

JUDGE JOE P. BINKLEY, JR.
5th Circuit Court, Room 509

I. Biography

Judge Joe P. Binkley, Jr. is a native Nashvillian. He attended high school at Montgomery Bell Academy and graduated in 1962. He received his B.A. from Vanderbilt University in 1966. He received his J.D. from Vanderbilt University School of Law and was admitted to the Tennessee Bar in 1969. During nearly 40 years of law practice, Judge Binkley was a sole practitioner trial attorney representing Plaintiffs in all types of simple as well as complex workers' compensation and personal injury cases, representing individuals in all types of simple and complex domestic relations matters as well as defendants in all types of simple and complex criminal cases from 1969 through early 2008 in the state trial courts, federal trial courts and all appellate courts. He is a member of the Tennessee and Nashville Bar Associations and the Tennessee Trial Lawyers Association. He is a Trustee of the Nashville Bar Foundation as well as a former Board Member of the Nashville Bar Association for two separate terms. He is also an Emeritus member of the Harry Phillips American Inn of Court and a Fellow of both the Nashville and the Tennessee Bar Foundations. He is a Judge member of the American Board of Trial Advocates since 2014, and was the recipient of the Law Day USA Liberty Bell Award from the Nashville Bar Association in 2019.

Judge Binkley has served as the Fifth Circuit Court Judge since his appointment by Governor Phil Bredesen in March of 2008 and subsequent election in August of 2008 and re-election in August of 2014. He hears predominantly civil cases; however, he also hears DUI criminal cases as well as other misdemeanor and felony criminal cases, divorce cases, Chancery cases and Probate cases. As of 2020, he is serving his tenth consecutive term as the Presiding Judge of the 18 State Trial Court Judges in the 20th Judicial District.

Judge Binkley has been married to Suzanne Griffith Binkley since 1967. They have one son, Jay Binkley (Joe P. Binkley, III), who resides in Dallas, Texas with his wife Kristen and their son J.P. (Joe P. Binkley, IV), and two daughters, Holly Binkley Higgins along with her husband Mike and their two sons, Will and Jack, who live in Glenview, Illinois, and Ellie Binkley Fromherz along with her husband Bernard and their sons Joseph and Robert and daughter Claire who reside in Madisonville, Louisiana.

II. Preliminary General Matters

A. Scheduling

1. Trial dates for all jury and non-jury trials should be obtained from the Assignment Clerk at (615) 862-4209. All other scheduling should be done with Judge Binkley's Judicial Assistant, Marla Guinn at (615) 862-5915.

2. In all jury cases, the Circuit Court Special Master, Marsh Nichols, will schedule a status conference/case management conference after the expiration of approximately 4-6 months from the initial filing of a jury case. These conferences are conducted by the Special Master. Each case is designated as either a general sessions

appeal, expedited, standard, or complex pursuant to Local Rule §§ 27.06(f).

B. Correspondence with the Court

Judge Binkley prefers that all communication with the Court should be by pleadings, notices, memoranda and briefs. Letters sent to the Court will be placed in the case file.

C. Telephone Conferences with the Court

Judge Binkley will conduct status conferences or pre-trial conferences by telephone whenever out-of-town counsel are involved and/or the physical presence of in-town counsel is not feasible and/or necessary.

Judge Binkley generally will not resolve discovery disputes by telephone. Attorneys or parties must file the appropriate motion.

Judge Binkley will conduct emergency motions by telephone whenever it is necessary and/or appropriate.

D. Pro Hac Vice Admission

Judge Binkley is vigilant in requiring out-of-state counsel to comply with the requirements of Supreme Court Rule 19 before participating in a case.

III. Pretrial Matters

A. Pretrial Motions

1. Motions should be scheduled pursuant to Local Rule §26.03.

2. Judge Binkley will allow a motion to be heard earlier than the minimum notice if all parties agree. However, a waiver of Local Rule §26.01 (i.e. scheduling a dispositive motion within thirty (30) days of a trial date) will require permission from the Court.

3. In order to schedule a motion on an expedited basis without the agreement of all parties, a party must file a motion for an expedited hearing, along with the underlying motion. A proposed order granting the motion for an expedited hearing shall be filed as well, leaving the date of hearing blank for the Court to complete. The motion for an expedited hearing should fully explain why Local Rule §26.03(a) or (b) should be waived. If Judge Binkley grants the motion for an expedited hearing, he will enter the proposed order and schedule a hearing on the underlying motion. Counsel will be notified of the expedited hearing date by telephone, fax or e-mail.

4. Oral argument of a motion may be waived by agreement of counsel. See Local Rule §25.04.

5. Parties are not required to appear on Friday mornings if

no response to their motion has been timely filed. An order should be filed granting the motion within seven (7) days of the motion hearing date. See Local Rule § 33.01(a).

6. Late responses generally are not considered by the Court. If the parties agree to allow a non-movant to respond to a motion late, the Court will consider the late response so long as the Court has been notified of the agreement in advance.

7. Judge Binkley does not call either the no response docket or motions for summary judgment when no responses have been filed; however, prior to calling the response docket, Judge Binkley will address any questions and comments concerning the no response docket.

B. Settlement Conferences/ADR

In order to schedule a judicial settlement conference for a case that has been assigned to the Fifth Circuit Court, contact the Special Master's Office at 880-2555.

IV. Trial Procedure

A. Courtroom Decorum

1. Please use the podium, and please stand behind the podium when addressing the Court.

2. Do not bring gum, food or drink (other than water) in the courtroom.

3. Please ask permission before approaching a witness or the judge.

4. An attorney should never directly hand an exhibit to the judge or a witness. Please wait for the court officer to come forward and receive the exhibit. The court officer will then pass the exhibit to the witness.

B. Voir Dire

1. Counsel should keep in mind that voir dire is not an opening statement. Fact specific questions are discouraged.

2. Judge Binkley will conduct a short preliminary voir dire of jurors who are initially seated in the jury box as well as those who are subsequently seated in the jury box. One of the questions Judge Binkley will ask the prospective jurors is whether or not they have previously served on either a civil or a criminal jury and the verdicts rendered in those cases.

3. Please address all of your general questions to the jurors seated in the jury box as well as to all prospective jurors seated in the

courtroom.

4. You may use your challenges against any juror until your challenges are exhausted. (Back striking is permitted.)

C. Note Taking By Jurors

Judge Binkley will tell the jurors they are welcome to take notes during trials. Pen and paper are provided to the jurors by the Court for that purpose. The jurors are allowed to take their notes with them into the jury room when deliberations begin.

D. Opening Statement

Counsel should keep in mind that an opening statement is not a time for argument, but rather a presentation of anticipated facts.

E. Examination of Witness

If you plan to introduce evidence or cross examine about evidence admissible under T.R.E. 404(b), 405(a), 608(b) or 609, please obtain permission from the judge beforehand, out of the presence of the jury.

F. Exhibits

1. As a general rule, the Court Officer of the Fifth Circuit Court will mark/label all trial exhibits. If the Court Officer is unavailable and if a court reporter is present for a jury trial, the court reporter will mark/label all trial exhibits unless counsel have agreed in advance to pre-labeling of the exhibits. This same procedure applies to non-jury trials. Judge Binkley asks that counsel and the parties remain silent until each exhibit has been marked.

2. A witness who wishes to use a diagram or drawing shall prepare the diagram or drawing prior to trial or at a recess or break prior to the testimony and allow all counsel to review the diagram before being introduced at trial.

3. Counsel admitting documentary evidence which he or she wants the jury to read in court shall provide a sufficient number of copies to enable each juror in court to have his or her own copy plus one copy for the Court.

G. Closing Statement

Judge Binkley generally will not set a time limit for closing argument.

H. Jury Instructions and Verdict Forms

1. If counsel wishes to submit them, proposed jury instructions and a verdict form should be given to Judge Binkley's law clerk as soon as practicable either before trial begins, but certainly before the end of the trial.

2. A jury charge conference will be held with the attorneys to discuss the jury instructions and verdict form. These conferences are held on the record in the courtroom.

3. In all cases a copy of the finalized jury instructions and verdict form is provided for each juror to follow along as Judge Binkley reads them. Each juror is then allowed to bring their copy of the instructions and verdict form into the jury deliberation room, and the jurors may refer to their copies at any time during their deliberations.

I. Jury Deliberation and Verdict

1. Counsel are not required to remain in the courtroom or at the courthouse while the jury is deliberating; however, all counsel shall inform the court officers of where they will be and how they can be contacted throughout the jury deliberations.

2. All appropriate exhibits are given to the jury as they begin their deliberations.

3. All questions from and requests by the jury are submitted in writing to Judge Binkley. Judge Binkley will provide copies of all juror questions and requests to counsel and will meet and confer with counsel before making any replies.

4. Transcripts of audio and video testimony are not given to the jurors with other exhibits. If the jurors request to see a transcript or rehear such testimony, Judge Binkley will review such a request with counsel.

5. After the verdict has been announced by the presiding juror, as a general rule the jury will be polled by Judge Binkley.

6. After the jury has announced its verdict and court has recessed, Judge Binkley prefers to speak with the jurors and to answer their questions to the extent appropriate.

V. Other Comments

1. If counsel or a party expects that they will be late to court, please notify the Court as soon as possible. If a civil motion is called on a Friday morning and the movant is not present without having notified the Court, the motion may be stricken. If a non-movant is not present without having notified the Court, the motion may be granted.