

RULES OF CHANCERY COURT PROCEDURE 17TH JUDICIAL DISTRICT

Pursuant to Supreme Court Rule 18, the following proposed amendments to the local rules of the Chancery Court of the 17th Judicial District are made available to the members of the public and to attorneys for review and comment, and are on file with the Administrative Director of the courts.

The following proposed amendments to the local rules of the Chancery Court of the 17th Judicial District will become effective on March 6, 2017.

RULES OF CHANCERY COURT PROCEDURE 17TH JUDICIAL DISTRICT

GENERAL RULES

Rule 1010. Sessions of Court. Regular sessions of Chancery Court will be held in Bedford County on the third Monday of November; in Lincoln County on the second Monday of September; in Marshall County on the first Monday of August; and in Moore County on the third Monday of September. Attorneys with cases pending shall be present at the regular session. The Chancellor's regular days within each session shall generally be as follows: each Tuesday in Lincoln County; each Wednesday in Marshall County; each Friday in Bedford County; and the second and fourth Mondays of each month in Moore County. The Last full week of each month is reserved for contested cases requiring one or more days to hear. In the event a holiday, judicial conference or other event necessitating deviation arises, the court may select an alternate day and notify the Clerk and Master in the affected county.

Rule 1011. Docket Call. The Court will call the docket consisting of Chancery, Probate, and Adoption matters at the opening of its regular sessions. The court may set cases at other times to ascertain the status and set deadlines for their disposition. The court may dismiss open cases for failure of prosecution where they have been dormant without cause shown for an extended time of more than one (1) year. The court may dismiss modification or re-opened cases after six (6) months. The court will dismiss any case, unless family law related, that has been filed for two (2) years or more unless counsel of record enters a scheduling order setting out deadlines for the completion of all discovery, the argument of pre-trial matters, and the setting of a pre-trial conference and trial date at the first call of the docket subsequent to the two (2) year anniversary date. In all family law related cases, the scheduling order must be entered at the first call of the docket subsequent to the one year anniversary from file date. It is the responsibility of

the counsel of record and/or parties without representation by counsel to confer prior to the call of the docket in order to arrive at agreement as to the dates to be included in the scheduling order. If no such agreement can be reached regarding the scheduling order, the court will rule on the dates/matters/issues in controversy regarding the scheduling order at the call of the docket. If an order of dismissal is entered under this rule, copies of the order of dismissal will be mailed to counsel of record for each party and to any party without counsel of record by the Clerk and Master, if the whereabouts of such party can be ascertained upon reasonable inquiry by the Clerk.

Rule 1012. Docketing of cases. The Chancellor's calendar will control the docketing of all contested matters. Attorneys should schedule all contested matters with the Chancellor or the Chancellor's Administrative Assistant and uncontested matters with the Clerk and Master of the county where the action is filed. All divorce litigants are urged to complete the parenting class prior to the case being docketed for hearing.

Rule 1013. Uncontested cases. All uncontested Chancery matters, with the exception of probate matters, may be heard by either Circuit Judge or the Chancellor at the convenience of the bar and may be scheduled by the Clerk and Master of the county where the action is filed. Probate matters shall be heard by the Chancellor, unless designated to be heard by the Clerk and Master or other Special Judge.

Rule 1014. Contested cases. All contested Chancery matters filed or reopened after the adoption of these rules shall be heard by the Chancellor, unless a significant portion of the suit in question has been heard by either of the Circuit Judges prior to the adoption of these rules. Any cases docketed prior to the adoption of these rules under the previous rules shall remain on the docket of the judge who scheduled the case. A significant portion of the suit shall be defined as

that portion of a prior contested case that would require transcription of the record of prior proceedings in order to afford the parties complete relief. The Chancellor will decide any dispute that arises as to whether a significant portion of a case has been heard by another judge.

Rule 1020. Interrogatories. Interrogatories shall be limited to thirty (30) questions in any given set. Subparts of a question shall be counted as additional questions for the purpose of determining the overall number. Leave of court must be obtained to submit more than thirty (30) interrogatories or to submit additional sets of interrogatories beyond the first set with notice to adversary parties. Requests for leave shall include copies of such additional interrogatories or sets of interrogatories to be submitted and a statement of counsel as to the necessity for such information, its relevance, or its likelihood to lead to relevant information, and the fact that it cannot readily be obtained from other sources.

Rule 1021. Mandatory Pre-Trial Conference. In all contested counsel for the parties shall schedule a pre-trial conference with the court at least one calendar week in advance of the commencement of the trial. This conference may be held in person or by telephone as counsel desires. It is the responsibility of counsel to set up the pretrial conference with the court, either directly with the Chancellor, Chancellor's Administrative Assistant or the Clerk and Master for the county in which such case is to be tried. If a party is not represented by counsel, opposing counsel must make reasonable effort to notify the party of the scheduling of the pre-trial conference. The parties must exchange proposed witness lists prior to the pre-trial conference.

Rule 1023. Written Findings and Conclusions. Requests for written findings of fact and conclusions of law should be accompanied by proposed findings of fact and conclusions of law and submitted in writing prior to the entry of judgment. The court may decline to make written findings and conclusions if findings and conclusions have been stated from the bench.

Rule 1030. Contested Domestic Cases. In all contested divorce cases, each party shall prepare, send to the other party, and file one week before trial, a sworn statement of income and expenses adjusted to monthly amounts. Each party shall also prepare, send to the other party and file one week before trial, a sworn financial statement of assets, liabilities and net worth with separate columns for husband, wife, joint and total. Each party shall also prepare, send to the other party and file one week before trial, a proposed classification of property or debt and a proposed division and/or allocation of each type of property whether separate or marital. A party may apply to the court for such protective orders as may be reasonably necessary to avoid unreasonable and unnecessary disclosure of information required by this rule. Each party shall also prepare, send to the other party and file with the court one week before trial a short statement identifying the contested issues to be presented to the court and a short statement identifying issues which have been settled, or agreed to, by the parties. Counsel may submit these statements jointly or individually as they desire. Cites of case law or statutes upon which counsel expects to argue/rely shall also be submitted in this same manner at the same time.

Rule 1031. Pendente Lite Hearings. Any Request for a Pendente Lite or Temporary Hearing, shall include a statement of facts justifying the relief sought, and before the hearing, the parties will exchange and file sworn statements in support of, or in opposition to, the relief sought. When the relief sought is child support, custody and/or alimony, the sworn statement shall specifically include statements of income and expense adjusted to monthly amounts and a Proposed Parenting Plan, along with a proposed child support worksheet. Testimony by witnesses at the temporary hearing will be limited to the discretion of the Court. If a case where custody is being determined and the court feels that a Guardian *Ad Litem* (GAL) is necessary,

one will be appointed by the Court, with the costs for the said GAL to be determined by the court.

Rule 1032. Submission of Orders. In all civil cases, unless otherwise directed, within ten (10) days after the presiding judge announces a decision or files a memorandum opinion, the Attorney for the prevailing litigant (or pro se litigant) shall submit to the Clerk of the court an order containing the ruling of the Court. Prevailing counsel (or pro se litigant) shall serve a copy on opposing counsel (or pro se litigant) pursuant to Rule 58 of the *Tennessee Rules of Civil Procedure*. Such order(s), if not agreed to, shall be lodged with the Clerk for five (5) judicial days to afford the opposing party an opportunity to object. Orders signed by all parties or their counsel, as well as Agreed Orders, which have been lodged with the Clerk, shall be presented to the Judge forthwith.

Rule 1033. Enforcement of Orders. If a Chancery Court order needs to be enforced, a petition, motion or other pleading to show cause or contempt can be filed with service on the respondent(s) being had according to the *Tennessee Rules of Civil Procedure*. In the event an attachment for contempt, either civil or criminal, is requested the bond shall be set by the Chancellor, or Judge sitting by interchange. If no bond is set, the respondent(s) shall have a hearing set within ten (10) days to determine whether a bond should be set or if the respondent(s) should be held without bond until the hearing which disposes of the attachment. If a bond is set, the respondent(s) must file a motion for a hearing to review the bond. Said bond review hearing shall be set within ten (10) days of the filing of the motion to review bond.

ADOPTION MATTERS

Rule 1040. Surrenders.

1. Surrenders may usually be scheduled as *ex parte* matters.
2. In Chancery Court all surrender documents shall be reviewed by the Clerk's office before the surrender occurs.
3. Counsel shall inform the Court's Administrative Assistant if more than one child is the subject of surrender or circumstances exist that will require an unusually lengthy hearing.
4. There shall be a separate surrender for each child.

Rule 1041. Petitions for Adoption. A separate verified petition must be filed for each adoptive child. Separate docket numbers shall be assigned to each petition, and there shall be a separate final order in each case. Cases involving the same petitioner shall be assigned to the same Judge. Relief from this rule may be requested upon motion of the filing party at the initial filing of the proceeding.

Rule 1042. Waivers. The law allows the Court to waive certain procedures and time requirements in appropriate circumstances. Counsel or parties may not assume that the Court will routinely waive such procedures or requirements. Anyone seeking waiver shall, in a motion or proposed order, cite the statutory authority thereof and state the circumstances justifying relief.

Rule 1043. Adoptions - Final Hearings – Minors.

1. In an adoption by relatives or a step-parent, the Court usually waives or shortens the six-month waiting period after filing if the child has lived in the home for more than one (1) year.

2. In other adoptions, the Court is unlikely to waive or reduce in the six-month waiting period after filing the petition unless the child has lived in the home for more than one (1) year and there are compelling reasons.

3. In no event is a final hearing to be scheduled less than ten (10) days after the petition is filed.

4. The child and the parents shall appear before the Court for the final hearing unless specifically excused by the Court. Appropriate dress is required.

Rule 1044. Terminations. If a proposed termination is contested or either natural parent is incarcerated, counsel shall so advise the Court. Parents whose rights are subject to termination may be eligible for an appointed attorney. Lawsuits to terminate parental rights shall be concluded before the adoption is set.

Rule 1045. Final Report on Adoption. The final report in response to the Court's Order of Reference shall be filed at least three (3) days before the final hearing. The purpose of the Court's Order of Reference is to bring the status of the prospective adoptive home and the child up to date immediately prior to finalization of the adoption.

SPECIAL PROCEDURES FOR EXTRAORDINARY INTERLOCUTORY RELIEF

Rule 1051. Filing of Complaints. Complaints for writs of certiorari, restraining orders, or other extraordinary relief shall be first filed with the Clerk and then presented to the judge.

Rule 1052. Restraining Orders. Proposed restraining orders shall be prepared by counsel prior to submitting the request for relief to the judge. The restraining order, except in domestic cases, shall provide for a hearing for temporary injunction and shall provide a place therein for the court to set a date, time and location for such a hearing. The proposed restraining

order shall also provide a place for an amount of the bond to be filed with the Clerk before the restraining order is issued by the Clerk for service on an adverse party. In domestic (family law) cases, the court will not issue a temporary restraining order that modifies a pre-existing custody order of any court, unless the moving party shows, to the court's satisfaction, that extraordinary and exigent circumstances exist which cannot otherwise or appropriately be remedied by existing DCS/DHS, agency or police avenues.

Rule 1053. Setting Hearing for Interlocutory Relief. Hearings on applications for temporary injunctions and other forms of extraordinary, interlocutory relief shall be set as provided in Rule 1052, above, or in cases where no restraining order is issued, (1) upon motion, or (2) by an order setting the date, time and location for the hearing.

Rule 1054. Ex Parte Orders of Protection: If an Order of Protection is filed in Chancery Court, the Clerk and Master will assist the Petitioner or, if unable to do so, will refer the Petitioner to the Chancellor who will designate someone to assist the Petitioner. The Ex Parte Order will be considered only upon the completed affidavit and without testimony. The final hearing will be conducted by the Chancellor, or by a special designated judge or judicial commissioner.

JURY TRIALS IN CHANCERY COURT

Rule 1060. Notification to Court of Jury Demand. When a case in Chancery Court is to be tried by a jury, counsel shall call that fact to the personal attention of the Chancellor, when the case is being set for trial.

Rule 1061(a). Draft Jury Instructions. A minimum of seven (7) days before the trial is to begin, the party first demanding a jury shall file with the Chancellor a draft set of jury

instructions, in electronic format, on all substantive issues to be decided by the jury. An adverse party may, but is not required to, submit a responsive set of draft instructions, in electronic format, before trial selection of a jury begins. The parties may submit additional or modified draft instructions after presentation of all the evidence in the case and before argument of counsel, or otherwise directed by the court.

Rule 1061(b). Requests for Special and/or Specific Jury Instructions. Requests for special jury instructions and requests for specific instructions from the Tennessee Pattern Jury Instructions are entirely optional with counsel. If, however, counsel want to request special jury instructions, specific TPI charges, requests for special verdicts or interrogatories to the jury, such requests should be filed whenever practical at least seven working days before the trial, with one copy filed with the Clerk one electronic version with Chancellor Cox and one served on adversary counsel by that same date. If a counsel request specific TPI charges, reference should be made to the TPI number and the entire text of the particular charge does not need to be set out. All requests made pursuant to this section should be numbered. When counsel submits special requests pursuant to Rule 51, T.R.C.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 Instructions verbatim, the request shall be made by reference to “TPI (Civil) No. _____”, or “TPI (Criminal) 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 Instruction, this fact and the authority relied upon must be stated in the request. Such requests shall be filed with the court and served upon opposing counsel and/or

party without counsel a minimum of seven days prior to commencement of trial unless the necessity of said request arises unexpectedly during the course of the trial.

Rule 1062. Pre-Trial Conference. A pre-trial conference shall be scheduled with the court a minimum of seven days in advance of the scheduled jury trial. It is the responsibility of counsel for the parties to schedule said pre-trial conference with the court, either directly through the Chancellor, Chancellor's Administrative Assistant, or the Clerk and Master of the county in which such trial is scheduled.

Rule 1063. Alternate Jurors In Civil Cases: The *Tennessee Rules of Civil Procedure* allow Courts to empanel a number of jurors and then, after the case is concluded but before deliberations begin, to select one member of the panel who will not deliberate and effectively becomes the alternate juror. Alternatively, the Rules allow the Court to empanel a number of jurors and an alternate juror, in what may be considered the more traditional manner of selecting juries. Absent agreement or request from counsel, juries in this district will be selected so that the alternate is not determined until immediately prior to the commencement of deliberations.

Rule 1064. Order of Closing Arguments and Charge to the Jury in Civil Cases: The *Tennessee Rules of Civil Procedure* allows Courts to charge the jury prior to arguments by counsel, or to allow counsel to argue first and then charge the jury. Absent agreement or request from counsel, the procedure followed will be that the Court will present the charge to the jury after closing arguments.

Rule 1065. Special Verdicts in Chancery Cases. Request for special verdicts or written interrogatories made pursuant to Rule 49, T.R.C.P., must be made seven (7) days before commencement of the trial and must be accompanied by proposed verdict forms, written interrogatories, and proposed instructions, which will be given to the jury along with the special

verdict forms or interrogatories. The court shall inform counsel of its proposed action on the requests prior to their arguments to the jury.

SPECIAL PROCEDURE FOR PROBATE MATTERS
FOR ALL COUNTIES IN THE 17TH JUDICIAL DISTRICT

Rule 1070. Petitions to Probate Wills and Appoint Executors and Petitions to Appoint Administrators. Sworn Petitions, by interested parties*, to probate a Will or Codicil and appoint an executor or administrator with will annexed, and petitions to appoint an administrator shall contain:

1. The petitioner's name and address.
2. The decedent's name, age (if known), date and place of death, and residence address at date of death.
3. A copy of the document(s) offered for probate attached as an exhibit to the petition.
4. Have attached thereto as an exhibit any affidavit of a subscribing witness to any Will or Codicil, which affidavit has been made after the decedent's death and is not attached to the original Will or Codicil. In the case of a Holographic Will, the testimony of two (2) witnesses, in person, as to the handwriting of the decedent, except, for good cause, one such witness may give an affidavit or deposition.
5. A statement that the decedent died intestate or the date of execution of the document(s) offered for probate (if known) and the names of all attesting witnesses of the document(s) offered for probate.

6. If the decedent died intestate, the name, age (if known), mailing address, and relationship of each heir at law.
7. If the decedent died testate, the names, relationships, and city of residence of the devisees and legatees and those who would otherwise be entitled to the decedent's property under the laws of intestate succession.
8. The identification of any heirs or beneficiaries who are minors or are under a disability.
9. Unless bond is waived by the document offered for probate or in writing by all interested parties as authorized by statute, an estimate of the fair market value of the non-real estate assets. If an estate is open for more than one (1) year, proof that the bond is still in full force and effect must be provided to the court.
10. Whether the document offered for probate waives the filing of any inventory and accounting or whether such is not otherwise required by law.
11. A statement that the petitioner is not aware of any instrument revoking any document being offered for probate, and that the petitioner believes the document being offered for probate is the decedent's last Will.
12. Have attached thereto as an exhibit a sworn statement as to any waiver or renunciation which is relevant to the appointment of a personal representative.

*Interested parties include a spouse, a beneficiary, a legatee, a devisee, a fiduciary, an heir, and an income and remainder beneficiary of a trust. Pursuant to *Tennessee Code Annotated*, a creditor may also be an interested party after the expiration of six (6) months from the date of death.

Rule 1071. Hearings and Determinations by Clerk and Master. The Clerks and Masters of all counties in the 17th Judicial District are authorized and empowered to grant letters of administration and letters testamentary, appoint administrators and executors, probate Wills in

common form, take and state all accounts and settlements, and to do those duties enumerated pursuant to *Tennessee Code Annotated* Section 16-16-201(b). Despite the authority granted to the various Clerks and Masters within the district, any one of them shall have the discretion to refer any matter he/she is empowered to hear under said section to the Chancellor for determination.

Rule 1072. Attorneys. An attorney who files a petition commencing a probate proceeding, or otherwise becomes the attorney of record for an estate or its personal representative, shall, by reasonable and diligent effort, cooperate with and encourage the personal representative in properly and punctually managing, administering, distributing and closing the estate. The attorney may not withdraw except by motion joined by the personal representative, or after reasonable notice to the personal representative, and then only in accordance with Ethical Consideration 2-32 and Disciplinary Rule 2-110 of the Code of Professional Responsibility, adopted as Rule 8 of the Supreme Court of Tennessee.

Rule 1073. Specially Set Hearings. The judge will set for hearing at a certain day and time petitions for the following:

- 1) To sell and encumber real estate;
- 2) To ratify unauthorized encroachments;
- 3) To admit Wills to probate in solemn form;
- 4) To admit a copy of a Will that has been lost or spoliated;
- 5) On exceptions to claims filed in an estate;
- 6) On exceptions to reports or others of the Clerk and Master;
- 7) On motions or petitions to review and modify determinations and order of the Clerk and Master;

8) All other contested matters; and

9) Any other matter deemed proper by a judge or by the Clerk and Master due to the amount of time required or the questions involved.

Before any such hearing, a minimum of five (5) days notice shall be given by the Clerk and Master to the personal representative, unless such personal representative is the petitioner, notice shall be to all beneficiaries of the estate.

Rule 1074. Inventories and Accountings.

1. Inventories and accountings may be waived (1) if the Will so provides, or (2) if all of the residuary beneficiaries or legatees file waivers excusing the personal representative from the requirement. If a residuary beneficiary is under a disability or the estate is insolvent, a final accounting cannot be waived. A Sworn Statement in Lieu of Final Accounting is required even if accountings are waived. Inventories must be filed within sixty (60) days of the letters being issued, unless within said sixty days (60), the judge grants an extension of time for filing upon written motion of the personal representative stating good cause for the extension accompanied by a preliminary inventory as complete as due diligence of the personal representative and his lawyer permits, and a proposed date for the filing of the inventory, not to exceed nine (9) months from the granting of the Letters.

(b) Accountings, Sworn Statements or Petitions in Lieu of Final Accounting shall comply with all the requirements of the statutes, shall state the gross taxable value of the estate and be filed within fifteen (15) months of the granting of Letters, unless an extension is granted by the court. Approval of personal representative fees and attorney fees may be included in the Sworn Statement or Petition. Sworn Statements or Petitions in Lieu of Annual Accountings may also be filed by the personal representative(s) to give the court a status report as to the disposition of the

estate in order to comply with the *Tennessee Code Annotated* requirement to file an accounting within fifteen (15) months from the appointment of the fiduciary, and then annually thereafter.

(c) Notice of the filing and taking of an accounting must be as provided by law.

(d) The final documents shall bear a certificate of the personal representative that the estate has been distributed in accordance with the instrument admitted to probate, or, in intestate cases, in accordance with the laws of descent and distribution.

(e) Upon failure to file accountings within the time required by law, the Court may revoke letters issued to a personal representative and appoint the Public Administrator or a successor personal representative.

(f) If an estate is not closed within two (2) years from the date of qualification of the personal representative, additional time to file accountings will be granted only upon motion and notice to interested parties.

Rule 1075. Closure of Estates. An estate may be closed with the filing of the following:

1. The filing of a detailed accounting, supported by lawful vouchers or checks, or a sworn statement or petition in lieu of an accounting; which would contain a statement that the time for filing claims with an estate has expired and all claims filed against the estate have been satisfied or released, a statement that no beneficiary is under a disability, as well as a statement that no part of the estate escheats under the laws of Tennessee.

2. A receipt and waiver from each heir, beneficiary or trustee, which has been sworn that they have received his or her share of the estate, and further waives formal notice of the final accounting. In the event that a receipt and waiver cannot be obtained, a court date will be set to finalize the estate, and notice shall be given to that person or entity.

3. A certificate from the Commissioner of Revenue showing full payment of inheritance taxes or non-taxability of the estate, or upon filing of statement pursuant to *Tennessee Code Annotated* Section 67-8-409(g)(1), that said estate is exempt from filing an inheritance tax return, if applicable;

4. A release from the Bureau of TennCare for individuals over the age of fifty-five (55) stating that the State of Tennessee is not entitled to any recovery. If the deceased is under the age of fifty-five (55), a sworn statement may be included in the original documents to probate or in the final documents to close the estate.

5. A notarized statement from the personal representative and each beneficiary that he/she has been notified of their potential liabilities under *Tennessee Code Annotated* Section 30-2-307(a) (2), if applicable.

6. A notarized statement from the personal representative that, pursuant to *Tennessee Code Annotated* Section 30-2-306, the personal representative has mailed or delivered by other means a copy of the published or posted notice to all creditors of the decedent of whom the personal representative has actual knowledge or who are reasonably ascertainable by the personal representative, at the creditors' last known addresses, if applicable.

All closing documents shall be presented to the Clerk and Master for review and approval before the final order is submitted to the Chancellor to close the estate.

If a personal representative fails to comply with their fiduciary requirements within the original or extended time, the Clerk and Master shall send to the personal representative and his attorney a notice for the personal representative and his attorney to personally appear before the judge of this court at a certain place, day and time to show cause why the required action has not been taken, which show cause hearing shall be held not less than five (5) days nor more than

thirty (30) days after the mailing said notice with return receipt requested; or if necessary served by personal service. At such show cause hearing, the personal representative and his attorney shall file with the court the most complete inventory, or the most complete accounting to date, as the case may be, by due diligence of the personal representative and attorney. If the court is not satisfied after said show cause hearing of the good faith efforts and diligence of the personal representative or attorney, either may be removed by the court with possible loss of compensation for services rendered and with possible liability for expenses and damages incurred by the estate for lack of diligence. Willful violations of the rules and orders of the court may also be punished as contempt.

Rule 1080. Conservatorships and Guardianships. Conservatorships and Guardianships filed in Chancery Court must comply with all the requirements of Title 34 of the *Tennessee Code Annotated*. A separate petition must be filed for each respondent. Separate docket numbers shall be assigned to each petition, and there shall be a separate Final Order in each case.

1. **Conservatorships.** The petition shall be verified and shall contain the information required by statute and these rules. Petitioner shall list the names and addresses of all persons to whom notice is required. Notice shall be given by the Clerk to all interested parties and a notice of hearing shall be served on the respondent and any person, institution or residential provider having care or custody of the respondent by guardian ad litem or as otherwise authorized under the *Tennessee Rules of Civil Procedure*. The respondent shall also be served with a document defining the respondent's enumerated rights as required by law. A verified statement for a physician or psychologist in accordance with shall be filed, if available, with the petition or, if not then available, before or at the hearing. The court is allowed and encouraged to appoint a

Guardian *Ad Litem* (GAL), even in cases where the respondent is represented by counsel. The petition may include a request that the GAL, Attorney *Ad Litem*, or the conservator have specific experience or expertise in matters to be faced by the respondent. In emergency situations, when no judge is available, the Clerk and Master may appoint a GAL. The GAL owes a duty to the court to investigate and make recommendations, and is not an advocate for the respondent or any other party. The GAL must interview the respondent in person, reviews all documents to make sure the record reflects a need for a fiduciary and further if the proposed fiduciary is appropriate candidate for such appointment. The GAL shall also investigate the nature and extent of the respondent's property and the financial capabilities and integrity of the proposed fiduciary.

2. **Guardianships.** The petition shall be verified and shall contain the information required by statute and these rules. Notice shall be provided to all interested persons, and service upon the respondent shall be in accordance with law. If the guardianship necessitates a Guardian *Ad Litem* (GAL), the court may, in its discretion, appoint one to represent the best interest of the minor.

3. **Orders.** All orders appointing a guardian or conservator shall contain the information required by appropriate statute and these rules, including the ward's full name and date of birth and the specific powers to be exercised by the fiduciary and the specific powers retained by the person with a disability. The order shall also recite whether the need for a bond, annual accounting and other annual reports required by law exist. If the powers of the fiduciary are limited, the order must address that limitation.

4. **Bonds.** Bonds are always required except when waived by the court. When required, bonds must be posted with the Clerk prior to the issuance of letters. Bonds must be renewed annually as long as the fiduciary serves.

5. **Letters.** The letters must recite the specific powers to be exercised by the fiduciary and any specific powers that may be retained by the person with the disability; or in the alternative a copy of the order must be attached to the letters if it specifies duties of fiduciary. If the letters are limited or temporary, it shall be noted on the letters by the Clerk.

6. **Conservatorship Training Video.** Prior to obtaining letters, the fiduciary must provide the court with a sworn statement that the fiduciary has viewed the “Basic Conservatorship Training Video” available from the Conservatorship Association of Tennessee at catenn.org.

7. **Accountings.** The first accounting is due after the six (6) month anniversary of appointment. The first annual accounting is due sixty (60) days after the twelve (12) month anniversary date of appointment and annually thereafter. The law does not allow for extensions of time to file accountings. All accountings must be supported by lawful vouchers or checks. An annual report regarding the mental or physical condition of the ward shall be filed with the annual accounting and cannot be waived. If a fiduciary does not have authority over the ward’s property the fiduciary does not have to submit financial accountings.

8. **Emergency Procedure.** In certain cases, the Court may appoint a conservator on an emergency basis for a period not to exceed sixty (60) days and cannot be extended. An Attorney Ad Litem must be appointed and reasonable notice must be given unless there is a sworn petition that the respondent will be substantially harmed. If appointed without notice, notice must be given within forty-eight (48) hours, and a hearing to be held within five (5) days. The appointment of a conservatorship under this statute, with or without notice, is not a determination of the respondent’s incapacity. The temporary conservator may be removed at any time and if

necessary, a GAL may be appointed. The court may require the temporary conservator to file any necessary reports. All other rules regarding the respondent's property apply.

9. **Closure.**

a. Conservatorships - The ward can ask for the conservatorship to be ended, even without a written request. If this is requested, there must be a hearing. The Court may request a physical or medical examination at the hearing or prior to. If a ward dies, the fiduciary must give notice to the court as soon as possible and a final accounting will have to be presented to the court. Receipts from the ward's estate may be used, if necessary, to support the accounting. An order will be entered to close the conservatorship.

b. Guardianships - When a child reaches the age of majority. A guardianship may be closed by filing a final accounting, supported by lawful vouchers, and approval by the Clerk before a final order is signed to close the guardianship. In the event, a guardianship needs to be converted to a conservatorship, this can be accomplished by the filing of a motion and if granted, the rules that apply to conservatorship would now be applicable.

SPECIAL PROCEDURE FOR DELINQUENT TAX COLLECTION

FOR ALL COUNTIES IN THE 17TH JUDICIAL DISTRICT

Rule 1090. Collection of Delinquent Taxes. A lawsuit to collect delinquent property taxes filed in Chancery Court must comply with all the requirements of Title 67, or other applicable Titles, of the *Tennessee Code Annotated*.

Rule 1091. Collection of Taxes prior to Lawsuit. A Clerk and Master shall not collect any delinquent taxes until after the filing of the lawsuit pursuant to Title 67 of the *Tennessee Code Annotated*. During the interim period when the Trustee closes out the taxes to be turned over to the Delinquent Tax Attorney for Collection and before the filing of the lawsuit to collect

the Delinquent Taxes, the Clerk and Master does not have any authority to collect the said delinquent taxes, and shall not, until the lawsuit is officially filed in the Chancery Court.

Rule 1092. Record Searches. The Delinquent Tax Attorney or another attorney designated by the Delinquent Tax Attorney shall perform a record search on each parcel to be sold and shall submit the written findings to the Clerk and Master prior to the sale. Once the completed record search is filed with the Court, the Delinquent Tax Attorney will be entitled to a fee, which shall be set by the Court. If a record search reveals that a parcel has an “unknown” owner, pursuant to the records in the Tax Assessor’s Office or in the Register of Deed’s Office, the Delinquent Tax Attorney shall take the necessary steps, pursuant to *The Tennessee Rules of Civil Procedure* and the *Tennessee Code Annotated*, to correct the title prior to the order to sale the said parcel for delinquent property taxes.

Rule 1093. Collection of all taxes due at the time of the sale. When an order to sale is entered with the court for a particular parcel, the initial bid for that parcel shall include ALL taxes that are delinquent, and fees associated therewith, as well as any other current taxes which may be due as of the date of the sale.

Rule 1094. Sale of Property for Delinquent Property Taxes. A Delinquent Property Tax Sale shall be held on or before December 31 of the calendar year following the year that the lawsuit is filed (e.g. suit filed April 1, 2017, sale held on or before December 31, 2018) to collect the delinquent property taxes, unless said sale is continued by a court order or if there are not enough delinquent property taxes remaining in the lawsuit warranting the costs of a sale. The Clerk and Master, or her designee, shall conduct the sale and require certified funds from each purchaser, on the day of the delinquent property tax sale, to alleviate the cost of a parcel having to be sold again due to insufficient funds of a purchaser.

Rule 1095. Redemption. Real property sold for delinquent property taxes can be redeemed any time during one year from the date that the order is entered confirming the sale, unless a motion to reduce the redemption period is filed by a purchaser. A hearing will be had to determine if the redemption period will be shortened. A motion must be filed by the party wishing to redeem the property and a hearing will be had to determine if the redemption can be allowed. Post sale interest and other fees, allowed by statute, shall be collected with the filing of the motion. If the purchaser desires to request reimbursement for any other expenses allowed by statute, the purchaser must file a motion requesting said expenditures which will be addressed at the same time the motion to redeem shall be before the court.

Rule 1096. Deeds. Following the statutory redemption period, the Delinquent Tax Attorney shall prepare a deed for the new owners. It will be the responsibility of each new owner to record their deed.

Rule 2010. Disposition of Depositions and Exhibits. In a civil action which has not been appealed nor had issues involving minor children and has been disposed of by final order, the Clerk may dispose of discovery depositions and or exhibits one year following the entry of the final order. In a civil action that has child support, custody or other issues involving minor children, the Clerk may dispose of discovery depositions and or exhibits when the youngest child has reached the age of majority and or when there is no longer a custody or child support obligation. Additionally, Trial exhibits may also be disposed of pursuant to *Tennessee Code Annotated* Section 18-1-202(a). A party or an attorney may withdraw a deposition or exhibit after the civil action has had final disposition and the time for appeal has expired by order of the court or written agreement of all of the parties.