
LOCAL RULES OF PRACTICE

**FOR THE
CIRCUIT COURT (CIVIL)
OF THE EIGHTH JUDICIAL DISTRICT**

**CLAIBORNE COUNTY, UNION COUNTY,
CAMPBELL COUNTY,
SCOTT COUNTY AND FENTRESS COUNTY**

John D. McAfee
Circuit Judge
204 Court Street
P.O. Box 665
Tazewell, TN 37879

TABLE OF RULES

Rule

1. Applicability, Suspension and Definitions
2. Presiding Judge
3. Court Sessions
4. Appearance and Conduct of Counsel
5. Court Files
6. Filing and Service of Papers
7. Jury Demand
8. Discovery
9. Trial dockets and Status Dockets
10. Motions
11. Use of Audio/Visual Recordings
12. Negotiations and Settlements
13. Court Reporters
14. General Sessions and Juvenile Court Appeals in Circuit Court
15. Setting Cases for Trial and Continuances
16. Subpoenas
17. Pre-Trial Procedure
18. Exhibits
19. Requests for Special Instructions and Special Verdicts
20. Orders and Judgments
21. Divorces: Special Procedures
22. Extraordinary Interlocutory Relief
23. Jurors
24. Time Standards for Disposition of Cases

RULE 1

APPLICABILITY, SUSPENSION AND DEFINITIONS

§1.01 Former Rules Abrogated

All former rules of local practice of the Circuit Court except as readopted herein are abrogated.

§1.02 Applicability

Each rule is applicable in the Circuit Court (civil) of the Eighth Judicial District. Each rule is applicable in all types of cases unless otherwise indicated by a particular rule.

§1.03 Suspension of Rules

Whenever the Court determines that justice requires it, it may suspend any of these rules unless said action violates Tennessee Rules of Civil Procedure (TRCP).

§1.04 Definitions

The following definitions apply to terms used in these rules.

Clerk: The Circuit Court Clerk.

TRCP: Tennessee Rules of Civil Procedure

LRP: Local Rules of Practice.

§1.05 Citation

These rules may be cited as "LRP § _____."

RULE 2

PRESIDING JUDGE

The Presiding Judge selected pursuant to Rule 11 of the Rules of the Supreme Court of Tennessee will supervise the administration of the respective Courts.

RULE 3

COURT SESSIONS

§3.01 Time

Regular sessions of court will open at 9:00 a.m. or at such other time as the Court directs. Judges and attorneys shall be prompt at all sessions.

§3.02 Schedules

Effective from and after January 1, 2005, and until further modified, the Circuit Court sessions for the counties of the Eighth Judicial District will be docketed by the Judge.

RULE 4

APPEARANCE AND CONDUCT OF COUNSEL

§4.01 Counsel of Record; Entry of Appearance

(a) 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;

1. The filing of pleadings;
2. The filing of a formal notice of appearance; or

3. A formal appearance of counsel before the Court.

§4.02 Withdrawal of Counsel

No attorney will be allowed to withdraw except for good cause and by leave of court upon motion and hearing after notice to the party or by agreed order signed by the attorney and client and approved by the Court.

§4.03 No appearance Entered; Copies of Pleadings

If a party does not have counsel of record, copies of the pleadings filed shall be furnished to that party by counsel. It shall be brought to the attention of the Court before any action is taken on any pleading filed if a party does not have counsel.

§4.04 Conduct of Counsel

(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. During opening statement or argument, no juror shall be addressed individually by name.

(b) Bench conferences should be requested by counsel only when absolutely necessary in aid of a trial. Counsel may never lean upon the bench nor appear to engage the Court in conversation in a confidential manner.

(c) Counsel should refrain from interrupting the Court or opposing counsel until the statement being made is fully completed, except when absolutely necessary to protect the client, and should respectfully await the completion of the Court's statement or opinion before undertaking to point out objectionable matters. When objection is made to a question asked, counsel should refrain from asking the witness another until the Court has had an opportunity to rule upon the objection. Objecting counsel shall state the legal grounds without argument or discussion except by leave of court.

(d) Attorneys shall stand while examining witnesses, or addressing the jury or the Court, unless excused by the Court.

(e) No person shall converse with any juror during his or her term of service about any matter of fact or law which may pertain to a case during the juror's period of service, except in open court or by express permission of the Court. This rule shall preclude attorneys or their employees interviewing jurors between the time a case is completed and when that session of court ends without leave of court.

(f) The following Standards of Intra-Professional Conduct are hereby adopted as standards which govern the conduct of counsel.

1. A lawyer should avoid taking adverse action against a litigant known to have counsel, without first notifying adversary counsel.

2. A lawyer should promptly respond to attempts by other lawyers to contact him or her, whether by telephone or correspondence.

3. A lawyer should respect his or her opponent's schedule by seeking agreement on deposition dates and court appearances (other than routine motions/status) rather than merely serving notice.

4. A lawyer should avoid making ill-considered accusations of unethical conduct toward an opponent.

5. A lawyer should not engage in intentionally discourteous behavior for the purpose of obtaining an advantage.

6. A lawyer should never intentionally embarrass another attorney and should avoid personal criticism of him or her in the presence of his or her client or other counsel.

7. A lawyer should not seek sanctions against or disqualification of another attorney unless necessary for the protection of a client and fully justified by the circumstances, and never for the mere purpose of obtaining a tactical advantage.

8. A lawyer should strive to maintain a courteous tone in correspondence, pleadings and other written communications.

9. A lawyer should never intentionally mislead or deceive an adversary and should honor promises or commitments made.

10. A lawyer should acknowledge that the conflicts within which he or she is involved are professional and not personal and should endeavor to maintain a friendly and collegial relationship with his or her adversaries. In short, a lawyer should “leave the argument at the courtroom door.”

§4.05 Setting Attorney Fees

Whenever it is necessary for the Court to fix fees of attorneys, the attorney shall file a statement of time spent on the case, a suggestion of the amount of a proper fee, and any other information requested by the Court. This rule may not apply where fees are set or suggested by statute.

§4.06 Contacting Judge

Neither counsel nor a party to a pending action shall contact the Judge before whom a contested matter is pending unless there is an emergency, except;

1. By letter, a copy of which is sent to all counsel of record, with copy to clerk.
2. Orally with other counsel present.
3. By conference telephone call with all parties and/or counsel.

RULE 5

COURT FILES

All papers and records of the Court shall be in the custody of the clerk. Files may not be withdrawn by any person other than attorneys, or their employees, at any time except by leave of court. Any files withdrawn shall not be retained for more than five (5) days without leave of court. The person withdrawing the file shall be responsible for maintaining its contents and returning it to the clerk. Copies of files shall be furnished by the clerk at a reasonable cost.

RULE 6

FILING AND SERVICE OF PAPERS

§6.01 Certificate of Service

All papers, other than the complaint, must contain a certificate of service which must contain the date of service and the name of the person or persons served.

§6.02 Signature of Counsel

All pleadings, orders, briefs and other papers submitted for consideration by the Court shall show the style and number of the case, the general nature of the paper filed, the name, address and telephone number of the attorney filing the pleading, and the filing attorney's Tennessee Supreme Court Registration Number, and shall be signed by counsel.

§6.03 Clerk's duties - final orders

The clerk, at the time of filing of any orders signed by the Judge, other than non-minute orders, shall forward a copy of the order with the filing date thereon to all counsel of record.

RULE 7

JURY DEMAND

§7.01 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 pleadings opposite the style of the case above the space for the case number.

§7.02 Number of Jurors

In all civil cases, the parties may stipulate that the jury will consist of any number of persons less than twelve (12). Unless otherwise expressly demanded, a jury demand is a stipulation for an eight (8) person jury. Failure to demand a twelve (12) person jury in the last TRCP Rule 7.01 pleading filed is a stipulation for an eight (8) person jury.

§7.03 Challenges

The eight (8) person jury stipulation shall not affect the number of challenges nor the manner of making them.

RULE 8

DISCOVERY

§8.01 Filing Required Only for Use by Court

Interrogatories and requests for production or any other discovery material should be filed with the clerk only if it is to be used in court or considered by the Court for any purpose.

§8.02 Extension of Time for Responses to Discovery

As provided in Rule 29 TRCP, stipulations extending the time for responding to interrogatories to parties, requests for production and requests for admissions shall not be made without approval of the Court. Court approval may be obtained by submitting an agreed order extending the time for response. Any party unable to respond to discovery within the time provided in TRCP and who cannot obtain the agreement of the other parties for an agreed order extending the time for responding, may move the Court for an extension of time for responding.

§8.03 Discovery Completion Deadline

Upon motion of a party or upon its own motion, the Court may order that discovery be completed by a certain date.

§8.04 Interrogatories to Parties

No party shall serve on any other party more than twenty (20) single question interrogatories, including subparts, without leave of court. Any motion seeking permission to serve more than twenty (20) interrogatories shall set out the additional interrogatories the party wishes to serve. The motion will be accompanied by a memorandum giving reasons establishing good cause for the service of additional interrogatories. If a party is served with more than twenty (20) interrogatories without an order of the Court, he or she shall respond only to the first twenty (20) in the manner provided by TRCP.

§8.05 Discovery Conference

The Court may refuse to rule on any motions for discovery unless at the time of filing, a statement certifying that counsel has in good faith conferred with opposing counsel to resolve the disputed issue(s). If counsel for any party advises the Court 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.

§8.06 Motions to Compel Discovery

Motions to compel discovery shall:

(a) Either (1) quote verbatim the interrogatory, request, or question and any objection or response thereto, or (2) be accompanied by a copy of the interrogatory, request or excerpt of a deposition which shows the question and objection or response. This requirement shall not apply where a party has submitted no response or objection to the entire set of interrogatories or requests;

(b) State the reason supporting the motion.

§8.07 Motions for Protective Orders; To Quash Subpoena

Motions for protective orders filed pursuant to Rule 26.03, TRCP, motions to quash subpoenas for discovery filed pursuant to Rule 45.02, TRCP, or any motion asking that discovery be postponed or restricted shall;

(a) Either (1) quote verbatim the interrogatory, request, question, or subpoena, or (2) be accompanied by a copy of the interrogatory, request, subpoena, or excerpt of a deposition which shows the question;

(b) State with particularity the grounds for the motion;

(c) Be accompanied by an affidavit or other evidence showing the need for the order;

(d) Be accompanied by a proposed protective order.

§8.08 Motion to Compel; Exhibits to Depositions

Agreements to furnish exhibits made during the taking of depositions may be enforced by motion made pursuant to Rule 37 TRCP.

§8.09 Service

Whenever a request for discovery is made, the party seeking discovery shall serve each party with a copy of the request. Such service shall be made regardless of whether the discovery sought is directed to only one of multiple parties. Likewise, each response to a request for discovery shall be served on each party in the case.

RULE 9

TRIAL DOCKETS AND STATUS DOCKETS

§9.01 Daily Dockets

Daily trial dockets will be prepared by the clerk.

§9.02 Cases not Reached

In the event a jury case is not reached for trial on the day it is set, it may be carried over to the following trial day without loss of its place in the order of trial or may be reset by the Court later in the session.

§9.03 Status Docket

The Judge and/or the clerk shall schedule all matters to be heard at status.

RULE 10

MOTIONS

§10.01 Time for Filing and disposition of Pre-Trial Motion

Pre-trial motions which may dispose of one or more issues in a case on the merits must be filed and set for hearing at least sixty (60) days prior to the trial date in jury cases and thirty (30) days prior to the trial date in non-jury cases. Any such pre-trial motion shall be docketed within ninety (90) days of filing in any case.

§10.02 Response to Motions

(a) If a motion is opposed, a response to the motion must be filed. The response shall be made in writing and shall state with particularity the grounds for opposition to the motion. If no response is filed, the Court may dispose of the motion as unopposed.

(b) Responses to motions, including counter-affidavits, depositions, briefs or any other matters being presented in opposition to motions must be served on opposing counsel prior to the day of the hearing on the motion.

§10.03 Briefs on Motions and Responses

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 short memorandum of law and facts in support thereof. A responsive memorandum is required and shall be submitted and furnished to opposing counsel prior to the day of the hearing on the motion. If no responsive brief is filed, the Court may dispose of the motion as unopposed. When motions are to be heard, copies of motions, briefs and responses shall be sent to the Judge sufficiently prior to the hearing to allow review.

Whenever a memorandum cites an unreported Tennessee decision or a decision from a Court of another state, counsel shall attach to the memorandum a complete copy of the opinion; counsel also shall furnish a copy of any unreported decision to opposing counsel.

§10.04 Time for Hearings.

Motions will be heard by agreement, by order of the Court, or on notice on any status day commencing at 9:00 a.m. or by consent of court on any regular day of a session in the county in which the motion is pending or at such other time and place as may be designated by the Court.

§10.05 Place of Motion Hearing

Motions shall be held at 9:00 a.m. on designated dates in the county where the original case is filed or at such other times and places as the Court may designate. Any party docketing a motion for hearing shall serve written notice of the date and time of the hearing upon all other parties.

§10.06 Striking or Postponement of Motions

After a motion has been docketed, no party may strike or postpone a motion without the agreement of all parties. In the absence of an agreement, the Court may order postponement of a motion hearing. If a motion is to be stricken or postponed by agreement, counsel shall notify the clerk and Judge's secretary as soon as practicable. If any party strikes or postpones a motion without agreement of all parties of record or without leave of court, the Court may tax costs, reasonable fees and expenses in favor of any party who appeared at the scheduled hearing.

§10.07 Failure to Appear at a Motion; 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 or adjudicate the motion. 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.

§10.08 Motions for new trial and/or hearings

(a) Motions for new trial and/or modification of an order/judgment shall be docketed for hearing within thirty (30) days of the date of filing of the motion.

(b) The failure to docket a hearing within thirty (30) days shall be considered a waiver of the motion and an order overruling said motion may be entered by the Court.

RULE 11

USE OF AUDIO/VISUAL RECORDINGS

When a party intends to offer an audio and/or visual recording as evidence in any jury trial, counsel shall provide written notice to all adverse counsel at least twenty-one (21) days before trial. Adverse counsel shall be permitted to review the recording in the form in which it is intended to be offered at trial. Additionally, counsel, at his/her expense, shall be allowed to copy said recording. Adverse counsel shall promptly advise the other attorney of each objection to the recording. The attorneys shall then attempt in good faith to resolve such matters among themselves. If the attorneys cannot resolve the objections, then they shall advise the Court sufficiently before trial in order that said objections may be ruled upon in time to allow editing of the recording. By way of example only, this rule applies to video taped depositions, "Day in the Life" recordings, surveillance films and confessions, interviews or statements. This does not apply to rebuttal or impeachment evidence.

RULE 12

NEGOTIATIONS AND SETTLEMENTS

§12.01 Awards of Expenses

If any case is settled within forty-eight (48) hours of when it is to begin, the Court may award compensation to witnesses for lost income and/or travel expenses and tax the same as costs.

§12.02 Court Approval of Settlement

All joint petitions for the approval of workers' compensation, legitimation and minor's claims must be filed with the clerk before being presented to a 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 for the person if the Court is not satisfied with the proposed settlement and in that event, the fee of said Guardian ad Litem will be taxed as part of the costs.

§12.03 Notice Immediately Upon Settlement

If a case is set for trial and the parties subsequently reach a settlement, the parties shall give immediate notice of the settlement to the clerk and Judge and shall promptly file an agreed order. Strict adherence to this requirement will allow the Court to better plan for the trial of other pending cases.

RULE 13

COURT REPORTERS

It is the responsibility of litigants to arrange for court reporters. Proceedings will not be postponed or delayed because of a court reporter's absence or tardiness where counsel has not been diligent in this regard.

RULE 14

GENERAL SESSIONS AND JUVENILE COURT **APPEALS IN CIRCUIT COURT**

(a) It shall be the duty of the Appellant and/or their attorneys to notify opposing parties or counsel at the time a General Sessions Court or Juvenile Court case has been appealed to Circuit Court. The Clerk shall also notify opposing parties or counsel that a case has been appealed.

(b) Every such appealed case will be scheduled for trial on the next status day. The Court may set the case at an earlier or later time.

(c) The signature of an attorney or party to an appeal from General Sessions Court or Juvenile Court shall constitute a certificate under Rule 11 TRCP.

RULE 15

SETTING CASES FOR TRIAL AND CONTINUANCES

§15.01 Method of Setting

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

- (a) By agreement of counsel after consultation with the Court;
- (b) By motion;
- (c) By the Court with notice to counsel; or
- (d) At docket call.

§15.02 Certifying Cases Ready When Set

When a case is set for trial, all counsel are certifying they are available for trial and that the case will be, in all respects, ready for trial on the trial date.

§15.03 Deadline for Trial Preparation

If a party objects to having a case set because trial preparation is not complete, the Court may establish a deadline for completing trial preparation.

§15.04 Continuances

(a) Cases may not be continued by agreement and may be continued only by leave of court. Cases will not be continued except for good cause which shall be brought to the attention of the Court as soon as practicable before the date of the trial.

(b) Absence of a witness will not be considered by the Court as a ground for a continuance unless the witness has been subpoenaed in accordance with the requirements of these rules and TRCP.

(c) When a case has been set, failure to have completed discovery, inability to take a deposition or failure to have completed any other trial preparation will not be grounds for a continuance. The Court should be timely notified of problems in scheduling depositions or other preparation (such as refusal of a deponent to promptly schedule a deposition) and the Court may take such action to insure that depositions are given in a timely fashion so as to insure that parties are ready for trial on the scheduled trial date.

(d) A case may not be continued or delayed more than once and not exceeding sixty (60) days to assure the compliance of installment or partial payment agreement of parties.

§15.05 Award of Fees and Expenses

If a case is continued, the Court may award expenses and attorney fees, including compensation to witnesses for lost income and/or travel expenses and tax the same as court costs.

§15.06 Motions to Continue Jury Trials

- (a) All motions to continue a jury trial shall specify the trial date.
- (b) All motions to continue a jury trial shall be heard by the Judge.

RULE 16

SUBPOENAS

§16.01 Issuance of Subpoenas

(a) All subpoenas for witnesses, except for subpoenas issued in “blank”, shall be issued and signed by the clerk in triplicate. One copy shall be designated “service copy” and it is to be left with the witness. One copy shall be designated “file copy” and retained in the file. The original shall be the returned copy.

(b) Subpoenas issued in blank shall be signed by the Clerk, shall be completed by the party requesting it, and three (3) copies shall be filed with the clerk within the time frame set out in Rule 16.03 (a) (b).

§16.02 Clerk’s Duty Upon Issuing of Subpoena; Removal of File Copies

When a subpoena is issued, the clerk shall:

- (a) Place the file copy of the subpoena in the file of the case;
- (b) Deliver the service copy and original to the Sheriff or other authorized person for service; and

(c) When the original subpoena is returned to the clerk, the clerk may remove the file copy and discard it.

§16.03 Time for Issuing Subpoenas

(a) Non-Jury cases: Subpoenas for a local witness must be issued and dated by the clerk no later than five (5) days before the date of trial. If the witness is 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 on which the case is set for trial.

(b) Jury cases: Subpoenas for a local witness must be issued and dated by the clerk no later than seven (7) days before the trial and ten (10) days for out of county. If an attorney is aware that any witness requires more notice than set out above to insure that a prior served subpoena will not take precedence, a subpoena must be issued within five (5) days of the date of first notice of the setting of the case.

§16.04 Responsibility of Counsel

Counsel of record shall be responsible for insuring the subpoenas are issued in accordance with this rule and the applicable rules of Civil Procedure. Nothing in Rule 16 prohibits counsel from preparing subpoenas. The clerk may not refuse to issue a subpoena requested by counsel at any time.

RULE 17

PRE-TRIAL PROCEDURE

§17.01 Required Procedure

At least seventy-two hours (excluding weekends and holidays) prior to the trial of a civil case, opposing counsel shall either meet face-to-face or shall hold a telephone conference for the following purposes:

(a) To exchange names of witnesses, other than impeachment or rebuttal witnesses;

(b) To make available for viewing and to discuss proposed exhibits, other than impeachment or rebuttal exhibits. In the event that the parties hold a telephone conference rather than a face-to-face meeting, the exhibits shall be made available for viewing before the conference.

(c) Trial proceedings will not be delayed to allow counsel to view or copy exhibits.

(d) Trial exhibits shall, when possible, be marked and numbered prior to the taking of the witness stand by the witness the exhibit(s) is expected to be introduced through.

§17.02 Medical or Expert Depositions - Workers' Compensation cases

In all contested cases, a copy of all medical or expert depositions relied upon by any party as proof in a workers' compensation case shall be mailed or delivered to the Judge's office at least seven (7) days prior to the hearing date.

RULE 18

EXHIBITS

§18.01 Depositions and Discovery Material

Depositions and discovery material submitted to the Court as evidence which is not read to the Court shall be made trial exhibits.

§18.02 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.

§18.03 Disposition of Exhibits

Upon the order in any case becoming final, the parties shall have thirty days to withdraw exhibits.

RULE 19

REQUESTS FOR SPECIAL INSTRUCTIONS AND SPECIAL VERDICTS

§19.01 Requests for Special Instructions

When counsel submits special requests pursuant to Rule 51, TRCP 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. Any request which seeks to alter or modify a Tennessee Pattern Jury Instruction shall cite authority relied on

and be accompanied by a complete copy of such authority.

§19.02 Special Verdicts

Requests for special verdicts or written interrogatories made pursuant to Rule 49 TRCP must be made before commencement of the trial and must be accompanied by proposed verdict forms, proposed 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.

RULE 20

ORDERS AND JUDGMENTS

§20.01 Preparation and Submission of Orders and Judgments

(a) In all judgments by default and orders in uncontested matters, the attorney or party taking a judgment or order shall prepare and lodge such order with the Judge for signature within seven (7) days from the date that such judgment or order is granted.

(b) Unless the Court directs otherwise, in all cases wherein orders or judgments are granted in contested matters, the attorney for the prevailing party shall prepare the order for signature by the Court. If said order is signed by all parties or counsel, it shall be submitted directly to the Court for signature within fifteen (15) days of the date of the Court's decision.

(c) Orders in contested matters containing the signatures of less than all the parties or their attorneys shall be submitted to the Judge within fifteen (15) days from the date of the Court's decision and the same shall not be entered immediately, but will be held by the Judge for five (5) days. When opposing counsel or party receives a copy of a proposed order, he or she shall notify the Judge immediately of any objection to the same. If the Judge receives no objection within the five (5) day period, the order will be signed by the Court. Where there is a disagreement as to the terms of the order, each party will submit a proposed order. The Court may allow a hearing or telephone conference concerning the same.

(d) All orders prepared by counsel and not signed by all parties or their counsel shall be accompanied by a certificate of counsel that copies of the order or judgment have been served on all parties or counsel of record.

(e) All orders mailed directly to the Court for signature shall be accompanied by an envelope properly addressed to the clerk of the county in which the action is filed with sufficient postage affixed thereto to carry it to its next destination.

§20.02 Court Costs

(a) All final judgments shall provide for court costs. The clerk may refuse to enter any agreed final judgment or compromise and settlement if there are no provisions providing for the taxing of costs.

(b) 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.

§20.03 Non-Minute Entry Orders

Orders not affecting the legal course of an action, such as orders assigning a case to a court, setting a case for trial, pre-trial conference/scheduling orders, or actions upon a request for a continuance, are designated as non-minute entry orders. Such orders shall be placed in the file of the case but not spread upon the minutes of the Court.

RULE 21

DIVORCES: SPECIAL PROCEDURES

§21.01 Uncontested Divorce Cases

(a) When a party in default desires to be heard on any matter other than the basic cause of action, he or she shall notify the Court at least seven (7) days prior to the hearing of the matters upon which he or she desires to be heard and shall file a brief statement setting forth the nature of the matter.

(b) If a property settlement agreement in a divorce action based on irreconcilable differences is delivered through personal service, as allowed by T.C.A. §36-4-103, the statutory requirements regarding service will be strictly adhered to.

§21.01 Time for Hearing

(a) No divorce case where the parties have children under 18 years of age not otherwise emancipated, shall be heard until the same shall have been filed at least sixty (60) days unless the Court finds some compelling reason why the same should be so heard.

(b) No divorce shall be heard in any case until thirty (30) days have expired from the date of service of process. When service is had by publication, the thirty (30) days does not commence to run until the date of the last publication.

§21.02 Contested Divorce cases: Pre-Trial Stipulations

At least forty-eight (48) hours before the day of trial, the parties shall file with the clerk three (3) JOINTLY EXECUTED AGREED STIPULATIONS as to real and personal property, setting forth, pursuant to the criteria of T.C.A. §36-4-121: (1) the real and personal separate property of each of the parties; (2) the real and personal marital property of the parties; (3) the remaining real and personal property of the parties, the character of which is disputed and to be decided by the Court. This last item consists of all real and personal property of the parties not covered under the first two stipulations.

§21.03 Contested Divorces and Custody: Order of Proof

In contested divorce cases, the Court will hear the parties to the action before hearing other witnesses unless, for good cause appearing, the Court finds it desirable to proceed otherwise.

§21.04 Pendente Lite Child Support and Alimony Hearings

Motions and applications for child support and alimony pending the final hearing of a case will be submitted and heard on affidavits. The moving party shall include in the complaint, petition or motion allegations in support of such child support or alimony justifying the relief sought, and prior to the hearing, the parties will submit affidavits in support or opposition to the relief sought. Testimony by witnesses in support or opposition to the motion or application may not be allowed except by leave of court for good cause shown.

§21.05 Restraining Orders and Temporary Injunctions:

(a) Other than the automatic injunction(s) provided for in TCA § 36-4-106(d), all restraining orders or temporary injunctions obtained in domestic relations cases without notice to the adverse party shall provide for the setting of a hearing thereon within ten (10) days unless the Court is unable to hear said matter within said time, in which event the Court or clerk may direct that the hearing be set at a later date, but, in any event, the same shall be set as soon after the ten (10) days as may be practical and the date of the hearing shall be stated in said notice. Such restraining orders or temporary injunctions and accompanying notice shall be served on the party at least five (5) days before the date of the hearing and shall include language which shall clearly notify the defendant or respondent that he or she shall file a written declaration of intention with the clerk stating whether he or she will or will not be present for the hearing. Failure to so respond by filing the declaration with the clerk not later than twenty-four (24) hours prior to the time set for the hearing shall be deemed and treated as a waiver of the hearing, in which event the restraining order or temporary injunction shall remain in effect pending the final hearing unless sooner modified or dissolved by the Court. The notice of hearing and notice of defendant's or respondent's declaration of intention to attend or not attend the hearing shall be prepared by counsel for the complaining party and filed in triplicate with one copy to be retained by the clerk and the other two copies to be attached to the service copy of the restraining order or temporary injunction and such notice shall be substantially in the form attached as Appendix "A" to these rules.

(b) No restraining order or temporary injunction shall be issued in a domestic relations case without notice and hearing unless the verified complaint or petition or accompanying affidavit clearly shows that the applicant's rights have been violated or that there is a substantial likelihood that the same will be violated by the adverse party and that the applicant will suffer immediate and irreparable injury, loss or damage before notice can be given and a hearing had.

(c) Except in cases prosecuted in forma pauperis, the Court may require the applicant to make bond before a restraining order, ex parte order, or temporary injunction is issued.

(d) If the Judge of the Court in which the action is pending or is to be filed is disqualified, disabled or absent from the county, such restraining order, ex parte order or temporary injunction may be granted by any Judge having statutory power to enjoin or restrain.

RULE 22

EXTRAORDINARY INTERLOCUTORY RELIEF

§22.01 Restraining Orders in Cases Other than Domestic Relations cases

Proposed restraining orders shall be prepared by counsel prior to submitting the request for relief to the Court. All restraining orders shall provide for the setting of a hearing of a temporary injunction and shall provide a place thereon for the Court to set a date, time and location for such a hearing. The proposed restraining order shall also provide a place for the setting of the amount of the bond except in cases prosecuted in forma pauperis.

RULE 23

JURORS

In order to ensure that jury duty is not unfairly avoided by any eligible citizen, prospective jurors shall be excused from jury service only upon a showing of undue hardship or other statutory grounds. Clerks, Judges and counsel should impress the importance of jury trials in our system and justice upon those seeking to be excused from jury service. At the same time, Clerks, Judges and counsel should be aware of the sacrifices that jury service involves and attempt to make the experience of being a juror as pleasant and productive as possible. Lengthy delays before or during trial that require jurors to wait should be avoided.

RULE 24

TIME STANDARDS FOR THE DISPOSITION OF CASES

§24.01 Time Standards

All cases must be concluded or set for trial within twelve (12) months from date of filing unless the Court has directed a shorter or longer period of specific cases. These time standards will be implemented by appropriate orders from the Court.

§24.02 Dismissal of Cases

(a) To expedite cases, the Court may take reasonable measures to purge the docket of old cases by entry of orders of dismissal which shall be considered without prejudice unless otherwise indicated.

(b) Removal to Federal Court

Where a case is removed to Federal Court, the clerk will send copies of all pleadings in the case to the Federal Court, remove said case from the docket and bill costs to the party who filed the petition for removal.

(c) Bankruptcy

In any civil case where the Court has received notice of filing of bankruptcy of a defendant, the case will be purged from the docket at the expiration of six (6) months from the notice of filing of bankruptcy, with costs assessed to plaintiff.

(d) Dismissal for Want of Prosecution

Copies of the order dismissing a case for want of prosecution shall be mailed to all counsel of record or to any party in default without counsel of record, if his or her whereabouts can be ascertained upon reasonable inquiry by the clerk.

ORDER

These rules adopted the 28th of March, 2005 to be effective and in full force the 1st day of April, 2005.

JOHN D. MCAFEE
CIRCUIT COURT JUDGE
8TH JUDICIAL DISTRICT

(APPENDIX A - Rule §21.05)

IN THE _____ COURT FOR _____ COUNTY, TENNESSEE

Plaintiff

vs.

NO _____

Defendant

TO:

Name of defendant

NOTICE

A hearing is scheduled before the Judge of the _____ Court at _____ on _____, 200____, at _____ m. to determine if the _____ restraining order _____ temporary injunction herewith served upon you shall remain in force and effect pending the final hearing of this cause. You may appear at said time and place and have a hearing before the Court to determine if the _____ restraining order _____ temporary injunction should remain in force and effect pending the final hearing of this cause or you may waive said hearing, in which event the same will remain in force and effect. You shall declare your intention by stating whether you will or will not appear at the hearing by signing a copy of the appended written declaration and by filing the same in the Clerk’s Office at _____, TN at least twenty-four (24) hours before the hearing date. Your failure to file this declaration within said time may be deemed and treated as a waiver by you of the hearing in which event the _____ restraining order _____ temporary injunction may remain in force and effect pending the final hearing.

This the _____ day of _____, 200 ____.

CLERK

DECLARATION

I hereby declare that I will _____ will not _____ be present and participate in the hearing on the above _____ restraining order _____ temporary injunction.

This the _____ day of _____, 200 ____.

Signed:

Defendant