

LOCAL RULES OF CHANCERY COURT
8th JUDICIAL DISTRICT

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THE AMENDED LOCAL RULES OF CHANCERY COURT EIGHTH (8th) JUDICIAL DISTRICT (March 1, 2016)

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THE LOCAL RULES OF CHANCERY COURT EIGHTH (8th) JUDICIAL DISTRICT (March 1, 2016)

Rule 1. Former Rules Abrogated

All former rules of local practice except as re-adopted herein are abrogated.

Rule 2. Suspension of Rules

Whenever the Court determines that justice so requires, it may suspend any of these rules. The signing of an Order by the Court which does not comply with a rule or rules herein adopted shall be considered a waiver and/or suspension of such rule or rules.

Rule 3. Court Sessions

Regular sessions of court will open at 9:00 a.m. or at such other times as the Court directs. Dates for Motions and uncontested matters shall be heard prior to contested matters or held on designated dates which will be set forth on the Court's calendar. All attorneys, parties and witnesses shall be prompt at all sessions.

Rule 4. Appearance and Conduct of Counsel

Sec. 4.01 Counsel of Record; Entry of Appearance

All counsel who have entered an appearance in a case will be counsel of record.

Entry of an appearance shall be made in one of the following ways:

- (1) A request by counsel to the Clerk that an appearance be entered;
- (2) The filing of pleadings or the filing of a formal notice of appearance.

Sec. 4.02 Withdrawal of Counsel

No attorney may be allowed to withdraw except for good cause or by leave of Court upon motion after notice to the party or parties represented. Withdrawal shall be determined based on the Rules of Professional Conduct in effect on the date of the request for withdrawal.

Sec. 4.03 No Attorney Appearance Entered; Copies of Pleadings

If a party does not have counsel of record, copies of the pleadings filed shall be furnished to the party at his/her/its last known address. If a party does not have counsel of record, that fact shall be called to the attention of the Court before any action is taken on any pleading filed which substantially affects the case.

Sec. 4.04 Conduct of Counsel

- (a) During a trial or hearing, counsel shall not exhibit familiarity with witnesses, jurors, or opposing counsel, and the use of first names for adults should be avoided.
- (b) Counsel shall wear appropriate business attire.
- (c) Counsel shall refrain from interrupting the Court or opposing counsel until any statement being made is fully completed, except when absolutely necessary to protect the client. Counsel shall 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 shall refrain from asking the witness another question until the Court has had an opportunity to rule upon the objection. Objecting

counsel shall state the legal grounds without argument or discussion, except by leave of Court.

- (d) Unless physically impaired or otherwise incapacitated, attorneys shall stand while examining witnesses and while addressing the Court.

Sec. 4.05 Appearance and Conduct of Counsel

- (a) If the Court becomes aware during the trial of any case that counsel for one or both parties is not properly prepared to conduct the trial, appropriate action will be taken by the Court, including but not limited to, mistrial and other appropriate action.
- (b) If the Court becomes aware that the parties to litigation have not attempted in any appropriate case to settle or compromise, the Court will continue the case, declare a mistrial, or take other appropriate action.
- (c) No para-legal, secretary, or any other person, except members of the Court and Court officers, may appear within the bar or make any appearance before the Court.

Rule 5. Setting Attorney Fees

Whenever it is necessary for the Court to fix fees of attorneys, the attorney shall file a sworn statement of time spent on the case, a statement of his fee arrangement with his client, if any, a suggestion of the amount of a proper fee, and any other information requested by the Court.

Rule 6. Contacting the Judge

Counsel or a party to a pending action shall **NOT** contact the Judge before whom a matter is pending unless there is an emergency, except with other counsel of record present, either in person, telephonically, or by other available means.

Rule 7. Court Files

All papers and records of the Court shall be in the custody of the Clerk. Files may not be withdrawn by any person at anytime except to Officers of the Court with the knowledge and permission of the Clerk. The file shall be in the hands of the Clerk by 9:00 a.m. on any date the case is scheduled for any type of hearing. The Clerk & Master will copy files at a reasonable request of and at the cost to the person or entity requesting the file. Sealed documents may not be opened or furnished without consent of the Court.

Rule 8. Trial Calendar

Daily Calendars:

- (a) Daily trial calendars shall be prepared by the Clerk in each of the respective counties of the Chancery Division and posted in the Clerk & Master's office.
- (b) The Clerk of the county in which hearings are held shall be notified as soon as practicable of all matters to be brought up on a given day so that all matters will appear on the docket.
- (c) All ex-parte matters and non-contested matters set on a particular trial day

shall, if ready, be heard before the contested matters set that date.

Rule 9. Motions and Notice

Sec. 9.01 Striking or Postponement of Motions

After a Motion has been docketed, no party may strike or postpone a Motion without the agreement of all parties or permission from the Court. In the absence of an agreement, the Court may order postponement of a Motion hearing upon the showing of good cause. If a Motion is to be stricken or postponed by agreement, counsel shall notify the Clerk as soon as practicable. If any party strikes or postpones a Motion without agreement of all parties of record or without leave of Court, the Court may tax as costs reasonable attorney fees and expenses to any party who appeared at the scheduled hearing.

Sec. 9.02 Failure to Appear at a Motion Hearing; Late Appearance

Documents produced in response to a discovery request are not required to be filed with the Court Clerk but shall be provided to all opposing counsel or parties. If any party does not appear at a scheduled hearing on a Motion or any other matter scheduled to be heard, the Court may strike or adjudicate the Motion or matter. Counsel who will be late for a Motion hearing shall notify the Clerk as soon as possible in advance of the hearing or have an announcement to that effect made at the call of the docket.

Sec. 9.03 Special Settings of Motions

Where special circumstances warrant, Motions may be specially set at other times and places than the times and places herein designated.

Sec. 9.04 Notice on Out of County Matters

The Court will not hear any Motions or any other matters wherein counsel is cited in by notice in any county other than the county in which the case is pending unless both attorneys agree and the Court agrees to hear the matter.

Rule 10. Discovery and Interrogatories

Counsel may file a Motion to strike any set of Interrogatories or Motions for the production of documents which consists of more than twenty-five (25) questions. Each sub-part shall constitute a new question. The Court in its discretion may strike all Interrogatories or Motion for production of documents which consists of more than twenty-five (25) questions.

Rule 11. Setting Cases for Trial and Continuances

Sec. 11.01 Method of Setting

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

- (a) By Motion with Notice to opposing counsel/parties
- (b) By the Court with notice to counsel/parties
- (c) At the regular docket setting;
- (d) By agreement of the parties.

Sec. 11.02 Notice of Docket Sounding

The Clerk of the respective courts shall give each litigant or their attorney at least a seven (7) day notice of any docket setting to be held by the Court or the Clerk. Docket settings will be scheduled at times deemed necessary and appropriate by the Court.

Sec. 11.03 Notice of Setting

Except in cases where all parties or their attorneys are present before the Court or the Clerk and have agreed to a hearing date, the Clerk shall notify all parties or their attorneys of the time and place where the matter will be heard.

Sec. 11.04 Certifying Cases Ready When Set

When a case is set by agreement or when a case is set by Motion without objection to having it set, all counsel are certifying that the case will be in all respects ready for trial on the trial date.

Sec. 11.05 Continuances

- (a) Cases **shall not** be continued by agreement without leave of Court. Cases will not be continued except for good cause which shall be brought to the attention of the Court as soon as practicable before the date of the trial.
- (b) Absence of a witness will not be grounds for a continuance unless the witness has been subpoenaed in accordance with the requirements of these rules and the Tennessee Rules of Civil Procedure.
- (c) When a case is set by agreement or set upon Motion without objection to having it set, failure to have completed discovery, unavailability of counsel on the trial date, inability to take a deposition, or failure to have completed any other trial preparations will not be grounds for a continuance unless it can be conclusively shown that unusual or extraordinary events have arisen which necessitates such continuance.

Sec. 11.06 Domestic Relations and Probate Cases in Claiborne County

All domestic relations and probate cases not presently set for trial are transferred to the General Sessions Judge of Claiborne County for disposition. The Chancellor will hear domestic relations and probate cases only when just cause is shown.

Rule 12. Orders and Judgments

Sec. 12.01 Preparation and Submission of Orders and Judgments

Unless the Court directs otherwise, attorneys for prevailing parties will prepare Orders for entry by the Court. All Orders **must be filed with the Clerk** and served on opposing counsel within ten (10) days following the day on which the ruling is made by the Court. If Orders are not timely filed, a Show Cause Order may issue and be served on counsel.

Sec. 12.02 Disagreements Over Contents of Orders and Judgments

Orders in contested matters containing only the signature of the attorney preparing the Order will not be entered immediately but will be held by the Clerk for five (5) days. When opposing counsel receives a copy of a proposed Order, he or she shall notify the Clerk immediately if he or she has any objection to the Order. If the Clerk receives no objection within the five (5) day period, the Order will be submitted to the Judge for signature. Where there is a disagreement as to the terms of the Order, each party shall submit a proposed Order. If necessary, a hearing will be scheduled to get an ORDER entered.

Sec. 12.03 Court Costs

- (a) Beginning January 1, 2015, any Order, Decree, or pleading filed with the Clerk taxing costs shall include the responsible party's name and current mailing address.
- (b) Whenever it appears to the Clerk that a Judgment has been satisfied but that the 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 will be considered by the Court.

Sec. 12.04 Non-Minute Entry Orders

Orders not affecting the legal course of an action, such as Orders setting a case for trial, Orders acting upon request for a continuance may be designated by the Clerk as a non-minute entry Order. Memorandum Opinions unless otherwise designated by the Court shall be treated as non-minute entries. Such designated Orders shall be marked filed and placed in the file on the case but not spread upon the minutes of the Court.

Rule 13. Special Procedures for Divorces

Sec. 13.01 The Complaint or Petition

No Complaint, Petition, or Cross-Complaint for Divorce shall be filed unless the same sets forth the grounds for divorce and vital statistics in substantially the language of the statute.

- (a) No matter shall be set for final disposition until the statutory time has passed.

(b) Counsel or the parties if representing themselves shall utilize the Parenting Plan forms mandated by the State of Tennessee. If children are involved, a Child Support Worksheet shall be filed in accordance with law.

Sec. 13.02 Contested Divorce Cases

In contested divorce cases, the Court will hear the parties to the action before hearing other witnesses unless for good cause shown the Court finds it appropriate to waive this rule.

Sec. 13.03 Mediation

In divorces involving minor children, participation in Mediation will be determined pursuant to T. C.A. § 36-6-409, T. C. A. §36-6-404(c), and T. C. A. §36-6-406.

Sec. 13.04 Parenting Education Seminar

Participation in a four (4) hour Parenting Education Seminar is required. The parent or his/her attorney must provide the certificate of completion to the Court Clerk for filing. Requests to waive this requirement will be determined on a case by case basis in accordance with T. C. A. §36-6-408.

Rule 14. Dormant Cases: Docket Calls

Sec. 14.01 Dismissal of Dormant Cases

The Court may take reasonable measures to purge the docket of old cases where the cases have been dormant without action for an extended time.

Sec. 14.02 Dismissal for Want of Prosecution

Copies of the Order dismissing a case for want of prosecution shall be mailed to all counsel of record or to any party without counsel, if his or her whereabouts can be

ascertained upon reasonable inquiry by the Clerk.

Rule 15. Guardian Ad Litem Appointment

Sec. 15.01 Appointment

- (a) Guardian Ad Litem shall be appointed by the Clerk & Master or by the Court in appropriate matters. The Clerk & Master of the respective counties shall maintain a roster of the active practicing attorneys from which Guardian Ad Litem may be appointed and shall make a notation of the date as to when a particular attorney has been appointed as Guardian Ad Litem in a cause.
- (b) It shall not be permissible for the Plaintiff or other parties to the action or their representative to nominate a Guardian Ad Litem; provided, however, if there are reasons why a particular attorney should be appointed as Guardian Ad Litem in a particular case, it shall not be improper for such reasons to be made known to and considered by the Clerk & Master or Court in making such appointment.

Sec. 15.02 Disqualification as Guardian Ad Litem

No attorney shall be appointed as Guardian Ad Litem if he or she has a pecuniary interest in the matter or if any other facts exist which would in any way interfere with said Guardian Ad Litem fully representing the best interest of the person for which such appointment is made.

Sec. 15.03 Compensation of Guardian Ad Litem

At the conclusion of the matter the Guardian Ad Litem shall file with the Clerk &

Master a statement detailing the name and extent of his/her services including the amount of time spent, what he/she considers to be a reasonable fee for services and any other facts which might assist the Court in fixing the fee for such services.

Sec. 15.04 Fee of Guardian Ad Litem

Fees for Guardian Ad Litem shall be treated and taxed as costs.

RULE 16. COURT SALES (AMENDED)

All partitions and other sales of property, (realty and personalty) shall be conducted in one of the following ways:

- (1) By agreement of all involved parties. If the sale involves a minor or a disabled person, the Court Sale must be conducted as a Judicial Sale in accordance with Section (2). Further, Guardian Ad Litem and Attorney Ad Litem must be appointed for the minor/disabled person in accordance with the statutes of this state. Litigants are encouraged to compromise and agree on matters to the extent possible.
- (2) By the Clerk & Master or the Court's designee as Special Master. All Judicial and Estate sales shall be made in compliance with T.C.A. § 30-2-402 et seq. and T.C.A. § 35-5-101 et seq. Fees to the Clerk & Master/Special Master shall be set in accordance with T.C.A. § 8-21-401 (i)(7) and pursuant to T.C.A. § 8-21-801.
- (3) If a realtor or auctioneer is deemed necessary or expedient, the Court shall select the realtor or auctioneer in accordance with T.C.A. § 35-5-112. The auctioneer's fee shall be set in accordance with T.C.A. § 35-5-112. Currently, that statute states: "The fee to be not more than 8% of the sale

price on sales of real property and not more than 10% of the sale price on sales of personal property, these fees not to include the expenses of sales, and to order the fee to be paid out of the proceeds of the sale.” In a realtor or auctioneer conducted sale, the funds shall be deposited with the Clerk & Master. No disbursements shall be made unless authorized by an ORDER from this Court.

- (4) Judicial Sales are subject to the ten (10) day bid raise procedure set forth in T.C.A. § 35-5-110.
- (5) The proceeds from any sale conducted pursuant to this Rule 16 shall be placed in the registry of the Clerk & Master. Upon receipt of documentation reflecting expenses of the sale, and the Court deeming same to be reasonable and appropriate, reimbursement shall be made. Further, the auctioneer’s fee and Special Master fee will be paid upon approval of the ORDER CONFIRMING SALE.

Sec. 16.01 Certified Title Opinions

A certified title search shall be filed with the Court for any court sale to be conducted by the Chancery Court or for property to be sold pursuant to an ORDER from this Court. If necessary, the attorneys may employ outside counsel to do said title opinion. No sale shall take place until the title opinion is filed with the Clerk and any issues raised in the title opinion are fully resolved.

RULE 17. PROBATE CASES (AMENDED)

Sec. 17.01 BONDS

All Executors, Administrators and Personal Representatives must file an inventory within thirty (30) days of their appointment (unless waived) and post a bond in the amount of the decedent’s Estate in all Estates valued at \$25,000.00 or more unless

said bond is waived by the Court. If the Last Will and Testament of the deceased authorizes waiver of bond, inventory or accounting, that waiver will be initially recognized. If any interested party requests an inventory, accounting or bond, that party shall file an appropriate Motion or pleading and a Notice so that the issue can be determined by the Court. **ANY PERSON ACTING AS A FIDUCIARY, EITHER INDIVIDUAL OR ATTORNEYS, SHALL POST A BOND IN THE AMOUNT OF THE DECEDENT'S PERSONAL PROPERTY ESTATE BY CORPORATE SURETY BOND UNLESS BOND IS WAIVED BY THE COURT OR WAIVED BY THE LAST WILL AND TESTAMENT OF THE DECEASED. ALTERNATIVELY, ALL FINANCIAL PROCEEDS IN SAID ESTATE MAY BE LODGED WITH THE COURT CLERK AND DISTRIBUTED BY COURT ORDER WITHOUT THE NECESSITY OF A CORPORATE SURETY BOND.**

Rule 18. Conservatorships/Guardianships (AMENDED)

Sec. 18.01 Property Management Plans & Annual Accountings

Property Management Plans and Annual Accountings shall be filed in accordance with statute. **ANY PERSON ACTING AS A FIDUCIARY, EITHER INDIVIDUAL OR ATTORNEYS, SHALL POST A BOND IN THE AMOUNT OF THE DECEDENT'S PERSONAL PROPERTY ESTATE BY CORPORATE SURETY BOND UNLESS BOND IS WAIVED BY THE COURT. ALTERNATIVELY, ALL FINANCIAL PROCEEDS IN SAID ESTATE MAY BE LODGED WITH THE COURT CLERK AND DISTRIBUTED BY COURT ORDER WITHOUT THE NECESSITY OF A CORPORATE SURETY BOND.**

Rule 19. General Rule

All other situations not specifically covered shall be determined by the Tennessee Rules of Civil Procedure.

These rules may be amended or changed in the discretion of the trial Judge.

These local rules shall be placed of record in each Clerk & Master's Office in the 8th Judicial District.

THE LOCAL RULES OF THE CHANCERY COURT 8th JUDICIAL DISTRICT EFFECTIVE JANUARY 1, 2015 SHALL REMAIN IN FULL FORCE AN EFFECT EXCEPT AS AMENDED HEREIN.

Respectfully submitted this 1st day of March, 2016.

HONORABLE ELIZABETH C. ASBURY
CHANCELLOR

THESE AMENDED RULES ARE EFFECTIVE ON THE DATE SIGNED BY THE COURT.

HONORABLE ELIZABETH C. ASBURY
Chancellor