

**RULES OF COURT AND PROTOCOL
CIRCUIT AND CHANCERY COURTS**

**THIRTY-FIRST JUDICIAL DISTRICT
WARREN AND VAN BUREN COUNTIES**

LARRY B. STANLEY, JR., JUDGE

EFFECTIVE: November 1, 2018

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RULE 1

APPLICABILITY AND SUSPENSION OF RULES

1.01 Former Rules Abrogated

All former rules of local practice in the Circuit, Chancery, or Criminal Courts, except as readopted herein, are abrogated.

1.02 Applicability

Each rule is applicable in the Circuit, Chancery and Criminal Courts of the Thirty-First Judicial District unless otherwise indicated by a particular rule. Each rule is applicable in all types of cases unless otherwise indicated by a particular rule. When a rule's applicability is designated to apply to a particular type of case (e.g. civil cases or criminal cases) it is applicable to all cases of that type regardless of which Court is hearing the case.

1.03 Suspension of Rules

Whenever the Court determines that justice requires it, it may suspend any of these rules unless violative of T.R.C.P. or Tenn.R.Crim.P.

RULE 2

COURTROOM SECURITY:

In order to ensure and maintain proper security for the protection of government property and safety of the Court, court personnel, attorneys and all person in attendance, whether as a party, witness, or spectator, no person shall bring firearms, knives or any other weapon or explosive device into the facility in which judicial proceedings are being conducted. The Sheriff is authorized and directed to employ all lawful and constitutional means necessary to ensure the security of the courtrooms and all passageways, corridors, rooms, and points of ingress and egress. The Sheriff may, circumstances requiring, in his/her discretion establish and promulgate reasonable regulations not inconsistent with this rule for the purposes of carrying out his/her directive including, but not limited to, the search of all persons seeking to enter the courtrooms of the facility where Court is being held.

Anyone seeking to enter the courtroom who does not consent to a search of their person when requested by one lawfully authorized to conduct said search will not be admitted.

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 their main duty while in the courtroom is providing courtroom security. All other persons legally must relinquish possession of their firearms to the sheriff or court bailiff while they are in the courtroom.

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.

First appearances for Orders of Protection will be scheduled at 8:30 a.m. as set out in section 2.02 below.

Judges and attorneys shall be prompt at all sessions.

3.02 Schedules

The Grand Jury for Warren County will meet on the first Friday of each month.

The Grand Jury for Van Buren County will meet on the third Monday of January, March, May, July, September, November.

The Grand Jury will report to the Criminal Court Clerk for their county at the conclusion of their meeting.

The second and fourth Wednesdays are criminal non-jury days. Probation violations, motions for early release, Title IV child support cases and all other contested criminal motions will be heard on the second Wednesday of each month.

Arraignments, plea dates, and Title IV child support cases will be heard on the fourth Wednesday of the month.

The second and fourth Tuesdays are civil non-jury days. All civil matters will be heard on these days, including contested worker's compensation motions. The court will attempt to accommodate any attorney who has cases set in General Sessions Court at 1:00 p.m.

First appearances for Orders of Protection will be scheduled for the first, third, and fifth Fridays of each month. If the Order of Protection is contested, it will be set for hearing on the next available non-jury civil day.

Every fourth Monday will be civil and criminal non-jury day in Van Buren County.

Any uncontested matters may be brought before the Circuit Court for hearing at 8:30 a.m. any day that court is being held in Warren County. The attorney must notify the Judge's secretary and pick up the file from the Circuit Court Clerk or Clerk and Master as the case may be.

The Clerks of both Van Buren and Warren Counties shall immediately upon completion of the Criminal Arraignment Docket forward copies of same to the Attorney General, Public Defender, the county jail, this Court, and the probation officers. On the following arraignment day, the Attorney General shall have made himself familiar with the cases listed and be able to inform the Court of the status of each case when called out in court.

Attorneys filing suit, or any attorney practicing in the Thirty-First Judicial District (or their representatives), are expected to attend civil docket settings and be aware of trial dates. The clerks do not notify lawyers of trial dates.

RULE 4 ***JURIES***

4.01 Conduct of Lawyers and Litigants

Except during voir dire in open court, no attorney or litigant shall contact any member of any jury at any time regarding any case during the term of court that jury is in session. No attorney shall countenance his client so acting. The only circumstance under which a juror may be contacted during a term, either by an attorney or his client, shall be by leave of court upon written petition made.

4.02 Excuse from Service

In order to insure 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 of 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 if possible and explained by the Judge if the delay cannot be avoided.

RULE 5 ***CONDUCT OF COUNSEL***

5.01 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 question 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 of 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.

5.02 Withdrawal of Counsel

- (a) 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.
- (b) Appointed counsel in a criminal case shall continue to represent the Defendant until relieved by order of the Criminal Court. Counsel shall represent the Defendant subsequent to final judgment in such matters that deal with any correction of the judgment and through the initial appellate review. Such appointment, however, shall not extend to post-conviction relief petitions, parole matters or matters unrelated to the case or cases upon which the appointment was made. When appointed counsel represents a Defendant in matters subsequent to final judgment, the Court may enter an order reappointing counsel so as to authorize the attorney to seek compensation pursuant to T.C.A. 40-14-201 et seq.

5.03 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.

5.04 Contacting the Judge

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

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

RULE 6

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 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. No criminal court file or evidence from a criminal court file may be withdrawn from the Clerk's custody without court approval.

RULE 7

FILING AND SERVICE OF PAPERS

7.01 Certificate of Service

All papers must contain a certificate of service, which must contain the date of service and the name of the person or persons served. The Clerk shall refuse to file papers without a certificate which complies with these rules and all applicable rules of Civil, Criminal, or Appellate Procedure.

7.02 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, and the name, address and telephone number of the attorney filing the pleading, and the filing attorney's Tennessee Supreme Court Registration Number.

RULE 8
JURY DEMAND: CIVIL CASES

8.01 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.

8.02 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 a six (6) person jury. Failure to demand a twelve (12) person jury in the last T.R.C.P. Rule 7.01 pleading filed is a stipulation for a six (6) person jury.

8.03 Challenges

The stipulation shall not affect the number of challenges nor the manner of making them.

8.04 Jury Expenses/Court Costs

Jury expenses may be assessed as court costs and may be taxed to a party or parties in cases settled within forty-eight (48) hours of trial date. The forty-eight (48) hour rule shall exclude weekends.

RULE 9
DISCOVERY: CIVIL CASES

9.01 Extension of Time for Responses to Discovery

As provided in Rule 29, T.R.C.P., 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 by T.R.C.P. 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.

9.02 Interrogatories to Parties

(a) No party shall serve on any other party more than thirty single question interrogatories, including subparts, without leave of court. Any motion seeking

permission to serve more than thirty (30) 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 thirty (30) interrogatories without an order of the Court, he or she shall respond only to the first thirty (30) in the manner provided by T.R.C.P.

- (b) An answering party shall type the interrogatory immediately preceding the answer or response.

9.03 Requests for Admissions

- (a) Requests for admissions made pursuant to Rule 36, T.R.C.P. 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 or her response typed in.
- (b) If there is to be a response, the party to whom the requests are directed shall respond to each request in the space provided and serve a copy containing the original signature upon the requesting party and serve copies thereof on opposing counsel.

RULE 10 ***MOTIONS***

10.01 Time for Filing Pre-Trial Motions

Pre-trial motions that may be dispositive of one or more issues in a case on the merits must be filed and set for hearing at least fifteen (15) days prior to the trial date in jury cases and five (5) days prior to the trial date in non-jury cases.

10.02 Briefs on Motions and Responses

Every motion that 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. Responsive memoranda 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 at chambers, copies of motions, briefs, and responses shall be sent to the Judge at the time filed.

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 shall also furnish a copy of any unreported decision to opposing counsel.

10.03 Failure to Appear at a Motion Hearing; 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.

10.04 Filing of Pre-Trial Motions in Criminal Cases

Motions concerning issues which are known to counsel or should be discoverable shall be filed a minimum of seven (7) days prior to the last criminal non-jury day before the trial date, e.g. Motion to Suppress, Motion to Dismiss Indictment, etc.

RULE 11

USE AND DISTRIBUTION OF AUDIO/VISUAL RECORDINGS: CIVIL AND CRIMINAL CASES

11.01 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 expenses, 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 trial court sufficiently before the trial in order that said objections may be ruled upon in time to allow editing of the recording. This rule applies in civil and criminal cases. By the way of example only, this rule applies in videotaped depositions, "Day In The Life" recordings, surveillance films and confessions, interviews, or statements. This does not apply to rebuttal or impeachment evidence and does not abrogate the requirements of Rule 12, Tenn.R.Crim.P.

11.02 Distribution of Audio/Visual Recordings

Any audio/visual recordings copied by the Attorney General and distributed to counsel for the Defendant shall not be disseminated to the Defendant or any other party.

RULE 12
NEGOTIATIONS AND SETTLEMENTS:
CIVIL CASES

12.01 Award 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 court 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 the Judge. In the event a minor or incompetent person is not represented by counsel, the Court may require that a Guardian ad Litem be appointed for the person if the Court is not satisfied with the proposed settlement. In that event, the fee of said Guardian ad Litem will be taxed as part of the costs.

12.02 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
NEGOTIATIONS AND SETTLEMENTS:
CRIMINAL CASES

13.01 Settlement Date; Settlement 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. The Court will also tentatively set the trial date at arraignment. At the settlement date, if the Defendant has not entered a negotiated plea and if the case has not been disposed of, the court will affirm the docketing of the trial date. If the Defendant enters a guilty plea to the indictment, the trial Judge will set the sentence. Nothing in this rule shall prohibit the Defendant's election to enter a plea of guilty to one or more 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 counts.

13.02 Notice to Victims

In cases involving plea agreements pursuant to Rule 11, Tenn.R.Crim.P., the court shall not accept the plea unless the prosecuting attorney states on the record that he/she has, *prior* to the plea, communicated with the victim regarding the plea or made a good faith effort to communicate with the victim. This rule shall apply to pleas in cases where the defendant is indicted for the following offenses:

- (a) murder or the attempt to commit murder;
- (b) voluntary manslaughter, criminally negligent homicide, or the attempt to commit these crimes;
- (c) vehicular homicide;
- (d) aggravated assault;
- (e) especially aggravated kidnapping, kidnapping, or the attempt to commit these crimes;
- (f) all felonies described as Sexual Offenses under T.C.A. 39-13-501, et seq., or the attempt to commit these crimes;
- (g) aggravated arson and arson or the attempt to commit these crimes;
- (h) robbery, aggravated robbery, and especially aggravated robbery or the attempt to commit these crimes;
- (i) especially aggravated burglary or aggravated burglary or the attempt to commit these crimes; and
- (j) any other felonies;
- (k) all other crimes involving individual victims where the Judge deems it appropriate that prior communication be made to the victim.

13.03 Applications for Pre-Trial Diversion

Any application for pre-trial diversion shall be sent to the District Attorney no later than thirty (30) days prior to the Defendant's initial plea/trial confirmation date. The District Attorney shall file an acceptance or denial of the application for pre-trial diversion on or before the Defendant's plea/trial confirmation date.

13.04 Applications for Drug Court

Any application for Drug Court shall be sent to the Drug Court Director no later than thirty (30) days after the Defendant has been arraigned.

RULE 14 ***COURT REPORTERS***

It is the responsibility of litigants to arrange for court reporters in civil cases. It is the responsibility of the defendant(s) to arrange for a court reporter for a misdemeanor jury trial. Proceedings will not be postponed or delayed because of a court reporter's absence or tardiness.

RULE 15
GENERAL SESSIONS APPEALS IN CIRCUIT COURT

- (a) It shall be the duty of the parties and/or their attorneys to determine whether a General Sessions Court case has been appealed to Circuit Court.
- (b) The signature of an attorney or party to an appeal from General Sessions Court shall constitute a certificate under Rule 11, T.R.C.P.

RULE 16
CONTINUANCES: CIVIL CASES

16.01 Continuances

- (a) Cases in which a jury is demanded 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 T.R.C.P.
- (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 ensure that depositions are given in a timely fashion so as to ensure that parties are ready for trial on the scheduled trial date.

16.02 Award of Fees and Expenses

In cases 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.

RULE 17
CONTINUANCES: CRIMINAL CASES

- (a) Cases may not be continued by agreement and may be continued only by leave of court. After a case has been set for trial it 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 Tenn.R.Crim.P.
- (c) If a case is continued, a new trial date will be assigned at the time of the continuance.

RULE 18
SUBPOENAS

18.01 Time for Issuing Subpoenas

- (a) Non-Jury Cases: Subpoenas for a local witness must be issued and dated by the clerk no later than seven (7) days before the date of the 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 ten (10) 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 ten (10) days before the trial and fifteen (15) days for out of county witnesses. If an attorney is aware that any witness, such as a state toxicologist, requires more notice than set out above to ensure 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.

18.02 Responsibility of Counsel

Counsel of record shall be responsible for ensuring the subpoenas are issued in accordance with this rule and the applicable rules of Civil and Criminal Procedure. Nothing in Rule 18 prohibits counsel from preparing subpoenas.

RULE 19
PRE-TRIAL PROCEDURE

19.01 Pre-Trial Conference

At least seventy-two (72) 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.

19.02 Medical or Expert Depositions

A copy of all medical or expert depositions relied upon by any party as proof in any case shall be mailed or delivered to the Judge's office at least seven (7) days prior to the hearing date. Objections to any and all depositions to be introduced at trial shall be filed and served on opposing counsel forty-eight (48) hours before trial. Rulings on these objections will be made prior to the beginning of the trial.

19.03 Trial Questionnaire

Attorneys who have a workers' compensation trial set shall file the trial questionnaire as provided by the Clerk of the court, and attached as Appendix A to these rules.

19.04 Street Clothes for Criminal Defendants

If a criminal client is incarcerated and wishes to wear street clothes during his/her trial, clothes shall be made available to the Defendant at the jail the day before the case is set for trial.

RULE 20
EXHIBITS

20.01 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. Additionally, all proposed trial exhibits shall be submitted by the attorneys to the court reporter before trial. The reporter shall place

thereupon, prior to the opening of court, only pre-marked, gummed labels. Each label shall contain at least the style of the case, the date, and a blank space for the exhibit number to be assigned by the Court.

20.02 Disposition of Exhibits in Civil Cases

After final determination of any civil case, the parties shall have thirty days to withdraw exhibits. The clerk may destroy or dispose of exhibits not so withdrawn.

RULE 21

REQUESTS FOR SPECIAL INSTRUCTIONS AND SPECIAL VERDICTS

21.01 Requests for Special Instructions

When counsel submits special requests pursuant to Rule 51, T.R.C.P., or Rule 30 Tenn.R.Crim.P., 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:_____” or TPI (Crim.) 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.

21.02 Special Verdicts in Civil Cases

Requests for special verdicts or written interrogatories made pursuant to Rule 49, T.R.C.P. 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.

21.03 Jury Instructions

The Attorney General’s office will prepare the jury instructions in all criminal cases. Any specific jury instructions requested by either party will be submitted to the Court and opposing counsel at close of proof.

RULE 22
DIVORCES: SPECIAL PROCEDURES

22.01 Pendente Lite Hearings

At least two (2) business days prior to a scheduled pendente lite hearing, each party shall file a complete “Statement in Compliance with Rule 22.01” in the form as set forth as Appendix B to these rules. The statements must be signed by the litigants and properly notarized.

22.02 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.

22.03 Restraining Orders and Temporary Injunctions

- (a) In domestic relations cases, all restraining orders or temporary injunctions obtained without notice to the adverse party and hearing shall provide for the setting of a hearing thereon within seven (7) 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. In any event, the same shall be set as soon after the seven (7) days as may be practical and the date of the hearing shall be stated in said notice.
- (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 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 fiat, restraining order, or temporary injunction may be granted by any Judge have statutory power to enjoin or restrain.

22.04 Divorce by Affidavit

If parties to a divorce by irreconcilable differences have no minor children, they may waive their appearances in open court, but must submit affidavits in accordance with Appendix C to these rules to be filed along with the Marital Dissolution Agreement and the Final Decree of Divorce, and then presented to the Judge for disposition.

RULE 23
EXTRAORDINARY INTERLOCUTORY RELIEF: CIVIL 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 for the 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.

RULE 24
REFERENCES TO MASTER: CHANCERY AND CIRCUIT COURTS

24.01 Meeting

Within twenty (20) days following the entry of the order of reference, the Master will arrange a meeting with counsel for all parties in order to determine the procedure on the reference.

24.02 Statements of Claim and Responses

The parties shall file itemized statements of claim and responses to statements of claim as directed by the Master.

24.03 Recording of the Proceedings

The parties are responsible for compiling a record of the proof presented. The Master is not required to file a transcript of the proof with the Master's report.

24.04 Objections

Any objection to the Master's report, which is based upon a factual question, must be supported by a transcript of the proof presented to the Master. Objections shall be heard on the motion docket.

RULE 25
ORDERS

25.01 Civil

(a) All orders, jury verdicts, decrees, and judgments by the Court pronounced orally, or in the form of a written opinion, shall be reduced in writing by counsel of record for the prevailing party, or by such counsel as may be designated by the Judge. All such

orders, verdicts, decrees and judgments shall be submitted to opposing counsel within five (5) days.

- (b) All orders, decrees and judgments (except orders issued pursuant to T.R.C.P. 65.03), shall contain appropriate places for approval by counsel for all parties and shall bear the signature of such counsel when handed in for entry. If a party affected by the order has no counsel of record, this shall be made to appear. If opposing counsel are unable to agree upon the wording of an order, the proposed order shall be submitted to the court and shall be held for five business days (5) days. Unless an objection is made by the non-signing attorney within those five days, then the order will be signed by the Judge and filed with the Clerk.

25.02 Notice of Appeal

Upon filing notice of appeal in any case, it is the responsibility of the appellant attorney to notify the Clerk and court reporter of the date such notice is filed.

25.03 Criminal – Credit Time

The attorney of record (appointed or retained) in all criminal cases is responsible for obtaining from the Sheriff's Office the correct number of days with which the Defendant is to be credited while awaiting trial. The correct figure must be placed by the attorney in the Sentencing Order at the proper place by the time the attorney approves said order.

RULE 26
ADOPTIONS

All adoptions shall be filed in Chancery Court, as well as surrenders of parental rights, as the Clerk & Master's office has a special locked docket book, locked filing cabinet, and a locked minute book to comply with the privacy portions of the current adoption law.

RULE 27
BONDSMEN

27.01 Petitions for Approval of a New Company

- A. The Judge of the Circuit Court shall approve each person or company who petitions the court for permission to write bonds within this judicial district. The petition shall contain the following information.
1. The business name under which the new company will be operating and the street address and the local business telephone number for the bonding company office.
 2. A copy of the business license issued for the bonding company in said county.
 3. A copy of all organizational documents (e.g. corporate charter, partnership agreement) and all other agreements or documents pertaining to the identity of the owners and interest holders in the said company, the distribution of profits from the

said company, the source of all funds used to establish the company, and the names and signatures of those persons who accept personal liability for forfeiture judgments .

4. A statement of whether the company or any of its owners, shareholders, or partners write bonds in any other jurisdiction. If such company or persons do write bonds in other jurisdictions, the application shall identify those jurisdictions, and attach a listing identifying any security posed with that jurisdiction, a copy of the last semiannual reports filed with the said jurisdictions along with a listing of all pending conditional forfeitures and final forfeitures.
 5. Identify the funds and source of said funds to be filed with the Clerk to establish the bonding capacity.
 6. For all persons identified in paragraph 4 above attach a sworn statement from each individual stating the following:
 - a. A list of all prior criminal charges, whether resulting in a conviction or not, along with the disposition of the charge and the jurisdiction, as well as other information required by T.C.A. § 40-11-317.
 - b. Describe all relations to any other owner, interest holder or agent of bail bond company authorized to do business in the 31st Judicial District.
 - c. A statement as to whether such person has ever been an owner, interest holder or agent for any other bail bond company in this state for any state.
 - d. A statement as to whether such person is related, by blood or marriage to any person who works for the Circuit Court Clerk or Sheriff of the 31st Judicial District.
 7. A copy of the proposed bail bond contract shall be attached.
 8. A statement that the officers/owners of the bonding company and its proposed agent have read and are aware of the requirements of T.C.A. §40-11-301 et. seq. and §40-11-404 et. seq., pertaining to the Rules Governing Professional Bondsmen and Requirements for Continuing Education, and the Rules of the Court governing bonding companies.
- B. All petitions for approval of a new company shall be filed in Circuit Court and a copy served upon the District Attorney General at least two (2) weeks prior to a hearing on the petition. Such hearing shall be held in the Circuit Court. The District Attorney General shall conduct a criminal history and background investigation on the owner of the company and its agents. The results of the background investigation shall be furnished to the Court. The Circuit Court Judge shall conduct a hearing to consider the bonding company's petition. The District Attorney General shall be present at such hearing and represent the State.

27.02 Collateral/Capacity

- A. The capacity of each bonding company shall be the total amount of bail, expressed in dollars in which a professional bondsman may act as surety.
- B. The minimum of Ten Thousand Dollars (\$10,000.00) shall be pledged by each bonding company as a condition precedent to writing bonds in the 31st Judicial District.
- C. Any person or company filing a petition for approval to be a professional bail bond company within the 31st Judicial District of Tennessee is required to pledge a minimum of \$10,000.00 collateral with the Court.
 - 1. If the collateral is cash or an item easily converted to cash (i.e. Certificate of Deposit) the bonding capacity would be 10 times the amount of the collateral.
 - 2. If the collateral is equity in realty, the capacity would be 10 times the value of the equity.

When realty is used as collateral, the bonding company must provide a Deed of Trust for said property, a letter of Title Opinion, and a copy of the property assessment.

- D. Upon a judgment of Final Forfeiture, in the event a bonding company fails to satisfy same, the Clerk of the Court may satisfy such Judgment from the posted collateral upon notice to the affected bonding company and the District Attorney General.

27.03 Forfeitures

- A. A bonding company shall not be allowed total final forfeitures in the Circuit and General Session Courts in excess of fifty percent (50%) of the amount of collateral posted with the Court Clerk.
- B. Bonding companies shall submit a list of all outstanding bonds with Clerk at the end of each quarter. If the bonding limit is exceeded at the time of the report, the Clerk shall notify the bonding company in writing. Once notice is received, the bonding company shall have ten (10) days to come into compliance or it will be subject to suspension by the Circuit Court from the approved list, and the Clerk shall immediately notify the District Attorney General and the Sheriff of said suspension. The bonding company shall not be allowed to write any additional bail bonds until the forfeitures are again within the company's allowable limits and upon Order from the Circuit Judge.

27.04 Company Changes

- A. Any changes to a bonding company's address or telephone number from that noted in the original petition must be sent in writing to the Circuit Court Clerk.
- B. Any changes to a bonding company's name, ownership, or agents as submitted in the original petition must be submitted in writing and approved by Order of a Circuit Court Judge.
- C. Any material changes to the financial statements submitted to the Court must be corrected and filed with the Clerk.
- D. Any changes in the employment status of agents must be submitted in writing within ten (10) days of said change and be approved by the Circuit Judge.

27.05 Activities of Bail Agents

- A. As provided by T.C.A. § 40-11-126, no bondsman or bonding company shall solicit business directly or indirectly, by active or passive means or engage in any other conduct which may reasonably be construed as intended for the purpose of solicitation of business in any place where prisoners are confined or any place immediately surrounding where prisoners are confined. No bonding company employee or agent shall initiate contact with a defendant or his/her family in order to obtain his/her business. The Sheriff shall post a list of all approved bonding agencies for Warren County. Contact with a defendant who is a potential client will be allowed only after the bonding company has been contacted by the defendant or someone authorized to act on his/her behalf. All agents or employees of a bonding company shall conduct themselves in accordance with all the rules and orders of the Sheriff of the county wherein the company is authorized to write bonds, while performing required duties within such buildings. Penalty for first violation of this provision is a suspension of not less than ninety (90) days. Penalty for second violation of this provision is a suspension of not less than six (6) months and the offender must re-petition the Court for reinstatement.
- B. A bonding company shall notify the defendant/principal of each court appearance. An agent of the bonding company shall be present for the defendant's court appearance.
- C. Each agent will be responsible for providing a copy of his/her certificate of compliance for the continuing education credits in compliance with T.C.A. §40-11-401(m) et. seq. to the Clerk of the Court annually. This

notice must be provided on or before January 15, 2004 and each year thereafter.

27.06 Premiums

- A. As provided by T.C.A. §40-11-126, no bondsman shall accept anything of value from a principle or anyone acting on his/her behalf except the authorized premium and initiation fees as governed by T.C.A. §40-11-316. All funds or negotiable instruments accepted in payment or in satisfaction of the premium and the initiation fee shall be recorded and itemized by the bonding company. A copy of said record documenting the premium and initiation fee received shall be provided to the defendant, or the agent acting in the defendant's behalf, and shall be maintained as part of the ordinary daily business of said company. If funds or negotiable instruments are accepted as collateral, the bonding company shall: (1) deposit such collateral into a separate trust account pending its redemption, (2) shall identify the account or principal to which the collateral applies, and (3) shall provide the person providing the collateral with the identity of the institution in which the collateral is held. In the event that a bail bonding company received funds for a premium or initiation fee and elects not to post the bond for the defendant/principal, then any funds received shall immediately returned to the defendant or the person acting on the defendant's behalf. If a bondsman surrenders a defendant the amount, if any, to be refunded to the defendant shall be determined by the court on a case by case basis.
- B. Every bondsman and/or agent must use a duplicate receipt book to record all payments for premiums. A copy of the receipts must be given to the defendant or the person acting on their behalf. Receipts must include:
 - 1. Specific description of all property, including cash or checks, received from the defendant or someone acting on the defendant's behalf, and
 - 2. Signature of the defendant or the person acting on his/her behalf tendering the said funds.
- C. No bond in excess of Seventy-five Thousand Dollars (\$75,000.00) shall be made without a hearing before the Circuit Court to determine compliance with these rules and the provisions of T.C.A. §39-11-715 pertaining to the source of said bond.

27.07 Reports and Required Records

- A. It shall be the responsibility of the bonding company that all bonds shall be fully completed upon the release from custody of the defendant/principal on bond. The bail bond contracts shall:

1. Have the name, address and zip code number of the defendant legibly printed thereon,
 2. Be signed by the agent making said bond,
 3. Have the name of the bonding company boldly and legibly stamped or printed thereon,
 4. Identify the property used to pay the premium and initiation fee as well as any other property received as collateral for said bond, and
 5. Have a copy of a photo identification of all persons (except the defendant/ principal delivering such premiums, fees or collateral to the agent if the bond is \$50,000.00 or above.
- B. Any bonding company authorized by the Circuit Court shall file with the Court Clerk a semi-annual financial report pursuant to T.C.A. § 40-11-303. Such reports shall include; but not be limited to, a listing of:
1. All current, active qualified bonding agents approved for said company,
 2. Any outstanding civil performance or cost bonds,
 3. All persons having financial or managerial interests in a bonding company must identified annually, and
 4. A certificate of compliance for the continuing education credits for each agent must be furnished annually. Continuing education must be completed between January and December of each year. Credit will be given for the year in which the certificate is received.
- C. Upon the failure of any company to file this report, or any other record or document required by the statute or these local rules, the Court Clerk shall notify the Circuit Court Judge who shall suspend and remove the company from the approved list. In such an event, the company shall not be allowed to write any bonds until such time as all the requirements are met and there have been approval, in writing, from the Circuit Court Judge. In the event the bonding company disputes the suspension, it may petition the Court to reconsider the suspension.

27.08 Suspension of Bonding Company or Agents

- A. Every bonding company acts as an agent of the Court and the conduct of the bonding company constitutes an integral part of the operation of the Court. The Court may impose any limits or conditions necessary to insure the professional standing and reliability of the bonding company. Such measures, if any, shall be made in the public interest to avoid a conflict of interest or an appearance of impropriety on the part of the

bonding company. Pursuant to the provisions of T.C.A. § 40-11-125 and T.C.A. § 40-11-126, the Court may take appropriate disciplinary action including the withholding, suspension or termination of the approval to do business if it appears to the Court that it is in the public interest to take such action. For good cause, the Court may issue a restraining order, writ or other process without notice to the company if deemed necessary in the public interest. Any such action will be reviewed at a hearing within five (5) days after notice to the company and the District Attorney General who shall represent the State at the hearing.

- B. Pursuant to the provisions of T.C.A. § 40-11-125 and T.C.A. § 40-11-126 the Court may take appropriate disciplinary action including the withholding, suspension or termination of approval for a bondsman to act as agent for an approved bonding company, if the agent:
1. Has been convicted of a crime of dishonesty, any felony or any alcohol or drug related offense;
 2. Has a final judgment of forfeiture entered against the bonding company that remains unsatisfied which the agent authorized.
 3. Has failed to comply with any local rules, or
 4. Is guilty of unprofessional conduct that includes, but is not limited to:
 - a. Loitering about the jail or court premises and within the prohibited areas to solicit business;
 - b. Suggesting or advising the employment of, or otherwise referring, any particular attorney to represent the defendant.
 - c. Paying a fee or giving or promising anything of value to any Clerk, jailer, police officer, committing Magistrate, or any other person who has the power to arrest or hold in custody, or to any public official or public employee to secure a bond, and/or a settlement, compromise, remission or reduction of the amount of any bail bond or the forfeiture thereof; paying a fee or rebate or giving anything of value to an attorney in bail bond matters, except in legal representation of any action pertaining to the bail bond company or action.
 - d. Surrendering a Principal without good cause;
 - e. Accepting anything of value from a principal except the premium provided, however, that the bondsman shall be allowed to collect collateral, security or other indemnity required by bondsman if reasonable in relation to the amount of the bond and where the said bondsman is reasonable in relation to the amount of the bond and where the said bondsman accepting such collateral delivers a written receipt for the same which receipt described in detail the collateral received and the term of redemption;

- f. Accepts anything of value as payments for a premium or collateral after the defendant/principal is released from custody, except as authorized in Rule 26.06.

27.09 Individual Bonds

- A. Any individual who desires to post a real property bond in an amount of Ten Thousand Dollars (\$10,000.00) or greater, pursuant to T.C.A. § 40-11-122 shall submit a current title opinion for said real property reflecting the encumbrances thereon as well as a Deed of Trust for said property. The appraised value/equity of the property owner providing said surety must equal one and one-half times the amount of the bond. The property owner providing said surety must comply with all the regulations set forth by the Office of the Court Clerk. If the amount of the bond exceeds Seventy-Five Thousand Dollars (\$75,000.00) then the bond must be made after notice to the District Attorney General and a hearing in open court pursuant to T.C.A. § 39-11-715 pertaining to the source of the bond funds.
- B. Any individual who desires to deposit a cash bond with the Clerk pursuant to T.C.A. §40-11-118 shall be notified in writing by the Clerk that such cash deposit shall be returned less any fines, court costs or restitution as ordered by the Court. No cash bond may be received in the amount of Ten Thousand Dollars (\$10,000.00) or more without notice to the District Attorney General and a hearing in open court pursuant to T.C.A. § 39-11-715 pertaining to the source of the bond funds.
- C. Each defendant shall provide to the Clerk before release on a property or cash bond, an address where notification of a court date may be delivered. It shall be the responsibility of the defendant to notify the Clerk of any change of address.

27.10 Official List of Authorized Bond Companies

- A. A petition for writing bail bonds shall be filed with the Clerk of the Circuit Court, if approved, the order approving the bonding company shall be filed with said Clerk and the name, address and phone number of said company is to be placed on the official list of bonding companies approved for that county. A certified copy of the list shall be mailed to the Sheriff stating said bonding company is authorized to write bonds.

27.11 Amendments

These rules may be amended from time to time by the Circuit Court Judge. Upon amendment, the Circuit Court Clerk shall notify all approved bonding companies in the 31st Judicial District, the District Attorney General and the Sheriff. Upon receipt of notice, all bonding companies shall comply with said amendments.

RULE 28
PROTOCOL

- 28.01 Lawyers in court must wear coat, tie or other appropriate business attire and otherwise conduct themselves in keeping with the dignity of a courtroom.
- 28.02 Lawyers must stand to make objections to evidence and to address the Court.
- 28.03 Lawyers, when possible, should advise their clients to dress neatly for any court appearance. Inappropriately fitted blue jeans, tank tops, shorts, and other such dress will not be tolerated.
- 28.04 All lawyers of record, or those filing suit, shall familiarize themselves with local court rules. The Court will assume at all times that attorneys practicing before this bar know the local rules.
- 28.05 Attorneys not in a trial at the bar shall retire with their clients from the courtroom to designated areas for any form of consultation or for signing orders.
- 28.06 Attorneys, when subpoenaing witnesses, shall print the witnesses' full names (when available), full address, and the telephone numbers with any pertinent information.
- 28.07 Once an attorney has announced he/she is counsel of record for any individual he/she shall not be entitled to withdraw from the case, except upon extraordinary circumstances shown to the Court.

APPENDIX A

**PRE-TRIAL MEMORANDUM FOR
WORKERS' COMPENSATION CASES**

Style: _____ -vs- _____

County: _____ Civil Action No. _____

Plaintiff's Attorney: _____

Defendant's Attorney: _____

INSTRUCTIONS:

1. That portion of this form designated for completion by the Plaintiff will be filled in and forwarded by counsel for the Plaintiff to counsel for the Defendant no later than TEN (10) DAYS prior to the trial date. Counsel for the Defendant shall fill in that information designated for completion by the Defendant and forward it directly to the Judge or Chancellor scheduled to try the case no less than FIVE (5) DAYS prior to the scheduled trial date.

2. Copies of all medical testimony taken by deposition and intended for submission as evidence in chief will be forwarded directly to the Judge or Chancellor trying this case along with this for no later than FIVE (5) DAYS prior to the trial date.

I. BACKGROUND INFORMATION

Age _____ Marital Status: _____ Education: _____

How injury occurred: _____

Nature of injury: _____

Physical limitations: _____

Work history: _____

Other: _____

II. GENERAL INFORMATION:

[to be completed by Plaintiff]

[to be completed by Defendant]

Stipulated/Not Stipulated

- | | | |
|--|--------------------|----------|
| 1. Date of injury: _____ | Yes _____ | No _____ |
| 2. New law applicable? | Yes _____ | No _____ |
| 3. Date notice given employer: _____ | Yes _____ | No _____ |
| 4. Average weekly wage: \$ _____ | Yes _____ | No _____ |
| 5. Rate of recovery: \$ _____ | Yes _____ | No _____ |
| 6. Dates of temporary total paid: _____ | Yes _____ | No _____ |
| 7. Dates temporary total unpaid: _____ | Yes _____ | No _____ |
| 8. Date of maximum recovery or return
to work _____ | Yes _____ | No _____ |
| 9. Scheduled member/disability [%] _____ | Yes _____ | No _____ |
| 10. Returned to work at substantially same
pay? | | |
| Plaintiff: | Defendant: | |
| Yes _____ No _____ | Yes _____ No _____ | |

III. MEDICAL EXPENSES (unpaid and disputed only)

- | | |
|----|----|
| 1. | \$ |
| 2. | \$ |
| 3. | \$ |

(If insufficient space, attach list of itemized expenses in dispute.)

IV. FACTUAL ISSUES [completed by Plaintiff and Defendant]

- 1.
- 2.

3.

4.

5.

V. LEGAL ISSUES [completed by Plaintiff and Defendant]

1.

1a. Proposition of law and citations (submitted by _____)

2.

2a. Proposition of law and citations (submitted by _____)

3.

3a. Proposition of law and citations (submitted by _____)

4.

4a. Proposition of law and citations (submitted by _____)

5.

5a. Proposition of law and citations (submitted by _____)

6.

6a. Proposition of law and citations (submitted by _____)

Use attachments if necessary.

ATTORNEY FOR PLAINTIFF

ATTORNEY FOR DEFENDANT

NOTE: Briefs may also be submitted at the option of the parties.

APPENDIX B

IN THE CIRCUIT COURT OF _____ COUNTY, TENNESSEE

AT _____

_____,)	
Plaintiff,)	
VS.)	No. _____
_____,)	
Defendant.)	

STATEMENT IN COMPLIANCE WITH RULE 22.01

Comes now (Name of Party), the (Plaintiff/Defendant), who would show to the court as follows:

1. He/she is employed at _____ located at _____. His/her weekly gross income is \$_____ and his/her net income per week is \$_____. If wages are paid hourly, the hourly wage is \$_____ per hour. Sources of additional income:_____.

2. His/her spouse is employed at _____ located at _____. The spouse has weekly gross income of \$_____ and net income per week of \$_____. If wages are paid hourly, the hourly wage is \$_____ per hour. Sources of additional income:

3. He/she has the following bank accounts:

Bank

Balance

4. He/she has the following stocks, bonds, and other intangibles:

Shares

Company

Total Value

5. He/she owes the following debts:

Creditor

Balance Owed

Monthly Payment

Security

6. The spouse owes the following debts:

Creditor

Balance Owed

Monthly Payment

Security

APPENDIX C

IN THE CIRCUIT COURT OF _____ COUNTY, TENNESSEE

AT _____

_____,)	
Plaintiff,)	
VS.)	No. _____
_____,)	
Defendant.)	

AFFIDAVIT

Comes now (Name of Party), the (Plaintiff/Defendant), having been sworn, who would show to the Court as follows:

1. My name is _____. I reside at _____

_____.

2. I am a party to a divorce action filed in this cause. I signed a Marital Dissolution Agreement on the ____ day of _____, _____.

3. It is my sworn testimony that I have read the Marital Dissolution Agreement, and that I believe the agreement to be fair to my spouse.

4. I further solemnly swear or affirm that the Marital Dissolution Agreement which I have signed disposed of all our marital assets and all of our marital debts, and I further swear or affirm that all divisions of property and debts have already been accomplished. Any sales of property contemplated by the Marital Dissolution Agreement have been accomplished, and the assets divided, except where expressly stated within the Marital Dissolution Agreement. I have

signed all deeds, titles, bills of sale, and other documents necessary for the transfers of my interest contemplated in the Marital Dissolution Agreement.

5. I further solemnly swear or affirm that I have to the best of my ability attempted to reconcile the marital differences my spouse and I have developed, and I have been unable to do so. It is my belief that our marriage is irretrievably broken.

6. I further solemnly swear or affirm either that there have been no children born to this marriage, and none are expected, or alternatively that all children borne to my spouse and me are mentally and physically competent and they have reached the age of eighteen years, and either have previously graduated from high school, or they have dropped out of school and would have graduated had they remained in school.

7. To the extent that the Marital Dissolution Agreement requires any further actions on my part, I solemnly swear or affirm that I will abide by the terms of the Marital Dissolution Agreement into which I have entered.

8. I therefore ask the Court to consider the Marital Dissolution Agreement my spouse and I have signed. I ask the Court to approve the Marital Dissolution Agreement and to incorporate it into a Final Decree of Divorce.

9. I therefore ask the Court to conduct a hearing in my absence, and I further ask that my attorney be excused from participation at that hearing. I ask the Court to consider this affidavit, the Marital Dissolution Agreement, and the entire file in this cause, and enter an order divorcing my spouse and me.

This the _____ day of _____, _____.

/Defendant Plaintiff

STATE OF TENNESSEE

COUNTY OF _____

Subscribed and sworn to before me on this the _____ day of _____,
_____.

Notary Public

My Commission Expires: _____