

Judge Phillip Robinson
Third Circuit Court
Room 611

I. BIOGRAPHY

Judge Phillip Robinson is a lifelong Nashvillian having graduated from Montgomery Bell Academy in 1968, the University of Tennessee in 1972 and the University of Tennessee College of Law in 1975.

In November, 1975, he became an associate of the Norman Law Offices and practiced there for 26 years. In March, 2001, Judge Robinson, Judge Philip E. Smith and Teresa Webb Oglesby opened their own office. Judge Robinson's early practice included personal injury, criminal, probate and domestic relations matters. For 25 years, he practiced family law exclusively involving divorce and custody actions, modifications of parenting time, child support and alimony, prenuptial agreements, orders of protection and Juvenile Court parentage, custody and dependent/neglect actions.

Judge Robinson is a member of the Nashville Bar Association and the Tennessee Bar Association. He is a Fellow of the Nashville Bar Foundation. Judge Robinson was recognized by Best Lawyers in America and Mid-South Super Lawyers. He is board certified as a Family Law Trial Advocate by the National Board of Trial Advocacy and is a Fellow of the American Academy of Matrimonial Lawyers which is an organization of the nation's preeminent domestic lawyers.

In March, 2012, Judge Robinson was appointed to fill the Third Circuit Court vacancy. In August of 2014, Judge Robinson was elected to an eight-year term.

II. PRELIMINARY GENERAL MATTERS

A. Court Schedule

The Court's normal weekly schedule consists of the following:

Monday

9:00 a.m. Special Settings
1:30 p.m. Child Support Services

Tuesday

9:00 a.m. Uncontested docket, including divorces awarded on default judgment, with contested docket immediately following.

Wednesday

9:00 a.m. Uncontested docket, including divorces awarded on default judgment, with contested docket immediately following.

Thursday:

9:00 a.m. Show Cause docket (hearings set by Show Cause Orders, *i.e.*, contempt proceedings, *pendente lite* matters, etc.).

Friday

9:00 a.m. Motion docket. The motion docket is posted on the Circuit Court Clerk's website.

B. Correspondence with the Court

Judge Robinson prefers that all matters be communicated to the Court in pleadings, notices, memoranda or in open Court.

C. Telephone Conference with Court

Judge Robinson does allow telephone conferences to be conducted with the Court at the Court's discretion for emergency issues only. (*For emergency continuances, see Section III(B) below*). However, due to the volume of cases assigned to Third Circuit, the Court will only conduct such conferences if they are specifically scheduled by Court staff. In addition, the Court will attempt to accommodate counsel regarding discovery disputes that arise during discovery depositions.

D. Telephone Conference with the Staff

Telephone conference with the Third Circuit staff is encouraged as it relates to administration and procedure; however, discussing of the merits of any pending litigation is strictly prohibited.

III. PRETRIAL MATTERS

A. Scheduling Orders

Judge Robinson expects attorneys to prepare lawsuits and bring them to conclusion in a timely, efficient and financially-reasonable manner. To further this goal, Judge Robinson strongly recommends the parties enter into scheduling orders early during the pendency of the case. Judge Robinson will grant reasonable requests for scheduling orders. The party requesting the scheduling order shall attach to the motion a proposed scheduling order.

The Court may impose scheduling orders *sua sponte*. Court-imposed scheduling orders may not be modified by agreed order, but the Court will liberally grant extensions timely filed (*i.e., within the term of the scheduling order*).

Extensions of scheduling order deadlines will be granted only upon good cause if requested before the deadline has passed and there is no unfair prejudice to the opposing party. Deadline extensions by agreed order will only be approved by the Court after a

motion, accompanied by an affidavit setting forth good cause, has been heard by the Court.

Extension of scheduling order deadlines will generally not be granted after the deadline has passed. Parties may not agree to extend deadlines without Court permission.

B. Continuances and Extensions

Contested cases and judicial settlement conferences will only be continued upon a showing of good cause accompanied by motion and affidavit. Parties may not agree to a continuance without Court permission, but the Court will routinely grant continuances of motions, show cause hearings and most contempt hearings (especially on first settings).

All requests for continuances which are opposed for matters on any docket, other than the contested docket, shall be made by written correspondence to the Court's Docket Clerk. The correspondence shall contain the basis for the request for continuance and set forth all communication with opposing counsel regarding the request for continuance. If the matter in question was set by agreement, the matter will be continued only for good cause. If the matter requested was set by the Court without input from counsel for the parties (*i.e., a Show Cause Order*) or if the matter was set unilaterally by counsel opposing the continuance (*i.e., a motion hearing*), the Court will be inclined to liberally grant the continuance.

Absence of a witness will not be a cause for a continuance unless the subpoena has been issued and dated ten days prior to a trial for a local witness and 14 days for an out-of-county witness, pursuant to Local Rule 28.02.

When a case is set by agreement or set upon motion without objection, failure to have completed discovery, inability to take a deposition or failure to have completed any other trial preparation will not be a cause for a continuance.

If a case is continued, it must be continued to a date certain. The reason for the continuance must be contained in the order.

If a continuance is granted, the Court may award expenses and attorney's fees, including compensation to witnesses for lost income and/or travel expenses and tax the same as court costs.

C. Pretrial Motions

Motions in Limine

All motions *in limine* will be heard in strict accordance with Rule 30 of the Local Rules of Practice for Davidson County, Tennessee. Failure to comply with the Rule may result in waiver of the relief requested.

Rule 30

All anticipated objections to deposition testimony including those made pursuant to T.R.C.P. 32.02 and 32.04, must be made by written motion in limine filed at least five (5) days before trial or the objection is waived.

- a. Counsel are encouraged to raise other appropriate evidentiary objections by written motion in limine filed at least five (5) days before trial.*
- b. Motions in limine related to audio and/or video recording or animation, are governed by Local Rule 29.02.*

*** For information regarding other Pretrial Motions, please see Section V below.**

D. Pretrial Briefs

All pretrial briefs shall be filed with the Circuit Court Clerk at least 72 hours (excluding weekends and holidays) prior to the scheduled hearing. Pretrial briefs are not required, but encouraged. The Court also requests that once the brief is filed in the Clerk's Office, a chamber copy be delivered to the Third Circuit staff.

E. Other Pretrial Filings

Judge Robinson requires the following documents to be filed 72 hours (excluding weekends and holidays) prior to the scheduled contested divorce hearing:

- a. Statement of contested issues
- b. Asset and liability statement
- c. Proposed division of assets and liabilities
- d. Other proposed relief (if applicable)
- e. Income and expense statement (if applicable)
- f. Proposed permanent parenting plan (if applicable)

Additionally, Judge Robinson requires strict compliance with Rule 29 of the Local Rules of Practice for Davidson County, Tennessee.

F. Setting of Cases

a. Uncontested Divorces

Unless set by an Agreed Order, an order to set must be filed at least nine days (excluding weekends or holidays) prior to the hearing date. The Order to Set shall contain a Certificate of Service evidencing service to the opposing party at least nine (9) days prior to the hearing date. Hearing dates can be obtained from the Third Circuit staff for an agreed order to set or by motion without an agreement. Pro Se litigants are required to file a Motion to Set prior to obtaining a final hearing date.

b. Contested Matters

For any and all contested matters, a Motion to Set requesting permission to obtain a court date on the contested docket must be filed. Said Motion shall contain the following:

- i. Nature of litigation (*i.e.*, divorce, post-divorce modification, petition for contempt, child support modification, juvenile court appeal, adoption, etc.)
- ii. Date the pending matter was initiated
- iii. Date and manner of service (*i.e.*, personal service, publication, certified mail, etc.)
- iv. Date of filing of any and all responsive pleadings and any other pleadings that are at issue (*i.e.* answer, counter-complaint, amended pleadings, etc.)
- v. Date mediation report was filed (if applicable)
- vi. Date parenting seminar certificate was filed (if applicable)
- vii. Date Notice of Insurance was filed (if applicable)
- viii. Date Proposed Parenting Plan was filed by each party (if applicable)
- ix. Date Certificate of Readiness was filed
- x. A statement that all pleadings have been properly served and appropriate responses filed and that all discovery has been completed.

Once a Motion to Set is granted, counsel shall contact the Court's staff to obtain a trial date and a Judicial Settlement Conference date, if a Judicial Settlement Conference is required (*see Section III (G) below for information on Judicial Settlement Conferences*). Once dates are confirmed, the Order to Set shall be drafted and filed. Failure to file an Order within seven (7) business days of confirming the trial and judicial settlement conference dates will result in loss of the dates given.

c. Juvenile Court Appeals

- i. It shall be the duty of the parties and/or their attorneys to determine when a case appealed from the Juvenile Court is filed with the Circuit Court Clerk.
- ii. Once the case being appealed is received by and filed with the Circuit Court Clerk, the appellant has the duty to set the appeal for a hearing before a trial judge. The appellant has forty-five (45) days to secure a trial date from the Court. This time is counted from the date the Circuit Court Clerk files the appealed warrant. If the appellant fails to secure this order within the 45-day time period, an order will be entered making the judgment of the Juvenile Court the judgment of the Circuit Court with costs taxed to the appellant. At the time the appeal is perfected in the Clerk's office, the clerk shall give the appellant or the appellant's attorney written notice of this rule.
- iii. The signature of an attorney or party to an appeal from Juvenile Court shall constitute a certificate under Tenn. R. Civ. P. 11.

G. Judicial Settlement Conferences

Mandatory Judicial Settlement Conferences shall be conducted by the Special Master and shall be scheduled simultaneously with the trial date. The date is usually set approximately two (2) to three (3) weeks before the trial date.

Matters for Judicial Settlement Conferences include:

- Contested divorce cases
- Contested relocation cases
- Contested change of custody or parenting plan modification cases
- Modification of alimony
- Any other matters so designated by the Court

Cases that are not subject to mandatory Judicial Settlement Conferences, unless specifically ordered by the Court are:

- Criminal or civil contempt cases
- Modification of child support only cases
- Adoption proceedings
- Juvenile Court appeals
- Any other matters so designated by the Court

Judicial Settlement Conferences are usually set on Monday, Tuesday and Wednesday of each week and are set in conjunction with a final hearing date. After a Motion to Set is granted, dates shall be obtained by calling the Judge's office.

Unless otherwise ordered, Judicial Settlement Conferences begin promptly at 9:00 a.m. and are not concluded until such time as the Special Master adjourns the settlement conference. All parties and their respective counsel shall be prepared to be present until at least 4:30 p.m. and shall participate in good faith negotiations in an effort to resolve some or all pending matters. The Special Master does not take a formal lunch break; however, this does not preclude counsel or their clients from having lunch brought in or bring in lunch/snacks.

Judge Robinson expects attorneys and their clients to be punctual and prepared to be present until the case is settled or the Special Master determines that further negotiations will not be productive. Neither counsel nor the parties shall schedule any other activities that conflict or interfere with the Judicial Settlement Conference. **Further, counsel participating in the Judicial Settlement Conference shall have the authority to enter into an agreement resolving all issues. Failure of a party or attorney to be present, be on time, be prepared, stay throughout the duration of the Judicial Settlement Conference or participate in good faith negotiations during the Judicial Settlement Conference may result in sanctions by the Court, including, but not limited to a finding of contempt, loss of trial date and/or assessment of attorney's fees.**

Counsel shall be prepared for trial prior to the Judicial Settlement Conference and shall have all discovery completed/supplemented and bring any and all necessary documentation and information to support their respective position. This includes, but is not limited to the following:

- Statements showing present-day value or value of monthly benefit of defined benefit plans (*i.e.*, pension)
- Current appraisal for any real property at issue, and if applicable, value at date of marriage

- Documentation supporting valuation of assets
- Statements evidencing debt incurred during the marriage
- Cost of COBRA premium
- Current paycheck stubs, last two (2) years of W-2's and Federal Income Tax returns
- Current income and expense statement
- Any expert reports

At least two (2) days before the Judicial Settlement Conference, each party shall deliver, directly to the office of the Special Master, an ex-parte judicial settlement conference statement. The judicial settlement conference statement shall be furnished only to the Special Master and not to any other party and shall NOT be filed with the Clerk of the Court. The judicial settlement conference statement shall include a summary of the party's position for settlement, factors compelling or blocking settlement, and a candid assessment of the strengths and weaknesses of both sides of the case.

Judicial Settlement Conferences are confidential in nature; therefore, no part of any of the contents of the discussions or any statements made or information provided to the Special Master and/or to any party or counsel during a Judicial Settlement Conference shall be used by any party, or repeated or otherwise provided to any other person, by any party for use in the litigation or any other litigation for any purpose whatsoever or for any other purpose not in connection with the case or any other litigation. This protection includes, but is not limited to, the protection provided by T.R.E. 408 and 409. Likewise, all disclosures made to the Special Master, in conjunction with the Judicial Settlement Conference, shall be kept in strict confidence and will not be shared with the Judge hearing the case.

If the case is a divorce action, or any other matter that may require a brief hearing with the Court (15 minutes or less) to adopt the agreement of the parties, Judge Robinson will be available, when possible, to grant the divorce or finalize the matter **IF** all documents are prepared and properly executed. Therefore, the parties should prepare drafts of proposed documents (*i.e.*, marital dissolution agreement, parenting plan, final decree, agreed order, etc.) and email the documents in a Word format to the Special Master at: TeresaOglesby@jis.nashville.org. Alternatively, the parties may bring a laptop, with wireless capability, and have the drafts readily available at the Judicial Settlement Conference. The Special Master may assist in modifying existing drafts of documents but will **NOT** prepare the documents.

At the conclusion of the Judicial Settlement Conference, the Special Master shall complete a Judicial Settlement Conference Report and file it with the Clerk of the Court.

IV. DISCOVERY

All discovery (written or otherwise) in civil matters shall be conducted in accordance with the Tennessee Rules of Civil Procedure and the Local Rules of Practice for Davidson County, Tennessee.

Rule 22 of the Local Rules of Practice for Davidson County, Tennessee regarding discovery and motions related to discovery shall be strictly adhered to by parties. However, Local Rule 22.04(a) shall not apply in initial divorce actions if a party chooses to use the Third Circuit approved set of written discovery including approved Interrogatories and Request for Production of Documents, a copy of which is appended to these Chamber Rules under Section VII (Forms H and I).

1. Judge Robinson considers a discovery request for financial information going back more than twenty-four (24) months prior to the filing of a complaint for divorce to be excessive. If a request for an expansion of the limitation on the discovery period for financial information is filed, the party requesting a longer period bears the burden of proving the request is not excessive. The Court will balance all competing interests of the parties, including the relevant cost and financial means of each party in rendering its decision. Judge Robinson encourages parties to conduct necessary discovery by informal means such as jointly-sworn asset and liability statements and jointly-sworn income statements. Informal discovery will save the parties significant cost in attorney fees and may result in less adversarial attitudes towards one another rendering settlement more achievable. However, if informal discovery results in unnecessary delays, please file formal discovery immediately.

V. **MOTIONS**

A. **Filing Deadline for Motions**

On January 1, 2011, Judge Smith and Judge Robinson, by joint order, modified the filing date for domestic motions to require that all motions filed in Fourth and Third Circuit Courts be filed no later than the close of business on the Friday two (2) weeks before the date of the motion hearing. Responses to motions are encouraged but not required. No motion shall contain language requiring a response. Any responses filed shall be filed by the close of business on the Monday preceding the Motion hearing with a copy being delivered to Judge Robinson's chamber. Motion hearings take place every Friday beginning at 9:00 a.m.

B. **Contents of Motions**

Judge Robinson generally reviews all motions filed before the motion docket. Judge Robinson requires adequate information for the basis of the motion, why the movant is entitled to relief and the specific relief requested. If the issue raised by the motion raises a question of law, Judge Robinson requests that any authority relied upon be attached to the motion or memoranda supporting the motion. Judge Robinson also requests that any contrary authority be pointed out in the motion or memoranda and attached thereto.

C. **Phoning in Announcements**

Due to the heavy volume of motions, Third Circuit staff requests that you provide your motion number on the docket when phoning in announcements.

D. Testimony During Motion Hearings

- a. Testimony during motion hearings will be limited. Parties that feel testimony is necessary should set forth the testimony by affidavit, which shall be filed with and attached to the motion when feasible. Sworn income and expense statements are required for motions requesting support and will generally serve as testimony as to need and ability to pay.
- b. Motions with responses shall be orally argued unless waived by agreement, excepted by order of the Court, or where a prisoner proceeds *pro se*.
- c. Unless otherwise allowed by the Court, the motion hearing shall be upon the pleadings, affidavits or depositions.

E. Time Allotted for Motion Hearings

First call is to determine the status of the motion only (*i.e.*, agreed order, continued, 2nd call, 3rd call, etc.). Due to the regular heavy volume of motions on the motion docket, Judge Robinson requests that counsel not approach the docket clerk until the conclusion of first call.

Motion hearings that will take less than ten (10) minutes will be heard during second call. If the motion lasts more than ten (10) minutes, Judge Robinson will stop the motion and allow the motion to be continued during third call. Motion hearings that are anticipated to take more than ten (10) minutes will be heard on third call.

F. Motions for Default

Motions for default judgment generally do not require an appearance by counsel for the moving party, but are appreciated by the Court.

G. Failure to Appear at a Motion Hearing; Late Appearance

If any party does not appear at a scheduled hearing on a motion or any other matter scheduled to be heard on the motion docket, by the end of the docket, the Court may strike or adjudicate the motion. Counsel who will be late for a motion hearing shall notify the Third Circuit Clerk in advance of the hearing or have an announcement to that effect made at the call of the motion docket. Counsel shall also contact the opposing party to advise of his/her late appearance. If the movant fails to appear, and the Court strikes the motion, the Court may assess attorney fees in favor of the opposing party who appeared at the scheduled hearing.

H. Striking or Postponement of Motions

After a motion has been docketed, the movant may strike or postpone a motion upon timely notice to all parties. If a motion is to be stricken or postponed by agreement, counsel shall timely notify the Calendar Clerk of the assigned court. Counsel shall also

contact the opposing party to advise of his/her striking or postponement of a motion. If any party strikes or postpones a motion without giving notice, the Court may assess attorney fees in favor of any party who appeared at the scheduled hearing.

I. Agreed Orders

If an Agreed Order is to be submitted disposing of a motion, counsel shall advise the Third Circuit Clerk prior to the hearing or may so announce at the hearing.

VI. SPECIAL MASTER HEARINGS

- A. Special Master hearings are assigned to the Special Master through an Order of Reference entered by Judge Robinson. Said Order of Reference shall be specific about what is referred and what is reserved for further proceedings before the Court.
- B. After the entry of an Order of Reference, the Special Master hearing shall be set by entry of an Order to Set entered by the Special Master.
- C. Prior to the hearing, the parties shall file a statement of claims or issues and responses to same, as directed by the Special Master in the Order to Set.
- D. The parties are responsible for providing a court reporter in order to preserve rights to object before the trial Judge; however the same is not required.
- E. The Special Master shall prepare a Report, as directed in the Order of Reference, and shall serve a copy of same upon all parties.
- F. Any objection to the Special Master's report, which is based upon a factual question, must be supported by a transcript of the hearing before the Special Master.
- G. The party objecting to part or all of the Special Master's Report shall file a Notice of Objection within ten (10) days of the entry of the report by the Special Master. Said Notice of Objection shall specify that part of the Special Master's Report to which there is an objection and shall be accompanied by a copy of the transcript of the proceeding. Further, a Motion to Set a new hearing on the issue to which there is an objection shall be filed simultaneously with the Notice of Objection.
- H. If there is no objection to the Special Master's Report, the Special Master's Report shall be confirmed and made an Order of the Court.

VII. MISCELLANEOUS MATTERS

A. Temporary Restraining Orders

Temporary Restraining Orders in divorce cases will be denied if the subject matter of the requested restraining order is covered by the statutory injunctions or if the Court determines from the pleadings that there is no danger of irreparable harm.

The Court in its discretion, may issue and/or set a Temporary Restraining Order for hearing *sua sponte*. The Court, in reliance on Rule 65.07 of the Tennessee Rules of Civil Procedure, may leave the Temporary Restraining Order in effect indefinitely or until final hearing.

No Temporary Restraining Order resulting in an *ex parte* change in the primary residential status or custody of minor child will be granted unless the requirements of Tennessee Code Annotated §36-6-405(b) are met.

B. Show Cause Orders

Show Cause Orders and hearings will be granted upon a showing in verified pleadings that the requesting party will suffer irreparable harm without an immediate hearing, is in dire need of the requested relief or there is otherwise an emergency requiring an expedited hearing. Actions requiring discovery are not proper candidates for show cause hearings. Such matters shall be set by motion when at issue, discovery complete and mediation, if required, is complete.

Show Cause Orders shall be drafted to require the opposing party to appear on a date certain as set by the Clerk to show cause why the relief requested should not immediately be granted or why a temporary restraining order previously granted should not remain in effect. (Forms for Show Cause Orders are appended to these rules.) Remember that although the Show Cause Order requires the Respondent to “appear and show cause,” the burden of proof remains on the Petitioner.

C. Appearance Orders

Appearance Orders are required on all contempt petitions (civil or criminal) where, by verified pleadings, the petition is alleging irreparable harm, dire need or an immediate hearing. In the case of civil contempt, an Appearance Order is not appropriate if discovery is necessary to prepare for hearing. Such matters shall be set by motion when discovery is complete.

DO NOT USE SHOW CAUSE ORDERS ON CONTEMPT PETITIONS AS THE RESPONDENT NEVER HAS THE BURDEN OF PROOF IN CONTEMPT MATTERS AND WILL NOT BE ORDERED TO “SHOW CAUSE.”

D. Orders

Generally, Judge Robinson requires attorneys to prepare and submit to the Court orders setting forth his rulings. Orders shall contain all findings of fact and conclusions of law made by Judge Robinson. Unless the Court directs otherwise, attorneys for prevailing parties will prepare orders for entry by the Court. All orders must be received by the clerk and served on opposing counsel within five (5) business days following the day on which the ruling is made by the Court.

Failure to timely file an Order may result in sanctions, and repeated failure may result in a complaint to the Board of Professional Responsibility.

Orders containing only the signature of the attorney preparing the order will not be entered immediately but will be held by the clerk for three days. When opposing counsel receives a copy of a proposed order, he or she shall notify the Calendar Clerk of the assigned court if there is any objection to the order. If the Calendar Clerk receives no objection within the three-day period, the order will be submitted to the judge. When there is a disagreement as to the terms of the order, each party will submit a proposed order for the Court's consideration.

E. Courtroom Decorum

Judge Robinson expects attorneys to be appropriately attired and to conduct themselves with proper respect. It is inappropriate to interrupt opposing counsel while he or she is addressing the Court, unless the purpose is to interpose a good-faith objection. It is also inappropriate to make personal or derogatory comments about opposing counsel either to the Court or to opposing counsel. **PERSONAL ATTACKS ON OPPOSING COUNSEL ARE NOT APPROPRIATE AND WILL NOT BE TOLERATED.**

Judge Robinson does not allow litigants to wear shorts, tank tops, caps or sunglasses. Chewing gum, food or drink are not allowed in the courtroom. Attorneys are responsible for making their clients aware of these rules.

F. Previous Chamber Rules

All previous chamber rules of the Third Circuit Court are hereby set aside and are of no force or effect.

G. Suspension of Chamber Rules

These chamber rules or any part thereof are subject to suspension by Judge Robinson when, in his discretion, justice requires.

VIII. FORMS

The following forms are available for your convenience and are acceptable for use in Third Circuit. For questions regarding these forms, please contact the Third Circuit Court.

A. [Marital Dissolution Agreement](#)

B. [Order to Set Uncontested Divorce](#)

C. [Final Decree of Divorce](#)

- D. [Order of Default and to Set](#)
- E. [Motion to Set Temporary Support](#)
- F. [Temporary Restraining Order and Order to Appear and Show Cause](#)
- G. [Petition for Contempt](#)
(This form contains the four documents below)
 - Petition for Contempt**
 - Petitioner's Oath**
 - Notice of Rights**
 - Appearance Order**
- H. [Plaintiff's First Set of Interrogatories to Defendant](#)
- I. [First Set of Requests for Production of Documents](#)