

**LOCAL RULES OF PRACTICE  
CHANCERY - PROBATE - CIRCUIT - CRIMINAL  
SUMNER COUNTY  
18<sup>TH</sup> JUDICIAL DISTRICT OF TENNESSEE**

REVISED & EFFECTIVE 08/02/04

*CHANCERY COURT CHANCELLOR - TOM GRAY  
CRIMINAL COURT JUDGE - DEE DAVID GAY  
CIRCUIT COURT JUDGE - C.L. "BUCK" ROGERS*

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**INTRODUCTION**

Courts exist as a public service, and the Chancellor and Judges of the 18<sup>th</sup> Judicial District are committed to providing access to the judicial branch of government. Access primarily means the opportunity to get into court and to receive a hearing when all parties are properly before the court. Additionally, access means the opportunity to observe the courts in session. Except for good cause shown by a party opposed, the proceedings may be taped by audio recorder or video taped.

Chancery and Circuit courts convene at 8:00 a.m. Monday through Friday, except for holidays, judicial education and scheduled vacation. Circuit court also has a 4:30 p.m. to 6:00 p.m. uncontested divorce docket the first Wednesday of each month. The 8:00 a.m. docket is primarily for uncontested matters, petitions for orders of protection and motions. Except on Mondays for the Chancery Court attorneys and individuals representing themselves must schedule trials and motions and any other matter with the secretary/administrative officer of the court. All matters in Circuit court shall be scheduled with the Circuit court judge's office. (615-425-6771).

Each Monday is motion day for the Chancery Court. On motion days in Chancery Court uncontested matters and motions may be set by the attorney or pro se litigants without consulting with the secretary/administrative officer. The Tennessee Rules of Civil Procedure and the local rules of court must be followed and notice must be given to the clerk or the secretary/administrative officer of the court so that the matter may be properly placed on the docket.

In Chancery court contested cases requiring less than a full day are set for half days and may either begin at 9:00 a.m. or 1:00 p.m. upon request depending on availability of morning or afternoon docket. The secretary/administrative officer of the respective court will provide available dates to attorneys for trial.

The criminal court convenes at 8:30 a.m. Drug court is 4:00 p.m. to 6:00 p.m. each Monday.

The Grand Jury meets the first full week of each month. Except for the foreperson, service on the grand jury is for three (3) months.

Prospective jurors for Petit Juries are summoned monthly to appear on the last Wednesday of the month for orientation and to be sworn. Petit jury service is for one (1) month.

The Chancellor, Judges, Clerks and other staff desire to serve you courteously and efficiently. Court clerks and staff are not allowed to give legal advice, recommend specific action, interpret legal terminology or encourage or discourage litigation. The Chancellor and Judges are prohibited from having ex parte (only from one side) communication or commenting on a pending case.

Local Rules of Court for the 18<sup>th</sup> Judicial District (Sumner County, Tennessee) follow.

We value your comments concerning the Local Rules, service of court staff, the Chancellor and Judges. Please place comments in writing; it is optional as to whether you wish to give your name.

**LOCAL RULES OF PRACTICE  
SUMNER COUNTY CIRCUIT - CRIMINAL - CHANCERY**

**RULE 1  
GENERAL RULES**

**1.01 FORMER RULES ABROGATED** - All former rules of local practice except as readopted herein are abrogated.

**1.02 APPLICABILITY** - Each rule is applicable in the Chancery, Circuit and Criminal Courts unless otherwise indicated by a particular rule. When a rule's applicability is designated to apply to a particular type of case, it is applicable to all cases of that type regardless of which court is hearing the case.

**1.03 PURPOSE OF RULES**- These rules shall be construed to secure simplicity in procedure, fairness in administration, and the elimination of unjustifiable expense and delay. In event of conflict, the TRCiv P shall control.

**1.04 SUSPENSION OF RULES** - Whenever the Court determines that justice requires it, it may suspend any of these rules.

**1.05 CITATION** -These rules may be cited as "Local Rules of Practice, 18 th Judicial District."

**1.06 WITHDRAWAL OF ATTORNEY** - No attorney shall be allowed to withdraw except for good cause shown and by leave of Court upon written motion and after giving five (5) days written notice to all parties at their last known address of residence or employment, and the attorney may not withdraw as surety for cost until new surety has been entered. New counsel of record shall provide new surety for cost or they shall be considered as additional surety for cost in the case.

**1.07 NO APPEARANCE ENTERED; COPIES OF PLEADINGS** - If a party does not have counsel of record, copies of the pleadings filed shall be furnished to the party. If a party does not have counsel of record, that fact shall be called to the attention of the Court before any action is taken on any matter.

**1.08 SETTING ATTORNEY FEES** - For the Court to set attorney fees, the attorney shall file an affidavit of time spent, any unusual circumstances, a suggestion of the amount of a proper fee, and any other information deemed necessary.

**1.09 CONTACTING JUDGE** - Attorneys and parties to a pending action shall not contact the Judge before whom the matter is pending except as allowed by law for ex-parte matters.

**1.10 INDIGENCY** - Any person seeking indigent status shall complete a form furnished by the Clerk and shall make oath to its contents. A Judge shall determine whether or not the party is indigent.

**1.11 CUSTODY OF RECORDS** - All papers and records of the circuit and criminal Courts shall be in the custody of the circuit court clerk; all papers and records of the Chancery Court shall be in the custody of the clerk and master.

**1.12 FILING WITH THE CLERK** - All papers, including pleadings, motions, briefs, and proposed judgments and orders, shall be filed with or submitted to the appropriate Clerk. Papers shall not be mailed to or left with the Judge or Chancellor.

**1.13 CERTIFICATE OF SERVICE** - All papers filed shall contain a certificate of service showing the date of mailing or delivery, the name of the person or persons mailed or delivered to, and the signature

of the attorney or party pro se. The Clerk shall not file any document without a certificate of service or signature of all counsel.

**1.14 FILING** - All pleadings, orders, briefs, and other papers filed for consideration by the Court shall be personally signed by the pro-se party or the attorney of record and shall show the style and docket number of the case, the general nature of the paper filed, the name, address, telephone number of the attorney or person filing the document, and the filing attorney's Tennessee Supreme Court Registration Number.

**1.15 ADDRESS OF LOSING PARTY** - Each final judgment shall contain thereon the last known address of each person against whom judgment is rendered.

**1.16 AWARD OF EXPENSES -**

(1) If any case is settled, the attorneys shall notify the Clerk of such settlement immediately and it is the attorneys' responsibility to notify witnesses to prevent their unnecessary appearance, and upon failure to do so, the Court may award compensation to said witnesses for lost income and/or travel expenses and tax the same as costs to the party or attorney failing to notify.

(2) In the event of settlement of a jury trial on the beginning day or any subsequent day of the jury trial, the court may, in its discretion, assess against any party as part of the costs the jury expense, if said settlement is found to have been delayed by unreasonable conduct of any party or their attorney.

**1.17 COURT APPROVAL OF SETTLEMENTS** - All settlement approval petitions, including workers' compensation and minors shall be filed with the Clerk before being presented to the Judge. In the event a minor or incompetent person is not represented by counsel, the Court may require that a guardian ad litem be appointed and the fee of said guardian ad litem may be taxed as part of the costs.

**1.18 METHOD OF SETTING -**

(a) The secretary/administrative officer for the Circuit Judge or the Chancellor shall be contacted to schedule trial dates for all matters, jury and non-jury. An order shall be filed by the communicating attorney within five (5) days of obtaining a trial date and served on all parties. Failure to file the order setting within the time required may result in loss of the trial date.

(b) Cases appealed from General Sessions and City Courts with no jury demand - Clerk's notice will be sent that an appeal has been filed. Contact with the Circuit Court Judge's office within 45 days of your written notice the appeal has been taken shall be made to set the matter for trial by agreed date or motion to set. Failure to contact and set shall result in notice and hearing for possible TRCivP 41 dismissal.

**1.19 CONTINUANCES -**

(a) Jury or non-jury cases shall not be continued by agreement and shall be continued only by permission of the Court. Cases shall not be continued except for good cause which shall be brought to the attention of the Court as soon as practicable before the trial date.

(b) If a case includes a trial management conference/scheduling order, failure to have completed discovery, unavailability of counsel on the trial date, inability to take a deposition or failure to have completed any other trial preparation shall not be grounds for a continuance absent exceptional circumstances.

**1.20 AWARD OF FEES AND EXPENSES** - In cases continued, the Court may award expenses and attorney's fees, including compensation to witnesses for lost income and/or travel expenses, and tax the same as Court costs.

**1.21 CLERK'S DUTY UPON ISSUING OF SUBPOENA** - When a subpoena is issued, the Clerk shall:

(a) place the file copy of the subpoena in the file of the case immediately;

(b) deliver the service copy and original to the Sheriff or other authorized person for service.

In the event a case is continued, the Clerk is not responsible for re-issuing the subpoenas unless instructed to do so by the attorney in writing.

**1.22 TIME FOR ISSUING SUBPOENA** - Subpoenas for in county witness shall be issued no later than ten (10) days before the date of trial. If the witness resides out of county, the subpoena shall be issued

no later than fifteen (15) days before the date of trial. If this rule is not complied with, the failure of a witness to appear in Court shall not be considered as grounds for a continuance.

**1.23 CUSTODY OF THE CLERK** - All trial exhibits shall be accounted for and placed in the custody of the Clerk unless otherwise directed by the Court.

**1.24 DISPOSITION OF EXHIBITS** -After final determination of any case, the parties shall have thirty (30) days within which to withdraw exhibits. The Clerk may destroy or dispose of exhibits, including depositions, not so withdrawn.

**1.25 CONSOLIDATION OF CASES** - In instances of duplicate filing, such cases shall be consolidated in the Court in which the case was first filed in absence of important reason to the contrary.

**1.26 FUNDS PAID INTO COURT** - Funds paid into Court shall not be placed in interest bearing accounts and shall not be invested for a party's benefit, unless the Order depositing or directing payment to the Court Clerk specifies otherwise. All court deposits and payments shall include the social security number of the payee.

## **RULE 2 GENERAL JURY RULES**

**2.01 PROCEDURE** - In any civil case in which a jury is demanded, the words "JURY DEMAND" shall be typewritten in capital letters on the first page of the pleading.

**2.02 NUMBER OF JURORS** - In all civil cases, the jury shall consist of twelve (12) persons unless the parties agree to a number less than twelve (12). Before a verdict is returned, the parties may agree to a less than unanimous verdict.

### **2.03 CONTACTING JURORS -**

(1) No attorney in any jury trial, nor any of his or her staff, shall converse with the jurors regarding the outcome of a case until AFTER THE ENTIRE JURY PANEL IS DISCHARGED AT THE END OF THE MONTH.

(2) Before the trial of a case, a lawyer connected therewith should not communicate with or cause another to communicate with anyone the lawyer knows to be a member of the venire from which the jury shall be selected for the trial of the case.

(3) During the trial of a case, a lawyer connected therewith shall not communicate with or cause another to communicate with any member of the jury

## **RULE 3 GENERAL DISCOVERY/MOTIONS**

**3.01 FILING REQUIRED ONLY FOR USE BY COURT** - Discovery material shall not be filed with the Clerk unless considered by the Court for any purpose. Any such filing shall be at least five (5) business days prior to hearing or trial and notice of filing shall be given to opposing counsel.

**3.02 SUPPLEMENTATION OF DISCOVERY RESPONSES** - A party under a duty to supplement a discovery response according to TRCivP 26.05 shall do so seasonable and at least five (5) days before trial to the end that no evidence within the scope of interrogatories or depositions or production of documents or things shall be offered at trial absent agreement of the parties when a duty to supplement has not been fulfilled. Sanctions shall be as provided by the TRCiP or statute.

**3.03 GOOD FAITH DISCOVERY CONFERENCE** - The Court shall not rule on any motions regarding discovery, unless counsel shall assert to the Court at the time of filing of the motion a statement certifying that counsel has conferred with counsel for the opposing party in a good faith effort to resolve by agreement the issues raised and that counsel has not been able to do so.

### **3.04 MOTIONS REGARDING DISCOVERY -**

(1) Either (a) quote verbatim the interrogatory, request or question and any objection or response thereto, or (b) be accompanied by a copy of the interrogatory, request, or excerpt of a deposition which shows the question and objection or response;

(2) State the reason(s) supporting the motion; and

(3) Be accompanied by the statement required by Local Rule 3.03.

**3.05 TIME FOR FILING AND HEARING PRE-TRIAL MOTIONS** - The secretary/administrative officer for the Circuit Court Judge and the Chancellor shall schedule hearings for motions at such times as designated by the Judges.

**3.06 STRIKING OR POSTPONEMENT OF MOTIONS** - Any party or counsel striking a motion shall file an order reflecting such action within five (5) days of the action taken. Any rescheduling of a motion set for hearing shall be by agreement or court approval with an order filed within five (5) days of the action taken.

#### **RULE 4 PRE-TRIAL PROCEDURE**

**4.01 TRIAL MANAGEMENT CONFERENCE/SCHEDULING ORDER** - In jury actions the attorneys and parties shall obtain and file a trial management/scheduling order, by agreement, within thirty (30) days of all answers being filed or ninety (90) days of service of process, whichever occurs first. The trial management/scheduling order shall specify the following:

- (1) Interrogatories of all parties completed no later than: \_\_\_\_\_
- (2) Parties, occurrence, fact witness depositions shall be completed by: \_\_\_\_\_
- (3) Disclosure and deposition of experts: Plaintiff by: \_\_\_\_\_ Defendant by: \_\_\_\_\_
- (4) Medical witness of Plaintiff shall be disclosed by \_\_\_\_\_ and depositions completed by: \_\_\_\_\_
- (5) IME for Defendant completed and deposition taken by: \_\_\_\_\_
- (6) A settlement conference shall be held prior to the Pre-Trial Conference if requested by any party.
- (7) Pre-Trial Conference date: (Obtain from Court)
- (8) Trial dates: (Obtain from Court)

A. Trial dates and pre-trial conference dates shall not be continued or changed by the parties without court approval, after motion and hearing. The parties may, by Agreed Order, modify all other schedules in the Trial Management Order.

B. All jury trials shall undergo a pre-trial conference and all other actions may undergo pre-trial conference in the court's discretion or upon motion of any party. TRCivP 16.03 shall govern the issues to be discussed at the Pre-Trial Conference.

In the event no agreed scheduling order is filed as required, the Court and/or any party may set for hearing a trial management conference.

**4.02 WORKERS' COMPENSATION ACTION** - In all workers' compensation actions each party shall file a trial memorandum no later than five (5) days prior to the trial date specifying all issues to be decided, and including the workers' comp rate, amount of medical expense, temporary total, and permanent disability claimed due with the basis for calculation, and all other items of damage and all defenses.

**4.03 REQUESTS FOR SPECIAL INSTRUCTIONS** - When counsel submits special jury instructions, copies shall be furnished to adversary counsel. When a request for jury instruction is made and the request is for a Tennessee Pattern Jury Instruction verbatim, the request shall be made by copy or writing in full and reference to "TPI (Civil) No. \_\_\_\_". If the request is for a modification of an existing instruction, the request shall identify the instruction to be modified by number and identify the deletion or addition. When a request for an instruction is made and there is no instruction on the subject in the Tennessee Pattern Jury Instructions, this fact must be stated in the request with the authority for requested instructions stated thereon.

**4.04 SPECIAL VERDICTS** - Requests for special verdicts or written interrogatories made pursuant to Rule 49 TRCivP shall be made at the pre-trial conference and shall be accompanied by proposed verdict forms, written interrogatories, and proposed instructions.

**RULE 5  
ORDERS AND JUDGMENTS**

**5.01 PREPARATION AND SUBMISSION OF ORDERS AND JUDGMENTS** - In all civil cases, unless otherwise directed, within five (5) days after any court decision, the attorney designated (or the pro se litigant) shall submit to the Clerk an order containing the ruling of the Court with a copy to the opposing party or counsel. In domestic relations matters, any final order shall contain the current addresses and social security numbers of all parties. Such orders shall be held by the Clerk for five (5) days to afford opposing counsel an opportunity to object. Absent written objection, upon presentation by the Clerk to the Judge, the order shall be entered. Agreed Orders shall be subject to the same five (5) day deadline to file. All orders shall contain the name of the judge presiding. Failure to file orders within the time specified herein may result in the court setting aside the action taken or other appropriate sanctions.

**5.02 DISAGREEMENTS OVER CONTENTS OF ORDERS AND JUDGMENTS** - If objections exist as to an order, the objecting party shall file in writing the objection, identifying the portion of the order objected to within the five-day period along with any supporting transcript or affidavit, and an order which would correct the perceived error. The Court shall determine the appropriate order or direct further proceedings to resolve the conflict.

**5.03 EXCEPTION TO THE MASTER'S REPORT** - An exception to a Master's report shall state specifically the grounds for the exception and shall state whether it is a fact question or legal question, and said exception shall:

- (a) be supported by affidavits if said exception is upon a fact question;
- (b) be supported by briefs if the question excepted to is a question of law;
- (c) all exceptions must be filed within ten (10) days after the master's report is filed.

**5.04 COURT COST** - All final judgments shall provide for the taxing of Court costs. The Clerk shall refuse to enter any agreed final judgment or compromise and settlement until the Court costs are provided. Whenever it appears to the Clerk that a judgment has been satisfied but that Court costs have not been paid, the Clerk may apply to the Court for appropriate remedy and collection. The Clerk shall notify the parties of the application and the date and time it shall be considered by the Court.

**5.05 NON-MINUTE ENTRY ORDERS** - Orders not affecting the legal course of an action, such as trial management and pre-trial conference orders, orders assigning a case, setting a case for trial, or acting upon a request for a continuance, may be designated by the Clerk as non-minute entry orders. Such designated orders shall be placed in the file of the case but not spread upon the minutes of the Court.

**5.06 PAYMENT AND SATISFACTION OF JUDGMENTS** -

- (a) Funds paid to the Clerk by check shall not be disbursed until ten (10) banking days after the Clerk receives the check.
- (b) Orders for disbursing funds, other than agreed orders, shall be final before the Clerk shall disburse the funds.
- (c) Upon receipt of payment in satisfaction of a judgment, paid direct to the counsel or the parties, the party or their counsel shall satisfy the docket by certifying the receipt of the judgment on the Rule and Execution docket in the Clerk's office.

**RULE 6  
DOMESTIC RELATIONS**

**6.01 UNCONTESTED DIVORCE CASES** -

- (a) In a divorce case set for default hearing, the attorney for Plaintiff shall at least ten (10) days before the hearing give written notice to the Defendant at the last known address, by mail, moving that default be granted on said date, with a copy filed with the Clerk.
- (b) In a divorce case based on Irreconcilable Differences, the attorney for the Plaintiff shall notify the Defendant at least five (5) days in advance of the hearing for the divorce. Cases shall be set by consultation with the secretary/administrative officer to the Circuit Court Judge or Chancellor.

In Circuit Court, Irreconcilable Differences, Court appearance may be waived by agreement of the parties in their MDA. The following shall be necessary:

1. The attorney shall file Complaint, Marital Dissolution Agreement and if applicable, Permanent Parenting Plan with worksheets with the filing fee with the Circuit Court Clerk's Office.
2. After the required 60 or 90 day period, as the case may be, deliver the Final Order with a letter requesting Judges signature to the Judge's Administrative Assistant. A signed copy of the Order will be returned to you if addressed and postage paid envelope also delivered.
3. Court appearance shall be mandatory in the event of any request for child support deviation up or down or zero.
4. An attorney or party may still request from the Administrative Assistant a court appearance, date and time if desired.

[updated 6/26/2009]

**6.02 CONTESTED DIVORCE CASES AND ALIMONY AND SUPPORT HEARINGS** - In all contested divorce cases the attorney for each party shall file a Trial Memorandum with the Court with a copy to opposing counsel seventy-two (72) hours prior to the divorce trial. The Trial Memorandum shall contain the following documentation:

1. The party's grounds for divorce, if any;
2. The party's separate property;
3. The property of the marital estate and assigned values;
4. Proposed division of the marital estate;
5. Marital debts;
6. Income and expense statements and amount of child support and/or alimony requested.

Failure to comply with this Rule may result in sanctions.

**6.03 PENDENTE LITE HEARINGS/PARENTING PLANS** -

1. All temporary support matters shall be heard upon the filing of a Motion by either party containing a hearing date.
2. With the filing of the Motion or five (5) days before the hearing, the movant shall file with the Court and furnish to opposing counsel, or the opposing pro-se party, the following:
  - (a) A copy of the previous year's tax return.
  - (b) A copy of all of the documents that reflect all of the income received from whatever source from January 1 of the year of the hearing to the date of the hearing.
  - (c) A financial affidavit setting forth that party's necessary monthly expenses from the date of the affidavit to the date of the trial and total gross and net monthly or weekly income from all sources.
3. The opposing counsel or party shall then furnish to movant no later than two (2) business days prior to the date of the hearing all of the information in Section 6.03, subsection 2. Duplicate filing of documentary information is unnecessary.
4. The failure to file the information required by the preceding rule, without just cause, shall create a presumption in favor of the other party's request.
5. Any temporary support ordered by the Court shall be effective the date that the motion for support was heard unless otherwise ordered.
6. In all cases involving a minor child(ren), a "Temporary Parenting Plan" shall be required with the filing of a Complaint for Divorce, either agreed or proposed. In the event the Temporary Parenting Plan is proposed, the Plaintiff shall file a proposed plan with the Complaint and shall cause notice of hearing to issue with the Complaint setting a date and time for court hearing on the Temporary Parenting Plan within 15 days of filing the Complaint for Divorce. The Defendant shall submit a proposed Temporary Parenting Plan no later than 2 business days prior to the hearing on a proposed Temporary Parenting

Plan. All temporary parenting plans shall substantially comply with the form approved by the Circuit and Chancery Court, available at the respective Clerk's office.

7. In all cases involving a minor child(ren), a "Permanent Parenting Plan" shall be submitted. An agreed permanent parenting plan shall be submitted at the time of final disposition of all uncontested divorce actions. A proposed permanent parenting plan shall be submitted to the court by each party, with copy to all parties, no later than 45 days prior to final hearing of contested divorce actions. All permanent parenting plans shall substantially comply with the form approved by the Circuit/Chancery Court, available at the respective Clerk's office.

8. By Order and T.C.A. 36-6-408, all divorcing parents with minor children are required to complete a parent educational seminar. All parties and counsel for each party shall be responsible for filing the certificate of completion of any such parent education seminar prior to final disposition. The requirement of attendance at such a seminar may be waived upon motion by either party and agreement of the Court upon showing of good cause for such relief.

**6.04 MODIFICATION OF ACTION** - Any party seeking to modify any existing order affecting minor children, except solely for child support, shall file a proposed modified permanent parenting plan.

**6.05 RECONCILIATION ORDERS** - When a divorce has been removed from the active docket due to the parties having filed a reconciliation order, then after a period of six (6) months from date of the reconciliation order, the case shall be dismissed by the Court unless a party requests otherwise by motion for extension or vacating.

## **RULE 7 SPECIAL PROCEDURES FOR JUDICIAL REVIEW OR ADMINISTRATIVE DECISIONS**

**7.01 BRIEFS** - Briefs shall be filed in all cases heard by the Court upon the record from an administrative tribunal or agency. The petitioner-appellant shall file and serve a brief within thirty (30) days after the record is filed. The defendant-appellee must file and serve a brief within thirty (30) days after service of the brief of the petitioner-appellant. Reply briefs may be filed at the option of a party, and if filed, must be filed and served within fourteen (14) days after service of the preceding brief. Upon motion of a party or upon its own motion, the Court may enlarge or shorten the time for filing briefs.

## **RULE 8 SPECIAL PROCEDURES FOR PROBATE MATTERS**

**8.01 SESSIONS AND COURTROOM PROCEDURE** - Complaints (Petitions) to probate shall be heard each Tuesday from 8:00 a.m. until noon. Appointments are to be made with the Clerk and Master. Other hearings shall be set at a certain time and day by the Clerk and Master.

**8.02 NOTICE** - Advance notice of seventy-two (72) hours of the hearing on petition to probate an intestate estate shall be given to surviving spouse, child(ren) of the deceased, child(ren) of a deceased child of the intestate, and if no surviving spouse, or child(ren) or child(ren) of a deceased child, notice shall be given to surviving parent(s) and surviving brothers and sisters.

**8.03 PETITIONS** - Petitions to probate shall:

(a) Be styled "IN THE CHANCERY PROBATE COURT FOR SUMNER COUNTY, TENNESSEE AT GALLATIN".

(b) State whether the deceased died testate or intestate.

(c) Contain a copy of the Will or Codicil to be probated if deceased died testate.

(d) State the date of death, the age of the deceased, the county of residence at the time of death.

(e) State the name and address of the petitioner(s).

(f) State the approximate value of the gross estate.

(g) State the approximate value of personal property to be administered for the setting of bond if one is required.

**8.04 CLOSING ESTATE OF DECEASED PERSON ON PETITION AND ORDER IN LIEU OF FINAL SETTLEMENT** - An estate may be closed upon the sworn petition of the personal representative and order in lieu of a final settlement if:

- (a) The time for filing claims with the Clerk has expired;
- (b) No beneficiary is under disability;
- (c) Written evidence of satisfaction and release of all claims filed is attached to the petition, or filed in the Clerk's office;
- (d) Every beneficiary has received his or her full share of the estate and has either joined in the petition or signed a sworn receipt in which the beneficiary waives notice of and the filing of a final settlement, which receipt is attached to the petition;
- (e) A certificate, unless waived by court order, from the Commissioner of Revenue showing full payment of estate taxes or non-taxability of the estate is attached to the petition;
- (f) A proper sworn statement attached to the petition stating that no part of the estate escheats under the laws of Tennessee.

**8.05 FEES FOR PERSONAL REPRESENTATIVES AND ATTORNEYS** - The Court shall set the fees of personal representative and attorney of a decedent's estate upon written, motion filed by the personal representative. Fees shall be awarded upon time expended or as directed by the will. Fees shall not be set upon a percentage of the estate. Expenses shall be reimbursed and mileage paid at the rate established by Internal Revenue Service rules. A motion for fees shall be supported by affidavit showing date of task and time, and the motion shall include:

- (a) Certification that a copy of the motion has been mailed to persons entitled to notice with a statement of the time and day the motion shall be heard;
- (b) A statement that all appropriate inventories have been filed or a statement of the value of the probate estate.
- (c) The amounts requested.

## **RULE 9 AGREED ALTERNATE DISPUTE RESOLUTION**

**9.01 AGREEMENT** - In suits filed in Chancery, Circuit or Probate Court, the Court may order a special expedited proceeding if the following conditions are met:

- (a) An agreed order is submitted which provides for an expedited proceeding pursuant to this rule. The agreed order shall serve as a certification that a written agreement has been entered into and signed by the parties and their counsel acknowledging that they understand that the case is being handled under this expedited format;
- (b) The signed written agreement must state that the parties have agreed to an upper and lower limit to the monetary award that the plaintiff shall receive as damages if liability is stipulated or eventually determined by the Court. These amounts, however, shall not be disclosed to the Court.
- (c) The signed written agreement evidences the parties intention that the decision shall be final (unless the right to appeal is specifically reserved); and
- (d) The signed written agreement shall provide how court costs shall be allocated.

**9.02 PROCEDURE** - In the interest of saving the time and expense of a complete court proceeding, the special expedited proceeding shall be conducted as follows:

- (a) The proceeding shall be held before the Judge who has agreed to hear the case (or by a special judge appointed by the regular judge and approved by counsel) without a jury. Expedited proceedings shall be set for hearing by agreement of counsel after consultation with the Clerk and Master for Chancery and Probate Court or the Clerk for Circuit Court.
- (b) The parties shall voluntarily furnish to each other whatever items are requested that would be subject to discovery under the law.

- (c) The parties shall appear with their attorneys at the date and time set by order of the Court.
- (d) The plaintiff's attorney shall present his or her proof on the issues to be tried, including liability, and argue his or her rights to recovery, including amount of damages.
- (e) The defendant's attorney shall present his or her proof and arguments in defense and then the plaintiff's attorney shall be allowed rebuttal.
- (f) Proof as used in (d) and (e) above may include stipulations, exhibits, live testimony or whatever variations the parties may agree upon.
- (g) The Judge shall deliberate and render a decision, which shall also include the amount of damages, if applicable.
- (h) The decision shall become the final decision if the amount of damages awarded is between the upper and lower limits previously agreed upon.
- (i) If the decision rendered exceeds the previously agreed upon upper limit, then the decision shall be modified so that the final decision includes damages equal to the agreed upon upper limit.
- (j) If the decision rendered is less than the previously agreed upon lower limit, then the decision shall be modified so that the final decision includes damages equal to the agreed upon lower limit.
- (k) An enforceable judgment shall be entered based upon the final decision.
- (l) There shall be no appeal of the decision from the Trial Court unless the parties specifically agree to reserve this right.
- (m) The final Order in the case shall reference and attach the Rule 9 Agreement as signed by the parties and their counsel.

**SAMPLE**  
**RULE 20 AGREEMENT**

In consideration of saving the time and expense of a complete court proceeding, the parties and their counsel agree to a summary procedure, pursuant to Rule 9 of the Local Rules of Practice for Courts of Record of Sumner County, Tennessee as follows:

1. The proceeding shall be held before Judge \_\_\_\_\_, without a jury.
2. The parties shall voluntarily furnish to each other whatever items are requested that would be subject to discovery under the law.
3. The parties shall appear with their attorneys at the date and time set by order of the Court.
4. The plaintiff's attorney shall present his or her evidence on the issues to be tried and argue the plaintiff's right of recovery.
5. The defendant's attorney will then present his or her evidence followed by rebuttal by the plaintiff. Oral argument shall be allowed.
6. The Judge shall then deliberate and render a decision.
7. This decision will be final and an enforceable judgment shall be entered.
8. The parties have agreed that the plaintiff's recovery shall be between \$ \_\_\_\_\_ as a low and \$ \_\_\_\_\_ as a high. The plaintiff's recovery shall be the stated low amount if the decision rendered is below that amount and the plaintiff's recovery shall be the stated high amount if the decision rendered is above that amount. Otherwise, the plaintiff will receive whatever decision is rendered between the high and the low.
9. There shall be no appeal of the decision from the Trial Court unless the parties specifically agree to reserve this right.
10. The court costs in this cause shall be paid 50% by the plaintiff and 50% by the defendant unless otherwise agreed to by the parties.

This the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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Plaintiff Defendant

\_\_\_\_\_  
Attorney for Plaintiff Attorney for Defendant

**SAMPLE**

IN THE \_\_\_\_\_ COURT OF SUMNER COUNTY, TENNESSEE AT GALLATIN

\_\_\_\_\_ ,

Plaintiff,

Case No. \_\_\_\_\_

\_\_\_\_\_ ,

Defendant.

**AGREED ORDER**

In accord with Rule 9 of the Local Rules of Court and as evidenced by the parties' agreement dated the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, (Rule 9 Agreement), it appears to the satisfaction of the Court that this case shall be set for a hearing.

The parties hereby waive their right to appeal the final decision of the Trial Judge and agree to appear at the hearing ordered below with their attorneys.

IT IS THEREFORE ORDERED that a Rule 9 hearing will be held before Judge \_\_\_\_\_, at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, at \_\_\_\_\_ o'clock \_\_.m. The final decision will be binding and enforceable and will incorporate by reference the Rule 9 Agreement made part of this Order.

ENTERED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
JUDGE

APPROVED FOR ENTRY:

\_\_\_\_\_  
Attorney for Plaintiff

\_\_\_\_\_  
Plaintiff

\_\_\_\_\_  
Attorney for Defendant

\_\_\_\_\_  
Defendant

**RULE 10  
CRIMINAL COURT**

**10.01 GRAND JURY** - The Grand Jury will meet the first full week of each month. Arraignment will be on the second Thursday following the Grand Jury report, or at such other time as the Court may direct. All newly indicted defendants must appear for arraignment on arraignment day unless their attorney files an executed written waiver of arraignment in compliance with Tennessee Rules of Criminal Procedure 43(c)(4).

**10.02 SETTLEMENT OF CASES** - At arraignment the Court will assign a settlement day approximately ninety (90) days after arraignment.

(a) All discovery is to be completed as follows: Discovery motions shall be filed within ten (10) days after arraignment, and discovery motions shall be answered within twenty-one (21) calender days from the filing of the discovery motion;

(b) Applications for pre-trial diversion must be made within ten (10) days after the discovery response from the State, and the State's reply must be made within thirty (30) days thereafter. No continuances will be granted on settlement day because the Defendant wants to request pre-trial diversion or for further consideration of pre-trial diversion.

(c) All offers for settlement should be made, at the latest, sixty (60) days from the date of arraignment.

(d) The attorneys involved in each case must have talked, discussed the case and negotiated prior to settlement day. Settlement days will not be used for negotiations that should have already transpired.

(e) Settlement dates will be continued only in open court on settlement day (which had been set for 90 days) with attorneys for both sides present and for good cause shown.

**10.03 SETTING OF CASES** - If settlement is not reached, the defendant shall be assigned a trial date as expeditiously as possible. Once the settlement day has passed and the case is set for trial, the defendant must plead to the indictment or the State must nolle, dismiss, or retire all or part of the indictment. There shall be no further plea agreements unless approved by the Court, for good cause shown, at least seventy-two (72) hours prior to trial. In all felony cases, IN THE EVENT THE DEFENDANT DESIRES THE JURY SEQUESTERED, NOTIFICATION OF THIS MUST BE FILED WITH THE COURT THIRTY (30) DAYS BEFORE THE TRIAL IS SCHEDULED TO COMMENCE.

**10.04 SPECIAL INSTRUCTIONS ON JURIES** - It shall be the rule of this Court that neither the District Attorney, or any of his staff, nor the attorney for the defendant, or any of his/her staff, shall converse with the jurors regarding the outcome of any particular case until AFTER the term is concluded. Further, no expressions of gratitude, remorse, or any other emotion shall be made in the courtroom by the attorney for the defendant or the District Attorney or any of his staff following any trial. In the event the jury is to be sequestered, the deadline for filing of a settlement shall be three (3) weeks prior to the trial date. Reservations for the jury accommodations shall be made three (3) weeks prior to the trial date and therefore, no settlements, other than pleading to the indictment, will be accepted after that date.

**10.05 CONTINUANCES** - Jury or non-jury cases may not be continued by agreement and may be continued only by leave of Court. Continuances shall be granted for good cause only upon motion filed at least ten (10) days prior to trial and heard at least five (5) days before trial except in emergency situations. In the event a continuance is granted, it is the responsibility of each attorney to notify all of his witnesses. Absence of a witness shall not be grounds for a continuance unless the witness has been subpoenaed in accordance with the requirements of these rules and the Rules of Procedure.

**10.06 NON-JURY MATTERS** - Non-Jury matters, including sentence hearings, pleas, probation violation hearings, General Sessions Appeals, motions, etc. will be docketed as they are received.

**10.07 JURY INSTRUCTIONS** - Reference is made to Rule 15 under the Rules of Practice and Procedure which is adopted and incorporated herein.

**10.08 COURT FILES** - Criminal court files may not be removed from the Clerk's office.

**10.09 ORDERS AND JUDGMENTS** - All pleadings and orders are to be prepared and signed prior to submission to the Court. All orders are to be filed within five (5) days of ruling. In all cases presented on guilty pleas, the waiver of jury trial and waiver of appeal forms shall be typewritten and prepared by defense counsel. A recommended form may be secured from the Criminal Court Clerk. All judgments shall be submitted to the Criminal Court Clerk's office by the Office of the District Attorney within two (2) working days of sentencing. The defense bar shall have two (2) working days to review and sign or correct any judgment. If disagreements or discrepancies are found within the second 48 hour period which cannot be resolved by the attorneys, the defense attorney shall notify the Clerk and the case shall be brought before the Court for resolution of the discrepancy. It shall be the responsibility of the defense bar to ensure all pre-trial jail credits to which a defendant is entitled are properly reflected on the judgments.

**10.10 MOTIONS** - All discovery motions shall be filed within twelve (12) calendar days after arraignment. All discovery motions shall be fully answered within twenty-one (21) calendar days after the filing of same. All motions, other than discovery motions, including Motions in Limine and motions regarding the jury panel, must be stated with particularity, with citations, and must be filed at least seventy-two (72) hours before they are heard and must be heard no later than the Friday before the week the case is set for trial, except for good cause shown. Except for good cause shown, applications

for Pre-Trial Diversion must be made within thirty (30) days after arraignment and the State's reply made within thirty (30) days thereafter.

**10.11 FINES AND COSTS** - Court costs are due on the date the defendant is sentenced. If costs are not paid within thirty (30) days, penalties and interest shall accrue.

**10.12 RESTITUTION** - In all plea bargaining agreements in which restitution is part of the settlement agreement, the Court shall not accept such pleas unless there is a detailed and specific agreement entered into as to how it is to be paid, with said agreement to be specified within the judgment document(s). The agreement shall be a condition of probation or community corrections. Failure by the defendant to comply with the terms of said agreement may be considered by the Court as cause for revocation of probation or community corrections. All restitution agreements that contemplate that restitution payments will be paid to the Criminal Court Clerk's office shall include a 5% clerk's fee (above and beyond the restitution amount).

WHENEVER THE COURT DETERMINES THAT JUSTICE REQUIRES, IT MAY SUSPEND OF MODIFY ANY OF THESE RULES.