

Guide To The Business Court

Pursuant to the *Order Establishing the Davidson County Business Court Pilot Project* entered March 16, 2015 by the Supreme Court of Tennessee, this *Guide* shall be used in conducting proceedings in the Business Court pending adoption of Local Rules of Practice consistent with Supreme Court Rule 18. During this interim, the Business Court is governed by the Tennessee Rules of Civil Procedure, the Tennessee Rules of Evidence and the Twentieth Judicial District Local Rules (Davidson County). Their application and adaptation to the Business Court is covered below.

Section 1—Overview

- 1.1 **Purpose.** The Business Court is a specialized trial court established to (1) provide cost effective disposition of business cases and procedures adapted to the needs of each case; and (2) to develop a body of rulings from which lawyers and litigants can better predict and assess outcomes in business cases.
- 1.2 **Design.** The procedures, technology and dockets of the Business Court are designed to maximize cost effective litigation which advances disposition of a case and to eliminate nonproductive litigation processes which consume resources.
- 1.3 **Methods.** The following shall be used in the Business Court:
 - (a) **Early Case Litigation Plan**—After the transfer of a case to the Business Court, the Business Court Judge (“Judge”) shall promptly schedule a conference to design a Case Litigation Plan.
 - (b) **Differentiated Plans**—Case Litigation Plans shall be individualized, non-formulaic and structured differently depending upon the nature of the case, amount in controversy, and the relief requested. Included in the Case Litigation Plan shall be discovery schedules and methods proportionate to the case, and timing, grouping and extent of motions.
 - (c) **Forms, Filings, Hearings, Work of Business Court Judge**—In requiring Counsel and/or self-represented litigants (hereinafter collectively referred to as “Counsel”) to complete forms, prepare filings, attend hearings and provide oral argument, the Business Court shall use attorney time prudently and efficiently. Advance analysis and preparation by the Judge; staggered dockets/appointed times for court hearings; streamlined motion practice; planning with out-of-county attorneys to minimize travel by

videoconferencing and other methods; expertise of Judge and staff in business law and business case procedures and methods; prompt written decisions and orders by the Judge on rulings, scheduling and all steps of the case; rulings on the papers when appropriate; and posting of decisions on the Business Court website for predictability shall be implemented.

Section 2—Eligibility Criteria/Excluded Cases

2.1 Eligibility Criteria. A civil case is eligible for transfer to the Business Court if:

- (a) the complaint was filed on or after May 1, 2015; and
- (b) the complaint alleges at least \$50,000 compensatory damages, or asserts claims seeking primarily injunctive or declaratory relief; and
- (c) the case meets one or more of the following criteria:
 - (1) relates to the internal affairs of businesses (i.e., corporations, limited liability companies, general partnerships, limited liability partnerships, sole proprietorships, professional associations, real estate investment trusts, and joint ventures), including the rights or obligations between or among shareholders, partners, and members, or the liability or indemnity of officers, directors, managers, trustees or partners;
 - (2) involves claims of breach of contract, fraud, misrepresentation, breach of fiduciary duty or statutory violations between businesses arising out of business transactions or relationships;
 - (3) constitutes a shareholder derivative or commercial class action;
 - (4) involves commercial real property disputes other than residential landlord-tenant disputes and foreclosures;
 - (5) involves business claims between or among two or more business entities or individuals as to their business or investment activities relating to contracts, transactions, or relationships between or among them;
 - (6) arises from technology licensing agreements, including software and biotechnology licensing agreements, or any agreement involving the licensing of any intellectual property right, including patent rights;

- (7) constitutes an action alleging violations of a noncompete, non-solicitation, or confidentiality agreement, or an antitrust, trade secret, or securities-related action;
- (8) involves a commercial construction contract dispute and/or commercial construction defect claim(s).

2.2 Excluded Cases. The following cases are excluded from the Business Court:

- (a) personal injury or wrongful death;
- (b) professional malpractice claims, other than those brought in connection with the rendering of professional services to a business enterprise;
- (c) residential landlord-tenant matters and residential foreclosure actions;
- (d) employee/employer disputes, except where pendent or incidental to the matters listed in Section 2.1(c) above;
- (e) health care liability;
- (f) the sole claim is a professional fee dispute;
- (g) cases in which the State of Tennessee is a party;
- (h) administrative appeals from a State or County Agency, including tax and zoning matters.

Section 3—Transfer To/Removal From The Business Court

3.1 Instructions for Transferring Davidson County Chancery Court Cases to The Business Court.

- (a) Within 60 days of the date of service on a defendant of a complaint filed in Davidson County Chancery Court, Counsel may complete the form *Request For Designation to the Business Court* (can be downloaded at <http://chanceryclerkandmaster.nashville.gov/>, or see Appendix A) and file it with the Davidson County Clerk and Master's Office at 1 Public Square, Suite 308, Nashville, TN 37201. The filing of the *Request* certifies that the case meets the eligibility criteria.

- (b) Once filed, the Davidson County Clerk and Master's Office delivers the *Request* to the Judge who fills out the bottom portion of the *Request* and submits it to the Chief Justice of the Tennessee Supreme Court.
- (c) Upon receiving the *Request*, the Chief Justice issues an Order either transferring or denying transfer of the case to the Business Court, and transmits the Order for entry by the Davidson County Clerk and Master's Office and notice to Counsel.
- (d) If the Chief Justice grants the *Request* and transfers the case to the Business Court, the Davidson County Clerk and Master's Office designates the case as having been transferred to the Business Court.

3.2 Instructions for Transferring Non-Davidson County Cases to The Business Court.

- (a) Within 60 days of the date of service on a defendant of a complaint filed in a Tennessee county other than Davidson County, Counsel may complete the form *Request For Designation to the Business Court* (can be downloaded at <http://chanceryclerkandmaster.nashville.gov/>, or see Appendix B) and send it, along with a copy of the complaint, to the Davidson County Clerk and Master's Office at 1 Public Square, Suite 308, Nashville, TN 37201. Email addresses of Counsel shall be included. The submission of the *Request* certifies that the case meets the eligibility criteria and that all parties have consented to waive venue.
- (b) Once received, the Davidson County Clerk and Master's Office delivers the *Request* and complaint copy to the Judge who fills out the bottom portion of the *Request* and submits it to the Chief Justice of the Tennessee Supreme Court.
- (c) Upon receiving the *Request*, the Chief Justice issues an Order either transferring or denying transfer of the case to the Business Court.
- (d) If the Chief Justice grants the *Request*, the Davidson County Clerk and Master's Office shall open a file for the transferred case, enter the Chief Justice's Order in the case file, and shall promptly send a copy of the Order to the clerk of the county in which the complaint was originally filed, and to Counsel. In such cases, the litigants shall pay the applicable transfer fee pursuant to Tennessee Code Annotated section 8-21-401. The Judge shall arrange with Counsel for copying of the case file and its filing with the Davidson County Clerk & Master's Office.
- (e) If the *Request* is denied, the Chief Justice shall send the Order to Counsel.

- 3.3 Removal. All objections to transfer of a case to the Business Court, except as to eligibility, must be filed with the Chief Justice within 30 days of the entry of the order transferring the case to the Business Court.

Section 4—Case Litigation Plan

- 4.1 Order Setting Conference and Content. After transfer of a case to the Business Court, the Judge shall promptly issue an order setting a conference to enter a Case Litigation Plan pursuant to Tennessee Rule of Civil Procedure 16. To minimize costs, Counsel will not routinely be required in advance of the conference to fill out forms or make filings. Instead, the Judge shall send Counsel a notice of the matters which shall be addressed and discussed at the conference. In some cases an exchange of limited discovery may be ordered prior to the conference.
- 4.2 Mandatory Attendance At Conference. All unrepresented parties, all lead trial counsel and local counsel for each represented party, and a party representative shall attend the conference in person unless attendance by other means is authorized for any person by the Judge.
- 4.3 Known Problem Areas.
- (a) Motions to Dismiss—Deficiencies in pleading with specificity and/or linking essential elements of claims to facts (as opposed to questions of law) are rarely susceptible to dismissal. *Webb v. Nashville Area Habitat for Humanity, Inc.*, 346 S.W.3d 422, 426-27, 437 (Tenn. 2011). Additionally, leave to amend is to be freely granted under Tennessee Rule of Civil Procedure 15. Nevertheless, Counsel in defending against complaints or affirmative defenses have few mechanisms to obtain clarity in pleadings other than the tool of a motion to dismiss. Often the result is that resources are expended and delays occur from the serial exchange of motions to dismiss and amendments to the pleadings. To avoid this expenditure, the Court, when appropriate, shall address in the Case Litigation Plan Conference pleadings to identify and clarify causes of action and affirmative defenses, and include the outcome in the Case Litigation Plan Order.
- (b) Amendments and Additions of Parties—Because preparation of a lawsuit for trial is not scripted and evolves as information is uncovered, amendments and addition of parties may be necessary. These actions, however, can cause lengthy extensions and delays, especially if they come late in the proceedings when discovery is complete or nearing completion.

Accordingly realistic deadlines regarding amendments and adding parties shall be covered at the conference.

- (c) Discovery—The conference shall include an assessment of the amount, sequencing and kind of discovery that is proportionate to the case.
- (d) Motions—Grouping of motions, instead of serial, individual motion hearings, and the timing of motions shall be addressed at the conference for efficient use of time in court.

4.4 Topic Examples. The following are examples of topics about which the Judge may notify Counsel to be prepared to discuss at the conference:

- (a) whether the case is the kind to divide into prioritized phases such as a preliminary accounting, dissolution, etc.; a secondary or in tandem phase for discovery and trial on liability; a subsequent remedy phase;
- (b) assignment of a trial date within 12 months of initial filing or identification of cases needing longer pretrial preparation;
- (c) pleadings issues;
- (d) determining whether additional parties are essential to the complete resolution of the case and setting a time limit for filing third party complaints or otherwise bringing in additional parties;
- (e) determining whether severance, consolidation or coordination with other actions is desirable;
- (f) the identity and number of any motions to dismiss or other preliminary or pre-discovery motions that have been filed or are anticipated, and the time period in which they shall be filed, briefed and argued;
- (g) setting a discovery plan and schedule, including the length of the discovery period, the number of fact and expert depositions to be permitted, as appropriate, the length and sequence of such depositions, and determining if protective orders or other limitations are appropriate;
- (h) an estimate of the volume of documents and computerized information likely to be the subject of discovery from parties and nonparties and whether there are technological means that may render document discovery more manageable at an acceptable cost;

- (i) anticipated areas of expert testimony, timing for identification of expert witnesses, responses to expert discovery; exchange of expert reports, and timing of motions to exclude expert testimony under *McDaniel v. CSX Transportation, Inc.*, 955 S.W.2d 257 (Tenn. 1997);
- (j) the time period after the close of discovery within which post-discovery dispositive motions shall be filed, briefed and argued, and a tentative schedule;
- (k) the possibility of settlement and the timing of Alternative Dispute Resolution;
- (l) the use of technology, videoconferencing and/or teleconferencing;
- (m) organizing a master list of contact information for Counsel; and
- (n) the scheduling of further conferences.

4.5 Case Litigation Plan Order. At the completion of the conference, the Judge shall enter an order containing the Case Litigation Plan. The order may thereafter be modified or revised as the Judge in her discretion deems necessary or appropriate to meet the purpose and goals of the Business Court. The parties shall not deviate from deadlines and requirements established in the order or any modifications unless authorized by the Judge. Failure to comply with the order may result in sanctions.

Any scheduling orders entered prior to transfer of the case to the Business Court shall be superseded by the Case Litigation Plan Order.

Section 5—Motions

5.1 Local Rules of Davidson County Apply. Unless otherwise ordered, motions shall be filed, processed, considered and decided according to the Twentieth Judicial District Local Rules (Davidson County) including, but not limited to, Rule 26.

For ease of reference Local Rule 26 is quoted as follows:

§ 26.01. Time to Schedule and Hear Dispositive Motions

Dispositive motions must be scheduled to be heard at least thirty (30) days before a trial date unless the court otherwise orders.

§ 26.02. Time for Hearings

- a. Motions will be heard at 9:00 a.m. on Fridays.
- b. Appropriate notice shall be published when a court will not have a motion docket on a Friday.
- c. Judges will endeavor to arrange their motion dockets to minimize delay for lawyers. [Remainder does not apply to the Business Court.]

§ 26.03. Fourteen Day Minimum Notice of Hearing on Motions; Summary Judgment Motions Filed Thirty-Seven Days Before Hearing

- a. The notice of hearing as contained in Local Rule 26.05(b) shall be filed at least fourteen (14) days before the scheduled hearing date.
- b. A motion for summary judgment cannot be heard until at least thirty-seven (37) days after it is filed unless the parties otherwise agree.
- c. In Circuit Court, the moving party needs file no further notice if the motion hearing date is continued by agreement of all parties or by court order [inapplicable to the Business Court].
- d. In Chancery Court, if a motion is reset by agreement, a written notice of the new motion hearing date must be provided the Clerk by faxed letter or otherwise. This notice must be provided by the close of business on the Monday before the Friday on which the motion is to be heard.

§ 26.04. Motions, Responses, Replies and Briefs

- a. Motions shall clearly state with particularity the grounds therefore, and shall set forth the relief or order sought as required by Tenn. R. Civ. P. 7.02.
- b. Every motion or response which may require the resolution of an issue of law, and every motion or response in which legal authority is relied upon, shall be accompanied by a memorandum of law and facts in support thereof. Any motion, response, brief or memorandum of law that makes reference to a transcript or deposition shall make reference to the specific page(s) of the transcript involved. [Remainder does not apply to the Business Court.]
- c. When requesting leave to amend a pleading, the moving party must attach a copy of the proposed amended pleading to the motion

so that it becomes part of the record. [Comment: Unless the record before the appellate court shows the substance of the proposed amendment, it cannot determine whether the court acted properly on the motion. *Taylor v. Nashville Banner Publ'g Co.*, 573 S.W.2d 476 (Tenn. Ct. App. 1978).]

d. If the motion is opposed, a written response to the motion must be filed and personally served on all parties. The response shall state with particularity the grounds for opposition to the motion, supported by legal authority, if applicable. If no response is filed, the motion shall be granted. [Remainder does not apply to the Business Court.]

e. Responses to motions, including counter-affidavits, depositions, briefs or any other matters presented in opposition to motions, must be filed with the clerk's office by the close of business on the Monday before the Friday on which the motion is to be heard. The response must also be personally served upon all parties no later than 5:00 p.m. on the Monday before the Friday on which the motion is to be heard. If Monday falls on a holiday and the offices of the court clerks are closed, responses to motions must be filed with the clerk's office by the close of business on the Tuesday before the Friday on which the motion is to be heard. In case of a Monday holiday, service of the response on all parties must occur no later than 5:00 p.m. Tuesday.

f. Replies to responses, if any, must be filed with the clerk's office by the close of business on the Wednesday before the Friday on which the motion is to be heard. The reply must also be personally served on all other parties no later than 5:00 p.m. on the Wednesday before the Friday on which the motion is to be heard.

g. IF NO RESPONSE IS TIMELY FILED AND PERSONALLY SERVED, THE MOTION SHALL BE GRANTED AND COUNSEL OR PRO SE LITIGANT NEED NOT APPEAR IN COURT AT THE TIME AND DATE SCHEDULED FOR THE HEARING.

Counsel or pro se litigant shall then submit the proposed order consistent with Local Rule 33. The order shall recite that no response was timely filed or personally served. See Rule 39 for exceptions to this Rule in certain Probate matters.

§ 26.05. Docketing Motions for Hearing and Disposition

a. Docketing Motions for Hearing and Disposition--Docketing of a motion will be complete upon filing the motion with the Chancery, Probate and Circuit Court Clerks, provided it contains

notice of a hearing date. If no hearing date is requested upon the filing of the motion, either counsel may file a notice of hearing for a previously filed motion and serve opposing counsel and/or party.

b. Notice of Hearing and Disposition--Any party filing a motion in Chancery, Probate or in Circuit Court shall serve written notice of the date and the time of the hearing upon all other parties. The notice shall advise all other parties that failure to file and serve a timely written response to the motion will result in the motion being granted without further hearing.

c. Domestic Relations Motions--Domestic relations motions are exempted from this rule and are governed by § 37.05 [inapplicable to the Business Court].

§ 26.06. Personal Service Defined

For purposes of this Rule, personal service means delivery, mailing or transmission of a facsimile (i.e., “fax” or “telecopier”) such that the document served is physically received by the specified date and time. In the event personal service is affected by facsimile, an original copy of the document shall follow by delivery or mail.

§ 26.07. Special Setting of Motions

Where special circumstances warrant, motions may be specially set with the Calendar Clerk of each court at times other than on the regular motion docket. A motion to set an expedited hearing shall be accompanied by an attached proposed order.

§ 26.08. 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, the court may strike or adjudicate the motion. Counsel who will be late for a motion hearing shall notify the Calendar Clerk of the assigned court in advance of the hearing or have an announcement to that effect made at the call of the motion docket. If the movant fails to appear, and the court strikes the motion, the court may tax, as costs, reasonable fees and expenses in favor of the opposing party who did appear at the scheduled hearing.

§ 26.09. 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. If any party strikes or postpones a motion without giving notice the court may tax, as costs, reasonable fees and expenses in favor of any party who appeared at the scheduled hearing.

§ 26.10. Agreed Orders

If an agreed order is to be submitted disposing of a motion, counsel shall advise the Calendar Clerk of the assigned court prior to the hearing or may so announce at the hearing.

§ 26.11. The Hearing

a. Oral Argument. Motions with responses shall be orally argued unless waived by agreement, excepted by order of the court [Remainder does not apply to the Business Court].

b. No Witnesses. The motion hearing shall be upon the pleadings, affidavits or depositions unless a party requests and obtains permission of the court for the introduction of oral testimony before the time of the hearing.

§ 26.12. Motions In Limine

Motions in limine are governed by Local Rule 30.

§ 26.13. Motions to Compel Discovery

Special requirements related to motions involving discovery disputes are addressed by Local Rule 22.08--22.12.

§ 26.14. Class Action Determination

Within sixty (60) days after the filing of a complaint in a class action, unless this period is extended on motion for good cause appearing, the plaintiff shall move for a determination under Rule 23.03(1) Tenn. R. Civ. P. whether the case is to be maintained as a class action. In ruling upon such a motion, the Court may allow the action to be so maintained, may disallow and strike the class action

allegations, or may order postponement of the determination pending discovery or such other preliminary procedures as appear to be appropriate and necessary under the circumstances. Whenever possible, where it is held that the determination shall be postponed, a date shall be fixed by the Court for the renewal of the motion.

§ 26.15. Default Judgment Motion With Certificate

All motions for default judgment seeking a judgment for liquidated damages shall specifically state the amount sought and be accompanied by a certificate which shall substantially comply with the default judgment certificate in the appendix. A request for non-liquidated damages will require a damages hearing.

- 5.2 Decision on the Papers. Where appropriate, the Judge will notify Counsel that oral argument is unnecessary, and the motion shall be considered and decided on the pleadings, admissible evidence, the court file, and memoranda.

Section 6—Trial on Stipulated Facts As An Alternative To Cross Motions For Summary Judgment

- 6.1 Explanation. Based upon the record developed in cross motions for summary judgment and where the parties consent, the Judge shall hear closing arguments and then upon the papers draw inferences, apply the preponderance of the evidence standard, decide the case on the merits, and enter final judgment.
- 6.2 Types of Cases. In cases where cross motions for summary judgment are filed and (1) the dollar amount at stake is outweighed by the expense of trial, or (2) legal issues predominate; and (3) credibility is not the crux of the case, the Judge on her own initiative may inquire of Counsel or Counsel may file a motion for a trial on stipulated facts as an alternative to a decision on cross motions for summary judgment.
- 6.3 Advantages.
- (a) As compared to cross motions for summary judgment, a trial on stipulated facts results in a decision in favor of a party and eliminates the possibility of a non-decision.
 - (b) A trial on stipulated facts is less expensive, faster and easier to schedule as there are no live witnesses.

- (c) As compared to cross motions for summary judgment, there is less potential for expensive and time-consuming remands from an appeal to the trial court.

6.4 Disadvantages.

- (a) Parties must waive their right to present live testimony.
- (b) Parties must waive their right to trial by jury.

6.5 Procedure. All parties must file a written consent to try the case on stipulated facts and a waiver foregoing their right to a full trial. The filing of cross motions for summary judgment is not a sufficient consent and waiver.

Section 7—Video-conferencing and Telephone Appearances

- 7.1 Leave of Court. By leave of the Judge, Counsel may arrange for any proceeding or conference to be held via video-conference or telephone conference call by coordinating either such hearing with the Business Court.
- 7.2 Conduct. All Counsel and other participants shall be subject to the same rules of procedure and decorum as if all participants were present in the courtroom.

Section 8—Pretrial Conference In Jury Trials

- 8.1 Pretrial Conference Purpose. In all cases in which a jury has been demanded, Counsel are required to attend a pretrial conference to assure that the case is organized and ready to try to a jury, and thereby avoid wasting juror time and to avoid poor public perception of the legal system.
- 8.2 Advance Filings. Prior to the pretrial conference, Counsel shall file the following:
 - (a) A list of pattern instructions Counsel anticipates requesting the Court to provide to the jury at the conclusion of the proof;
 - (b) Proposed jury instructions which vary from the pattern instructions, along with citations to statutory or case authority;
 - (c) A proposed verdict form; and

(d) Any motions in limine for which the Court will set a deadline for responses.

8.3 Pretrial Conference Topics. The pretrial conference shall cover evidentiary issues, logistics of presenting evidence (e.g., use of evidence presenter, juror evidence notebooks, etc.), number of challenges, jury instructions, motions in limine, and any issues presented by Counsel.

Section 9—Posting of Decisions

Business Court decisions selected by the Judge shall be posted on the Business Court website maintained by the Administrative Office of the Courts to assist lawyers and litigants in assessing and predicting outcomes in other business cases.

APPENDIX A

IN THE CHANCERY COURT FOR THE STATE OF TENNESSEE
20TH JUDICIAL DISTRICT, DAVIDSON COUNTY

PART III – BUSINESS COURT

)	
)	
Plaintiff(s),)	
)	
VS.)	No.
)	
)	
Defendant(s).)	

REQUEST FOR DESIGNATION TO THE BUSINESS COURT

[PARTY], through Counsel or self-represented, requests that the above styled Case filed on [INSERT DATE] in the Chancery Court of Davidson County be transferred by the Chief Justice of the Tennessee Supreme Court to the Business Court.

Counsel or self-represented party, in good faith and based on information reasonably available, has completed and filed herewith the attached checklist certifying that the Case meets the eligibility criteria set forth in the Tennessee Supreme Court *Order Establishing the Davidson County Business Court Pilot Project*.

Counsel or Self-represented Party

FOR BUSINESS COURT JUDGE USE ONLY

I Recommend Decline to Recommend that this Case is eligible for transfer to the Business Court.

Signature of Business Court Judge

Date

REQUEST FOR DESIGNATION TO THE BUSINESS COURT CHECKLIST

In certifying that this case meets the eligibility criteria for transfer to the Business Court, please check below the applicable boxes. To be eligible, the case must fit within items 1 and 2, and one or more subsections of item 3.

- 1. This lawsuit was filed on or after May 1, 2015; and
- 2. Compensatory damages of at least \$50,000 are alleged, or this lawsuit seeks primarily injunctive or declaratory relief; and
- 3. This lawsuit relates to:
 - the internal affairs of businesses (i.e., corporations, limited liability companies, general partnerships, limited liability partnerships, sole proprietorships, professional associations, real estate investment trusts, and joint ventures), including the rights or obligations between or among shareholders, partners, and members, or the liability or indemnity of officers, directors, managers, trustees or partners.
 - involves claims of breach of contract, fraud, misrepresentation, breach of fiduciary duty or statutory violations between businesses arising out of business transactions or relationships.
 - constitutes a shareholder derivative or commercial class action.
 - involves commercial real property disputes other than residential landlord tenant disputes and foreclosures.
 - involves business claims between or among two or more business entities or individuals as to their business or investment activities relating to contracts, transactions, or relationships between or among them.
 - arises from technology licensing agreements, including software and biotechnology licensing agreements, or any agreement involving the licensing of any intellectual property right, including patent rights.
 - constitutes an action alleging violations of a noncompete, non-solicitation, or confidentiality agreement, or an antitrust, trade secret, or securities-related action.
 - involves construction contract disputes and/or construction defect claims.

APPENDIX B

IN THE CHANCERY COURT FOR THE STATE OF TENNESSEE
20TH JUDICIAL DISTRICT, DAVIDSON COUNTY

PART III – BUSINESS COURT

IN RE: REQUEST FOR DESIGNATION)
TO THE BUSINESS COURT IN)
[INSERT STYLE OF CASE INCLUDING)
NAMES OF PARTIES, CASE NUMBER,)
AND COUNTY WHERE FILED]_____)

REQUEST FOR DESIGNATION TO THE BUSINESS COURT

Counsel and self-represented parties (hereinafter referred to collectively as “Counsel”) request that the above referenced Case filed on [INSERT DATE] in [INSERT COUNTY WHERE LAWSUIT ORIGINATED] be transferred by the Chief Justice of the Tennessee Supreme Court to the Business Court located in the Twentieth Judicial District, Davidson County, Tennessee.

Counsel agree and consent to waive venue in the above referenced case.

Counsel, in good faith and based on information reasonably available, have completed and filed herewith the attached checklist certifying that the Case meets the eligibility criteria set forth in the Tennessee Supreme Court *Order Establishing the Davidson County Business Court Pilot Project*.

Please check that a copy of the Complaint in the above referenced case is attached.

Signature of Counsel for Plaintiff(s)

E-Mail of Counsel for Plaintiff(s)

Signature of Counsel for Defendant(s)

E-Mail of Counsel for Defendant(s)

Signature of Counsel for Other Parties

E-Mail of Counsel for Other Parties

FOR BUSINESS COURT JUDGE USE ONLY

I Recommend Decline to Recommend that this Case is eligible for transfer to the Business Court.

Signature of Business Court Judge

Date

REQUEST FOR DESIGNATION TO THE BUSINESS COURT CHECKLIST

In certifying that this case meets the eligibility criteria for transfer to the Business Court, please check below the applicable boxes. To be eligible, the case must fit within items 1 and 2, and one or more subsections of item 3.

- 1. This lawsuit was filed on or after May 1, 2015; and
- 2. Compensatory damages of at least \$50,000 are alleged, or this lawsuit seeks primarily injunctive or declaratory relief; and
- 3. This lawsuit relates to:
 - the internal affairs of businesses (i.e., corporations, limited liability companies, general partnerships, limited liability partnerships, sole proprietorships, professional associations, real estate investment trusts, and joint ventures), including the rights or obligations between or among shareholders, partners, and members, or the liability or indemnity of officers, directors, managers, trustees or partners.
 - involves claims of breach of contract, fraud, misrepresentation, breach of fiduciary duty or statutory violations between businesses arising out of business transactions or relationships.
 - constitutes a shareholder derivative or commercial class action.
 - involves commercial real property disputes other than residential landlord tenant disputes and foreclosures.
 - involves business claims between or among two or more business entities or individuals as to their business or investment activities relating to contracts, transactions, or relationships between or among them.
 - arises from technology licensing agreements, including software and biotechnology licensing agreements, or any agreement involving the licensing of any intellectual property right, including patent rights.
 - constitutes an action alleging violations of a noncompete, non-solicitation, or confidentiality agreement, or an antitrust, trade secret, or securities-related action.
 - involves construction contract disputes and/or construction defect claims.