell the parties that they may be able to use a Supreme Court Rule 31 mediator.

If you have questions about mediation, please contact the AOC. You can direct parties that are interested in mediation to the AOC for help finding a mediation center or Rule 31 mediator.]

## **CONCLUSION**

Thank you for your interest in meeting the challenges of self-represented litigants. This Benchbook is designed to be of assistance to judges as we seek justice for all persons who enter our courtrooms. Please feel free to add your own language or court practices to these materials and to customize to the needs of your own court system.

This Benchbook has been prepared as a part of the  
"Access to Justice" initiative of the Tennessee Supreme Court.

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**GUIDELINES AND HELPFUL INFORMATION**  
**FOR PEOPLE WITH A CASE**  
**IN GENERAL SESSIONS COURT**  
**SEVIER COUNTY, TENNESSEE**

**General Sessions Judges**  
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**Dwight E. Stokes, Part II**

**Connie Holt, Clerk**  
**Sevier County General Sessions Court**  
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**Sevierville, TN 37862**  
**865.429.5671**

**Effective**

**May 2013**

**APPROVED BY THE**  
**TENNESSEE GENERAL SESSIONS JUDGES CONFERENCE**  
**AND ENDORSED BY THE TENNESSEE SUPREME COURT**



**GUIDELINES AND HELPFUL INFORMATION**  
**FOR PEOPLE WITH A CASE**  
**IN GENERAL SESSIONS COURT**

**What's Inside**

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**Purpose of Guidelines**

The General Sessions Court for Sevier County, Tennessee, adopts these guidelines to assist people who represent themselves in court and to help any and all lay people (non-lawyers) who wish to have more guidance on what will happen in court and how to be better prepared for court.

This court has been encouraged by the Tennessee Supreme Court's "Access to Justice Commission" to create guidelines assisting non-lawyers who have cases in court. This includes people who represent themselves and other lay people who may have lawyers but desire helpful information about appearing in court.

This court encourages parties to use a lawyer for help when possible. Lawyers have legal training and experience in appearing before a judge. You may be able to get free legal aid. You can seek free legal aid by calling Legal Aid of East Tennessee, Inc., at 865-637-0484.

**Why We Have Local Guidelines for Lay People (Non-Lawyers)**

Judges have a duty to seek justice in courts of law. Judges should make an honest and sincere effort to seek the right result. It is important for courts to be flexible when parties do not have lawyers. Self-represented parties may not have experience with formal court rules or customs. The ethical rules for judges allow judges to have guidelines which are friendly to self-represented parties and all lay people as long as the judges act with integrity, fairness, neutrality and impartiality at all times. The court will treat all parties and their attorneys with respect, and it is helpful if all parties and attorneys are respectful with each other and with the court.

## **GUIDELINE 1. Read the Court Guidelines.**

Each court of law has certain rules. You can get a copy of the local rules for General Sessions Court for Sevier County at the Sevier County General Sessions Clerk's office. You need to read the local rules and these guidelines which can help lead you through a case in court.

The guidelines in this document are especially for people who don't have a lawyer or who have a lawyer but desire more information about how the court works. These suggestions can be of help to you when you appear in court.

It is your job to know the rules for your case. If you don't follow the rules, your case can be thrown out. Or it could cause you to lose the case.

### **Important Information**

- You can't talk to the judge alone. The person on the other side of your case must be there, too. This means no calls, letters, emails or texts to the judge. No waiting around in public to try to talk to the judge. If you run into the judge outside court, don't say anything except a polite greeting as you would with anyone. This protects both sides. You know the judge only talks about your case when you are there.
- Show respect and be polite to everyone in the court building. No threats, cursing, yelling, arguing or screaming. Don't give anyone the finger or use other rude signs. If you do, you can go to jail or have to pay a fine. Tell your witnesses to follow these rules, too. If they don't, the judge may not believe their testimony. Turn off your cell phone while you are in court.
- All witnesses swear (or affirm) that they will tell the truth. Any person who tells a lie on purpose in court can be charged with a crime.
- It is important that you read all papers served on you very carefully. Follow any directions on your papers such as appearing in court on the date or dates given to you. If you don't understand the papers, get advice from an attorney (if possible) or contact the Court Clerk and point out any part you don't understand. The Clerk cannot give legal advice but may give helpful information.

You can get a copy of all the court rules from the General Sessions Court Clerk's office, which is located at 125 Court Avenue, Suite 107E, Sevierville, TN 37862; phone #865-429-5671; website: [seviercountyttn.org](http://seviercountyttn.org). They also may have court forms you will need. Check with the Clerk to see if the clerk's office has forms for you to use. Fill out all of the papers provided to you.

The Clerk is not a lawyer and can give you information and forms but not legal advice (that is tell you what to do). Nothing the Clerk tells you is legal advice.

## **GUIDELINE 2. It May Help to Have a Lawyer**

Lawyers are trained in the law and know the court rules. This can make a big difference in your case. If you want a lawyer but can't pay, you may be able to get one for free. Check with Legal Aid or Legal Services. Or call the local lawyer group called a "bar association." The clerk can give you information about how to contact the Sevier County Bar Association.

If you don't have a lawyer, you can speak for yourself in court. If you show respect and are polite, the judge will do the same for you. The judge will follow the law and be fair to everyone. But you must follow the same rules that lawyers follow in court.

## **GUIDELINE 3. Be Prepared for Court**

**When you come to court for your trial or hearing, bring all your witnesses and all your proof.** Bring any papers, documents, pictures or other items of proof. The court calls these exhibits. **You have to show the other side all your proof that you intend to use before the trial begins on the date of the trial.** They must show you all their proof, too.

Proof can be:

- Pictures or videos
- Any papers like leases, contracts, estimates or other written papers
- Drawings
- Any proof you plan to use in court

**Seeing the proof ahead of time saves time in court.** The judge does not want to waste time while you look at each other's proof. Showing proof to each other before court gives you a chance to see what proof the other side will use.

Bring the original of your proof for the court to see. Bring a copy for yourself and enough copies for the other side.

## **GUIDELINE 4. When You Go To Court**

When you come to court, try to dress and act in a nice and pleasant manner. A helpful tip is to dress and act in a manner like you would for an important job interview. Being in court is about showing respect to everyone and having a fair trial.

The courtroom is divided into two (2) main parts. The part right in front of the judge is called "the bar." It is for people whose case is being heard, for their lawyers and for witnesses. People who work for the court are there, too. You only go in this part when the judge calls you up for your case. Everyone else sits in the back of the court. Sit quietly until you are called up for your case.

Be on your best behavior while in the court building. (Remember: Like an important job interview.) No cursing, yelling, name calling or being rude. Don't act out, make noises or threats or talk loud. Turn off your cell phone. Don't hang around outside the courtroom or in the hall unless you are waiting quietly for a case. Be polite to everyone even if you don't agree with what they say. Do what the judge tells you.

During your case, stand up when you talk to the judge. Stand up when you question a witness or object to something. Standing up shows respect and helps the judge hear you.

## **GUIDELINE 5. Go to Court Early**

Be at court at least 15 minutes early.

Allow extra time to park, get through security and find the court room. When court starts, the judge or clerk will read a list of the cases the judge will hear. This is the docket call. When your name is called raise your hand and say “here.”

**IMPORTANT!** The defendant is the person who was sued. If you are the defendant and don’t show up, you lose the case. This is called a **default judgment**.

**IMPORTANT!** The plaintiff is the person who filed the lawsuit. If you are the plaintiff, your case can be dropped if you aren’t there. This is called a **dismissal**.

**IMPORTANT!** If there is an emergency and you can’t come to court, call the General Sessions Clerk’s office. (Phone: 865-429-5671) Tell one of the clerks about your problem and ask who you need to talk to. Tell that person why you can’t come. Give that person a phone number where you can be reached. It is always up to the judge to decide whether the case should be reset.

**REMEMBER:** If you fail to show up to court on time, you will probably lose your case by a default or dismissal. Your court date is an important date, so be on time!

## **GUIDELINE 6. Understanding Words You Will Hear in Court**

This court will try not to use very many legal words. We want to make sure everyone knows what is being said. But you will need to know these legal words.

- Plaintiff- the person or company who first filed the lawsuit
- Defendant-the person or company who is being sued
- Cause of Action-what kind of case it is. Examples: Contract disagreement, landlord/renter problems, automobile accident, etc.
- Default Judgment-This is what the judge does if the defendant doesn’t show up for court. It means the defendant lost the case and may well have to pay or do what the other side has asked.
- Dismissal-This is what the judge does if the plaintiff doesn’t show up for court. It means the case is over, and the plaintiff has lost.
- Docket Call-The list of cases the judge will hear that day (usually done at the beginning of the court session)..
- Hearsay-When a witness is repeating what someone else said. Witnesses can only testify about what they know for themselves. There are exceptions to this rule, so ask the judge if you have questions about proof you wish to place into evidence.
- Exhibits-Proof like papers, videos, tape recordings, photos
- Continuance-When the judge gives you more time before the trial starts and reschedules all or part of the trial.

## **GUIDELINE 7. Understanding What Happens in Court**

(A) **Docket Call.** When court starts, the judge or clerk will read a list of the cases the judge will hear. This is the docket call. You need to be there before it starts. When your name is called raise your hand and say “here.” The judge can find out if any cases have been settled. The judge can give more time for some cases if it is needed (continuance). Some cases will be dismissed if the plaintiff is not there. Some defendants will lose their case because they are not there. The judge can see how many cases are left and get an idea about how long it will take to hear the cases.

(B) **Try to settle the case before trial.** Talk to the person on the other side or his/her attorney and see if you can agree. In many courts, you can try to settle until the trial starts. Try to settle before the docket call. If you are close to agreeing to settle the case when the docket is called, tell the judge. Some judges will give you more time to try and to settle. It is up to the judge if you get more time or not.

(C) **Trial or hearing.** The judge will hear the cases one at a time. Make sure you are there and ready when your name is called.

### **When your trial starts:**

I. **Opening Statement.** Each side can give a short talk. Say what you expect to prove. This helps the judge know what your case is about. An opening statement must be very brief.

II. **Plaintiff’s proof.** The plaintiff is the person who filed the lawsuit. If you are the plaintiff, you show your proof first. You must prove you should win. That means that you prove that you have stronger evidence or proof than the other side. It is not based on greater number of witnesses or number of papers or exhibits but is based on who has the most convincing overall proof. For instance, looking at the scales of justice, the plaintiff must show the evidence tilts the scales in his or her favor.

You call each of your witnesses to the witness stand. After each witness testifies, the other side can ask questions. This is called cross-examination. After you have given all your proof, you “rest” your case. This means you have shown all your proof and witnesses.

III. **Defendant’s proof.** If you are the person who was sued, you are the defendant. After the plaintiff rests his/her case, then you show your proof. You call each of your witnesses. After each witness testifies, the other side can ask questions about what each witness said. After you have given all your proof, you “rest” your case. This means you have shown all your proof and witnesses.

IV. **One last chance to prove the other side wrong.** Both sides rest their case. The plaintiff may think the defendant’s proof or witnesses were wrong. The plaintiff can bring in witnesses to testify about this. These are called rebuttal witnesses. These witnesses may have already testified once, but now will address things the other side brought up. When they are

done, the defendant can ask these witnesses questions. The defendant may then be allowed by the judge to “rebut” the new proof by testifying again or by testimony of other witnesses.

V. **Closing.** Each side gets a chance to state the high points of their proof and testimonies. Keep it short and on the main points of your proof. Some judges may put a time limit on how long you can talk. It is up to the judge.

VI. **The judge decides who won.** The judge will say which side won the case. No matter if you win or lose, keep your cool and be quiet. Be polite to the judge and the other side. No cursing, yelling, arguing or name-calling. If you have a question for the judge, tell the judge you have a question. The judge will tell you if you can ask the question then or if you need to talk to the clerk of the court.

## **GUIDELINE 8. Information About Evidence**

There are rules about the proof/evidence you can use. The rules make sure witnesses know for themselves what they are talking about. The rules try to make sure questions are about the case before the court and that questions do not improperly suggest an answer.

A few rules of evidence are as follows:

(a) **Hearsay evidence.** One of the rules says you can’t use hearsay testimony. **Hearsay** is when you say what you heard from someone else. Most of the time, you can only testify about what you yourself know. You can’t testify about what someone else knows. **Example:** You want to use a mechanic’s repair estimate as proof. You must have the mechanic testify about the estimate. If the mechanic isn’t there, you can’t use the estimate as proof. The reason for this rule is to give both sides a chance to question the witness. The mechanic is the only one who can answer questions about his estimate.

If you use any written proof, the person who wrote it should be present in court. If that person is not in court, most of the time you can’t use the proof. Make sure you have witnesses who know about your case or proof for themselves.

(b) **How to question witnesses.** There is a rule about how you can question your own witnesses. You can’t ask questions in a way that says or suggests what the answer should be. This is called a leading question. **Example:** “Isn’t it true that Mr. Green (the other party) said the accident was his fault?” This is a leading question and you can’t use it with your own witnesses. But you can ask a leading question of the other side’s witnesses.

(c) **Proof must be important to the case (relevant).** Your proof and witnesses must help prove your case. You can’t use proof just to embarrass or make the other side look bad. The judge can stop a witness or keep out proof that isn’t about the case. The judge will say it is **inadmissible**. That means you can’t use that proof.

(d) **Proof must be real (authentic).** You must show that papers, tapes, pictures or videos you use as proof are real (what you say they are). This means having a witness who personally knows about the proof. The witness must be able to identify the proof. This means they know or recognize someone’s signature or voice on a tape or can identify the pictures or the

video. Or they can say how they know about the proof for themselves.

(e) **How to object.** There are many rules about proof. If the other side in your case breaks one of these rules, you can object. Stand up and say, “Your honor, I object.” Then say why you object. **Example:** “The witness is saying what someone else told him. This is hearsay.” **Example:** “The witness is talking about things that don’t prove the case. This has nothing to do with the case.”

If the judge agrees with you, he or she will say “sustained.” If the judge disagrees with you, he or she will say “over-ruled.” No matter what the judge decides, show respect and be polite. Don’t argue or talk back to the judge.

## **GUIDELINE 9. Right To Appeal.**

The judge will say who won the case. You may disagree with how the judge decides the case. Or the other side may disagree with what the judge decides. Both of you have ten (10) days to appeal to the Circuit Court. An appeal means a different court and judge will hear the case. There are rules for how to appeal. Ask the General Sessions Clerk’s Office how to appeal and how much it costs.

If you can’t afford to pay the fees, tell the Clerk. If you meet the rules, you may be able to file for free. If you file an appeal for free, the court which hears the appeal can still make you pay court costs at a later date if you lose the appeal in whole or in part.

**NOTE:** Other helpful information may be found at your county website, [seviercountyttn.org](http://seviercountyttn.org). There are also statewide resources where you may find helpful information:

- Administrative Office of the Courts [www.tncourts.gov](http://www.tncourts.gov);
- [www.JusticeForAllTN.com](http://www.JusticeForAllTN.com), a website to help citizens created by the Tennessee Supreme Court
- You may be able to get free advice online at [www.OnlineTNJustice.org](http://www.OnlineTNJustice.org)
- Find out information about legal resources in your area by call 1-888-aLEGALz (1-888-253-4259);
- Find legal help through your public library at [www.LegalInfoTN.org](http://www.LegalInfoTN.org) .

**NOTE:** This paper provides information about court rules or procedures for people who speak for themselves in court or other non-lawyers. It cannot take the place of advice from a lawyer.



If you have a disability and require assistance, please contact:  
865-453-6136

For information on how to get a court interpreter, contact the Administrative Office of the Courts at 615-741-2687 or 800-448-7970.

# THE LIFE OF A GENERAL SESSIONS JUDGE

## Relationships, Ethical Dilemmas, Pressures

Judge Dwight E. Stokes

