

IN THE CIRCUIT COURT FOR THE 5th JUDICIAL CIRCUIT,
BLOUNT COUNTY, TENNESSEE

DIVISIONS I AND II

AND FOR THE CHANCERY COURT–BLOUNT COUNTY CASES
ONLY

ORDER

All former rules of local practice are abrogated and these local rules are hereby substituted in lieu thereof:

I. COURT ADMINISTRATION

1. Circuit Court--The judge of Division I shall have primary administrative responsibility for all civil matters in Circuit Court. The judge of Division II shall have primary administrative responsibility for all criminal matters in addition to Motor Vehicle Habitual Offender matters. Appeals from civil General Sessions shall be assigned alternatively to the Judge of Division I and the Judge of Division II. Appeals of civil matters from Juvenile Court shall be assigned to the Judge of Division I. Appeals of criminal matters from Juvenile Court shall be assigned to the Judge of Division II.
2. Presiding Judge--Notwithstanding the provisions of paragraph 1., above, the Presiding Judge of the Fifth Judicial District shall have the duties and responsibilities imposed upon such judge as provided by the statutes and shall oversee the administration and be the final arbiter of the case load for the Fifth Judicial District, to include the designation of the judges to hear civil and criminal cases.
3. Chancery Court-The Chancellor shall have primary administrative responsibility for all matters pending in the Chancery Court in Blount County.
4. All divorce and separate maintenance matters filed in the Circuit Court shall be filed with the Clerk and Master, not with the Circuit Court Clerk.
5. The Circuit Court Clerk shall prefix the letter C before criminal docket numbers and the letter L before civil or law docket numbers. Gray file folders shall be used for cases on the criminal docket; manila file folders shall be used for cases on the civil or law docket. The Clerk and Master shall employ the prefix E before docket numbers of all matters filed in Circuit Court and shall use blue file folders. The Clerk and Master shall use a yearly based numbering system for docket numbers for all matters filed in Chancery Court.

6. Attorneys shall place the docket letter if applicable and number on all papers to be filed in a case before lodging them with the Clerk or submitting them to the judges for signature, excepting papers which commence an action.
7. Circuit Court opens at 9:00 A.M. Mondays through Fridays, holidays excepted.
8. Unless otherwise provided by the Court, Chancery Court opens at 9:30 A.M. on days where the Chancellor is scheduled to be in Blount County.

II. GENERAL RULES OF COURT

1. Setting cases for trial

- (a) Circuit Court-Civil. All jury or non-jury cases shall be set for trial by either 1) agreement of the parties and/or counsel or 2) upon order of the court after a properly filed motion to set trial. Coordination of trial dates shall be made through the Judge's secretary.
- (b) Circuit Court-Criminal. All jury or non-jury cases shall be set for trial by either 1) agreement of the state and counsel for defendants or 2) upon order of the court after a properly filed motion to set trial. Coordination of trial dates shall be made through the Judge's secretary.

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- (c) Chancery Court-The civil docket will be sounded approximately every six (6) months by the Chancellor upon notice being given all counsel of record by the Clerks. Attorneys having cases in court shall be present, or have another present to answer when their cases are called. In the event no attorney answers on either side of the cause, the case may be set for trial, and the Clerk shall notify the attorneys of record or a party, if unrepresented, of the trial date.

2. The Court will remain in continuous session during the year. Each day will be a rule day for equity cases (T.C.A. §21-1-705).
3. In Circuit Court, Each Monday and Friday in Division I and each Tuesday in Division II shall be a motion day and a day for hearing non-jury matters.
4. Motions and non-jury matters may be set at any other time with the court's consent. Coordination of all trial dates shall be made through the Judge's secretary.
5. In Circuit Court, Law Division, motions filed without a notice of hearing date shall be assigned a hearing date by the Clerk. If the date is not agreeable, it may be reset by agreement of all parties and counsel by contacting the Judge's secretary and arranging for an alternate hearing date. Motions may be heard on any motion day by agreement of counsel. If no agreement can be reached,

counsel desiring to have a motion heard may set the matter by giving opposing counsel five (5) days' written notice, Saturdays, Sundays and holidays excluded. All hearing dates for motions except for hearing dates set by the Clerk shall be first confirmed with the judge's secretary and then confirmed in writing to the Judge's secretary with a copy to opposing counsel or the opposing party if pro se.

5. In Chancery Court and in Circuit Court for civil matters, pre-trial conferences may be held on the Court's own motion or on the motion of any party. The purpose of the conference will be to seek stipulations of fact, to determine what is or is not admissible in evidence, and to advise the Court of the issues so that the case may be tried as expeditiously as possible. In the event counsel fail to appear without good cause at a pre-trial conference, a pre-trial order will be entered ex parte.
6. Discovery.
 - (a) To curtail undue delay, the Court will refuse to rule on any motions for discovery unless moving counsel shall first file with the Court at the time of the filing of the motion a statement certifying that he has conferred with opposing counsel 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 the party making the motion advises the Court in writing that an opposing counsel has refused or delayed a discussion of the problems covered in this subsection, the Court may take such action as appropriate to avoid delay.
 - (b) Agreement to furnish exhibits made during the taking of depositions may be enforced by motion to compel made pursuant to Tenn.R.Civ.P. 37.
7. Continuances in Chancery Court and in Circuit Court for civil matters.
 - (a) All motions for continuances shall be made in writing. In the event there is insufficient time and opportunity to prepare and file a written motion for continuance, then the parties involved shall appear in court or chambers for the hearing of the motion.
 - (b) As to jury cases and contested non-jury cases that have been on the trial docket more than three (3) months, no continuance will be granted due to lack of preparation except for unusual and compelling circumstances beyond the control of the parties. A motion based upon unusual and compelling circumstances shall be made as soon as possible after the circumstances come to the attention of counsel.
 - (c) If an attorney has received notice from another court of record that a case he is involved in is set for trial in that court on a particular date which conflicts with a setting previously set by this court, he will be expected to

try the case previously set in this court. Likewise, if any attorney has received notice of the setting of a case in another court of record, prior to his receiving notice from this court of a case being set on the same date, this court will, upon immediate written application with a copy to opposing counsel, pass the case set in this court.

- (d) When a case is continued, the order granting the continuance, shall also reset the case to a date certain. The order will be submitted to the Court no later than five (5) days following the granting of the continuance.
8. Trial preparation.
- (a) The court file must be in the hands of the Clerk twenty-four (24) hours prior to trial of the case for the Court to make trial preparations.
 - (b) Subpoenas for local witnesses must be issued and dated by the Clerk no later than five (5) days before the date of trial. If the witness resides out of county, the subpoena must be issued by the Clerk and mailed or otherwise transmitted to the out of county Sheriff or other authorized person no later than seven (7) days before the date of trial.
9. In all civil cases except divorces, to secure the just, speedy and inexpensive determination of every action, a written list of the names and addresses of all witnesses shall be filed with the Clerk and certified by Counsel to all parties at least ten (10) days before trial. A written list of the names and addresses of all witnesses newly discovered within ten (10) days of trial shall be filed with the Clerk and certified by Counsel to all parties no later than the day following the date when the names are learned.
- A failure to comply with the above may be grounds for a continuance but shall not be grounds for the exclusion of evidence or of a witness.
10. Counsel are encouraged to present to the Court requested jury instructions one (1) day in advance of the trial.
11. Preparation, Submission and Entry of Orders and Judgments in civil matters.
- (a) The court will designate a counselor to prepare the order or judgment.
 - (b) The commencement of every Order or Judgment shall include:
 - (i) the name of the Judge making the Order or Judgment,
 - (ii) the Court in which the proceedings were held, and
 - (iii) the date upon which the proceedings were held.

In each Final Order or Judgment, the Court costs shall be taxed to one (1) or more of the parties and the following information shall be included as

to the person(s) against whom costs are taxed:

- (i) Name of person(s) to whom costs are taxed.
- (ii) The residence street address of the person(s) against whom costs are taxed and the mailing address of such person(s), if different from the residence street address.

Failure to include information required by this Rule may cause any proposed Order or Judgment to be ineligible for entry, in the discretion of the Judge considering same.

- (c) Orders, decrees, and judgments shall be submitted to the Court for signing within ten (10) days of the date judgment is announced. If counsel and or parties if pro se cannot agree to the terms of a proposed order, decree or judgement, each party shall submit a proposed order to the Judge within the same ten (10) day period noting the lack of agreement with a copy to all appropriate counsel and/or parties if pro se. The Judge shall enter one of the orders, a combination thereof, the Court's own order or may require further hearing.
 - (d) Whenever it is requested for the Court to award attorney's fees, the attorney requesting the fee shall file an affidavit containing a statement of time spent on the case, a suggestion of the proper fee and any other information requested by the Court.
12. Accountings by Fiduciaries.

- (a) Notwithstanding any provision hereof to the contrary, accountings by fiduciaries shall, in all respects, comply with the specific mandates of any statute(s) governing same, and as the same may be amended hereafter from time to time.
- (b) Unless otherwise directed by applicable statute(s) or otherwise provided by court order, a fiduciary shall submit required filings in substantial compliance with the following forms, to-wit:

(CLERK - HERE COPY THE FOLLOWING PRO FORMA DOCUMENTS:)

- (1) PRO FORMA ANNUAL STATEMENT OF FIDUCIARY AND PETITION FOR APPROVAL.
- (2) PRO FORMA RECEIPTS SCHEDULE.
- (3) PRO FORMA DISBURSEMENTS SCHEDULE.
- (4) PRO FORMA SUMMARY OF EXPENDITURES SCHEDULE.
- (5) PRO FORMA CERTIFICATION ACCOUNTING DOCUMENTATION.
- (6) PRO FORMA ORDER.

- (c) A packet of the six (6) documents set forth above shall be prepared and submitted by counsel of record or the petitioning party each time such reports are required by applicable statute(s) or otherwise provided by court order.