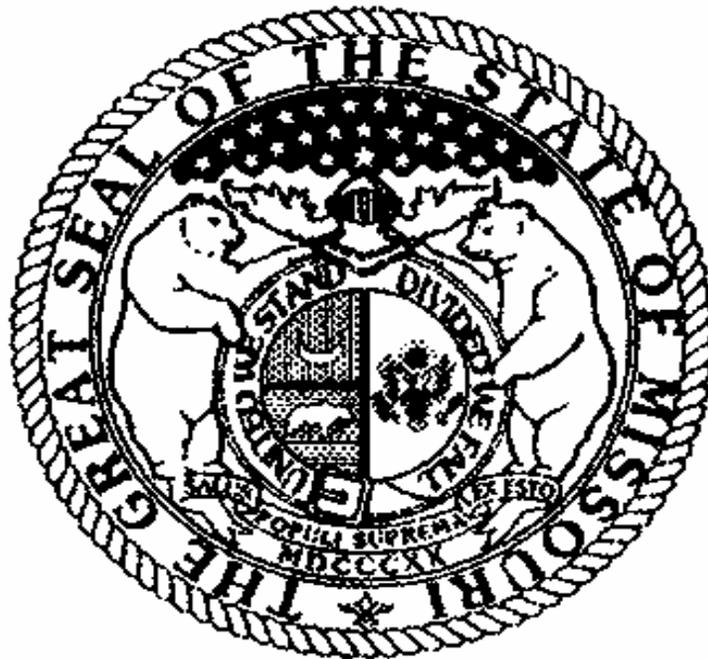


***LOCAL COURT RULES***  
*of the*  
***FIFTH JUDICIAL CIRCUIT***  
***OF MISSOURI***



*Comprising Andrew and Buchanan Counties*

*Andrew County Courthouse  
P. O. Box 208  
Savannah, Missouri 64485*

*Buchanan County Courthouse  
411 Jules Street  
St. Joseph, Missouri 64501*

**CIRCUIT JUDGES**

**Randall R. Jackson**  
Division No. 1  
(816) 271-1447

**Patrick K. Robb**  
Presiding Judge  
Division No. 3  
(816) 271-1444

**Weldon C. Judah**  
Division No. 2  
(816) 271-1441

**Daniel F. Kellogg**  
Division No. 4 and  
Probate  
(816) 271-1477

**ASSOCIATE CIRCUIT JUDGES**

**Keith Marquart**  
Buchanan County  
Division No. 5  
(816) 271-1454

**Ronald E. Taylor**  
Buchanan County  
Division No. 6  
(816) 271-1448

**Michael Ordnung**  
Andrew County  
Associate, Division No. 7, Probate and Domestic Division  
(816) 324-3921

**CIRCUIT CLERKS**

**Mary Beattie**  
Buchanan County  
(816) 271-1462  
FAX: 271-1538

**Rose Lancey**  
Andrew County  
(816) 324-4221  
FAX: 324-5667

**ASSOCIATE DIVISION CLERK - ANDREW COUNTY**

**Joyce Peek**  
Andrew County  
(816) 324-3921

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## **ADMINISTRATION**

### **RULE 1      DIVISIONS OF COURT**

In Andrew County there shall be six divisions of court which shall be divided as follows:

Division One:	Circuit
Division Two:	Circuit
Division Three:	Circuit
Division Four:	Circuit
Domestic Division:	Circuit
Division 7:	Associate and Probate Division

In Buchanan County there shall be six divisions of court which shall be divided as follows:

Division One:	Circuit
Division Two:	Circuit
Division Three:	Circuit
Division Four:	Probate/Circuit
Division Five:	Associate
Division Six:	Associate

### **RULE 2      HOURS AND TERMS OF COURT**

#### **2.1      HOURS OF COURT**

The clerks' offices are deemed always open. In Andrew County and Buchanan County, the courts are open five days a week, Monday through Friday, from 8:00 a.m. to 5:00 p.m., for the purpose of filing papers in the clerks' offices. The courts will observe all State legal holidays.

#### **2.2      TERMS OF COURT**

The terms of Court for Andrew County shall begin on the fourth Monday of January, the fourth Monday of April, the fourth Monday of July, and the fourth Monday of October each year.

The terms of Court for Buchanan County shall begin on the first Monday of January, the first Monday of May and the first Monday of October each year.

In case any of these days fall on a holiday, court will be held on the day following.

### **2.3 LAW DAYS**

The law day for civil cases for Andrew County will be held on the fourth Monday of every month, or such other day designated by order of the assigned judge.

The law day for criminal cases for Andrew County will be held on the third Monday of every month, or such other day designated by order of the assigned judge.

In case any of these days fall on a holiday, court will be held on the day following.

### **2.4 PARTICULAR MATTERS ON PARTICULAR DAYS**

(No local rule.)

### **2.5 AVAILABILITY OF JUDGES TO ISSUE WARRANTS AND SET CONDITIONS OF RELEASE**

In order to assure the availability of a judge for the purpose of receiving the filing of criminal charges, issuing warrants for arrest and setting conditions of release, the associate circuit judges of Andrew County and Buchanan County shall be primarily responsible to be available on an on-call basis to the prosecutor and sheriff of their respective counties. Said judges will provide their contact information during hours when the court is not in session.

In Andrew County and Buchanan County the associate circuit judge(s) shall make suitable arrangements with a circuit judge, in consultation with the county's prosecutor and sheriff, for a judge to be available to receive the filing of criminal charges, issue warrants for arrest and set conditions of release when the associate circuit judge(s) will not be available.

### **2.6 FILINGS WITH ON-CALL JUDGES BY FACSIMILE**

Pursuant to Missouri Supreme Court Rule 20.04(h), search warrants and complaints and affidavits in support thereof; arrest warrants and affidavits, complaints and indictments in support thereof; and such other motions, applications, orders, warrants, pleadings and the like as may be deemed acceptable by the on-call judge, if not otherwise prohibited by law, may be filed by facsimile transmission on weekends, holidays, after 5:00 p.m. on weekdays and at other times when a judge is unavailable.

Any such pleadings or other paper so filed shall have the same effect as the filing of an original document, even though it may be required to be verified or submitted by affidavit. A facsimile signature shall have the same effect as an original signature. The person filing such pleading or other paper by facsimile transmission shall file the original with the court.



\*\*\*If defendant has a rural route, give directions or a P.O. Box number on the petition.

### 3.2 STYLE

All pleadings, motions, requests for extension of time to plead, and papers, except for exhibits, intended for filing in any court of this circuit shall be legibly written in ink, typewritten or printed on paper of a size of 8 1/2 x 11 inches, except as hereinafter provided, with a top and left-hand margin of at least one inch, and shall be signed by at least one attorney of record in his individual name, whose address and telephone number, together with bar identification number, shall be stated. A party who is not represented by an attorney shall sign his name to his pleadings and give his telephone number, if any, and his address.

If the pleading be a petition, the nature of the suit shall be stated immediately after the caption thereof. All other pleadings, motions and papers shall contain the name of the first party on each side with an appropriate indication of other parties with the case docket number. All pleadings and papers filed shall be signed in ink and securely fastened and the paragraphs and pages regularly numbered.

### 3.3 CONFIDENTIAL CASE FILING INFORMATION SHEET - NON-DOMESTIC DOMESTIC RELATIONS CASES

Every plaintiff or petitioner who files a civil, probate, or small claims action and any party filing a responsive pleading to these actions shall file a "Confidential Case Filing Information Sheet - Non-Domestic Relations" at the time they file their cause of action or responsive pleading. The Confidential Case Filing Information Sheet shall not be subject to public inspection. (See Appendix Form J)

### 3.4 CONFIDENTIAL CASE FILING INFORMATION SHEET - DOMESTIC RELATIONS CASES

Every petitioner or movant who files a petition for dissolution of marriage, legal separation, motion for modification, action to establish paternity, petition or motion for support or custody of a minor child and anyone filing a responsive pleading to these actions shall file a "Confidential Case Filing Information Sheet - Domestic Relations Cases" at the time they file their cause of action or responsive pleading. The Confidential Case Filing Information sheet shall not be subject to public inspection. (See Appendix Form K)

**RULE 4      FILING OF CASES**

**4.1      CRIMINAL CASES**

All criminal cases, pleadings, motions and papers relating thereto shall be filed in the office of the Circuit Clerk of the appropriate county, except as otherwise provided below.

**4.1.1      SEARCH WARRANTS**

In Buchanan County, applications for search warrants shall be filed in either Division 5 or 6 of the Circuit Court. In Andrew County such applications shall be filed in the Associate Division of the Circuit Court.

**4.1.2      TRAFFIC OFFENSES**

In Buchanan County, all traffic offenses shall be filed with the Circuit Clerk. In Andrew County, such offenses shall be filed in the Associate Division of the Circuit Court.

**4.1.3      FILING OF COMPLAINTS AND INFORMATION**

In Andrew County, all complaints charging a felony and all informations charging misdemeanors or infractions shall be filed in the Associate Division of the Circuit Court.

**4.1.4      FILING OF INDICTMENTS**

All indictments shall be filed in the office of the Circuit Clerk of the appropriate county.

**4.2      CIVIL CASES**

In Buchanan County, all civil cases, pleadings, motions and papers relating thereto shall be filed in the office of the Circuit Clerk except as otherwise provided below.

In Andrew County, all civil cases, pleadings, motions, and paper relating thereto, shall be filed in the office of the Court Clerk, except for the kinds of cases enumerated in 517.011 (1), (2), (3), and (4) RSMo, Probate cases, and small claims cases which shall be filed in Division 7 of the Circuit Court.

**4.2.1      ASSIGNMENT OF CIVIL CASES TO TRACKS**

**1. General Procedure.** In order to comply with Supreme Court Administrative Rule 17 and to achieve the most expeditious and efficient disposition of civil cases, all civil cases filed in the circuit divisions of this circuit, except probate and juvenile cases, shall be assigned to the expedited, standard, or complex track as provided in this rule. The track designation shall govern the scheduling order requirements under Local Rule 32.1 and trial and hearing settings under Local Rule 36.

**2. Original Track Designation** - Track Information Statement. In any civil action to which this rule applies, except: (1) domestic relations cases, including adult abuse and child protection cases; (2) trials de novo; and, (3) post conviction relief motions; the party filing the action shall attach a Track Information Statement (TIS), Form 4.2.1.2 (See Appendix, Form A), which is incorporated herein and made a part of this rule, identifying each cause of action and designating the appropriate track designation as provided in this rule.

**3. Change of Track Designation** - Case Information Statement. A track designation may not be changed without Court approval. Any party desiring to change a track designation must file a completed Case Information Statement (CIS), Form 4.2.1.3 (**See Appendix, Form B**), which is incorporated herein and made a part of this rule. If all parties agree and the Court approves, the change shall be allowed without a hearing. Otherwise, notice and a hearing will be required. The Court on its own motion may change the track designation in a case as it deems necessary.

**4. Expedited Track.** Cases assigned to the expedited track are expected to be concluded within 120 days of filing with minimal judicial involvement. The following categories of cases shall be assigned to the expedited track:

- (a) all domestic relations cases, including adult abuse and child protection cases;
- (b) trials de novo;
- (c) motions for post conviction relief;
- (d) petitions for temporary restraining orders and other extraordinary writs;
- (e) petitions to restrain the Director of Revenue from revoking or suspending a driver's license;
- (f) petitions for judicial review of a record made before an administrative agency; and,
- (g) any other case which the court designates to be placed on the expedited track.

**5. Standard Track.** Cases assigned to the standard track are expected to be concluded within 12 months of filing. Scheduling orders will be entered by the Court pursuant to Local Rule 32 to insure proper case management. Any case not designated for assignment to the expedited or complex track shall be assigned to the standard track.

**6. Complex Track.** Cases assigned to the complex track are expected to be concluded within 24 months of filing. Scheduling orders will be entered by the Court pursuant to Local Rule 32 with extensive judicial involvement anticipated. A case shall be assigned to the complex track only when the action filed falls within one or more of the following categories:

(a) medical malpractice;

(b) products liability;

(c) wrongful death;

(d) class action; and,

(e) any case initially assigned to the standard track which upon motion to change track designation the court finds contains a claim or claims involving complex matters requiring highly technical evidence and/or expert testimony which will require a disproportionate expenditure of court and litigant resources in the preparation for trial and a trial date within 365 days from the date of the filing of the initial pleading is not reasonable.

#### **4.3 PROBATE CASES**

All cases and matters pertaining to probate business and papers relating thereto shall be filed in Division 4 of the Circuit Court in Buchanan County and the Associate Division of the Circuit Court in Andrew County.

#### **4.4 JUVENILE CASES**

Juvenile cases shall be filed in the office of the Circuit Clerk of the appropriate county.

#### **4.5 SMALL CLAIMS CASES**

In Buchanan County, all small claims cases shall be filed in the office of the Circuit Clerk.

In Andrew County, all small claims cases shall be filed in the Associate Division of the Circuit Court.

#### **4.6 MUNICIPAL CASES**

(No local rule.)

#### **4.7 FAX FILING AND SERVICE OF DOCUMENTS**

##### **4.7.1 AUTHORITY FOR RULE**

This rule is adopted pursuant to Missouri Supreme Court Rule 43.01(i).

#### **4.7.2 DEFINITIONS**

The following terms as used in this rule are defined as follows:

(a) **Fax.** Fax means technology by which documents may be transmitted over telephone lines to a machine which creates facsimile copies at the point of receipt. The term also means, where the context so indicates, the facsimile machine or the act of sending or receiving documents by facsimile technology.

(b) **Document.** Document means all pleadings including original pleadings, notices, motions, orders or other papers which may properly be filed with the court or its clerks or which may properly be sent or issued by the court or its clerks.

(c) **Business Day.** Business day means any day not a Saturday, Sunday or court holiday recognized by the Missouri State Courts Administrator.

(d) **Business Hours.** Business hours means those hours between 8 o'clock a.m. and 5 o'clock p.m. of any business day.

#### **4.7.3 FAX FILING AUTHORIZED**

(a) Any document may be fax filed in any division of this court having, maintaining or designating a fax machine for that purpose.

(b) Any document fax filed shall have the same effect as the filing of an original document, even though it may be required to be verified or submitted by affidavit.

(c) Subject to the provisions of subsections 4.7.4 and 4.7.5 of this rule, any fax filed document is deemed filed on the date and time when it is actually received in the office of the clerk.

(d) The person fax filing a document bears the risk of loss in transmission, non-receipt or illegibility. If the document is not received or is materially illegible, the document is deemed not filed and totally null and void for all purposes.

#### **4.7.4 FILING OF ORIGINAL WHEN**

(a) The original of any document which is required to be verified or submitted by affidavit shall be retained by the person fax filing the document and transmitted to the court the next business day following the filing of the document. The original of all other documents shall be retained by the person fax filing the document and made available upon order of the court.

(b) The original of any document required by this rule or the court to be transmitted to the court shall be transmitted by personal delivery or by deposit in the United States mail, first class postage prepaid, addressed to the clerk of the appropriate division.

(c) If the original document is not received by the court within four (4) business days following the fax filing, the document is deemed not filed and totally null and void for all purposes.

#### **4.7.5 FILING FEE OR DEPOSIT REQUIRED WHEN**

(a) If the document fax filed is one requiring a filing fee or cost deposit, then said filing shall be conditioned upon the actual receipt of the required filing fee or cost deposit by the clerk of the division within four (4) business days following the fax filing. If the required filing fee or cost deposit is not received as provided in this rule, the fax filed document is deemed not filed and totally null and void for all purposes.

(b) If the document fax filed is being filed pursuant to Supreme Court Rule 77.03 or other rule or law allowing a filing without a filing fee or cost deposit, an application to file without a filing fee or cost deposit and a proposed order allowing the same shall be fax filed with the document and presented to the court as soon as practical for a ruling. If leave to file without a filing fee or cost deposit is granted, the document shall be deemed filed as of the date actually received by the clerk of the division. If leave is denied, the fax filed document is deemed not filed and totally null and void for all purposes.

(c) No case number shall be assigned nor summons or process issued by the clerk of the division on a fax filing requiring a filing fee or cost deposit until actual receipt of the filing fee or cost deposit or an order is entered allowing the filing without the required filing fee or cost deposit as provided in this rule.

#### **4.7.6 FAX OF COURT ORDERS AUTHORIZED**

(a) Court orders, judgments, decrees, warrants for arrest and search warrants may be faxed to divisions of this court, other courts, parties, attorneys, law enforcement officials or others and, until receipt of the original if required and as provided in this rule, shall have the same effect and be acted upon by all persons as if they were the original documents executed by the court.

(b) If a document is faxed pursuant to paragraph (a) of this subsection to a court or public official, then the court on the next business day following the fax transmission of the document shall cause the original of the same to be sent to the court or public official in the same manner as provided in paragraph (b) of subsection 4.7.4 of this rule.

#### **4.7.7 SERVICE BY FAX**

(a) Where service by ordinary mail or personal delivery is provided by Missouri Supreme Court Rule 43.01 or otherwise by law, such service may be made by faxing a copy to any party or attorney to be served who maintains a fax machine for receipt of fax transmissions.

(b) Any party or attorney who lists a fax number on a letterhead or pleading in the case file or in a telephone or professional directory or otherwise shall be deemed to have consented to receive service of documents by fax from the court, the clerk of any division or any other party or attorney.

(c) The person faxing the document assumes the risk of loss in transmission, non-receipt or illegibility of the document. If the document is not received or is materially illegible, the document is deemed not served and totally null and void for all purposes.

(d) The faxed document is presumed delivered and served to the fax telephone number indicated by the sender's fax machine at the date and time of the end of the fax transmission. The sender shall maintain a printout of the fax machine reading supporting such filing and shall produce it if ordered to do so by the court.

(e) Any fax transmission received after 5 o'clock p.m. in the time zone of the recipient shall be deemed served on the following business day.

(f) Proof of service by fax shall be shown as provided in Supreme Court Rule 43.01(d).

#### **4.7.8 COSTS FOR RECEIPT OR TRANSMISSION BY FAX**

(a) The clerk of a division maintaining a fax machine to receive or transmit documents by fax may charge the person or entity filing by fax up to Fifty Cents (.50) for receiving and processing such documents and up to One Dollar (\$1.00) per page for transmitting such documents.

(b) Unless a party is not subject to paying costs or expenses by law or court order, the fax charge calculated and presented for payment by the clerk of a division for the receipt or transmission of a document by fax shall:

- (i) be paid upon receipt by the person or entity; or,
- (ii) be subject to an additional filing deposit by the clerk of the division; or,
- (iii) be taxed as costs by the court to the party for whom the fax charge was incurred.

(c) If any party or entity is delinquent in the payment of any fax charge, the clerk of the division may decline to receive or transmit any documents by fax from or to such person or entity until all charges have been fully paid.

#### **4.7.9 FAX UTILIZATION**

(a) Nothing in this rule shall require a clerk of any division to maintain a fax machine to receive or transmit documents by fax.

(b) Nothing in this rule shall require the clerk of any division to maintain or designate a fax machine for receipt or transmission of documents outside business hours on business days.

(c) If the circuit clerk of any county in this circuit maintains a fax machine in the clerk's office, such machine shall be deemed available to receive fax filings for all divisions of the court in that county and may be used by all divisions in that county to make fax transmissions.

#### **4.8 SPECIAL PROCESS SERVERS**

A special process server may be appointed in a civil case upon the filing of a written request therefor demonstrating the person's qualifications as specified by Missouri Supreme Court Rule 54.13(a), all in accordance with Missouri Supreme Court Rule 54.01. The request may be granted by the Circuit Clerk or her deputy, and the appointment shall be valid only for the case in which such person is specially appointed.

### **RULE 5 FEEES AND COSTS**

#### **5.1 FILING FEE AND COST DEPOSIT**

In all cases filed in this Circuit, excepting cases filed by the State of Missouri, Circuit Juvenile Officer, appeals or transcripts from any Federal or State Commission, or transfers within the circuit, there shall be deposited with the appropriate clerk, for which said clerk shall give receipt, the following sums:

**Andrew County Associate Division 7**

Associate Civil Original Petition	48.00
Landlord/Tenant cases (possession matters) personal service AND posting upon filing	48.00
Small Claims - \$100 & over	35.00
Small Claims - Under \$100	35.00

**Andrew County Circuit Division**

Civil Action	98.00
Adoption	118.00
Each additional child	20.00
Paternity	100.00
Dissolution/Legal Separation	102.00
Minor Settlement Approval	98.00
Name Change	98.00
Motion to Quash Execution	98.00
Contempt (Add \$2.00 if domestic relations case)	98.00
Motion to Modify	100.00

**Buchanan County Associate Divisions**

Associate Civil Original Petition	43.00
Landlord/Tenant cases (possession matters) personal service AND posting upon filing	43.00
Small Claims - \$100 & over	30.00
Small Claims - Under \$100	30.00

## Buchanan County Circuit Divisions

Civil Action	93.00
Adoption	113.00
Each additional child	20.00
Paternity	95.00
Dissolution/Legal Separation	97.00
Minor Settlement Approval	93.00
Name Change	93.00
Motion to Quash Execution	93.00
Contempt (Add \$2.00 if domestic relations case)	93.00
Motion to Modify	95.00

Costs of service are not taxed as court costs. You must contact the Sheriff of the county where service will be obtained to get information on the service fee. This fee is required in advance. Two checks can be submitted to the Circuit Court Clerk's Office, one made payable to the Circuit Clerk for the appropriate fee and one made payable to the service agency.

### **5.2 COSTS**

(No local rule.)

### **5.3 WITNESS FEE**

(No local rule.)

### **5.4 WAIVER OF FEES**

(No local rule.)

### **5.5 MOTION FOR SECURITY**

(No local rule.)

## **RULE 6 ASSIGNMENT OF JUDGES, CASES, AND TRANSFER OF CASES**

### **6.1 ASSIGNMENT TO ASSOCIATE CIRCUIT JUDGES**

All cases which are assigned to the associate court divisions in Buchanan County shall be assigned equally to Divisions 5 and 6.

### **6.1.1 BY LOCAL COURT RULE OR ORDER**

(a) Cases of the kinds enumerated in 517.011(1), (2) and (3) RSMo., and in Andrew County such cases as provided for in 517.011 (4) RSMo.;

(b) All cases of misdemeanors, infractions and felony complaints except where otherwise provided by law; and

(c) In Buchanan County felony informations and felony cases which are Class D felonies of non-support and are not joined with another felony count which is other than a Class D felony of non-support.

(d) In Andrew County felony informations and felony cases which are Class D felonies where the preliminary hearing was waived and are not joined with another felony count, which is not a class D felony.

### **6.1.2 SPECIAL ASSIGNMENT**

The Presiding Judge of the Circuit shall have the authority to assign associate circuit judges to hear such cases as the Presiding Judge may determine, and to assign judges to divisions except as otherwise provided by law.

### **6.1.3 ASSIGNMENT WHEN CIRCUIT JUDGE NOT AVAILABLE**

In Buchanan and Andrew Counties, at any time when there is no circuit judge readily available to hear petitions for the granting of an ex parte order of protection under the "Adult Abuse Act" or the "Child Protection Orders Act" or a motion for a hearing on a violation of an order of protection under such acts or an administrative modification of a judicial order, an associate circuit judge of the appropriate county may hear such matters. All papers in connection with the filing of any petition; the granting of any ex parte order of protection; or motion for hearing on violation of an order of protection, under these acts, shall be certified by such judge or the clerk by the next regular business day to the circuit court division having jurisdiction to hear the petition. The associate circuit judge of Andrew County shall hear and determine all matters filed in that county pursuant to the "Adult Abuse Act" and the "Child Protection Orders Act" (Chapter 455, RSMo.) without further assignment unless another judge grants the ex parte order of protection and elects to retain such matter.

**6.2 ASSIGNMENT TO CIRCUIT JUDGES AND ASSOCIATE CIRCUIT JUDGE**

**Rule 6.2.1 ANDREW COUNTY**

**CIVIL CASES** - The judges of Divisions 1 and 4 are assigned to hear all civil cases filed in the circuit division. Each judge shall be assigned all civil cases filed for a one year period and alternate every year with the other judge. The judge of Division 4 shall begin the rotation July 1, 2004.

**CRIMINAL CASES** - The judges of Divisions 2 and 3 are assigned to hear all criminal cases filed in the circuit division except for Class D felonies in which a preliminary hearing was not held. Each Judge shall be assigned all criminal cases filed for a one year period and alternate every year with the other Judge. The judge of Division 2 shall begin the rotation July 1, 2004.

**JUVENILE CASES** - The judges of Divisions 3 and 4 are assigned to hear all juvenile division cases. Beginning July 1, 2001 the judge of Division 3 shall be assigned all juvenile cases filed for one year and Division 4 the following year and alternate each year thereafter. The judge of Division 4 shall begin the rotation July 1, 2004.

**TRUST PROCEEDINGS** - All cases concerning trustees and trust administrations shall be assigned to the Associate Circuit Judge of Andrew County to be heard in the Probate Division. At the effective date of this rule, all cases now pending in the Circuit Court under retained jurisdiction to receive annual trustees' reports shall be transferred to the Associate Circuit Court.

**DOMESTIC RELATIONS** - All dissolutions of marriage, motions to modify, uniform reciprocal enforcement of support, petitions for paternity, actions filed under the "Adult Abuse Act" and "Child Protection Orders Act" shall be assigned to the Domestic Division in Andrew County and be heard by the Associate Circuit Judge of Andrew County.

**APPLICATIONS FOR INVESTIGATORY SUBPOENAS UNDER RSMO. SECTION 56.085 AND APPLICATION FOR WITNESS IMMUNITY UNDER RSMO. 491.205** - All such applications shall be filed with the circuit clerk and heard by the associate circuit judge of Andrew County.

**ALL CASES** - If the assigned circuit judge is unavailable and there is no other circuit judge who is readily available and both the assigned circuit judge and the associate circuit judge of Andrew County consent, the case shall be heard by the associate circuit judge of Andrew County.

### 6.2.2 BUCHANAN COUNTY

All cases filed in Buchanan County shall be assigned originally by the circuit clerk as follows:

(a) Domestic relations, Uniform Reciprocal Enforcement of Support, applications for investigatory subpoenas under RSMo. Section 56.085, and applications for witness immunity under RSMo. 491.205 equally to Division 1 and 2.

(b) Actions at law for damages and all other civil actions equally to Division 1 and 2.

(c) All criminal felony cases except for Class D felony non-support to Divisions 3 and 4.

(d) All criminal felony non-support cases which are not joined with another felony count which is other than a Class D felony of non-support shall be assigned as follows:

(i) When the defendant waives the right to a preliminary hearing, that case shall be assigned to the judge who certified the case.

(ii) When the defendant is certified for trial after a preliminary hearing, that case shall be assigned to the other associate circuit judge.

(e) All civil trial de novo cases to Divisions 5 or 6. The case shall be assigned to the division that did not hear the original trial.

(f) Adult Abuse Act petitions, equally to Division 1 and 2 except that if, on one day or on the next succeeding business day, a Petitioner files more than one such petition, or if Petitioner has filed such a petition and the Respondent in the pending case files another such petition in which the prior Petitioner is designated as Respondent, then all such petitions shall be set for hearing on the same date and time, and all shall be assigned by the Circuit Clerk to the Division selected to hear the first such petition filed.

If a Petitioner files such a petition and the Clerk is advised that there is already such a petition pending which was filed earlier than two business days before, and in which the current Petitioner has been named as a party, the Clerk may refer the case to the Presiding Judge. The Presiding Judge may reassign the later case to the same Division selected to hear the earlier petition, for hearing at the same date and time.

(g) Municipal Court trial de novo cases equally to Division No. 1 & 2.

(h) All Juvenile Court filings equally to Divisions 3 and 4 except all petitions filed by the juvenile office alleging abuse and neglect and petitions to terminate parental rights shall be assigned to Division 3.

(i) All cases concerning trustees and trust administrations shall be assigned to Division No. 4. Cases which are pending under retained jurisdiction to receive annual trust reports at the effective date of this rule shall be transferred to Division No. 4.

**6.2.3 BUCHANAN COUNTY - CIRCUIT AND ASSOCIATE  
DIVISIONS ASSIGNMENT PROCEDURES**

(a) Packets of cards sealed on three sides shall be furnished to the clerk of the circuit court for use in the initial assignment of actions at law for damages and all other civil actions filed in the Circuit divisions of Buchanan County.

(b) Each card in the assignment packets shall have space on the top side for listing of the case number and style. The division to which the case is to be assigned shall be on the reverse side. The division numbers shall be mixed in such percentages as provided in Rule 6.2.2(b).

(c) When an action at law for damages or other civil case is presented to the clerk for filing, a case number shall be assigned, the number and style of the case written on the top card in the appropriate packet, the card removed from the packet and the case assigned to the division listed on the reverse side. No variation of this procedure shall be permitted.

(d) All assignment cards shall be attached to the file.

(e) At any time when a judge of the associate divisions of Buchanan County shall be absent, his cases shall be heard by the other judge of the associate division if he is available unless he has been previously disqualified.

(f) **Voluntary transfer of case:** The judge in whose division a case is docketed may transfer the case to another judge in the circuit, provided the transferor judge and transferee judge consent. Such transfer may be made to relieve docket congestion, or to balance the workloads of the divisions or to accommodate the schedules of parties and their attorneys, or for any other reason which would promote the efficient administration of justice. The case records shall be transferred to the division of the court receiving such transferred case.

**Temporary assignment of judge:** The judge in whose division a case is docketed may temporarily assign the case to the judge of another division in the circuit for the hearing of a particular matter therein, (including the making of a decision on the merits therein) provided the assignor judge and assignee judge consent. When the assigned judge has ruled upon the matter referred, the assigned judge shall return the case to the docket of the assignor judge for any further disposition required. The case records remain in the original division of the court during any temporary assignment of judge.

**Permissive and voluntary nature of rule:** The above provisions are voluntary and permissive not mandatory. By their terms these provisions cannot be applied to deny any party the right to a change of judge given by the Missouri Rules of Civil Procedure. The above provisions supplement and do not supersede the authority of the presiding judge of the circuit to make assignments and transfers to promote the administration of justice. The division clerks shall advise attorneys that these procedures are available.

(g) **Voluntary transfers and temporary assignments in Andrew County:** The circuit judge assigned to sit in Andrew County or the associate circuit judge for that division may make a voluntary transfer of a case to any other division of the circuit court provided the transferor judge and transferee judge agree. Such a judge may temporarily assign the case to the judge of any other division in the circuit for the hearing of a particular matter therein (including the making of a decision on the merits therein), provided the assignor judge and the assignee judge consent. When the assignee judge has ruled upon the matter transferred, the assignee judge shall return the case to the docket of the assignor judge for any further disposition required. The case records shall pass to the transferee division in any voluntary transfer and shall remain with the original division in any temporary assignment.

(h) Whenever there are two or more cases arising out of the same transaction, or the same act or acts of negligence, or relating to the same property, the judge of the division to which the lowest numbered case has been assigned may order the higher numbered case or cases transferred to such division in order that said judge may dispose of all preliminary motions and try, hear and determine all issues presented in said cases. Except in the event one case is a felony pending in a circuit division, then the case in the associate division shall be transferred to the circuit division for disposition.

### **6.2.5 ST. JOSEPH MUNICIPAL COURT - ASSIGNMENT PROCEDURES**

When the municipal judge is disqualified either by change of judge motion or the judge disqualifying himself, the case shall be assigned to the duly appointed substitute municipal judge, and if thereafter that judge becomes disqualified for any reason to hear the case, that judge shall then certify the case to the presiding judge of the circuit for assignment for trial.

### **6.3 CERTIFICATION TO CIRCUIT DIVISION**

(No local rule.)

### **6.4 TRIAL DE NOVO**

In Buchanan County, upon the filing in accordance with Section 512.190 RSMo. of an application for trial de novo the division clerk shall forward the case to the division clerk to which it is assigned. The courtroom clerk of such division shall immediately set a time and date for the trial de novo on a date no sooner than 15 days hence. The clerk of the division from which the case is appealed shall endorse on the application for trial de novo the time and date of the trial de novo and mail a copy of such application for trial de novo to all parties. The mailing of the application for trial de novo shall constitute sufficient notice to the parties of the time and date of the trial de novo.

### **6.5 DISQUALIFICATION OF JUDGE**

Whenever a judge is disqualified whether sua sponte or upon motion of a party, unless otherwise provided by specific order:

(1) If the judge disqualified is a circuit judge, that judge shall certify the case to the presiding judge for reassignment.

(2) If the cause is to be heard in Buchanan County and the judge disqualified is an associate circuit judge, the cause shall be transferred to the other resident associate circuit judge in the county. In the event that both associate circuit judges are disqualified, the cause shall be certified to the presiding judge for reassignment. However, if the case is a Class D felony assigned to a judge of an associate division and that judge is disqualified, than that judge shall transfer the case to the other associate circuit judge, unless the other judge has previously been disqualified or has presided over a preliminary hearing in the case, in that event the judge shall certify the case to the presiding judge for reassignment.

(3) When a change of judge has been ordered, the trial setting will be maintained, if possible. If a change of judge is ordered 30 days or more before the date of trial, the parties will be notified within 10 days if the setting date will be maintained.

If a change of judge is ordered less than 30 days before the date of trial, the clerk will notify the parties forthwith if the setting date will be maintained.

(4) If the judge disqualified is the presiding judge, that judge shall certify the case to the circuit judge, not previously disqualified, having the greatest seniority on the bench for reassignment.

(5) Whenever the judge of the Probate Division (Division 4) of Buchanan County is disqualified or disqualifies himself in a case involving a decedent's estate or guardianship, rather than the case being transferred to another division, the judge of the division listed on the transfer shall be assigned to the probate division and the case file shall remain in the probate division.

(6) If either Division 3 or Division 4 is disqualified on a juvenile case, the case shall be transferred to the other division. If both Judges of Division No. 3 and Division No. 4 are disqualified on a juvenile case, the case will be certified to the presiding judge for reassignment.

#### **6.6 ABSENCE OF JUDGE**

In the absence of the circuit judge of any division on account of sickness or otherwise, any other circuit judge or associate circuit judge may sit as the judge of the division in which the judge is absent and perform all the duties of said absent judge. Likewise in the absence of the associate circuit judge of any division on account of sickness or otherwise, any other associate circuit judge or circuit judge may sit as the judge of the division in which the judge is absent and perform all the duties of said absent judge.

#### **6.7 ABSENCE OF PRESIDING JUDGE**

In the event the presiding judge is absent, the circuit judge available with the greatest seniority will have authority to act as presiding judge.

#### **6.8 APPLICATIONS FOR DETENTION - JUVENILES**

The judges of the divisions of the Fifth Judicial Circuit, i.e., Divisions 1 through 6 in Buchanan County and Divisions 1 through 4 and Division 7 in Andrew County, are hereby authorized to hear and determine Applications for Detention of juveniles, throughout the Circuit, pursuant to Supreme Court Rule 111.07 or 111.08.

### **RULE 7 WITHDRAWALS OF PAPERS FROM CLERKS' OFFICES**

#### **7.1 WHEN ALLOWED**

No file may be removed from any of the Clerks' offices by anyone other than court personnel.

## **7.2 DUPLICATING POLICY**

Requests for certified and/or photocopies of court records shall be directed to the clerk having custody of such records. Charges for such copies shall be as follows:

Photocopies - \$.25 for each page for the first 10 pages; \$.10 per page thereafter.

Certified copies - \$2.50 per certification (up to two pages per document); regular copy charges to apply to third and subsequent pages of document.

If a party to a matter not required to be heard on the record before an associate circuit judge requests that such proceedings be recorded, and the Court grants such request, there shall be a fee of \$10.00 per tape therefor paid in advance by such party. This fee shall entitle the party to copy the tape under supervision of the court clerk onto his own tape and recording device, but it shall not entitle him to the original tape. Additional copies of such tape shall be available to any other party upon payment of \$10.00 per tape therefore paid in advance, which shall entitle said party to copy the tape under supervision of the court clerk onto his own tape and recording device.

Duplicate tapes of any proceedings heard on the record before associate circuit judges shall be made available at a cost of \$10.00 per tape, to be paid by the party requesting such tape. This fee shall entitle the party to copy the tape under supervision of the court clerk onto his own tape and recording device.

A charge of \$10.00 per tape will be made for listening to any taped proceeding, payable in advance.

All fees collected for duplicate tapes or for listening to any taped proceedings shall be paid over monthly to the County Treasurer for credit to the General Revenue Fund of the county.

## **RULE 8 PUBLICATION OF DOCKETS**

(No local rule.)

### **8.1 TRIAL DOCKET**

(See Rules 36.3.1 and 36.3.2.)

### **8.2 DISMISSAL DOCKET**

(No local rule - See Rule 37.1.)

## **RULE 9 COURTROOMS**

### **9.1 ASSIGNMENT OF COURTROOM**

In Buchanan County the location of the various divisions of the circuit court on the third floor of the County Courthouse shall be as follows:

Division No. 1 - Northeast corner of the East wing.

Division No. 2 - Southeast corner of the East wing.

Division No. 3 - South wing.

Division No. 4 - North wing.

Division No. 5 - Southwest corner of the West wing.

Division No. 6 - Northwest corner of the West wing.

**9.2 PLACE OF HEARING**

(No local rule.)

**9.3 USE OF COUNSEL TABLE**

(No local rule.)

**9.4 COURTROOM DECORUM AND DRESS**

Attorneys should insist on proper dress of their clients at all Court proceedings and encourage their witnesses to wear appropriate dress.

**9.5 WHO IS PERMITTED WITHIN BAR**

(No local rule.)

**RULE 10 COURT REPORTERS AND COMPENSATION FOR SAME**

**10.1 TRANSCRIPTS FOR INDIGENT DEFENDANTS**

In order that indigent defendants will be able to comply with Missouri Supreme Court Rule 30.04(f), all court reporters will provide an original and three copies of the transcript for indigents in criminal case appeals.

**RULE 11 RECORDING OF JUDICIAL PROCEEDINGS**

(No local rule.)

**RULE 12 MONIES PAID INTO COURT**

The Circuit Clerk of Buchanan County and division clerk of the associate circuit judge of Andrew County shall collect and account for all the fines, penalties, forfeitures and any other sums of money, by whatever name designated, accruing to the state or any county by virtue of any order, judgment or decree issued from the applicable division of the Circuit Court in the Fifth Judicial Circuit.

**12.1 BOND IN CIVIL CASES**

(No local rule.)

**RULE 13 COMMUNICATIONS WITH COURT**

(No local rule.)

**13.1 ORAL COMMUNICATIONS WITH THE COURT**

(No local rule.)

**13.2 WRITTEN COMMUNICATIONS WITH THE COURT**

(No local rule.)

**GENERAL RULES**

**RULE 21 ATTORNEYS**

**21.1 RESOLUTION OF CONFLICTING TRIAL SETTINGS**

In the event the same attorney is scheduled to appear for a trial or hearing in different courts at the same time, whether within this circuit or outside this circuit, the trial or hearing of the case first set for that specific time and date shall have precedence if the attorney files a motion for continuance in the court not having precedence within 5 days of receipt of the conflicting setting and notices the motion for hearing pursuant to Supreme Court Rule.

This rule shall apply only if the actual and necessary participation of the same attorney is required in both courts. The judge ruling on the motion for continuance shall always have the authority to determine if good cause is shown for continuing the case.

**21.2 ENTRIES OF APPEARANCE**

(No local rule.)

**21.3 CONDUCT OF ATTORNEY**

**21.3.1 TRIAL CONDUCT**

Only one attorney shall examine a witness in chief, and one cross examine for the other side, unless the defendant shall answer separately, and this rule shall also apply where cases are consolidated for trial.

**21.3.2 WHERE TO STAND**

Subject to being directed otherwise by the Court, while addressing the Court or examining a witness, counsel shall stand at the counsel table or lectern and shall not approach the bench or witness without permission of the Court.

### **21.3.3 ATTORNEYS - CONVERSATION WITH JURORS**

Attorneys shall not converse with jurors about court procedure, jury service, verdicts or cases which may be set for trial, during their term of service. This rule shall be called to the attention of jurors on their first day of service.

### **21.4 WITHDRAWAL OF ATTORNEYS - CIVIL CASES**

1. In all civil cases (including domestic relations) to withdraw as attorney of record, an application and proposed order for leave of court to withdraw must be filed with the Court. The application to withdraw shall state the last known address of the client, the appropriate reason(s) for withdrawal as provided in Supreme Court Rule 4, Rules of Professional Conduct, Rule 1.16, and the written consent to withdraw of both the client and opposing party, in which case no hearing would be necessary. If written consent of both the client and opposing party is not obtained, the application must be served upon the client and the opposing party by first class mail along with a notice calling up the application for hearing, a copy of which is to be filed with the Court along with the application. If the opposing party is represented by an attorney, the attorney may give consent or receive notice as set forth in this rule.

2. Where there is an entry of appearance already filed with the Court by a subsequent attorney of record, application and an order for leave of Court to withdraw as attorney of record is not required.

3. If leave of Court is granted to withdraw as attorney of record, copies of the order allowing the withdrawal are to be mailed by the Clerk of the Court to the client, opposing party and the various attorneys.

### **21.5 FAILURE OF ATTORNEY TO ANSWER DOCKET CALL**

When any case or matter pending is called for hearing and either or both parties fail to appear, the same shall be dismissed for want of prosecution, or judgment entered, or other appropriate order made in the discretion of the judge having jurisdiction. The Clerk shall forthwith give written notice of such order to the parties or their attorneys of record.

### **21.6 APPOINTMENT OF ATTORNEYS**

(No local rule.)

### **21.7 AGREEMENT OF ATTORNEYS**

No stipulation or agreement of parties or attorneys in a pending cause will be recognized unless made in writing or made in open court.

**21.8 ADVICE TO CLIENTS AND WITNESSES OF COURTROOM PROCEDURES**

(See Rule 9.4.)

**RULE 23 TRANSCRIPTS**

(No local rule.)

**RULE 24 EXHIBITS**

(No local rule.)

**RULE 25 ALTERNATIVE DISPUTE RESOLUTION PROGRAM**

**25.1 AUTHORITY AND PURPOSE FOR RULE**

By adoption of this rule, there is established in the Fifth Circuit an Alternative Dispute Resolution (hereinafter referred to as "ADR") Program as provided in Missouri Supreme Court Rule 17.

The purpose of adopting this rule is to establish a program which will foster early, economical, fair and voluntary settlements of lawsuits without delaying or interfering with the parties' rights to resolve lawsuits by trial.

**25.2 APPLICATION OF RULE**

Unless otherwise ordered by the Court, the Program established by this rule shall apply to all cases which require entering of a scheduling order pursuant to Local Court Rule 32.1.

In all such cases, the parties shall certify within the proposed scheduling order filed pursuant to Local Rule 32.1 that they have conferred regarding ADR. The proposed scheduling order shall recite the position of all parties concerning ADR and shall recite any agreement reached between the parties for ADR (e.g., the method, timing, and procedure for the selection of a neutral.) If any of the parties take(s) the position that ADR is not appropriate in that case, that party shall recite the reasons therefore. If ADR is ordered by the court pursuant to agreement of the parties, on the motion of any party, or on the court's own motion, the parties shall submit to ADR pursuant to the court order and Supreme Court Rule 17.

**25.3 FORM AND MANNER OF PROVIDING NOTICE**

The Notice of Alternative Dispute Resolution Program Services required by Missouri Supreme Court Rule 17.02(a) shall be in the form of Form 25.1. **(See Appendix, Form C)**

The Notice shall be provided in all actions to which this rule applies as follows:

(a) The Circuit Clerk shall provide a copy of the Notice to the party initiating the action at the time the action is filed. If the action is filed by mail or fax, the Circuit Clerk shall mail, fax or otherwise provide a copy of the Notice to the initiating party as soon as possible. If the initiating party is represented by an

attorney of record, the Circuit Clerk may provide the Notice to the attorney of record. Upon receipt of the Notice, the attorney shall forthwith provide a copy to each party represented.

(b) The Circuit Clerk shall provide a copy of the Notice to non-initiating parties by attaching a copy of the Notice to the summons issued in the action. If service of process is accepted by an attorney of record on behalf of a party, the attorney shall promptly provide a copy of the Notice to each party represented. In the event no service of process is issued, the Circuit Clerk shall provide the Notice to the non-initiating party or that parties' attorney of record by mail or by hand delivery.

#### **25.4 LIST OF QUALIFIED SERVICE PROVIDERS**

The Circuit Clerks of Andrew and Buchanan Counties shall maintain a list of individuals and organizations who provide alternative dispute resolution program services in the Fifth Circuit and have met the qualification requirements established by Missouri Supreme Court Rule 17.04 and 88.05. The list shall include the name, address, telephone number, services provided and the fee of the providers. The list shall be approved by the Court en banc and updated as needed.

### **PRETRIAL MATTERS**

#### **RULE 32 DISCOVERY**

##### **32.1 CIVIL CASES IN CIRCUIT DIVISIONS**

1. **Application of Rule.** In order to comply with Supreme Court Administrative Rule 17 and to achieve the most expeditious and efficient disposition of civil cases, discovery in all civil cases filed in the circuit divisions of this circuit, except discovery in juvenile, probate, and cases exempted by Rule 32.1.2 infra, shall be governed by this rule.

2. **Actions Exempt from Filing of Scheduling Order.** Unless otherwise directed by the Court, the following categories of cases are exempt from compliance with the procedures set forth in this rule regarding the filing of scheduling orders:

(a) All cases assigned to the expedited track pursuant to Local Rule 4.2.1.4; and,

(b) any case in which a trial setting is obtained by agreement of all parties within 3 months of the date of the filing of the original pleading and all parties have filed a written stipulation that no discovery is required or that all discovery has been completed. In such cases, no discovery shall again commence, unless by agreement of the parties upon order of the Court.

3. **Filing of Proposed Scheduling Order.** In every case to which this rule applies, a proposed scheduling order shall be filed by the party filing the action within 90 days of the filing of the initial pleading. A copy of the proposed order shall be sent by the filing party to all parties. No extension of this time limit will be allowed except by court order. Any party desiring an extension of the time limit to file a proposed scheduling order shall file a written motion requesting an extension stating a factual basis as to why the time limit is unreasonable. If all parties agree and the Court approves, the extension shall be allowed without a hearing on the motion. Otherwise, notice and a hearing will be required.

4. **Preparation of Proposed Scheduling Order.** After consultation with all parties, the party filing the action shall be responsible for preparing a draft of the proposed scheduling order contemplated by this rule. The draft shall be presented to all parties for modifications. The parties shall fully and openly communicate with each other so that a joint proposed scheduling order is submitted. If all parties do not agree on a proposed scheduling order, each party shall file a separate proposed scheduling order. Disagreements concerning a proposed scheduling order, if unresolved through the good faith efforts of the parties, shall be resolved by the Court with or without a hearing.

5. **Content of Proposed Scheduling Order.** The proposed scheduling order filed with the Court shall contain the following:

(a) a date limiting joinder of parties;

(b) a date limiting amendments to the pleadings. It is suggested that counsel consider in most cases a date approximately 6 months after the filing of the initial pleading;

(c) a date limiting the filing and hearing of motions. It is suggested that counsel in most cases consider proposing that (1) all discovery motions be filed on or before the date proposed for the completion of discovery; and, (2) all dispositive motions be filed not later than 30 days after the date proposed for the completion of discovery;

(d) a plan and date for the completion of all pretrial discovery, including the dates by which all parties' experts must be disclosed and produced for depositions. In no event shall the date for completion of all discovery extend beyond 10 months from the date of the filing of the initial pleading for cases assigned to the standard track and 12 months from said date for cases placed on the complex track unless included in the plan is a detailed statement of (1) the facts as they relate to the issues in dispute; (2) the status of all pretrial discovery to date; and, (3) a description of all pretrial discovery each party intends to initiate prior to the close of discovery. (See Local Court Rule 4.2.1 concerning track assignments); and,

(e) a certification by the parties in all cases subject to this rule that the parties have conferred regarding alternative dispute resolution (ADR) (see Missouri Supreme Court Rule 17 and Fifth Judicial Circuit Court Rule 25). The proposed scheduling order should report any agreement between the parties as to ADR (e.g., the method and timing of ADR and procedure for selecting a neutral, or that the parties agree that ADR is inappropriate), or if there exists no such agreement, an indication of the parties' respective positions regarding ADR.

(f) a proposed trial date following the completion of discovery and for the hearing of all motions with an estimated length of the trial. In no event shall the proposed trial date be later than 12 months from the date of the filing of the initial pleading for cases assigned to the standard track and 18 months from said time for cases assigned to the complex track.

**6. Scheduling Order Entered.** In every case to which this rule applies, a scheduling order shall be entered by the Court within 120 days of the filing of the initial pleading, unless otherwise ordered by the Court.

**7. Extension of Time Limits Fixed in Scheduling Order.** A time limit established by a scheduling order shall be extended only upon a written motion and a good cause finding by the Court. A motion to extend any time limit in a scheduling order must demonstrate a specific need for the requested extension and should be accompanied by a detailed proposed amendment to the previously entered scheduling order. The extension shall be allowed without a hearing on the motion only if all parties agree and the Court approves. Otherwise, notice and hearing will be required. A time limit for completion of discovery will be extended only if the remaining discovery is specifically described and scheduled, e.g., the names of each remaining deponent and the date, time, and place of each remaining deposition.

**8. Filing of a Motion Does Not Automatically Stay Discovery.** Unless otherwise ordered by the Court, the filing of a motion, including a discovery motion; a motion to extend the time limits of a scheduling order; a motion for summary judgment; or, a motion to dismiss, does not excuse a party from complying with this rule and any scheduling order entered in the case.

**9. Failure to Comply with Scheduling Order.** All discovery should commence at the earliest time permitted by the Supreme Court Rules of Civil Procedure. A party who fails to timely investigate his or her case; participate in good faith in the preparation of the proposed scheduling order; or, to comply with the terms of a scheduling order entered in the case shall be deemed to have waived the right to engage in any discovery. In addition, such failure may result in the imposition of sanctions as provided under Supreme Court Rule 61.01.

10. **Golden Rule as to Discovery Motions.** Unless otherwise ordered, the Court will not be required to entertain any discovery motion unless the moving party has conferred or has made a reasonable effort to confer with all opposing parties concerning the matter prior to the filing of the motion. The moving party shall certify in writing compliance with this rule in any discovery motion.

**32.2 INTERROGATORIES**

(No local rule.)

**32.3 DEPOSITIONS**

(No local rule.)

**32.4 MOTIONS FOR SANCTIONS**

(No local rule.)

**32.5 CRIMINAL DISCOVERY**

(No local rule.)

**RULE 33 PRETRIAL MOTIONS**

**33.1 HEARING DATES**

All pleadings, motions or other papers requiring action of the court thereon, and which cannot be heard ex parté, can be heard after at least five (5) days' written notice calling up such pleading or motion for hearing shall be served, after the court clerk has fixed a time for such hearing on the court's docket. If any motion, except a motion for a new trial, is not called up and presented to the court for its action within thirty days after it is filed, it shall be deemed abandoned, and dismissed for want of prosecution, or other appropriate order made in the discretion of the court.

**33.2 BRIEFS IN SUPPORT OF MOTIONS, WHEN REQUIRED**

(No local rule.)

**33.3 ORAL ARGUMENTS - WHEN DESIRED AND HOW REQUESTED**

(No local rule.)

**33.4 MOTIONS IN LIMINE**

(No local rule.)

**33.5 SERVICE OF MOTIONS**

All pleadings, motions and other papers subsequent to the original petition shall be served as provided by Supreme Court Rule on the day of filing, or as soon thereafter as service can be made. When service of a pleading or notice is made before filing in court, the filing of such pleading or notice must be made not later than five days after service. All such pleadings subsequent to the original petition, motions, notices, orders and other papers, not required by statute, rule or order to be served by an officer, may be served or mailed by any person who would be a competent witness.

Service or mailing may be shown by acknowledgement of receipt or by affidavit.

### **33.6 ENLARGEMENT OF TIME**

The time specified in this Rule 33 may be limited or enlarged in any particular case when, in the discretion of the judge having jurisdiction over said case, the circumstances may require.

## **RULE 34 CONTINUANCES**

### **34.1 CIVIL CASES**

(No local rule.)

### **34.2 CRIMINAL CASES**

(No local rule.)

## **RULE 35 PRETRIAL CONFERENCES**

### **35.1 PRETRIAL CONFERENCES**

Upon motion of any party or sua sponte, the Court may order a pretrial conference as authorized by Supreme Court Rule. The purpose of the pretrial conference shall be to discuss settlement if desired by the parties, to review the instructions, to hear and determine all pretrial motions in limine and objections to deposition testimony that a party intends to offer at trial, and to take up any other pretrial matters that could avoid unnecessary delays during the trial. All parties shall file deposition designations intended to be offered at trial at least seven days prior to the pretrial conference hearing, with notice to every other party. Motions in limine and objections to deposition testimony must be filed prior to the pretrial conference hearing with notice for that hearing as required by Supreme Court Rule. The instructions intended to be offered by the parties shall be filed at the hearing with copies furnished to all parties.

## **RULE 36 SETTING CASES FOR TRIAL**

### **36.1 DOMESTIC RELATIONS CASES**

1. **Automatic Setting of Status Review Hearing.** Upon the filing of a domestic relations action, the filing clerk shall immediately set the case for a status review hearing on the first available date following 75 days from the date of the filing of the action. The clerk shall inform the petitioner of said date by placing it on the cost deposit slip. If petitioner is allowed to file in forma pauperis, the clerk shall mail notice of the hearing date to petitioner or if represented, to petitioner's counsel. If petitioner is represented by counsel at the time of filing, petitioner's counsel shall mail timely written notice of said hearing to all parties and any guardians ad litem. If petitioner is not represented by counsel at the time of filing, the clerk shall mail written notice of said hearing to all parties and any guardians ad litem.

2. **Status Review Hearing.** All parties, attorneys of record, and guardians ad litem shall attend the status review hearing. At the hearing, the Court shall conduct a pre-trial conference. In addition, the Court may dispose of the case by agreement of the parties; set the case for trial; or, take any other appropriate action to resolve the case in a timely fashion.

3. **Trial Setting.** A domestic relations action not already set for trial may be set for trial as provided for in Rule 36.4 infra. However, unless approved by the Court, no contested domestic relations action can be set for a trial date which is prior to the date set for the status review hearing pursuant to this rule.

### **36.2 CASES ON EXPEDITED TRACK**

1. **Automatic Trial Setting.** Upon the filing of a civil action, other than a domestic relations action, which is placed on the expedited track pursuant to Rule 4.2.1, the filing clerk shall immediately set the case for trial after obtaining a trial date from the division clerk giving due regard to the time required for service of process and the filing of any required responsive pleading. Notice of trial setting shall be provided according to the procedure set forth in Rule 36.1.1 supra.

### **36.3 CASES ON STANDARD AND COMPLEX TRACK**

1. **Automatic Setting of Status Review Hearing.** Upon the filing of a civil action which is placed on the standard or complex track pursuant to Rule 4.2.1, the filing clerk shall immediately set the case for a status review hearing on the first available date following 90 days from the date of the filing of the action. Notice of the status review hearing pursuant to this rule shall be provided according to the procedure set forth in Rule 36.1.1 supra.

2. **Status Review Hearing.** All pro se parties and attorneys of record shall attend the status review hearing. At the hearing, the Court shall conduct a pre-trial conference; review the scheduling order entered pursuant to Rule 4.2.1; and, take any other appropriate action to resolve the case in a timely fashion.

3. **Trial Setting.** A civil action which is placed on the standard or complex track pursuant to Rule 4.2.1 and not already set for trial may be set for trial as provided for in Rule 36.4 infra.

### **36.4 REQUEST FOR TRIAL SETTING**

1. **Filing Request.** Any party to a civil case pending in any division of this circuit and not already set for trial may place that case on the trial docket for a trial on the merits by filing with the clerk of the division a written request in the form of Form 36.4.1 (See Appendix, Form D) which is incorporated herein and made a part of this rule. Prior to filing a request for trial setting, the party requesting a trial setting shall contact the clerk of the

division for available dates and all parties in a good faith attempt to agree upon a trial setting.

2. **Provisional Trial Setting.** Upon the filing of the request for trial setting, the division clerk shall place the case on the Court's trial docket for the trial setting specified, if available. If the trial setting specified is unavailable at the time the request is filed, the clerk shall notify the requesting party to obtain a different trial setting. This trial setting shall be provisional only and subject to objection pursuant to this rule.

3. **Notice of Trial Setting.** Once a provisional trial setting has been obtained pursuant to this rule, the party requesting the trial setting shall immediately give written notice of the trial setting to all parties in the form of Form 36.4.3 (See Appendix, Form E) which is incorporated herein and made a part of this rule. A copy of the Notice of Trial Setting shall be filed with the division clerk. If all parties agree as to an available trial setting, no notice pursuant to this rule is required to be sent or filed.

4. **Objection to Trial Setting.** Any party objecting to a trial setting shall file within 10 days of the Notice of Trial Setting being served as required by this rule, a written objection stating the basis thereof accompanied by a notice for hearing the objection. The Court in its discretion may rule upon any objection to trial setting with or without a hearing. If the Court overrules the objection, the provisional trial setting becomes a firm trial setting. If the Court sustains the objection, the Court shall remove the case from the trial docket or in its discretion may continue it to a date certain as the Court deems appropriate. If no timely objection to trial setting is filed, the provisional trial setting becomes a firm trial setting.

### **36.5 TRIAL SETTING ON COURT'S OWN MOTION**

Nothing in this rule shall prohibit the Court, at anytime in any case, from giving notice of hearing to all parties for the purpose of setting the case for trial. At the hearing, the Court may set the case for trial, unless a party shows good cause why the case should not be placed on the trial docket.

### **36.6 CONTINUANCES**

Once a case has been set for hearing or trial pursuant to this rule, no continuances shall be granted unless ordered by the Court.

## **RULE 37 DISMISSALS**

### **37.1 DISMISSAL DOCKET (Circuit Civil Cases)**

In any circuit civil case wherein there has been no action taken by the parties of court record during the twelve (12) months

immediately past, the Court shall cause a 30-day notice to be mailed by the Circuit Clerk to the attorneys of record and any parties for whom no attorney of record is listed that such case will be dismissed by the Court with prejudice for want of prosecution, unless on or before the date of dismissal set forth in the notice, a verified written application is made to the Court by a party in the case and good cause shown why the case should be continued as a pending case.

Once an application is filed, the Court will have 14 days within which to sustain the application without hearing. Thereafter, if the application is not sustained without hearing, the applicant may notice up and cause the application to be heard. Any application not ruled upon within 60 days after filing will be deemed overruled and the Court shall dismiss the case with prejudice for want of prosecution. During the pendency of an application, no dismissal shall occur pursuant to this rule.

**37.1.1 DISMISSAL DOCKET (Associate Circuit Civil and Small Claims Cases)**

In any associate circuit civil or small claims case where there has been no action taken by the parties of court record during the four (4) months immediately past, the Court shall cause a 30-day notice to be mailed by the Circuit Clerk to the attorneys of record and any parties for whom no attorney of record is listed that such case will be dismissed by the Court without prejudice for failure to prosecute, unless on or before the date of dismissal set forth in the notice, a verified written application is made to the Court by a party in the case and good cause shown why the case should be continued as a pending case.

When an application is filed, the Court will rule on it without a hearing, unless a hearing is requested. If the application is not sustained the Court shall dismiss the case without prejudice for failure to prosecute.

**37.2 REINSTATEMENT OF CAUSE**

(No local rule.)

**RULE 38 SUMMARY JUDGMENTS**

**38.1 NOTICE OF HEARING**

All motions for summary judgment shall be set for hearing and oral argument before being considered under submission for ruling unless said hearing is waived by the Court.

**SETTLEMENT AND DEFAULT**

**RULE 41 SETTLEMENT**

(No local rule.)

**41.1 NOTICE OF SETTLEMENT**

(No local rule.)

**RULE 42 DEFAULT**

(No local rule.)

**TRIALS**

**RULE 51 COURT-TRIED CASES**

(No local rule.)

**51.1 DEFAULT AND UNCONTESTED MATTERS**

(No local rule.)

**51.2 CONTESTED MATTERS**

(No local rule.)

**51.3 PREPARATION OF FINDINGS OF FACT AND CONCLUSIONS OF LAW**

In all cases where findings of fact and conclusions of law are required by Supreme Court Rule or statute or when deemed necessary by the Court for the proper administration of justice, the attorneys representing the parties shall submit proposed findings of fact and conclusions of law to the Court as and when ordered.

**51.4 CLOSING ARGUMENTS**

(See Rule 53.2.)

**RULE 52 SELECTION OF JURY**

(No local rule.)

**52.1 JURY QUESTIONNAIRES**

(No local rule.)

**52.2 JURY ADMINISTRATION**

It shall be the responsibility of the jury administrator in Buchanan County, and the Circuit Clerk in Andrew County to assemble prospective jurors each month in numbers as deemed necessary by the Court en banc and pursuant to the procedure required by statute and, inter alia, cause the venirepersons to view the jury orientation film as approved by the Court; complete the jury questionnaire as approved by the Court; randomly designate individual panels to hear specific trials scheduled in each division; and, at the end of the term, arrange for compensation of jurors at the rate set by statute and the County Commission.

**COMMUNICATIONS AUTHORIZED:** No judge or court personnel, other than the jury administrator, shall communicate with or address venirepersons as a group during their term of service, except for: 1. The Presiding Judge or his designee to qualify the venire as petit jurors in Buchanan County; 2. A judge to explain to an individual panel called for a specific trial in his division why that trial was not proceeding as scheduled; 3. A judge to address a panel

as part of the trial proceedings, or 4. A judge at the conclusion of the trial in his division to answer questions of jurors.

**RULE 53     JURY TRIALS**

**53.1     INSTRUCTIONS**

Each instruction submitted in a cause shall be type-written on one side of a sheet of 8 1/2 by 11 inch paper, and without marginal ruling. Copies thereof shall be furnished to counsel for each adverse party. The attorneys must have their instructions ready to be passed to the Court at the beginning of the trial upon all issues in the case that should be reasonably anticipated. The parties requesting any instruction may, at the close of the case, withdraw or modify same before any such instruction is given or refused. At the close of all of the evidence the Court shall permit all parties to examine the instructions of the other parties. After the close of the evidence each party shall have a reasonable time within which to examine the instructions of the other parties and to make objections out of the hearing of the jury. Instructions given or refused shall, at the conclusion of the case, be delivered to the Clerk and retained in the files of said case under the direction of the Court. The Clerk shall not permit any instruction to be taken from the files except upon order of the Court.

**53.2     CLOSING ARGUMENTS**

In cases tried before a jury the plaintiff, except as otherwise provided herein, shall have the privilege of opening and closing the argument. Before the argument begins the Court shall, outside the hearing of the jury, announce the time for argument, each side being allowed the same length of time. The plaintiff may apportion the time allotted to him between the opening and closing argument as he may choose, provided he shall not consume more than one-half of his time in his closing argument. In those cases in which the Court decides that the defendant has the affirmative issue, he shall have the opening and closing of the argument in like manner and under the same restrictions as laid down for the plaintiff. The Court may in its discretion change the order of argument as above prescribed in a particular case where the circumstances in the opinion of the Court require it, and where it is so ordered before the argument begins. The Court may in its discretion allow the argument in a particular case to extend beyond the allotted time if the circumstances, in the opinion of the Court, make it proper.

**RULE 54     JUDGMENT ENTRY**

**54.1     CONTESTED CASES**

Unless otherwise ordered by the Court, it shall be the duty of the party in whose favor an order is made or a judgment is rendered to prepare the decree or judgment entry together with one copy thereof for issuance to each party affected thereby.

## **54.2 DEFAULT OR UNCONTESTED CASES**

In uncontested cases, the decree or judgment entry, together with one copy thereof for issuance to each party affected thereby, shall be submitted to the Court at the time the case is presented or within such time as ordered by the Court.

### **RULES RELATING TO PARTICULAR ACTIONS**

#### **RULE 61 ADOPTION**

(No local rule.)

##### **61.1 FILING REQUIREMENTS**

(No local rule.)

##### **61.2 HOME STUDY**

(No local rule.)

#### **RULE 62 DRIVERS' CASES**

##### **62.1 APPLICATION FOR HARDSHIP DRIVING PRIVILEGES**

(No local rule.)

##### **62.2 PETITIONS FOR REVIEW**

(No local rule.)

##### **62.3 BREATHALYZER TEST**

(No local rule.)

#### **RULE 63 ASSOCIATE DIVISION CASES**

(No local rule.)

#### **RULE 64 CASES ARISING UNDER CHAPTERS 207 AND 208, RSMo. 1978 (commonly known as Title IV-D and H.B. 601 Actions)**

(No local rule.)

#### **RULE 65 CIVIL COMMITMENT**

All cases and matters pertaining to civil commitment of an individual and papers relating thereto shall be filed with the Clerk of the Probate Division of the appropriate county.

#### **RULE 66 CONDEMNATION**

(No local rule.)

#### **RULE 67 CRIMINAL CASES**

##### **67.1 PRETRIAL RELEASE**

(No local rule.)

###### **67.1.1 MOTION TO SET BOND AND FOR BOND REDUCTION**

(No local rule.)

### **67.1.2 DEPOSIT OF OPERATOR'S LICENSE**

Officers of the Missouri State Highway Patrol, the Sheriff and Deputies of Andrew and Buchanan Counties, the duly commissioned Police Officers of the various municipalities within the Fifth Judicial Circuit are authorized by this Rule of Court, in their discretion, to accept the Commercial Driver's License or Operator's License issued by the State of Missouri from any person arrested and charged with violation of a traffic law of the State of Missouri, in lieu of any other security for his or her appearance in court to answer any such charge. Provided, however, the license shall not be accepted in lieu of other security for appearance to answer charges in the following instances: (a) Driving While Intoxicated; (b) Driving Under the Influence of Intoxicating Liquor or Drugs; (c) Leaving the Scene of an Accident; (d) Driving While License is Suspended or Revoked; and (e) Any charge made because of a motor vehicle accident in which a death has occurred.

Municipal Judges of the Municipal Courts within the Fifth Judicial Circuit are authorized, in their discretion, to enact a rule under and subject to Section 544.045 RSMo. 1994, providing for the acceptance of the Commercial Driver's License or Operator's License issued by the State of Missouri from any person arrested and charged with violation of a traffic ordinance of and within their respective municipalities, in lieu of any other security for his or her appearance in Court to answer to such charge.

### **67.2 PRELIMINARY HEARING**

(No local rule.)

### **67.3 GRAND JURY**

(No local rule.)

### **67.4 ATTORNEYS**

(No local rule.)

### **67.5 ARRAIGNMENTS**

(No local rule.)

### **67.6 DISCOVERY**

(No local rule.)

### **67.7 MOTIONS**

(No local rule.)

### **67.8 PLEA BARGAINING**

(No local rule.)

### **67.9 GUILTY PLEA**

(No local rule.)

**67.9.1 WHERE ENTERED**  
(No local rule.)

**67.9.2 PETITION TO ENTER A PLEA OF GUILTY**  
(No local rule.)

**67.10 PROBATION AND PAROLE**

**67.10.1 COMMUNITY SERVICE WORK PROGRAM - ANDREW COUNTY**

In order to facilitate the effective use of the provision of Section 559.021.2(2), 211.181(7) and 479.190.2(2) authorizing a requirement of the performance of a designated amount of free work for public or charitable purposes as a condition of probation, there is established for Andrew County a community service work program. The program shall be under the direct administration of the Andrew County Associate Circuit Judge, who, with the advice and consent of the Presiding Judge, shall establish such procedures and enlist the assistance of such volunteers, including a program coordinator, as may be deemed appropriate. Expenses incurred for such program shall be budgeted for and paid from Andrew County Associate and Probate Division budget funds allocated for such purpose.

**RULE 68 DISSOLUTION OF MARRIAGE**

**68.1 FILING REQUIREMENTS**

**68.1.1 VITAL STATISTICS FORM**

The Vital Statistics Certificate, required by law, shall be filed with the petition for dissolution of marriage or legal separation.

**68.1.2 CONFIDENTIAL CASE FILING INFORMATION SHEET**

Every petitioner or movant who files a petition for dissolution of marriage, legal separation, motion for modification, action to establish paternity, petition or motion for support or custody of a minor child and anyone filing a responsive pleading to these actions shall file a "Confidential Case Filing Information Sheet - Domestic Relations Cases" at the time they file their cause of action or responsive pleading. The Confidential Case Filing Information Sheet shall not be subject to public inspection. **(See Appendix Form K)**

**68.1.3 CHILD SUPPORT/MAINTENANCE INFORMATION SHEET**

When a party is requesting a judgment, including a modification of an existing judgment, decree or order, for an award of child support and/or maintenance, at the time of the hearing the party receiving or requesting child support and/or maintenance shall file with the court a "child support/maintenance information sheet". **(See Appendix - Form L)**

## **68.2 SEPARATION AGREEMENT**

In all cases where separation agreements are made under the provision of Section 452.325 RSMo., a copy of such agreement shall be submitted to the court for approval prior to the time set for hearing.

## **68.3 FORMS OF DECREE**

### **68.3.1 SUBMISSION ON DATE OF HEARING**

Counsel shall prepare and submit to the court at the date of hearing a proposed decree of dissolution or legal separation in all cases where separation agreements have been made and shall include therein those terms of the separation agreement required by Section 452.325 RSMo.

### **68.3.2 DECREES AFFECTING REAL ESTATE**

All decrees of dissolution of marriage or legal separation affecting title to real estate shall be prepared by counsel and upon entry thereof a copy of the decree shall be delivered by counsel to the Circuit Clerk with written request that the same be recorded in the office of the Recorder of Deeds. Such request shall designate the office of the recorder where such filing is to be made and if other than in Andrew or Buchanan Counties, the mailing address. The clerk shall estimate the amount of the recording fee and shall collect the same at that time from the party delivering the decree for filing. Such expense shall be taxed as costs in the case and shall be recoverable by the prevailing party.

### **68.3.3 MAINTENANCE AND CHILD SUPPORT PAYMENTS**

Unless otherwise ordered by the Court all maintenance and child support payments shall be made to the Family Support Payment Center as trustee for the person entitled to receive the payments. Any judgment, including any judgment of modification of an existing judgment, decree or order, in which there is contained an award of child support shall specify therein the full name, date of birth and social security number of each minor child for whom is entered such an award.

At the time a hearing is held when a party is requesting a judgment, including any judgment of modification of an existing judgment, decree or order, for an award of child support, the party receiving or requesting child support shall file with the court a "child support/maintenance information sheet." (See Appendix, Form K)

#### **68.3.4 QUALIFIED DOMESTIC RELATIONS ORDERS (Q.D.R.O.s)**

Should a proposed QUALIFIED DOMESTIC RELATIONS ORDER not be submitted to the Court at the time of Hearing, the same shall be approved as to form and content in writing by both parties to the action affected thereby or a Motion seeking the approval thereof shall be set for a Hearing with notice to the parties.

#### **68.4 FILING OF FINANCIAL STATEMENTS**

a. In all contested actions for Dissolution of Marriage or Legal Separation, a Statement of Marital and Non-Marital Property and Liabilities, Form 68.4A, (**See Appendix, Form F**) shall be completed by each party; executed under oath; filed with the Court; and, supplied to the opposing party, no later than five (5) business days prior to the date of the hearing or at such time prior thereto as may be ordered by the Court.

b. In all contested actions for dissolution of marriage, legal separation, paternity, or modifications of child support, a Statement of Income and Expenses, Form 68.4B, (**See Appendix, Form G**) shall be completed by each party; executed under oath; filed with the Court and supplied to the opposing party, no later than five (5) business days prior to the date of hearing or such time prior thereto as may be ordered by the Court.

c. In all contested actions for dissolution of marriage or legal separation, a Summary of Marital and Non-Marital Property and Liabilities, Form 68.4C, (**See Appendix, Form H**) shall be prepared by the Petitioner in even-numbered cases and by the Respondent, in odd-numbered cases, filed with the Court and supplied to the opposing party, no later than two (2) business days prior to the date of hearing or at such time prior thereto as may be ordered by the Court. The non-filing party shall make objections concerning all errors or omissions in the Form 68.4C prior to the hearing.

d. The information provided in Forms 68.4A, 68.4B and 68.4C shall be updated immediately if any changes therein occur prior to the date of hearing.

e. The failure to file the forms herein required shall authorize the Court to take one or more of the following actions: continuing the hearing until the required filing has been made, prohibiting the party failing to file the same from presenting affirmative evidence as to the parties' marital and non-marital property and liabilities and income and expenses, the striking of pleadings, the dismissal of the action or the entry by the Court of other appropriate orders.

f. The provisions of this rule may not be waived by stipulation and agreement of the parties unless with the approval of the Court for good cause shown.

**68.5 MODIFICATION OF DECREE**

(No local rule.)

**68.6 HEARING - PRESENCE OF PARTIES REQUIRED**

(No local rule - Repealed 1/29/86.)

**68.7 FAMILIES IN TRANSITION PROGRAM - REQUIRED ATTENDANCE**

Except as provided hereafter in the NOTICE CONCERNING FAMILIES IN TRANSITION PROGRAM (Appendix, Form I), all persons involved as parties to any proceeding for dissolution of marriage, post-dissolution modification or paternity who seek custody or visitation of at least one child under the age of eighteen shall be required to attend the Families in Transition Program at the Family Guidance Center under the following conditions:

a. Each party shall pay Thirty Dollars (\$30.00) for participation in the program in advance to the Family Guidance Center. Any request to waive or defer payment based upon alleged financial inability shall initially be made to and determined by the Family Guidance Center prior to the day of the first session. A party shall be entitled to de novo court review of the decision. The party shall not be entitled to attend the session unless the fee is paid or the party is granted a waiver or deferment of payment.

b. The petitioner or movant shall attend the session of the Families in Transition Program within 60 days of the filing of the petition or motion. The responding party(ies) to the petition or motion shall attend said program within 60 days of the date of service of process or of receipt of the petition or motion if service is waived.

c. The Family Guidance Center shall file a copy of the certificate of completion with the Circuit Clerk, and the clerk shall cause the certificates to be placed in the appropriate court file.

d. No case shall proceed to commencement of a hearing on the merits until said certificates are filed or until the court, for good cause shown, waives application of this rule.

e. The Notice of required attendance at the Families in Transition Program, and a copy of the Local Court Rule 68.7, (See Appendix, Form I) shall be provided to the parties in all actions covered by this rule as follows:

(i) The Notice shall be attached by the Circuit Clerk to each summons issued in such action, and in the case of a petition or motion for modification wherein service of process is waived, the attorney for the movant shall attach a copy of the Notice to the petition or motion when mailed or hand-delivered to the other party(ies).

(ii) The Circuit Clerk shall provide a copy of the Notice to each person filing such action or motion for modification pro se.

(iii) Counsel for each petitioner or movant in any action to which this Rule applies shall give notice of the requirement under this Rule to his or her client.

(iv) Failure of a party to receive the Notice required herein shall not excuse that party from compliance with this Rule.

### **68.8 APPOINTMENT OF GUARDIAN AD LITEM**

An Order requiring a party to furnish adequate security for the anticipated costs of a Guardian ad Litem may be made by the Court upon the appointment thereof. The failure of the party to furnish security as ordered may result in the Court's entry of an order of dismissal or the granting of other appropriate relief as provided by Missouri Supreme Court Rule 77.02.

**RULE 69**     **MUNICIPAL DIVISION**  
              (No local rule.)

**RULE 70**     **PARTITION**  
              (No local rule.)

**RULE 71**     **ADMINISTRATIVE REVIEWS**  
              (No local rule.)

**RULE 72**     **PROBATE**  
              (No local rule.)

**RULE 73**     **SMALL CLAIMS**  
              (No local rule.)

**RULE 74**     **TRUST ESTATES**  
              (No local rule.)

**74.1**   **INVENTORY**  
              (No local rule.)

**74.2**   **REPORTS**  
              (No local rule.)

**74.3**   **RECORD**  
              (No local rule.)

**74.4**   **AUDIT**  
              (No local rule.)

**RULE 75     JUVENILE**

**75.1     JUVENILE DETENTION FACILITY**

Pursuant to Supreme Court Rule 111.03 the juvenile detention facility of the Buchanan County Law Enforcement Center is hereby designated as a detention facility to be used when a child is taken into judicial custody in Buchanan or Andrew Counties.

**POSTTRIAL**

**RULE 81     EXECUTION**

Except as otherwise provided by law, the Circuit Clerk shall issue execution only upon the written request of the party entitled thereto or the attorney representing said party. Forms therefor shall be furnished by the Clerk.

**RULE 82     GARNISHMENT**

(No local rule.)

**RULE 83     JUDICIAL SALES**

(No local rule.)

**INTERNAL ORGANIZATION**

**RULE 100**

**100.1     PRESIDING JUDGE**

**100.1.1     ELECTION**

A circuit judge shall be elected presiding judge by a majority vote of the associate and circuit judges. The election shall be for a period of two years and shall be held during the first week in January each two years. A presiding judge may not serve consecutive terms without a favorable vote of three-fourths of the associate and circuit judges. The presiding judge shall not vote, but he shall have the right to decline consecutive service.

**100.1.2     DUTIES OF PRESIDING JUDGE**

**100.1.2.1     APPOINTMENTS**

The appointments made by the presiding judge as provided by Section 485.010 RSMo. shall be subject to the approval by a majority vote of the associate and circuit judges. The presiding judge shall have one vote. Persons so appointed and approved shall continue in their position under a new presiding judge, unless discharged by a majority vote of all of the associate and circuit judges.

### **100.1.2.2 POWERS**

The presiding judge shall have those powers set forth in Section 478.240 RSMo., et seq. subject to the limitations set forth in said section and further subject to the following:

(1) The presiding judge shall not assign a class of cases to one judge without the consent of such judge; and

(2) The presiding judge shall not assign the court reporter, division clerk or bailiff of a judge without the consent of such judge, except that in the absence of a judge the presiding judge may temporarily assign members of such judge's staff to work in other courtrooms.

### **100.1.3 DISPUTE RESOLUTION - PROCEDURE**

(No local rule.)

### **100.1.4 REMOVAL OR DISABILITY**

A presiding judge may be removed from said position by a three-fourths vote of the other circuit and associate circuit judges. In the event of the disability of the presiding judge or if he is to be out of town and unavailable, he may appoint another circuit judge to act. If the disability or unavailability shall continue for thirty days, an election shall be had for the purpose of electing a presiding judge for the unexpired term of the disabled judge, or the election of a presiding judge to act until the disabled or unavailable judge can resume his duties.

### **100.1.5 ORDERS OF PRESIDING JUDGE**

Any order issued by the presiding judge shall be in writing and filed in the Office of the Circuit Clerk, unless otherwise directed by the circuit judges.

### **100.1.6 INCONSISTENCY OF RULE**

Should any portion of this rule be inconsistent with a Supreme Court Rule, the inconsistent part of this rule shall be deemed stricken.

## **100.2 LOCAL COURT RULES**

### **100.2.1 FORMULATION**

The local court rules for the Fifth Judicial Circuit shall be promulgated by the Court en banc, and may be amended or changed from time to time by majority vote of the Court en banc.

### **100.2.2 PUBLICATION**

These rules shall be published and distributed according to the provisions of Supreme Court Administrative Rules 6.02 and 6.03.

### **100.3 LIBRARY FUND**

Beginning July 1, 1997, in each civil case filed in the Circuit Clerk's Office of Andrew and Buchanan Counties, the Circuit Clerk shall require the deposit of \$15.00 for the Law Library Fund. In each Chapter 517 civil case filed in the Associate Division of Andrew County, the Clerk shall require the deposit of \$15.00 for the Law Library Fund. Until July 1, 1997, the Law Library Fund deposit required for each case shall be \$10.00.

## **RECORDS AND FILES**

### **100.4 STORAGE OF RECORDS**

(No local rule.)

#### **100.4.1 REPRODUCTION, PRESERVATION, ARCHIVAL AND DISPOSAL OF ORIGINAL CIRCUIT COURT FILES (AND THEIR CONTENTS)**

(No local rule.)

#### **100.4.2 REPRODUCTION AND PRESERVATION OF COURT RECORDS OTHER THAN FILES (AND THEIR CONTENTS)**

(No local rule.)

#### **100.4.3 RESPONSIBILITY FOR INDEXING AND PRESERVING COURT REPORTER NOTES**

(No local rule.)

#### **100.4.4 IDENTIFICATION OF REPORTER'S NOTES**

(No local rule.)

#### **100.4.5 INDEX**

(No local rule.)

#### **100.4.6 STORAGE OF NOTES**

(No local rule.)

#### **100.4.7 NOTES OF SUBSTITUTE REPORTERS**

(No local rule.)

#### **100.4.8 STORAGE OF NOTES UPON RETIREMENT, TERMINATION OR DEATH OF COURT REPORTER**

(No local rule.)

#### **100.4.9 BOXING AND STORING OF OLD NOTES**

(No local rule.)

**100.4.10 RESPONSIBILITY FOR FURNISHING MATERIALS AND SPACE FOR STORAGE OF COURT REPORTERS NOTES**

(No local rule.)

**100.4.11 PROCEDURE FOR EXAMINATION OF CRIMINAL RECORDS**

(No local rule.)

**100.4.12 PROCEDURE FOR EXPUNGING AND CLOSING CRIMINAL RECORDS**

(No local rule.)

**100.5 CLERK'S DUTIES**

**100.5.1 MONIES PAID INTO COURT**

(No local rule.)

**100.6 SELECTION OF VENIREMEN**

(No local rule.)

**100.7 COURT EN BANC**

**100.7.1 REGULAR MEETING**

The Circuit Court of the Fifth Judicial Circuit shall meet en banc every month in the Circuit Court, Division 3 Jury Room. Notice of scheduled time of the meeting will be posted 24 hours prior to the meeting in the Circuit Clerk's office. The meeting shall be open to the public, except that meetings relating to personnel matters and the hearing of any complaints against officials under the superintending control of the court shall be closed meetings.

**100.7.2 AGENDA**

For each meeting there shall be an agenda which should include any old business carried over from the previous meeting and any new business which has been placed on the agenda at least 24 hours in advance of the meeting. No matter may be brought up for discussion or vote which has not been placed on the agenda. Any meeting which has no business on the agenda shall be canceled by the presiding judge. With the consent of all the judges, the meeting may be canceled or postponed.

**100.7.3 SPECIAL MEETING**

The presiding judge may call a special meeting on 24 hours' notice to take care of any emergency situation. A majority of the judges eligible to vote on any question shall constitute a quorum for consideration of the question.

**100.7.4     ELIGIBILITY TO VOTE**

All circuit judges and associate circuit judges shall be eligible to vote on all matters which may come before the Court en Banc, including but not limited to election of the Presiding Judge and adoption of local court rules.

APPENDIX

Form A ..... Track Information Statement  
Form B ..... Case Information Statement  
Form C ..... Notice of Dispute Resolution Services  
Form D ..... Request for Trial Setting  
Form E ..... Notice of Trial Setting  
Form F ..... Statement of Marital and Non-Marital Property  
Form G.....Income and Expense Statement  
Form H.....Statement of Marital and Non-Marital Property  
Form I ..... Notice Concerning Families in Transition Program  
Form J . . . . Confidential Case Filing Info. Sheet-- Non-Domestic  
Form K . . . . . Confidential Case Filing Info. Sheet-- Domestic  
Form L . . . . . Child Support/Maintenance Information Sheet