

**JUDGE AMANDA MCCLENDON**  
**2nd Circuit Court**  
**Room 506**

**I. Brief Biography**

Amanda McClendon is Judge of the Second Circuit Court for the 20th Judicial District serving Davidson County, Tennessee. She like her father (the late Harold McClendon), is a native Nashvillian with family presence in Davidson County since at least 1803. Her mother, Jean Henrietta McClendon (nee Olney) is a native of Redding, England, immigrating to this country in 1955.

Judge McClendon attended Whitsitt and Glenview Elementary Schools, Wright and Rose Park Junior High Schools, and graduated from McGavock High School in 1975. She attended MTSU for 2 ½ years, then transferred to Vanderbilt University where she graduated with a Bachelor of Science degree in Economics and History. In 1983 she was a recipient of the American Jurisprudence award for excellence in the study of Decedent's Estates. In 1984 Judge McClendon was admitted to practice law in the State and Federal Courts of Tennessee.

After passing the Tennessee Bar she engaged in the general practice of law for 23 years. During the last 7 years of her law practice she was elected twice to represent the 16th District in the Metropolitan Council for Davidson County, Tennessee. While a member of the Council, Judge McClendon held a variety of leadership positions, culminating in holding the chair of the Budget and Finance Committee. Judge McClendon was the second female attorney ever to serve on the Metro Council. She is a member of the Nashville and Tennessee Bar Associations, as well as the Tennessee Trial Judges Association and the Tennessee Judicial Conference Foundation. She is also a Fellow of the Nashville Bar Foundation and a Master of the Bench of the Harry Phillips American Inn of Court.

Judge McClendon continues to be actively involved in many professional, civic, and business organizations.

**II. Preliminary General Matters**

**A. Scheduling**

For civil cases, see Case Management Plan. All scheduling for motions in civil cases, contact the Second Circuit Court Law Clerk. Civil Motions are heard every Friday of the each month at 9:00 a.m., with a few exceptions.

**B. Corresponding with Court**

For scheduling or rescheduling conferences or trials, you may call the Judicial Assistant to Judge McClendon. Judge McClendon prefers that all communication be by pleadings, memoranda and briefs, unless she directs otherwise in specific situations, such as follow-ups to a status conference.

**C. Telephone Conference with the Court**

The court often handles conferences by phone in emergency situations or to accommodate out of town or out of county attorneys. The judge will accept no telephone calls from one attorney or from litigants. If a conference call is necessary, contact the Judicial Assistant to Judge McClendon.

**D. Telephone Conference with the Law Clerks**

The law clerk will discuss scheduling and administrative matters with attorneys, but not substantive matters.

**E. Pro Hac Vice Admission**

The Court follows the Rules of Civil Procedure.

## **F. Motion to Ascertain Status**

The Court is happy to have any attorney call or write and inquire as to the status of a case under advisement, particularly if the opinion is over 30 days. You will not be penalized if you ask what the status is.

## **III. Pretrial Matters - Civil Cases**

### **A. Scheduling Orders**

See Case Management Plan. Judge McClendon has status conferences within 4-6 months of filing a civil jury case. Generally Special Master Marsh Nichols will preside at the scheduling conference. Judge McClendon will hear the more complicated cases.

### **B. Continuance and Extensions**

See Case Management Plan. The court will only grant a continuance if the attorneys appear personally or, in an emergency, have a phone conference. If a case is continued, the parties must plan an ADR event between the continued date and the new trial date, whether it is a civil or family case. Continuances are rarely granted, as the court does so much management of its cases.

### **C. Pretrial Motions**

Civil motions are heard generally the first and third Fridays of each month at 9 a.m. You may check the dates on the Internet at [www.nashville.gov/circuit](http://www.nashville.gov/circuit) or in the clerk's office. Second Circuit strictly follows Rule 26 concerning the two-week rule, unless you and your colleague agree to hear a motion earlier than the two weeks for emergency purposes. If your argument is expected to exceed a total of one-half hour, you should schedule the motion specially or alert the court.

If you are citing out of state cases in your briefs, please attach a copy of the case to your brief. If you file a reply late on Wednesday, to insure that it has reached the law clerk, please bring a courtesy copy to Second Circuit Court directly.

On oral argument in civil cases, please remember that Judge McClendon has read the bulk of your materials and briefs. Please go directly to your most important issues so that she can ask questions about particular points, rather than reciting the same material that you have in your brief.

### **D. Discovery**

#### 1. Discovery Period and Extensions

All discovery is carefully outlined in the Scheduling Order. The dates set are reasonable and with attorney consent. Unless there is an unexpected occurrence, the court will not extend deadlines.

#### 2. Discovery Disputes

Judge McClendon expects that almost all disputes can be worked out between the parties as they have the superior knowledge in the case. Attorney disrespect of each other will not be tolerated. Discovery disputes that require court action will generally be concerning evidentiary matters.

### **E. Settlement**

The court encourages settlement of cases, particularly with the use of ADR. The Scheduling Order provides a date for an ADR event. Unless there is a particular reason not to do an ADR event, the court expects the parties to attempt settlement where possible. Judge McClendon will conduct a settlement conference upon special request. At the time that a settlement conference is set, you will be sent a letter which directs you to produce certain materials to the court prior to the settlement conference. Judge McClendon will not try a case in which she has conducted a settlement conference. Judge McClendon does settlement conferences approximately two weeks per year, unless specially scheduled.

At the time that a settlement conference is set, she or Megan Gregory will send you a letter which directs you to produce certain materials to the court prior to the settlement conference. She will not try a case in which she has done a settlement conference.

Judge McClendon expects all parties to be present at the conference, including the representative of the insurance company, if applicable. At the beginning of the conference, she will ask all parties to make a statement of their case. She will then see if there are any factual disputes, which can be worked out between the parties. If necessary she will then use break-out sessions with each side in order to learn more about their view of the case. She particularly encourages parties and not just attorneys to participate. These sessions are confidential and no information will be disclosed to the other side, unless they agree. These sessions will continue either separately or with all parties back together, until settlement is reached or there is an impasse. Although Judge McClendon may refer to prior jury case verdicts, she does not generally give her assessment of the value of the case, until impasse has been reached.

#### **F. Pretrial Briefs**

Judge McClendon appreciates receiving briefs in civil cases, where there are issues that are not routine. This may be especially helpful in complicated civil cases or more unusual evidentiary issues.

#### **G. Injunctions**

The court will hear a Restraining Order *ex parte*, if the attorney assures her that he or she does not know if there is an attorney or if on diligent effort the attorney has been advised of the request but chose not to appear. If the party or attorney is available the court will require that the requesting attorney invite the other party or attorney to an emergency conference. The remainder of the process follows the Civil Rules.

### **IV. Trial Procedures**

#### **A. Scheduling**

All non-jury cases may be set by agreement with the Assignment Clerk with the Circuit Court Clerk's Office, 862-5181, or by motion on the regular motion docket. In jury cases, usually a court date is set by Judge McClendon or Special Master Marsh Nichols. In cases where there has been no conference, by agreement of both counsel, a court date may be obtained from the Judicial Assistant to Judge McClendon, 862-5905. If a Motion to Set is filed, it will be placed on the Assignment Judge's Docket in Sixth Circuit Court at 9:30 a.m. on Fridays. The Clerk's Office will send you to Second Circuit to obtain a date.

Jury cases begin at 9 a.m. Lunch is usually at noon, but may be moved to accommodate witnesses. Court usually ends at 4:30 or 5:00 unless there is a necessity of witness accommodation, due to scheduling conferences.

In most jury cases, Judge McClendon expects that the voir dire is completed in the morning session. Therefore, please do not have your subpoenaed witnesses wait all morning, only to be told to return in the afternoon. This applies especially to police officers in accident cases.

#### **B. Out-of-town Parties, Witnesses, or Attorneys**

Judge McClendon will accommodate out of town parties and witnesses as much as possible. If it is necessary, they will be taken out of order or even in the middle of an in-town witness' testimony. If you have out of town parties, it is best to schedule that case on a Monday, so that the case will be heard.

#### **C. Motions in Limine**

The court appreciates Motions in Limine. As the Local Rules state, they should be filed five days before trial. In complicated cases, the court will schedule a special hearing on the Friday of the week preceding the trial, so that we will not lose trial time.

#### **D. Courtroom Decorum**

Judge McClendon expects each attorney to treat the court as well as all other attorneys with respect, even in the midst of a heated legal argument. Each attorney should address the court, rather than each other. Judge McClendon will listen respectfully to each side, but does not expect the other party to interrupt the party speaking, until that party has completed their statement.

#### **E. Voir Dire**

The court officers will seat 13 persons in the box. 12 jurors and one alternate. The remaining prospective jurors will be seated behind the rail. The court will ask each juror to introduce themselves, state the nature of their employment, if any, whether they have a spouse and spouse's employment, any accidents or injuries, if a personal injury case, or other pertinent questions depending on the nature of the case. Each party's attorney may then ask any questions to all 13 jurors. You are not to go back and ask each jury in turn a question, except to follow up their initial statements. You will only have one opportunity to ask questions of all 13 prospective jurors.

Each side has 4 challenges per each party, with a maximum of 8. To challenge a juror, each party may challenge persons in the box until all challenges are used or until no party exercises their challenges. Each person in the box may be challenged at any time. Replacements for jurors in the box are picked at random from those persons sitting in front of the box. If more replacements are necessary, the process will repeat as above from those jurors in the courtroom. Each attorney will place their challenge sheet at the front of their table. The clerk will pick up the sheet and exchange it with the sheet of the other attorney, to allow for either attorney to make a challenge under the Edmondson/Batson cases. If an attorney elects to make such a challenge, the attorneys shall approach the bench to request a ruling from the court, prior to the juror's dismissal.

The court will seat alternates by selecting one of the remaining jurors. Each side has two challenges to each alternate. In longer cases, the court will consider the jury to be a jury of 13 and will select one of the jurors at random not to deliberate at the end of the trial, if the alternate had not already been used.

#### **F. Note Taking by Jurors**

Judge McClendon encourages note taking by jurors. They may take their notes into the jury room, but may not read from their notes to fellow jurors.

Questions by Jurors: Jurors may not ask questions, during a trial.

#### **G. Opening and Closing Statements**

##### 1. Length

An opening statement should not exceed 10 minutes. If more time is necessary, please make a specific request. A closing statement should not exceed 20 minutes.

##### 2. Use of Exhibits

An attorney may make use of exhibits, if the attorney has shown the proposed exhibit to the other attorney and there is agreement. Otherwise make a request of the court to make a ruling.

#### **H. Side Bar Conferences**

It is difficult to have a meaningful conference at the bench. The court will willingly ask the jury to return to the jury room to have a full discussion of an evidentiary issue. Please try to schedule these at the breaks, or by Motion in Limine. Judge McClendon does not appreciate a surprise or that attorneys will not follow what previous agreements or rulings had been.

## **I. Videotaped Testimony**

Video depositions are usually preferred over reading depositions. The videos should be edited so that only important information is presented to the jury. The best way is to designate the parts chosen, and let the other attorney then designate any other parts.

## **J. Deposition Reading**

See above. It shows lack of respect for the jury and the court for the attorneys not to look at their depositions and edit them prior to trial.

The court will strongly encourage attorneys to edit depositions even mid-trial, so that the jury does not fall asleep and miss the important points. If the deposition is read, please have someone else read the part of the deponent, even your secretary or the other attorney, if necessary.

## **K. Exhibits**

If possible, all exhibits should be marked by the law clerk prior to the trial. The order they are presented is irrelevant. If marked during the trial, please give the exhibit to the clerk, (not the court reporter) who will mark it for identification or for admission. If you plan to give the exhibit to the jury, please have 14 copies in advance. If you plan to have a lot of exhibits, you might want to have a jury notebook available.

### **1. Diagrams**

A witness who wishes to use a diagram or drawing, shall prepare same prior to trial or at recess, prior to testimony. This is particularly true for police officers or parties.

## **L. Motions for Judgment as a Matter of Law**

At the conclusion of the plaintiff's proof and at the end of the trial, the court will ask if there are other matters before we take up the defendant's proof or go to final argument, at which time the court will excuse the jury, if a motion for directed verdict is to be made

## **M. Proposed Jury Instructions and Verdict Forms**

In a routine trial, the court will give a proposed draft of jury instructions and verdict form to the attorneys. If the attorneys wish to propose other than standard instructions, please have those instructions to the court as soon after the trial begins as you can. The jury instructions will be prepared during the trial.

At the conclusion of the trial, the court and the attorneys will discuss the proposed draft and any other proposed instructions. The court will endeavor to get agreement on all instructions, unless there is a clear objection.

The attorneys may state during the final argument that the "court will charge you...."

## **N. Proposed Findings of Fact and Conclusions of Law**

If you wish to have proposed Findings and Conclusions, it will be necessary to propose such findings and then have a response from the other side. The court does not encourage this often time-consuming endeavor, unless it is a very special case.

## **O. Offers of Proof**

The court will hear offers of proof generally in summary form at a break, rather than during the trial, after an evidentiary ruling has been made.

## **P. Jury Deliberations**

Jury Deliberations are done in our jury room.

### **1. Copy of Instructions**

A copy of the written instructions are provided to the jurors.

### **2. Access to Exhibits**

The jury is immediately given all exhibits that have been admitted into evidence.

### **3. Access to Transcript of Testimony or Videotaped Testimony**

At this point the court does not give depositions to the jurors.

### **4. Availability of Counsel and Court Reporter**

If counsel do not remain in the courthouse, they should let the court know exactly where they will be by telephone. They should not be more than 10 minutes away.

### **5. Taking the Verdict and Special Interrogatories**

If the jury has a question, Judge McClendon will have the attorneys in chambers or by telephone in order to fashion a response to the question.

If the jury is deadlocked, she will bring the jury back into the courtroom and reread instruction 15.22 and let them continue to deliberate until they either reach a verdict or come to another impasse.

The jury foreperson will read the verdict of the jury.

### **6. Polling the Jury**

The court will ask if all on the jury agree. Then the court will ask all jurors to raise their hands if they agree. If the attorneys wish each juror to respond, they shall so request of the court.

### **7. Interviewing the Jury**

Attorneys may interview the jury after the trial if this particular set of jurors has finished with their jury service for the week. Otherwise, they must wait until the end of the week.

## **V. Other Comments**

Be prepared! Communicate with your fellow attorneys. Sit back and analyze your case objectively. Use all the court processes such as scheduling conferences, second conferences, settlement conferences, and private mediation to fully advocate in the best manner for your client. There is nothing worse than having a client be totally surprised by what happens in court. Remember that you and your client are in control of your fate. It is your choice as to how to best represent the interests of your client. Remember that only 5% of cases ever make it into the courtroom. The other 95% of the cases should not wait to settle on the courthouse steps. That is an unfair process for your client, if it can be avoided. When the client, be they plaintiff or defendant, comes to your doorstep, you should plan your case with resolution, not necessarily trial in mind. How to strategize that resolution successfully is what good trial advocates do.