

**TWENTY-SECOND JUDICIAL DISTRICT  
TRIAL COURT RULES**

**GENERAL - RULES 1 THROUGH 19**

**RULE 1. PURPOSE, APPLICABILITY, SUSPENSION, AND DEFINITIONS**

**1.01. Purpose.** It is the intent of these rules to establish local procedures for the Twenty-Second Judicial District which are not inconsistent with, and not adequately covered by, statutes, cases, Rules of Civil Procedure, Rules of Criminal Procedure, Rules of Evidence, and Code of Professional Responsibility. These rules are especially intended to govern those areas mandated by Supreme Court Rule 18, specifically:

- (a) setting cases for trial;
- (b) obtaining continuances;
- (c) disposition of pre-trial motions;
- (d) settlement or plea bargaining deadlines for criminal cases; and
- (e) preparation, submission and entry of orders and judgments.

There are special rules for certain types of proceedings, including probate cases in Maury and Wayne Counties.

**1.02. Former Rules Abrogated.** All former rules of local practice are abrogated except as re-adopted herein.

**1.03. Applicability.** These rules are applicable in all types of cases pending on or after October 1, 2002, in the Chancery, Circuit, and Criminal Courts in the Twenty-Second Judicial District, composed of Giles, Lawrence, Maury, and Wayne Counties, unless otherwise indicated by a particular rule applying only to particular types of cases.

**1.04. Suspension of Rules.** Any of these rules may be suspended on oral or written motion in a particular case and circumstance, if the court specifically finds that justice requires such suspension. It is the intent of these rules that they be enforced uniformly in all cases and that none be routinely suspended.

**1.05. Definitions.** The following definitions apply to terms used in these rules:

- (a) Clerk: The Circuit Court Clerk and the Clerk and Master of the Chancery Court, as applicable, or their designees.
- (b) T.R.C.P.: Tennessee Rules of Civil Procedure.

(c) T.R.Crim.P.: Tennessee Rules of Criminal Procedure.

**1.06. Citation.** These rules may be cited as “Trial Court Rule \_\_\_\_\_.”

## **RULE 2. GRAND AND TRIAL JURORS**

Persons selected at random for jury service shall be summoned for, selected on, and begin their service on a date not more than ten (10) days before or after the following dates:

Giles County: the third Mondays in March and September of each year;

Lawrence County: the first Mondays in April and October of each year;

Maury County: the fourth Mondays in February, June, and October of each year; and

Wayne County: the second Mondays in March and September of each year.

The Circuit Court Clerk shall arrange for a judge to preside over the selection process at a date and time set in accordance with the foregoing. Grand and trial jurors so selected shall continue to serve until successors are selected for the next term, unless previously excused by the court. Any deviation from the foregoing schedule shall not be grounds for challenging any action of any grand or trial jury.

## **RULE 3. COURT SESSIONS AND SCHEDULES OF JUDGES**

**3.01. Court Sessions.** Regular sessions of court will open at 9:00 a.m. or at such other time as that judge may approve. Judges, attorneys, and parties shall be prompt at all sessions.

**3.02. Scheduling for Civil Hearings and Trials.** Circuit Civil and Chancery cases shall be scheduled for hearings or trials in accordance with Rules 20, 21, and 22.

**3.03. Scheduling for Criminal Hearings and Trials.** Criminal cases shall be scheduled for hearings or trials in accordance with Rules 40 and 41.

## **RULE 4. APPEARANCE, CONDUCT, AND FEES OF COUNSEL**

**4.01. Attorneys Not Licensed in Tennessee.** Attorneys not licensed to practice law in Tennessee shall comply with Supreme Court Rule 19.

**4.02. Counsel of Record; Entry of Appearance.** All counsel who have entered an appearance in a case will be counsel of record. Entry of an appearance shall be made in one of the following ways:

(a) the filing of pleadings;

(b) the filing of a formal notice of appearance or written request;

(c) appearance as counsel at an arraignment; or

(d) appointment by the court.

**4.03. Withdrawal of Counsel.** No attorney may withdraw except for good cause and by leave of court upon motion after notice to his or her party and adverse parties.

**4.04. No Appearance Entered; Copies of Pleadings.** If a party does not have counsel of record, copies of the pleadings filed by other parties shall be furnished to that 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 pleading which substantially affects the case.

**4.05. Conduct of Counsel During Trial.**

(a) During trial, counsel shall not exhibit familiarity with witnesses, jurors, or opposing counsel, and the use of first names for adults shall be avoided, unless necessary to distinguish between persons with the same last name and gender. During opening statement or argument, no juror shall be addressed individually by name.

(b) Bench conferences should be requested only when necessary.

(c) Counsel should refrain from interrupting the court or opposing counsel until the statement being made is fully completed, except when reasonably necessary to protect his client, and should respectfully await the completion of the court's statement or opinion before undertaking to point out objectionable matters. In the presence of a jury, objecting counsel shall state the legal grounds without argument or discussion, except by leave of court.

(d) Except by leave of court, attorneys shall stand while examining prospective jurors and witnesses and while addressing the jury or the court.

(e) All male attorneys shall wear coats and ties, and all female attorneys shall wear attire of equal dignity.

(f) Except as may be required for a zealous cross-examination, attorneys shall show respect to all trial participants, especially their fellow professionals.

**4.06. Communications with Jury.** All attempts to curry favor with jurors by expressing concern for their personal comfort or convenience are unprofessional. Suggestions of counsel regarding the comfort or convenience of jurors, and propositions to dispense with argument, peremptory challenges, or sequestration shall be made to the court out of the jury's hearing. Before and during the trial, an attorney shall avoid conversing or otherwise communicating with a juror on any subject, whether or not pertaining to the case.

**4.07. Contacting Judge.** Neither an attorney nor a party to a pending action shall contact the judge before whom the matter is pending, except for scheduling purposes or an emergency, except by letter or orally with other counsel of record and unrepresented parties present in person

or by telephone. A copy of all such letters shall be sent to all counsel of record, unrepresented parties, and the clerk.

**4.08. Setting Attorney Fees.** Whenever it is necessary for the court to fix fees for an attorney, the attorney shall state the time spent on the case, a suggestion of the amount of a proper fee, and any other information requested by the court. In fixing fees of attorneys, the court will consider the factors set forth in Supreme Court Rule 8. See Rules 33.03 and 33.05 for probate matters.

## **RULE 5. COURT FILES**

All papers and records of the Court shall be in the custody of the clerk. Files may be withdrawn only by judges or attorneys with offices in this judicial district, and only upon the signature of such judge, attorney, or a representative. The clerk shall retain a substitute folder or card with such signature until the file is returned. Copies of the content of files shall be furnished by the clerk at a reasonable cost.

## **RULE 6. SERVICE OF PROCESS BY PERSONS OTHER THAN SHERIFF**

If a summons, a subpoena, or other process is served by persons other than the sheriff or his deputies, the return shall state clearly and legibly the name, address, and telephone number of the process server's residence or business, the date and place where process was served, and the manner of service. It shall be signed by the server and that signature shall constitute a solemn representation to the court that the process was served as stated. All returns shall be made upon the process paper itself, if there is room therefor. If not, the return shall be made upon a separate paper, referring specifically to the process served, and shall be physically attached to said process.

## **RULE 7. FILING REQUIREMENTS FOR PLEADINGS**

**7.01. Security for Costs and Taxes.** The clerk may refuse to issue process on any civil case where insufficient security has been given for costs and taxes pursuant to Tenn. Code Ann. § 20-12-120. Any attorney who has two or more outstanding, unpaid bills of costs on prior cases shall be deemed insufficient as surety for such costs and taxes.

**7.02. Address and Date of Birth of Parties.** In civil cases, the original pleading by a plaintiff or petitioner or the first responsive pleading by a defendant or respondent shall provide the clerk that party's date of birth and residential address (except when disclosing a residence may endanger that party).

**7.03. Certificate of Service.** Except for original complaints and petitions requiring service of process on adverse parties, the clerk may refuse to accept and file papers without a certificate of service which complies with all applicable statutes and rules of civil, criminal, or appellate procedure.

## **RULE 8. SUBPOENAS**

**8.01. Issuance, Service, and Return.** All subpoenas for witnesses shall be issued and signed by the clerk in triplicate. The clerk shall deliver the “original” and the “service copy” to the authorized person for service. The original shall be used by the server to make his return to the clerk, and may be designated “return copy.” The service copy is to be left with the witness by the server. One copy shall be designated “file copy” and retained in the file until the original is returned, after which the file copy may be removed and discarded.

**8.02. Minimum Times if Absence of Witness to be Ground for Continuance.** If absence of a witness is to be a ground for a continuance, the subpoena for that witness must be dated, issued, and transmitted to the server before the date of trial, at least five (5) days for an in-county witness and at least seven (7) days for an out- of-county witness.

## **RULE 9. COURT REPORTERS**

It is the responsibility of litigants to arrange for court reporters in civil and misdemeanor cases, if desired. Proceedings may not be postponed or delayed because of a court reporter’s absence or tardiness. It is the responsibility of the Circuit Court Clerk to arrange for an official court reporter in all felony proceedings, and to later notify such court reporter if not needed. An attorney appealing a case shall immediately communicate with the court reporter concerning preparation of, and payment for, the transcript.

## **RULE 10 . EXHIBITS**

**10.01. Depositions and Discovery Material.** Depositions and discovery material submitted to the court as evidence which are not read to the court shall be marked as trial exhibits.

**10.02. 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.

**10.03. Disposition of Exhibits.** After final determination of any case by an appellate court or by the expiration of time for an appeal, the parties shall have thirty (30) days to withdraw exhibits. The clerk may thereafter destroy or dispose of exhibits not so withdrawn, after seven (7) days notice to the parties.

## **RULE 11. FUNDS ON DEPOSIT WITH CLERK**

The clerk shall invest funds in interest bearing accounts only when there is a specific order directing such investment, suggesting the period of time the funds should be invested, and containing the full legal name, address and social security number of the person(s) whose funds are being invested. In guardianships, the date of birth and the date the minor shall reach the age of majority shall be stated in the order along with information about the amounts and schedules of possible withdrawals for education, medicals or other expenses of the minor.

## **RULE 12. COURTROOM SECURITY AND FIREARMS**

In order to ensure and maintain proper security for the protection of government property and the safety of the court, court personnel, attorneys, parties, witnesses, and spectators, the sheriff and court bailiffs are authorized and directed to employ all lawful and constitutional means necessary to ensure the security of the courtrooms and all passages, corridors, rooms, and points of ingress and egress thereto. The sheriff may establish and promulgate reasonable regulations, not inconsistent with this rule, for purposes of courtroom security including, but not limited to, the search of all persons and containers before entry into courtrooms of the county. Anyone seeking to enter a courtroom and not consenting to a search, when requested by one lawfully authorized to conduct such search, will not be admitted. Strip body searches are not authorized. Only authorized personnel serving the court shall wear sidearms in the courtroom while court is in session. In the discretion of the judge of each division of this court, all persons who are legally authorized to carry a firearm because of their status as law enforcement officials may wear said firearms in the courtroom, if they are present only as non-party witnesses. All other persons legally authorized to carry firearms must relinquish possession of their firearms to the sheriff or court bailiff while they are in the courtroom.

### **RULE 13. APPEALS FROM GENERAL SESSIONS**

#### **OR JUVENILE COURT**

When a case is appealed to circuit court from general sessions or juvenile court, the clerk shall give immediate notice of such appeal to the adverse party or his attorney, so such adverse party may know that the judgment being appealed has not become final.

### **RULES 14-19. (RESERVED)**

### **CIRCUIT CIVIL AND CHANCERY CASES - RULES 20 THROUGH 39**

#### **RULE 20. DETERMINING JUDGE FOR CIVIL CASES**

**20.01. Cases Not Assigned Before Scheduling of Summary Judgment Motion or Trial.** Civil cases shall not be assigned to a particular judge or division of court, until it is set for hearing of a summary judgment motion or is set for trial. Once a case has been set for hearing of a summary judgment motion or is set for trial before a particular judge, that judge shall be responsible for all future hearings and the trial, unless the parties agree otherwise or the judge recuses himself or herself or transfers the case for a sooner or more convenient date.

**20.02. Procedures for Selecting Responsible Judge for Summary Judgment Motion or Trial.** When a motion for summary judgment is filed or a case is ready for trial, the parties may unanimously agree upon the judge to hear the motion or trial. If they cannot agree upon a judge, a random selection can be made by a method or person agreeable to all parties. If the parties cannot unanimously agree on a judge or method of selection, the secretary of the then presiding judge shall select a judge after considering the schedules of all of the judges and any unpublished procedures established from time to time by the judges.

**20.03. Interchange, Recusal, or Transfer After Judge Selected.** Even after a particular judge is selected for a case, nothing shall prohibit the judges from interchanging by agreement for the convenience of themselves or the litigants or prohibit the judge from recusal to avoid a conflict of interest or other ethical concern. If the litigants and the selected judge's secretary cannot find early or convenient trial dates on the selected judge's calendar, they may get a trial date with another judge through the secretary of the presiding judge, if another judge has available significantly earlier or more convenient dates than the selected judge, in which event the selected judge may order a transfer of the case for trial on a certain date before the other judge willing to accept the same. Cases set for trial before a judge may be transferred on the trial date to any other judge who will accept the transfer. At the time of transfer, no motion should be pending before the transferring judge. When transferred, the case will remain before that transferee judge for all subsequent proceedings.

**20.04. Exception for Settlements and Dismissals.** Any judge may order approval of a settlement or notice of voluntary non-suit. If a judge is working with a clerk to eliminate from the docket old cases with no court file activity during the preceding twelve months, that judge may sign dismissal orders on all such cases without regard to selection under this rule.

**20.05. Unanimous Agreement for a Different Judge.** All parties in a given case may agree to select a different judge to hear and determine all remaining issues in the case, including the trial, and may submit an agreed order for signature by the previous or future judge.

## **RULE 21. SETTING, CONTINUANCES, AND VOLUNTARY**

### **NONSUITS OF CIVIL CASES**

**21.01. Method of Setting.** Civil cases shall be set for hearing or trial in one of the following ways:

- (a) By agreement of the parties after consultation with and confirmation to the clerk under Rule 22 or the judge's secretary under Rule 23;
- (b) By motion of a party heard in open court;
- (c) By the court with notice to the parties; and
- (d) By docket call of the clerk or a judge.

**21.02. Certifying Cases Ready When Set.** When a case is set by agreement or when a case is set by motion without objection to having it set, all counsel are certifying that the case will be in all respects ready for trial on the trial date.

**21.03. Deadline for Trial Preparation.** When a party objects to having a case set because trial preparation is not complete, the court may establish a deadline for completing trial preparation.

**21.04. Continuances.**

(a) A case may not be continued without approval of the judge before whom the same is set. A case will not be continued except for good cause, which shall be brought to the attention of the judge and other parties as soon as practicable before the date of the trial. In deciding whether to grant a continuance, the court shall consider the position of the case on the docket, the number of past continuances, the nearness of the trial date, the possible loss of a court day, and jury inconveniences and costs, as well as the grounds for the motion.

(b) Absence of a witness will not be grounds for a continuance, unless the witness has been subpoenaed in accordance with the requirements of these rules.

(c) When a case is set by agreement or set upon motion without objection to having it set, failure to have completed discovery, inability to take a deposition for evidence, failure to have completed any other trial preparation, or unavailability of counsel on the trial date, except for unforeseen health reasons, will not be grounds for a continuance.

**21.05. Award of Fees and Expenses.** If a case is continued, the court may award a party opposed to the continuance attorney's fees and other expenses, including lost wages and travel expenses for himself and his witnesses and tax the same against the moving party as court costs. The court may also order a party to reimburse the county for the cost of jurors if the fault of a party results in a continuance when it is too late to cancel the appearance of jurors.

**21.06. Voluntary Nonsuits.** Upon taking of any voluntary nonsuit, the clerk will immediately notify the judge to whom the case has been assigned.

## **RULE 22. SCHEDULING CIVIL, NON-JURY CASES REQUIRING LESS THAN TWO HOURS**

**22.01. Civil, Non-jury Cases Requiring less than Two Hours to Be Set by Clerk.** Chancery and circuit civil hearings and non-jury trials requiring less than two (2) hours may be set by the clerk on regular chancery and circuit non-jury days, with the agreement of the parties and without the approval of the judge or judge's secretary. If the parties cannot agree, either party may file a motion to set. Such regular chancery and circuit non-jury days are as follows:

**22.02. Division I Regular Chancery and Circuit Non-jury Days.** Division I will be in Maury on second (Circuit), third (Chancery), and fifth (Chancery) Fridays, will be in Giles on fourth Fridays, and, in the week of the first Monday of each month, will be in Wayne on Monday, Lawrence on Tuesday, and Giles on Wednesday.

**22.03. Division II Regular Chancery and Circuit Non-jury Days.** Division II will be in Maury on first (Chancery), third (Circuit), and fifth (Circuit) Fridays, will be in Lawrence on second and fourth Fridays and, in the week of the second Monday of each month, will be in Maury on Monday, Lawrence on Tuesday, Giles on Wednesday, and Wayne on Thursday.

**22.04. Division III Regular Chancery and Circuit Non-jury Days.** Division III will be in Lawrence on third and fifth Fridays, will be in Maury on first (Circuit), second (Chancery), and

fourth (Chancery) Fridays and, in the week of the third Monday of each month, will be in Maury on Monday, Lawrence (Circuit) on Tuesday, Giles on Wednesday, and Wayne on Thursday.

**22.05. Division IV Regular Chancery and Circuit Non-jury Days.** Division IV will be in Lawrence on the first Friday, will be in Giles on second and fifth Fridays, in Maury on the fourth Friday (Circuit) and, in the week of the fourth Monday of each month, will be in Maury on Monday (Chancery), Lawrence on Tuesday, Maury on Wednesday (Chancery), and Wayne on Thursday.

## **RULE 23. SCHEDULING CIVIL CASES WITH JURY OR REQUIRING MORE THAN TWO HOURS**

**23.01. Civil Cases with Jury or Requiring More Than Two Hours to Be Set by Judge's Secretary.** Chancery and circuit civil trials requiring more than two (2) hours or with a jury shall be scheduled by the secretary of the judge selected in accordance with Rule 20. If the parties cannot agree, either party may file a motion to be heard by the selected judge. The secretary shall keep a master calendar for that judge, with copies thereof distributed to the eight clerks in the district for the current and next months. Since the secretary may modify the calendar from time to time as cases are settled, continued, or rescheduled, that secretary's original shall be the only official calendar for that judge.

**23.02. Giles County Civil Rotation.** Rule 23.01 trials shall be scheduled as follows: Division I in January, May, and September in the week of the fourth Monday; Division II in February, June, and October in the week of the third Monday; Division III in March, July, and November in the week of the first Monday; and Division IV in April, August, and December in the week of the second Monday.

**23.03. Maury County Civil Rotation.** Rule 23.01 trials shall be scheduled as follows: Division I in February, June, and October in the week of the fourth Monday; Division II in March, July, and November in the week of the third Monday; Division III in April, August, and December in the week of the first Monday; and Division IV in January, May, and September in the week of the second Monday.

**23.04. Lawrence County Civil Rotation.** Rule 23.01 trials shall be scheduled as follows: Division I in March, July, and November in the week of the fourth Monday; Division II in April, August, and December in the week of the third Monday; Division III in January, May, and September in the week of the first Monday; and Division IV in February, June, and October in the week of the second Monday.

**23.05. Wayne County Civil Rotation.** Rule 23.01 trials shall be scheduled as follows: Division I in April, August, and December in the week of the fourth Monday; Division II in January, May, and September in the week of the third Monday; Division III in February, June, and October in the week of the first Monday; and Division IV in March, July, and November in the week of the second Monday.

## **RULE 24. JURY DEMAND IN CIVIL CASES**

**24.01. Procedure.** In any civil case in which a jury is demanded, the words “JURY DEMAND” shall be typewritten in capital letters opposite the style of the case above or below the space for the case number on the first page of the first pleading demanding a jury.

**24.02. Number of Jurors.** The judge and clerk will assume a jury demand is for twelve jurors unless a smaller number is stipulated by the parties. Any stipulation for a smaller number shall not affect the number of peremptory challenges or the manner of making them.

## **RULE 25. DISCOVERY IN CIVIL CASES**

**25.01. Filing Required Only for Use by Court.** Interrogatories, requests for production or admissions, responses, depositions, or any other discovery material shall not be filed with the clerk, unless and until it is to be used in court or considered by the court for any purpose.

**25.02. Interrogatories to Parties.** Interrogatories shall be limited to thirty (30) questions in any given set. Sub-parts of a question shall be counted as additional questions for purposes of determining the overall number, except that the following types of sub-parts are not separately counted: (1) identifying and locating persons being named, (2) identifying, valuing, and explaining the acquisition of property, (3) dates, charges, and other details of medical services, and (4) dates, times, places, and witnesses of alleged wrongdoing or misconduct. In other words, sub-parts that could easily and would normally be included within a single interrogatory will not be separately counted merely because numbered or lettered. Leave of court must be obtained to submit more than thirty (30) interrogatories or to submit additional sets of interrogatories beyond the first set. Requests for leave shall include copies of such additional interrogatories or sets of interrogatories to be submitted, and a statement of counsel as to the necessity for such information, its relevance, or its likelihood to lead to relevant information, and the fact that it cannot readily be obtained from other sources.

**25.03. Requests for Production or Admissions.** Requests for production or admissions shall be so arranged so that after each separate request a blank space shall be provided reasonably calculated to enable the responding party to have his response typed.

**25.04. Computer Diskettes.** If interrogatories and/or requests for production or admissions are prepared on the computer, the submitting party, upon request by a responding party, shall provide a computer diskette with the submitted documents, so the responding party may easily place the response after each individual interrogatory or request. Formal responses shall be in writing and signed in accordance with T.R.C.P.

## **RULE 26. MOTIONS IN CIVIL CASES**

**26.01. Time for Filing Pre-trial Motions.** Pre-trial motions which can be dispositive of one or more issues on the merits must be filed with notice as provided by T.R.C.P. a minimum of five (5) court days before the scheduled hearing for said motions.

**26.02. Time for Filing Responses to Motions.** Responses to motions, including counter-affidavits, depositions, briefs, or any other matters being presented in opposition to motions must

be filed and served no later than forty-eight (48) hours (excluding weekends and holidays) in advance of the hearing on the motion.

**26.03. Briefs on Motions.** Every motion which may require the resolution of an issue of law and every motion in which legal authority is relied upon shall be accompanied by a memorandum of law and facts in support thereof. Reply briefs must be filed and served no later than forty-eight (48) hours (excluding weekends and holidays) in advance of the hearing on the motion.

**26.04. Time for Hearings.** Each division shall have one motion day in each county each month (see Rule 22), except when the designated day is a holiday or conflicts with a state judicial meeting. Motions will be set for 9:00 a.m. on such motion days.

**26.05. Striking or Postponement of Motions.** If any party strikes or postpones a motion without agreement of all parties of record or without leave of court, the court may tax as cost reasonable fees and expenses to any party who appeared at the scheduled hearing.

**26.06. Failure to Appear or Late Appearance.** If any party does not appear at a scheduled hearing on a motion or any other matter scheduled to be heard on the motion docket, the court may strike, overrule, or grant the motion in the absence of the party not appearing. Counsel who will be late for a motion hearing shall notify the clerk in advance of the hearing or have an announcement to that effect made at the call of the motion docket.

## **RULE 27. PRE-TRIAL PROCEDURE AND BRIEFS IN CIVIL CASES**

In all civil actions set for trial on the merits, at least FACE="americana xbd bt extra" SIZE="2">seventy-two (72) hours (excluding weekends and holidays) prior thereto:

- (a) The names and addresses of witnesses (other than impeachment and rebuttal witnesses) shall be furnished to opposing counsel.
- (b) Copies of all exhibits which are proposed to be offered (other than impeachment or rebuttal exhibits) shall be furnished to opposing counsel. When it is impractical to copy exhibits, the proposed exhibits shall be made available for inspection upon reasonable notice.
- (c) Depositions to be used as evidence (other than for impeachment) shall be filed with the clerk.
- (d) Briefs shall be filed in all contested non-jury cases, except domestic relations cases, worker's compensation cases, negligence cases, and appeals from City and General Sessions Courts. If an issue to be litigated at trial has been briefed in pre-trial motions and counsel believes that the motion brief adequately covered the issue, counsel may refer the court to the motion brief in lieu of briefing the issue for trial.

## **RULE 28. SPECIAL JURY INSTRUCTIONS, SPECIAL VERDICTS, AND WRITTEN FINDINGS AND CONCLUSIONS**

**28.01. Request for Special Jury Instructions.** When counsel submits special requests, copies shall be furnished to adversary counsel. When a request for an instruction is made and the request is for a Tennessee Pattern Jury Instruction verbatim, the request shall be made by 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.

**28.02. Special Verdicts in Civil Cases.** Requests for special verdicts or written interrogatories must be made before commencement of the trial and must be accompanied by proposed verdict forms, written interrogatories, and proposed instructions, which will be given to the jury along with the special verdict forms or interrogatories. The court shall inform counsel of its proposed action on the requests prior to their arguments to the jury.

**28.03. Written Findings and Conclusions.** Requests for written findings of fact and conclusions of law should be accompanied by proposed findings of fact and conclusions of law and submitted in writing prior to the entry of judgment. The court may decline to make written findings and conclusions if findings and conclusions have been stated from the bench.

## **RULE 29. ORDERS AND JUDGMENTS IN CIVIL CASES**

**29.01. Preparation and Submission of Orders and Judgments.** Unless the court directs otherwise, attorneys for prevailing parties will prepare orders for entry by the court. Orders approved for entry by signatures of all parties or their attorneys are preferred, and shall be immediately signed and entered by the court. All orders must be served on adverse parties within five (5) court days following the day on which the ruling is made by the court, with a line for signature by or for each party. If service is by mail rather than by hand-delivery, the drafting party shall also attempt to transmit the draft by facsimile. Within five (5) court days of receipt of the draft, all parties or their attorneys must sign the draft or must have contacted the drafting party with any objection. If any dispute cannot be resolved by the parties, the one objecting to the draft shall schedule a telephone conference or hearing with the judge. If the drafting attorney has not received any objection within five (5) court days of mailing or delivery, the drafting attorney shall immediately submit the draft to the court with a certificate that this rule has been followed and that no objection has been received. The court may immediately approve and enter the draft as the court’s order, unless the judge disapproves the same.

**29.02. Court Costs.** All final judgments, including voluntary non-suits, shall provide for the taxing of court costs. 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 a re-taxing of court costs. The clerk shall notify the parties of the application and the date and time it will be considered by the court.

**29.03. Non-minute Entry Orders.** Written findings of fact and conclusions of law, temporary restraining orders in domestic relations cases, orders setting cases for trial, orders granting or denying a continuance, and other orders not affecting the legal course of an action may be designated by the clerk as non- minute entry orders. Such designated orders shall not be spread

upon the minutes of the court, but shall be placed in the file of the case and included in the record for review on appeal, if requested by any party.

**29.04. Disbursement of Funds by Clerk and Satisfaction of Judgments.** Funds paid to the clerk by check will not be disbursed until ten (10) days after the clerk receives the check. Orders for disbursing funds, other than agreed orders, must be final before the clerk will disburse the funds. Upon receipt of payment in satisfaction of a judgment, whether through the clerk or otherwise, counsel will satisfy the docket by certifying receipt of the judgment on the docket book.

### **RULE 30. DOCKET CALLS AND DISMISSAL OF DORMANT CASES**

The court may hold docket calls from time to time to ascertain the status of cases and set deadlines for their disposition. The court may dismiss old cases for failure of prosecution where they have been dormant without cause shown for an extended time. Copies of the order dismissing such a case shall be mailed to all

counsel of record and to any party without counsel of record, if the whereabouts of such party can be ascertained upon reasonable inquiry by the clerk.

### **RULE 31. SPECIAL PROCEDURES FOR DIVORCES**

#### **31.01. Uncontested Divorce Cases.**

(a) Where a divorce case is grounded on irreconcilable differences, at least one party must appear before the court, unless the court approves the submission of the case on affidavits or interrogatories when (1) a party is an inmate, (2) there are no minor children, or (3) the marital assets of the parties have a gross value of less than Ten Thousand Dollars (\$10,000.00), and the total of marital and individual debts of the parties is less than Ten Thousand Dollars (\$10,000.00), all of which shall be affirmatively stated in an affidavit or answers to interrogatories.

(b) Cases on grounds other than irreconcilable differences shall not be heard until at least thirty (30) days after the complaint is filed, unless good cause for an earlier hearing exists.

**31.02. Contested Divorce Cases.** In all divorce cases in which child or spousal support is a contested issue, each party shall prepare, send to the other party, and file before trial a sworn statement of income and expenses adjusted to monthly amounts. In all divorce cases in which property division is a contested issue, each party shall also prepare, send to the other party, and file before trial a sworn financial statement of assets and liabilities. Such statements of income and expenses and of assets and liabilities shall be exchanged by the parties in accordance with Rule 27. Forms for use by the parties in complying with this rule shall be kept and provided by the clerk. A party may apply to the court for such protective orders as may be reasonably necessary to avoid unreasonable and unnecessary disclosure of information required by this rule.

**31.03. Pendente Lite Hearings.** Complaints, counterclaims, or motions which include requests for pendente lite custody, visitation, spousal support, or a deviation from child support guidelines shall include grounds justifying the relief sought. When the relief sought is spousal support or a deviation from child support guidelines, the parties, by noon on the business day preceding the hearing, shall exchange sworn statements of income and expenses adjusted to monthly amounts, which statements shall be in lieu of direct testimony by the parties on such support issues, except by leave of court for good cause shown.

## **RULE 32. PARENTING RESPONSIBILITIES**

### **FOR MINOR CHILDREN**

**32.01. Parenting Plans and Classes.** In all cases involving parenting responsibilities for minor children, the law requires the parents to attend a court-approved parenting class of not less than four hours in duration and file with the clerk a certificate of attendance from the parenting class provider. The parenting class encourages parents to work together to reduce the impact of separation on their children and informs parents of the legal process. The law also requires that parents attempt to resolve their disputes over parenting responsibilities through negotiation or mediation before having a trial. Before any court hearing or order affecting custody, the parents must agree to a “parenting plan” allocating the parenting responsibilities or be subject to mediation, if they cannot agree. All cases involving parenting responsibilities shall be subject to the following sub-parts of this rule.

**32.02. Notice to Parents.** If the plaintiff or petitioner is not represented by an attorney, the clerk shall give a copy of this rule to the plaintiff or petitioner and shall attach a copy of this rule to the summons being served on the defendant or respondent. If the plaintiff or petitioner is represented by an attorney, the attorney shall give a copy to his or her client and attach a copy of this rule to the summons to be served upon or accepted by the defendant or respondent.

**32.03. Duties of Plaintiff or Petitioner.** The plaintiff or petitioner shall (a) complete the parenting class and file the certificate within 45 days after filing the complaint or petition, and (b) file a proposed permanent parenting plan with the complaint or petition, if an agreed permanent parenting plan signed by both parents is not filed with the complaint or petition.

**32.04. Duties of Defendant or Respondent.** The defendant or respondent shall (a) complete the parenting class and file the certificate within 45 days after being served with the complaint or petition, and (b) file his or her proposed permanent parenting plan with the answer to the complaint or petition, unless both parents have filed an agreed permanent parenting plan signed by both parents before the answer is due.

**32.05. Approved Parenting Class Providers.** A list of currently approved parenting class providers shall be kept in the office of the clerks of the Chancery and Circuit Courts of this district. Said list shall include all providers offering classes within the district and may list providers in nearby counties or throughout the state. A parent may attend a parenting class in a county other than the one in which the case is pending. Unless otherwise ordered by the court, each parent shall pay the fee charged by the provider for his or her attendance.

**32.06. Attendance and Certificate.** Each parent must contact one of the parenting class providers and schedule a parenting class. It is not necessary that both parents attend the same parenting class. Each parent shall file with the clerk the certificate of attendance within three court days after completion of the parenting class.

**32.07. Parenting Plan.** Any parenting plan filed with the clerk shall designate in the title to the document whether it is temporary or permanent and shall further designate in the open area below the case number whether that plan is “agreed” or is “proposed” and if proposed, by whom.

**32.08. Alternative Dispute Resolution.** If the parents are unable to enter upon a permanent parenting plan, disputes shall be addressed by alternative dispute resolution before any court hearing, unless exempted by the court. The parents may agree to a method of dispute resolution as provided by Tenn. Code Ann. 36-6-402(1). The court may order dispute resolution and have the costs thereof assessed as discretionary costs or paid according to a sliding scale approved by the mediator or other neutral person. If both parents are indigent, the clerk may assist the parents in their attempt to complete a parenting plan, in lieu of formal dispute resolution. The parenting class shall be completed by both parents before dispute resolution.

**32.09. Failure to Comply.** Any failure by either parent to comply with the provisions of this order may (a) be treated as contempt and punished accordingly, (b) be considered by the court in allocating parenting responsibilities and authority, and/or (c) result in a delay or denial of relief for the non-complying parent.

**32.10. Indigent Parents.** An indigent parent may qualify for reduced fees or no fees for parenting classes and/or mediation under Supreme Court Rule 38.

**32.11. Questions.** If a parent is represented by an attorney, questions should first be addressed to that attorney. A parent not represented by an attorney may address questions to the clerk of the court in which the case is pending.

### **RULE 33. SPECIAL PROCEDURES FOR PROBATE MATTERS**

#### **(MAURY AND WAYNE COUNTIES ONLY)**

**33.01. Attorneys.** The attorney of record is responsible to see that the estate is properly managed, administered, distributed, and closed without undue delay. The attorney of record is not relieved of this responsibility until the estate is closed or the attorney obtains an order of withdrawal from the Court.

**33.02. Personal Representatives Without Counsel.** A personal representative of an estate may elect to administer the estate without the assistance of an attorney. The Clerk and Master’s office is not authorized to provide legal advice or to provide forms for petitions, inventories, or similar documents needed in the administration of the estate. The Clerk & Master’s office may prepare orders for signature by the Clerk & Master or the Judge.

**33.03. Procedure for Approval of Fees.** If the interested parties are all *sui juris* and agree to the fee of the personal representative or the attorney, the Court will not require a petition for such fee to be filed. Any such fee should be reduced to a writing and should be consistent with the following paragraphs 33.04 and 33.05. Otherwise, fees not exceeding Five Thousand Dollars (\$5,000) or 1% of the estate, whichever is greater, may be approved by the Clerk and Master; larger fees shall be approved by a Judge. Any petition for approval of fees by the Clerk and Master or a Judge shall be heard after a minimum of five (5) days notice to the interested parties. Normally, petitions for fees will not be heard until the estate is substantially completed and an early closing of the estate is contemplated.

**33.04. Fees for Personal Representatives.** In setting or approving fees to personal representatives, the Clerk and Master or the court will consider the personal representative's time, experience, skills, difficulty in dealing with creditors and beneficiaries of the estate, and the value of the gross probate estate for which the personal representative was responsible. The Court may consider any extraordinary services, including sales of real or personal property, litigation involving claims against the estate or other matters, complex tax returns or audits, the management of the decedent's business, will contests, or such other special services that may have

been necessary. The Clerk and Master and the Court will be guided, but not bound, by a formula allowing not less than 1% nor more than 5% of the gross probate estate for which the personal representative was responsible. Time expended and the nature of the estate will be given greater consideration than the monetary value of the estate.

**33.05. Fees for Attorneys.** In setting and approving fees to attorneys, the Court will consider the factors and the guideline formula set forth in the preceding paragraph 33.04, and the factors set forth in Rule 8 of the Supreme Court of Tennessee.

**33.06. Inventories, Accountings, and Final Settlements.** If a personal representative fails to comply with the statutory requirements on filing inventories, accountings, and final settlements, the Clerk and Master shall send to the personal representative and the attorney a notice to personally appear before a Judge at a certain date to show cause why the required action has not been taken. At the show cause hearing, the personal representative and the attorney shall file with the court the most complete inventory, accounting, or settlement to date, as the case may be. If after the hearing the court is not satisfied with the efforts and diligence of the personal representative or attorney, either may be removed by the court with possible loss of compensation for services rendered and with possible liability for expenses and damages incurred by the estate for lack of diligence. Willful violations of the orders of the court may also be punished as contempt.

**33.07. Closing the Estate.** A personal representative and the attorney shall take all necessary steps for the closure of the estate no later than eighteen (18) months after the appointment of the personal representative, unless good cause is shown to the court for an extension of the administration of the estate beyond that time. If the administration of the estate is extended beyond eighteen (18) months, the Clerk and Master may collect from the estate costs that have accrued.

## **RULE 34. WORKER'S COMPENSATION BENEFIT**

### **REVIEW CONFERENCE**

No worker's compensation case shall be set for trial on the merits unless the parties certify to the court that the benefit review conference process has been scheduled for a date before the proposed trial date or should be exempt from such process.

### **RULES 35-39 (RESERVED)**

## **CRIMINAL CASES - RULES 40 THROUGH 55**

### **RULE 40. CRIMINAL CASES NOT ASSIGNED TO JUDGES**

#### **EXCEPT BY COUNTY AND TIME PERIOD**

**40.01. Semi-annual Rotation of Judges for Criminal Cases.** Instead of individual criminal cases being assigned to a particular judge, the judge of each division shall be responsible for and preside over all criminal cases in one county for six months before rotating counterclockwise to the next county. Two months before a judge rotates to the next county, that judge shall preside over the docket days in that next county to begin scheduling trials and other proceedings for his six months in said county. The rotations shall be as specified in the following sub-parts of this Rule.

**40.02. Giles County Criminal Rotation.** The criminal docket shall be presided over by the judge of Division IV the first six months of even numbered years, the judge of Division II in the last six months of even numbered years, the judge of Division I the first six months of odd numbered years, and the judge of Division III in the last six months of odd numbered years.

**40.03. Lawrence County Criminal Rotation.** The criminal docket shall be presided over by the judge of Division II the first six months of even numbered years, the judge of Division I in the last six months of even numbered years, the judge of Division III the first six months of odd numbered years, and the judge of Division IV in the last six months of odd numbered years.

**40.04. Maury County Criminal Rotation.** The criminal docket shall be presided over by the judge of Division III the first six months of even numbered years, the judge of Division IV in the last six months of even numbered years, the judge of Division II the first six months of odd numbered years, and the judge of Division I in the last six months of odd numbered years.

**40.05. Wayne County Criminal Rotation.** The criminal docket shall be presided over by the judge of Division I the first six months of even numbered years, the judge of Division III in the last six months of even numbered years, the judge of Division IV the first six months of odd numbered years, and the judge of Division II in the last six months of odd numbered years. The judge presiding over the Wayne docket shall assist and interchange for the judge presiding over the Maury docket.

## **RULE 41. REGULAR CRIMINAL DOCKET DAYS**

**41.01 Regularly Scheduled Criminal Docket Days.** Each county shall have one or more non-jury criminal “docket days” for arraignments, pleas, motions, sentencing hearings, probation revocations, and setting trial dates. All criminal trials shall be scheduled by the judge during the docket days, which shall be on the days specified in the following sub-parts of this rule, unless rescheduled to avoid a holiday or for other reasons.

**41.02 Giles County Docket Days.** Giles County docket days are as follows:

- (a) November of even numbered years through April of the following odd numbered year before the judge of Division I on the third Monday of the month;
- (b) May through October of odd numbered years before the judge of Division III on the fourth Monday of the month;
- (c) November of odd numbered years through April of the following even numbered year before the judge of Division IV on the third Monday of the month; and
- (d) May through October of even numbered years before the judge of Division II on the fourth Monday of the month.

**41.03 Lawrence County Docket Days.** Lawrence County docket days are as follows:

- (a) November of even numbered years through April of the following odd numbered year before the judge of Division III on the second Monday of the month;
- (b) May through October of odd numbered years before the judge of Division IV on the first Monday of the month;
- (c) November of odd numbered years through April of the following even numbered year before the judge of Division II on the first Monday of the month; and
- (d) May through October of even numbered years before the judge of Division I on the second Monday of the month.

**41.04 Maury County Docket Days.** Maury County docket days are as follows:

- (a) November of even numbered years through April of the following odd numbered year before the judge of Division II for public defender and pro se cases on the first Monday of the month and for private attorney cases on the Tuesday after the first Monday of the month;
- (b) May through October of odd numbered years before the judge of Division I for public defender and pro se cases on the second Monday of the month and for private attorney cases on the Tuesday after the second Monday of the month;

(c) November of odd numbered years through April of the following even numbered year before the judge of Division III for public defender and pro se cases on the second Monday of the month and for private attorney cases on the Tuesday after the second Monday of the month; and

(d) May through October of even numbered years before the judge of Division IV for public defender and pro se cases on the first Monday of the month and for private attorney cases on the Tuesday after the first Monday of the month.

**41.05 Wayne County Docket Days.** Wayne County Docket Days are as follows:

(a) November of even numbered years through April of the following odd numbered year before the judge of Division IV on the Thursday after the fourth Monday of the month;

(b) May through October of odd numbered years before the judge of Division II on the Thursday after the second Monday of the month;

(c) November of odd numbered years through April of the following even numbered year before the judge of Division I on the first Monday of the month; and

(d) May through October of even numbered years before the judge of Division III on the Thursday after the third Monday of the month.

## **RULE 42. INTERLOCUTORY RELIEF PENDING GRAND JURY ACTION**

**42.01 Bail and Other Interlocutory Relief.** Requests for setting or modifying an amount for bail or for other interlocutory relief in cases bound over to the grand jury by general sessions courts, but on which the grand jury has not yet reported, shall be presented to the judge then presiding over the docket days and/or criminal trials in that county.

**42.02 Grand Jury Inaction or No “True Bill” When Defendant Incarcerated.** If a case is bound to the grand jury and the defendant is incarcerated solely on that charge and because of an inability to secure satisfactory bail, and if the grand jury does not hear the case within forty (40) days of the bind over, the case shall be brought to the attention of a judge, who may immediately schedule a hearing to review the situation of the defendant’s incarceration and inability to make bond. If the grand jury votes a “no bill” or passes a case beyond the 40-day limit for deciding, or otherwise fails to find a true bill within that time period, the foreman of the grand jury shall immediately notify the clerk. The clerk shall determine if any such defendants are then incarcerated solely on that “no bill” or delayed charge, and if so, shall notify the sheriff, the district attorney general, the defendant or his attorney, and a judge, who may immediately schedule a hearing to review the situation of the defendant’s incarceration and inability to make bond.

**42.03 Indictment or Presentment After Prior Dismissal.** If a case is dismissed in General Sessions Court or after grand jury inaction or no “true bill” and that defendant had previously paid a professional bondsman for bail, and if that defendant is subsequently charged by grand jury indictment or presentment, the clerk shall use a summons or a capias with a recognizance

bond to secure the appearance of the defendant for arraignment, unless on motion of the state the court orders the defendant held without bond or requires a secured bail bond.

**42.04 Failure of Officer or Witness to Appear.** If the prosecuting witness has been properly notified and fails to appear before the grand jury, the grand jury may “no bill” or dismiss the case, unless the witness notifies the clerk that the witness cannot appear and schedules another date.

### **RULE 43. APPEALS FROM GENERAL SESSIONS**

All criminal cases appealed from general sessions court shall be set on the circuit court’s next docket day for settlement or for the setting of a trial date. A jury may be demanded on or before that first circuit court docket day, but not thereafter. If the defendant fails to appear on that docket day, after proper notice and without good cause, the appeal shall be dismissed at the defendant’s costs and the case returned to general sessions court for enforcement of its judgment.

### **RULE 44. ARRAIGNMENT**

After an indictment or presentment has been reported by the grand jury and filed by the clerk, the clerk shall immediately set the case for the next docket day a minimum of ten (10) days thereafter and shall attempt to have the defendant present for such docket day in accordance with T.R.Crim.P. 9. A defendant represented by a privately retained attorney may avoid personal appearance and be arraigned by written acknowledgment that the defendant has received a copy of the indictment, understands the same, has an attorney, and giving the defendant’s full name, address, date of birth, and social security number. The document should be substantially in conformity with the form kept and provided by the clerk.

### **RULE 45. DISCOVERY IN CRIMINAL CASES**

**45.01 Discovery by the Defendant.** Any requests for discovery and inspection made by the defendant pursuant to T.R.Crim.P. 16(a), shall be in writing and shall be made within fifteen (15) days of the docket day; and the State shall make available for inspection and copying the discovery information that the State has within ten (10) days of receipt of the defendant’s request. The State should be diligent in making itself aware of tapes, photographs, written or oral statements, and other discoverable materials in the possession of the alleged victim or investigating officers, and disclose such in its discovery responses, so as to minimize disputes about the admissibility of such at the trial.

**45.02 Discovery by the State.** Any requests for discovery and inspection made by the state pursuant to T.R.Crim.P.16(b), shall be in writing and shall be made within ten (10) days of the receipt of the defendant’s request for discovery and inspection; any requests for notice of alibi pursuant to T.R.Crim.P. 12.01, shall be made within ten (10) days of receipt of the defendant’s request for discovery or inspection or, in the event the defendant makes no request, within twenty (20) days of the first docket day; and the defendant shall answer the State’s requests within ten (10) days of receipt of the state’s request.

**45.03 Motions to Compel Discovery.** Any motions to compel discovery pursuant to T.R.Crim.P. 16(d)(2), must be filed within forty (40) days of the first docket day. Motions to compel discovery must recite the request which was made or be accompanied by a copy of a written request and must contain a certificate of counsel to the effect that requests for discovery or inspection have not been complied with within the time provided in this rule.

**45.04 Scheduling Order in Lieu of Foregoing Time Periods.** Any time periods or deadlines specified above in this Rule 45 may be modified by agreement of the parties or by the court on motion of either party in a scheduling order entered into on or before the first docket day.

## **RULE 46. MOTIONS IN CRIMINAL CASES**

**46.01 Time for Filing Pre-trial Motions.** All pre-trial motions made pursuant to T.R.Crim.P. 12(b) and 21, must be filed and served no later than forty (40) days after arraignment or seven (7) days before trial, whichever is earlier.

**46.02 Time for Filing Responses to Motions.** Any responses to motions must be filed no later than ten (10) days after service of a motion or two (2) days before the hearing on the motions, whichever is earlier.

**46.03 Time for Hearings on Motions.** Pre-trial motions will be heard on the next docket day after the response time, unless a pending trial date requires a specially set date and time.

**46.04 Scheduling Order in Lieu of Foregoing Time Periods.** Any time periods or deadlines specified above in this Rule 46 may be modified by agreement of the parties or by the court on motion of either party in a scheduling order entered into on or before the first docket day.

**46.05 Failure to Appear at a Motion Hearing.** If counsel for a movant does not appear at a scheduled hearing on a motion or any other matter scheduled to be heard on the motion docket, the court may strike, overrule, or otherwise dispose of the motion.

## **RULE 47. DEADLINE FOR PRETRIAL DIVERSION APPLICATION AND RESPONSE**

Unless a different schedule is approved by the court in a scheduling order on or before the docket day of the next month following arraignment, any application by a defendant for pretrial diversion must be made no later than forty (40) days after arraignment, and the District Attorney General shall formally respond within forty (40) days after receipt thereof.

## **RULE 48. NEGOTIATIONS AND SETTLEMENTS**

### **IN CRIMINAL CASES**

**48.01 Settlement Date and Deadline.** At arraignment the court will assign a court date for settlement of the case which will be the deadline for acceptance of a negotiated disposition. If the record does not show the setting of a specific settlement date, such date shall automatically be

the next month's docket day. At the settlement date, if the case has not been disposed of, the court will set the case for trial. Upon the docketing of the case for trial, the court may refuse to accept a negotiated disposition on the trial date, or even after the last preceding docket day, unless the interests of justice dictate otherwise. Nothing in this rule shall prohibit the defendant's election to enter a plea of guilty to one or more counts of an indictment while demanding a trial on one or more other counts of the same indictment. Likewise, counsel for the state may move to dismiss with prejudice one or more counts of the indictment while demanding trial on one or more other counts.

**48.02 Scheduling Order.** At arraignment the court shall notify the parties of the deadline for filing pre-trial motions, the date for the hearing on pre-trial motions, and the settlement date. The above dates will be provided to the parties in the form of a scheduling order, copies of which shall be furnished to the parties. The clerk will retain the original order in the file but need not copy it on the minutes.

## **RULE 49. SETTING AND CONTINUING CRIMINAL CASES**

**49.01 Method of Setting.** Cases shall be set for trial by the court on the settlement date after counsel have advised the court that the case will not be disposed of by a negotiated disposition.

### **49.02 Continuances.**

(a) A case may not be continued without approval of the judge before whom the same is set. A case will not be continued except for good cause, which shall be brought to the attention of the judge as soon as practicable before the date of the trial. In deciding whether to grant a continuance, the court shall consider the position of the case on the docket, the number of past continuances, the nearness of the trial date, the possible loss of a court day, and jury inconveniences and costs, as well as the grounds for the motion.

(b) Absence of a witness will not be grounds for a continuance unless the witness has been subpoenaed in accordance with the requirements of these rules and the Rules of Criminal Procedure.

(c) If a case is continued, a new trial date will be assigned at the time of the continuance.

## **RULE 50. SPECIAL JURY INSTRUCTIONS**

When a request for an instruction is made, copies shall be furnished to adversary counsel. If the request is for a Tennessee Pattern Jury Instruction verbatim, the request shall be made by reference to "T.P.I.--Crim. \_\_\_\_\_." 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.

## **RULE 51. PROBATION REVOCATIONS BY ANY JUDGE**

Pursuant to Tenn. Code Ann. § 40-35-311(b), each of the circuit judges of this 22<sup>nd</sup> Judicial District do hereby request that any of the other three circuit judges conduct hearings in cases in which charges of violations of probation are alleged and that any such judge proceed to determine whether or not a violation has occurred and whether or not such probation should be revoked in whole or in part. The judge hearing the revocation proceeding shall have the same authority as if that judge had been the one which actually granted such probation following a trial, guilty plea, and/or sentencing hearing. Since the judges rotate through the four counties of the district presiding over each county's criminal docket for a period of six months and may be up to 18 months returning to a given county for criminal proceedings, it is often inconvenient for the judge granting probation to preside over hearings to determine alleged violations. For that reason each judge requests that such hearing be held by any judge who may be more frequently in that particular county for the purpose of handling criminal cases.

## **RULE 52. WRITTEN FINDINGS AND CONCLUSIONS**

Requests for written findings of fact and conclusions of law should be accompanied by proposed findings of fact and conclusions of law and submitted in writing prior to the entry of judgment. Except in post-conviction relief cases where written findings are required by statute, the court may decline to make written findings and conclusions if findings and conclusions have been stated from the bench.

## **RULE 53. ORDERS AND JUDGMENTS IN CRIMINAL CASES**

**53.01. Preparation and Entry of Orders and Judgments.** Unless the court directs otherwise, all orders and judgments will be prepared by and signed by the attorneys, by both if agreed and by the prevailing party if contested. All orders on contested matters must be lodged with the clerk and served on opposing counsel within seven (7) days following the day on which the ruling is made by the court. If there are disagreements in the wording of orders, the counsel not drawing the draft order shall immediately schedule a chambers or telephone conference convenient to the drafting attorney and the judge. If no such conference is requested, the draft order is presumed to be correct, whether signed by opposing counsel or not, and will be entered unless amended by the judge.

**53.02. Non-minute Entry Orders.** Written findings of fact and conclusions of law, orders setting cases for trial, orders granting or denying a continuance, and other orders not affecting guilt or sentence may be designated by the clerk as non-minute entry orders. Such designated orders shall not be spread upon the minutes of the court, but shall be placed in the file of the case and included in the record for review on appeal, if requested by any party.

## **RULE 54. ORDER FOR TRANSCRIPT FOR INDIGENT DEFENDANT**

If an indigent defendant is appealing and expects a transcript to be prepared at the expense of the State of Tennessee, such defendant, within fifteen (15) days of filing of the notice of appeal, shall obtain the trial judge's order for such transcript on a form provided by the official court reporters for this judicial district and available in each clerk's office. The reporter shall not be

expected to begin preparation of such transcript until the reporter has been provided a copy of such order.

**RULE 55. PROFESSIONAL BAIL BONDSMEN**

The judges of the Circuit Courts of the Twenty-second Judicial District may, from time to time, promulgate such rules and requirements as are necessary to regulate bail-bonding entities within the district. The purpose of any such rules is to assure compliance with Tenn. Code Ann. § 40-11-301, et seq. Any bonding entity desiring to make bail bonds in the Twenty-second Judicial District, composed of Giles, Lawrence, Maury, and Wayne Counties, shall apply to and be approved by the Circuit Court in accordance with such rules. A current copy of any such rules shall be maintained by, and available for public inspection in, the office of the circuit court clerk of each county of the district.

IT IS HEREBY ORDERED that the foregoing rules shall become effective on October 1, 2002, for all cases then pending and thereafter filed in the Chancery and Circuit Courts of the Twenty-second Judicial District.

This \_\_\_\_\_ day of \_\_\_\_\_, 2002.

\_\_\_\_\_  
Jim T. Hamilton, Circuit Judge, Robert L. Holloway, Jr., Circuit Judge,

Division I Division II

\_\_\_\_\_  
Robert L. Jones, Circuit Judge, Stella L. Hargrove, Circuit Judge,

Division III Division IV

IN THE \_\_\_\_\_ COURT FOR COUNTY, TENNESSEE

\_\_\_\_\_,)

Plaintiff, )

)

v. ) No. \_\_\_\_\_

)

\_\_\_\_\_,)

Defendant. )

SWORN STATEMENT OF PARTIES' SEPARATE AND JOINT

ASSETS AND LIABILITIES

By \_\_\_\_\_

ASSETS

Owned by

H, W or Jt. Value

1. Real Estate: (a) \_\_\_\_\_ \$ \_

(b) \_\_\_\_\_ --

2. Household goods: (attach separate lists of any not jointly owned) H

W

Jt

3. Motor vehicles (make and model)

(a) \_\_\_\_\_ --

(b) \_\_\_\_ --

(c) \_\_\_\_\_ --

4. Cash: (a) checking account \_\_\_\_\_ --

\_\_\_\_\_ --

(b) savings account \_\_\_\_\_ --

(c) credit union \_\_\_\_\_ --

(d) other \_\_\_\_\_ --

5. Retirement accounts \_\_\_\_ --

6. Stocks \_\_\_\_ --

7. Bonds \_\_\_\_ \_

8. Business interests (attach separate financial statement for each) \_\_\_\_ \_

9. Life insurance (cash value) \_\_\_\_ \_

10. Other: (specify)

(a) \_\_\_\_\_ (b)  
\_\_\_\_\_

(c) \_\_\_\_\_

**TOTAL ASSETS \$ \_**

**LIABILITIES:**

Owned by

H, W or Jt. Amount

1. Secured notes (specify creditors)

(a) \_\_\_\_\_ \$ \_

(b) \_\_\_\_\_

(c) \_\_\_\_\_

2. Unsecured notes (specify creditors)

(a) \_\_\_\_\_

(b) \_\_\_\_\_

(c) \_\_\_\_\_

3. Current accounts payable

(a) \_\_\_\_\_

(b) \_\_\_\_\_

(c) \_\_\_\_\_

(d) \_\_\_\_\_

**TOTAL LIABILITIES \$**\_\_\_\_\_

**NET WORTH: (ASSETS LESS LIABILITIES) \$**

STATE OF TENNESSEE, COUNTY OF MAURY

I make oath that the foregoing entries for assets and liabilities are complete and correct to the best of my knowledge, information and belief.

\_\_\_\_\_

Sworn to and subscribed before me, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_

NOTARY PUBLIC

My Commission Expires:\_\_\_\_\_

IN THE \_\_\_\_\_ COURT FOR \_\_\_\_\_ COUNTY, TENNESSEE

\_\_\_\_\_

Plaintiff,

v. No. \_\_\_\_\_

\_\_\_\_\_

Defendant.

**SWORN STATEMENT OF INCOME AND EXPENSES OF**

\_\_\_\_\_

**MONTHLY INCOME:**

1. Gross wages or salary per (circle one) weekly, biweekly, semimonthly, or monthly pay period \$ \_\_\_\_\_

2. Deductions: Income tax \$ \_\_\_\_\_, FICA \$ \_\_\_\_\_, other \$ \_\_\_\_\_  
\$ \_\_\_\_\_

3. Net wages or salary per pay period \$ \_\_\_\_\_

4. Net monthly (adjusted for 4-1/3 wks./mo.) \$ \_\_\_\_\_

5. Other net income: Specify interest, dividends, rent, business profits, support from previous spouse, etc. \$ \_\_\_\_\_

TOTAL NET MONTHLY INCOME \$ \_\_\_\_\_

**MONTHLY EXPENSES AND PAYMENTS:**

**A. GENERAL EXPENSES:**

1. Residence rent (C.1 for mortgage) \$ \_\_\_\_\_

2. Residence insurance \$ \_\_\_\_\_ and taxes \$ \_\_\_\_\_ (if not included in C.1) \$ \_\_\_\_\_

3. Residence maintenance (yard, appliances, etc.) \$ \_\_\_\_\_

4. Utilities (electricity \$ \_\_\_\_\_, water and sewer \$ \_\_\_\_\_, telephone \$ \_\_\_\_\_, gas \$ \_\_\_\_\_,

TV cable \$ \_\_\_\_\_) \$ \_\_\_\_\_

5. Car (C.2 for payment)( Gas and oil \$ \_\_\_\_\_, Repairs \$ \_\_\_\_\_, Insurance \$ \_\_\_\_\_) \$ \_\_\_\_\_

6. Insurance (other than residence and car) Life \$ \_\_\_\_\_, medical \$ \_\_\_\_\_ \$ \_\_\_\_\_

7. Child support and/or alimony paid for others not involved in this case \$ \_\_\_\_\_

8. Other (specify) \_\_\_\_\_ \$ \_\_\_\_\_

Total General Expenses \$ \_\_\_\_\_

**B. PERSONAL EXPENSES:**

Myself Children Dependents

1. Food \$ \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_

2. Clothing \_\_\_\_\_

3. Laundry and cleaning \_\_\_\_\_

4. Medical \_\_\_\_\_

5. Dental \_\_\_\_\_

6. School \_\_\_\_\_

7. Child care \_\_\_\_\_

8. Beauty or barber shop \_\_\_\_\_

9. Recreation \_\_\_\_\_

10. Other (specify)

\_\_\_\_\_

Total Personal Expenses \$ \_\_\_\_\_ + \$ \_\_\_\_\_ + \$ \_\_\_\_\_ = \$ \_\_\_\_\_

### C. INSTALLMENT PAYMENTS ON DEBTS:

Monthly

#### Creditor Balance Payments

1. Residence

\$ \_\_\_\_\_

\$ \_\_\_\_\_

2. Car, etc. \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

3. Furniture, etc. \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

4. Clothing \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
5. Other \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
Total Installment Debts \$ \_\_\_\_\_

TOTAL MONTHLY EXPENSES AND PAYMENTS (ALL OF A, B, AND C) \$ \_\_\_\_\_

**DEBTS WITHOUT FIXED PAYMENTS:** (Not listed in C above)

Creditor Date Amount Balance

\_\_\_\_\_  
\$ \_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_  
\$ \_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_  
\$ \_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_  
\$ \_\_\_\_\_ \$ \_\_\_\_\_

I make oath that the foregoing entries for my income and debts are true and correct to the best of my knowledge, information, and belief and that the general and

personal expenses are good estimates for the next \_\_\_\_\_ months based on averages from the last \_\_\_\_\_ months and/or other information.

\_\_\_\_\_  
STATE OF TENNESSEE

COUNTY OF MAURY

Sworn to and subscribed before me, this \_\_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_\_.

My Commission Expires:  
\_\_\_\_\_

\_\_\_\_\_ NOTARY PUBLIC

STATE OF TENNESSEE ) IN THE CIRCUIT COURT FOR \_\_\_\_\_ COUNTY,  
TENNESSEE

v. )

\_\_\_\_\_ ) NO. \_\_\_\_\_

Defendant

### **ARRAIGNMENT - SCHEDULING ORDER**

(Defendant Appearing)

The defendant came into open court this date with defendant's attorney of record and, after being informed of the substance of the indictment and waiving a formal reading, entered a plea of not guilty. The defendant and defendant's attorney acknowledged receipt of copies of both the indictment and this order, which binds the parties to the following schedule:

- 1. Discovery requests date:** \_\_\_\_\_. If the state does not voluntarily deliver to defendant a complete discovery package at arraignment, Defendant's request for discovery must be served upon the district attorney general no later than 15 days following arraignment, and the district attorney general shall respond within 10 days thereafter.
- 2. Pre-Trial Diversion application date:** \_\_\_\_\_. An application for pre-trial diversion must be filed and served upon the district attorney general no later than 40 days following arraignment. The district attorney general shall respond within 40 days thereafter.
- 3. Pre-Trial Motion filing date:** \_\_\_\_\_. Pre-trial motions must be filed and served upon opposing counsel no later than 40 days following arraignment and will comply with the particularity requirement of T.R.Crim.P. 48. Responses to these motions, where necessary, must be filed no later than 10 days after the receipt thereof. A motion which may require the resolution of an issue of law and every motion in which legal authority is relied upon, shall be accompanied by a memorandum of law and facts in support thereof. Motions in limine may be filed subsequent to this date where necessary as a result of information obtained in response to a pre-trial motion; however, such a motion will not be entertained if addressing any subject matter more appropriately brought under a T.R.Crim.P. 12 motion.
- 4. Criminal Motion day:** \_\_\_\_\_. All motions pending in this case will be disposed of on this date unless special arrangements are made earlier with the court for another date.
- 5. Settlement Date:** \_\_\_\_\_. Any case not settled by agreement by this date will be given a trial date as soon thereafter as possible. After the case is docketed for trial, a negotiated plea may be refused by the court and the case may only be

resolved by trial or by the entry of a plea of guilty to the indictment. In the later event, the court will not be bound to accept any recommendation with regard to sentencing.

**6. Docket Day:** (check one) \_\_\_\_\_ the \_\_\_\_\_ Monday of each month

\_\_\_\_\_ the Tuesday after the \_\_\_\_\_ Monday of each month

\_\_\_\_\_ the Thursday after the \_\_\_\_\_ Monday of each month

**All persons presently charged in this court** with committing a criminal offense, except those persons whose cases were earlier set for trial on a day certain or whose cases have been concluded in this court and are now on appeal, **will be present in court on this date with their attorney.**

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

Attorney for State Judge

Attorney for Defendant

Defendant

DOB SS# Reg. Voter?

Place of Birth Race If yes, what county?

STATE OF TENNESSEE ) IN THE CIRCUIT COURT FOR \_\_\_\_\_ COUNTY,  
TENNESSEE

v. )

\_\_\_\_\_ ) NO. \_\_\_\_\_

Defendant

**ARRAIGNMENT - SCHEDULING ORDER**

(Defendant Not Appearing)

The undersigned defendant along with defendant’s retained attorney waives the defendant’s appearance for arraignment, acknowledges receipt of copies of the indictment and this order, waives formal reading of the indictment, and pleads “not guilty” to all charges in the above-numbered case. This order binds the parties to the following schedule:

**1. Discovery requests date:** \_\_\_\_\_. If the state does not voluntarily deliver to defendant a complete discovery package at arraignment, Defendant’s request for

discovery must be served upon the district attorney general no later than 15 days following arraignment, and the district attorney general shall respond within 10 days thereafter.

**2. Pre-Trial Diversion application date:** \_\_\_\_\_. An application for pre-trial diversion must be filed and served upon the district attorney general no later than 40 days following arraignment. The district attorney general shall respond within 40 days thereafter.

**3. Pre-Trial Motion filing date:** \_\_\_\_\_. Pre-trial motions must be filed and served upon opposing counsel no later than 40 days following arraignment and will comply with the particularity requirement of T.R.Crim.P. 48. Responses to these motions, where necessary, must be filed no later than 10 days after the receipt thereof. A motion which may require the resolution of an issue of law and every motion in which legal authority is relied upon, shall be accompanied by a memorandum of law and facts in support thereof. Motions in limine may be filed subsequent to this date where necessary as a result of information obtained in response to a pre-trial motion; however, such a motion will not be entertained if addressing any subject matter more appropriately brought under a T.R.Crim.P. 12 motion.

**4. Criminal Motion day:** \_\_\_\_\_. All motions pending in this case will be disposed of on this date unless special arrangements are made earlier with the court for another date.

**5. Settlement Date:** \_\_\_\_\_. Any case not settled by agreement by this date will be given a trial date as soon thereafter as possible. After the case is docketed for trial, a negotiated plea will not be accepted by the court and the case may only be resolved by trial or by the entry of a plea of guilty to the indictment. In the later event, the court will not be bound to accept any recommendation with regard to sentencing.

**6. Docket Day:** (check one) \_\_\_\_\_ the \_\_\_\_\_ Monday of each month

\_\_\_\_\_ the Tuesday after the \_\_\_\_\_ Monday of each month

\_\_\_\_\_ the Thursday after the \_\_\_\_\_ Monday of each month

**All persons presently charged in this court** with committing a criminal offense, except those persons whose cases were earlier set for trial on a day certain or whose cases have been concluded in this court and are now on appeal, **will be present in court on this date with their attorney.**

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

Attorney for State Judge

Attorney for Defendant

Defendant

DOB SS# Reg. Voter? \_\_\_\_\_

Place of Birth Race If yes, what county?