IN THE CHANCERY, CIRCUIT, PROBATE, AND JUVENILE COURTS FOR THE TWENTY-NINTH JUDICIAL DISTRICT, INCLUDING LAKE AND DYER COUNTIES, TENNESSEE

LOCAL RULES
REVISED 2023

PREAMBLE

Pursuant to the provisions of Tennessee Code Annotated §16-2-511, Rule 18 of the Tennessee Supreme Court (2004), and the inherent authority of the Courts, the following local rules of court are hereby adopted.

RULE 1: APPLICABILITY

Section 1.01 Applicability

These rules apply to the Circuit and Chancery Courts of Dyer and Lake Counties. Additionally, these rules shall apply in the Dyer County Probate Court and to custody determinations not involving claims of dependency and/or neglect pending in the Juvenile Courts of Dyer and Lake Counties. Subject to such exceptions as are stated herein, these rules shall supplement the Tennessee Rules of Civil Procedure and the Tennessee Rules of Criminal Procedure in the Circuit and Chancery Courts for the Twenty-Ninth Judicial District of Tennessee. Where these rules are in conflict with either the Rules of Civil Procedure or Rules of Criminal Procedure, those rules will prevail. All former versions of the rules of local practice are repealed.

Section 1.02 Construction, Suspension of Rules

A. These rules shall be construed to secure simplicity in procedure, fairness in administration, and elimination of unjustifiable expense and delay. They shall be construed to secure the just, speedy, and inexpensive determination of every action.

B. Any of these rules may be suspended or varied in cases when the Court determines that fairness and justice require.

RULE 2: SESSIONS OF COURT

Section 2.01 Sessions of Court

All Courts: All Dyer and Lake County Courts shall be considered available for regular sessions continuously.

Section 2.02 Times of Sessions

Court shall convene at 9:00 a.m. and 1:00 p.m., or at such times as the Court directs.

Section 2.03 Prohibited Practices

A. Except for court reporters employed by or for a party in the proceeding, courtroom proceedings shall not be recorded without prior permission from the judge presiding. Counsel for a party to a proceeding may record the Court's findings and orders for use in drafting or approving the Court's orders.

B. Computers, cell telephones and personal electronic devices may be used by counsel and their professional staff in connection with scheduling and case presentation but should not be used for personal matters in the courtroom. All devices should be set to a silent operation mode. Litigants, witnesses and observers may not have any electronic device in the courtroom.

C. Smoking, chewing tobacco, electronic smoking devices, drinking beverages, eating and using profanity in the courtroom are prohibited.

Section 2.04 Courtroom Dress

As an important component of fostering a respectful and professional atmosphere in the courtroom, counsel, witnesses and litigants shall be appropriately dressed. Female counsel shall wear appropriate professional attire. Appropriate dress for male counsel includes a jacket and necktie. Inappropriately dressed persons may, at the discretion of the Court, be excluded from the proceedings.

Section 2.05 Conduct of Counsel

During trial, counsel shall avoid the use of first names of witnesses, jurors and opposing counsel. Counsel shall stand while examining witnesses, making objections, and presenting arguments to the Court. Counsel shall remain at the podium when examining a witness unless permitted to approach a witness. If available, the courtroom deputy will pass documents and exhibits to the witness and judge.

Section 2.06 Contacting the Judge

Neither counsel nor any party to a pending action shall contact the Judge except in open court or by written or electronic communication, a copy of which shall be sent to opposing counsel. The following shall be considered exceptions to this rule: (1) emergency situations, (2) applications for injunctive relief or *ex parte* orders, or (3) setting a date for hearing.

Section 2.07 Interchange

The trial judges within the district may freely interchange in both civil and criminal cases without the necessity of notice or entry of a formal order of interchange.

RULE 3: DISCOVERY - CIVIL CASES

Section 3.01 Elimination of Filing Requirements

Depositions, interrogatories, requests for documents, requests for admissions and answers and responses thereto shall not be filed unless ordered by the Court or required for actual use in a proceeding.

Section 3.02 Discovery Disputes

The Court will not rule on a motion to compel discovery unless moving counsel shall file with the Court, at the time of filing of the motion, a statement certifying that he/she has conferred or attempted to confer with opposing counsel in a good faith effort to resolve by agreement the issues raised and that counsel have not been able to do so.

RULE 4: MOTIONS IN CIVIL CASES

Section 4.01 Motions and Responses

Every motion which may require the resolution of an issue of law and every motion or response in which legal authority is relied upon shall include a memorandum of law and facts in support thereof. A copy of the motion, memorandum, and any other pleadings and documents (or excerpts from such documents) relied upon or necessary or useful to the Court in ruling on the motion shall be provided directly to the Judge who will hear the motion sufficiently in advance of the hearing to permit the Judge a reasonable opportunity to appropriately review them. Counsel providing documents to the Judge shall copy all opposing counsel or unrepresented parties with the communication to the judge and identify all documents provided.

Section 4.02 Setting Civil Motions for Hearing

(A) It is the responsibility of counsel, upon filing a motion, to first confer with opposing counsel and the court secretary to secure a mutually agreeable time for hearing. Upon failure to agree, moving counsel shall give formal notice of a hearing date secured from the court secretary. Any date must be confirmed with the appropriate judge's secretary.

(B) Motions may also be set upon the Court's own motion by notice to Counsel.

Section 4.03 Motions for New Trial or to Alter or Amend Judgment

It is the responsibility of counsel filing a motion for a new trial or to alter or amend a judgment to secure a timely court date pursuant to Rule 4.02.

RULE 5: SETTLEMENTS

Section 5.01 Notification

When a case is settled or dismissed, it is the duty of counsel to notify the court secretary, the judge presiding in the case, and all witnesses immediately.

Section 5.02 Presentation of Settlements

Settlements requiring court approval shall be heard on motion days or as otherwise set by the Court.

RULE 6: SETTING CIVIL CASES FOR TRIAL

Section 6.01 Method of Setting

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

(a) by agreement of counsel with a date secured from the court secretary;
(b) by motion of counsel; or
(c) by the Court with notice to counsel.

Section 6.02 Motion to Set

If at any time counsel for any party feels that a certain case is ready for trial and if counsel is not able to reach an agreement on a trial date with other counsel of record, counsel may file a Motion to Set. The motion shall contain a notice of the time and place for hearing the Motion to Set.

Section 6.03 Trial Certification

Whenever counsel seeks the setting of a case, counsel is deemed to certify the following:

(1) the case is at issue;
(2) all depositions have been taken;
(3) settlement has been attempted, or mediation has been scheduled (or a motion to waive mediation has been filed in compliance with Local Rule 16.02);
(4) all pending objections and motions have been disposed of;
(5) all necessary witnesses have been located and, insofar as can be determined, will be available; and
(6) the case is ready for trial in all respects foreseeable to counsel.

Section 6.04 Civil Case Administration

A. Civil Docket Calls for the Circuit and Chancery Courts are no longer held.

B. The Court may conduct one or more Scheduling and/or Status Conferences, which may be held either in open Court or by telephone or electronic means. At these conferences, the Court may direct the entry of a Scheduling Order and establish litigation deadlines for the case. Counsel participating in such conferences shall be knowledgeable about the case and have authority and ability to schedule deadlines, hearings and trial.

RULE 7: CONTINUANCES

Section 7.01 General Rules

Once set, cases may not be continued simply by agreement of counsel but may only be continued by the Court for good cause shown. Requests shall be by written motion with affidavit or oral motion in open court except in emergencies. There should be no *ex parte* communications regarding a continuance. The Court desires to hear from all counsel simultaneously.

Section 7.02 Absence of Material Witness

The absence of a witness shall not be grounds for a continuance unless a subpoena was issued at least seven (7) days prior to trial for a witness within the county and fourteen (14) days for out-of-county witnesses.

RULE 8: PRE-TRIAL CONFERENCE

Section 8.01 A pre-trial conference shall be held for each case in which the Court determines a conference would be beneficial.

Section 8.02 Each party appearing in the action shall be represented at the pre-trial conference by counsel who will conduct the trial, or by co-counsel with full knowledge of the case and with the authority to bind such party by stipulation. Unrepresented parties shall appear at the pre-trial conference.

Section 8.03 In the event of the failure of a party or parties to appear pursuant to the pre-trial order of the Court, the Court shall take appropriate action, which may include proceeding with either the entry of an order of dismissal, or in the alternative, allowing a party to proceed by default in accordance with Rule 55 of the Tennessee Rules of Civil Procedure.

RULE 9: INTERROGATORIES

Section 9.01 Limited Number

No more than thirty interrogatories shall be served upon any party without leave of the Court, a subpart of an interrogatory counting as an additional interrogatory. Any motion that seeks permission to serve more than thirty interrogatories shall set out the additional interrogatories that counsel is requesting to be served together with the reasons establishing good cause for the service of same. Should a party be served with more than thirty

interrogatories, including sub-parts, without order of the Court, that party shall respond only to the first thirty.

Section 9.02 Responding to Written Discovery Requests

When answering interrogatories and requests for admissions, the responding party shall, as a part of his/her answer, set forth immediately preceding the answer the question or the request made with respect to which such answer is given.

RULE 10: DORMANT CASES

To expedite cases, the Court may take reasonable measures to purge the docket of all cases where the cases have been dormant for an extended time without cause shown. Cases pending for more than twelve (12) months may be placed on the dormant list if they have not been set for trial or an appropriate scheduling order has not been entered. A notice that the case is considered as dormant will be sent to the attorneys involved or to the parties if they are not represented. If the action outlined in the dormant notice is not taken, the Court may dismiss the case without prejudice to re-filing.

RULE 11: WITHDRAWAL OF EXHIBITS

After the final determination of any action, counsel shall have thirty (30) days within which to withdraw exhibits filed. In the event the exhibits are not so withdrawn, the Clerk may destroy or otherwise dispose of such exhibits without further notice to the parties or counsel.

RULE 12: PREPARATION AND SUBMISSION OF ORDERS AND JUDGMENTS IN CIVIL CASES

Unless the Court directs otherwise, attorneys for prevailing parties will prepare orders for entry by the Court. All proposed orders must be submitted to the Judge within ten (10) days following the day on which the ruling is made by the Court. Unless the order is approved by all counsel, the order shall contain an appropriate certificate of service to either opposing counsel or party, if not represented, before the order will be signed by the Judge and entered on the docket.

RULE 13: DOMESTIC AND ADOPTION CASES

Section 13.01 Hearing Dates; Filing of Documents

Uncontested divorce cases may be set at the request of counsel pursuant to Rule 4.02. See also Rule 17.02 as to the setting of uncontested cases. No agreement of the parties otherwise will be effective to supersede any statute requiring a divorce to be on file for a minimum amount of time prior to setting for hearing. In an uncontested case, the proposed Permanent Parenting Plan (with the child support worksheet attached) and Marital Dissolution Agreement, if applicable, shall be tendered to the clerk for placing in the file jacket no later than forty-eight (48) hours prior to the final hearing.

Section 13.02 Contested Cases

At least forty-eight (48) hours before the date of any contested divorce trial, each party shall file with the Clerk a document which sets forth the party's position on their real and personal property pursuant to the criteria of T.C.A. §36-4-121:

(1) The agreed upon real and personal separate property of each of the parties and the value thereof;

(2) The agreed upon real and personal marital property of the parties and the value thereof;

(3) The remaining real and personal property of the parties and the value thereof, the character of which is to be decided by the Court. This last item consists of all real and personal property of the parties not covered under the first two (2) items.

In all contested divorces, alimony, child custody, child support, and modification hearings, each party shall make a separate affidavit concerning income and expenses, which shall be filed with the clerk at least forty-eight (48) hours prior to the hearing. A copy shall be served on opposing counsel.

Section 13.03 Alternative Dispute Resolution

It is the policy of the Court to encourage the settlement of issues in divorce cases and in post-divorce child custody and visitation disputes. In any divorce case which is contested as to any material issue and in all disputes regarding child custody or visitation, the Court shall require the parties to participate in an Alternative Dispute Resolution (hereinafter "ADR") process.

Section 13.04 Injunctions in Domestic Cases

A. As provided by Tennessee Rules of Civil Procedure 65, restraining orders may be granted in domestic relations cases, pending a hearing in the cause, upon a verified complaint or affidavit that the movant's rights are being or will be violated by the adverse party and that the movant will suffer immediate and irreparable injury, loss or damage before notice can be served and a hearing held. A hearing to continue, modify, or dissolve the restraining order shall be scheduled by the moving party within fourteen (14) days of the issuance of the restraining order and appropriate notice of such hearing shall be provided. Counsel preparing a restraining order shall include language setting the case for such a hearing and shall leave blanks for the insertion of the date and time of the hearing.

B. The proof submitted to the Court in any *ex parte* proceeding wherein extraordinary relief is sought shall be in writing and in verified or affidavit form.

Section 13.05 Guardian Ad Litem/Independent Professional Examination

A. In any domestic relations case dealing with minor children or incompetent persons, either party or the Court, on its own motion, may request the appointment of either a guardian ad litem, attorney ad litem, court-appointed special advocate, or an independent professional to investigate the facts of the case and make a report to the Court regarding the findings of such investigation. Both parties shall initially be equally responsible for the fees or costs involved unless there is an agreement that one party shall be solely responsible. The Court may require the parties to deposit funds with the Court to cover the expected costs. Such costs shall be taxed as court costs.

B. In order for the Court to be aware that these issues are pending, the attorneys are required to inform the Court in which the case is pending in writing prior to scheduling the case for trial.

C. In domestic relations cases where the parties propose a split residential arrangement wherein no child support shall be paid by either parent, the Court may, in its discretion, appoint a guardian ad litem, an attorney ad litem, or special master to investigate the proposed arrangement and make an appropriate report and recommendation to the Court.

Section 13.06 Adoptions

Adoptions may be set at the request of counsel. See also Rule 17.02 as to the setting of uncontested cases. The party filing the adoption petition shall prepare and tender an order of reference, when required, within ten days of the filing of the petition. Home studies, when required, shall be filed with the Court prior to the hearing.

RULE 14: MEDIATION IN CIVIL CASES

Section 14.01 Referral of Cases

Every eligible civil action, as defined by Tenn. Sup. Ct. Rule 31 Section 2(f), is referred to mediation, it being determined that the implementation of such procedure shall expedite and enhance the efforts of the courts to secure the just, speedy and inexpensive determination of disputes.

Section 14.02 Excepted Cases

Upon motion of any party, an eligible civil action hereby referred for mediation may be excepted from the requirements of this rule should the Court determine, that the referenced civil action is not appropriate for mediation.

Section 14.03 Setting Trial Dates Cases Eligible for Mediation

An eligible civil case must first be scheduled for mediation or exempted from mediation by the Court prior to a request for a trial date or a contested final hearing date.

Section 14.04 Mediator's Compensation

The mediator's fee shall be borne by the parties equally, initially, subject to possible reapportionment at trial or through further orders assessing such costs.

RULE 15: REQUESTS FOR ATTORNEY FEES

When the amount of an attorney fee or the award thereof is an issue, an attorney shall file an affidavit setting forth or incorporating a detailed statement itemizing the services rendered, the amount of time expended, and a suggested fee. Counsel should familiarize him/herself with the applicable RPC provisions in order to respond to any questions the Court may have regarding the award of a fee.

RULE 16: PROCEDURES IN CRIMINAL CASES

Section 16.01 Arraignments

Arraignments for those indicted in Dyer County shall be conducted on the next Monday beginning at 1:00 p.m. or as soon as possible after indictment. Arraignments for those indicted in Lake County shall be conducted on the next Monday at 1:00 p.m. or as soon as possible after indictment. All persons indicted as well as all retained or appointed attorneys, including attorneys who were appointed to represent any indicted person in the lower courts, must be present on arraignment day.

Section 16.02 Appearance Dates

Upon arraignment of a defendant, said defendant and his/her counsel shall be given an appearance date. Between arraignment and the appearance date, the Court may entertain a plea based upon a plea agreement. Otherwise, on the appearance date, the defendant, defendant's counsel and a representative of the Attorney General's Office shall appear and at that time, the Court will either:

(1) consider a plea pursuant to a plea agreement;
(2) set the case for trial for a date certain;
(3) reset the appearance for a date certain; or
(4) dismiss the case.

No negotiations should be conducted while court is in session on the appearance date. Defense counsel must contact the district attorney's office prior to the appearance date to discuss the case. Plea agreements shall only be accepted prior to the deadline set by the Court.

Section 16.03 Motion Hearings

The Court shall control its docket and calendar. Upon the filing of any motion, the Court shall be notified and provided with a copy of the motion and any supporting memorandum and pleading or documents which may assist the Court in preparing for a hearing. Opposing counsel shall be given a reasonable period to respond prior to setting the motion for hearing.

Any written response shall also be provided to the Court. Counsel for the state and the defendant shall consult regarding placing the motion on the docket and, if they cannot agree upon a date for the hearing, the Court will set the motion upon request. The Defendant shall be present for a motion hearing, unless a written waiver is filed and approved by the Court in advance.

All motions shall be heard promptly. If counsel are unable to agree on a hearing date, the Court will set a hearing upon request.

Probation violation hearings and hearings regarding bail shall be scheduled in open Court with the Defendant present.

Section 16.04 Trial

After a case is set for trial, the Court may issue a scheduling/pre-trial order establishing deadlines for pre-trial motions, requests for special jury instructions, and a deadline for the presentation of plea agreements. Continuances of a trial will not be granted absent extraordinary circumstances.

These Local Rules of Court for the Twenty-Ninth Judicial District are hereby adopted and shall take effect on September 1, 2023.

TONY A. CHILDRESS
CHANCELLOR AND PRESIDING JUDGE

MARK L. HAYES
CIRCUIT JUDGE

JASON HUDSON
DYER COUNTY PROBATE AND GENERAL SESSIONS JUDGE

ANDREW T. COOK
LAKE COUNTY GENERAL SESSIONS JUDGE