

LOCAL RULES OF PRACTICE FOR THE GENERAL SESSIONS COURT

OF

BENTON COUNTY, TENNESSEE

RULE NO.2

CASE SETTINGS

- a) Civil Division – Each attorney or party filing a civil action will be responsible for the setting of his/her case at the time of filing before service of process. Each attorney or litigant, if not represented by an attorney, is responsible for the setting of the case and it shall not be the responsibility of the Clerk's Office to notify parties of the setting of the case except by specific directive from the Judge. Each attorney or litigant, if not represented, shall provide the Clerk with a complete and current telephone number and mailing address at the time of filing for the purpose of notification of motions, potential continuances and other matters.

- b) Criminal division – Arraignments on criminal charges will be held the 1st Wednesday after issuance of a citation or arrest or service of a warrant to the defendant. Criminal cases will be set for trial at arraignments. It is the responsibility of the prosecutor to contact the Clerk's Office to determine a trial date. Failure to determine a trial date may result in dismissal of the case and assessment of costs against the prosecutor. It shall not be the responsibility of the Clerk's Office to give notice of trial dates except by specific directive from the Judge.

RULE NO. 3

CONTINUANCES

Ex-parte continuances will not be granted in either the civil or criminal divisions unless service of process has been obtained on the other party. Continuances by agreement will be allowed once without intervention of the Court. However, in

the event of a continuance by agreement, each party shall notify the Clerk's Office and his/her witnesses of such continuance. If a continuance cannot be agreed upon, the matter must be presented to the Judge on the next scheduled court date, unless that date is the day set for trial or preliminary hearing. Continuance shall be requested as far in advance of the scheduled trial or preliminary hearing date as possible in order to avoid unnecessary appearances by attorneys, prosecutors and witnesses. Continuances will not be granted because of the absences of a witness unless the witness has been personally served with a subpoena. If contact cannot be made with an attorney or litigant at the address and telephone number given at the time of filing, an ex-parte continuance may be granted.

RULE NO. 4

SUBPOENAS

Attorneys representing parties either division of General Sessions Court shall be responsible for the issuance of subpoenas by contacting a Deputy Clerk of that particular division of General Sessions Court. The Court encourages caution in the issuance of subpoenas so that unnecessary witness is not required to appear. Subpoenas shall be issued at least ten (10) days prior to the assigned hearing date.

RULE NO. 5

RULES OF CIVIL PROCEDURE

The Tennessee Rules of Civil Procedure are hereby incorporated as local rules of the practice for the Benton County General Sessions Court, except for the requirements of a responsive pleading to a civil complaint. Subsequent experience may indicate the wisdom of deleting certain civil procedure rules from the local rules of practice and, in such event, such deletion shall be done by formal written order.

All pleading in General Sessions Court shall contain a short and plain statement of the claim showing that the pleader is entitled to relief. An answer must be filed to claim only when required by the statutory laws of the State of Tennessee. Neither the Clerk nor Deputy Clerk will prepare pleadings for parties in civil division. The

responsibility of preparation of all pleadings, motions or other papers to be filed shall be of that party or the attorney representing that party.

Each litigant served with process in the civil division of this court shall have a period of at least ten (10) days from service to prepare a defense to the claim. Such party shall be entitled to one (1) continuance as a matter of right if the case is set for a time period shorter than ten (10) days from the date of service or process, if required. This time limitation shall apply also to counterclaims and amendments.

In cases involving contested questions of law, the parties are required to submit, in writing, at least five (5) days prior to the trial date, the authorities upon which they rely to support their respective positions. If a case involved construction of or reference to written document, i.e., leases, contracts, etc., the party shall furnish a copy of such documents to the Court no less than five (5) days prior to the trial date.

When interest is awarded as part of a judgement in a civil case, the interest shall be calculated by the plaintiff. It is the responsibility of the plaintiff to update the interest calculation on a regular basis.

The Tennessee Rules of Criminal Procedures shall be applied to the criminal divisions of this court only as stated in said rules.

RULE NO. 6

Each attorney representing a party in civil division shall promptly notify the designated Deputy Clerk of the representation, by filing a Notice of Appearance, and the Clerk shall note the same on the civil warrant or some other prominent place of the file.

Attorneys representing defendants in a criminal division shall notify the Court of their representation by Notice of Appearance as soon as possible after being retained.

The Office of the public Defender will receive all criminal court appointments unless a conflict of interest exists so as to prevent acceptance of the case pursuant to ethical considerations. Thereafter, court appearances will be handled

on a rotating basis in order to ensure that the load of court appointments is, to the extent possible, equally divided.

The Deputy Clerk/Clerk shall promptly notify any appointed private attorney, by phone and mail, of the appointment and the scheduled trial date. Attorneys with conflicts of interest shall, immediately upon receipt of notification of the appointment, notify the Deputy Clerk/Clerk by telephone and confirm by letter, the grounds for said conflict. An attorney who represents a municipality or other public body will not be required to accept court appointment when said public body is the prosecutor or officers thereof are material witnesses in the prosecution.

Every attorney who has filed a Notice of Appearance on behalf of a party shall be required to appear whenever any phase of the action is before the court, unless excused by the court, and no attorney may withdraw as counsel without permission of the Court and adequate notice to the party.

RULE NO. 7

CONTACTING JUDGE

Unless there is an emergency, neither counsel nor party to pending action shall contact the Judge except by letter with copies to all parties and the Clerk, or in an open court with all interested parties present. The term emergency is used in the narrowest sense. Ex-parte contact with the Judge is prohibited.

RULE NO. 8

WAIVER OR MODIFICATION OF RULES

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 for justice to be served or to arrive at the equities of the case between or among the parties involved. A copy of these rules shall be posted in a prominent place in the Office of the Clerk of the General Sessions Court of Benton County, Tennessee and a copy shall be provided to all attorneys practicing in said court. IT IS ORDERED that these rules shall become effective immediately.

RULE NO. 9

WORTHLESS CHECKS

It is hereby ordered that one or more of the following identifiers must be provided before a worthless check warrant will be issued from the office of General Sessions Clerk:

1. Driver's License number and Date of Birth
2. Social Security Number or
3. Copy of Driver's License

No warrant will be issued until such information is provided by the person or persons seeking a warrant. Any person requesting such warrant shall sign an affidavit, under penalty of perjury, containing such information. Same may be provided as part of the affidavit.