



# Court Historical Society NEWSLETTER *Eastern District of Tennessee*

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## Local Rules vs. Standing Orders

The courts have long had Standing Orders, plus Local Rules, and sometimes it hasn't been easy to determine in which of these categories a directive issued by the court should be placed.

A July 1927 booklet in the Court Historical Society's archives reflects the similarity of the directives. The 36-page booklet is titled "Rules of the United States District Court for the Eastern District of Tennessee." Tucked inside it is a 22-page pamphlet titled "Standing Orders of the United States District Court for the Eastern District of Tennessee," also dated July 1927.

Over the years, the court has issued updated copies of its Local Rules and made these copies available to attorneys and anyone else desiring a copy. Today, the Local Rules are available on the court's Website.

In the meantime, the court has continued to issue Standing Orders, all 393 of which are filed in the Clerk's Office, dating back to January 1925. These orders are indexed and filed consecutively. They provide a running history of the many internal matters that the court has had to deal with through the years, ranging from establishing fees that the Referee in Bankruptcy could charge for defraying the expense of maintaining his office to changing the court clerk's office work days in 1954, when the court was open on Saturdays.

The bankruptcy order, dated October 1928, was signed by **Judge George C. Taylor**, then the district's only Article III judge. The other order, dated December 1954 and signed by the then two district judges, **Leslie R. Darr** and **Robert L. Taylor**, read as follows:

Whereas it appears to the Court that all federal offices are on a five-day basis except the Clerk's Office, and being of the opinion that the Clerk and his staff are entitled to the same consideration and should be on the same working basis as other federal employees, and having made an investigation of the flow of business through the Clerk's Office on Saturday, it is concluded that the work flowing through the Clerk's Office on Saturday does not justify keeping the office open on that day.

The Judicial Conference of the United States has recently adopted a report and recommendation prepared by **Professor Daniel J. Capra** of Fordham Law School that contains guidelines on which category the court directives should be placed in.

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## Jarvis Oral History

In his oral history, conducted by the Court Historical Society in 2001, **Judge James H. Jarvis** gave an interesting account of the occasion on which he received a telephone call from **President Reagan** telling him he was going to nominate Judge Jarvis for the federal judgeship.

"The President called my house on the first day of September 1984, and I was dove hunting, as I always am on the first day of September, and the maid answered the phone and told my wife, 'This is the White House calling Judge Jarvis.' My wife took the phone and explained that I wasn't there. So that day, I didn't get the word.

"The next Monday, I was in the office, and sure enough, President Reagan called me, and he was on Air Force One at the time. He said, 'Judge Jarvis, I have some papers here that I'm going to sign in a minute that nominate you as a United States District Judge for the Eastern District of Tennessee. What do you think about that?'

"That's the way he put it to me. 'What do you think about that?' I said, 'Well, I'm tickled to death,' and, of course, I said, 'Thank you so much. I am deeply honored,' and we talked a while about the election--it was 1984 and he was going to run, and he wanted to know how he was going to do down here."

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*A FRIENDLY CHAT--Judge James Jarvis stopped for a friendly chat as he left the office on July 18, 2005. The mural on a wall of the fourth floor of the federal courthouse in Knoxville was being painted at the time, just a few feet from where the judge stopped, and News Sentinel photographer J. Miles Cary, who was on hand to photograph the artist at work, snapped this picture of the judge. Judge Jarvis died two years later, on June 6, 2007.*

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*WHITTLE RETURNS--Chris Whittle, second from left, founder and head of the former Whittle Communications, visited his former headquarters building, now the Howard H. Baker Jr. U.S. Courthouse, on August 20--his first return to the building since Whittle Communications vacated it in the early 1990s. Whittle is shown in his former office with Magistrate Judge Clifford Shirley, left; Magistrate Judge H. Bruce Guyton, second from the right; and Don K. Ferguson, Executive Director of the Court Historical Society, who invited Whittle to take a tour while he was in the courthouse to speak to the 2010 class of Leadership Knoxville, marking its 25th year. Whittle was a member of the first class. Photo by Lori Gibson*

## Historic Visit

As **Chris Whittle** toured his former headquarters building, he commented several times about how wonderful it was to be seeing the building again, his first time to return to it since the communications company vacated the building in the early 1990s. The federal government purchased the building in 1995 and converted it into the federal courthouse.

One thing his hosts learned on the tour was that the area now known as the special proceedings courtroom was to have been a gym for Whittle employees. It never materialized, though, and the space remained unfinished until the court developed the handsome courtroom there in 1998.

As for the many paintings that remain in the courthouse as carry-overs from the Whittle days, Whittle confirmed what most had thought about the paintings, that they represent clouds and the mountains.

He was astounded by just how good the building looks today and expressed appreciation for the good care it has been given. He inscribed a drawing of the courthouse with these words: "In appreciation to all the judges who have cared for this building."

During his talk earlier to the Leadership Knoxville group, Whittle said he built the impressive headquarters building to have a center with which to attract the very best, top talent the company could find in the media business, because his company was competing with large organizations in Los Angeles and New York that had outstanding headquarters building. ■

## Local Rules vs Standing Orders *continued*

Professor Capra analyzed the use of orders and rules by the courts at the request of the Judicial Conference Committee on Rules of Practice and Procedures. He found that courts vary widely in their use of standing orders, including whether a particular subject matter is addressed in a standing order or in a local rule.

In general, Professor Capra said standing orders should be used to address matters of internal administration, such as court security, planning for emergencies, directives for court personnel, division of workload, setting dates for naturalization, and related internal matters. He recommended that local rules be used for matters pertaining to filing procedures, pretrial practice, motion practice, rules for mediation, sentencing and related proceedings, and other directives important to practicing in the court. ■

## Jarvis Oral History *continued*

Judge Jarvis said that when he went to Washington shortly thereafter for his Senate hearing, "I didn't have my family with me. The children were in school, and we were getting ready to send them all to college and, as a state judge, I didn't have a whole lot of money for trips like that. I took my youngest daughter, **Louise**, who was about 10. She'd never been on an airplane before. There were just the two of us.

"So the next morning--boy, we didn't sleep hardly at all, Louise and I didn't that night--the next morning, she and I went into the hearing room and **Tom Higgins**, the judge in Nashville, was going to come before the committee that same day, and he had his law firm there and all these people, his family, a crowd of folks. And there were others there with their people.

"**Sen. Strom Thurmond** was the chairman, and he said, 'Well, now, Judge Higgins, who have you got here today,' and Higgins introduced about half the room, and when Strom Thurmond got to me he asked, 'Well, Judge Jarvis, who do you have here today.' I said, 'Well, I've got my daughter Louise.' He said, 'Why Louise, stand up.' And Louise stood up. **Judge Milburn** was there. He was being confirmed for the Court of Appeals.

"Sen. Thurmond asked me the few questions I had been given and told that he would ask, and I answered them, and it went like clockwork. I was the last one. Strom came over and got hold of Louise and held her up in his arms and talked to her and had the best time with her, and we took pictures, and she got more attention than anybody that day."

During the oral history interview, your interviewer, **Don K. Ferguson**, executive director of the Court Historical Society, asked Judge Jarvis who sat with Louise while he was busy at the Senate table.

"Oh, she sat there by herself, in the audience, on the front rail. Right there behind me," he said. ■