

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

FILED
11/01/2018
Clerk of the
Appellate Courts

**IN RE: AMENDMENTS TO RULES 10B AND 11
RULES OF THE TENNESSEE SUPREME COURT**

No. ADM2018-01751

ORDER

On September 25, 2018, the Court filed an order soliciting public comments on proposed amendments to Rules 10B and 11 of the Rules of the Tennessee Supreme Court. The deadline for submitting written comments was October 26, 2018. The Court received only one written comment during the comment period, a comment from the Tennessee Bar Association supporting the proposed amendments.

After due consideration, the Court hereby adopts the amendments to Rules 10B and 11 of the Rules of the Tennessee Supreme Court, as set out in the attached Appendix. The amendments shall take effect immediately upon the filing of this Order.

The Clerk shall provide a copy of this Order, including the Appendix, to LexisNexis and to Thomson Reuters. In addition, this Order, including the Appendix, shall be posted on the Tennessee Supreme Court's website.

IT IS SO ORDERED.

PER CURIAM

APPENDIX

AMENDMENTS TO TENNESSEE SUPREME COURT RULES 10B AND 11

[New text is indicated by underlining/Deleted text is indicated by striking]

Rule 10B. Disqualification or Recusal of a Judge; Filing and Disposition of Motions and Appeal

The procedures set out in this rule shall be employed to determine whether a judge should preside over a case.

Section 1. Motion Seeking Disqualification or Recusal of Trial Judge of Court of Record.

1.01. Any party seeking disqualification, recusal, or a determination of constitutional or statutory incompetence of a judge of a court of record, or a judge acting as a court of record, shall do so by a timely filed written motion. The motion shall be supported by an affidavit under oath or a declaration under penalty of perjury on personal knowledge and by other appropriate materials. The motion shall state, with specificity, all factual and legal grounds supporting disqualification of the judge and shall affirmatively state that it is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. A party who is represented by counsel is not permitted to file a pro se motion under this rule.

1.02. While the motion is pending, the judge whose disqualification is sought shall make no further orders and take no further action on the case, except for good cause stated in the order in which such action is taken.

1.03. Upon the filing of a motion pursuant to section 1.01, the judge shall act promptly by written order and either grant or deny the motion. If the motion is denied, the judge shall state in writing the grounds upon which he or she denies the motion.

1.04. *Designation Procedure.* A judge who recuses himself or herself, whether on the judge's own initiative or on motion of a party, shall not participate in selecting his or her successor, absent the agreement of all parties. With the agreement of all parties to the case, the judge may seek an interchange in accordance with Tenn. Sup. Ct. R. 11, § VII(c)(1). Otherwise, the presiding judge of the court shall effect an interchange in accordance with Tenn. Sup. Ct. R. 11, § VII(c)(2) and/or (3) in sequential order. If the presiding judge is the recused judge, the presiding judge shall take no action in selecting a successor. In such cases, the presiding judge pro tempore of the court shall effect an interchange in accordance with Tenn. Sup. Ct. R. 11, § VII(c)(2) or (3). If an interchange cannot be effected by following the above procedure in sequential order, or if the presiding judge is the recused judge, the presiding judge or the presiding judge pro tempore shall request —by using the designation request form appended to this rule—the designation of a judge by the Chief Justice, pursuant to Tenn. Sup. Ct. R. 11, § VII(c)(4). In a judicial district where the presiding judge is the only judge and he or she recuses himself or herself, the judge shall skip the sequential steps set forth in Tenn. Sup. Ct. R. 11, § VII(c)(2) and (3) and instead request the designation of a judge by the Chief Justice,

pursuant to Tenn. Sup. Ct. R. 11, § VII(c)(4), using the designation request form. Similarly, if the recusing judge is a general sessions judge or juvenile court judge, and he or she is the only general sessions or juvenile court judge in that county, the judge shall skip the sequential steps set forth in Tenn. Sup. Ct. R. 11, § VII(c)(2) and (3) and instead request the designation of a judge by the Chief Justice, pursuant to Tenn. Sup. Ct. R. 11, § VII(c)(4), using the designation request form. Special permission to skip the sequential steps may be granted by the Chief Justice for good cause shown.

Section 2. Appeal From Trial Court’s Denial of Disqualification or Recusal Motion.

2.01. If the trial court judge enters an order denying a motion for the judge’s disqualification or recusal, or for determination of constitutional or statutory incompetence, the trial court’s ruling either can be appealed in an accelerated interlocutory appeal as of right, as provided in this section 2, or the ruling can be raised as an issue in an appeal as of right, see Tenn. R. App. P. 3, following the entry of the trial court’s judgment. These two alternative methods of appeal—the accelerated interlocutory appeal or an appeal as of right following entry of the trial court’s judgment—shall be the exclusive methods for seeking appellate review of any issue concerning the trial court’s denial of a motion filed pursuant to this rule. In both types of appeals authorized in this section, the trial court’s ruling on the motion for disqualification or recusal shall be reviewed by the appellate court under a de novo standard of review, and any order or opinion issued by the appellate court should state with particularity the basis for its ruling on the recusal issue.

2.02. To effect an accelerated interlocutory appeal as of right from the denial of a motion for disqualification or recusal of the trial court judge, a petition for recusal appeal shall be filed in the appropriate appellate court within twenty-one days of the trial court’s entry of the order. In civil cases, a bond for costs as required by Tenn. R. App. P. 6 shall be filed with the petition. A copy of the petition shall be promptly served on all other parties, and a copy also shall be promptly filed with the trial court clerk. For purposes of this section, “appropriate appellate court” means the appellate court to which an appeal would lie from the trial court’s final judgment in the case.

2.03. The petition for recusal appeal shall contain:

- (a) A statement of the issues presented for review;
- (b) A statement of the facts, setting forth the facts relevant to the issues presented for review;
- (c) An argument, setting forth the contentions of the appellant with respect to the issues presented, and the reasons therefor, including the reasons why the contentions

require appellate relief, with citations to the authorities; and

(d) A short conclusion, stating the precise relief sought.

The petition shall be accompanied by a copy of the motion and all supporting documents filed in the trial court, a copy of the trial court's order or opinion ruling on the motion, and a copy of any other parts of the trial court record necessary for determination of the appeal.

2.04. The filing of a petition for recusal appeal does not automatically stay the trial court proceeding. However, either the trial court or the appellate court may grant a stay on motion of a party or on the court's own initiative, pending the appellate court's determination of the appeal.

2.05. If the appellate court, based upon its review of the petition for recusal appeal and supporting documents, determines that no answer from the other parties is needed, the court may act summarily on the appeal. Otherwise, the appellate court shall order that an answer to the petition be filed by the other parties. The court, in its discretion, also may order further briefing by the parties within the time period set by the court.

2.06. An accelerated interlocutory appeal shall be decided by the appellate court on an expedited basis. The appellate court's decision, in the court's discretion, may be made without oral argument. Tenn. R. App. P. 39 ("Rehearing") does not apply to the appellate court's decision on an accelerated interlocutory appeal, and a petition for rehearing pursuant to that rule is therefore not permitted in such appeals.

2.07. In an accelerated interlocutory appeal decided by either the Court of Appeals or the Court of Criminal Appeals, a party may seek the Supreme Court's review of the intermediate court's decision by filing an accelerated application for permission to appeal. The application shall be filed in the Supreme Court within twenty-one days of the filing date of the intermediate court's order or opinion. The accelerated application shall include an appendix containing: (a) copies of the petition and supporting documents filed in the intermediate appellate court; (b) copies of any answer(s) filed by order of the intermediate appellate court; and (c) a copy of the order or opinion filed by the intermediate appellate court. A copy of the accelerated application for permission to appeal shall be promptly served on all other parties. In civil cases in which the party seeking the Supreme Court's review is not the party that filed the accelerated interlocutory appeal in the intermediate court, the party filing the accelerated application shall file with the application a bond for costs as required by Tenn. R. App. P. 6.

If the Supreme Court, based upon its review of the accelerated application for permission to appeal, determines that no answer from the other parties is needed, the Court may act summarily on the accelerated application. Otherwise, the Court shall order

that an answer to the application be filed by the other parties. The Court, in its discretion, also may order further briefing by the parties within the time period set by the Court. The Supreme Court shall decide the appeal on an expedited basis upon a de novo standard of review and, in its discretion, may decide the appeal without oral argument.

The accelerated application for permission to appeal authorized by this section 2.07 is the exclusive method for seeking the Supreme Court's review of the intermediate court's ruling on an accelerated interlocutory appeal filed under section 2. The provisions of Tenn. R. App. P. 11 therefore do not apply to such appeals.

2.08. The time periods for filing a petition for recusal appeal pursuant to section 2.02 and for filing an accelerated application for permission to appeal to the Supreme Court pursuant to section 2.07 are jurisdictional and cannot be extended by the court. The computation of time for filing the foregoing matters under section 2 shall be governed by Tenn. R. App. P. 21(a).

Section 3. Motion Seeking Disqualification or Recusal of Appellate Judge or Justice.

3.01. Any party seeking disqualification, recusal, or a determination of constitutional or statutory incompetence of a judge or justice of an appellate court shall do so by a timely filed written motion. The motion shall be supported by an affidavit under oath or a declaration under penalty of perjury on personal knowledge and by other appropriate materials; the motion shall state, with specificity, all factual and legal grounds supporting disqualification of the judge or justice and shall affirmatively state that it is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. A party who is represented by counsel is not permitted to file a pro se motion under this rule.

3.02. (a) Upon the filing of a motion seeking disqualification, recusal, or determination of constitutional or statutory incompetence of an intermediate appellate judge, the judge in question shall act promptly by written order and either grant or deny the motion. If the motion is denied, the judge shall state in writing the grounds upon which he or she denies the motion. If the judge denies the motion, the movant, within twenty-one days of entry of the order, may file a motion for court review to be determined promptly by three other judges of the intermediate court upon a de novo standard of review.

(b) If a motion is filed seeking disqualification, recusal, or determination of constitutional or statutory incompetence of more than one judge of the intermediate appellate court ("recusal motion"), and if the recusal motion is denied by the judges in question, the movant, within twenty-one days of entry of the order, may file a motion for court review to be determined promptly by three other judges of the intermediate

appellate court who were not subjects of the recusal motion, upon a de novo standard of review. If there are not three judges of the intermediate appellate court who were not subjects of the recusal motion, then a motion for court review pursuant to this section 3.02(b) is not available; under such circumstances, the order denying the recusal motion may be appealed pursuant to section 3.02(c).

(c) If the motion for court review is denied, or if a motion for court review is not available pursuant to the second sentence of section 3.02(b), an accelerated appeal as of right lies to the Tennessee Supreme Court, which shall expeditiously decide the appeal based upon the petition and other papers filed in the intermediate appellate court. The appeal to the Supreme Court shall be titled “recusal appeal from the [Court of Appeals or Court of Criminal Appeals]” and shall be filed within twenty-one days of the intermediate appellate court's order denying the motion for court review or, if a motion for court review was not available pursuant to the second sentence of section 3.02(b), within twenty-one days of the order denying the motion seeking disqualification or recusal of the appellate judges in question.

3.03. (a) If a motion is filed seeking disqualification, recusal, or determination of constitutional or statutory incompetence of a Supreme Court justice, the justice in question shall act promptly by written order and either grant or deny the motion. If the motion is denied, the justice shall state in writing the grounds upon which he or she denies the motion. If the justice denies the motion, the movant, within twenty-one days of entry of the order, may file a motion for court review, which shall be determined promptly by the remaining justices upon a de novo standard of review.

(b) If a motion is filed seeking disqualification, recusal, or determination of constitutional or statutory incompetence of all of the justices of the Supreme Court, and if the motion is denied by the justices, no motion for court review shall be available pursuant to section 3.03(a).

3.04. The time periods for filing a motion for court review pursuant to sections 3.02(a), 3.02(b), or 3.03(a) and for filing a “recusal appeal from the [Court of Appeals or Court of Criminal Appeals]” pursuant to section 3.02(c) are jurisdictional and cannot be extended by the court. The computation of time for filing the foregoing matters under section 3 shall be governed by Tenn. R. App. P. 21(a).

Section 4. Motion Seeking Disqualification or Recusal of Judicial Officer Other Than Judge of Court of Record.

4.01. Any party seeking disqualification, recusal, or a determination of constitutional or statutory incompetence of a judicial officer acting in a capacity other than as judge of a court of record or as an appellate judge shall do so by timely making a written or oral motion. A written motion shall be supported by an affidavit under oath or a declaration

under penalty of perjury on personal knowledge and by other appropriate materials. A motion, whether written or oral, shall state with specificity all factual and legal grounds supporting disqualification of the judge and shall affirmatively state that it is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. A party who is represented by counsel is not permitted to make a pro se motion under this rule.

4.02. While the motion is pending, the judicial officer whose disqualification is sought shall make no further orders and take no further action on the case, except for good cause stated in the order in which such action is taken.

4.03. Upon the making of a motion pursuant to section 4.01, the judicial officer shall act promptly and, in writing, either grant or deny the motion. A written notation of the ruling on the judgment, warrant, citation, or other pleading before the judicial officer shall meet the writing requirement of the foregoing sentence; a separate written order is not required.

4.04. Judicial review of the denial of a motion made under section 4.01 necessarily depends on the forum in which the motion is made and is governed by the law applicable to that forum.

Section 5. Right to File Ethical Complaint Unaffected.

The provisions of this rule do not affect the right of any person to file an ethical complaint against a judge pursuant to Title 17, Chapter 5, Tennessee Code Annotated.

REQUEST FOR DESIGNATION OF JUDGE

Presiding Judge/Presiding Judge Pro Tem _____

Name (Print or Type)

Judicial District _____ Recusing Judge _____

Case Name & Docket # _____

County _____ Court _____

Case Information: Jury Case _____ Non-Jury Case _____

Brief description and estimated length of case _____

I, as Presiding Judge/Presiding Judge Pro Tem, pursuant to Tenn. Sup. Ct. R. 11, § VII(c)(2) and Tenn. Code Ann. § 16-2-509(c), have contacted the judges within my judicial district and have

been unable to assign the case listed above by interchange to any trial judge within my judicial district.

I, pursuant to Tenn. Sup. Ct. R. 11, § VII(c)(3) and Tenn. Code Ann. § 16-2-509(d), have also contacted the Presiding Judge within our contiguously located judicial districts and have been unable to assign the case by interchange to other trial judges within adjoining judicial districts.

This case has been set for hearing on _____.
_____ (provide date, if applicable)

Pursuant to Tenn. Code Ann. §§ 16-3-502(3)(A) and 17-2-110, I hereby certify to the Chief Justice of the Tennessee Supreme Court that I have unsuccessfully attempted to arrange an interchange by following the sequential steps set forth in Tenn. Sup. Ct. R. 11, § VII(c). Therefore, I respectfully request that the Chief Justice designate another judge or chancellor to hear and decide the case(s) in this matter.

Signature of Presiding Judge/Presiding Judge *Pro Tem*

Administrative Office of the Courts
Attn: Designation Coordinator
Nashville City Center, Suite 600
511 Union Street
Nashville, TN 37219
designation.coordinator@tncourts.gov
Fax: 615-741-6285

Rule 11. Supervision of the Judicial System

I. General. This Rule is promulgated pursuant to the inherent power of this Court and particularly the following sub-sections of T.C.A. Code Ann. § 16-3-502(3), providing that the Supreme Court shall have the power:

(1) To designate and assign temporarily any judge or chancellor to hold, or sit as a member of any court, of comparable dignity or equal or higher level, for any good and sufficient reason.

* * *

~~-(42)~~ To take affirmative and appropriate action to correct or alleviate any imbalance in case loads among the various judicial circuits and chancery divisions of the state.

~~-(53)~~ To take affirmative and appropriate action to correct or alleviate any condition or situation adversely affecting the administration of justice within the state.

(64) To take all such other, further and additional action as may be necessary to the orderly administration of justice within the state, whether or not herein or elsewhere enumerated.

Its purpose is as follows:

- a. to correct or alleviate caseload imbalances in the various judicial circuits and chancery divisions of the State.
- b. to reduce docket congestion thereby holding trial delays to a minimum.
- c. to promote the orderly and efficient administration of justice within the State.

II. Functional Improvement of Judicial System—Uniform Procedures for Data Collection in Civil and Criminal Matters in Circuit, Criminal, Chancery, Probate, and General Sessions Courts.

a. The judicial system of this State henceforth will function as an integrated unit under the direction and supervision of the Supreme Court.

b. Pursuant to its statutory duty to assist the Chief Justice of the Tennessee Supreme Court in improving the administration of justice, the Administrative Office of the Courts (AOC), working with a committee of representatives from the District Attorneys' General Conference, the Public Defenders' Conference, the Tennessee Judicial Conference, and the Clerks of Court Conference, has developed a procedure for the collection of uniform statistical data on matters filed in the Circuit, Criminal, and Chancery Courts of this state.

c. The Court finds that the data collection procedure designed by the Administrative Office of the Courts, in conjunction with the above-named committee, will aid in the accomplishment of the AOC's statutory duties, (~~T.C.A.~~[Tenn. Code Ann.](#) § 16-3-803(g)), that the collection of statistical data by the AOC is specifically authorized by statute (~~T.C.A.~~[Tenn. Code Ann.](#) § 16-3-803(i)); and that all judges, clerks of court, district attorneys general, district public defenders, other officers or employees of the courts, and all staff of offices or employees related to and serving the courts, are charged with complying with all requests for information from the Administrative Director of the Courts. Further, to ensure that comparable data is collected from all of the courts, data collection shall follow the standard definition of a case as set forth in ~~T.C.A.~~[Tenn. Code Ann.](#) § 16-1-117.

(1) Reporting Forms; Responsibility for Submission. Each clerk of a circuit, criminal, chancery, probate, general sessions, or municipal court with general sessions jurisdiction is responsible for submitting the forms required by this rule to the Technology Services

Division of the Administrative Office of the Courts. Submission of forms specified by this rule shall be filed with the AOC not later than fifteen (15) days after the close of the month in which the case was filed and also the month in which it was disposed. Pursuant to the procedure, the AOC will provide a supply of the Civil Case Cover Sheets and the Criminal Case Cover Sheets, FORM NOS. TJIS/CI1 and TJIS/CR1, to the clerks of the Circuit, Criminal, Chancery, and Probate Courts. General Sessions Courts and Municipal Courts with general sessions jurisdiction will be provided with copies of FORM NOS. TJISGSCR1 and TJISGCCV1.

Clerks for courts of record other than juvenile court shall require that any complaint and summons filed to commence, reopen, or reinstate a civil action shall be accompanied by a Civil Case Cover Sheet for reopened cases, FORM NO. TJIS/CI3, which has been completed by the initiating party or his/her representative. The clerks shall also require a new Civil Case Cover Sheet (Reopened Cases) to be completed upon the grant of a new trial. Upon issuance of a final order disposing of the case, the clerk of court shall complete the disposition portion of the Civil Case Cover Sheet in full. A portion of the cover sheet containing this disposition information shall then be forwarded to the AOC on a monthly basis.

In addition, the clerks of courts of record other than juvenile shall require that any indictment, presentment or criminal information that initiates a criminal action in circuit or criminal court shall be accompanied by a Criminal Case Cover Sheet which has been completed by the district attorney general or his/her office. The clerks shall complete a new Criminal Case Cover Sheet upon the grant of a new trial, upon a case appealed from a lower court, or upon any petition to re-open or reinstate a criminal action. Upon issuance of a final order or judgment disposing of the case, the clerk of the court shall complete the disposition portion of the Criminal Case Cover Sheet for each docket number and all related charges. When all charges on the form have been disposed of, these forms shall be forwarded by the clerk of court, on a monthly basis, to the AOC.

Effective July 1, 2001, clerks' offices that are automated shall report statistical information monthly to the AOC by computer diskette or electronic mail attachment. In the event that a clerk is unable to do so due to technical difficulties, the clerk may report by sending the completed Criminal Case Cover Sheets and/or Civil Case Cover Sheets to the AOC.

(2) Administrative Director; Reports Public Record When Filed. All reports specified by these rules shall be public records. The Administrative Director of the Courts shall publish an annual compilation of the reports. All judges, court clerks, district attorneys general, district public defenders, and officers of the court shall cooperate with the Administrative Director to ensure the accuracy of the reports. As required by statute, the Administrative Director of the Courts shall annually report to the Chair of the Judicial Council, the Chair of the Judiciary Committee of the Senate, the Chair of the Judiciary

Committee of the House of Representatives, and the Office of the Comptroller Division of Research and Accountability as to the failure of any judge, district attorney general, district public defender, or court clerk to comply with any of the reporting requirements. Compliance with the reporting requirements includes, but is not limited to, submitting cover sheets within the fifteen (15) day time frame, submitting data every month, submitting data according to Implementation Manual guidelines, and using correct case numbering and definitions.

The Administrative Office of the Courts will provide written notification to any responsible reporting party found not to be in compliance with the statute or reporting guidelines. Written notification will detail the type of non-compliance and recommend the corrective action to be taken. If compliance is not achieved during the subsequent reporting period following notification, the Administrative Office of the Courts will no longer accept data from the office not in compliance, until such time as the error(s) are corrected. Notification of this action will be sent to all judges, district attorneys general, district public defenders, and court clerks within the district that the non-complying office is located in. Notification will also be sent to the District Attorney General Conference, the District Public Defender Conference, the Administrative Office of the Courts, and the County Officials Association of Tennessee. Any periods of non-compliance will also be reported in the annual report to the Judicial Council and the chairs of the House and Senate Judiciary Committees.

The Technology Services Division of the AOC shall provide an Implementation Manual that contains commentary and explanatory material pertaining to these rules and the report forms required by these rules. The Implementation Manual shall also contain a dictionary of terms to be used for case reporting, and how the terms will be defined for reporting purposes.

(3) Case Counting. For purposes of this rule, the term “docket number” is defined as the separate and distinct identification number used for a case once it is filed in criminal, circuit, chancery, or probate court.

Each criminal case shall be assigned a unique docket number. A criminal case shall be defined and reported as a single charge or set of charges arising out of a single incident concerning a single defendant in one (1) court proceeding. An incident shall be all criminal activity occurring on the same date. A court proceeding refers to a single level of court, such as general sessions or circuit. An appeal, probation revocation, or other post-judgment proceeding shall be considered a separate case. This definition shall not alter the practice in the Tennessee rules of criminal procedure dealing with joinder and severance of criminal cases. In addition, in courts of record, multiple incidents shall be counted as a single case when the charges are of a related nature and it is the district attorney general's intention that all of the charges be handled in the same court proceeding pursuant to a single charging document.

A civil case shall be defined as all motions, petitions, claims, counter claims, or proceedings between the parties resulting from the initial filing until the case is disposed. A docket number will be assigned to a civil case upon filing. Until said cases are disposed all subsequent motions, petitions, claims, counter claims, or proceedings between the parties resulting from the initial filing will be handled under the assigned docket number and will not be assigned a new docket number. Once a civil case has been disposed and further actions occur on the case, the original case will be reopened using the same docket number under which it was originally filed. All subsequent motions, petitions, claims, counter claims, and proceedings relating to the reopened case will be handled under the one reopened case docket number until disposed. Any subsequent reopenings will still use the original docket number.

(4) General Sessions Reporting. Effective July 1, 2003, or sooner if practical, all general sessions courts and municipal courts with general sessions jurisdiction shall collect and report to the AOC all civil and criminal case data in accordance with the definitions provided under Part (3) above and guidelines published by the AOC.

Clerks of general sessions and municipal courts with general sessions jurisdiction shall file monthly reports with the AOC using FORM NOS. TJISGSCR1 and TJISGSCV1. Forms shall be submitted no later than the fifteenth (15) day of month following the month for which data is being reported.

General sessions courts and municipal courts with general sessions jurisdiction having an automated case management system shall report the collected data in accordance with the guidelines by diskette or e-mail submission.

The following procedures are instituted in the thirty-one (31) judicial districts of this state.

III. Procedure for Designation of Presiding Judges; Assignment of Cases; Cases Under Advisement.

a. *Presiding Judge.* In each judicial district all judges will select one from their number to serve as presiding judge beginning September 1 of each year. In August of each year, the judges within each district shall assemble at the call of the presiding judge and select a successor to such presiding judge who shall serve until September 1 of the next succeeding year. A presiding judge shall be eligible to succeed him or herself. If upon any selection date the judges in any district fail to choose or are unable to agree upon the selection of a presiding judge, the Chief Justice of the Supreme Court shall designate one of their number to serve.

b. *Presiding Judge Pro Tempore.* Each judicial district shall select one from their

number to serve as presiding judge pro tempore beginning September 1 of each year. The presiding judge pro tempore will be selected in the same manner as the presiding judge. The presiding judge pro tempore's primary responsibility will be to effect interchange when the presiding judge recuses himself or herself from a case.

cb. *Assignment of Cases.* Cases shall be assigned by, or under the supervision of the presiding judge, and all judges will hear and determine cases without regard to their nature or the category of cases normally heard, and determined by any particular judge. The major objective of presiding judges should be to achieve an equitable distribution of the workload and an equal sharing of the bench and chamber time necessary to dispose of the total case load within acceptable time limits.

de. *Cases Under Advisement.* No case may be held under advisement in excess of sixty days and no motion, or other decision of the trial judge that delays the date of trial or final disposition in the trial court, shall be held under advisement for more than thirty days, absent the most compelling of reasons. (See [T.C.A. Tenn. Code Ann. § 20-9-506](#).) A MOTION TO RENDER DECISION may be filed with the presiding judge and the circuit justice, or either of them by any attorney of record in a case, setting out the facts said to constitute a failure to comply with this rule.

ed. It shall be the duty of the presiding judge to:

- (1) Reduce docket delays and hold congestion to a minimum;
- (2) Seek and maintain an equitable distribution of the workload and an equal sharing of the bench and chambers time necessary to dispose of the business of the district;
- (3) Promote the orderly and efficient administration of justice within the district;
- (4) Take immediate and affirmative action to correct or alleviate any caseload imbalance, or any condition adversely affecting the administration of justice within the district; and
- (5) To effectuate the above duties, the presiding judge may assign cases to judges and chancellors within the district. In assigning cases, the presiding judge shall, whenever possible and not detrimental to the orderly and efficient administration of justice, give due regard to the court upon which the judge or chancellor serves, the judge's or chancellor's particular background, experience and preference and economy of judicial travel time.

fe. If a presiding judge finds that he/she is unable to correct a caseload imbalance or reduce docket delays utilizing the available judges within the district, it shall be the affirmative duty of such presiding judge to contact the circuit justice for that judicial

district. (See [T.C.A. Tenn. Code Ann. § 16-2-509](#)).

IV. Assignment of Judges. The director of the Administrative Office of the Courts has been instructed to make a continuing survey of case loads, docket congestion and related matters.

Circuit and criminal judges and chancellors will be assigned from time to time by order of the Supreme Court to hold court in other circuits and divisions when necessary to promote the orderly and efficient administration of justice.

V. Circuit Justices. In order to supervise the procedures herein set forth and to carry out the general supervisory power of this Court, each member of the Supreme Court has been designated as Circuit Justice for the judicial districts as follows:

Circuit No. 1

Circuit Justice Sharon G. Lee

The 1st, 2nd, 3rd, 4th, 5th, 6th, 7th and 8th Judicial Districts.

Circuit No. 2

Circuit Justice Roger A. Page

The 9th, 10th, 11th, 12th, 13th and 31st Judicial Districts.

Circuit No. 3

Circuit Justice Cornelia A. Clark

The 14th, 15th, 16th, 18th, 19th and 20th Judicial Districts.

Circuit No. 4

Circuit Justice Jeffrey S. Bivins

The 17th, 21st, 22nd, 23rd, 24th and 26th Judicial Districts.

Circuit No. 5

Circuit Justice Holly M. Kirby

The 25th, 27th, 28th, 29th and 30th Judicial Districts.

It shall be the responsibility of the Circuit Justices to aid, assist and supervise in the responsibility of this rule, under the Chief Justice who is recognized to be the executive head of the Judicial Department of Tennessee.

VI. Administration of the Civil Legal Representation of Indigents Fund.

a. (1) Revenue deposited into the Civil Legal Representation of Indigents Fund in the Office of the State Treasurer, pursuant to Public Acts, 1995, Chapter 550, and Public Acts 1999, Chapter 502, shall be paid quarterly by the Treasurer to the four not-for-profit

legal organizations listed below, in the corresponding percentage listed for each organization. This funding percentage, like the funding percentage to each organization within the Legal Services Corporation, is based on the poverty populations of the service area of each organization. The four organizations and their respective percentages are:

Legal Aid Society of East Tennessee	31.79%
Legal Aid Society of Middle Tennessee and the Upper Cumberland	39.55%
Memphis Area Legal Services	19.78%
West Tennessee Legal Services	8.88%

(2) Pursuant to Public Acts, 2001, Chapter 456, Section 7, Paragraph (2), twenty-five percent (25%) of the proceeds deposited into the Civil Legal Representation of Indigents Fund, as a result of Public Chapter 456, shall be paid to the Tennessee Alliance for Legal Services, a statewide non-profit organization providing continuing legal education, technology support, planning assistance, resource development and other support to organizations delivering civil legal representation to indigents. The remainder of the proceeds deposited in the Fund pursuant to Chapter 456, Section 7, Paragraph (2) shall be paid to the four not-for-profit organizations listed in a(1) in the corresponding percentages.

b. Funds paid to the not-for-profit organizations listed above shall be used for expenses incurred in the legal representation of poor persons in civil matters by either staff attorneys of the organizations or volunteer attorneys in pro bono programs organized and administered by local bar associations in this State.

c. Each of the not-for-profit organizations receiving funding shall report annually to the Administrative Director of the Courts as to the allocation and expenditure of the funding received. The report shall be prepared in a manner prescribed by the Administrative Director of the Courts, which shall include a description of legal aid activities provided in each county, and a description of the efforts of the legal aid organization designed to foster and encourage the involvement of volunteer attorneys in the delivery of legal services to the poor.

d. Each not-for-profit organization receiving monies from the Fund shall provide a copy of its audited financial statements for the preceding calendar year to the Administrative Director of the Courts on or before June 30th of each year.

e. All unexpended or uncommitted funds received by a designated not-for-profit organization during its fiscal year shall be returned by the organization to the State Treasurer, which monies will be distributed the following year to the participating organization in accordance with paragraph (a).

f. A designated organization's receipt of monies from the Fund shall be conditioned

upon the organization's adherence to the underlying principles of the American Bar Association's *Standards for Providers of Civil Legal Services to the Poor*.

g. The Administrative Director of the Courts annually shall prepare and distribute to the members of the Supreme Court and to the Judiciary Committees of the General Assembly:

(1) a report detailing the expenditure of monies from the Fund;

(2) a copy of any rules and policies adopted by the Supreme Court governing the expenditure and application of monies from the Fund.

VII. Courts to be Open; Substitute Judges.

a. Pursuant to the inherent powers of the Supreme Court (*see* Art. I, § 1, Tennessee Constitution, Tenn. Code Ann. § 16-3-503, Tenn. Code Ann. § 16-3-504) and in discharge of the Court's responsibility to ensure the harmonious, efficient and uniform operation of the judicial system (*see* Tenn. Code Ann. § 16-3-501), this rule is adopted for the purpose of implementing the provisions of Tenn. Code Ann. § 16-2-509; § 16-3-502(2) and (3); § 17-2-118 and Tenn. Code Ann. § 17-2-201 *et seq.* and § 17-2-304 so as to accomplish the mandate of Art. I, § 17 of the Tennessee Constitution.¹

b. *Courts to Be Open.* Art. I, § 17 of the Tennessee Constitution provides that “[a]ll courts shall be open; and every man for an injury ... shall have remedy by due course of law, and right and justice administered without sale, denial, or delay.” In furtherance of this constitutional mandate, it is the policy of the Tennessee Judicial Department that all courts of this state shall be open and available for the transaction of business except on Saturdays, Sundays, legal holidays, and during meetings of the Tennessee Judicial Conference required by law. This rule sets forth the procedure which shall be followed when a judge of a trial court of record is absent.

c. *Substitute Judges.* Where a judge of a trial court of record fails to attend or is unable to hold court, as provided in Tenn. Code Ann. § 17-2-118, the following procedure shall be followed, in the sequence designated, for the selection of a substitute judge.

(1) The judge shall seek interchange in accordance with Tenn. Code Ann. § 17-2-202~~1 et seq.~~;

(2) The judge shall apply to the presiding judge or, if the applying judge is the presiding judge, the presiding judge pro tempore of the judicial district to effect an interchange with a judge of that judicial district in accordance with Tenn. Code Ann. § 16-2-509(cd);

(3) The presiding judge or the presiding judge pro tempore of the judicial district shall effect an interchange with a judge from another judicial district in accordance with Tenn. Code Ann. § 16-2-509(~~de~~);

(4) The presiding judge or the presiding judge pro tempore shall request from the director of the Administrative Office of the Courts the designation of a judge by the Cehief Jjustice, in accordance with Tenn. Sup. Ct. R. 10B, § 1.04, Tenn. Code Ann. §§ 16-3-502(3)(A) and 17-2-110. The presiding judge or presiding judge pro tempore shall use the designation request form appended at the end of Tenn. Sup. Ct. R. 10B.

d. Attorneys as Judges. Only if the procedures set forth above fail to provide a judge to preside over the docket or case will a judge appoint a lawyer to preside as a substitute judge pursuant to Tenn. Code Ann. § 17-2-118. Appointments pursuant to this section will conform to the following requirements:

(1) An attorney who is appointed substitute judge must possess all the qualifications of a judge, including the age and residency requirements; and the attorney must be in good standing under the rules of this Court. The substitute judge shall be subject to the applicable provisions of the Code of Judicial Conduct, including Canon 8.

(2) The substitute judge shall take an oath of office as provided in Tenn. Code Ann. § 17-2-120, and the substitute judge shall certify compliance with this rule by affixing his or her signature to the consent form which is appended to this rule.

(3) The authority of a substitute judge to fix fees pursuant to Tenn. Code Ann. § 17-2-118 is limited to cases in which the exact amount of the fee is set by statute.

(4) The substitute judge must ensure that all litigants who are present at the beginning of each proceeding give their consent to the use of a substitute judge in their case. All litigants who are present at the beginning of the proceedings in a case and the attorneys of record for all parties who consent to the service of the substitute judge must complete Part B of the substitute judge consent form. Without such consent, the substitute judge shall not preside on that case. Part C of the substitute judge consent form must be completed by the substitute judge in each case on which that judge presides.

(5) The absent judge must complete Part A of the substitute judge consent form. The judge must specify the reason for his or her absence. If the judge cites absence for a cause other than a reason listed in Tenn. Code Ann. § 17-2-118(a), the specific reason for the absence must be set forth on the form.

(6) The clerk of the court shall certify that the appointment was made and that the substitute judge took the statutory oath of office and that the oath of office was filed in

the clerk's office. The certification shall be made on Part D of the substitute judge consent form.

(7) At the end of each month, all substitute judge consent forms will be transmitted by the presiding judge of the judicial district to the Administrative Office of the Courts, Suite 600, Nashville City Center, 511 Union Street, Nashville, Tennessee 37243-0607, where they will be available for public inspection during regular business hours. Such forms shall be maintained on file at the Administrative Office of the Courts for at least eight (8) years after they are received.

e. This rule [Section VII] shall become effective on December 9, 1996.