

10/15/2018 PHONE CALL TRANSCRIPT: JEFF F. (615) 837-1300 SPEAKING WITH CLERK & MASTER'S OFFICE (615) 790-5428 WILLIAMSON COUNTY CHANCERY COURT, IN FRANKLIN TENNESSEE, CLERK & MASTER ELAINE BEATY BEELER (COURT SUMMONS STATED: "FOR ADA ASSISTANCE, PLEASE CALL ADA COORDINATOR: 615-790-5428")

APPENDIX - 20

### ADA CONTACTS

If you have questions about ADA issues, you may contact the Local Judicial Program ADA Coordinator for the county or the specific court in which your case is scheduled to be heard. To find the ADA coordinator in your area, select your county from the menu below.

COUNTY

Williamson ▼

Name	Address	
<u>Elaine Beeler</u> Clerk & Master	P.O. Box 1666 Franklin, TN 37064 Williamson County	<u>elaine.beeler@tncourts.gov</u> 615-790-5428
<u>Lisa Marsh</u> Chief Deputy Clerk (ADA for Appellate Court Middle Division)	401 7th Avenue North Nashville, TN 37219-1407 Bedford County, Cannon County, Cheatham County, Clay County, Coffee County, Davidson County, DeKalb County,	<u>lisa.marsh@tncourts.gov</u> 615-253-1470

### TRANSCRIPT OF RECORDED PHONE CALL:

#### 2018-10-15 WILCO Clerk and Master - ADA Coordinator.mp3

00:00:07 Chancery Court Clerk & Master's Office (615) 790-5428 (Williamson County, TN):  
**Clerk & Master's Office.**


00:00:09 Jeff F. (Disabled, Broke, Pro Se Litigant):


**Hi. I um, it says for ADA assistance to call this number. [SEE IMAGE BELOW]**

[https://rico.jeffenton.com/evidence/2018-10-15\\_wilco-seeking-ada-assistance-recorded-call.mp3](https://rico.jeffenton.com/evidence/2018-10-15_wilco-seeking-ada-assistance-recorded-call.mp3)

**CERTIFICATION (IF APPLICABLE)**

I hereby certify this to be a true and correct copy of the original summons issued in this case.

  
 CLERK & MASTER



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00:00:16 Jeff F. (Disabled, Broke, Pro Se Litigant):

I have been served with a divorce summons and um, I've got several disabilities, but I don't have any money either, and I don't—haven't been successfully getting any attorney to help me, and I don't know how to respond to this.

00:00:36 Chancery Court Clerk & Master's Office (615) 790-5428 (Williamson County, TN):

➤ OK, now the disability would be if you needed help getting into the building.<sup>1</sup>

00:00:41 Jeff F. (Disabled, Broke, Pro Se Litigant):

Oh [laughing].

00:00:43 Chancery Court Clerk & Master's Office (615) 790-5428 (Williamson County, TN):

➤ From your vehicle, getting into the building.<sup>2,3</sup> [I'm told that the ONLY "ADA ACCOMMODATION" offered by the Williamson County Chancery Court, is having a WHEELCHAIR brought out curbside, to a disabled person's vehicle, to assist the mobility challenged person with entering the Courthouse.]

00:00:46 Jeff F. (Disabled, Broke, Pro Se Litigant):

OK, so how do I do the rest of this then?

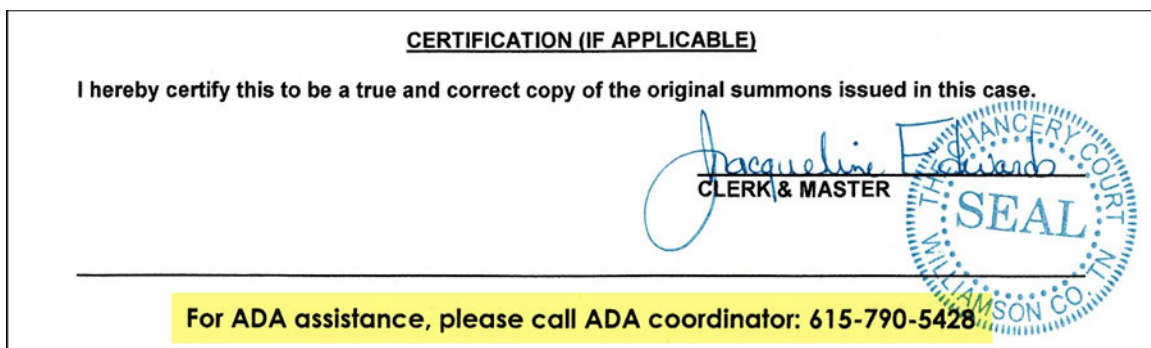
00:00:51 Chancery Court Clerk & Master's Office (615) 790-5428 (Williamson County, TN):

OK, the only thing I could give you, would be um, a number for free legal aid, like the legal aid society.

<sup>1</sup> The Court's answer is in direct violation of the Americans with Disabilities Act, as well as Tennessee Judicial Branch Policy 2.07. The Court also fails to mention the "REQUEST FOR MODIFICATION" form available on TNCourts.gov.

<sup>2</sup> [https://www.tncourts.gov/sites/default/files/policy\\_2-07\\_americans\\_with\\_disabilities\\_act\\_1.pdf](https://www.tncourts.gov/sites/default/files/policy_2-07_americans_with_disabilities_act_1.pdf)

<sup>3</sup> [https://www.tncourts.gov/sites/default/files/ada\\_request\\_for\\_modification\\_form.pdf](https://www.tncourts.gov/sites/default/files/ada_request_for_modification_form.pdf)



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00:00:59 Jeff F. (Disabled, Broke, Pro Se Litigant):

**I was told by one attorney that I visited, that my wife made too much money for me to qualify for legal aid and even though she doesn't live with me and she won't pay for my attorney.**

00:01:15 Chancery Court Clerk & Master's Office (615) 790-5428 (Williamson County, TN):

**That I don't know, you'd have to call the number. Did you call the number for Nashville Office?**

00:01:22 Jeff F. (Disabled, Broke, Pro Se Litigant):

**No, I didn't he. That was just what one attorney that—a free consultation told me. What, what is their number?**

00:01:29 Chancery Court Clerk & Master's Office (615) 790-5428 (Williamson County, TN):

**OK, 615-244-6610.**

00:01:34 Jeff F. (Disabled, Broke, Pro Se Litigant):


**244-6610. OK, and um, can you tell me just um, I filled out the, it says a \$10,000 exemption. I—I made like a spreadsheet of that, but I don't know. It says it's supposed to be sworn and—and mailed to this address.**


00:01:56 Jeff F. (Disabled, Broke, Pro Se Litigant):

**I understand the mailing it to this address, but I don't understand exactly what format they want it in and how you swear it under oath or whatever. Um, do you have any idea of where—am I supposed to use a specific form or do you have any idea what—how I'm supposed to do that?**

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CLERK & MASTER



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00:02:14 Chancery Court Clerk & Master's Office (615) 790-5428 (Williamson County, TN):

➤ Yeah, I can't give you any advice. I mean, I'm not an attorney.<sup>4,5,6</sup>

00:02:18 Jeff F. (Disabled, Broke, Pro Se Litigant):

Right. So um, so the same thing with this complaint um, I mean my understanding is people can represent themselves if you can't get an attorney. But I've only got 2 weeks left or she gets a default judgment, and I don't have any clue how.



00:02:37 Jeff F. (Disabled, Broke, Pro Se Litigant):

I mean I can understand how to rebuttal her—her statements that are false here, but I don't have any clue as far as what kind of form or format that should take or anything else. Do you have any knowledge of any stock forms that State of Tennessee offers for replying to this?

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<sup>4</sup> This wasn't a request for "legal advice", it was a question about **procedural information** and specifically a **FORM** called "**Protected Income and Assets (Affidavit of Claim Exemptions)**" which the State of Tennessee has prepared in both WORD, PDF, and Fillable PDF formats, again on their TNCourts.gov website, along with many other **FORMS!**  
<sup>5</sup> <https://www.tncourts.gov/docs/documents-forms/supreme-court-approved-forms/protected-income-and-assets-ia-fillable-pdf> (This is the exact form that I am asking for, while the Court acts clueless and refuses to assist.)

<sup>6</sup> **Information** such as I sought, was well within the "**Guidelines for Tennessee Court Clerks Who Assist Self-Represented Persons**". Which states in Section A, "**The primary goal of court and clerks' staff is to provide high quality service to court users. Court clerks strive to provide accurate information and assistance in a prompt and courteous manner.**" While Section B of that same document, was violated throughout much of my case, "**Absolute duty of impartiality. Court clerks must treat all litigants fairly and equally.** Court clerks must not provide assistance for the purpose of giving one party an advantage over another, **nor give assistance to one party that they would not give to an opponent.**"

<p><b><u>CERTIFICATION (IF APPLICABLE)</u></b></p> <p>I hereby certify this to be a true and correct copy of the original summons issued in this case.</p> <p style="text-align: right;"> CLERK &amp; MASTER</p> <p style="text-align: right;"></p> <p style="text-align: center;"><b>For ADA assistance, please call ADA coordinator: 615-790-5428</b></p>
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00:03:01 Chancery Court Clerk & Master's Office (615) 790-5428 (Williamson County, TN):

**No, we don't have any forms here in this office.**<sup>7,8,9,10,11</sup>

<sup>7</sup> The Court withheld simple INFORMATION about pre-drafted FORMS provided by the State of Tennessee, which are approved for use by the Tennessee Supreme Court, easily available in at least three different locations, **if you simply know WHERE to LOOK:**

<sup>8</sup> **SAMPLE COURT FORMS are provided in the last 58-PAGES of that Court's OWN LOCAL RULES, in APPENDIX A** (on page-24) through **APPENDIX K** (on page 82), of the LOCAL RULES OF PRACTICE, TWENTY-FIRST JUDICIAL DISTRICT, HICKMAN, LEWIS, PERRY AND **WILLIAMSON COUNTIES. RULES OF THE CIRCUIT AND CHANCERY COURTS FOR THE TWENTY-FIRST JUDICIAL DISTRICT** (Amended March 1, 2019).

<sup>9</sup> <https://www.tncourts.gov/> (NOBODY at Williamson County Chancery Court EVER told me about this website!)

<sup>10</sup> <https://justiceforalltn.org/forms/> (NOBODY at Williamson County Chancery Court EVER told me about this website, or the resources it hosts!) **There was NO SIGNAGE or any information to assist Pro Se or Disabled litigants!**

<sup>11</sup> Later, on a separate occasion, when visiting the Williamson County Chancery Court, Clerk & Master's Office (I don't know the date or time, who I spoke with, or the exact language of our conversation. It was one of my first times there, I didn't know anybody by name.) I asked again about where I could find or obtain any FORMS or INFORMATION that I could use as a guide, and where I could find their LOCAL COURT RULES, so that I could ensure that whatever I drafted and filed would comply with the specific format desired by the Williamson County Chancery Court.

**Whomever I spoke with in the Clerk & Master's Office, failed or refused to provide me with ANY useful information or assistance whatsoever!** I was never provided with ANY of the information above, prepared by and hosted by both the State and County governments. Nor did I receive any helpful information whatsoever.


I specifically remember inquiring about the **local library**, and whether or not they had any TN State Law Books or resources to assist me. Any Local Court Rules, form styles, templates, anything... to which I was told "no", or not that they knew of... I was advised to look online, but not informed about **ANY** websites or resources provided by the State of Tennessee or the TN Court System, **which I specifically asked about**, to again receive a **"nothing that I'm aware of"** (or substantially similar response). Instead, I repeatedly received a general suggestion such as **"that's why people hire attorneys, you'll just need to research it online."**

At that time, I had been researching it online, but **I never found any websites for the TN Courts in my search results.** Instead, I found a BUNCH of companies who wanted to SELL ME FORMS, which included some type of "form builder" to design the forms in compliance with each State (they said). **Though none of them looked like what I had been served**, so I was extremely reluctant. I finally wasted \$100 buying a set of divorce answer forms, from the most legitimate looking website I could find. Unfortunately, there were so many irrelevant looking pages, while the entire package and format looked goofy and generic, that I never used them.


**This was specifically WHY I repeatedly tried to get SOME INFORMATION from the Clerk & Master's Office** about WHICH WEBSITE to buy the forms from, or any other resources provided by the State of Tennessee, whether located online or in a building in Middle Tennessee, that I could drive to, perform some research, obtain some information, anything that would point me in the right direction, where I could reasonably expect my filing would be acceptable to the Court. Yet they refused to even point me in the general direction! **(I didn't mind spending \$100 for FORMS, I just wanted to ensure the forms I purchased would be acceptable to the Williamson County Chancery Court.)**

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00:03:04 Jeff F. (Disabled, Broke, Pro Se Litigant):

**OK. And is there, is this the, is this just the ADA office or is this an office associated with the legal?**

00:03:12 Chancery Court Clerk & Master's Office (615) 790-5428 (Williamson County, TN):

**This is Chancery Court, Clerk & Master's Office.**

00:03:15 Jeff F. (Disabled, Broke, Pro Se Litigant):

**OK, so—so [laughing] what do you advise I do?**

00:03:21 Chancery Court Clerk & Master's Office (615) 790-5428 (Williamson County, TN):

**I can't give you any advice because I'm not an attorney.**

00:03:25 Jeff F. (Disabled, Broke, Pro Se Litigant):

**Right. [pause] But attorneys cost money, and if I don't have any money, then what do I do? [laughing]**

00:03:34 Jeff F. (Disabled, Broke, Pro Se Litigant):


**I mean, it seems like there should be some way—I thought that there was some way that legally people could represent themselves and um respond to this without just being in trouble, because they get a default judgment if you don't.**


00:03:50 Jeff F. (Disabled, Broke, Pro Se Litigant):

**And actually that's what the attorney had told me too, that I consulted with was that even if I get an attorney at this point, um and they try to go to get her to pay the fees. I probably need to respond to this myself ahead of time, because I'm gonna run out of time.**

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00:04:11 Chancery Court Clerk & Master's Office (615) 790-5428 (Williamson County, TN):

**And did that Attorney not give you any advice or any suggestions.**

00:04:16 Jeff F. (Disabled, Broke, Pro Se Litigant):

**He—he looked online. He said he didn't see the forms. He looked real quick online and said he didn't see the forms and uh and no, he did not give me any. I mean, he suggested that I do not allow this to get a default judgment. He suggested that I reply to this even if I do it myself, um but he didn't tell me how to do that. He just said I guess research it online, or this or that, but um there's all kinds of stuff online. I want to make sure that I do it in a way that is acceptable to the Williamson County Court System.**

00:04:53 Chancery Court Clerk & Master's Office (615) 790-5428 (Williamson County, TN):

**Like I said, you know, I'm sorry, but you know, I'm not an attorney. I can't give you any advice and we don't have any standard forms for that—that we could give you.<sup>12</sup>**

00:05:01 Jeff F. (Disabled, Broke, Pro Se Litigant):

**OK. Is there any um, ADA area of the State of Tennessee that helps people that have um certified—doctors certified mental handicaps to figure out how to do this, with—if they don't have money.**



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<sup>12</sup> According to the "Guidelines for Tennessee Court Clerks Who Assist Self-Represented Persons" (attached), in section D, on pages 2 and 3, it states as follows:

Authorized information and assistance. When a self-represented person seeks help -- excluding legal advice -- court or clerks' staff may respond to questions to the best of her or his ability. Court clerks are authorized to:

Provide a copy of or recite common, routinely employed: court rules, court procedures, administrative practices. Show or tell the self-represented person where to access statutes or rules of procedure.

Identify forms [and informational booklets] that might meet the needs of the self-represented person, and provide forms [and informational booklets] that the Supreme Court [or trial judge] has [approved] mandated for the guidance of self-represented persons. When a clerk is reasonably certain about which form is most appropriate for use by a given litigant, clerk should identify the appropriate form and answer questions about how to complete it.

<p><b><u>CERTIFICATION (IF APPLICABLE)</u></b></p> <p><b>I hereby certify this to be a true and correct copy of the original summons issued in this case.</b></p> <p style="text-align: right;"> <b>CLERK &amp; MASTER</b></p> <p style="text-align: right;"></p> <p style="text-align: center;"><b>For ADA assistance, please call ADA coordinator: 615-790-5428</b></p>
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00:05:18 Chancery Court Clerk & Master's Office (615) 790-5428 (Williamson County, TN):

- **There's nothing that I'm aware of, you know like I said, the ADA number on there is simply if you need assistance getting into the building.**<sup>13</sup> [The court says that the ADA PHONE NUMBER (printed at the bottom of every Court Summons), is ONLY there for people who need help getting into the building.]

00:05:22 Jeff F. (Disabled, Broke, Pro Se Litigant):

- **Right, that's a wheelchair or something but...**

00:05:24 Chancery Court Clerk & Master's Office (615) 790-5428 (Williamson County, TN):

- **Um-Hun. [confirming]**

00:05:25 Jeff F. (Disabled, Broke, Pro Se Litigant):

**...there's a—a—a there's a—OK, that won't really help me. [laughing] OK.**

00:05:36 Jeff F. (Disabled, Broke, Pro Se Litigant):

**Well, thank you.**

00:05:24 Chancery Court Clerk & Master's Office (615) 790-5428 (Williamson County, TN):

**You're welcome.**

00:05:38 Jeff F. (Disabled, Broke, Pro Se Litigant):


**Have a good day. Bye bye.**


<sup>13</sup> This is so highly **discriminative** against poor and disabled litigants, while being a flagrant violation of both State and Federal ADA Laws and related Policies, "under color of law" and/or local policies, this is absolutely unacceptable!

ALL that I was looking for was a **tiny bit of human decency**, and the **slightest CHANCE at an actually FAIR and IMPARTIAL trial**, as is required of every Court of Equity and Law within the United States of America, in order to have and maintain **any lawful authority and jurisdiction** to hear, judge, or rule over any matter! **Instead, I found the exact opposite inside Williamson County Chancery Court**, more times and in more ways, than so far, I can count!

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CLERK & MASTER



**For ADA assistance, please call ADA coordinator: 615-790-5428**



**Guidelines for  
Tennessee Court Clerks Who Assist Self-Represented Persons**  
(Approved by the Tennessee State Court Clerks Association and endorsed by the Tennessee Supreme Court)

**A. The primary goal of court and clerks' staff is to provide high quality service to court users.** Court clerks strive to provide accurate information and assistance in a prompt and courteous manner. However, in many or most situations involving *pro se* litigants (or represented litigants who come to the clerk's office without their attorneys), the best customer service might be to advise the litigant to seek the assistance of an attorney. The purpose of this rule is to provide guidance to court clerks about the services they may provide to self-represented persons without violation of the prohibition against engaging in the unauthorized practice of law. It is not intended to restrict the powers of court clerks as otherwise provided by statute or rule, nor is it intended to eliminate the collection of applicable fees or costs. Finally, it is not the purpose of this Rule to require court clerks to provide the assistance authorized by paragraph D.

**B. Absolute duty of impartiality.** Court clerks must treat all litigants fairly and equally. Court clerks must not provide assistance for the purpose of giving one party an advantage over another, nor give assistance to one party that they would not give to an opponent.

**C. Prohibition against giving legal advice.** As specified in paragraph C.2, court clerks shall not provide legal advice or recommend a specific course of action for an individual other than the advice to seek the assistance of a lawyer. (*See Guideline C.2 for examples of legal advice.*)

1. If a court user asks for legal advice, court clerks shall inform the person that the clerk is not authorized to provide legal advice and shall advise the person to seek the assistance of an attorney.
2. Court clerks shall not apply the law to the facts of a given case, nor give directions regarding how a litigant *should* respond or behave in any aspect of the legal process. For example, court clerks shall not:
  - a. Recommend whether to file a petition or other pleading.
  - b. Recommend phrasing or specific content for pleadings.
  - c. Fill in a form for the self-represented person, provided, however, that if a litigant has a physical disability or is illiterate and therefore unable to fill in a form, and the litigant explains the disability to a clerk's staff member and requests appropriate assistance, then the staff member may fill in the form. In such a case, however, the clerk's staff member must write down the *exact words* provided by the litigant, and another staff member must witness the action.)
  - d. Recommend specific people against whom to file petitions or other pleadings.
  - e. Recommend specific types of claims or arguments to assert in pleadings or at trial.

- f. Recommend what types or amount of damages to seek or the specific litigants from whom to seek damages.
  - g. Recommend specific questions to ask witnesses or other litigants.
  - h. Recommend specific techniques for presenting evidence in pleadings or at trial.
  - i. Recommend which objections to raise to an opponent's pleadings or motions at trial or when and specifically how to raise them.
  - j. Recommend when or whether a litigant should request (or oppose) a continuance.
  - k. Recommend when or whether a litigant should settle a dispute.
  - l. Recommend whether a litigant should appeal a judge's decision.
  - m. Interpret the meaning or implications of statutes or appellate court decisions as they might apply to an individual case.
  - n. Perform legal research.
  - o. Predict the outcome of a particular case, strategy, or action.
3. If a court clerk is uncertain whether the advice or information constitutes "legal advice," the clerk shall inform the person that the clerk is not authorized to provide legal advice and shall advise the person to seek the assistance of an attorney.

**D. Authorized information and assistance.** When a self-represented person seeks help -- excluding legal advice -- court or clerks' staff may respond to questions to the best of her or his ability. Court clerks are authorized to:

1. Unless prohibited by statute or court rule, provide public information contained in:
  - a. dockets or calendars,
  - b. case files,
  - c. indexes, and
  - d. other reports.
2. Provide a copy of or recite common, routinely employed:
  - a. court rules,
  - b. court procedures, and
  - c. administrative practices.
3. Show or tell the self-represented person where to access statutes or rules of procedure.
4. Identify forms [and informational booklets] that might meet the needs of the self-represented person, and provide forms [and informational booklets] that the Supreme Court [or trial judge] has [approved] mandated for the guidance of self-represented persons. When a clerk is reasonably certain about which form is most appropriate for use by a given litigant, the clerk should identify the appropriate form. However, clerks should avoid telling litigants that they *should* or *must* use a particular form. The appropriate approach in most situations is to tell the


litigant: a) a particular form probably will meet the individual's needs; b) clerks cannot guarantee that this is the correct form; and c) the litigant should read the form very closely or consult an attorney to determine the appropriateness of the form for the litigant's purposes.

5. Answer questions about how to complete forms (*e.g.*, where to write in particular types of information), but **not** questions about how the litigant *should* phrase his or her responses on the forms.
6. Define or explain terms commonly used in court processes.
7. Provide phone numbers for legal assistance organizations, mediator and lawyer referral services, and other judicially approved programs providing assistance to self-represented persons. .

**E. Prohibition against revealing the outcome of a case before the information is officially released to the litigants or public.** Court clerks shall not disclose the outcome of a matter submitted to a judge for decision until the outcome is part of the public record, or until the judge directs disclosure of the matter.

**F. Ex parte communications.**

1. If a litigant or attorney submits an *ex parte* **written** communication for a judge (*e.g.*, to grant a continuance; to stop or limit a garnishment), court staff **must** deliver it to a judge who should decide what action, if any, is appropriate.
2. If a party makes a **verbal** request that a judge take some type of **action** in a case, the clerk should tell the litigant to **put the request in writing** and:
  - a. address the request to the court;
  - b. include the case number (if any) on the document;
  - c. write the date on the document;
  - d. sign the written document;
  - e. print the person's name under the signature;
  - f. write the person's address and telephone number on the document;
  - g. deliver the written request to the clerk's office; and
  - h. serve a copy of the document on opposing litigant or litigant's attorney (in a manner consistent with the Tennessee Rules of Civil Procedure..
3. If a party or attorney contacts a court clerk by telephone with a verbal request for judicial action and there is insufficient time to deliver a written request to the clerk's office (*i.e.*, an emergency situation), the clerk may communicate the request to a judge in accordance with rules established by the chief or presiding judge(s) for handling such communications. The clerk, however, should tell the caller that the clerk cannot guarantee that the judge will grant the request.

 <p style="text-align: center;">Administrative Policies And Procedures Tennessee Supreme Court Administrative Office of the Courts</p> <p style="text-align: center;"><i>Janice M. Holder</i>      <i>Elizabeth A. Sykes</i></p>	Index #: 2.07	Page 1 of 11
	Effective Date: 11/14/08	
	Supersedes: 2.07 (03/15/06)	
Approved by: Chief Justice Janice M. Holder and Elizabeth A. Sykes, Director		
Subject: Americans with Disabilities Act		

- I. Authority: T.C.A. §16-3-803, 42 U.S.C. 12131 *et seq.* (Americans with Disabilities Act)
  
- II. Purpose: To ensure that all individuals have equal access to judicial programs and to prohibit discrimination against any individual on the basis of physical or mental disability in accessing or participating in its programs.
  
- III. Application: All employees of the Judicial Branch.
  
- IV. Definitions:
  - A. Disability: With respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment.
  
  - B. Facility: All or any portion of buildings, structures, sites, complexes, equipment, rolling stock or other conveyances, roads, walks, passageways, parking lots, or other real or personal property, including the site where the building, property, structure or equipment is located.
  
  - C. Individual with a disability: A person who has a disability.
  
  - D. Qualified individual with a disability: An individual with a disability who, with or without reasonable modification to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.
  
- V. Policy: It shall be the policy of the Judicial Branch of the State of Tennessee to prohibit discrimination against any qualified individual on the basis of physical or mental disability in accessing or participating in its

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judicial programs. The Judicial Branch shall conduct its services, programs or activities, when viewed in their entirety, in a manner that is readily accessible to and usable by qualified individuals with disabilities.

VI. Procedures:

A. Upon request, the Tennessee Judicial Branch will provide reasonable modifications to its rules, policies, services, procedures, and practices when doing so is necessary to provide effective access to a qualified individual with a disability. A “reasonable modification” may include, but is not limited to, furnishing, at no charge, auxiliary aids and services, which include but are not limited to equipment, devices, materials in alternative formats, and qualified interpreters or readers; and relocating judicial programs, services or activities to alternate accessible facilities or alternate accessible sites. Such modifications shall be designed to make each service, program, or activity, when viewed in its entirety, readily accessible to be usable by a qualified individual with a disability.

B. In the event that the reasonable modification requires relocation of a judicial program, service or activity to an alternate facility or site, the alternate facility or site shall comply with the requirements of the Americans with Disabilities Act and the Tennessee Public Buildings Accessibility Act. The alternate facility or site shall also comply with Tennessee law concerning the location of county courthouses.

The Local Judicial Program ADA Coordinator in a county where the county courthouse is not ADA compliant, shall maintain a list of alternate facilities or sites that may be used for relocation of judicial programs, services and activities. An up to date copy of the alternate facility or site list shall be submitted to the Tennessee Judicial Program ADA Coordinator.

C. The Tennessee Judicial Branch has Judicial Program ADA Coordinator, employed by the Administrative Office of the Courts (AOC), who oversees the administration of this policy, any complaints associated with issues raised by this policy, and Requests for Modification under the Americans with Disabilities Act within the Judicial Branch, and will have the ultimate responsibility for compliance with this policy.

D. The Tennessee Judicial Program ADA Coordinator will designate a Local Judicial Program ADA Coordinator for each county in a judicial district, who will be responsible for handling all Requests for Modification to access judicial programs, activities and services within that county. The Local Judicial Program ADA Coordinator

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should be involved with or familiar with the judicial program of the county.

- E. Persons requiring modification to obtain access to judicial programs, services or activities at any facility used for such purposes should contact the Local Judicial Program ADA Coordinator (Coordinator). A written Request for Modification is preferred. However, this request may be made by telephone to the Coordinator. In such instances, the Coordinator shall commit such requests to writing. The Coordinator shall maintain a record of all Requests for Modification. A Request for Modification form is available and may be obtained from the Local Judicial Program ADA Coordinator, the Tennessee Judicial Program ADA Coordinator, any court clerk's office, or online at [www.tncourts.gov](http://www.tncourts.gov). If appropriate or upon request, the Local Judicial Program ADA Coordinator or the Tennessee Judicial Program ADA Coordinator will provide assistance with writing and submitting the written request for Modification. Large print and Braille versions of the Request form are available upon request. If appropriate, other personnel associated with the judicial program, service or activity may assist the applicant in the submission of a completed Request for Modification to the Coordinator.

The written Request for Modification shall include a description of the person's disability, the role of the person in the judicial proceeding, the Modification sought, the date and time of the Modification requested, and the judicial proceeding for which the Modification is sought. Once a Request for Modification has been granted, the Local Judicial Program ADA Coordinator will advise the applicant of the procedure to be followed with regard to subsequent proceedings associated with the original Request. If necessary, the Local Judicial Program ADA Coordinator may require the applicant to provide additional information about the qualifying disability in order to determine the appropriate Modification to meet the applicant's needs, but only such information that may be required to make such a determination. Under no circumstances will the Local Judicial Program ADA Coordinator be permitted to request information regarding the applicant's disability that is not necessary for the evaluation of the Modification requested.

- F. An application requesting Modification may be submitted by any lawyer, party, witness, juror or other individual with an interest in attending any judicial program, activity or service or another person on behalf of such interested person.
- G. The Request for Modification should be submitted with as much advance notice as possible, but in any event should be made no less than five (5) business day prior to the date for which the

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Modification is sought. An immediate Request for Modification should be made when urgent and/or emergency circumstances arise. In criminal cases where a defendant is confined to jail, the Request for Modification should be made as soon as possible. However, it may be necessary that the Request for Modification may be made contemporaneously with his or her initial court appearance.

- H. In the event that a person requiring a Modification has not made a timely Request for Modification, the court may, in its discretion, immediately grant such Modification without requiring an advance written request. In such a case, a Request for Modification form shall be completed by either the person requesting Modification or court personnel for the court's records. Alternately, the court may, in its discretion, postpone, reschedule or otherwise delay the judicial program, service or activity affected. Under such circumstances, the individual requesting Modification shall be required to immediately submit a written request. If appropriate or upon request, court personnel will provide assistance with writing and submitting the request for Modification.
- I. The Local Judicial Program ADA Coordinator will, as soon as practicable, notify the requesting individual of the Modification to be provided. An alternate Modification may be offered instead of the requested Modification if the Local Judicial Program ADA Coordinator determines that another equally effective Modification is available.
- J. If the Local Judicial Program ADA Coordinator determines that additional time may be necessary in order to achieve and/or obtain Modification, the Local Judicial Program ADA Coordinator shall notify the judge presiding over the matter, who will determine an appropriate course of action.
- K. A request for Modification may be denied only if the Local Judicial Program ADA Coordinator finds that:
  - 1) The person making the request is not a qualified individual with a disability; or,
  - 2) The requested Modification would create an undue financial or administrative burden; or,
  - 3) The requested Modification would fundamentally alter the nature of the judicial program, service or activity; or,
  - 4) Some other Modification would be as effective and involve less cost or inconvenience; or,

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- 5) The applicant has refused to comply with this Policy; or,
  - 6) The applicant's failure to comply with this Policy makes impossible or impracticable the ability to provide the requested Modification.
- L. No employee of the Judicial Branch of the State of Tennessee shall retaliate against any person who exercises his/her rights under the Americans with Disabilities Act or who requests modification pursuant to this policy.
- M. If a Request for Modification is denied or the offered alternate Modification is unsatisfactory to the applicant, the applicant may appeal the decision of the Local Judicial Program ADA Coordinator to the presiding judge of the judicial district within ten (10) days of the denial of Modification or offer of alternate Modification. The judge shall rule on the appeal as soon as practicable, and where possible, in advance of the date of the hearing for which the Modification is requested.
- N. If an applicant is dissatisfied with the ruling of the presiding judge, the decision may be appealed, within ten (10) days of the ruling, to the Director of the Administrative Office of the Courts, or his/her designee. A written request must include reasons for disagreement with the previous determinations, as well as the remedy sought. The Director shall provide a ruling as to the request as expeditiously as possible. In resolving appeals, the Director is authorized to independently investigate the facts surrounding the appeal and has the discretion to utilize appropriate dispute resolution processes or other methods, including but not limited to, designating an appropriate neutral to assist in resolving the issues in controversy.
- O. A public notice shall be posted in visible places throughout each facility where judicial programs, services and/or activities are held, including but not limited to each court clerk's office, that identifies the Local Judicial Program ADA Coordinator and the Tennessee Judicial Program ADA Coordinator. Such public notice shall also provide a website address where a copy of this policy, implementation guidance, and Request for Modification form may be obtained electronically.
- Should the courthouse facility within which judicial programs, services and/or activities are provided be inaccessible, a public notice shall be posted on the outside of the building or at another such location at or near the building that is readily accessible.
- P. When a summons, subpoena, juror summons or other pleading, order or document compelling participation in a judicial program,



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service or activity is issued, said documents shall provide notice of the identity of the Local Judicial Program ADA Coordinator, the Tennessee Judicial Program ADA Coordinator and a specific designation as to how each may be contacted, including telephone numbers and email addresses. Such notice shall also provide information about program accessibility and the procedure for submission of requests for reasonable modifications. Such notice shall also provide a website address where a copy of this policy and Request for Modification request form may be obtained electronically. In the alternative, an abbreviated form of notice, i.e. a stamped or printed statement, that may be integrated onto a pre-printed form, may be provided on such documents that provides contact information for persons requiring assistance under the Americans with Disabilities Act, e.g. "For ADA assistance, please call (insert contact information for Local Judicial Branch ADA Coordinator)."

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**REQUEST FOR MODIFICATION**  
**Applicant requests accommodation under Tennessee Judicial Branch Policy 2.07**

**Applicant Information**

Applicant is: \_\_\_\_\_ Witness \_\_\_\_\_ Juror \_\_\_\_\_ Attorney \_\_\_\_\_ Party \_\_\_\_\_ Other (Specify Nature of Interest): \_\_\_\_\_

**Name:** \_\_\_\_\_ **Court:** \_\_\_\_\_

**Telephone:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Judge:** \_\_\_\_\_

**Case No.:** \_\_\_\_\_

Type of proceeding: Criminal \_\_\_\_\_ Civil \_\_\_\_\_

Proceedings to be covered (e.g., bail hearing, preliminary hearing, particular witnesses at trial, sentencing hearing, motion hearing, and trial): \_\_\_\_\_

Dates modification needed (specify): \_\_\_\_\_

Disability necessitating modification (specify): \_\_\_\_\_

Type of modification requested (specify): \_\_\_\_\_

Special requests or anticipated problems (specify): \_\_\_\_\_

I hereby certify that the above information is true and correct to the best of my knowledge.

Date: \_\_\_\_\_

\_\_\_\_\_  
 (Signature of Applicant)

The request for modification is **GRANTED**.

**OFFER OF REASONABLE ALTERNATE MODIFICATION** \_\_\_\_\_

The request for modification is **DENIED** because:

- \_\_\_\_\_ the applicant is not a qualified individual with a disability
- \_\_\_\_\_ the requested modification would fundamentally alter the nature of the judicial program, service or activity
- \_\_\_\_\_ the requested modification would create an undue financial or administrative burden
- \_\_\_\_\_ the applicant refused to comply with the Policy
- \_\_\_\_\_ the applicant's failure to comply with the Policy makes impossible or impracticable the ability to provide the requested Modification

(Specify) \_\_\_\_\_

DATE: \_\_\_\_\_

\_\_\_\_\_  
 Local Judicial Program ADA Coordinator

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**APPEALS**

Presiding Judge Review requested. (Specify reason and the remedy you want): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DATE: \_\_\_\_\_  
\_\_\_\_\_  
(Signature of Person Requesting Review)

**PRESIDING JUDGE REVIEW**

I have reviewed the original request for modification, the offer of alternate modification OR the denial of modification and the reason for the denial, and the reason that this review has been requested and find as follows: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DATE: \_\_\_\_\_  
\_\_\_\_\_  
PRESIDING JUDGE

Administrative Office of the Courts Review requested. (Specify reason and the remedy you want): \_\_\_\_\_  
\_\_\_\_\_

DATE: \_\_\_\_\_  
\_\_\_\_\_  
(Signature of Person Requesting Review)

**ADMINISTRATIVE OFFICE OF THE COURTS REVIEW**

I have reviewed the original request for modification, the offer of alternate modification OR the denial of modification and the reason for the denial, and the reason that this review has been requested and find as follows: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DATE: \_\_\_\_\_  
\_\_\_\_\_  
AOC DIRECTOR

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**PUBLIC NOTICE**

The Americans with Disabilities Act prohibits discrimination against any qualified individual with a disability. The Tennessee Judicial Branch does not permit discrimination against any individual on the basis of physical or mental disability in accessing its judicial programs. In accordance with the Americans with Disabilities Act, if necessary, the Tennessee Judicial Branch will provide reasonable modifications in order to access all of its programs, services and activities to qualified individuals with disabilities.

If you require a modification to access the judicial program and/or have special needs because of a qualified disability, you must submit a written **Request for Modification** to the Local Judicial Program ADA Coordinator listed below at least five (5) business days prior to the date of the judicial program, if possible. A form is available from the Local Judicial Program ADA Coordinator or from the Tennessee Judicial Program ADA Coordinator.

If you need assistance, have questions or need additional information, please contact your Local Judicial Program ADA Coordinator:

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If you need assistance, have questions or need additional information, you may also contact the Tennessee Judicial Program ADA Coordinator:

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The Tennessee Judicial Branch Americans with Disabilities Act Policy Regarding Access to Judicial Programs, as well as a Request for Modification form may be found online at [www.tncourts.gov](http://www.tncourts.gov).

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**NOTICE**

**(To be sent along with Summons, Subpoenas, Juror Summons or other order compelling participation in a judicial program)**

The Americans with Disabilities Act prohibits discrimination against any qualified individual with a disability. The Tennessee Judicial Branch does not permit discrimination against any individual on the basis of physical or mental disability in accessing its judicial programs. In accordance with the Americans with Disabilities Act, if necessary, the Tennessee Judicial Branch will provide reasonable modifications in order to access all of its programs, services and activities to qualified individuals with disabilities.

If you require a modification to access the judicial program and/or have special needs because of a qualified disability, you must submit a written **Request for Modification** to the Local Judicial Program ADA Coordinator listed below at least five (5) business days prior to the date of the judicial program, if possible. A form is available from the Local Judicial Program ADA Coordinator or from the Tennessee Judicial Program ADA Coordinator.

If you need assistance, have questions or need additional information, please contact the Local Judicial Program ADA Coordinator:

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If you need assistance, have questions or need additional information, you may also contact the Tennessee Judicial Program ADA Coordinator:

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The Tennessee Judicial Branch Americans with Disabilities Act Policy Regarding Access to Judicial Programs, as well as a Request for Modification form may be found online at [www.tncourts.gov](http://www.tncourts.gov).

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**\*ALTERNATIVE NOTICE FORM**

**(To be sent along with Summons, Subpoenas, Juror Summons or other order compelling participation in a judicial program)**

For ADA assistance, please call (insert contact information for Local Judicial Branch ADA Coordinator).

\*This language is model language and may be amended for local court use.

*No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.*

UNIVERSAL DECLARATION OF HUMAN RIGHTS (1948, art. 5)  
INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS (1976, art. 7)

*[T]he term “torture“ means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.*

CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT (1984, art. 1, para.1)

<b>State of Tennessee</b>	<b>Court</b> (Must Be Completed)	<b>County</b> (Must Be Completed)
<b>Protected Income and Assets</b> (Affidavit of Claim Exemptions)		<b>File No.</b> _____ (Must Be Completed)  <b>Division</b> _____ (Large Counties Only)
<b>Plaintiff/Creditor</b> _____ (Name: First, Middle, Last of person/company that filed lawsuit)		
<b>Defendant/Debtor</b> _____ (Name: First, Middle, Last of the other person)		

This Protected Income and Assets form is:       New/First time filed       Changed/Modified

You may use this form to tell the court about any income, property, or benefits that are protected from sale or seizure (garnishment) under state or federal law. You should file this form for each judgment you have against you.

**You may have to pay a filing fee. Can't afford the fee? Ask the court clerk for a paper called a Request to Postpone Filing Fees and Order (Uniform Civil Affidavit of Indigency). Or go on the internet to [www.tncourts.gov](http://www.tncourts.gov) or [www.justiceforalltn.com](http://www.justiceforalltn.com) to get the form.**

Fill out the form. Make a copy for each judgment against you **before you write in the file number and before signing the form.** Sign each copy. You can update this form if you need to protect new property. You must file an update for all unpaid judgments against you.

**IMPORTANT! You can protect up to \$10,000.00 worth of personal property (lines 1-6), and only up to \$1,900 for line 7.**

Some things are automatically protected. You do not have to list them below, such as: your family's clothing and suitcases or trunks where the clothing is stored, family portraits and photographs, the family bible and schoolbooks.

① I am the Defendant/Debtor in the court case listed above. I live in Tennessee and I claim that the following items are protected from garnishment. (TCA §§ 26-2-102 and 26-2-114). This personal property exemption right is in addition to certain items that are automatically exempt by law and do not need to be included in my \$10,000 total, including funds on deposit in checking and/or savings accounts at:

\_\_\_\_\_  
Name of Bank

consisting solely of Social Security, SSI, Unemployment, Workers Comp, AFDC/Families First, Veteran's benefits, alimony or child support, and/or state, federal or city pension.

Item	Describe	Value
1. Car, truck, or other vehicle		\$



2. Furniture/Electronics		\$
3. Household goods		\$
4. Bank Accounts	Bank Name	Balance
5. Other		\$
		\$
		\$
6. Cash		\$
7. Tools of the Trade (Things I need to earn a living)		\$

② **Read below then sign:**

I declare under penalty of perjury under the laws of the State of Tennessee that:

- The information on this form is true to the best of my knowledge.
- The information I provided is a correct and complete list of all of my income and assets to be protected.

Defendant/Debtor

Signs here: \_\_\_\_\_ Date: \_\_\_\_\_

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Deputy Clerk or Notary Public

**Bring the original and 2 copies of this form to the Court Clerk to be date stamped.  
Give the original to the Court Clerk.  
Bring a stamped envelope addressed for each plaintiff to the Court Clerk. Mail one copy to the lawyer or if there is no lawyer, mail it to the plaintiff or company that sued you. Keep one copy for yourself.**

**Certificate of Service**

(How I gave this paper to the Plaintiff/Creditor)

I certify that I (**check one box**)

- hand delivered or
- mailed by first-class mail, properly addressed, a true and correct copy of this paper to the person listed below at the address below:

\_\_\_\_\_  
Name of Who You Are Giving This To (The creditor's lawyer or the creditor if no lawyer)

\_\_\_\_\_  
Address of the Lawyer or the Creditor (Include City, State and Zip Code)

on \_\_\_\_\_  
(Date you mailed/hand-delivered the copy)

▶ \_\_\_\_\_  
**Sign Your Name**

**IMPORTANT!**

**The court and clerks are not allowed to give you legal advice, even if you don't have a lawyer. This form is a public record. It is not legal advice. The law may change and it is best to consult with a lawyer if possible.**

# **MEETING THE CHALLENGES OF SELF-REPRESENTED LITIGANTS**

## **A BENCH BOOK FOR GENERAL SESSIONS JUDGES OF THE STATE OF TENNESSEE**

*An initiative of the Tennessee Supreme Court Access to Justice Commission*

**Approved by  
The Tennessee General Sessions Judges Conference  
& endorsed by  
The Tennessee Supreme Court**

**May 2013**

## **INTRODUCTION**

A challenge for judges in seeking justice in their courts increasingly involves the issue of how to interact with self-represented litigants. There is a growing and accepted school of thought that a judge must be pro-active in seeking and adopting policies and procedures that are friendly to all parties, including those represented by counsel and those representing themselves. Many authorities now recognize, as does the Tennessee Supreme Court, that for a judge to do nothing to address the needs or problems faced by self-represented litigants actually advances injustice and contributes to the loss of respect for the judicial system by a substantial portion of the public.

This particular Benchbook seeks to address these issues in a compact and economical manner that can be used by courts on a daily basis. It can serve as a guide for judges in seeking to administer justice to all parties. For this reason, this Benchbook will not go into great detail regarding all reasons or foundations for the policies stated but will instead go directly to the heart of the recommended procedures. Many articles and documents have been formulated across the United States and beyond on these issues. This Benchbook is intended to be informative and concise for the busy judge. It recognizes that judges must balance many cases every day and use their discretion to make decisions, while at the same time considering rules of procedure, rules of evidence, and judicial ethics. Judges also have their own styles, and courts have their own culture.

The bottom line is for all courts and judges to seek “justice for all” in as neutral and unbiased and ethical a manner as possible.

Our desire is that this Benchbook be of assistance to the judiciary and the judicial system as a whole by serving the interest of courts, parties, communities, and jurisdictions.

# **A DAY IN THE LIFE OF A TYPICAL COURT:** **A SUGGESTED FORMAT**

## **I. Before Court Begins: Establishing the Framework of Achieving Justice**

**A. LOCAL GUIDELINES (OR RECOMMENDATIONS) AND HANDOUTS:** Each court should draft and maintain local guidelines (or recommendations) dealing specifically with self-represented litigants. For your consideration, a model set of local guidelines (or recommendations) has been drafted that can be used by any court that chooses to do so. Each court is free to create its own set of guidelines or to modify this set of guidelines for each specific jurisdiction.

The local guidelines should be made available in handbook or brochure form as well as online through a county or court website if possible. The local guidelines can describe for all litigants and attorneys the policies and procedures of the local court system. The guidelines can and should also address specific issues dealing with self-represented litigants, including:

- (1) **The importance of considering the use of legal counsel** prior to filing an action in court or after being served with court process on a case.
- (2) **A brief explanation of local procedures in court.** These can include:
  - (a) Calling of the docket
  - (b) Dress code expectations and rules regarding cell phones, proper court etiquette, emphasis on need to be on time, etc.
  - (c) Need to have live witnesses and not just written reports.
  - (d) Exchange of exhibits with opposing side prior to beginning of trial or hearing.
  - (e) Simple terminology of courts.
  - (f) Procedures of plaintiff's case and direct examination and cross examination, followed by procedures of defendant's case, etc.

- (g) Other specific rules of local court
- (h) Explanation of the appeal process, including deadlines for appeal.

**B. HANDOUTS/BROCHURES FOR PRO SE LITIGANTS:** Each court is encouraged to have simple rules or handouts which can be read easily by self-represented parties and other non-lawyers which give simple information about the court and “what to expect in court.”

**C. COURTHOUSE KIOSK:** Your county or court can sponsor a location for a kiosk/service center for assisting self-represented litigants and other non-lawyers who have cases in court.

**D. USING PROGRAMS OR TRAINING TO ASSIST SELF-REPRESENTED PARTIES AND OTHER NON-LAWYERS WITH THEIR ACTIONS IN COURT:**

Courts are encouraged to utilize or develop programs to help self-represented parties with court actions and to help streamline court procedure for all who are involved in judicial proceedings. Examples to be used by judges:

- (i) **“LAWYER OF THE DAY” PROGRAMS:** Use of “lawyer of the day” or similar programs are specifically endorsed as ethically acceptable as long as they operate within the confines of ethical rules and guidelines.

Any lawyer operating within a “lawyer of the day” program should, of course, avoid real conflicts of interest, improper contact with parties, and other ethical violations.

As long as the self-represented party understands the limitations under which a “lawyer of the day” is operating, such limited roles of lawyers are acceptable ethically. This includes advising litigants of court procedures and rules of evidence, attempts to resolve or mediate issues, and other simple acts of representation or “unbundled services.”

- (ii) **“LEGAL ADVICE CLINICS”:** Pro bono legal advice clinics are where lawyers meet with pro se litigants and give advice on what to do or what not to do, or advise litigants of what to expect in court, and

provide other valuable legal and common sense advice.

(iii) **“PRO SE DOCKET DAY”**: Where lawyers are assigned on a rotating basis to assist pro se parties on what is clearly explained to be a one-day event only.

“Pro Se Docket Days” can also be a time when judges have a day of special instructions for people representing themselves where courts can give explanations of judicial expectations, simple rules of evidence and procedure, and assist self-represented parties in having a greater understanding of what is going to happen in court.

E. **LEGAL AID BROCHURES**: Legal Aid organizations should be allowed and encouraged to develop and distribute issue specific information brochures or pamphlets to assist pro se litigants.

F. **ROLE OF CLERKS**: Judges and clerks should coordinate and understand limitations of clerks and their staffs, along with judicial secretaries or administrators. The Guidelines for Tennessee Court Clerks Who Assist Self-Represented Persons should be followed by all clerks and their personnel, which allows clerks to assist the public in a cordial and pleasant manner without providing legal advice.

G. **FORM DEVELOPMENT AND USE**: The Tennessee Supreme Court Access to Justice Commission is in the process of creating standardized pleadings or other forms for use by the public. Any form approved by the Tennessee Supreme Court shall be considered universally acceptable as legally sufficient in all Tennessee courts. To date, the Court has approved several forms, including forms for divorces without children, and additional forms will be made available as those forms are approved by the Court.

Judges should permit use of such forms and make allowances for self-represented litigants to access and file the forms in an atmosphere friendly to self-represented persons. Clerks and judicial administrators and secretaries should be familiar with the forms and the procedures for filing the forms. The public’s confidence in the judicial system will be enhanced by an efficient and professional approach to the use of court-approved forms.

**H. COLLABORATION WITH LOCAL BAR ASSOCIATIONS AND STAKEHOLDERS:** Courts are encouraged to work with local bar associations and other stakeholders to promote development and improvement of programs to assist self-represented parties. All of these programs shall be designed to accommodate the reality of the abundance of self-represented parties in today's world, not to discourage the use of attorneys.

**I. ETHICS OPINIONS:** All policies and rules formulated by judges and courts should be regularly re-evaluated to take into consideration developing law in the area of self-represented litigants. This is an ongoing ethical responsibility of judges.

**J. USE OF PRO SE MEDIATION SERVICES:** The use of mediation services for self-represented litigants is consistent with the orderly administration of justice. It is appropriate for courts to encourage use of mediation services for self-represented litigants. (See suggested script.)

## **II. Judicial Greeting and Address to the Public at the Beginning of Each Docket**

1. Be courteous and respectful to all parties.
2. Be in control of your courtroom but realize achieving justice in each case is a work-in-progress. Use your ability, training and common sense to deal with all parties, whether represented by counsel or not. You are here for a season, and you are a servant of the people who elected you and the Constitution and laws that guide you. Enjoy the experience and honor, and advance the cause of justice.



## **A Suggested Script---for the Judge**

### **INTRODUCTION**

“Good Morning.

Today, \_\_\_\_\_ Court of \_\_\_\_\_ County is handling a Civil docket; that means we hear non-criminal cases. This includes automobile accidents, debt collection, and landlord/tenant cases. We also hear home improvement, property, employment and auto repair contract cases.

What I will do first is read the list of cases I will hear today. I need complete silence in the court. That means no talking or making noises. Turn off your cell phones. When I call your name, please hold up your hand and answer “here.” We need to know if you are here and have a lawyer. I may also ask questions about your case. This helps me know how long it will take to hear each case.

After I go over the case list, you will have time to go outside the courtroom and talk to people on the other side of your case. This is a last chance to settle the case yourselves. If you still can’t agree, you will get a trial.

You must give each other any papers, pictures, or proof you plan to use in court (that you plan to hand to the judge as an exhibit). Give the other side copies if you have them. If you don’t have copies, let the other side read your papers or see your pictures. The other side must then return your papers and pictures to you. This will save time when we start your case. This is what lawyers must do and we expect the same if you represent yourself. Everyone must be polite in court. No cursing, yelling or being rude to anyone. The bailiff can help with this if there is a problem.

Lawyers are here only to help their client. They don’t speak for the court.

### **OPTIONAL SCRIPT REGARDING MEDIATION**

(For General Sessions Court with mediation programs, please insert optional script for mediation services here. See mediation script on page 10.)

## RULES FOR THE TRIAL

**1. Burden of Proof** The person who filed the lawsuit is called the plaintiff. If you are the plaintiff, you must prove you should win based on the law and the facts. That means that you have stronger evidence or proof than the other side, no matter how slight the difference is. It is not based on the greater number of witnesses or number of papers or exhibits but is based on who has the most convincing overall proof. For instance, looking at the scales of justice, the plaintiff must show the evidence tilts the scales in his or her favor.

The person who was sued is called the defendant. If you are the defendant, you have a chance to tell your side. You also have the right to sue the plaintiff before the trial date. This is called a **counter-complaint**. If you file a counter-complaint, you are now a counter-plaintiff and must prove your case. You must also show the proof tilts the scales of justice in your favor on your counter-complaint.

**2. It May Help to Have a Lawyer** Before the trial, either side can hire a lawyer. A lawyer is trained in the law and can help you present your case. The lawyer also knows the rules for giving proof and when to object to something. Both sides should think about getting a lawyer.

The court knows you may not be able to afford a lawyer. You have the right to speak for yourself in court if that is what you choose to do.

The court will be fair to both sides if they have a lawyer or not.

**3. How the Trial Works** If you are the plaintiff, you go first. Your witnesses will testify. Then the other side can question your witnesses. Everyone must show respect and be polite. That means no yelling, cursing, rude comments, or name-calling. Ask the witness questions. Don't testify yourself while a witness is on the witness stand. Don't make personal comments about the witness or what they say. If you have exhibits, your witnesses (or you) will identify them.

After the plaintiff finishes, it is the defendant's turn. If you are the defendant, you can testify and have witnesses testify. The other side gets to question all your witnesses. If you have exhibits, your witnesses (or you) will identify them.

**4. Rules about Proof** There are rules about the proof you can use. These are called Rules of Evidence. One of the rules says you cannot use hearsay as

testimony. **Hearsay** is when you say what you heard from someone else. Most of the time, you can only testify about what you know or saw. You cannot testify about what someone else knows.

There are many rules about proof. You may not know all these rules unless you are a lawyer. You may not know when to object to the other side's proof. The judge cannot act as your lawyer. The judge can stop a witness if the testimony is not helping to explain the case or is simply repeating what another witness has already testified about.

**5. The Judge Does Not Take Sides** The judge must be fair and treat everyone the same. The judge must let both plaintiff and defendant tell their side.

**6. Getting More Time** There are rules that may let you get more time before the trial starts. This is called a continuance. You may be able to ask for more time to get your case ready for trial. Ask the judge if you think you need more time and wish to delay the case. The decision to hear the case today or delay the case to a new date is up to the judge.

**7. Rules About Use of Exhibits** You may have letters, estimates or other proof that a witness is testifying about. These are called exhibits. Have the witness look at the proof. The witness must testify that they know about the proof. Then you can ask the court to accept the proof. You can only use the proof if the witness personally knows about it.

**8. Rules and Recommendations About How You Act** The rules are the same for both sides. Talk to the judge. Don't talk to or argue with the other side once the trial starts. Show respect and be polite. No yelling, arguing, cursing or name-calling. Do what the judge tells you. This is a court of law. If you don't show respect, the judge may say it is contempt of court. Then you may have to pay a fine or go to jail. It can also make you lose your case.

**9. Start of Trial** Mr./Ms. \_\_\_\_\_, you may now testify yourself or call your first witness.

**10. During the Trial** The judge may tell you or any witnesses to stick to the point. This is to keep the case moving. The judge may remind you to ask the witness questions and not testify yourself. Do what the judge says.

The court wants to find the truth. The judge may ask questions about the case. This is to make sure you get to the point. **Example:** You said the defendant harmed you. Did this cause damages? What are your damages?

**11. End of Trial** Both sides present their witnesses and proof and then rest their case. The judge may let both sides give a closing argument. This is not testimony. It is a last chance to say what proof you gave showing that you should win. You remind the judge what testimony your witnesses gave. The person who filed the lawsuit goes first, then the defendant. The judge may let the Plaintiff answer what the defendant says. This is because the person who filed the suit must prove he or she should win. The judge may give you a time limit. You must stop when the time is up. So tell your most important points first.

**12. Appeal** The judge will say who won the case. In General Sessions Court, both sides have 10 days to file an appeal. If you disagree with the judge's decision, an appeal is a chance to change the decision. When you appeal, the case will be sent to Circuit Court for a brand new trial in front of a different judge.

There are rules for how to appeal. Ask the General Sessions Clerk's Office how to appeal and how much it costs.

If you can't afford the fees, tell the Clerk. You may be able to file for free if you meet the rules. The other side in your case will be told you appealed.

If the other side in your case files the appeal, they pay the court fees to appeal. You will be told if they appeal.

Even if someone is allowed to appeal for free or at a reduced cost, a judge can later order all costs to be paid by either side or both sides.

## **OPTIONAL SCRIPT REGARDING MEDIATION**

You may want to try mediation. Mediation is a way to try to settle any kind of case outside a courtroom. You and the person on the other side of your case meet with a mediator. If you have a lawyer, they should come, too. Both of you talk about the things you disagree on. You talk about the things each one of you want. Mediators don't take either side. The mediator is not a judge. They don't make the decision. They try to help you agree on something that is fair for everyone. They help you write out an agreement. Both sides must feel OK about the agreement and ask the court to OK it.

If you can't agree during mediation, you can always come back to court.

Then we will have a hearing on your case.

If you are not a lawyer and are representing a corporation or Limited Liability Corporation, listen closely. Under Tennessee law, only a lawyer can speak for a corporation or an LLC. If you don't have a lawyer with you, I can't hear your case. But you can try mediation.

**[Note For Judges:** Court systems are encouraged to use/recommend mediation services as available. Your local rules can specify what the parties need to do to seek mediation. Your court system can make it clear whether mediation services are available on the day of the hearing or must be accessed in advance.

If your court works with a community mediation center, has a mediator of the day program, or frequently uses local mediators, you can provide the self-represented litigant with information on the mediation program in your county. If you are unsure as to what to tell the parties about mediation, ask the mediation program to provide you with correct information.

If your court does not use a community mediation center or does not frequently work with mediators, you can tell the parties that they may be able to use a Supreme Court Rule 31 mediator.

If you have questions about mediation, please contact the AOC. You can direct parties that are interested in mediation to the AOC for help finding a mediation center or Rule 31 mediator.]

## **CONCLUSION**

Thank you for your interest in meeting the challenges of self-represented litigants. This Benchbook is designed to be of assistance to judges as we seek justice for all persons who enter our courtrooms. Please feel free to add your own language or court practices to these materials and to customize to the needs of your own court system.

This Benchbook has been prepared as a part of the  
“Access to Justice” initiative of the Tennessee Supreme Court.

## SOURCES

1. “Ethics in Transition: Unrepresented Litigants and the Changing Judicial Role,” by Russell Engler, Notre Dame Journal of Law, Ethics and Public Policy, Volume 22 Pages 367-398 (June 2008)
2. “Ensuring Access to Justice in Tough Economic Times,” by Frank Broccolina and Richard Zorza, Judicature, Volume 92, No. III (November-December, 2008)
3. “Judicial Techniques for Cases Involving Self-Represented Litigants,” by Rebecca Albrecht, John M. Greacen, Bonnie Rose Hough, and Richard Zorza, The Judges Journal (Winter 2003 American Bar Association Volume 42, No. 1)
4. “Litigants without Lawyers: Courts and Lawyers Meeting the Challenge of Self-Representation” (American Bar Associations Coalition for Justice Roadmap Series, 2002)
5. “Guidelines for Tennessee Court Clerks Who Assist Self-Represented Persons” (Tennessee State Court Clerks Association)
6. “Report to the Tennessee Supreme Court of the Task Force to Study Self-Represented Litigant Issues in Tennessee” (December 4, 2007, Carl A. Pierce, Chairperson)
7. “In a Downturn, More Act as Their Own Lawyers,” by Jonathan D. Glater, The New York Times (April 10, 2009)
8. “The Toughest Nut: Handling Cases Pitting Unrepresented Litigants Against Represented Ones,” by Russell Engler, National Council of Juvenile and Family Court Judges, Volume 62, No. 1 (Winter 2011)
9. “Reaching Out or Overreaching: Judicial Ethics and Self-Represented Litigants,” by Cynthia Gray (American Judicature Society, 2005)
10. “The Disconnect Between the Requirements of Judicial Neutrality and Those of the Appearance of Neutrality when Parties Appear Pro Se: Causes, Solutions, Recommendations, and Implications,” by Richard Zorza, Georgetown Journal of Legal Ethics, Volume 17, pages 423-454 (2004)
11. “Rethinking the Rules of Evidentiary Admissibility in Non-Jury Trials,” by John Sheldon and Peter Murray, Judicature, Volume 86, No. 5 (March-April 2003)
12. “A New Day for Judges and the Self-Represented: Toward Best Practices in Complex Self-Represented Cases,” by Richard Zorza, The Judges’ Journal, Vol. 51 No. 1 (Winter 2012), by The American Bar Association