

IN THE CHANCERY AND CIRCUIT COURTS FOR THE TWENTY-NINTH
JUDICIAL DISTRICT, INCLUDING LAKE AND DYER COUNTIES, TENNESSEE

LOCAL RULES
REVISED 2007

PREAMBLE

Pursuant to the provisions of Tennessee Code Annotated, section 16-2-501 et seq., Rule 18 of the Tennessee Supreme Court (2004), and the inherent authority of the Courts, the following Rules are hereby adopted.

RULE 1: APPLICABILITY

Section 1.01 Applicable Courts

These rules apply to the Circuit and Chancery Courts of Dyer and Lake Counties. Subject to such exceptions as are stated herein, these rules shall supplement the Tennessee Rules of Civil Procedure and the Tennessee Rules of Criminal Procedure in the Circuit and Chancery Courts for the Twenty-Ninth Judicial District of Tennessee. Where these Rules are in conflict with either the Rules of Civil Procedure or Rules of Criminal Procedure, those rules will prevail. All former Rules of Local Practice, except as re-adopted herein, are repealed.

Section 1.02 Construction, Suspension of Rules

These Rules shall be construed to secure simplicity in Procedure, fairness in administration, and elimination of unjustifiable expense and delay. They shall be construed to secure the just, speedy, and inexpensive determination of every action.

Any of these Rules may be suspended or varied in exceptional cases when the Court determines that equity and justice so require.

RULE 2: TIMES AND SESSIONS OF COURT

Section 2.01 Sessions of Court

All Courts: All Dyer and Lake County Courts shall be considered available for regular sessions continuously.

Lake County Courts: The Chancery and Circuit Courts of Lake County shall have special sessions on the second and fourth Tuesdays of each month, respectively.

Section 2.02 Times of Sessions

Court shall convene at 9:00 a.m. or at such times as the Court directs.

Section 2.03 Prohibited Practices

Smoking, chewing tobacco, drinking beverages, eating and using profanity in the courtroom are prohibited.

Section 2.04 Courtroom Attire

Counsel, witnesses and litigants shall be appropriately dressed and male counsel shall wear jacket and tie. Inappropriately dressed persons may, at the discretion of the Court, be excluded from the proceedings.

Section 2.05 Conduct of Counsel

During trial, counsel shall avoid the use of first names of witnesses, jurors and opposing counsel. In the absence of a bailiff, as an officer of the Court, counsel shall advise all present in the courtroom to rise when the Judge enters. Counsel shall stand while examining witnesses, making objections, and presenting arguments to the Court.

Section 2.06 Contacting the Judge

Neither counsel nor any party to a pending action shall contact the Judge except in open court or by letter, a copy of which shall be sent to opposing counsel. The following shall be considered exceptions to this rule: (1) emergency situations, (2) applications for injunctive relief or *ex parte* orders, or (3) setting a date for hearing.

RULE 3: DISCOVERY - CIVIL CASES

Section 3.01 Elimination of Filing Requirements

Depositions, interrogatories, requests for documents, requests for admissions and answers and responses thereto shall not be filed unless ordered by the Court or required for actual use in a proceeding.

Section 3.02 Discovery Disputes

To curtail undue delay, the Court will refuse to rule on any motion for discovery unless moving counsel shall first file with the Court at the time of filing of the motion, a statement certifying that he/she has conferred with counsel for the opposing party in a good faith effort to resolve by agreement the issues raised and that counsel have not been able to do so. If counsel for any party advises the Court in writing that any opposing

counsel has refused or delayed a discussion of the problems covered in this subsection, the Court may take such action as is appropriate to avoid delay.

RULE 4: MOTIONS IN CIVIL CASES

Section 4.01 Motions and Responses

Every motion which may require the resolution of an issue of law and every motion or response in which legal authority is relied upon shall be accompanied by a memorandum of law and facts in support thereof. In all cases involving motions under TRCP 12 or 56, a copy of the motion, memorandum, 56.03 statement of material facts (if applicable), the appropriate excerpts from depositions or hearing transcripts, and any other pleadings and documents (or excerpts from such documents) relied upon or necessary or useful to the Court in ruling on the motion shall be provided directly to the Judge who will hear the motion, sufficiently in advance of the hearing to permit the Judge a reasonable opportunity to appropriately review them. Counsel providing documents to the Judge shall copy all opposing counsel or unrepresented parties with such documents.

Section 4.02 Setting Civil Motions for Hearing

(A) It is the responsibility of counsel upon filing a motion to first confer with opposing counsel and the court secretary to secure a mutually agreeable time for hearing. Upon failure to agree, moving counsel shall give formal notice of a hearing date secured from the court secretary. Any date must be confirmed with the appropriate judge's secretary.

(B) Motions may also be set upon the Court's own motion by notice to Counsel.

Section 4.03 Motions for New Trial or to Alter or Amend Judgment

All motions for a new trial or to alter or amend a judgment must be heard within thirty (30) days of filing. It is the responsibility of counsel filing the motion to secure a timely court date pursuant to Rule 4.02.

RULE 5: SETTLEMENTS

Section 5.01 Notification

Whenever a case is settled or dismissed, it is the duty of counsel to notify the court secretary, Circuit Judge or Chancellor, and all witnesses immediately.

Section 5.02 Presentation of Settlements

Proposed workers' compensation and minors' settlements shall be heard on motion days as per Rule 4.02 or as otherwise set by the Court. See also Rule 17.02.

RULE 6: SETTING CIVIL CASES FOR TRIAL

Section 6.01 Method of Setting

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

- (a) by agreement of counsel with a date secured from the court secretary;
- (b) by motion of counsel; or
- (c) by the Court with notice to counsel.

Section 6.02 Motion to Set

If at any time counsel for any party feels that a certain case is ready for trial and if counsel is not able to reach an agreement on a trial date with other counsel of record, counsel may file a Motion to Set. Said motion shall contain a notice of the time and place for hearing the Motion to Set.

Section 6.03 Trial Certification

Whenever counsel seeks the setting of a case, counsel is deemed to certify the following:

- (1) the case is at issue;
- (2) all depositions have been taken;
- (3) settlement has been attempted, or mediation has been scheduled (or a motion to waive mediation has been filed in compliance with Local Rule 16.02);
- (4) all pending objections and motions have been disposed of;
- (5) all necessary witnesses have been located and, insofar as can be determined, will be available; and
- (6) the case is ready for trial in all respects foreseeable to counsel.

Section 6.04 Civil Docket Calls

Civil Docket Calls for the Circuit and Chancery Courts are abolished.

RULE 7: CONTINUANCES

Section 7.01 General Rules

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

Section 7.02 Absence of Material Witness

The absence of a witness shall not be grounds for a continuance unless a subpoena was issued at least seven (7) days prior to trial for a witness within the county and fourteen (14) days for out-of-county witnesses.

RULE 8: PRE-TRIAL CONFERENCE

Section 8.01 A pre-trial conference shall be held for each case in which the Court determines a conference would be beneficial.

Section 8.02 Each party appearing in the action shall be represented at the pre-trial conference by counsel who will conduct the trial, or by co-counsel with full knowledge of the case and with the authority to bind such party by stipulation. Unrepresented parties shall appear at the pre-trial conference.

Section 8.03 In the event of the failure of a party or parties to appear pursuant to the pre-trial order of the Court, the Court shall take appropriate action, which may include proceeding with either the entry of an order of dismissal, or in the alternative, allowing a party to proceed by default in accordance with Rule 55 of the Tennessee Rules of Civil Procedure.

RULE 9: INTERROGATORIES

Section 9.01 Limited Number

No more than thirty interrogatories shall be served upon any party without leave of the Court, a subpart of an interrogatory counting as an additional interrogatory. Any motion that seeks permission to serve more than thirty interrogatories shall set out the additional interrogatories that counsel is requesting to be served together with the reasons establishing good cause for the service of same. Should a party be served with more than thirty interrogatories, including sub-parts, without order of the Court, that party shall respond only to the first thirty.

Section 9.02 Answer

When answering interrogatories and requests for admissions, the replying party shall, as a part of his/her answer, set forth immediately preceding the answer the question or the request made with respect to which such answer is given.

RULE 10: STATUS CONFERENCE/SETTLEMENT CONFERENCE

Section 10.01 In an effort to expeditiously and economically bring civil actions toward a final conclusion, either the Circuit Court Judge or Chancellor may conduct a status conference with the attorneys for the parties or with any unrepresented party. The Status Conference may be scheduled within one hundred twenty (120) days of the filing of the complaint. It shall be the purpose of the Status Conference to agree upon a Scheduling Order that limits the time:

1. to join other parties;
2. to amend the pleadings;
3. to file and hear motions;
4. to complete discovery;
5. to resolve all other pre-trial matters; and
6. To complete any alternative dispute resolution.

Section 10.02 The Scheduling Order, once entered, shall not be modified except by leave of the Judge upon a showing of good cause. The Status Conference may be waived entirely if the parties can agree upon a Scheduling Order and the Scheduling Order is approved by the Court prior to the scheduled date of the Status Conference.

Section 10.03 If any alternative dispute resolution is unsuccessful and it becomes necessary to try the lawsuit, then either Judge may conduct a Pre-Trial Conference pursuant to Rule 16 of the Tennessee Rules of Civil Procedure and Rule 8 of the Uniform Local Rules of Court.

RULE 11: DORMANT CASES

To expedite cases, the Court may take reasonable measures to purge the docket of all cases where the cases have been dormant for an extended time without cause shown. Cases pending for more than eighteen (18) months may be placed on the dormant list if they have not been set for trial or an appropriate scheduling order has not been entered. A notice that the case is considered as dormant will be sent to the attorneys involved or to the parties if they are not represented. If the action outlined in the dormant notice is not taken, the Court may dismiss the case. Such dismissal shall be without prejudice to re-filing.

RULE 12: WITHDRAWAL OF EXHIBITS

After the final determination of any action, counsel shall have thirty (30) days within which to withdraw exhibits filed. In the event the exhibits are not so withdrawn, the Clerk may destroy or otherwise dispose of such exhibits without further notice to the parties or counsel.

RULE 13: PREPARATION AND SUBMISSION OF ORDERS AND JUDGMENTS IN CIVIL CASES

Unless the Court directs otherwise, attorneys for prevailing parties will prepare orders for entry by the Court. All proposed orders must be submitted to the Judge within ten (10) days following the day on which the ruling is made by the Court. Unless the order is approved by all counsel, the order shall contain an appropriate certificate of service to either opposing counsel or party, if not represented, before the order will be signed by the Judge and entered on the docket.

RULE 14: DOMESTIC AND ADOPTION CASES

Section 14.01 Hearing Dates; Filing of Documents

Uncontested divorce cases may be set at the request of counsel pursuant to Rule 4.02. See also Rule 17.02 as to the setting of uncontested cases. No agreement of the parties otherwise will be effective to supersede any statute requiring a divorce to be on file for a minimum amount of time prior to setting for hearing. In an uncontested case, the proposed Permanent Parenting Plan (with the child support worksheet attached) and Marital Dissolution Agreement, if applicable, shall be tendered to the clerk for placing in the file jacket no later than forty-eight (48) hours prior to the final hearing. The Court will not enter a permanent parenting plan until it has been reviewed by the parenting plan coordinator.

Section 14.02 Contested Cases

At least forty-eight (48) hours before the date of any contested divorce trial, the parties shall file with the Clerk a document executed by both parties which sets forth the parties' real and personal property pursuant to the criteria of T.C.A. § 36-4-121:

- (1) The agreed upon real and personal separate property of each of the parties and the value thereof;
- (2) The agreed upon real and personal marital property of the parties and the value thereof;
- (3) The remaining real and personal property of the parties and the value thereof, the character of which is to be decided by the Court. This last

item consists of all real and personal property of the parties not covered under the first two (2) items.

In all contested divorces, alimony, child support, and modification hearings, each party shall make a separate affidavit concerning income and expenses, which shall be filed with the clerk at least forty-eight (48) hours prior to the hearing. A copy shall be served on opposing counsel.

Section 14.03 Alternative Dispute Resolution

It is the policy of the Court to encourage the settlement of issues in divorce cases and in post-divorce child custody and visitation disputes. In any divorce case which is contested as to any material issue and in all disputes regarding child custody or visitation, the Court shall require the parties to participate in an Alternative Dispute Resolution (hereinafter "ADR") process.

Section 14.04 Injunctions in Domestic Cases

A. As provided by Tennessee Rules of Civil Procedure 65, restraining orders may be granted in domestic relations cases, pending a hearing in the cause, upon a verified complaint or affidavit that the movant's rights are being or will be violated by the adverse party and that the movant will suffer immediate and irreparable injury, loss or damage before notice can be served and a hearing held. A hearing to continue, modify, or dissolve the restraining order shall be scheduled by the moving party within fourteen (14) days of the issuance of the restraining order and appropriate notice of such hearing shall be provided. Counsel preparing a restraining order shall include language setting the case for such a hearing and shall leave blanks for the insertion of the date and time of the hearing.

B. The proof submitted to the Court in any ex parte proceeding wherein extraordinary relief is sought shall be in writing and in verified or affidavit form.

Section 14.05 Child as a Witness

A party requesting to call a minor child as a witness in a divorce case, or where custody or visitation is an issue, shall notify the Court and the adverse party or party's counsel of such intention not later than ten (10) days prior to the ADR session or ten days prior to the final hearing if no ADR session is held.. The Court may require a pre-hearing conference to determine the general nature of the child's testimony and to discuss possible alternatives. Compliance with this rule does not excuse the party from complying with the requirements of T.C.A. § 36-6-102 or other applicable statutes.

Section 14.06 Guardian Ad Litem/Independent Professional Examination

A. In any domestic relations case dealing with minor children or incompetent persons, either party or the Court, on its own motion, may request the appointment of either a guardian ad litem, attorney ad litem, court-appointed special advocate, or an independent professional to investigate the facts of the case and make a report to the Court regarding the findings of such investigation. Both parties shall initially be equally responsible for the fees or costs involved unless there is an agreement that one party shall be solely responsible. The Court may require the parties to deposit funds with the Court to cover the expected costs. Such costs shall be taxed as court costs.

B. In order for the Court to be aware that these issues are pending, the attorneys are required to inform the Court in which the case is pending in writing prior to scheduling the case for trial.

C. In domestic relations cases where the parties propose a split residential arrangement wherein no child support shall be paid by either parent, the Court may, in its discretion, appoint a guardian ad litem, attorney ad litem, or special master to investigate the proposed arrangement and make an appropriate report and recommendation to the Court.

Section 14.07 Parental Cooperation and Responsibilities

(1) The parties are to discuss the discipline of their child/children, including the punishment to be administered by a step-parent, grandparent, or other child-care person when a child is in their care.

(2) Medical, Dental and Optical Expenses: If a party is to pay certain medical, dental or optical expenses, that party must pay the same or make satisfactory arrangements with the provider to pay the bill within twenty (20) days of receipt of a copy of the bill. Bills are to be submitted promptly to the other party but in no event longer than ten (10) days from the receipt. Cooperation is required for the filing of insurance claims. Insurance cards, claims forms, and all other pertinent information must be promptly furnished. Copies of bills are to be hand delivered or mailed to the other parent. In no event should the parties utilize the child/children to transfer the bills between the parties.

(3) Paramours: Any paramour of either parent to whom a parent is not legally married should not spend the night in the presence of, or in the same residence with, any minor child/children of the parties.

(4) Permanent Parenting Plan: A Permanent Parenting Plan shall be filed with the Court at the time a divorce is granted or parenting is changed. The Permanent Parenting Plan shall be on the statewide form.

Section 14.08 Shared Parenting Provisions

The following Shared Parenting Provisions are to be used as guidelines to establish shared parenting schedules. These provisions may be modified on a case by case basis by agreement of the parties, subject to approval of the Court, or when the Court deems modification appropriate and in the child's best interests.

(1) Weekend Time: The parent who does not provide the primary residence for the child or children shall have the children on alternate weekends from Friday at 6:00 p.m. until Sunday at 6:00 p.m.

(2) Summer Vacation: The parent who does not provide the primary residence for the child or children shall have parenting time from June 7 through June 21 and July 7 through July 21 each year. Child support payments will continue to be made in full during the summer.

(3) Christmas Vacation: The Christmas vacation shall be equally divided between the parents, with Christmas Eve and Christmas day specifically divided as follows: In even numbered years the parent who does not provide the primary residence for the child shall have the child or children from 6:00 p.m. on December 24 until 1:00 p.m. on Christmas Day. In odd numbered years the parent who provides the primary residence for the child shall have the child or children from 6:00 p.m. on Christmas Eve until 1:00 p.m. on Christmas Day. The remaining Christmas vacation shall be equally divided on such basis as the parents may agree.

(4) Thanksgiving Holiday: The parent who does not provide the primary residence shall have parenting time in the even numbered years from 6:00 p.m. on Thanksgiving Eve until Friday at 6:00 p.m. In the odd numbered years the parent who does not provide the primary residence shall have the children from 6:00 p.m. on Friday until 6:00 p.m. on Sunday.

(5) Spring and Fall Breaks: There are schools within the Judicial District that have a two (2) week Spring Break and a two (2) week Fall Break. For those schools that have a two (2) week Spring Break and a two (2) week Fall Break the following schedule applies:

Spring Break: The parent who does not provide the primary residence for the child or children shall have the child or children during the first week of spring break beginning at 6:00 p.m. on the day school is dismissed until 6:00 p.m. the following Friday. The parent who does provide the primary residence for the child or children shall have the child or children the second week of Spring Break.

Fall Break: The parent who provides the primary residence for the child or children shall have parenting time the first week of Fall Break from 6:00 p.m. the day school is out until 6:00 p.m. the following Friday. The parent who does not provide the primary residence for the child or children shall have parenting time the second week of Fall

Break beginning at 6:00 p.m. the Friday after school is dismissed and continuing until 6:00 p.m. the following Friday.

There are also schools within the Judicial District that have a one (1) week Spring Break and one (1) week Fall Break. For those schools which have a one (1) week Spring Break and a one (1) week Fall Break the following schedule applies:

In the even numbered years the parent who provides the primary residence shall have parenting time during Spring Break. In the even numbered years the parent who does not provide the primary residence shall have parenting time during the fall break.

In the odd numbered years the parent who does not provide the primary residence for the minor child or children shall have parenting time during Spring Break. The parent who does provide the primary residence shall have parenting time during the Fall Break.

(6) Major Holidays: The parent who does not provide the primary residence for the minor child or children shall in the even numbered years have parenting time on the major holidays of Martin Luther King Day, Memorial Day and Labor Day. In odd years the parent who does not provide the primary residence for the child or children shall have President's Day and July 4th.

(7) Mother's Day/Father's Day: The child or children shall be with the Mother the entire Mother's Day weekend. The child or children shall be with the Father the entire Father's Day weekend. Weekends for purpose of this provision shall begin at 6:00 p.m. on Friday and end at 6:00 p.m. on Sunday.

(8) Weekend Conflicts: In the event the above schedule deprives the non-custodial parent of regular weekend parenting time with the child or children the parties must fully cooperate in rearranging and rescheduling another weekend for such non-custodial parent.

(9) Telephone Communication: Both parties may call a child at reasonable intervals and times. Further, the child should be allowed to telephone the parents at all reasonable times.

(10) Transportation: Transportation with regard to the above schedule shall be provided by the parent who is receiving the child/children. For example, the non-custodial parent shall provide transportation and pickup the child/children at 6:00 p.m. on Fridays, and the custodial parent is to provide transportation and pick-up the child/children at 6:00 p.m. on Sundays.

Section 14.09 Adoptions

Adoptions may be set at the request of counsel. See also Rule 17.02 as to the setting of uncontested cases. An adoption shall not be heard until it has been on file for at least thirty (30) days. No agreement of the parties otherwise will be effective to supersede this rule. The party filing the adoption petition shall prepare and tender an order of reference, when required, within ten days of the filing of the petition. Home studies, when required, shall be filed with the Court at least 48 hours prior to the hearing.

RULE 15: PROCEDURE IN CRIMINAL CASES

Section 15.01 Arraignments

Arraignments for those indicted in Dyer County shall be conducted on the next Monday beginning at 1:00 p.m. or as soon as possible after indictment. Arraignments for those indicted in Lake County shall be conducted on the next Monday at 1:00 p.m. or as soon as possible after indictment. All persons indicted as well as all retained or appointed attorneys, including attorneys who were appointed to represent any indicted person at the preliminary hearing, must be present on said date and time.

Section 15.02 Appearance Dates

Upon arraignment of a defendant, said defendant and his counsel shall be given an appearance date. Between arraignment and the appearance date, the Court may entertain a plea based upon a plea agreement. Otherwise, on the appearance date, the defendant, defendant's counsel and a representative of the Attorney General's Office shall appear and at that time, the Court will either:

- (1) consider a plea pursuant to a plea agreement;
- (2) set the case for trial for a date certain;
- (3) reset the appearance for a definite date; or
- (4) dismiss the case.

There will be no negotiations conducted while court is in session on the appearance date. Defense counsel must contact the district attorney's office prior to the appearance date to discuss the case. Plea agreements shall only be accepted prior to the deadline set by the Court.

RULE 16: MEDIATION

Section 16.01 Referral of Cases

Pursuant to Rule 31 of the Rules of the Supreme Court of the State of Tennessee and in accordance with the standing Order of Reference issued by the Circuit and Chancery Courts of Dyer and Lake Counties, each and every eligible civil action, as defined by Rule 31 Section 2(d), is referred to mediation, it being determined that the implementation of such procedure shall expedite and enhance the efforts of the courts to secure the just, speedy and inexpensive determination of disputes.

Section 16.02 Excepted Cases

Upon motion of any party, an eligible civil action hereby referred for mediation may be excepted from the requirements of this rule should the Court determine, in its sound discretion, that the referenced civil action is not appropriate for mediation.

Section 16.03 Setting Trial Date

In addition to the procedures established by Rule 6 of these local rules, no eligible civil action (as previously defined) may be set for a trial or final hearing on the merits unless and until such matter has first been scheduled for mediation or, alternatively, a motion has been filed pursuant to Section 16.02 seeking to waive the requirement of mediation for such civil action.

Section 16.04 Mediator's Compensation

The mediator's fee shall be borne by the parties equally, initially, subject to possible reapportionment at trial or through further orders assessing such costs.

RULE 17: INTERCHANGE

Section 17.01 Order of Interchange

The trial judges within the district may freely interchange in both civil and criminal cases without the necessity of notice or entry of a formal order of interchange.

Section 17.02 Presentation of Uncontested Divorces, Workers' Compensation Settlements and Other Uncontested Matters

Uncontested divorces, workers' compensation settlements, minors' settlements and any other uncontested matter may be heard by either trial judge regardless of the court in which the matter was filed. No order of interchange shall be required. The purpose of this Rule is to expedite such uncontested matters when the judge of the court in which the matter is pending may not be as readily available as the other judge.

**RULE 18: BENEFIT REVIEW CONFERENCE FOR
CONTESTED WORKERS' COMPENSATION CASES**

Counsel for the parties are responsible for insuring that a copy of the benefit review conference report is filed with the clerk in workers' compensation cases.

RULE 19: CASES/ISSUES TAKEN UNDER ADVISEMENT

It is the practice of the courts of this district to rule as quickly as possible on pending matters and avoid taking cases under advisement. There are instances, however, when this will occur. If the court takes a matter under advisement and no decision is issued within sixty (60) days from the hearing date, the attorneys are authorized to contact the court in accordance with these rules to inquire as to the status.

RULE 20: REQUESTS FOR ATTORNEY FEES

When the amount of an attorney fee or the award thereof is an issue, an attorney shall file an affidavit setting forth or incorporating a detailed statement itemizing the services rendered, the amount of time expended, and a suggested fee. Counsel should familiarize him/herself with the applicable RPC provisions in order to respond to any questions the Court may have regarding the award of a fee.

These Local Rules of Court for the Twenty-Ninth Judicial District are hereby adopted and shall take effect on _____.

**J. STEVEN STAFFORD
CHANCELLOR**

**R. LEE MOORE, JR.
CIRCUIT JUDGE**