

**LOCAL RULES OF PRACTICE for the
GENERAL SESSIONS DIVISION III – FAMILY COURT
WILSON COUNTY, TENNESSEE**

Rule 1. Scope and Purpose

These rules shall govern the practice and procedure in the General Sessions Family Court, Division III, of Wilson County, Tennessee. These rules supersede all Rules of Practice and Procedure in the General Sessions Division III Court of Wilson County, Tennessee, adopted previously. These rules are adopted in conformity with *Tennessee Supreme Court* Rule 18. These rules are in addition to and are not a substitute for the existing rules in the Courts of Record for the Fifteenth Judicial District. To the extent that the existing rules for Chancery Court, Circuit Court, and Criminal Court are inconsistent with these rules, then these local rules prevail.

Any of the rules herein enacted may be waived or modified by special order of the Court when in the Court's opinion such waiver or modification is necessary in order to do justice or to arrive at the equities of the case between or among the parties involved.

Rule 2. Courtroom Decorum

There will be no smoking, eating or chewing of gum in the courtroom. Attorneys, Court personnel and all parties and witnesses will be appropriately dressed while in Court attendance. Excluding attorneys and Court personnel, there will be no telephones or other wireless devices of any description allowed in the courtroom unless the device is to be used to present proof, in which case it shall be turned over to an attorney or other Court personnel.

Rule 3. Form of Pleading

All pleadings filed or presented to this Court shall be on 8 ½ " x 11" paper in Times New Roman 12 point font or larger. The Court will not accept any double-sided (front and back) pleadings. The Court will require original Orders (with original signatures) to be lodged in all matters and will not accept fax-filed or electronically filed Orders, absent extraordinary circumstances.

Rule 4. 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 will be made in one of the following ways:

- (a) the filing of pleadings, or personal appearance in open Court;
- (b) the filing of a formal notice of appearance with appropriate certificate of service;
- (c) appointment by the Court.

Rule 5. Service of Process, Subpoenas and Other Documents

Unless the Court otherwise orders, every pleading or other document filed with the Clerk of the Court subsequent to the original pleading shall be served on all parties and shall contain a certificate of service reflecting same. The certificate of service shall contain the date and manner of service and the names and locations of the person served.

After service of process is effectuated in accordance with the Tennessee Rules of Civil Procedure, subsequent notice may be made by mail or in open Court. Notwithstanding, **petitions for contempt** shall only be commenced by leading process and served anew on the defendant(s) therein, not merely certified to opposing counsel. All counsel shall appear at all proceedings unless excused by the Judge.

Subpoenas shall be governed by Rule 45, *Tennessee Rules of Civil Procedure*.

Rule 6. Setting Motions and Pre-Trial Hearings

- (a) The Judicial Assistant is tasked with setting all motions and pre-trial motions and other matters for hearing.
- (b) Copies of all motions must be emailed to the Judicial Assistant not less than five (5) business days in advance, and will not be considered docketed until confirmed by the Judicial Assistant. **Merely filing a motion with the Court Clerk will not result in a motion being docketed.**
- (c) Motions shall be filed at least seven (7) days prior to setting for hearing, unless Movant certifies as documented that circumstances necessitate the motion needs to be set outside of the seven day rule.
- (d) Domestic motions (General Sessions and Juvenile) will be heard at 9:00 a.m. on Thursdays.
- (e) Appropriate notice will be published when the Court will not have a motion docket on a Thursday.
- (f) The Court will endeavor to arrange its motion dockets to minimize delay for attorneys. If an attorney is aware that an argument will be prolonged, the lawyer shall set the motion specially.
- (g) If any counsel or *pro se* party is unavailable on a day on which a motion is set for oral argument, such counsel or *pro se* party shall obtain another date acceptable to the Court and all other counsel, and shall submit an agreed order before the date of the scheduled hearing approved by all counsel and *pro se* parties re-setting the motion for hearing on such alternate date. If the parties are unable to agree upon a continuance, the requesting party must file a written motion to continue with the Court, setting out the grounds for a continuance.

Rule 7. Setting Trials

Absent an agreement of all parties, contested divorce and parenting actions shall be set for trial by the Court only upon a motion being filed and served upon the adverse party at least seven (7) days prior to the hearing on the motion. Prior to the date of hearing on the motion to set, the moving party shall file and serve upon the adverse party, a Certificate of Readiness in the form outlined in Appendix A attached hereto.

When the parties can agree to set a trial date, counsel may obtain an acceptable trial date from the Judicial Assistant and submit an Agreed Order setting the case for trial. Any such Agreed Order setting a case for trial shall be accompanied by a Certificate of Readiness signed by both counsel, in the form outline in Appendix A attached hereto.

Rule 8. Continuances

Cases set for trial or hearing may be continued only by order or leave of the Court.

Rule 9. Agreed Temporary Parenting Plan Orders

In such cases where the parties with minor children can agree upon temporary parenting and support arrangements, an Agreed Temporary Parenting Plan shall be prepared and submitted to the Court. If approved by the Court, the temporary plan will govern the parenting and support arrangements between the parties during the pendency of the divorce or other pending action, absent subsequent modification.

Rule 10. Contested Pendente Lite Motions/Hearings

- (a) Not less than 48 hours prior to the scheduled hearing, the moving party seeking *pendente lite* relief **shall** file and serve a proposed Temporary Parenting Plan, and if applicable, an Affidavit of Income and Expenses in the forms outlined in Appendix B, attached hereto.
- (b) Not less than 24 hours prior to the scheduled hearing, the party opposing *pendente lite* relief shall file and serve that party's proposed Temporary Parenting Plan as well as that party's Affidavit of Income and Expenses in the forms outlined in Appendix B, attached hereto.
- (c) Failure to comply with this Rule may result in sanctions to the attorneys and/or offending party(ies), including payment of attorney fees incurred unnecessarily by the complying party; exclusion of exhibits and proof not timely exchanged pursuant to these rules; and/or continuance of the hearing if the complying party will be unduly prejudiced by non-compliance and no lesser sanctions are sufficient.

Parties to contested *pendente lite* motions are reminded such motion hearings are for the purpose of setting temporary support, custody, and visitation pending a final hearing. Hearings on *pendente lite* motions are not a substitution for, or a shortcut towards a final adjudication. In the event the parties cannot reasonably anticipate their contested *pendente lite* motion will be fully heard within a total time period of one (1) hour or less, the parties shall notify the Court through the Judicial Assistant and seek a special setting on a date other than a day reserved for general domestic motions.

Rule 11. Mediation and Parenting Plans

Parties shall be made aware by their lawyers that mediation is mandatory pursuant to *Tennessee Code Annotated* §36-4-131(a), unless otherwise waived at the discretion of the Court in contested cases. In every case involving parenting time, including juvenile cases, each party shall submit a written, proposed Permanent Parenting Plan using the most recent form promulgated by the Administrative Offices of the Court.

Rule 12. Limitations on Filing Discovery Material, Interrogatories, Requests to Admit and Request for Documents

- (a) *Documents not to be filed.* Pursuant to Rule 5.05, *Tennessee Rules of Civil Procedure*, the following shall not be filed with the Court except pursuant to special order of the Court or for use in hearings or trial: depositions upon oral examination; interrogatories; requests for documents; requests for admissions; and answers and responses thereto. Any such documents and/or materials offered into evidence that is not read to the Court may be made trial exhibits at the request of either party and subject to approval by the Court.
- (b) *Number.* No party shall serve upon any other party more than thirty (30) interrogatories and requests to admit, or more than thirty (35) requests to produce, however numbered, lettered or sub-divided, without leave of the Court. If a party is served with interrogatories and requests to admit exceeding 30, or requests to produce exceeding 35, response to only the approved limit shall be made. Any motion seeking leave to serve more than 30 interrogatories or requests to admit, or 35 requests to produce, shall establish good cause for exceeding the approved limit.
- (c) *Responses.* The interrogatory or request to admit or request for documents shall be preceding the response to each interrogatory or request to admit. Attorneys and/or *pro se* parties shall provide electronic copies of written discovery to opposing counsel whenever possible, to facilitate responses.

- (d) *All parties.* Whenever a request for discovery is made, the party seeking discovery shall serve each party with a copy of the request. Such service shall be made regardless of whether the discovery sought is directed to only one of the multiple parties. Likewise, each response to a request for discovery shall be served on each party in the case.
- (e) *Service of Request to Admit.* Request for Admission shall be served separately and apart from all other discovery and/or pleadings.

Rule 13. Extension of Time for Responses to Discovery

As provided in Rule 29, *Tennessee Rules of Civil Procedure*, written stipulations extending the time for responding to interrogatories, request for production and requests for admissions, may be made without approval of the Court provided such stipulated extension is not in conflict with an order of the Court.

Rule 14. Guardian ad Litem

In all cases involving the appointment of a Guardian ad Litem, the party seeking relief shall file a written motion with the Court. The Court may appoint a Guardian ad Litem either on its own motion or at the request of any party when the Court deems an appointment to be appropriate in accordance with applicable rules. The Court may, upon the appointment of a Guardian ad Litem, require the parties to place funds on deposit with the Court Clerk for payment of the Guardian ad Litem.

Rule 15. Pre-Trial Statement – Witness and Exhibit Lists

In all cases set for adjudication and/or disposition, the following documents shall be filed with the Court and served upon all parties at least 72 hours of trial, unless specified otherwise hereinbelow.

- (a) *Pre-Trial Statement.* Said pleading shall conform to the form outlined in Appendix C attached hereto, and shall include the following information:
- *A list of the names, addresses and phone numbers of all witnesses.* This rule does not apply to impeachment or rebuttal witnesses.
 - *A list of all exhibits to be proffered at trial.* Copies of all exhibits shall be provided to opposing counsel, except those which are not easily capable of photocopy reproduction, and those shall be specifically identified and made available for inspection by opposing counsel. Exhibits which include audio or video recordings shall likewise be specifically identified and made available for

inspection or observation. The party offering such exhibits shall also be responsible to make available in their office(s), such audio or video device to adequately inspect the exhibit(s).

- *A description of each party's employment/income.* Said description shall include the name of employer; gross and net weekly income; base rate of pay; work schedule; and sources of any additional income.
- *A statement of the specific issues to be determined by the court at trial.*
- *Certificate of compliance with all required pre-trial exhibits.*

(b) *Joint Master Property Division Chart.* The parties shall endeavor to file a Joint Master Property Division Chart not later than 72 hours (excluding non-judicial days) prior to trial in actions for divorce, using the form outlined in Appendix D attached hereto. If the parties are unable to collaborate and submit a joint exhibit, Plaintiff shall file his/her Master Property Division Chart not later than five (5) days prior to trial; and Defendant shall file his/her Master Property Division Chart not later than three (3) days prior to trial. All Master Property Division Charts shall include a list of **all** separate property and marital property; **all** separate debt and marital debt; a proposed valuation and division of **all** property and debts; and blank columns for the Court to insert its valuation and distribution, all using the form outlined in Appendix D attached hereto.

(c) *Alimony Statement.* If alimony or spousal support is demanded, a statement outlining the type, amount, duration and statutory basis for the granting of the demand shall be filed by the requesting party not later than 72 hours prior to trial.

(d) No later than 72 hours (excluding non-judicial days) prior to trial, the parties shall also exchange copies of their U.S. Income Tax Returns for the 2 tax years next preceding the trial date, regardless of whether the returns were filed by the parties with each other jointly. If a party's tax return has not been filed for either or both of the 2 tax years next preceding the trial date, that party, in lieu of the tax return(s) not filed, shall give to the other party copies of all of the documents that reflect all of the income for the party for each of the 2 years for which a tax return has not been filed.

(e) Failure to comply with this Rule may result in sanctions to the attorneys and/or offending party(ies), including payment of attorney fees incurred in preparing the master exhibit by the complying party; exclusion of witnesses and exhibits not timely disclosed pursuant to these rules; and/or continuance of the trial if the complying party will be unduly prejudiced by non-compliance and no lesser sanctions are sufficient.

Rule 16. Extraordinary Relief

In any case where extraordinary relief is requested, a sworn Petition must be filed. The Court will determine whether the matter is an emergency and should be heard immediately *ex parte* or whether all parties can be given notice prior to the hearing on the request for extraordinary relief. All requests for extraordinary relief must comply with statutory requirements and Rule 65, *Tennessee Rules of Civil Procedure*. No restraining order shall be granted unless notice is given to the opposing party or good cause shown for dispensing with notice is shown and supported by affidavit. Proposed restraining orders shall be prepared by counsel prior to submitting the request for relief to the court. The restraining order 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.

Rule 17. Procedures Applicable to Petitions for Contempt Sanctions

All contempt actions shall be commenced by sworn petition and leading process. The Court will not recognize “motions” for contempt. Each petition for civil or criminal contempt shall be accompanied by an Initial Appearance Order, using the form outlined in Appendix E hereto, requiring the alleged contemnor to appear before the Court on a date certain to be entered by the Judicial Assistant at the time the order to appear is entered. Petitions for criminal or civil contempt shall not be heard by show cause order.

Rule 18. Application for Fees

All applications for attorney fees and expenses shall be supported by a statement, verified by the attorney under oath, setting forth in detail the basis for the fees sought. The criteria in Tenn. Sup. Ct. R. 8, RPC 1.5, will control the awarding of attorney fees. The Court will not grant attorney fee judgments to withdrawing counsel without a written consent to judgment signed by the party to be bound, unless marital funds are on deposit with the Court Clerk.

Rule 19. Withdrawal of Counsel

No attorney may be allowed to withdraw except for good cause and by leave of Court upon written motion after notice to all parties. The attorney’s cost bond shall survive any permitted withdrawal, absent contrary order of the Court.

Rule 20. Entry of Orders and Decrees

The prevailing party upon any motion or trial shall prepare an appropriate order or judgment for entry in the case. For motion hearings, orders shall be filed with the Clerk within seven (7) business days; and for trials, orders shall be filed within twenty-one (21) days of the Court's ruling. All orders or judgments shall be approved by all counsel of record and any *pro se* parties, or shall bear a certificate of service on any counsel or *pro se* party who refuses to approve it.

Any counsel or *pro se* party who refuses to approve an order or judgment shall file an alternate proposed order or judgment with the Clerk within three (3) business days following service of the proposed order or judgment filed by the prevailing party, to be accompanied by a letter, served on all opposing counsel and the Judicial Assistant, setting out the difference(s) in the orders submitted for entry. Such alternate proposed order or judgment shall bear a certificate of service and be lodged with the Clerk. In addition, the objecting party shall immediately notify the Court's Judicial Assistant of the objection.

Any agreed order that is announced in open Court on the record does not have to be circulated to parties for their signature(s) prior to being submitted to the Clerk but must state in the body of the Order that the agreement was announced in open Court and include the date of the announced agreement, unless otherwise specified.

Rule 21. Court Costs

All orders and judgments which tax costs shall contain both the current home address and employment address of those charged with all or any part of the costs of the cause and shall be signed by the tendering party or their counsel. In any event, the bill of costs may be sent to those responsible for costs in care of the attorney for such responsible person(s). Sureties on bonds may only be released in compliance with Tenn. Code Ann. §29-33-101 et seq. and with a provision for substitute surety. All final judgments shall provide for the taxing of court costs, pursuant to Rule 54, *Tennessee Rules of Civil Procedure*.

Rule 22. Dormant Cases

To expedite cases, the Court may take reasonable measures to purge the docket of old cases where the cases have been dormant for an extended time.

Rule 23. Legal Advice by Court Personnel

All Court personnel are forbidden from interpreting any rules of procedure or giving any legal advice of any description whatsoever. Notice is hereby given to all persons that Court personnel assume no responsibility for any misinformation regarding substantive law, procedural rules or local customs.

Rule 24. Contacting Judge

Neither counsel or a party to a pending action will communicate *ex parte* with the Judge before whom the matter is pending except in a manner consistent with the Rules of Professional Conduct (Tennessee Supreme Court Rule 8) and the Code of Judicial Conduct (Tennessee Supreme Court Rule 10).

Rule 25. Citation

These rules may be cited as General Sessions Division III “Local Rule §_____”.

Rule 26. Table of Appendices

Appendix A:	Certificate of Readiness
Appendix B:	Affidavit of Income & Expenses
Appendix C:	Pre-Trial Statement
Appendix D:	Master Property/Debt Exhibit
Appendix E:	Initial Appearance Order

Where forms are specified to be used, parties shall use either the specified forms or a form that contains the same verbiage.

These Local Rules of the General Sessions Family Court Division III for Wilson County, Tennessee, are hereby adopted as revised on this the 28th day of April, 2022.



Judge Ensley Hagan