LOCAL RULES
RUTHERFORD COUNTY GENERAL SESSIONS COURT
CIVIL DIVISION
JUDGE TOBY GILLEY

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Rule 1.0 Applicability and Suspension of Rules

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

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

Rule 2.0 Appearance of Counsel

Counsel must be licensed in Tennessee in order to practice law or represent others. A non-licensed person will not be permitted to represent anyone else in court without prior consent of the Court pursuant to the Rules of the Supreme Court of Tennessee. Corporations, L.L.C.s and other legal entities must be represented by an attorney licensed to practice law in Tennessee.

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

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

Counsel shall be properly attired when attending all court proceedings.

Counsel should encourage parties to court proceedings to dress appropriately for court. If necessary, the Court may address issues of attire of the parties to counsel or adjourn court until such time as the attire of the parties is appropriate.

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 himself/herself to the Court.

Counsel shall stand while examining witnesses, addressing the Court, or making objections. Unless excused by the Court, all persons addressing the Court from positions other than the witness stand should be standing.

Counsel who anticipate being late for court shall promptly notify the Clerk of Court, the Judge's office and the opposing party or counsel.

Counsel shall notify the Clerk of Court, the Judge's office and all interested parties by 2:00 p.m. the day prior to the court date/docket call of any event which requires that the matter be removed from the docket (i.e. settlement, nonsuit, agreement to continue a first setting, etc.). Failure to do so will cause the matter to be called in open court. Please contact the Judge's office regarding specially set matters.

Counsel shall file pleadings, warrants, etc. to be set on the regular Tuesday, Wednesday or Friday civil docket at least five (5) days prior to the docket call/court date.

Counsel shall file any Orders to be considered by the Court within five (5) days of any hearing and/or agreement. This does not apply to Agreed Orders of settlement, dismissal or continuance as described above.

Rule 3.0 Filing and Service of Papers

All counter-complaints, companion or third-party civil cases shall be filed with the Clerk of Court. Upon the filing of any civil action which is related to a pending action in General Sessions Court, the party filing such companion case shall note that the new warrant is a companion case to a pending General Sessions case. Upon the hearing of a matter which is a companion to another case, counsel and/or self-represented litigant shall indicate to the Clerk of the Court and the Court that such case is a companion to another existing case. All counter-complaints, companion or third-party cases shall be consolidated for trial with the original actions.

Process servers, constables and attorneys are encouraged to review the following statutes before serving civil warrants, writs or other papers:

T.C.A. Section 7-3-503; T.C.A. Section 8-8-216; T.C.A. Section 16-15-901-905

The warrant shall contain the following unless good cause shown:

1. Person or persons served;
2. Date served; and
3. Name, address, and phone number of Process Server if an individual and the badge number and law enforcement agency if the server is in law enforcement

This Court adheres to T.C.A. Section 29-18-115.

Certified mail envelopes attached to warrants and marked "unclaimed" is not good service for "in state" Defendants and the court will not enter a default judgment; however, pursuant to T.C.A. Section 16-15-904, the court will enter a judgment against "out of state" defendants.

Although a Body Attachment is issued by the civil court, it has attributes of both a civil and criminal matter and the Sheriff is required to treat an attachment, to the extent it requires Defendant to be taken into custody, as a criminal matter. In criminal matters, in order to avoid liability, the Sheriff's office must have appropriate identifiers (i.e. DOB and/or SSN) to be certain that the correct person is detained in jail pending the making of bond as in any other case. The Sheriff must have enough information to confirm that the correct person is being detained.

When the Body Attachment is sent to another county to be executed, the Rutherford County Sheriff also treats the attachment as a criminal matter. The Rutherford County Sheriff (through the Rutherford County General Sessions Clerk) must have a copy of the attachment with the appropriate identifiers before they can accept custody of a Defendant from another jurisdiction who has been detained on a Rutherford County Body Attachment. The Clerk of the Court should serve a copy of all Body Attachments on the Rutherford County Sheriff with notice that the original has been sent to another jurisdiction.

The Rutherford County Sheriff requires a proper address on the Body Attachment to be used to execute the address. It is suggested that this information along with other identifiers be located on the Order in an apparent location to aid the Sheriff in the search for the Defendant.

All Body Attachments must now provide for bond to be made as in any other criminal case. In the past, the Court has allowed for a "CASH ONLY BOND"; however, the Attorney General has indicated that the Sheriff has a duty to allow bond to be made according the statute as in any other case. A cash bond is permitted; however, the Sheriff of this county or such other county which executes the Attachment has authority to dictate the form of the bond. No Defendant should be held for an unreasonable amount of time on any Rutherford County General Sessions, Part III, Civil Body Attachment without the issue of bond being addressed by the Sheriff or the General Sessions Court.

All briefs or memoranda of law shall be filed with the Clerk of the Court and a copy shall be delivered to the Judge's office and a copy served on all interested parties five (5) days prior to any hearing unless good cause shown. All interested parties and/or counsel shall make every effort to share exhibits with an opposing party and/or counsel prior to any hearing. All interested parties and/or counsel shall make every effort to provide extra copies of exhibits for the Court, witnesses and opposing counsel during hearings.

Rule 4.0 Setting Cases

Counsel shall file pleadings, warrants, etc. to be set on the regular Tuesday, Wednesday or Friday civil docket at least **three (3)** days prior to the docket call/court date.

Cases shall be tried on the date they are set on the court's docket unless, for good cause shown, they are continued to a date certain on the court's regular civil docket on Tuesday, Wednesday or Friday. In the event it is determined by the parties and the court that a matter will take more time than is appropriate for trial on the court's regular civil docket on Tuesday, Wednesday or Friday, then the matter may be specially set.

Rule 5.0 Continuances

A case on the court's regular docket on Tuesday, Wednesday or Friday may be reset to another Tuesday, Wednesday or Friday by agreement of the parties, provided, however, that such agreed upon date does not exceed sixty (60) days. Any agreement exceeding sixty (60) days shall require the approval of the Court unless it meets one of the following exceptions: pending bankruptcy, first setting is already set out past 60 days from date of service or pending payment arrangement. In such instances, a letter shall be sent to the Clerk of the Court specifically stating that the case is being reset by agreement and by sending a copy of the letter to the opposing party or counsel as well as to the Judge's office. Letters resetting matters shall be received by the Clerk of Court by 2:00 p.m. the day before the court date/docket call. Otherwise, the matter will be called in open court and subject to a dismissal if no one appears.

After a civil case has been set on the court's docket three times and has been continued, whether by agreement or for good cause, the case shall be tried, except for good cause shown to the contrary.

In the event bankruptcy is involved, counsel and/or the Court shall reset the matter to a definite date on the regular Tuesday, Wednesday, or Friday docket.

Rule 6.0 Nonsuits

When a Defendant satisfies a civil judgment prior to the court date by paying monies into the clerk's office and the Plaintiff/Plaintiff's attorney takes a nonsuit, the Plaintiff/Plaintiff's attorney shall prepare an order entering formal written notice of nonsuit and requesting disbursement of funds.

Rule 7.0 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 twenty (20) minutes after the commencement of the docket call.

Upon a motion made within ten (10) days of dismissal and notice to the opposing party or counsel, the Movant may request that the dismissal be set aside and the matter heard. After ten (10) days, a new Slow Pay Motion must be filed with the Clerk of the Court.

Rule 8.0 Settlement Discussions

During or 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 party or the opposing attorney. The court shall also advise those present in the courtroom that a trial will be given to them if the parties or the attorneys are not able to agree on a settlement and that they are not required to settle their case.

As a courtesy to attorneys having several cases on the court's docket, the court will allow those attorneys to take their warrants, meet with the Defendant's present and enter all agreements on the warrants for the court's approval. Said attorneys shall complete all other warrants for defendants not present in court as default judgments for the court's approval. Said attorneys shall write-in the statutory or contract post judgment interest rate where applicable. After completion of all warrants as agreed, by default, or otherwise as appropriate, attorneys shall return said warrants to the court for calling at the conclusion of the docket and approval by the court. Once warrants have been returned to the court, attorneys are not excused from the courtroom until so advised by the Judge or his clerk.

Rule 9.0 Judgments

All judgments which contain more than a single element must list damages and attorney's fees separately before the total. The parties are encouraged to have copies of this information for opposing parties at trial to expedite the understanding of the parties' claim. When announcing an agreed or default judgment amount to the court, the total amount less court costs is appropriate.

The court will consider motions for attorney's fees on a case by case basis; however, good cause must be shown to exceed 33% of the amount to be collected. If the 33% is less than $100.00, then the attorney fee shall be $100.00.

Private process fees should be presented to the court to be included in the principal amount of the judgment. All other costs of court should not be included in the principal amount of the judgment and they will be added by the Clerk of the Court automatically.

Garnishments: If a judgment (principal and interest accrued to date of judgment) is paid in full as a result of a garnishment in a six (6) month period of time, then no further interest shall accrue nor be collectable- specifically including, but not limited to, the six (6) month period of time of the garnishment as referenced herein.

Rule 10.0 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 chambers hearing at which the minor and his/her guardian are present. At such hearing, Plaintiff's counsel shall provide a petition and an order to the court with documentation reflecting the medical expenses incurred in connection with the claim, and describing the minor's present medical condition pursuant to Tenn. Code Ann. Section 29-34-105.

Rule 11.0 Civil Dockets

Civil dockets are heard on Tuesday, Wednesday and Friday at 9:00 a.m. in Courtroom 303.

Matters that are to be heard upon a special setting will be heard in Courtroom 303.

Rule 12.0 Interpreters

Persons needing interpreters should bring a family member or friend who is able to translate from their language to English and English to their language so as to enable the Court to best determine how the language issues need to be addressed. The Court may determine that a continuance is needed in order to make arrangements for an interpreter to appear and assist the court.

The Court has access to a Spanish language interpreter who is paid by the Administrative Office of the Courts (AOC). Availability of this interpreter may determine when a case can be heard.

The above stated Local Rules are hereby in effect as of 6-13, 2016.

APPROVED BY: TOBY GILLEY, Judge
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