THIRD JUDICIAL DISTRICT OF TENNESSEE

CHANCERY COURT
LOCAL RULES OF PRACTICE

Revised Effective- September 12, 2025

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RULE 1: RULES OF COURT: APPLICABILITY, SUSPENSION AND DEFINITIONS

SECTION 1.01 FORMER RULES ABROGATED

Effective September 12, 2025, all former rules of local practice, except as readopted herein, are abrogated.

SECTION 1.02 APPLICABILITY

Each rule is applicable to the Chancery Court of the Third Judicial District, State of Tennessee. Each rule is applicable in all types of cases unless otherwise indicated by a particular rule. Each rule is applicable both to the *pro se* party (a/k/a "self- represented litigant") and to members of the bar. The Rules of the Supreme Court, the Rules of Appellate Procedure, the Rules of Civil Procedure, the Rules of Evidence, as well as applicable statutes, shall control in the event of any conflict between same and these Local Rules.

SECTION 1.03 SUSPENSION OF RULES

Whenever the Court determines that justice requires it, it may suspend any of these rules.

SECTION 1.04 DEFINITIONS

The following definitions apply to terms used in these rules:

Clerk: The Clerk and Master of the Chancery Courts, or their designee(s).

Pro se Party: Self-Represented Litigant
{The term *pro se* party (a/k/a "self-represented litigant") shall be used interchangeably with "attorney" and "counsel", when an individual is representing himself/herself.}

Rules of the Supreme Court: Rules of the Supreme Court of the State of Tennessee (a/k/a Tenn. Sup. Ct. R.)

Rules of Appellate Procedure: Tennessee Rules of Appellate Procedure (a/k/a T.R.A.P.)

Rules of Procedure: Tennessee Rules of Civil Procedure (a/k/a T.R.C.P)

Rules of Evidence: Tennessee Rules of Evidence

Tennessee Code Annotated: T.C.A.

The Court: The Chancery Court, the Chancellor, and/or their designees

SECTION 1.05 CITATION

These rules may be cited as "***Chancery Court Local Rules of Practice***, Section _____"; and, if no particular section is being cited, cite as "*Chancery Court Local Rule of Practice*".

RULE 2: COURT SESSIONS

SECTION 2.01 COMMENCEMENT OF COURT

Non-jury court sessions shall commence at **10:00 a.m**. **Jury** court sessions shall commence at **8:30 a.m.** with all counsel/ parties to be present at that time. Voir dire will begin at 9:00 a.m.

SECTION 2.02 AUDIOVISUAL PLATFORMS/ZOOM POLICY

All court proceedings are presumed to be held **IN PERSON** at the Court's discretion, *Supreme Court Rule 55*. T.R.C.P. 43.01 permits, but does not require, the court to allow witness testimony by

audiovisual platforms such as Zoom only "**for good cause shown in compelling circumstances, and with appropriate safeguards in accordance with subsection (b)" of the rule**. Subsection (b)(ii) requires a motion filed 60 days prior to the hearing requesting permission and a **filed** copy sent to the Chancellor's Office. Any objections must be made timely filed and set forth reasons for the opposition. When all interested parties are in agreement to a witness appearing via Zoom, consider filing consent/waivers so that it is clear from the review of the record that the matter is uncontested.

RULE 3: APPEARANCE AND CONDUCT OF COUNSEL

SECTION 3.01 COUNSEL OF RECORD; ENTRY OF APPEARANCE

A. Appearance of counsel shall be made in one of the following ways:

1. the filing of pleadings;
2. the filing of formal notice of appearance; or
3. the appearance in open court, before pleadings are filed.

B. In Domestic Relations cases, upon the finality of any judgment or order that terminates the proceeding then subsisting between the parties, no attorney in that proceeding shall be considered as counsel of record in any subsequent proceeding for purposes of service of process upon or notice to the adverse party unless that attorney in fact at that time represents his/her former client. If service of process is made upon an attorney, or notice given to such attorney, and that attorney advises the Court that he/she does not at that time represent the former client, the notice to the attorney shall not be effective to bring the former client before the Court.

SECTION 3.02 WITHDRAWAL OF COUNSEL

No attorney shall be allowed to withdraw except for good cause and by leave of Court upon motion that shall set forth: the reason(s) for withdrawing with specificity **(counsel should be aware of Tennessee Rules of Professional Conduct, Rule 1.16, regarding attorney client confidentiality)**, the status of the case, and whether withdrawal will result in delay. **The motion shall be docketed for hearing with a notice to the client and all attorneys/parties.** The attorney must appear in person at the hearing to present the motion. The Court suggests the attorney have an order ready at the hearing for signing or have an order in the e-filing queue that can be signed electronically at the conclusion of the hearing. The Court typically allows sixty (60) days to secure new counsel unless circumstances warrant more or less time. If no counsel has entered an appearance within that time, it will be presumed that the party is electing to proceed *pro se*.

Counsel who are surety for costs remain surety despite withdrawal until a successor surety is obtained or until the plaintiff posts a five hundred dollars ($500) cash bond or corporate surety bond, unless the plaintiff is permitted to proceed under a pauper's oath. All orders of substitution of counsel shall not delay or prejudice the trial of the case.

SECTION 3.03 NO APPEARANCE ENTERED; COPIES OF PLEADINGS

If a party has no counsel of record, copies of pleadings shall be furnished to the party by opposing counsel, and the absence of counsel shall be called to the attention of the Court by opposing counsel before any action is taken which substantially affects the case.

SECTION 3.04 CONDUCT

A. Familiarity with Participants. During trial, counsel shall not exhibit familiarity with witnesses, jurors, opposing counsel, or the Chancellor; and the use of first names, except with child

witnesses, shall be avoided. No juror shall be addressed individually by name during opening statements or closing arguments. No attorney, party, witness, or other interested person shall engage in any conversation with any member of the jury panel during the trial of a case without express consent of the Court.

B. Approaching the Bench. Bench conferences should be requested only when necessary in aid of a fair trial. Attorneys shall not approach the bench without Court approval. Counsel shall not lean upon the bench nor appear to engage the Court in conversation in a confidential manner.

C. Refrain from Interruptions. 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 the opportunity to rule upon the objection. Objecting counsel shall state the legal grounds without argument or discussion, except by leave of Court.

D. Examining Witnesses and Addressing the Court or Jury. All attorneys shall stand while addressing witnesses, the jury, or the Court; however, exception may be made in the Court's discretion. When attorneys are examining witnesses or addressing the jury, they shall not approach the witness or jury without the Court's permission.

E. Refrain from Exhibiting Emotion. Attorneys shall admonish their clients to refrain from exhibiting by facial expression, gesture or sound their feelings or opinions regarding the testimony of any witness or rulings of the Court. Persons sitting in the gallery of the courtroom shall also refrain from exhibiting by facial expression, gesture or sound their feelings or opinions regarding the testimony of any witness or rulings of the Court.

F. Space within the Bar Reserved. The space within the bar of the courtroom is reserved for parties engaged in the case on trial, attorneys and court officials. Spectators and prospective jurors and witnesses shall be seated outside the bar in the general seating area. If children are present in the courtroom or situated outside the courtroom, they shall refrain from making excessive noise.

G. Proper Attire. All male attorneys are required to wear jackets and ties. Female attorneys are required to wear similar appropriate clothing during the presentation of a case. Counsel, litigants, witnesses, court reporters, and other officers of the Court shall not dress in a manner which distracts from the proper decorum in the Court but must wear appropriate clothing. At least, the following are not permitted in the courtroom: shorts, swimsuits, leotards, low cut or open shirts or blouses, bare feet, or other inappropriate attire, including hats/caps worn by males.

H. Forbidden Items. There shall be no use of tobacco products in the courtroom or at the taking of a deposition. There shall be no food, beverages, or gum in the courtroom; however, water is permitted at counsel table. Cell phones and other electronic devices shall be silenced while in the courtroom. The use of cell phones is prohibited while in the courtroom. No video or audio recording may be made without leave of the Court.

I. Attorney Eligibility. All attorneys who have been licensed to practice law in the State of Tennessee and who possess a current registration card issued by the Board of Professional Responsibility shall be automatically eligible to practice law in the courts of this district. Attorneys appearing in a case shall place their BPR number below their signatures on any pleading or motion filed with the courts. Upon making an initial appearance, attorneys shall be formally introduced to the Court and their qualifications vouched for by a member of the bar of this Court.

J. Attorneys *Pro Hac Vice.* Attorneys residing out of the State of Tennessee and wishing to appear before a court of this district shall comply with Supreme Court Rules 19 and 20 before making any appearance and, upon compliance, may appear as the Court directs.

SECTION 3.05 CONTACTING CHANCELLOR

No counsel, party or a witness to a pending or impending action shall contact the Chancellor, except as permitted by law. The litigants and witnesses should be instructed that under no circumstances shall they contact the Chancellor or the Chancellor's secretary, paralegal or law clerk. Orders, judgment, etc. must be e-filed or forwarded to the Clerk's Office for efiling**.** Any necessary email communication with the court shall include all parties in the case. In the event *ex parte* correspondence is delivered to the Court, a notice of filing will be entered by the Court. "Any letters received by the Chancellor, whether received in chambers or in open court, should be filed in the cause and made a public record, permitting counsel for the respective parties to read the letters and the court to consider the letters when a party presents an issue predicated upon the letters", pursuant to State v. Birge. 792 S.W.2d 723 (Tenn. Crim. App. 1990). See Tenn. Sup. Ct. R. 10, Cannon 2, Note 1.

RULE 4: COURT FILES

No person, except the judge, clerk, or their designee, shall be allowed access to the filing cabinets, vaults, or other repositories where court records are kept. 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 BY THE JUDGE, OR THEIR DESIGNEE, AT ANY TIME, except by Order of the Court or written permission of the Clerk. In the event the Court file is needed out of county for a hearing, the Clerk shall make arrangements to have the Court file delivered to the Court, with five (5) day notice being provided to the Clerk by the requesting party and/or attorney. Upon request, copies of the content of files shall be furnished by the Clerk at reasonable cost.

RULE 5: FILING AND SERVICE OF PAPERS

SECTION 5.01 FILING WITH THE CLERK

All papers, including pleadings, motions, and proposed judgments and orders, **shall** be filed with the Clerk, not sent to the Chancellor's Office; and all such documents that require an original signature shall be signed in a conspicuous color of ink **other than black**.

SECTION 5.02 CERTIFICATE OF SERVICE

All papers (motions and orders), including e-filings, must include a certificate of service which shall contain the date of service, and the name of the person or persons served, as well as the address of such person or persons, and email address if available. No certificate of service shall be accepted which merely certifies that "copies have been served upon all parties" or fails to clearly designate by name and address the person(s) so served.

SECTION 5.03 ELECTRONIC FILING RULES

In accordance with Rule 5B of the Tennessee Rules of Civil Procedure, pleadings and other electronic documents filed electronically in the Chancery Court shall be considered filed the same as court documents filed in paper format. **(See Appendix F for Chancery Court of The Third Judicial District Electronic Filing Rules.)**

RULE 6: TRIAL CALENDAR

Trial calendars shall be prepared by the Clerk for each day the Court is in session. It is incumbent upon attorneys practicing in this district to inform themselves of the court's schedule.

RULE 7: MOTIONS

SECTION 7.01 TIME FOR FILING PRE-TRIAL MOTIONS

Pre-trial motions, which may be dispositive of one or more issues in a case, shall be filed at least thirty (30) days prior to the date of a hearing on the motion. This thirty (30) day requirement may be waived by the agreement of the parties, with the concurrence of the court. All motions potentially dispositive of any issue in a case shall be scheduled for hearing through the Clerk's office by the attorney filing the motion as soon as practicable. Failure to obtain a motion hearing in a timely manner may be construed by the Court as an abandonment of the motion and the Court may refuse to consider same. See also Local Rule 7.05, *infra*.

SECTION 7.02 BRIEFS ON MOTIONS AND RESPONSES

Every motion, or response thereto, which may require the resolution of an issue of law and every motion or response thereto in which legal authority is relied upon shall be accompanied by a memorandum of law in support thereof.

SECTION 7.03 ORAL ARGUMENT OF MOTIONS

Except with regard to motions requiring an evidentiary hearing, pursuant to law, the Court may rule upon motions without oral argument or hearing. The Court, however, may grant oral argument or hearing upon good cause shown by any party, or upon the Court's own motion. Counsel should always assume that the Court may rule upon any motion, as well as any response thereto, without oral argument or hearing; therefore, all motions and responses thereto shall be thorough, detailed and complete. "There is no requirement in the rules of civil procedure that oral arguments be permitted on motions. The trial court has the discretion whether it will hear arguments or decide the issues on the pleadings." Hutter v. H. Allen Bray (2002 Tenn. App LEXIS 392).

SECTION 7.04 TIME FOR FILING RESPONSES TO MOTIONS

Responses to motions, including counter-affidavits, depositions, briefs or any other matters being presented in opposition to motions must be filed and served on the movant in accordance with the T.R.C.P. If no response is filed as set out above, or prior to the hearing if the Rules do not set a response time, the motion may be considered unopposed and granted by the court unless good cause is shown for failure to respond.

SECTION 7.05 DOCKETING MOTIONS FOR ORAL HEARING

Oral argument on motions shall be set in one of the following ways:

A. **HIGHLY PREFERRED METHOD:** By agreement of counsel, after consultation with the Clerk as to a suitable date and time;

B. By the Court with notice to counsel;

C. By the moving party, after procuring from the Clerk a suitable date and time;

D. By the Clerk, in the Clerk's discretion, with notice by the moving party.

E. Any Notice shall be filed as a separate document to ensure opposing side is aware of the setting.

SECTION 7.06 SETTING CASES OUT OF COUNTY

A. Motions may be heard out of county **only** if all parties, as well as witnesses, agree to travel outside of the county in which the case is filed. A notice out of county is **strictly prohibited**.

B. The Clerk & Master in the county you are wishing to set the motion **must approve the out-of-county setting** to determine if there is suitable time to accommodate an out-of-county setting.

C. A **Notice of Out of County Setting** must be filed and copied to the Clerk's Office where the case will take place.

D. Motions for default are not permitted to be heard out of county.

E. Lengthy motions and trials are not permitted to be scheduled out of county.

SECTION 7.07 MOTIONS FOR *PENDENTE LITE* RELIEF

Motion hearings for *Pendente Lite* relief, other than in cases involving spousal support, shall be scheduled for hearing on the Court's regular court docket. {Motions for alimony *pendente lite* and responses thereto are governed specially by Rule 15.03.

SECTION 7.08 SUMMARY JUDGMENT MOTIONS

Motions for summary judgment shall be filed, pursuant to T.R.C.P. 56, and served at least forty-five (45) days before trial. The adverse party may serve and file opposing affidavits, pursuant to T.R.C.P. 56, no later than five (5) days before the hearing.

SECTION 7.09 MOTIONS *IN LIMINE*

Motions *In Limine* shall be filed no less than three (3) business days before trial and set for hearing before the trial.

SECTION 7.10 RECUSAL MOTIONS

Motions for recusal of the Chancellor shall be made in writing immediately upon discovery of a reason therefore so as not to delay the trial. Said Motion shall set forth the facts alleged that constitute cause for recusal.

SECTION 7.11 DRAWING ORDER, AFTER MOTION HEARING

Counsel for the prevailing party, unless otherwise designated by the Court, shall prepare and submit to the Clerk and Master of the county where the suit is pending, within fourteen (14) business days, an order reflecting the decision in every motion hearing.

SECTION 7.12 FAILURE TO APPEAR

If the attorney or party filing the motion does not appear at a scheduled hearing on the motion or any other matter scheduled to be heard, the Court may strike, overrule, or otherwise dispose of the motion or other matter. In addition, the Court may order sanctions, including but not limited to, attorney fees and other expenses incurred by reason of the motion.

RULE 8: NEGOTIATIONS AND SETTLEMENTS

SECTION 8.01 AWARD OF EXPENSES

All counsel in an action shall be equally responsible for timely notifying the Clerk and witnesses of the settlement of the action.

If any case is settled and notification as described in the above paragraph is later than 3:00 p.m. the business day preceding the trial, the Court may award compensation to witnesses for lost income and/or travel expenses and tax the same as costs. All orders of settlement must state the trial date, if same has been previously set.

SECTION 8.02 COURT APPROVAL OF SETTLEMENTS

All joint petitions for the approval of workers' compensation, legitimation and minors' claims, as well as other settlements and statutorily allowed ex parte matter must be filed with the Clerk **before** being presented to a judge. In the event a minor or incompetent person is not represented by counsel, the Court may require that *Guardian ad litem* be appointed for the person if the Court is not satisfied with the proposed settlement, and in that event, the fee of said Guardian *ad litem* shall be taxed as part of the costs.

RULE 9: COURT REPORTERS

It is the responsibility of counsel to arrange for court reporters. Proceedings shall not be postponed or delayed because of a court reporter's absence or tardiness.

RULE 10: SCHEDULING PROCEDURES, FOR TRIAL, MEDIATION, CONTINUANCES, DORMANT CASES

SECTION 10.01 MEDIATION

Under the authority of Tennessee Supreme Court Rule 31, unless otherwise approved by the Court upon motion of one or more parties, all eligible civil actions shall be submitted to mediation prior to setting for trial. The parties may agree on any person to be mediator. If the parties cannot agree on a mediator, a motion shall be made to the Court to appoint a "Rule 31 dispute resolution neutral."

SECTION 10.02 METHOD OF SETTING

Days of court are listed on each county's website for the convenience of attorneys. Please check the website prior to contacting the Clerk's Office or Chancellor's Office for a date. Cases shall be set for trial in one of the following ways:

A. By agreement of counsel, and subsequent order setting;

B. By motion, and subsequent order setting;

C. By the Court with notice to counsel, with Rule 10.02 not applying. See Rule 10.03.

D. By agreement of counsel for an all-day (must be at least 8-hour trial, less than 8 hours use regular day of court) or multi-day trials, *after consultation with Chancellor's office for a special setting*, and subsequent order setting.

E. Trials cannot be scheduled for out of county, only motion hearings, as set forth in Local Rule 7.06.

F. When a case is to be set, a reasonable and realistic time estimation for the case to conclude shall be given to the Clerk by the attorney setting the case.

SECTION 10.03 NOTICES

All "Notices for Hearing" shall be in a separate, standalone document. Filers shall not include a Notice at the bottom of the motion as has been the past practice, because it is difficult for the clerks to properly docket the hearing date.

SECTION 10.04 DEADLINE FOR TRIAL PREPARATION

Attorneys shall use all diligence to make use of T.R.C.P. 16 concerning the pretrial stages of litigation for scheduling and planning conferences. See also Local Rule 11 for "Pre-Trial Procedure and Briefs." When a party objects to having a case set because trial preparation is not complete, the Court may establish a deadline for completing trial preparation.

SECTION 10.05 CONTINUANCES

A. Chancery court utilizes a Request to Continue (RTC) form regarding continuance requests for both agreed and contested continuances. A case cannot be removed from the docket without being reset to a date certain unless the case has settled. Requesting party must contact opposing counsel/pro se party prior to sending this form to the Chancellor's Office. If the request is not agreed, it must be accompanied by a Motion to Continue outlining the reasons for the continuation. **(See Appendix A for Request To Continue form).**

B. Cases shall not be continued by agreement of counsel/pro se parties and shall only be continued by leave of the Court using the RTC form as set forth above. Cases shall 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 trial.

C. Absence of a witness who resides in the county where trial is to be held and who has not been served with a subpoena may not be grounds for postponement of trial unless:

   1. A subpoena for that witness was issued by the Clerk and Master not less than ten (10) days prior to trial and which subpoena was to be served by the sheriff or his designee;

   2. The testimony of the witness is material and the facts to be elicited from that witness cannot be supplied from another source; and

   3. It is shown that the witness is reasonably subject to service of the subpoena.

D. Absence of a witness who resides in a county other than the county of trial who has not been served with a subpoena shall not be grounds for postponement of trial unless:

   1. The subpoena for that witness was issued by the Clerk and Master not less than twenty-one (21) days prior to trial and which subpoena was to be served by the sheriff or his designee of the county of the witness' residence;

   2. The testimony of the witness is material and the facts to be elicited from that witness cannot be supplied from another source; and

   3. It is shown that the witness is reasonably subject to service of the subpoena.

E. It shall not be grounds for postponement of trial that a witness is absent due to the failure or inability of an attorney or his/her agent to serve that witness with a subpoena to testify.

SECTION 10.06 AWARD OF FEES AND EXPENSES

In cases continued, the Court may award expenses and attorney's fees, where permitted by statute, including compensation to witnesses for lost income and/or travel expenses, and tax the same as court costs.

SECTION 10.07 DISMISSAL OF DORMANT CASES

To expedite cases, the Court may take reasonable measures to purge the docket of old cases where the cases have been dormant without cause shown for an extended time. The Court will cause the Clerk and Master to notice up dormant cases for a scheduling conference from time to time, and if no party or attorney appears to answer the notice and set the case for trial or advise the Court of the status of the matter, then the case will be dismissed without prejudice.

RULE 11: PRE-TRIAL PROCEDURE AND BRIEFS

SECTION 11.01 DISCLOSURE REQUIREMENTS; BRIEFS

A. **Exhibits.** Perusal of exhibits by the opposing party during the trial causes unnecessary delay and shall be avoided. If requested by the opposing party prior to the commencement of trial, a party shall make available to the opposing party for inspection or copying, or both, all exhibits to be used or which may be used during the trial, excluding exhibits which will be used strictly for purposes of impeachment.

B. **Depositions.** The original of depositions to be used as evidence (other than for impeachment) shall be filed no later than twenty-four (24) hours before trial with the Clerk.

C. **Pre-trial conferences.** Pre-trial conferences shall be held pursuant to T.R.C.P. 16 in appropriate cases. Such conferences may be held upon application of any party or by court order. An order reflecting the action taken at the pretrial conference shall be prepared by counsel. **(See Appendix B for suggested form.)**

D. **Expert Witnesses.** Any party who plans to call an expert witness to testify shall submit the witness's name, address, field of expertise, and brief summary of qualifications and opinions to the court and other counsel no later than seven (7) days before the deposition or other personal appearance of the witness. Failure to comply with this requirement may result in disqualification of the witness. No party shall call more than two (2) experts on any issue without permission of the Court.

E. **Witness and Exhibit Lists.** Upon motion of any party or *sua sponte,* the Court may order the pre-trial filing of Witness and/or Exhibit lists.

F. **Voluntary Dismissals.** When a written notice of dismissal is filed pursuant to T.R.C.P. 41.01, the notice shall be followed by an Order of Voluntary Dismissal signed by the Court and entered by the Clerk.

G. Written Discovery.

1. A party invoking T.R.C.P. 31, 33 or 36 shall number each question or proposed admission and leave a blank space reasonably calculated to enable the responding person to have his/her response typed in the space provided. A party invoking T.R.C.P. 33 or 36, shall be limited to a total of thirty (30) interrogatories, including sub-parts, as well as limited to the same number of requests for admissions, including sub-parts. Interrogatories and requests for admissions shall be made in separate filings and not within the same document.

2. Responses to Written Discovery. The responding person shall use the space provided for the response. If the space is insufficient to complete the response, the response shall be continued on an added page with the properly designated response number.

H. **Accountings and Construction Suits.** In any case involving a complicated and/or lengthy accounting or a construction case, the attorneys shall immediately notify the court and opposing counsel or party, so that the judge may consider appointing a special master or other appropriate person to take the accounting and make a pretrial report, or may order mediation.

I. **Mediation or Arbitration.** Counsel shall promptly submit an order reflecting any mediation or arbitration ordered by the Court, as well as promptly submit a statement reflecting the outcome of any mediation or arbitration.

RULE 12: EXHIBITS

SECTION 12.01 DEPOSITIONS AND DISCOVERY MATERIAL

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

SECTION 12.02 CUSTODY OF THE CLERK

All trial exhibits shall be accounted for by counsel, before leaving the courtroom, and placed in the custody of the Clerk unless otherwise directed by the Court.

SECTION 12.03 DISPOSITION OF EXHIBITS/DEPOSITIONS

After final determination of any case, the parties shall have forty-five (45) days after the entry of the final judgment to withdraw exhibits and depositions if no appeal is filed. The Clerk may destroy or dispose of exhibits and depositions not so withdrawn.

RULE 13: REQUESTS FOR SPECIAL INSTRUCTIONS, SPECIAL VERDICTS AND FINDINGS OF FACT AND CONCLUSIONS OF LAW

SECTION 13.01 SPECIAL VERDICTS, JURY AND REQUESTED INSTRUCTIONS

In jury cases where special verdicts or jury interrogatories are requested or required, or special requests for instructions are to be made, the parties shall file same and submit copies to the Chancellor at least five (5) business days prior to trial.

SECTION 13.02 REQUESTS FOR SPECIAL INSTRUCTIONS

When counsel submits special requests pursuant to T.R.C.P. 51, same shall be in compliance with Section 13.01 above and copies shall be furnished to adversary counsel. When a request for an instruction is made and the request is for a Tennessee Pattern Jury Instruction verbatim, the request shall be made by reference to "TPI (Civil) No ___". If the request is for a modification of an existing instruction, the request shall identify the instruction to be modified by number and identify the deletion or addition. When a request for an instruction is made and there is no instruction on the subject in the Tennessee Pattern Jury Instructions, this fact must be stated in the request.

SECTION 13.03 SPECIAL VERDICTS

Requests for special verdicts or written interrogatories made pursuant to T.R.C.P. 49 shall be made before commencement of the trial, in compliance with Section 13.01 above, and shall 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 will inform counsel of its proposed action on the requests prior to their arguments to the jury.

SECTION 13.04 WRITTEN FINDINGS AND CONCLUSIONS

Requests for written findings of fact and conclusions of law shall 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 and in accordance with T.R.C.P. 52.

RULE 14: ORDERS AND JUDGMENTS

SECTION 14.01 PREPARATION AND SUBMISSION OF ORDERS AND JUDGMENTS

A. DO NOT SEND ORDERS OR JUDGMENTS TO THE JUDGE'S OFFICE FOR SIGNATURE.

B. All orders and judgments shall be lodged with the Clerk and Master in the county where the suit is pending for signature of the Judge and shall be sent within fourteen (14) days of the Court's ruling, unless longer time is granted by the Court. Failure to comply with this provision may result in issuance of show cause orders.

C. Unless the Court directs otherwise, counsel for the prevailing party shall prepare orders or judgments in conformance with the Court's ruling. The attorney preparing the order and judgment shall approve same and present to all other counsel in the case, who shall approve or disapprove same order or judgment and return to the attorney preparing same within three (3) business days of their receipt of the order or judgment. The attorney shall then lodge the order or judgment with the Clerk.

D. No order or judgment shall be lodged with the Clerk unless it contains the signature of all counsel or a certificate pursuant to Rule 14.02 and 14.03.

SECTION 14.02 SAME ALTERNATE METHOD

In the alternative, counsel for the prevailing party shall prepare such order or judgment and lodge same with the Clerk within three (3) days of the Court's ruling. A copy of the order or judgment shall be served upon all opposing counsel and shall bear a proper certificate of service, as provided in T.R.C.P. 58. If opposing counsel objects to the proposed order or judgment, he/she shall so advise the Clerk, in writing, within five (5) days of his/her receipt of such copy, and proceed in accordance with Rule 14.03.

SECTION 14.03 DISAGREEMENTS OVER CONTENTS OF ORDERS AND JUDGMENTS

In the event of a dispute concerning the content or wording of an order or judgment, each party shall lodge with the Clerk a proposed order or judgment within fourteen (14) days of the Court's ruling, each order or judgment shall contain a proper certificate of service certifying that a copy of the proposed order or judgment has been served upon opposing counsel pursuant to T.R.C.P. 58.02. **The parties shall point out to the Court the specific provision/s in the competing versions of the judgment/order about which there is a disagreement.**

SECTION 14.04 COURT COSTS

A. All final judgments shall provide for the taxing of court costs.

B. Whenever it appears to the Clerk that a judgment has been satisfied but that court costs have not been paid, the Clerk may apply to the Court for a re-taxing of court costs. The Clerk shall notify the parties of the application and the date and time it is to be considered by the Court. See, T.C.A. § 20-12-137.

SECTION 14.05 NON-MINUTE ENTRY ORDERS

Orders not affecting the legal course of an action, such as orders setting a case for trial or acting upon a request for a continuance, may be designated by the Clerk as a non-minute entry order. Such designated orders shall be placed in the file of the case; same may also, within the discretion of the Clerk, be spread upon the Minutes of the Court.

SECTION 14.06 PAYMENT AND SATISFACTION OF JUDGMENTS

A. Orders for disbursing funds, other than agreed orders, shall be final before the Clerk will disburse the funds.

B. Funds paid into the Court by check shall not be disbursed until cleared by the banking institution.

C. Upon receipt of payment in satisfaction of a judgment, whether through the Clerk's office or otherwise, counsel shall satisfy the docket by certifying receipt of same by making the appropriate filing.

SECTION 14.07 NON-PARTY REFERENCE

When the Court orders a non-party (i.e., social agency, etc.) to make a report to the Court, the order shall advise the non-party to include in its report the name of the Court and the civil action number.

SECTION 14.08 RESERVATION BY ORDER

All orders which reserve some matter for final disposition shall state with particularity what is being reserved in conspicuous language; and counsel shall cause the matter to be set for remaining disposition.

SECTION 14.09 APPOINTMENTS

The attorney preparing the order appointing guardian ad litem, special master, receiver, etc., shall have the obligation to ensure that the appointed individual is served with a copy of the order. The appointment of guardian ad litem, as well as other like positions, shall be made, when possible, on a rotational basis and after consultation with the Court. *See also Local Rules 23.06 and 25, infra.*

SECTION 14.10 ENTRY OF ORDERS AND JUDGMENTS

An order/judgment is not "entered" until signed by the Chancellor and marked "entered"/"filed" by the Clerk. The Court may sign a submitted order/judgment or may draft its own. The Clerk shall forward a copy of the entered order/judgment to counsel, only if directed by the Court or requested by counsel to do so, pursuant to T.R.C.P. 58.

RULE 15: SPECIAL PROCEDURES FOR DIVORCES

SECTION 15.01 UNCONTESTED DIVORCE CASES

A. Where a divorce case is grounded on irreconcilable differences, it is not necessary to move for a default judgment. Once the statutory requirements have been met as set forth below, such cases may be placed on the court docket. Neither the attorney nor the parties need to appear in person before the Court as long as:

   1. The case has been on file with the Clerk's Office the proper time period (60 days without children and 90 days with children);
   2. The case has been docketed for a day certain by calling or writing the Clerk; and
   3. The necessary paperwork has been completed (including the divorce certificate) properly and is on file with the Clerk.

B. When a defaulted party desires to be heard on any matter other than the basic cause of action, he/she shall notify the Court at least seven (7) days prior to the hearing of the matters upon which he/she desires to be heard and shall file a brief statement of his/her contention in regard to such matter.

SECTION 15.02 CONTESTED DIVORCE CASES; FINANCIAL INFORMATION

All contested divorce actions shall be submitted to a Supreme Court Rule 31 mediation before the case is set for trial, as well as before setting the matter for a *pendente lite hearing.*

In all contested divorce cases, the parties and their attorneys shall meet and prepare a joint, and single, statement of assets and liabilities using form from **Appendix D, E, and F** attached which shall include a listing and description of all real property owned by the parties, or by either of them (including date acquired, and identity of all owners); any encumbrances against said real properties (including identity of mortgagees, amount of monthly payments, and outstanding balances owing thereon); a general description of all personal properties owned by the parties, or by either of them, including estimated value of same and any encumbrances against same (including identity of mortgagees and full description of encumbrances); a full description of all debts of either party, including identity of creditors, amount of any monthly payments, and balance of debt owed; and the income of both parties, including the identity of the employer and the nature of the employment.

If the parties disagree with respect to any of the information required above, the opposing or differing information may be supplied, but nevertheless within the single statement required by this rule.

Failure to furnish the above financial information to the Court at least five (5) business days before trial, in the format required, may result in appropriate sanctions, including, but not limited to. a continuance of the case. **It will be presumed that the statement required by this rule describes all the property, real and personal, owned by these parties. See Appendix D, E, and F attached.**

SECTION 15.03 PENDENTE LITE HEARINGS

Complaints for divorce which include requests for *pendente lite* relief shall include a statement of facts justifying the relief sought. Counsel for the party seeking pendente lite relief shall communicate with the Clerk and Master of the county where the suit is pending and set a hearing with proper notice to the opposing party or counsel as soon as possible after filing the case or request for relief.

SECTION 15.04 RESTRAINING ORDER TO VACATE RESIDENCE

Restraining Orders ordering a party to a divorce suit to vacate the residence shall be issued only under the most compelling circumstances. Further, any restraining order ordering a party to a divorce action to vacate the residence premises shall provide therein for a hearing on a temporary injunction, to be set not later than five (5) days after issuance of the restraining order, such hearing to determine whether the restraining order be converted into a temporary injunction or dissolved entirely. No restraining order ordering a defendant in a divorce action to vacate the residence premises shall be signed and issued without the provision for hearing on temporary injunction, as aforesaid.

SECTION 15.05 PROOF OF GROUNDS FOR DIVORCE

Proof of grounds for divorce shall be required in all divorce cases, including default situations, except when grounds are stipulated and/or based upon irreconcilable differences. See Hyneman. 152 S.W.3"[1]549; 2003 Tenn. App. LEXIS 680 (Tenn. Ct. App. *Sept. 18, 2003).*

SECTION 15.06 MINOR CHILD WITNESS IN CUSTODY HEARING

It is recommended that minor children who are called to testify in a custody hearing shall remain in school and/or in their usual and customary environment, maintaining a normal schedule if possible, until called to testify.

RULE 16: SPECIAL PROCEDURES FOR ADOPTIONS/SURRENDERS

SECTION 16.01 FILING

All adoption complaints shall be filed with the Clerk, and venue cannot be waived.

When more than one child is being adopted, and the children are siblings, the children may be included in one (1) petition to adopt, unless otherwise ordered by the Court, so there if only one filing fee. All other situations will require separate petitions per child. T.C.A.§36-1-116(b)(2) [in the updated statutes].

SECTION 16.02 REQUIREMENTS FOR SETTING ADOPTION CASES

In any case wherein the adopting parents are related to the child or children to be adopted, the case shall not be set for adjudication by the Clerk until the following documents have been filed:

A. The birth certificate or certificates of the child or children.

B. A certified copy of the marriage license of the adopting petitioner(s), if applicable.

C. A certified copy of any current order/judgment affecting the custody of the child/children.

D. A death certificate if either natural biological parent be deceased.

E. A copy of the Putative Father Registry report within ten (10) days of the filing of the petition.

F. Any confidential report filed at least three (3) days prior to the adoption hearing.

SECTION 16.03 ATTENDANCE OF ADOPTIVE CHILD

It shall be optional with the adopting petitioners as to whether the child or children involved in said adoption attend the adjudication, unless the child is fourteen (14) years old or older then they must appear.

SECTION 16.04 SETTING OF ADOPTION HEARING

A contested adoption shall be set with expediency pursuant to T.C.A. §36-1-113(k) requiring a hearing on the petition to take place within six (6) months of the date that the petition is filed, unless the court determines an extension is in the best interest of the child. The hearing shall be set with the same requirements as any other case. See Local Rule 10, *supra*.

SECTION 16.05 ADOPTION SURRENDERS

Surrenders are normally scheduled as ex parte matters and surrender forms shall be filled out before same are presented to the Chancellor. The Clerk shall not be permitted to assist in preparing surrender forms.

SECTION 16.06 CONFIDENTIALITY OF RECORDS

All documents filed in the context of a surrender or adoption action, and the information contained in those documents, are confidential and may not be disclosed, except when the law allows and upon presentation of appropriate credentials. Only the parties to an adoption action and/or their attorney, or others statutorily authorized, i.e. child-placing agency, may have access to a pending adoption record.

RULE 17: SPECIAL PROCEDURES FOR EXTRAORDINARY INTERLOCUTORY RELIEF

SECTION 17.01 FILING OF COMPLAINT

Complaints for *writs of certiorari*, restraining orders, emergency custody or other extraordinary relief shall first be filed with the Clerk. The Order shall be lodged with the Clerk and shall then be presented by the Clerk to the Chancellor or to another Judge if the Chancellor is unavailable. No Complaints or Orders shall be sent directly to the Chancellor's Office. The Clerk will ensure the Chancellor's Office is notified upon the filing of the Complaint and proposed order.

SECTION 17.02 RESTRAINING ORDERS

Restraining orders, including *ex-parte* relief, shall be prepared by counsel prior to submitting the request for relief to the Court. The restraining order shall be granted only in strict compliance with Rule 65, Tennessee Rules of Civil Procedure. All restraining Orders shall provide for the setting of a hearing for a temporary injunction and shall provide a place thereon for the Court to set a date, time and location for such a hearing within the time prescribed by law

SECTION 17.03 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 17.02, or in cases where no restraining order is issued, (1) upon notice after consultation with the Clerk or (2) by an order setting the date, time and location for the hearing.

SECTION 17.04 HEARINGS FOR INTERLOCUTORY RELIEF

All requests for temporary injunctions and other forms of extraordinary interlocutory relief shall be heard upon oral testimony.

RULE 18: SPECIAL PROCEDURES FOR JUDICIAL REVIEW OF ADMINISTRATIVE DECISIONS

SECTION 18.01 SPECIAL PROCEDURES

In any case in which judicial review of an administrative decision is being sought, the words **"JUDICIAL REVIEW"** shall be typewritten, or printed, in capital letters on the first page of the lead pleading opposite the style of the case and above the space for the case number.

SECTION 18.02 BRIEFS REQUIRED

Briefs must be filed in all cases which are to be considered by the Court upon a record from an administrative tribunal or agency. If a petitioner-appellant fails to file his/her brief within the time provided by this rule or within the time ordered by the Court, the action may be dismissed and the agency decision affirmed. If the defendant-appellee has not filed his/her brief within the time provided by this rule or within the time ordered by the Court, the Court may decide the case upon the record and the petitioner-appellant's brief.

SECTION 18.03 FILING AND SERVICE OF BRIEFS

The petitioner-appellant must file and serve a brief within fifteen (15) days after the record is filed. The defendant-appellee must file and serve a brief within fifteen (15) days after service of the brief of the petitioner-appellant. Reply briefs may be filed at the option of a party, and if filed, must be filed and served within fifteen (15) days after service of the preceding brief. Upon motion of a party or upon its own motion, the Court may enlarge or shorten the time for filing briefs.

SECTION 18.04 CONSOLIDATED BRIEFS

In cases involving multiple parties and cases consolidated for judicial review, any number of parties may join in a single brief and any party may adopt by reference any part of the brief of another party. Parties may similarly join in reply briefs.

RULE 19: JURY TRIALS

SECTION 19.01 PROCEDURE

When a case is to be tried by a jury, the words **"JURY DEMAND"** shall be typewritten in bold capital letters on the first page of the pleadings opposite the style of the case above the space for the case number, and counsel shall call that fact to the attention of the Clerk when the case is filed. A pre-trial conference pursuant to T.R.C.P. 16 shall be required at least 30 days before trial. Parties and counsel shall follow the jury selection process established by the court, a description of which may be obtained from the Clerk and Master's office.

SECTION 19.02 JURORS AND CHALLENGES

In jury cases the parties may stipulate that the jury will consist of any number of persons less than twelve (12).

SECTION 19.03 CHALLENGES

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

SECTION 19.04 TAXING JUROR COSTS UPON SETTLEMENT

If a case which is scheduled for a jury trial is settled and notification to the Clerk is later than 3:00 p.m. the business day prior to the date the case is scheduled to begin, the Court may tax jury expenses as Court costs. See also Local Rule 8.01, *supra*.

RULE 20: CLERK AND MASTER SALES

SECTION 20.01 SALES TO BE CONDUCTED BY CLERK AND MASTER

As a general rule, judicial sales will be conducted by the Clerk; the litigants shall not be allowed to employ an auctioneer except with the prior approval of the Court and for good cause shown.

SECTION 20.02 ADVANCED BIDS

It is contemplated that all sales will be final on the day of sale, subject to court confirmation. There will be no "advance bids" or bids received after the conclusion of the sale except under the most compelling and extraordinary circumstances and upon an entered Order of the Court.

SECTION 20.03 COSTS OF SALE

In the discretion of the Court, costs estimated by the Clerk associated with the preparation of sale shall be advanced by the parties and paid into the registry of the Court prior to the Clerk preparing for the sale.

SECTION 20.04 FAILURE TO FINALIZE SALE

In the discretion of the Court, in the event a sale fails to proceed to finality or is not confirmed by the Court, costs associated with that sale, as well as an amount of Special Commission, shall be considered as Court costs and shall be paid, by a specific time established by the Court, into the Registry of the Court.

RULE 21: REQUESTS FOR ACCOMMODATIONS BY PERSONS WITH DISABILITIES

It shall be the policy of the Chancery Courts of the Third Judicial District to assure that qualified individuals with disabilities have equal and full access to the judicial system. Nothing in this rule shall

be construed to impose limitations or to invalidate the remedies, rights and procedures accorded to any qualified individuals with disabilities under state or federal law.

"Qualified individuals with disabilities" means a person covered by the Americans with Disabilities Act of 1990 (42 U.S.C. 12101, et seq.) and includes individuals who have a physical or mental impairment that substantially limits one or more of the major life activities or who have a record of such impairments or who are regarded as having such impairment.

Applicant means any lawyer, party, witness, juror or any other individual with an interest in attending any proceeding before any court of the Third Judicial District.

Accommodations may include, but are not limited to making reasonable modifications in policies, practices and procedures; furnishing, at no charge, to the qualified individuals with disabilities auxiliary aids and services, which are not limited to equipment, devices, materials in alternative formats, and qualified interpreters or readers; and making each service, program or activity, when viewed in its entirety, readily accessible to and usable by qualified individuals with disabilities requesting accommodations. While not requiring that each existing facility be accessible, the standard known as "program accessibility" must be provided by methods including alteration of existing facilities, acquisition or construction of additional facilities, relocation of a service or program to an accessible facility or provision of services at alternate sites.

Confidentiality applies to the identity of the applicant as part of the application process.

The following process for requesting accommodation is established:

A. Applications requesting accommodation pursuant to this rule may be presented ex parte in writing on a form approved by and provided by the court, or orally as the court may allow. Applications should be made at the designated office of the Clerk where the proceedings will take place or to the judicial officer who will preside over the proceeding.

B. Applications for accommodation shall include a description of the accommodation sought along with a statement of the impairment that necessitates such accommodation. The court, in its discretion, may require the applicant to provide additional information about the qualifying impairment.

C. Applications should be made as far in advance of the requested accommodation's implementation date as possible, and in any event should be made no less than five (5) court days prior to the requested implementation date. The court may, in its discretion, waive this requirement.

D. Upon request, the court shall place under seal the identity of the applicant as designated on the application form and all other identifying information provided to the court pursuant to the application.

E. An applicant may make an ex parte communication with the court; such communications shall deal only with the accommodations the applicant's disability requires and shall not deal in any manner with the subject matter or merits of the proceeding before the court.

F. In determining whether to grant an accommodation and what accommodation to grant, the court shall consider, but is not limited by, the provisions of the Americans with Disabilities Act of 1990 and related state and federal laws.

G. The court shall inform the applicant in writing of findings of fact and orders, as may be appropriate, that the request for accommodation is granted or denied, in whole or in part, and the nature of the accommodation(s) to be provided, if any.

H. An application may be denied only if the court finds that:

1. The applicant has failed to satisfy the requirements of this rule; or
2. The requested accommodation(s) would create an undue financial or administrative burden on the court; or
3. The requested accommodation(s) would fundamentally alter the nature of the service, program or activity.

An applicant or any participant in the proceeding in which an accommodation has been denied or granted may seek review of a determination made by a presiding judge or any other judicial officer of a court within ten (10) days of the date of notice of denial or grant by filing a petition for extraordinary relief in a court of superior jurisdiction.

The accommodation by the court shall commence on the date indicated in the notice of accommodation and shall remain in effect for the period specified in the notice of accommodation. The court may grant accommodation for indefinite periods of time or for a particular matter or appearance.

Copies of this rule shall be provided to all Clerks serving the Third Judicial District and shall be posted in the public areas of all court facilities.

RULE 22: PROBATE MATTERS

SECTION 22.01 ATTORNEYS

Unless otherwise ordered, no one except an attorney licensed to practice law in Tennessee shall be permitted to represent an estate in matters coming before the Court.

SECTION 22.02 PETITIONS

A. Sworn petitions shall be filed for the administration of estates and for the appointment of all personal representatives, giving the name, residence, and date of death of the decedent, and also giving the name and address of the attorney for the estate.

B. Sworn Petitions for probate of Wills and Codicils shall also give the dates of the execution of the Will and any Codicils, the names of all attesting witnesses, and whether the person named personal representative is excused from making bond.

C. In all intestate estates, and in all testate estates where bond is not excused in the Will, the petitions shall give the character and estimated value of the personal estate and shall also include the annual value expected to be received from the dividends, interest and profits from all property.

D. The petitions shall also state that the petitioner is either not aware of any Will, or if there is a Will, of any other paper writing purporting to be the Last Will and Testament of the decedent, and that a due search and inquiry have been made to ascertain that there is either no Will, or no other Will.

E. In intestate estates, the petitions shall also list the names, ages, relationships and addresses of all next of kin and heirs at law of the decedent.

SECTION 22.03 INVENTORY

Unless excused according to law, an inventory of all personal property owned by the decedent at the time of death shall be filed for all estates within sixty (60) days from the date of the appointment of

the personal representative. The Clerk and Masters shall insure that an inventory is filed for each estate, as provided by law.

SECTION 22.04 FEES FOR PERSONAL REPRESENTATIVES AND ATTORNEYS

In all instances where the fees of a personal representative or attorney for the estate are to be fixed by the Court, a petition must be filed stating the fees that are being requested. The petition must also contain a certificate indicating that a copy of same, as well a copy of a notice of the date and time certain for the fee consideration, has been mailed or delivered to all persons entitled to notice. All fees requested must be determined at the hearing scheduled by petitioner.

All petitions for fees in estates shall be supported by an affidavit, including but not limited to the amount of time expended, the value of the estate if known, and an Order with a suggested fee penciled in.

If the fees requested are in excess of ten thousand dollars ($10,000.00) for any personal representative or attorney, the petition must be accompanied by the affidavits of two disinterested attorneys stating the amounts they consider to be reasonable fees. Any petition requesting a fee for a personal representative or any attorney in excess of ten thousand dollars ($10,000.00) will be heard, on notice, by the Chancellor, instead of by the Clerk and Master. Attorneys are free to contract with personal representatives in writing for representation in estate matters and the fees or hourly rates fixed by the contract will be honored by the Court so long as the manner/amount of compensation in the contract is in keeping with the applicable law and rules of ethics. Attorneys requesting fees of ten thousand dollars ($10,000) or more, even if in keeping with their contracts, shall be approved by the Court in the manner set out above.

SECTION 22.05 CLOSING ESTATE OF DECEASED PERSON ON PETITION AND ORDER IN LIEU OF FINAL SETTLEMENT

An estate of a deceased person may be closed upon the sworn petition of the personal representative and an order in lieu of final settlement if:

A. The time for filing claims with the Clerk has expired;

B. No beneficiary is under disability, and no trust is created in a Will;

C. Written evidence of satisfaction and release of all claims filed, release from the Bureau of TennCare and the payment of all inheritance and estate taxes is attached to the petition, or filed in the Clerk's office;

D. Every beneficiary has received his or her full share of the estate, and

E. Has (a) either joined in the petition or signed a receipt in which the beneficiary waives notice and filing of the final settlement and acknowledges receipt of his or her full share of the estate, which receipt is attached to the petition; or (b) the personal representative has filed a certificate that he has furnished notice to each beneficiary at his or her last known address of his intent to present the proposed settlement at a certain time, hour and place and that the beneficiary may appear at that time to voice any objections, which notice shall be accompanied by a "certificate of mailing."

SECTION 22.06 FINAL OR PARTIAL SETTLEMENTS

In all estates which are not closed as provided in Section 22.04 above, an itemized sworn settlement, with proper notice, must be filed by the personal representative with the Clerk within fifteen (15) months from the date of qualification as personal representative, and, if not a final settlement, each twelve (12) months thereafter until the estate is finally settled.

SECTION 22.07 ALL FINAL ORDERS CLOSING ESTATES TO BE LODGED WITH CLERK AND SIGNED BY CHANCELLOR

All final Orders closing estates shall be lodged with the Clerk, who shall review same to determine if all requirements of Section 22.04 and 22.05 have been complied with. Thereafter, the findings of the Clerk shall be evidenced by a written report and filed, before presenting the final Order closing the estate to the Chancellor for signature.

SECTION 22.08 NEGLECT OF DUTY

Any personal representative or any attorney of record who fails or neglects, for any reason, to perform his/her proper duty in probate matters, may forfeit all compensation in addition to other appropriate sanctions.

SECTION 22.09 MASTER TO ACT

A. Pursuant to T.C.A. § 18-6-106 (a) (5), the duties listed in T.C.A. §18-6-106, concerning the "clerk of the court having probate jurisdiction", are in addition to those hereinafter listed, unless otherwise ordered by the Court. The Clerk and Master is empowered, without a specific order of reference to:

   1. Approve applications for letters testamentary and of administration;
   2. Adjudicate probate claims and exceptions thereto;
   3. Determine year's allowance to surviving spouse and minor children;
   4. Preside over assignment of homestead;
   5. Determine elective share of surviving spouse;
   6. Take and state all accounts and settlements;
   7. Approve fee requests for a personal representative or attorney of $5,000.00 or less. (See also Local Rule 22.04, *supra);* and
   8. Reduce the forty-five (45) day waiting period regarding the "small estate" method of administration pursuant to T.C.A. § 30-4-103(c).

B. The Clerk shall file a written report of findings and actions for matters (2) through (7) above.

C. Rule 53 of the Tennessee Rules of Civil Procedure and Rule 27 of these Rules shall govern the procedures for Master's hearings and exceptions to, or confirmations of Master's Reports.

RULE 23: CONSERVATORSHIPS AND GUARDIANSHIPS

SECTION 23.01 ATTORNEYS

Unless otherwise ordered, no one except an attorney licensed to practice law in Tennessee shall be permitted to represent a ward or a fiduciary in matters coming before the Court in a Conservatorship or Guardianship case. However, fiduciaries, who are not licensed attorneys, may submit their annual and final accounting and apply for their annual and final fee requests without the intervention of a licensed attorney.

SECTION 23.02 PETITIONS

A separate petition must be filed for each respondent. Separate docket numbers will be assigned to each petition and there shall be a separate final order in each case.

SECTION 23.03 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. Service of process shall be provided by an authorized officer. A verified statement from a physician or psychologist in accordance with T.C.A. § 34-3-105 shall be filed, if available, with the petition. If not then available, the certificate must be filed before or at the hearing.

SECTION 23.04 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.

SECTION 23.05 GUARDIAN & CONSERVATOR ORDERS SUBMITTED WITH PETITION

Orders appointing or waiving a Guardian ad litem, setting a hearing date and providing for the duties of the Guardian ad litem shall be submitted with each petition for conservatorship or guardianship.

SECTION 23.06 GUARDIAN AD LITEM

A. The Court will appoint a licensed attorney as the Guardian *ad litem* upon the filing of a petition to appoint a conservator or guardian; however, the Court may waive the appointment of a Guardian ad litem if good cause is shown. See also Local Rule 25, infra, as well as Local Rule 14.10, *supra.*

B. The Court may appoint a Guardian ad litem in matters involving the sale, improvement, or mortgage of any real property in which a minor or other person under disability has an interest; in matters involving the sale or disposition of the ward's personal property; in matters involving possible impropriety by a fiduciary; in matters concerning unauthorized encroachments or questionable management of a ward's assets under guardianships or conservatorships; in any matter the Court believes to be in the best interest of a minor, incompetent, absentee or interested party or to further the administration of justice.

C. The Guardian ad litem shall conduct an inquiry and file a report with the Court at least five (5) days prior to the hearing. The report shall contain the information required by statute and these Rules and such additional information the Court may require or the Guardian *ad litem* deems necessary. Reports are to be brief and to the point unless the complexities of the case require greater detail.

SECTION 23.07 ORDERS APPOINTING CONSERVATOR/ GUARDIAN

All orders appointing a guardian or a conservator shall contain the information required by appropriate statute and these Rules. The order **shall** provide the ward's full name, date of birth and Social Security number. The order shall also provide that an inventory within sixty (60) days and an annual accounting or annual report are required or waived. See also Local Rule 23.08(B). Orders appointing a representative shall adjudge the Clerk's cost.

Further, all orders appointing a guardian or conservator shall include the following language:

> **A copy of this order, even if certified, is NOT evidence of the conservator's or guardian's authority to act on behalf of the within named ward. The appointment of the conservator or guardian is effective only upon the issuance of Letters of Conservatorship or Letters of Guardianship by the Clerk & Master's**

office and the conservator's or guardian's authority to act on behalf of the ward is manifested only by such Letters.

Third parties are not to rely on these LETTERS in the absence of the appropriately entered ORDER of this Court, as well as the posting of an appropriate BOND when required.

Upon entry of the Order appointing the conservator/guardian, the fiduciary shall be required to meet with the Clerk and Master immediately.

SECTION 23.08 SUBSEQUENT ORDERS

A. Unless other matters are pending, orders approving accounting, sale of real estate or similar matters shall contain a provision that this matter is hereby closed pending further proceedings and a provision relating to the Clerk's cost.

B. If an annual accounting is not required, an Annual Report shall be required each year and the Clerk will send notice of this Annual Report being due. The Annual Report shall contain information as to the condition and location of the ward as well as other information as may be requested by the Clerk, such as who the caregiver is and if they are related to the ward.

RULE 24: PRIVATE SALE OF PROPERTY OF WARDS AND MINORS

Petitions to sell property of wards and minors shall be sworn to, shall state the reason why the property should be sold, and shall be accompanied by at least one sworn appraisal of the property by a competent expert. See also Local Rule 23.06(B), *supra*.

RULE 25: APPOINTMENT OF GUARDIAN AD LITEM

In all cases requiring the appointment of a Guardian *Ad Litem*, an Order appointing a Guardian *Ad Litem*, leaving blank the name of the Guardian *Ad Litem*, shall be prepared by the attorney representing the plaintiff or the petitioner. The Chancellor shall appoint the Guardian *Ad Litem* in all such cases. Such appointment shall be made upon a rotational basis, when possible, among the members of the local bar. See also Local Rules 14.09 and 23.06(B), *supra*.

RULE 26: CLERKS AND MASTERS TO MAINTAIN SUSPENSE FILE OR OTHER REMINDER SYSTEM

The Clerks will maintain suspense files or a tickler or other reminder system in order to monitor the due dates of Annual Accountings for Guardianships and Conservatorships, Inventories, and Partial or Final Settlements for Estates and Probate matters. Once filed, the proposed accounting shall be placed on the docket with notice to all interested parties.

RULE 27: APPEALS FROM MASTER'S REPORT

An appeal from a Master's Report shall state specifically upon what grounds the appeal is prayed for and shall state whether it is a fact question or legal question appealed and said appeal shall:

A. Be supported by affidavit(s) if said appeal is upon a fact question;

B. Be supported by briefs(s) if the question appealed is a legal question or question of law; and

C. Said affidavits and/or briefs shall be attached to said appeal when filed.

RULE 28: PARENTING PLAN (T.C.A. § 36-6-401, ET SEQ.)

SECTION 28.01 DUTIES OF ATTORNEYS

Attorneys representing parents involved in divorce proceedings involving minor children shall:

A. Secure from the Clerk's Office or otherwise all approved forms utilized under this rule;

B. Monitor their clients' timely attendance at a **court approved** parent education seminar and ensure a certificate of completion is filed with the Clerk prior to divorce being finalized;

C. Assist the client in selecting/reaching agreement as to an appropriate mediator if a parenting plan has not been timely agreed to by the parties;

D. Follow the procedures for determining temporary and permanent parenting plans;

E. Follow all procedures for mediation, including the attorneys' guide to mediation;

F. The agreed or ordered parenting plan will be attached to the Marital Dissolution Agreement or Decree as an exhibit and will not be duplicated in the MDA or decree;

G. Submit to the judge for signature an Order to Mediate if the parties have not filed an agreed parenting plan within 120 days of service of process;

H. Ensure that a fully completed Exhibit A is filed with the Clerk and a Certificate of Divorce is filed with VRISM.

I. Helpful forms may be found on the Administrative Office of the Courts website at https://www.tncourts.gov/programs/parenting-plan/forms

SECTION 28.02 PROCEDURE FOR DETERMINING TEMPORARY PARENTING PLAN

A. Upon filing the complaint for a divorce involving minor children, the plaintiff shall also file one of the following three "papers":

   1. an agreed Temporary Parenting Plan (TPP);
   2. a Proposed Temporary Parenting Plan (PTPP); or
   3. an Affidavit of No Visitation for any of the reasons set forth in T.C.A. § 36-6-406, along with a notice to the defendant to appear at a date scheduled by the Judge for a hearing to determine whether any visitation should take place and in what form.

B. The plaintiff shall file a personal report of income. The requirements of the attached information sheet are incorporated by reference.

C. If the court finds that the proposed temporary parenting plan appears to be reasonable, it will be adopted as the temporary order of the court and will continue in effect until further order of the Court.

D. If the defendant disagrees with the temporary parenting plan, he or she may request that the parties be scheduled for the earliest preliminary mediation session, which will be followed by mediation as soon as practical afterwards.

E. All parents, regardless of whether they have a temporary parenting plan or not, are required to attend a parent education seminar.

F. Pursuant to T.C.A. §36-6-403(2), the proposed Temporary Parenting Plan shall be accompanied by a verified statement that the Plan is proposed in good faith and is in the best interest of the child. This verified statement shall specify the name and address of the caregiver for the child, as well as with whom the child has primarily resided during the six-month period immediately

preceding the filing of the complaint/petition. If the proposed temporary parenting plan serves to change the parenting schedule existing during the six-month period, the verified statement shall so state.

G. The proposed Temporary Parenting Plan must identify the child support obligor and the amount of the child support obligation to be paid pendente lite. The proposed Temporary Parenting Plan shall reflect whether the five percent (5%) collection fee is to be paid by the obligor.

SECTION 28.03 MODIFICATION OF PREVIOUS PERMANENT PARENTING PLAN:

All petitions to modify previous permanent parenting plans shall follow the same procedure as if a complaint for divorce is being filed, except the existing permanent parenting plan will continue in effect until completion of the mediation process, unless for good cause shown, the court orders otherwise.

SECTION 28.04 PARENT EDUCATION SEMINAR

A. In actions for absolute divorce, divorce from bed and board, annulment, or separate maintenance and in post-judgment modification proceedings involving minor children, where the allocation of parenting responsibilities and/or the establishment of schedules are in dispute, both parents shall attend a parent education seminar.

B. A list of approved providers will be available in the Clerk's office.

C. Education Providers will notify the courts by filing with the appropriate clerk a copy of a certificate of attendance given to parents attending the classes. Certificates shall include the following: name; Social Security numbers; docket number; name of education provider; date class was attended; and shall be signed by a representative from the seminar facilitator.

D. Fees: The fee or costs of the parenting education seminars shall be borne by the parties. Fees may be reduced or waived for indigent persons. The Educational Provider will be expected to provide an appropriate number of pro bono slots for indigent persons.

SECTION 28.05 PERMANENT PARENTING PLAN

A. The parties may choose mediation, arbitration or a judicial settlement conference, which conference shall be scheduled by the Court or by agreement of the parties with the approval of the Court.

B. If the parties have not reached agreement on a permanent parenting plan, each party shall file and serve a proposed permanent parenting plan on or before forty-five (45) days before the date set for trial. Parties may continue to mediate or negotiate. Failure to comply may result in the court's adoption of a filed plan if the court finds that plan to be in the best interest of the child. Each parent submitting a proposed permanent parenting plan shall attach a verified statement of income pursuant to the child support guidelines and a verified statement that the plan is proposed in good faith and is in the best interest of the child. T.C.A. § 36-6-404(c)(3).

SECTION 28.06 MEDIATION AND MEDIATORS

A. At any time during the divorce proceedings, parents may choose to participate in a method of alternative dispute resolution and select their own mediator or arbitrator. However, if the court is involved, either by the court's own motion or by motion of one or both parties, the court will appoint a mediator pursuant to Supreme Court Rule 31. If the parties are unable to reach an agreement on a permanent parenting plan within one hundred twenty (120) days after the commencement of the action, the parties may submit a scheduling order to the court including a

referral to mediation or alternative dispute resolution or request for a waiver for just cause. The court may designate a Rule 31 family mediator by court order. A list of mediators who have met the court's criteria will be provided to the attorneys and parents. The mediators' fees may be taxed as court costs or the court may determine the case is appropriate for pro bono mediation. The mediator is responsible for reporting to the court pursuant to Supreme Court Rule 31.

B. Mediation Assignment: If the court is involved, either by the court's own motion or by motion of one or both parties, a family mediator will be appointed pursuant to Supreme Court Rule 31. A Rule 31 Family Mediator will be appointed by court order **OR**, a referral to mediation is ordered by the court OR, a referral to pro bono mediation is ordered by the court.

C. Mediation Fees and Agreement to Mediate: The parents may directly negotiate the fees with the mediator. An agreement to mediate shall be executed at the beginning of mediation by the parents and mediator, OR, the Court may, upon motion, determine that the case is appropriate for pro bono mediation and the fees will be waived or reduced. Each mediator must provide proof of three (3) pro bono mediations to the Administrative Office of the Courts for annual reapproval.

D. Invoicing Procedures:

1. If the court has ordered that mediator fees are to be taxed as court costs, the invoice must be submitted with the original final report to the clerk's office.
2. It is the mediator's responsibility to notify the clerk's office that an invoice is included in the final report.
3. The invoice should include a docket number to ensure correct filing and payment.

E. Mediator Reports: When a mediator has been appointed by the court, reports will be filed with the court pursuant to Supreme Court Rule 31. The reports include a 30-day report and final report.

F. Judicial Settlement Conferences will not be available in cases affected by this rule, except on motion and a showing of exceptional circumstances that would make mediation not appropriate.

SECTION 28.07 SCOPE OF RULE

This rule only makes mediation mandatory on the issues of the parenting plan and support. However, the court encourages the parties to use mediation or other alternative dispute resolution methods on all issues.

SECTION 28.08 UNCONTESTED DIVORCE

In an uncontested divorce where the parties file a Marital Dissolution Agreement, the permanent parenting plan shall be separately attached as Exhibit A.

SECTION 28.09 WAIVER

Upon proper motion or **sua sponte**, the court will waive any requirements of this rule for the reasons set forth in T.C.A. § 36-6-409 or for other good cause.

RULE 29: MEDIATION

Unless otherwise ordered, the Court requires mediation on all contested matters except contempt of court and termination of parental rights.

RULE 30: RESTRAINING ORDERS IN DOMESTIC RELATIONS CASES

Upon the filing of a petition for divorce or legal separation and upon personal service of the complaint and summons on the respondent or upon waiver and acceptance of service by the respondent or upon the filing of a petition for divorce upon the grounds of irreconcilable differences and the transmission of a copy to the other party even if the complaint is not served or upon the filing of a petition to modify a Permanent Parenting Plan, the following temporary injunctive relief shall be in effect against both parties until the final decree is entered, the petition is dismissed or the parties reach agreement:

EXAMPLE MUTUAL RESTRAINING ORDER

The parties are mutually restrained and enjoined from:

A. Transferring, assigning, borrowing against, concealing or in any way dissipating or disposing, without the consent of the other party or an order of the court, of any property.

B. Expenditures from current income to maintain the marital standard of living and the usual and ordinary costs of operating a business are not restricted by this injunction.

C. Each party shall maintain records of all expenditures, copies of which shall be available to the other party upon request.

D. Voluntarily canceling, modifying, terminating, assigning or allowing to lapse for nonpayment of premiums, any insurance policy, including but not limited to life, health, disability, homeowners, renters and automobile, where such insurance policy provides coverage to either of the parties or the children, or that names either of the parties or the children as beneficiaries without the consent of the other party or an order of the court. "modifying" includes any change in beneficiary status.

E. Harassing, threatening, assaulting or abusing the other and from making disparaging remarks about the other to or in the presence of any children of the parties or to either party's employer.

F. Removing any children of the parties from the State of Tennessee without the permission of the other or an order of the Court. The provisions of Section 36-6-101(a)(3) shall be applicable on fulfillment of the requirements of this Rule.

The Mutual Restraining Order shall be attached to the summons and the complaint and shall be served with the complaint. The directives shall become an order of the court upon fulfillment of the requirements of this Local Rule. However, nothing in this rule shall preclude either party from applying to the court for further temporary orders, an expanded temporary restraining Order or modification or revocation of this temporary injunction.

The Restraining Order shall also contain the following language:

VIOLATION OF A RESTRAINING ORDER MAY RESULT IN A FINE UP TO $50.00 AND/OR UP TO TEN DAYS IN JAIL FOR EACH VIOLATION.

The Restraining Order shall bear the signatures of the Plaintiff, Plaintiff's counsel and the Judge/Chancellor. See also Local Rule 30.02, *infra.,* unless the Restraining Order is mandated by statute such as in an action for divorce.

SECTION 30.01 RESPONSIBILITY OF PETITIONER OR PETITIONER'S ATTORNEY

It shall be the responsibility of the petitioner or the petitioner's attorney, not the Clerk, to cause the provisions of the above temporary injunction to be attached to the summons and the complaint.

SECTION 30.02 VIOLATION OF MUTUAL RESTRAINING ORDER

Service of an unsigned above temporary injunction may not result in incarceration of the violator, in the discretion of the Court.

RULE 31: INSTRUCTING CLERK TO INVEST FUNDS

The Clerk shall invest funds in interest bearing accounts only when there is a specific order directing the Clerk to do so. Such orders should suggest the period of time the funds should be invested, as well as state the name of the financial institution in which the funds are to be invested and the specific type of account to be utilized.
All such orders shall contain the full legal name, address and Social Security number or Employer Identification number of the person/entity whose funds are being invested. If the funds are those of a minor, the order shall recite the minor's date of birth.

If no instructions. are provided within such orders, or if instructions are deficient as to any aspect of investment, said funds shall be invested at the sole discretion of the Clerk.

In addition to the entry of the above described Order, it shall be the DUTY OF THE ATTORNEY or *pro se* party seeking investment of funds to specifically and personally notify the Clerk & Master, verbally AND in writing, that the funds are to be invested in a specific interest-bearing account.

RULE 32: FEES FOR DELINQUENT TAX ATTORNEYS

Those attorneys prosecuting delinquent tax suits in the Chancery Court for the Third Judicial District shall be paid the fee provided in T.C.A. § 67-5-2410(a)(1)(A) and as provided in T.C.A. § 67-5-2410(d):

A. An additional fee of twenty-five dollars ($25.00) per parcel per taxing entity for each year of delinquency not to exceed a total of fifty dollars ($50.00) per parcel for the cost of obtaining service of process, mailing expenses, and copying costs;

B. An additional fee of fifty dollars ($50.00) per parcel per taxing entity for each year of delinquency not to exceed one hundred dollars ($100.00) as a reasonable supplemental administrative fee for his/her services;

C. An additional fee of one hundred dollars ($100.00) per parcel for each title search performed and title report filed with the Court in anticipation and preparation for a delinquent tax sale.

Fees for "A" and "B" shall attach on each parcel upon the filing of the delinquent tax suit or amendment each year. Fees for "C" shall attach only upon a title report being prepared by the delinquent tax attorney and filed with the Clerk prior to an actual sale. The purpose of the title search shall be to identify any new owners, all creditors and other interested parties who may be entitled to notice of the sale. The title search and report shall be for the use and benefit of the delinquent tax attorney, the governmental entity seeking recovery of the delinquent tax, the Clerk and Master, and the Court and is not for the use or reliance by any other person or any buyer and shall not have the effect of a warranty or guarantee of title.

RULE 33: CONTEMPT FILINGS/PROCEEDINGS

In any case in which contempt of court is at issue and incarceration is being sought, words indicating same in unambiguous terms shall be typewritten, or printed, in capital letters on the first page of the lead pleading opposite the style of the case and above the space for the case number, i.e. **"INCARCERATION REQUESTED"**. See Tenn. Sup. Ct. R. 13 requiring notification of the right to appointed counsel.

In the event the defendant/respondent files an affidavit of indigency and requests the appointment of an attorney and should the Court determine that the defendant/respondent is indeed indigent, and incarceration is being sought, the Clerk is hereby authorized and directed to contact an attorney who can accept the appointment to represent that defendant/respondent for that proceeding. No attorney shall be exempt from such appointment, unless the attorney has a conflict of interest. Such appointments shall be made upon a rotational basis, when possible, among the members of the local bar.

Procedurally, petitions for civil and criminal contempt must be filed in separate pleadings.

RULE 34: DISTRIBUTION OF FUNDS BY THE COURT

At the discretion of the Clerk, any person receiving funds from the Court shall provide, upon receipt of same, an IRS form W-9 ("Request for Taxpayer Identification Number and Certification") to the Clerk.

RULE 35: FOREIGN LANGUAGE INTERPRETERS

It is the responsibility of counsel to arrange for interpreters, approved by the Court; and the Court shall appoint an interpreter according to the preference listed below and pursuant to Tenn. Sup. Ct. Rules 41 and 42:

1. The courts of the Third Judicial District recognize that language can be a barrier to understanding and exercising one's legal rights, and to securing meaningful access to the judicial system. Therefore, this rule sets out the procedure for implementing Tennessee Supreme Court Rule 42 regarding the provision of interpreters for persons with limited English proficiency ("LEP").
2. Recognizing that appointment of a court interpreter is discretionary with the court, if the court finds a foreign language interpreter is necessary in a particular case, within 5 days of the order requiring an interpreter be appointed, the attorneys of record in the case shall review the Roster of Certified and Registered Spoken Foreign Language Court Interpreters in Tennessee found on the AOC website at: https://tncourts.gov/programs/court-interpreters/find-court-interpreter

If there is not an interpreter listed for the language needed on the Roster of Certified and Registered Spoken Foreign Language Court Interpreters, contact the Administrative Office of the Courts for assistance.

1. The attorney claiming a need shall obtain an interpreter according to the preference listed below:
    a. State certified court interpreter;
    b. State registered court interpreter; or
    c. Non-credentialed court interpreter.
2. Once the interpreter has been obtained, the attorney shall advise the court of the same and a specific order of appointment shall be entered. Generally, the costs of interpreter services in both civil and criminal cases shall be taxed as court costs pursuant to Tenn. R. Crim. P. 28 and Tenn. R. Civ. P. 54. However, in cases involving indigent defendants who are entitled to counsel pursuant to Tennessee Supreme Court Rule 13, the cost of interpreter services may be assessed as set out in Section 4(d) of Tennessee Supreme Court Rule 13. Invoices and other appropriate forms for said cases may be found at https://tncourts.gov/programs/court-interpreters

RULE 36: NAME CHANGE

A. **Adult:** The verified petition must comply with the statute and shall state the full legal name of the Petitioner, all prior names by which the Petitioner has been known, the place of residence of the petitioners, the birth date, age, social security number of the individual whose name is to be changed, and the State where the original birth certificate was issued. Copies of the original birth certificate, social security card and official photo identification shall be submitted with the petition. Verified statement that the individual does not seek to change their name to avoid creditors and does not have a criminal history as outlined in T.C.A. §29-8-101. The individual whose name is to be changed must appear in Court at the hearing, unless otherwise ordered by the Court.

B. **Minor:** The verified petition to change the name of a minor must comply with the statute and be sworn to and signed by both parents and include copies of the original birth certificates of the child and both parents, social security card and official photo identification of both parents, photograph of the minor and social security card of the minor, if any. Both parents and the minor must appear in Court. If both parents do not join in the Petition or if the identity or location of a parent is unknown, the petition must be specific as to all pertinent facts including all efforts to identify or locate the parent who did not join in the Petition. If the father is not identified on the birth certificate, legitimation proceedings must be completed prior to filing of a petition to change the name of the minor child. Service of process is required for any parent or guardian who does not join in the petition. The verified petition must establish by clear and convincing evidence that the proposed name change is in the best interest of the minor, otherwise the petition shall not be granted.

RULE 37: 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 persons in attendance thereupon, whether as a defendant, witness, or spectator, the Sheriff is authorized and directed to employ all lawful and constitutional means necessary to ensure the security of the courtrooms and all passages, corridors, rooms, and points of ingress and egress thereto. The Sheriff may, circumstances requiring in his/her discretion, establish and promulgate reasonable regulations not inconsistent with this rule for purposes of carrying out its directive including, but not limited to, the search of all persons seeking to enter the various courtrooms of the courthouse where Chancery Court is held. Anyone seeking to enter said courtroom, not consenting to a search of their person when requested by one lawfully authorized to conduct said search, will not be admitted. Only personnel, serving the court, shall wear/carry sidearms in the courtroom while court is in session. In the discretion of the Chancellor, all persons who are legally authorized to carry a firearm because of their status as law enforcement officials may wear/carry said firearms in the courtroom if they are present only as disinterested witnesses. All other persons legally authorized to carry firearms must check their firearms with court personnel while they are in the courtroom, or with the Sheriff.

RULE 38: SUBPOENAS FOR MEDICAL RECORDS

All subpoenas issued by the Clerk and Master for medical records shall reflect compliance with the Health Insurance Portability and Accountability Act (H.I.P.A.A.). See 45 C.F.R. § 164.512(e). The Clerk and Master shall not issue a subpoena pursuant to T.R.C.P. 45.02 for medical records unless the subpoena form includes the following:

HIPAA NOTICE

A copy of this subpoena has been provided to counsel for the patient or the patient by mail or facsimile on the _____day of _____, 20___ so as to allow him/her seven (7) days to:

(A) serve the recipient of the subpoena by facsimile with a written objection to the subpoena, with a copy of the notice by facsimile to the party that served the subpoena, and

(B) simultaneously file and serve a motion for a protective order consistent with the requirements of T.R.C.P. 26.03 and 26.07.

If no objection is made within seven (7) days of the above date, you shall process this subpoena and produce the documents by the date and time specified in the subpoena. The signature of counsel or party on the subpoena is certification that the above notice was provided to the patient.

APPENDIX A: REQUEST TO CONTINUE FORM

Available for download on Clerk's website.

STATE OF TENNESSEE	COURT ☐ Chancery ☐ Circuit (by interchange)	COUNTY ☐ Greene ☐ Hamblen ☐ Hancock ☐ Hawkins
REQUEST TO CONTINUE	**Case No.** _____ (Must Be Completed)	

IN RE:_____ OR

_____ (Plaintiff) vs. _____ (Defendant)

Plaintiff Counsel: _____ Defendant Counsel: _____

Email: _____ Email: _____

OTHER COUNSEL/PRO SE: _____

_____

PLEASE ADD ALL NECESSARY PARTIES

I, _____(*requesting party),* have contacted all parties regarding my request to continue this matter that is currently set for hearing on _____, and would show that:

☐ All parties agree to reschedule this matter to _____(reset date required).

☐ Parties do not agree to continue this matter. A conference call with the Chancellor is requested.

(A Motion to Continue must be filed and a copy sent to Chancellor's office with this request)

☐ Opposing side has not been served or has not received notice of the hearing.

☐ Motion is moot- i.e. default no longer at issue, answers provided, etc.

☐ Case settled and final order forthcoming- no reset date necessary.

☐ OTHER:_____.

INSTRUCTIONS: Contact the opposing party to determine if an agreement can be reached. A reset date **MUST** be included. **AGREED REQUEST TO CONTINUE**, email completed form for approval to Chancellor's office at Carolyn.Parsons@tncourts.gov. An Agreed Order resetting the case should be filed with Clerk's Office. **CONTESTED REQUESTS TO CONTINUE**, email completed this form **along with a *Motion to Continue*** to the Chancellor's office at Carolyn.Parsons@tncourts.gov. An email will be sent to the parties to schedule a conference call to have the Request heard. Conference line (888) 251-5421 PIN 1140.

COURT USE ONLY

THE COURT ORDERS THAT THE REQUEST FOR CONTINUANCE BE:

☐ GRANTED- all parties agree to the reset date of _____, **Agreed Order to be filed.**

☐ GRANTED- OBJECTIONS heard, continuance granted _____, M**oving party shall file an Order.**

☐ DENIED- the Court **denies** the request- case shall remain on court docket:_____

☐ OTHER _____

_____

►Judge's signature:_____Date_____

APPENDIX B: PRE-TRIAL ORDER

IN THE THIRD JUDICIAL DISTRICT FOR THE STATE OF TENNESSEE
[NAME OF COUNTY] CHANCERY COURT
SITTING IN (NAME OF TOWN)

JOHN DOE

VS. **DOCKET NO._____**

RICHARD ROE

PRE-TRIAL ORDER

The above captioned cause was set for pre-trial conference on the ___day of _____, 20____, at 10:00 a.m., or as soon thereafter as possible, with counsel for all parties attending. The following matters were determined:

1. The trial of this cause shall take approximately _____ and is presently docketed for _____, 20___.
2. The trial will be _____non-jury _____jury.
3. The parties are to supply the names and addresses of all witnesses, including expert witnesses, to be used at trial, to opposing counsel, and file them with the Clerk by the _____day of _____, 20____. Failure to list a witness's name shall result in the witness not being allowed to testify, without a showing of good cause for not listing the witness.
4. Any exhibits which will be introduced at trial shall be available for viewing by opposing counsel by the day ____day of _____, 20____. A list of the exhibits shall be filed with the Clerk by the ___day of _____, 20____.
5. The hearing of the pre-trial motions is set for the _____day of _____, 20____.
6. Any stipulation of the parties shall be reduced to writing and filed with the Clerk by the _____day of _____, 20____.
7. The parties shall file all proposed jury instructions, if a jury trial, by the _____day of _ _____, 20____.
8. The proposed Special Verdict Form, <u>if a jury trial</u>, shall be filed with the Clerk by the _____day of _____, 20____.

ENTER

_____
CHANCELLOR DOUGLAS T. JENKINS

APPENDIX C: PERSONAL PROPERTY DESCRIPTION

Personal Property Description _____ **vs** _____ **Case #** _____

			Husband's Proposed Division			Wife's Proposed Division			Reserved for Division by Court		
Personal Property Description	Date Acquired	Title	Value	Debt	Division	Value	Debt	Division	Value	Debt	Division
Totals			$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -

*Attach additional pages if necessary to comply with Local Rules of Chancery Court Rule 15.02

APPENDIX D: REAL PROPERTY DESCRIPTION

Real Property Description _____ **vs** _____ **Case #** _____

			Husband's Proposed Division			Wife's Proposed Division			Reserved for Division by Court		
Real Property Description	Date Acquired	Title	Value	Debt	Division	Value	Debt	Division	Value	Debt	Division
Totals			$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -

*Attach additional pages if necessary to comply with Local Rules of Chancery Court Rule 15.02

APPENDIX E: DEBT DESCRIPTION

Debt Description _____ **vs** _____ **Case #** _____

			Husband's Proposed Division			Wife's Proposed Division			Reserved for Division by Court		
Debt Description	Date Acquired	Title	Value	Debt	Division	Value	Debt	Division	Value	Debt	Division
Totals			$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -

*Attach additional pages if necessary to comply with Local Rules of Chancery Court Rule 15.02

APPENDIX F: CHANCERY COURT ELECTRONIC FILING RULES (E-FILING RULES)

CHANCERY COURT OF THE THIRD JUDICIAL DISTRICT ELECTRONIC FILING RULES (E-FILING RULES)

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PART 1 – AUTHORITY

In accordance with Rule 5B of the Tennessee Rules of Civil Procedure, the Chancery Court for the Third Judicial District adopts electronic filing. Pleadings and other electronic documents filed electronically in the Chancery Court shall be considered filed the same as court documents filed in paper format.

PART 2 – SHORT TITLE

These rules may be cited as "Chancery Court E-Filing Rules."

PART 3 – DEFINITIONS

The following terms in these E-Filing Rules shall be defined as follows:

"Authorized Users" means the following persons who, upon completion of the registration requirements or user account configuration, may E-File documents:

1. Attorneys licensed to practice law in Tennessee;
2. Pro Se litigants;
3. Law Enforcement Officers;
4. Process Servers;
5. Agents of Governmental entities;
6. Special appointed agents for Domestic Violence Support;
7. All Court judges and their staffs; and
8. The Clerk and all deputy clerks of the Clerk's Office;

"Clerk" means the Clerk and Master of the Chancery Court, or their designees;

"Clerk's Office" means the office of Clerk and Master's Office in the Third Judicial District compromised of Greene, Hamblen, Hancock, and Hawkins counties;

"Convenience Fee" is a statutory fee charged in connection with electronic filing that is addition to statutory filing fees. Such a fee is charged in connection with payment by credit card or ACH. (See Section 12 below);

"Case Management System" or "CMS" means a computer system operated by the "Clerk's Office" which maintains all case information for the Clerk and Master the CMS is TnCIS.

"Court Administrator" means the Chancery Court Deputy Clerk and Master designated by the Clerk to administer TnCIS, the DMS, and internal users;

"Court" means the Chancery Court or the Chancellor;

"Document" means a pleading, motion, application, request, exhibit, brief, memorandum of law, paper, or other instrument in paper form or electronic form which is permitted to be filed pursuant to the TRCP and the Local Rules;

"Document Management System" or "DMS" means a computer system operated by the Clerk's Office which maintains all electronic and scanned paper documents filed in the Court in electronic form;

"E-file" or "E-filing" means the electronic transmission of original documents to the Court, and from the Court, for the purposes of recording information and Court documents to a Court case or other official Court purposes. For purposes of these rules, e-filing does not include the filing of faxed documents;

"E-Filer" is an Authorized User who has a Court approved E-Filing login, username, and password allowing E-Filing of Documents into the Court's CMS and DMS;

"Electronic Court Filing System" or "ECF" means the software and services provided to Authorized Users to E-file, review filings, and process information that is recorded to the Court's CMS and DMS;

"E-Filing Fee" is the fee an attorney or pro se litigant pays for using the E-Filing system. This is in addition to the Convenience Fee charged by the credit card processor and the statutory filing fee (See Section 12 below);

"E-Filing Rules" means the Chancery Court of the Third Judicial District E-Filing Rules;

"Local Rules" mean the Rules of the Chancery Court for the Third Judicial District;

"Notice of Association" means a method provided by the ECF that a pro se filer will use to link the ECF Authorized User account to a case participant in TnCIS;

"Notice of Electronic Filing" or "NEF" means an electronic notice distributed by the ECF to Authorized Users when court documents are E-filed to a case. The notices are specific to a case and are distributed to case participants or their legal representatives who are registered in the ECF System, recorded in TnCIS as a case participant, and are linked between ECF and TnCIS;

"Party" or "Parties" means any person, including an individual, executor, administrator, or other personal representative, corporation, partnership, association or any other legal, governmental or commercial entity, whether organized under the laws of this State who is a party in a case pending in the Court and is represented by an attorney or acting pro se;

"PDF" or "Portable Document Format" means a computer file format developed by Adobe Systems for representing documents in a manner that is independent of the original application software, hardware, and operating system used to create those documents. Converted Documents must contain the ".pdf" file extension;

"Public Access Terminal" means a publicly accessible computer provided by the Clerk for the purposes of allowing E-filing and viewing of public electronic court records. The public access terminal shall be in the Clerk's Office and made available during normal business hours. The Clerk's Office may also offer printed copies of the electronic court records and apply relevant copying fees as permitted by relevant statutory and court rules;

"Statutory Fees" means those normal filing fees charged by the Court to file a law suit and other usual fees charged by the Court in the course of the case;

"System Administrator" means the Tybera Development Group, Inc. management team that supports the Court Administrator and the registration and support of Authorized Users;

"Terms of Use Agreement" means the agreement established by the Clerk(s) that sets forth the parameters for the use of the ECF System by all Authorized Users;

"TnCIS" or "CMS" means the Tennessee Case Information System or Case Management System software supported by Local Government, owned and controlled by the Tennessee Administrative Office of the Courts, used to manage and record case information specific to Tennessee;

"Traditional Filing" is a process by which a Party files a paper document with the Clerk;

"TRCP" means the Tennessee Rules of Civil Procedure;

"User Guide" means the recommendations and modifications to procedures specific to the court. All E-Filers should periodically check the Chancery Court websites for each county for updates to the User's Guide. The ECF system will provide a Filer's User Manual specific to how to use the ECF system that will function for State courts in all counties.

PART 4 – EFFECT ON EXISTING LOCAL RULES

These E-Filing Rules are adopted as an Appendix to the Local Rules of the Court and do not supersede or replace any other Local Rules of the Court.

PART 5 – ELECTRONIC FILING ENCOURAGED UNLESS PROHIBITED BY ORDER OF THE COURT

(a) E-Filing of documents is strongly encouraged by this Court. Except as provided by subsection (b) below, a document that can be traditionally filed with the Court may be E-Filed.

(b) The Court or the Clerk may exclude documents and/or certain types of cases from E-Filing. Notice of these excluded documents and/or cases will be provided on the Court's E-Filing Website.

PART 6 – SCOPE OF RULES

(a) Except as expressly provided herein, for all new cases filed on or after the effective date of these E-Filing Rules, the Court shall accept as validly filed all documents that are filed through E-Filing. Existing cases can be converted to e-filed cases at the request of the litigants or their attorneys

(b) The Court and the Clerk may issue, file, and serve notices, orders, and other documents electronically, subject to the provisions of these E-Filing Rules.

(c) E-Filers may obtain access to the E-Filing Website either through an internet access point or by using the Clerk's Public Access Terminal located in the Clerk's Office.

PART 7 – ELECTRONIC CASE FILE

The Clerk shall maintain all E-Filed documents that are reviewed and approved in electronic format as part of the official case file.

PART 8 - REGISTRATION REQUIREMENTS

(a) Persons who qualify as Authorized Users and who desire to electronically file a Document shall register as an E-Filer on the ECF Website. The registration process requires the prospective user to accept the User Agreement, identify their role for the account, enter their personal information, their username and password, and submit the request. Attorneys must include a valid Tennessee issued Bar Number. There is an approval process that will occur. Once the approval process is completed the user will received an email notifying them that their account is approved. The user must then register their payment options and credit card with the ECF system and the Court. If the user does not receive an email the user can determine if their account is activated by logging into the ECF website;

(b) E-Filers shall change their E-Filing profile immediately upon any change in firm name, delivery address, phone number, fax number or e-mail address;

(c) Attorneys who intend to practice Pro Hac Vice are not allowed to register. Out of State Attorneys who are not admitted to the Bar in Tennessee are required to associate with an attorney who has a Tennessee issued Bar number, and they must follow the rules for participating in a case.

PART 9 – TIME AND EFFECT OF E-FILING

Any E-Filed document shall be considered as filed with the Clerk once the transmission of the entire document is received and approved by the Clerk. Any document received by the Clerk before midnight local time of the Clerk's Office shall be deemed filed on that date if such document otherwise meets all the requirements for filing under the relevant rules of the Court. Upon approval by the Clerk of an E-Filed document, the ECF system shall electronically transmit a Transaction Receipt indicating that the E-Filing has been filed. The Transaction Receipt shall serve as proof of filing. In the event The Clerk rejects the submitted document following review, the rejected document shall not become part of the official Court record and the E-Filer will receive status on the submission of the rejection. E-Filers may be required to re-file the document to meet necessary filing requirements.

Documents that are rejected and filed again will receive a new effective date, upon approval, based on when the corrected documents were E-Filed.

PART 10 – FORM OF DOCUMENTS ELECTRONICALLY FILED

(a) Each E-Filed document shall be uploaded in a PDF format unless it is a Proposed Order for a judge to review. The document should be formatted in accordance with the applicable Terms of Use Agreement as well as the TRCP and Local Rules Governing formatting of paper documents and in such other and further format as the Court may require from time to time. Proposed Orders can be E-Filed in Microsoft Word format;

(b) The E-Filer is responsible for verifying that the documents to be E-Filed are legible. Documents that are not legible or scanned sideways will be rejected and will require the E-Filer to correct the documents and E-File them again. The corrected documents will be date and time stamped according to the date and time of E-Filing the corrected documents;

(c) In addition to the information required by TRCP Rule 11 and any other Local Rule, The Party or attorney signing a document that is being E-Filed shall also follow the requirements in Part 13.

PART 11 – NOTICE OF ELECTRONIC FILING (NEF)

When a person E-files to a case, whether they are a case participant or not, notifications of the E-Filing are distributed to Authorized Users that are recorded in TnCIS as case participants or legal representatives. To receive notifications participants must be Authorized Users and have an active account in the ECF System. For the notification to recognize the association of an Authorized User to a case they must be recorded on the case in TnCIS as a pro se litigant or as a legal representative with a Bar Number. TnCIS only maintains Tennessee issued Bar Numbers.

All Authorized Users agree to receive their notices of documents which are E-Filed in their cases electronically through the ECF system.

All Authorized Users must include a Certificate of Service on each pleading filed just as if it had been filed on paper.

Pro se litigants recorded in TnCIS on a case must be registered Authorized Users in ECF and have previously filed a Notice of Association that links the ECF user account to the TnCIS participant ID.

The NEF does not replace the need for service of process. The NEF satisfies the responsibility of a filer to send service to other parties that are registered in the ECF System and linked as participants on the case for secondary filings. This service does not replace the responsibility of E-Filers to notify parties by conventional means when they are not registered in the ECF system. The ECF system provides a method to identify what case participants are Authorized Users and recorded in TnCIS as participants in the case.

The NEF is distributed as an email and posted in the ECF web interface for access. It is incumbent on each filer to keep the NEF in his/her permanent files as proof of notice. It is the responsibility of each Authorized User to login to the ECF and review their NEFs within ninety days (90) from the time the NEF is posted to their user account. After ninety days, all NEFs are deleted from the Authorized User's account.

All electronic service of papers e-filed shall be done according to *Tennessee Supreme Court Rule 46A* which reads as follows:

(1) For purposes of this Rule, the following definitions shall apply:

(a) E-file" or "E-filing" means the electronic transmission of documents in cases pending in the court, using the dedicated E-Filing system maintained by the clerk of the court.

(b) "E-Filer" means a registered user who e-files a document.

(c) "E-Filing system" means a system adopted by any Circuit, Chancery, Criminal, Probate, Juvenile or General Sessions Court Clerk that allows for the e-filing of documents and is in compliance with the technological standards promulgated by this Court.

(d) "E-service" or "E-served" means the automatically generated electronic transmission, by and through an e-filing system, of a notice to all participants in a case who are registered users that a document has been e- filed.

(e) A "registered user" is a person who has properly registered with and has been authorized to use an e-filing system for the e-filing of documents in accordance with the requirements of a local rule of court. A registered user is deemed to have consented to receive e-service and is responsible for maintaining a valid and current e-mail address and keeping same up to date in the e-filing system.

(f) "Documents" that may be e-served under this Rule include only those items that must be served pursuant to Tenn. R. Civ. P. 5.01.

(2) Any Circuit, Chancery, Criminal, Probate, Juvenile or General Sessions Court that has, by local rule of court, allowed documents to be filed, signed or verified by a registered user of an e-filing system shall allow such

documents to be e-served. E-service shall constitute proper service of the e-filed document on a registered user and shall have the same legal effect as service of a paper document under the applicable rules of procedure. Independent conventional service of an e-filed document, either by paper or otherwise, need not be made by an e-filer on any registered user, unless otherwise ordered by the court.

(3) Any (A) lawyer representing a person, party or participant in the case, or (B) pro se person, party or participant in the case, who is either (i) not a registered user of the e-filing system or (ii) known by the e-filer not to have been e-served, must be served by the e-filer through the conventional means of service set forth in the applicable rules of procedure.

(4) Unless ordered otherwise by the court, a court clerk may, through the e-filing system, transmit to registered users all notices, orders, opinions, or judgments filed by the court or court clerk, which transmission shall constitute proper service and shall satisfy the notice requirements of Tenn. R. Civ. P. 58 or any other applicable rules of procedure.

(5) The court has the discretion, for good cause shown, to order that service, other than e-service, be required in a particular case.

PART 12 – PAYMENT OF FEES

(a) All E-Filed Documents subject to statutory filing fees (Court Costs) shall require payment of such filing fees immediately upon filing unless excused by the Court. These filing fees must be paid with a credit card at the time of E-Filing. Use of the E-Filing Website constitutes E-Filer's consent to process or charge the credit card supplied;

(b) It is the responsibility of the Authorized User to refer to the Clerk and Master's website to determine the fees owed. The clerk's office can also be contacted by phone to obtain the correct amount of fees. The ECF system will not calculate the fees in this release of the E-Filing system (release one). When the ECF system provides an estimate in later releases, the clerk is still responsible for calculation of the fees which may be different from the estimates. This can occur when the clerk corrects information entered by the filer;

(c) The E-Filing Fee is in addition to the statutory filing fees and is $5.00 per filing up to a maximum of $50.00 per case or a flat $300.00 flat subscription fee per lawyer or pro se litigant for a one-year period starting on the date the flat fee is paid. The flat fee pays all the E-filing fees for all cases filed by that lawyer or pro se litigant in any Court in the State using the Tybera E-Filing System. The E-Filing Fee shall not be assessed against the State, a party declared indigent or to that indigent's party's legal representative. Tybera will keep an account of the amount of fees paid in each case;

(d) The convenience fee pursuant to T.C.A. Sec. 9-1-108(c)(4)&(5), is charged to E-Filers in addition to the statutory filing fee and the E-Filing Fee. The convenience fee covers the cost of processing the credit card. The amount of that fee will appear with each credit card transaction;

(e) Authorized users will be able to access their cases as well as any other cases in the system that are not under seal and make copies of documents in those files. Certified and paper copies will be available from the Clerk's office for the statutory fees;

(f) Refunds due to improper collection will require the E-Filer to contact the Clerk's Office directly. The Clerk will issue checks for refunds. Refunds will not be made in cash;

(g) Refunds on a case will be paid to the owner of the credit card used to make the payment.

PART 13 – SIGNATURES

(a) A document that is required to be, verified by a notary public, sworn to, or made under oath, or one that requires multiple signatures may be E-Filed only as a scanned image of the original. The original document shall be maintained by the Party or the attorney E-Filing the document and shall be made available upon reasonable notice, for inspection by other counsel, the Clerk, or the Court. Parties or their attorneys shall retain originals until final disposition of the case and the expiration of all appeal opportunities;

(b) Any document filed with an electronic signature must be filed using the user account of the individual electronically signing the document. Any document signed and filed using the account that matches the signature is considered binding on that individual even if that user shares their username and password;

(c) For all other documents that generally include an attorney's or pro se E-Filer's signature the following pattern is to be used:

/S/John Doe (Authorized User's name) and TN Bar No. (if an attorney)
123 Main Street (Authorized User's street address)
City, State, Zip Code

PART 14 – REDACTION

Authorized Users must be sensitive to confidential and personal information filed publicly, not under seal. E-Filers shall refrain from including, or shall redact as follows where inclusion is necessary, the following personal identifiers from all documents filed publicly with the Clerk, including exhibits thereto, unless required by statute or otherwise ordered by the Court:

> It is the responsibility of the Authorized User to redact all documents that are E-Filed to the Court. When a document required to be E-Filed includes sensitive data that otherwise would be redacted, the Authorized User must file an original and a redacted version. The redacted version will be stored for public access;

(a) Social Security Numbers. If a social security number must be included in a document, only the last four digits of that number must be used;

(b) Dates of Birth. If an individual's date of birth must be included in a document, only the year must be used;

(c) Financial Account Numbers. If financial account numbers are relevant, only the last four digits of these numbers must be used;

(d) Names of Minors. If a case includes a minor this information needs to be protected from the public, the Authorized User should use a pseudo name or initials in the documents and then file a sealed document with the actual names.

The Clerk will not review each document for redaction.

In addition, exercise caution when filing documents that contain the following:

(1) Personal identifying number, such as a driver's license number;
(2) Medical Records, treatment and diagnosis;
(3) Employment History;
(4) Individual Financial Information;
(5) Proprietary or Trade Secret Information.

It is the responsibility of E-Filers to be sure that all documents comply with the rules of this Court requiring redaction of personal identifiers. The Clerk will not review each document for redaction. Un-redacted copies of e-filed documents will be kept in the case file but will not be obtainable or reviewable through the e-file system.

PART 15 - SYSTEM OR USER FILING ERRORS

If the E-Filing does not reach a status of RECEIVED because of: (1) an error in the transmission of the document to the Clerk which was unknown to the sending party, (2) a failure to process the electronic document when received by the Clerk, (3) rejection by the Court or Clerk, or (4) other technical problems experienced by the E-Filer or the Clerk, the Court may, upon satisfactory proof, enter an order permitting the document to be filed nunc pro tunc to the date the document was first attempted to be filed electronically and may also extend the date for any response or the period within which any right, duty, or other act must be performed.

PART 16 – ELECTRONIC EVIDENCE PROCEDURES

The Chancery Court of the Third Judicial District has approved procedures for electronic submission of evidence. Cite these procedures as "E-Evidence Procedures" or "EEP."

Scope and Application:

(a) Electronic Evidence as defined below for use in any trial, hearing or motion docket may (temporarily not mandatory) be submitted using Electronic Court Filing System "ECF." These EEP apply in all cases, contested matters and adversary proceedings.

(b) While the Court strongly encourages evidence to be submitted electronically, evidence will be accepted by the Court or Clerk of the Court through traditional methods on a temporary basis until such time that the Court orders that evidence will only be accepted electronically. Ample notice will be given of such a requirement. Evidence that is submitted in court during a hearing and which is amenable to scanning will be scanned by the clerk, entered into the electronic file, and returned to the attorney or pro se litigant who submitted it to the Court. Maintaining all original copies of the evidence, whether filed electronically or in paper will be the responsibility of the filer.

(c) Evidence that is impractical or impossible to submit in electronic format—such as physical objects, original documents when required and oversized documents not capable of conversion to a format listed below—are not subject to EEP.

Definitions:

(a) ECF – Electronic Court Filing System maintained by the Chancery Court.
(b) Electronic Evidence – Includes, but is not limited to, documents, diagrams, charts, photographs, audio file, video files, e-mails, texts, and power points that are electronically submitted for use at a trial, hearing, or motion docket.
(c) Filer - An Authorized User who has an E-Filing approved username and password allowing E-Filling of documents into the Document Management System (DMS) through the ECF.
(d) Flatten a PDF document – PDF documents may have editable fields. Flattening a PDF document means to eliminate all editable fields from the PDF document so that it cannot be modified other than by adding a date stamp.

Electronic Format Requirements:

(a) Allowable Formats. All electronic evidence must be submitted in one of the following formats:
- PDF
- PNG, GIF, JPG/JPEG
- WMV
- MP3
- PPT/PPTX

Any of the allowable formats can be compressed into a ZIP file.

(b) File size. The maximum file size for exhibits is 10.0 megabytes (MB). Exhibits may be compressed in ZIP format only. Any compressed exhibit file shall not exceed 10 MB. If an exhibit file must exceed 10.0 MB, the file shall be provided to the court clerk on a thumb drive the same day that other exhibit files are submitted. Parties submitting files larger than 10.0 MB must also provide the files(s) on thumb drive to all other parties due to receive them, and must comply with requirements of the Document Management Protocol (DMP) below.
(c) Disabling of Security Features. Any security features in an exhibit file, such as passwords, locked or editing features, must be disabled.
(d) All PDF documents must be flattened.

Document Management Protocol (DMP):

(a) For any trial, hearing, or motion docket all parties must access the exhibits using the ECF.
(b) Timing of Submission – Trials, Hearings, and Motion Dockets. Except as provided in a pretrial order:
  (1) All evidence must be submitted no later than 48 hours before trial, hearing, or motion docket using ECF;
  (2) Parties are to confer concerning the admissibility of electronic evidence, and 48 hours before a trial, hearing, or motion docket designate in ECF exhibits to be admitted by stipulation.
  (3) Upon request, originals are to be made available for inspection.
(c) Identifying Exhibits
The following format must be used when submitting electronic evidence:
  (1) Exhibit Number or Letter. Descriptive Exhibit Name. The first component of the file name shall be a number or letter, depending on the party's role.
    (A) Plaintiffs/Movants shall use numbers.
    (B) Defendants/Respondents shall use letters. If the alphabet is exhausted, then letters will repeat. For Example: "AA" or "AAA."
  (2) Descriptive Exhibit Name. The second component of the file name shall be a brief description of the exhibit. It should be sufficiently descriptive to identify the exhibit, and it should not contain any information the filer does not want displayed to the Court or to other parties.
  (3) Format of File. The third component of the file name is the extension which shall identify the format of the file as listed above under electronic formats required.
  (4) File Name Examples: (File names must be continuous and not have spaces or periods.)
    (A) Example of Plaintiff/Movant exhibits:
    1_Deposition_of_Jane_Doe_pdf

2_Photo_of_Jack_Miller_Jpeg

(B) Example of Defendant/Respondent exhibits:
A_Photo_of_Childs_bedroom_Jpeg
B_Letter_from_Mother_to_Father_pdf
C_Parties_2016_US_Income_Tax_Return_pdf

(d) Redaction
The Clerk of the Court will not remove or redact any electronic evidence containing personally identifiable information, confidential information or proprietary information. The filer submitting electronic evidence is responsible for redaction of such, information, or limiting access to such information.

(e) Equipment
The Court provides audio-video presentation equipment in each courtroom. Any additional equipment required to view and/or listen to electronic evidence is the responsibility of party offering the evidence.

(f) Failure to Submit Evidence in Compliance with EEP
If a party fails to submit evidence in compliance with EEP, upon request of any other party, the Court may:
(1) Prohibit the non-complying party from using the evidence at the hearing, trial, or motion docket unless the failure was substantially justified or is harmless;
(2) On motion and after opportunity to be heard, order payment of the reasonable expenses, including attorney's fees, caused by the failure, and impose other appropriate sanctions.