

Civil Local Rules of Practice Davidson County General Sessions Court

Civil Rules

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CIVIL RULES

RULE 1. APPLICABILITY AND SUSPENSION OF RULES

1.01 Former Rules Void

All former rules of local practice except as readopted herein are void.

1.02 Applicability

Each rule is applicable in all General Sessions Court proceedings in Davidson County, Tennessee. Each rule is applicable in all types of cases unless otherwise indicated by a particular rule.

1.03 Suspension of Rules

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

RULE 2. APPEARANCE OF COUNSEL

2.01 Counsel of Record; Entry of Appearance

Counsel must be licensed in the state of Tennessee in order to practice law or represent others in the General Sessions Courts. A non-licensed person will not be permitted to represent anyone other than him or herself in the General Sessions Courts.

All counsel who have entered an appearance in a case will be recorded as Counsel of record. Counsel shall enter an appearance at the earliest practicable time by notifying opposing counsel and the Civil Court Clerk's office.

2.02 Withdrawal of Counsel

Prior to entry of a judgment or disposition in General Sessions Court, no attorney shall be allowed to withdraw except for good cause and by Leave of Court upon motion after notice, in writing, to his/her client and opposing Counsel or party if without Counsel.

2.03 Conduct of Counsel

During trial, Counsel shall not exhibit familiarity with witnesses or opposing Counsel and shall not use first names of adults. Counsel, parties and witnesses shall be expected to conduct themselves with appropriate decorum at all times in the Courtroom.

When addressing the Court, counsel shall introduce herself/himself to the Court.

Counsel shall stand while examining witnesses, addressing the Court, or making objections.

Counsel who anticipates being late for Court shall promptly notify the Clerk of the Court or anyone designated by the Judge and the opposing Counsel or pro-se party.

RULE 3. FILING AND SERVICE OF PAPERS

3.01 Filing with the Clerk

In addition to traditional paper submission and filing with the Clerk, in accordance with Tennessee Code Annotated, Title 16, Chapter 15, Part 7, electronic filing is adopted for the General Sessions Courts of Davidson County Tennessee. The Electronic Filing Rules and effective date set forth by each Clerk's Office govern the electronic filing of cases, pleadings and other papers. There will be no statute of limitations/filing deadline extensions or exceptions made when the electronic filing system is down or inoperable.

Any day on which the office of the court clerk is closed or on which weather or other conditions have made the office of the court clerk inaccessible, the period of time for filing a paper in court shall run until the end of the next business day.

When confidential information is not required by law to be filed, the filer should redact or leave out the information prior to filing the document(s). Items designated by the Tennessee Code Annotated as Confidential Information not open for public inspection are as follows:

- Social Security Numbers
- Taxpayer IDs
- Employer and Taxpayer Account Numbers/PINs/Info
- Credit/Debit Card Account Numbers/PIN/Authorization Numbers
- Passport/Alien Registration Numbers
- Biometric Data
- Electronic Identification Numbers/Routing Codes
- Driver License Numbers
- VINs

3.02 Filing Companion or Third-Party Civil Cases

Upon the filing of any civil action, which is, related to a pending action in General Sessions Court (e.g., Cross Warrant to Third Party Complaint), the party filing such companion case shall note the new warrant is a companion case to a pending General Sessions Court case. All companion or third-party cases shall be consolidated for trial with the original action.

3.03 Filing of Briefs or Memorandum of Law

All Post-Hearing Briefs or Memoranda of Law shall be filed with the Civil Court Clerk of the Court, and a copy shall be delivered to the Judge in open Court or in the General Sessions office in the A. A. Birch Building to the Judge before whom the case is pending and a copy contemporaneously mailed to the opposing Counsel of party, or to the pro-se party.

3.04 Filing an Amended Civil Warrant

If a Civil Warrant has been served and a trial date set, the Plaintiff may only amend the Warrant with leave of court, and leave shall be freely given when justice so requires.

3.05 Filing Unlawful Detainer/Eviction Actions by Pro Se Plaintiffs

Landlords/Owners who are Pro Se, meaning they are not represented by legal counsel, shall upon filing an unlawful detainer or eviction proceeding, attach proof of ownership or the right to possess the property in question. The right to possession and/or ownership may be proven through property deed, title, lease, or other verifiable source. If the proof of ownership or right to possession is not filed with the court clerk by the Pro Se plaintiff prior to the hearing, said proof must be submitted to the court at the hearing.

RULE 4. TRIAL CALENDAR

4.01 Docket Calls

At the first call of the civil docket, in the absence of the trial Judge, the Courtroom Deputy is authorized to call the docket to determine which parties are present and ready for trial. All cases requiring entry of a default judgment, a dismissal for nonappearance of a party, or resolution of a disputed matter including a request for a continuance where the opposing party objects such request, shall be reserved for action by the trial Judge. At the conclusion of the docket call, Courtroom Deputy shall announce a recess and advise those present in the Courtroom of the opportunity to discuss settlement with the opposing party or Counsel, the Courtroom Deputy shall further advise those present that they are not required to settle their case and they will be given a trial if they are unable to agree on a settlement.

When a case is dismissed without a trial for want of prosecution, said dismissal shall be without prejudice to either party's right to re-file.

RULE 5. SETTING CASES

5.01 Setting of Cases

Cases shall be tried on the date they are set on the Court's docket unless, for good cause shown or upon agreement of the parties, the Court resets and continues the case for trial to a later date certain. In civil actions the Court may liberally grant a continuance on the first setting of a case.

RULE 6. CONTINUANCES

6.01 Continuances

Continuances will only be granted to a date certain. There will be no "indefinite" continuances. All cases MUST be disposed of within one (1) year of the date of the first setting of a case unless good cause is shown to the Court.

6.02 Notice of Continuance to Date Certain

If a continuance to a date certain is requested by the plaintiff and granted but the defendant is not present at the hearing, the plaintiff shall give written notice to the defendant of the new court date, time, and place. Plaintiff should be prepared to exhibit to the court a copy of said written notice upon request.

RULE 7. NONSUITS

7.01 Nonsuits

When a defendant satisfies a civil judgment prior to the Court date by paying the monies to the Civil Court Clerk's office and the plaintiff's attorney takes a Non-Suit, the plaintiff's attorney shall prepare an Order entering formal written notice of Non-Suit and requesting disbursement of funds.

RULE 8. DISMISSALS

8.01 Slow Pay Motions

When the moving party on a Slow Pay Motion fails to answer at the first call of the docket, such Motion shall be subject to dismissal at the expiration of 20 minutes after the commencement of the docket call.

RULE 9. NEGOTIATIONS, SETTLEMENTS, JUDGMENTS AND ORDERS

9.01 Settlement Discussions

At the end of the first docket call, all parties and attorneys shall be allowed a brief opportunity to discuss possible settlement of their cases before trial. The Court shall advise those present in the Courtroom of the opportunity to discuss settlement with the opposing pro-se party or the opposing Counsel. The Court shall also advise those present a trial will be given to them if the parties or Counsel are not able to agree on a settlement and they are not required to settle their cases. Prior to trial all parties must exchange exhibits and prepare copies for the opposing party and the court.

9.02 Judgments

All judgments, including default judgments and agreed orders, which contain more than a single element must list damages and attorney's fee separately before the total.

All parties or their attorneys shall sign all Agreed Orders or Judgments which are presented to the Court or the party presenting the Order or Judgments shall sign the Judgments, thereby certifying that the opposing party has been notified of the entry of the Agreed Order or judgment, its terms and the date of entry.

9.03 Minor Settlements

In all cases where the parties propose to settle a personal injury claim brought on behalf of a minor, the Court shall conduct a hearing to chambers at which the minor and his/her guardian are present. At such hearing, Plaintiff's Counsel shall provide the Court with documentation reflecting the medical expenses incurred in connection with the claim and describing the minor's present medical condition.

9.04 Agreed Orders

Agreed judgments must be signed by both parties and/or their attorneys.

9.05 Default Judgments

Before moving the court for a default judgment, it shall be the responsibility of the plaintiff to file with the court an affidavit as required by the Servicemembers Civil Relief Act (SCRA), 50 U.S.C. App. 5 521(b)(1), stating whether or not the defendant is in military service and showing necessary facts to support the affidavit; or if the plaintiff is unable to determine whether or not the defendant is in military service, stating that the plaintiff is unable to determine whether or not the defendant is in military service. If the affidavit does not state that the defendant is not in military service, the plaintiff shall inform the court of this fact at the time the default judgment is moved for. The act of moving the court to enter a default judgment against a non-appearing defendant shall be deemed an affirmative representation to the court that the plaintiff has filed an affidavit indicating that the defendant is not in military service.

9.06 Judgments for Possession of Real or Personal Property

If a landlord or plaintiff obtains a judgment for possession of real or personal property which is not appealed, any Writ of Restitution or Writ of Possession, if one is to be issued at all to the Sheriff, must be filed within ninety (90) days of the date of judgment thereon. After ninety (90) days from the date of judgment, the landlord or plaintiff may file a new civil action to gain possession or may file a motion with the court asking that the court order the issuance of the Writ regardless of the fact that more than ninety (90) days has elapsed from the date of judgment.

9.07 Time Limit to Submit Judgments and Orders

All Judgment Orders, Show Cause Orders, and Body Attachments prepared by Attorneys or parties subsequent to hearing shall be submitted to the Clerk for signature of the Judge within ten (10) days of the ruling thereon.

RULE 10. DOCKET INFORMATION

10.01 Civil Dockets

Civil Dockets are currently heard in the Justice A. A. Birch Building on Monday through Friday, at 9:00 a.m. in Courtroom 1A on the 1st Floor and at 10:00 a.m. in Courtroom 1B on the 1st Floor. The Metro Traffic Docket is currently held each weekday, except Wednesday, at 8:30 a.m. in Courtroom 1B on the 1st Floor.

RULE 11. LANGUAGE INTERPRETERS

11.01 Language Interpreters

Pursuant to Supreme Court Rule 42, the appointing of a language interpreter is a matter of judicial discretion. If the Court determines that justice requires that an interpreter shall be appointed, said appointment and scheduling of the interpreter shall be coordinated with the General Sessions Court Administration Office. Notwithstanding Rule 42, it is the policy of the General Sessions Court judges to schedule a language interpreter before any court appearance in the interest of allowing limited English proficient persons to exercise their legal rights, and to secure meaningful access to the judicial system. Please contact the General Sessions Court Administration Office to secure a language interpreter for court appearances in a timely manner. Pursuant to Supreme Court Rule 42 section 7(a), the Tennessee Administrative Office of Court compensates foreign language interpreters who provide services in a civil case as follows: any hearing, trial, or other appearance before any general sessions, juvenile, probate, circuit, chancery, criminal or appellate court, in any action, appeal or other proceeding, including any matter conducted by a judicial magistrate.

11.02 Hearing/Sign Interpreters

Sign interpreters for the hearing impaired are provided for civil proceedings at the Court's expense but notification is to be given to the General Sessions Court Administration Office as soon as the need is determined. Cases involving a sign interpreter will be heard at the beginning of the docket provided the interpreter is prepared for trial.

RULE 12. ORDERS OF PROTECTION

12.01 Petitions for Orders of Protection

Petitions for *Ex Parle* Orders of Protection are to be filed with the Judicial Commissioner in Night Court who shall issue the *Ex Parle* Order if the allegations meet statutory requirements. All applications shall be forwarded to the General Sessions Civil Clerk's office and sent to the Davidson County Sheriff's Office for service of process and setting for a hearing.

RULE 13. NO SMOKING POLICY

13.01 No Smoking Policy

Pursuant to Metropolitan Ordinance No. 094-1035 and Public Chapter 410 of 2007 effective October 1, 2007, smoking is prohibited in public buildings.

RULE 14. RECUSALS

14.01 Motion Seeking Recusal or Disqualification of Judge

Any party seeking recusal or disqualification of a General Sessions Judge shall do so by timely making a written or oral motion pursuant to Tennessee Supreme Court Rule 10B, Section 4.01. Thereafter, all other provisions of Tennessee Supreme Court Rule IOB, Section 4 shall apply. If

said motion is granted, the Presiding Judge shall reassign the matter to another Davidson County General Sessions Judge or to one of the Substitute Judges approved by Standing Order of the Tennessee Supreme Court to preside in Davidson County. Should none of the aforementioned Judges be available due to a conflict, the Presiding Judge shall cause a Request for Designation of Judge to be submitted to the Administrative Office of the Courts.

14.02 Recusal of Division IV Judge in Environmental Court Matters

Should the Division IV Judge be recused from hearing any Environmental Court matter either on a case of first impression or upon a Request for Rehearing from the decision of the Environmental Court Referee, the Presiding Judge shall proceed with the same reassignment protocol as set forth in Rule 14.01.

RULE 15. ALLOWANCE OF VIRTUAL APPEARANCES ON CIVIL DOCKETS

15.01 Allowance of Virtual Appearances

All judges have discretion to allow virtual appearances on Civil dockets. Those requesting to appear remotely shall abide by the Guidelines for Virtual Appearances in Civil Cases posted on the General Sessions Court website at gscourt.nashville.gov. All exhibits intended to be offered by any party or witness appearing virtually should be pre-filed with the Clerk of the Court at least three (3) business days in advance of the hearing.

15.02 Allowance of Virtual Appearances for Metro Traffic Docket

Any judge sitting Courtroom 1B presiding over the Metro Traffic docket has the discretion to approve virtual appearances for persons (1) who live out-of-state or are otherwise geographically distant; (2) who have some sort of disability or health condition hindering their personal attendance; (3) who are parents or guardians of minor children; (4) or who have any reason or condition which justifies a virtual appearance of the discretion of the judge presiding in Courtroom 1B that week.

Any judge who does not want to hear a particular case by remote means when request has been made by the defendant for virtual appearance may approve the transfer of that traffic ticket to another judge at a later date who is agreeable to the virtual appearance.

RULE 16. APPROPRIATE ATTIRE REQUIRED FOR COURT

All parties, including Counsel and witnesses, shall dress appropriately for Court.

