

CIRCUIT COURT DIVISION II PREFERENCES

(Amended & Effective March 2, 2023)

Pursuant to the most recent Order of the Tennessee Supreme Court re: COVID-19, the Circuit Court Division II is implementing the following procedures, taking into account the health, safety, and general welfare of the parties, attorneys, witnesses, staff, Court and anyone having business with the Court. The Court will continue to closely monitor the CDC recommendations and these preferences will be modified as required. Although the use of facial coverings is no longer required, compliance with current CDC guidelines is strongly encouraged. Judges retain the discretion to require the use of facial coverings generally or in specific cases, particularly cases involving persons in the courtroom who are at an elevated risk from COVID-19. Any person desiring to wear a facial covering shall be allowed to do so. Judges also have the discretion to implement more restrictive distancing and capacity requirements in their courtrooms as health and safety conditions or circumstances necessitate.

Except for out-of-town counsel, parties or witnesses, all counsel and parties shall appear in person unless otherwise notified by the Court or as otherwise set forth herein. Counsel, parties and/or witnesses may appear via Zoom by request with approval by the Court for certain matters. All proceedings conducted in the Courtroom will comply with current social distancing guidelines. The Zoom link is set forth in a separate section herein.

Safety is paramount along with the goal to handle all cases in a timely and efficient manner. Please be mindful that our Division II team is handling a multitude of electronic communications and messages. If you do not receive a timely response, please file and set a motion to ensure that your matter is heard. You may also contact the Div. II Courtroom Clerk, Circuit.division2@shelbycountyttn.gov, or Judicial Assistant Regina.Neal@Shelbycountyttn.gov.

COURT CONTACT INFORMATION FOR DIVISION II

Ms. Annie Wells
Courtroom Clerk
Circuit.division2@shelbycountyttn.gov
901-222-3828

Ms. Regina Neal
Judicial Assistant
Regina.Neal@shelbycountyttn.gov
901-222-3848

Ms. Alanna Rice
Law Clerk
Alanna.Rice@shelbycountyttn.gov
(Only to be used when responding to her contact about any specific motions).

I. ORDERS

The Court will continue to receive Orders in person at the 10:00am or 2:00pm docket when the Court is in session, via email at circuit.division2@shelbycountyttn.gov, or they may be placed in the Order Box in Room 208. The Court will sign them promptly, or have the clerk notify the counsel and self-represented litigants of any revisions, concerns, or need for a conference call or Status Conference related thereto. E-mail communication with the Court must include all counsel or parties (if self-represented). If all counsel and/or self-represented litigants have not signed the proposed Order, then it must be presented in open court with proper proof of notice to the other counsel and parties. The Court may request that any order be sent electronically in word format for editing. Competing orders must be presented in redline form. All Orders are due within seven (7) days. If an Order is submitted electronically and is not entered within seven (7) days by the Court, please drop off a hard copy with the Div. II Courtroom Clerk or in Room 208.

II. ANNOUNCEMENTS

The counsel or parties may address the court in person at the regular 10:00am docket when the Court is in session or contact the Courtroom Clerk for an appropriate time for a Zoom or telephone Status Conference within 24 hours if necessary. Counsel and self-represented litigants are responsible for notifying any other counsel or self-represented litigants of the request and the time and date set for the announcement.

III. STATUS CONFERENCES

The counsel and/or self-represented litigants may contact the Courtroom Clerk at circuit.division2@shelbycountyttn.gov to request any Status Conferences. If the requestor(s) does not hear back within seven (7) days, then please check with the Div. II Courtroom Clerk, Ms. Annie Wells, or Judicial Assistant, Ms. Regina Neal in person, or via email or telephone. The Clerk needs to be advised in the email whether the request is for the Status Conference to be conducted in person, by conference call or via Zoom. All other counsel/self-represented litigants must be copied on the email request. If the Status Conference is requested to be conducted by Zoom, the counsel/self-represented litigant must ensure that all parties have access to Zoom and provide the appropriate access information. The Court will also set status conferences as needed via green card, email or letter. If a date is provided by the Court for the Status Conference via email, the requestor must first confirm that all counsel and any self-represented litigants are available on that date **before** confirming the date with the Court or advise that a different date is needed. If counsel and self-represented parties can not agree on a date, then the request for a Status Conference can be placed on the regular motion docket with notice to all counsel and any self-represented litigants.

IV. DRESS CODE

Appropriate attire is mandatory for any appearance in court, whether as a participant in a case, a witness, or an observer. You will not be allowed to enter the courtroom wearing shorts, hats, baseball caps, curlers, halter tops, tube tops, or low-cut tops, t-shirts or muscle shirts, see-through clothing, flip flops, clothing that exposes your midriff or your underwear, ripped or torn jeans,

clothing with an emblem or wording that promotes illegal or inappropriate activity, clothing that depicts or promotes violence, sex acts, illegal drug use or profanity.

V. NON-DISPOSITIVE MOTIONS.

All non-dispositive motions will be set via the clerk's online system. Please be sure to check exclusion dates.

All non-dispositive motions will be scheduled for hearing on the 9am Friday docket (unless it is an excluded date). The Court may decide some motions on brief only without oral arguments. Counsel and/or self-represented litigants will be notified by the law clerk on Wednesday or Thursday afternoon via email if they are to appear for oral arguments. The non-dispositive motions not decided on brief only, will be heard in person. The counsel and/or self-represented litigants may also request that the motion be heard by Zoom as opposed to in person. The law clerk and/or courtroom clerk will advise by Thursday whether or not the request is approved by the Court. Once again, if the motion is requested to be conducted by Zoom, the counsel/self-represented litigants for the movant must ensure that all parties have access to Zoom and provide the appropriate access information. Also, the Courtroom Clerk must be advised via email on the day that the motion is scheduled online that it will be heard by Zoom. If oral argument on a motion is expected to exceed twenty (20) minutes, then counsel is to email the Courtroom Clerk for a special setting.

All motions, responses, and replies shall be timely filed and must comply with the applicable Local Rules and Tennessee Rules of Civil Procedure. **All counsel must comply with Local Rule 5 (B) before setting the motion and a certificate of consultation must be on the motion as required by Local Rule 5(H) or it will be stricken.**

For motions decided on brief only, or taken under advisement, the Court will issue a ruling granting or denying the motion which will be posted on the Circuit Court clerk's website under the case docket report by Monday of the following week. Attorneys and self-represented parties may also contact the Courtroom Clerk via email at circuit.division2@shelbycountyttn.gov to obtain the ruling via email once it is issued.

Parties shall submit an Order within seven (7) days once a ruling is issued in accordance with the local rules. The Order may be submitted via email at circuit.division2@shelbycountyttn.gov or placed in the Division II Order Box in Room 208. Please make sure all required signatures and/or a certificate of service are on the proposed Order.

VI. DISPOSITIVE MOTIONS

All dispositive motions must be specially set in Division II and shall not be struck without permission of the Court. Oral arguments on dispositive motions will be heard via Zoom or in person. Once again, if the motion is requested to be conducted by Zoom, the counsel/self-represented litigants for the movant must ensure that all parties have access to Zoom and provide the appropriate access information. Please contact the Courtroom Clerk email at circuit.division2@shelbycountyttn.gov to request a date and time that is mutually convenient for all parties. If a date is provided by the Court for the hearing via email, the requestor must first

confirm that all counsel and any self-represented litigants are available on that date **before** confirming the date with the Court or advise that a different date is needed. If counsel and self-represented parties can not agree on a date, then the request for a special setting can be placed on the regular motion docket with notice to all counsel and any self-represented litigants and the Court will provide a subsequent special setting hearing date.

Once a hearing date is set, the Courtroom Clerk must be advised via email on the day that the motion is scheduled if it will be heard by Zoom. At the time of the hearing, please notify the Courtroom Clerk or Judicial Assistant (if you are unable to reach the Courtroom Clerk), if you are experiencing any issues with the Zoom link and credentials.

All motions, responses, and replies shall be timely filed and must comply with the applicable Local Rules and Tennessee Rules of Civil Procedure. No motions will be heard unless all parties have complied with these rules except where the Court may have extended or shortened these time limits.

The Court may issue a ruling orally, by letter, or by Order. If the ruling is oral or by letter, then the proposed Order shall be submitted by the prevailing party in word format via email at circuit.division2@shelbycountyttn.gov or placed in the Division II Orders Box in Room 208 within seven (7) days of the ruling. The non prevailing party may submit an alternative proposed Order based upon the Court's ruling. Please make sure all required signatures and/or certificates of service are on the proposed Order.

VII. UNCONTESTED DIVORCES.

All uncontested divorces (irreconcilable divorces & default judgments) shall be set via the clerk's online system. Please check exclusion dates. Dewun Settle is the Deputy Divorce Referee for Division II. His email address is dewun.settle@shelbycountyttn.gov.

Until further notice, irreconcilable differences divorces with and without children will be conducted on Wednesdays from 9:00am to 10:00am with the sworn testimony by Affidavit or Interrogatories (unless the Court determines it needs to hear oral testimony from any of the parties or witnesses). No court appearance is required. Please file the party's Affidavit or Interrogatories with the Circuit Court clerk's office prior to setting the hearing date. The attorney and their client should be available on the morning the case is set to be heard in case the Divorce Referee or the Judge has any questions or concerns.

Please email a copy of the Affidavit/Interrogatories (file-stamped), Martial Dissolution Agreement or Order of Default Judgment, Parenting Class attendance certificates, Military Affidavit (file-stamped), Final Decree, Permanent Parenting Plan, Health Insurance notification form (file-stamped), cost bill, IVD form, confidential divorce info form, and any other required documents to the Courtroom Clerk at circuit.division2@shelbycountyttn.gov and to the Deputy Divorce Referee Dewun Settle at dewun.settle@shelbycountyttn.gov, no later than noon on the Friday preceding your hearing date. **Do not set the matter to be heard by the Court until all required documents are ready. It is very important that you adhere to this requirement so the Divorce Referee and Court will have time to review all documents prior to the hearing.**

Documents not timely received by the Shelby County Divorce Referee's office will result in the matter being struck from the docket.

Until further notice, default judgment divorces, with and without children, will be heard on Wednesday mornings at 9:00am in person or via Zoom.

The party setting the hearing is responsible for providing proper notice to all other attorneys or self-represented parties including the Zoom sign-on information no later than five (5) business days (and three (3) additional days if notice is by mail) of the date and time set for the Zoom hearing, and to ensure that the party(ies) are available to participate via Zoom in an appropriate setting. All hearings will be reset for failure to comply with notice requirements. If a self-represented party does not have access to Zoom, then he or she may appear in person. The Zoom hearing link is in the Zoom section below. Should you have any problems with the link, please contact the Courtroom Clerk at circuit.division2@shelbycountyttn.gov. If you are unable to reach the Courtroom Clerk, you may contact the Judicial Assistant at Regina.Neal@shelbycountyttn.gov or 901-222-3848.

VIII. ORDERS OF PROTECTION, EMERGENCY CHILD CUSTODY MATTERS, D & N, CONTEMPT, INJUNCTIVE RELIEF & TROs

Orders of Protection, Emergency Child Custody, Dependency and Neglect, Contempt and Petitions for Injunctive Relief/TRO will be conducted in Court (unless said proceedings can be conducted via Zoom and the Court approves the same). All matters will be specially set. If you have a fiat or are requesting injunctive relief, it should be presented in Court in person, absent extraordinary circumstances. Reasonable notice shall be provided to opposing party/counsel in accordance with the Rules of Civil Procedure. Counsel or self-represented litigants may approach at the regular 10am docket for a fiat or TRO. The Court will accommodate at other times as available. Please check with the Div. II Courtroom clerk to notify the Judge of the need to approach. Where a hearing date is not provided with the Petition or by the Court, counsel and any self-represented litigants may jointly approach the Court at the 10am docket to secure a hearing date or the request for a hearing date can be placed on the regular motion docket with notice to all counsel and any self-represented litigants and the Court will provide a special setting date. Some hearings will be conducted in the courtroom, others will be conducted via Zoom.

IX. OTHER PETITIONS (DOMESTIC & NON-DOMESTIC), MINOR SETTLEMENTS, WRITS OF INQUIRY & OTHER MATTERS.

All petitioner, minor settlements, writs of inquiry and matters where a hearing is required will be specially set by the Court. If a date is provided by the Court for the hearing via email, the requestor must first confirm that all counsel and any self-represented litigants are available on that date **before** confirming the date with the Court or advise that a different date is needed. If counsel and self-represented parties can not agree on a date, then the request for a hearing date can be placed on the regular motion docket with notice to all counsel and any self-represented litigants and the Court will provide a special setting date. Some hearings will be conducted in the courtroom, others will be conducted via Zoom.

The Court requires a GAL for all minor settlements of ten thousand dollars (\$10,000) or more and may require it in those less than ten thousand (\$10,000) dollars depending on the alleged injuries. If a GAL is required or you suspect one may be required, please contact the Courtroom Clerk and the Court will appoint one. After the Court appoints the GAL and the GAL's report has been finalized, you may contact the Courtroom Clerk for a hearing date, unless the Court determines that a hearing is not necessary as permitted under applicable state law. The legal guardian and minor must be available for the hearing. The Court may hear a matter in its discretion, even if it is not required under applicable law. If the counsel and/or parties are requesting a Zoom hearing, please email the clerk. Provide the Courtroom Clerk with any documents the Court needs to review, including medical records, at least three (3) court days before the hearing. Please notify the Courtroom Clerk and/or Judicial Assistant if you are having any difficulties with the Zoom link.

X. JURY TRIALS.

All jury trials will be in person. Counsel and the parties are encouraged to enter into an Agreed Scheduling Order shortly after the case is at issue and to include mediation in the proposed order. The Court may also set a Status Conference to set necessary dates to complete discovery, etc. (See sample Scheduling Order attached hereto as Exhibit "A").

All jury trials will require a Pre-Trial conference at least 30 days before the trial date.

All discovery shall be completed prior to the Pre-Trial Conference. The counsel and parties must consult on a proposed Joint Pre-Trial order. If the parties can not agree, then each party is to provide the Court with that party's proposed Pre-Trial Order no later than three (3) days before the Pre-Trial conference by email to circuit.division2@shelbycountyttn.gov or hand-delivery. The Pre-Trial Order shall contain the following information: (1) Parties; (2) Jurisdictional/Venue Questions; (3) Any pending motions; (4) a Case Summary; (5) Each Parties' Contentions; (6) State of any Uncontested Facts/Stipulations/Admissions; (7) Statement of Contested Facts; (8) Contested Issues of Law; (9) Exhibit List for Each party with any objections identified and the Rule relied upon for such objection(s); (10) List of Witnesses & any objections; (11) Deposition and/or Expert testimony that will be introduced; (12) Anticipated Length of Trial; (13) whether the case is a Jury or Non-Jury trial; (14) Ascertainable Damages; (15) Attorneys that will participate at trial; (16) Any special equipment required for the trial; (17) whether or not the parties have mediated, and if not whether or not they oppose mediation.

All dispositive motions are to be filed and scheduled sufficiently in advance so as to be heard and decided before the Pre-Trial Conference.

If the Court orders Pre-Trial briefs, then they shall be hand-delivered to the Courtroom clerk no later than three (3) days before the trial commences. At the Pre-Trial Conference a subsequent date and time for a Pre-Trial Status Conference shall be set no later than ten (10) court working days before the trial date unless the Court decides otherwise. If not disposed of at the Pre-Trial Conference, any remaining written pre-trial motions shall be heard and decided at the Pre-Trial

Status Conference or on the regular motion docket. **Any proposed jury instructions and jury verdict form must be submitted to the Court via hand-delivery at least three (3) days before the Pre-Trial Conference.**

The Court may set jury trials via green card, but any attorney or party requesting a trial date before receiving a green card may (1) jointly approach the Court for a trial date and Pre-Trial Conference date and thereafter submit a proposed Scheduling Order [see Exhibit “A”]; or (2) file a motion to be set on the Friday 9am docket with proper notice to all counsel and self-represented litigants. The Court may revise these procedures and any trial setting should it determine that COVID-19 conditions so warrant or otherwise, and pursuant to any newly issued orders from the Tennessee Supreme Court.

XI. BENCH TRIALS (including CONTESTED DIVORCES).

Counsel and the parties are encouraged to enter into an Agreed Scheduling Order shortly after the case is at issue and to include mediation in the proposed order. The Court may also set a Status Conference to set necessary dates to complete discovery, etc. (See sample Scheduling Order attached hereto as Exhibit “A”).

All bench trials will be conducted in person unless the parties jointly request a Zoom hearing. The Court may in its discretion order a Zoom or in person hearing thereafter. A Pre-Trial Conference will be required no later than thirty (30) days before the trial date.

All discovery shall be completed prior to the Pre-Trial Conference. The parties will consult on a proposed Joint Pre-Trial order. If the parties can not agree, then each party is to provide the Court with that party’s proposed Pre-Trial Order no later than three (3) days before the Pre-Trial conference by email to circuit.division2@shelbycountyttn.gov or hand-delivery. The Pre-Trial Order shall contain the following information: (1) Parties; (2) Jurisdictional/Venue Questions; (3) Any pending motions; (4) a Case Summary; (5) Each Parties’ Contentions; (6) State of any Uncontested Facts/Stipulations/Admissions; (7) Statement of Contested Facts; (8) Contested Issues of Law; (9) Exhibit List for Each party with any objections identified and the Rule relied upon for such objection(s); (10) List of Witnesses & any objections; (11) Deposition and/or Expert testimony that will be introduced; (12) Anticipated Length of Trial; (13) whether the case is a Jury or Non-Jury trial; (14) Ascertainable Damages; (15) Attorneys that will participate at trial; (16) Any special equipment required for the trial; (17) whether or not the parties have mediated, and if not whether they oppose mediation.

All dispositive motions are to be scheduled sufficiently in advance so as to be heard and decided before the Pre-Trial Conference.

Any Pre-Trial briefs ordered by the Court shall be hand-delivered to the Courtroom clerk no later than three (3) days before the trial commences. At the Pre-Trial Conference a subsequent date and time for a Pre-Trial Status Conference may be set no later than ten (10) court working days before the trial date. If not disposed of at the Pre-Trial Conference, any remaining written pre-trial motions may be heard and decided at the Pre-Trial Status Conference or on the regular motion docket.

Contested Divorces: Compliance with Local Rule 14 is required.

The Court may set bench trials via green card, but any attorney or party requesting a trial date before receiving a green card may (1) jointly approach the Court for a trial date and a Pre-Trial Conference date and thereafter submit a proposed Scheduling Order [see Exhibit “A”]; or (2) file a motion to be set on the Friday 9am docket with proper notice to all counsel and self-represented litigants. The Court may revise these procedures and any trial setting should it determine that COVID-19 conditions so warrant or otherwise, and pursuant to any newly issued orders from the Tennessee Supreme Court.

A Circuit Court Judge will also be available each day to sign fiats, consent orders, issue *ex parte* injunctions and *ex parte* orders of protection and to handle all urgent matters. Please go to the Circuit Court Filing Counter in Room 224, or Room 208, or see one of the Judicial Assistants in Room 212 for assistance if the Courtroom clerk is not readily available.

XII. DISMISSAL DOCKETS

Dismissal dockets will be set periodically on dormant matters that have had no activity for several months. Appearances must be made in person to avoid dismissal. No continuances will be given via email unless there is a medical or other emergency.

XIII. ZOOM LINK LOGINS AND PROCEDURES:

For any trials conducted in whole or part by Zoom, counsel and/or self-represented litigants must ensure that the Court has the necessary exhibits prior to the trial. Attorneys are to ensure that their client and their witnesses can participate in person (or via Zoom if permitted), dressed appropriately, and in an appropriate environment that does not interfere with the trial. Please contact the Courtroom Clerk and/or Judicial Assistant if you are experiencing any difficulties with the Zoom link and credentials.

Division II will use the following Zoom Login ID and passcode except for cases under seal (or any other matters specially designated by the Court). Please use this login when appearing via Zoom when permitted under these preferences:

Join ZoomGov Meeting

<https://www.zoomgov.com/j/1600190287?pwd=MVdzM2lqNTlV0Y3M1F4N2VuRHRBZz09>

Meeting ID: 160 019 0287

Passcode: 785203

If you have any other questions, please email the Courtroom Clerk at circuit.division2@shelbycountyttn.gov or contact the Judicial Assistants' office at 901-222-3800.

JUDGE CAROL J. CHUMNEY

March 2, 2023

Subject to change at Court's discretion.

EXHIBIT A

**IN THE CIRCUIT COURT OF TENNESSEE
FOR THE THIRTIETH JUDICIAL DISTRICT AT MEMPHIS**

_____)	
)	
Plaintiff,)	
)	
v.)	Docket No.: CT-xxxx-xx
)	Division II
_____)	
)	
Defendant.)	

SAMPLE SCHEDULING ORDER

A scheduling conference for the above referenced matter was held on [insert date or by Consent Order of All Parties]. Present were _____, counsel for plaintiff, and _____, counsel for defendant. The following dates are established as the final deadlines for:

MOTIONS TO AMEND PLEADINGS: [insert date _____]

MOTIONS TO DISMISS: [insert date _____]

MEDIATION: (IF ORDERED BY THE COURT) [insert date _____]

Mediator's Name: [insert name of mediator]

COMPLETING ALL DISCOVERY: [insert date _____ must be before Pre-Trial Conference Date]

(a) **WRITTEN DISCOVERY:** [insert date _____]

(b) **DEPOSITIONS:** [insert the deadline for completing all discovery]

EXPERT WITNESS DISCLOSURES:

- (a) **DISCLOSURE OF PLAINTIFF'S (OR PARTY WITH BURDEN OF PROOF) EXPERT INFORMATION:** [insert date ___ days before the deadline for completing all discovery]
- (b) **DISCLOSURE OF DEFENDANT'S (OR OPPOSING PARTY) EXPERT INFORMATION:** [insert date ___ days before the deadline for completing all discovery]
- (c) **EXPERT WITNESS DEPOSITIONS:** [insert the deadline for completing all discovery]

MOTIONS TO EXCLUDE EXPERTS: [insert date ___ days after the deadline for completing all discovery]

FILING DISPOSITIVE MOTIONS: [insert date ___ days after the deadline for completing all discovery, must be completed before Pre-Trial Conference]

PRE-TRIAL CONFERENCE: [can be included in a subsequent order]

TRIAL DATE: [can be included in a subsequent order with the Pre-Trial Conference date]

OTHER RELEVANT MATTERS:

All discovery requests or other discovery-related filings that require a response must be filed sufficiently in advance of the discovery deadline to enable the opposing party to respond prior to that date.

Proposed Pre-Trial Orders are due at least three (3) Court days before the Pre-Trial Conferences. At the Pre-Trial Conference a subsequent date and time for a Pre-Trial Status Conference may be set no later than ten (10) court working days before the trial date.

Any proposed jury instructions must be submitted to the Court via hand-delivery at least three (3) days before the Pre-Trial Conference.

The Parties anticipate the trial will last approximately ___ days. This is a jury [non-jury] trial.

This order has been entered after consultation with all parties. Absent good cause shown, the deadlines set by this Order will not be modified or extended. If good cause exists to modify or extend the deadlines set by this Order, it must be done by written consent of counsel for all parties with permission of the Court, or by Order of this Court.

IT IS SO ORDERED.

ENTERED this _____ day of _____, 202__.

Judge Carol J. Chumney

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing order has been mailed postage prepaid to the parties of record or their counsel, if represented at their last known address. This the _____ day of _____, 202__.