GUIDELINES AND HELPFUL INFORMATION FOR PEOPLE WITH A CASE IN GENERAL SESSIONS COURT

DRAFT ONLY
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[Insert name, address and phone number of General Sessions Court and names of judges]

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Purpose of Guidelines

The General Sessions Court for _____, Tennessee, adopts these guidelines to assist people who represent themselves in court and to help any and all lay people (non-lawyers) who wish to have more guidance on what will happen in court and how to be better prepared for court.

This court has been encouraged by the Tennessee Supreme Court's "Access to Justice Commission" to create guidelines assisting non-lawyers who have cases in court. This includes people who represent themselves and other lay people who may have lawyers but desire helpful information about appearing in court.

This court encourages parties to use a lawyer for help when possible. Lawyers have legal training and experience in appearing before a judge. You may be able to get free legal aid. You can seek free legal aid by calling _____.

Why We Have Local Guidelines for Lay People (Non-Lawyers)

Judges have a duty to seek justice in courts of law. Judges should make an honest and sincere effort to seek the right result. It is important for courts to be flexible when parties do not have lawyers. Self-represented parties may not have experience with formal court rules or customs. The ethical rules for judges allow judges to have guidelines which are friendly to self-represented parties and all lay people as long as the judges act with integrity, fairness, neutrality and impartiality at all times. The court will treat all parties and their attorneys with respect, and it is helpful if all parties and attorneys are respectful with each other and with the court.

GUIDELINE 1. Read the Court Guidelines.

Each court of law has certain rules. You can get a copy of the local rules for General Sessions Court _____ County at the General Sessions Clerk's office. You need to read the local rules and these guidelines which can help lead you through a case in court.

The guidelines in this document are especially for people who don't have a lawyer or who have a lawyer but desire more information about how the court works. These suggestions can be of help to you when you appear in court.

It is your job to know the rules for your case. If you don't follow the rules, your case can be thrown out. Or it could cause you to lose the case.

Important Information

- You can't talk to the judge alone. The person on the other side of your case must be there, too. This means no calls, letters, emails or texts to the judge. No waiting around in public to try to talk to the judge. If you run into the judge outside court, don't say anything except a polite greeting as you would with anyone. This protects both sides. You know the judge only talks about your case when you are there.
- Show respect and be polite to everyone in the court building. No threats, cursing, yelling, arguing or screaming. Don't give anyone the finger or use other rude signs. If you do, you can go to jail or have to pay a fine. Tell your witnesses to follow these rules, too. If they don't, the judge may not believe their testimony. Turn off your cell phone while you are in court.
- All witnesses swear (or affirm) that they will tell the truth. Any person who tells a lie on purpose in court can be charged with a crime.
- It is important that you read all papers served on you very carefully. Follow any directions on your papers such as appearing in court on the date or dates given to you. If you don't understand the papers, get advice from an attorney (if possible) or contact the Court Clerk and point out any part you don't understand. The Clerk cannot give legal advice but may give helpful information.

You can get a copy of all the court rules from the Court Clerk's office, which is located at _____; phone #_____; website: _____. They also may have court forms you will need. Check with the Clerk to see if the clerk's office has forms for you to use. Fill out all of the papers provided to you.

The Clerk is not a lawyer and can give you information and forms but not legal advice (that is tell you what to do). Nothing the Clerk tells you is legal advice.

GUIDELINE 2. It May Help to Have a Lawyer

Lawyers are trained in the law and know the court rules. This can make a big difference in your case. If you want a lawyer but can't pay, you may be able to get one for free. Check with Legal Aid or Legal Services. Or call the local lawyer group called a "bar association." The clerk can give you information about how to contact the _____ County Bar Association.

If you don't have a lawyer, you can speak for yourself in court. If you show respect and are polite, the judge will do the same for you. The judge will follow the law and be fair to everyone. But you must follow the same rules that lawyers follow in court.

GUIDELINE 3. Be Prepared for Court

When you come to court for your trial or hearing, bring all your witnesses and all your proof. Bring any papers, documents, pictures or other items of proof. The court calls these exhibits. **You have to show the other side all your proof that you intend to use before the trial begins on the date of the trial.** They must show you all their proof, too.

Proof can be:

- Pictures or videos
- Any papers like leases, contracts, estimates or other written papers
- Drawings
- Any proof you plan to use in court

Seeing the proof ahead of time saves time in court. The judge does not want to waste time while you look at each other's proof. Showing proof to each other before court gives you a chance to see what proof the other side will use.

Bring the original of your proof for the court to see. Bring a copy for yourself and enough copies for the other side.

GUIDELINE 4. When You Go To Court

When you come to court, try to dress and act in a nice and pleasant manner. A helpful tip is to dress and act in a manner like you would for an important job interview Being in court is about showing respect to everyone and having a fair trial.

The courtroom is divided into two (2) main parts. The part right in front of the judge is called "the bar." It is for people whose case is being heard, for their lawyers and for witnesses. People who work for the court are there, too. You only go in this part when the judge calls you up for your case. Everyone else sits in the back of the court. Sit quietly until you are called up for your case.

Be on your best behavior while in the court building. (Remember: Like an important job interview.) No cursing, yelling, name calling or being rude. Don't act out, make noises or threats or talk loud. Turn off your cell phone. Don't hang around outside the courtroom or in the hall unless you are waiting quietly for a case. Be polite to everyone even if you don't agree with what they say. Do what the judge tells you.

During your case, stand up when you talk to the judge. Stand up when you question a witness or object to something. Standing up shows respect and helps the judge hear you.

GUIDELINE 5. Go to Court Early

Be at court at least 15 minutes early.
Allow extra time to park, get through security and find the court room. When court starts, the judge or clerk will read a list of the cases the judge will hear. This is the docket call. When your name is called raise your hand and say "here."

IMPORTANT! The defendant is the person who was sued. If you are the defendant and don't show up, you lose the case. This is called a default judgment.

IMPORTANT! The plaintiff is the person who filed the lawsuit. If you are the plaintiff, your case can be dropped if you aren't there. This is called a dismissal.

IMPORTANT! If there is an emergency and you can't come to court, call the Court Clerk's office. (Phone:_____) Tell one of the clerks about your problem and ask who you need to talk to. Tell that person why you can't come. Give that person a phone number where you can be reached. It is always up to the judge to decide whether the case should be reset.

REMEMBER: If you fail to show up to court on time, you will probably lose your case by a default or dismissal. Your court date is an important date, so be on time!

GUIDELINE 6. Understanding Words You Will Hear in Court

This court will try not to use very many legal words. We want to make sure everyone knows what is being said. But you will need to know these legal words.

- Plaintiff- the person or company who first filed the lawsuit
- Defendant-the person or company who is being sued
- Cause of Action-what kind of case it is. Examples: Contract disagreement, landlord/renter problems, automobile accident, etc.
- Default Judgment-This is what the judge does if the defendant doesn't show up for court. It means the defendant lost the case and may well have to pay or do what the other side has asked.
- Dismissal-This is what the judge does if the plaintiff doesn't show up for court. It means the case is over, and the plaintiff has lost.
- Docket Call-The list of cases the judge will hear that day (usually done at the beginning of the court session)..
- Hearsay-When a witness is repeating what someone else said. Witnesses can only testify about what they know for themselves. There are exceptions to this rule, so ask the judge if you have questions about proof

you wish to place into evidence.

- Exhibits-Proof like papers, videos, tape recordings, photos
- Continuance-When the judge gives you more time before the trial starts and reschedules all or part of the trial.

GUIDELINE 7. Understanding What Happens in Court

(A) Docket Call. When court starts, the judge or clerk will read a list of the cases the judge will hear. This is the docket call. You need to be there before it starts. When your name is called raise your hand and say "here." The judge can find out if any cases have been settled. The judge can give more time for some cases if it is needed (continance). Some cases will be dismissed if the plaintiff is not there. Some defendants will lose their case because they are not there. The judge can see how many cases are left and get an idea about how long it will take to hear the cases.

(B) Try to settle the case before trial. Talk to the person on the other side or his/her attorney and see if you can agree. In many courts, you can try and settle until the trial starts. Try to settle before the docket call. If you are close to agreeing to settle the case when the docket is called, tell the judge. Some judges will give you more time to try and to settle. It is up to the judge if you get more time or not.

(C) Trial or hearing. The judge will hear the cases one at a time. Make sure you are there and ready when your name is called.

When your trial starts:

I. Opening Statement. Each side can give a short talk. Say what you expect to prove. This helps the judge know what your case is about. An opening statement must be very brief.

II. Plaintiff's proof. The plaintiff is the person who filed the lawsuit. If you are the plaintiff, you show your proof first. You must prove you should win. That means that you prove that you have stronger evidence or proof than the other side. It is not based on greater number of witnesses or number of papers or exhibits but is based on who has the most convincing overall proof. For instance, looking at the scales of justice, the plaintiff must show the evidence tilts the scales in his or her favor.

You call each of your witnesses to the witness stand. After each witness testifies, the other side can ask questions. This is called cross-examination. After you have given all your proof, you "rest" your case. This means you have shown all your proof and witnesses.

III. Defendant's proof. If you are the person who was sued, you are the defendant. After the plaintiff rests his/her case, then you show your proof. You call each of your witnesses. After each witness testifies, the other side can ask questions about what each witness said. After

you have given all your proof, you "rest" your case. This means you have shown all your proof and witnesses.

IV. One last chance to prove the other side wrong. Both sides rest their case. The plaintiff may think the defendant's proof or witnesses were wrong, The plaintiff can bring in witnesses to testify about this. These are called rebuttal witnesses. These witnesses may have already testified once, but now will address things the other side brought up. When they are done, the defendant can ask these witnesses questions. The defendant may then be allowed by the judge to "rebut" the new proof by testifying again or by testimony of other witnesses.

V. Closing. Each side gets a chance to state the high points of their proof and testimonies. Keep it short and on the main points of your proof. Some judges may put a time limit on how long you can talk. It is up to the judge.

VI. The judge decides who won. The judge will say which side won the case. No matter if you win or lose, keep your cool and be quiet. Be polite to the judge and the other side. No cursing, yelling, arguing or name-calling. If you have a question for the judge, tell the judge you have a question. The judge will tell you if you can ask the question then or if you need to talk to the clerk of the court.

GUIDELINE 8. Information About Evidence

There are rules about the proof/evidence you can use. The rules make sure witnesses know for themselves what they are talking about. The rules try to make sure questions are about the case before the court and that questions do not improperly suggest an answer.

A few rules of evidence are as follows:

(a) Hearsay evidence. One of the rules says you can't use hearsay testimony. Hearsay is when you say what you heard from someone else. Most of the time, you can only testify about what you yourself know. You can't testify about what someone else knows. Example: You want to use a mechanic's repair estimate as proof. You must have the mechanic testify about the estimate. If the mechanic isn't there, you can't use the estimate as proof. The reason for this rule is to give both sides a chance to question the witness. The mechanic is the only one who can answer questions about his estimate.

If you use any written proof, the person who wrote it should be present in court. If that person is not in court, most of the time you can't use the proof. Make sure you have witnesses who know about your case or proof for themselves.

(b) How to question witnesses. There is a rule about how you can question <u>your own</u> witnesses. You can't ask questions in a way that says or suggests what the answer should be. This is called a leading question. Example: "Isn't it true that Mr. Green (the other party) said the accident was his fault?" This is a leading question and you can't use it with <u>your own</u> witnesses. But you can ask a leading question of <u>the other side's</u> witnesses.

(c) Proof must be important to the case (relevant). Your proof and witnesses must help prove your case. You can't use proof just to embarrass or make the other side look bad. The judge can stop a witness or keep out proof that isn't about the case. The judge will say it is inadmissible. That means you can't use that proof.

(d) Proof must be real (authentic). You must show that papers, tapes, pictures or videos you use as proof are real (what you say they are). This means having a witness who personally knows about the proof. The witness must be able to identify the proof. This means they know or recognize someone's signature or voice on a tape or can identify the pictures or the video. Or they can say how they know about the proof for themselves.

(e) How to object. There are many rules about proof. If the other side in your case breaks one of these rules, you can object. Stand up and say, "Your honor, I object." Then say why you object. Example: "The witness is saying what someone else told him. This is hearsay." Example: "The witness is talking about things that don't prove the case. This has nothing to do with the case."

If the judge agrees with you, he or she will say "sustained." If the judge disagrees with you, he or she will say "over-ruled." No matter what the judge decides, show respect and be polite. Don't argue or talk back to the judge.

GUIDELINE 9. Right To Appeal.

The judge will say who won the case. You may disagree with how the judge decides the case. Or the other side may disagree with what the judge decides. Both of you have ten (10) days to appeal to the Circuit Court. An appeal means a different court and judge will hear the case. There are rules for how to appeal. Ask the General Sessions Clerk's Office how to appeal and how much it costs.

If you can't afford to pay the fees, tell the Clerk. If you meet the rules, you may be able to file for free. If you file an appeal for free, the court which hears the appeal can still make you pay court costs at a later date if you lose the appeal in whole or in part.

NOTE: Other helpful information may be found at your county website, _____, or at the website of the Tennessee Administrative Office of the Court, www.tncourts.gov; and at www.JusticeForAllTN.com, a website to help citizens created by the Tennessee Supreme Court.

NOTE: This paper provides information about court rules or procedures for people who speak for themselves in court or other non-lawyers . It cannot take the place of advice from a lawyer.