

# COURT RULES

February 29, 2024

## 18<sup>th</sup> JUDICIAL CIRCUIT

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## **ADMINISTRATION**

### **RULE 1                    DIVISION OF COURT**

#### **1.        DIVISION OF COURT**

There shall be 18 divisions of court which shall be divided as follows:

#### **COOPER COUNTY:**

Division One:	Circuit Division
Division Two:	Probate Division
Division Three:	Associate Circuit Judge Division
Division Thirteen:	Municipal – Otterville*
Division Fourteen:	Municipal – Bunceton*
Division Fifteen:	Municipal – Pilot Grove*
Division Sixteen:	Municipal – Blackwater*
Division Seventeen:	Municipal – Prairie Home*
Division Eighteen:	Municipal – Boonville*

#### **PETTIS COUNTY:**

Division Four:	Circuit Division
Division Five:	Probate Division
Division Six:	Associate Circuit Judge Division
Division Seven:	Municipal – Green Ridge*
Division Eight:	Municipal – LaMonte
Division Nine:	Municipal – Hughesville*
Division Ten:	Municipal – Houstonia*
Division Eleven:	Municipal – Smithton*
Division Twelve:	Municipal – Sedalia

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\*Municipalities which do not currently maintain a Municipal Court or municipal cases have been transferred to the Division III in Cooper County or Division VI in Pettis County.

## RULE 2      HOURS AND TERMS OF COURT

### 2.1      HOURS OF COURT

All sessions of court shall begin at 9:00 a.m., unless otherwise noted by order of the presiding judge, trial judge or notice from the clerk's office.

The court is open five days a week, Monday through Friday, for the purpose of filing papers in the clerk's office. The clerk's office is always deemed open.

Holidays will be governed by applicable statute of the State of Missouri and by order of the Chief Justice of the Missouri Supreme Court or the presiding judge of the circuit. A list of the holidays to be observed shall be maintained by the clerk of the court.

### 2.2      TERMS OF COURT

1. The circuit court of each county of the circuit shall be in continual session as provided by §478.205 RSMo. To the extent that a term of circuit court may be required or specified by these rules or by any provisions of law, the "Terms" of court for Divisions I and IV shall be considered as commencing on the dates as hereafter stated:

a.) Cooper County: on the second Monday in the month of January, May and September. Should said date fall on a holiday, term day will be observed the following day.

b.) Pettis County: on the first Monday in January, May and September. Should said date fall on a holiday, term day will be observed the following day.

The court shall not be required to convene in any county in the circuit on the first day of any "term" solely because of this rule.

2. Jury panel terms and the number of persons to be summoned for a jury panel for any term are to be determined by the presiding judge based upon the number and nature of jury trials expected for a given time period. Unless changed by order of the presiding judge, jury panels will be called for periods beginning with the term days as set out above.

### 2.3      LAW DAYS

Divisions I and IV of the circuit court are the only divisions which hold a law day. The law days for Cooper County Division I and Pettis County Division IV shall be as follows:

COOPER COUNTY: The second and fourth Mondays of each month except holidays or as modified by the court. If a law day shall fall on a holiday, then the judge assigned to the division may designate an alternate date for that law day. Civil cases will be scheduled at 1:30 p.m. and Criminal cases scheduled at 9:00 a.m.

PETTIS COUNTY: Criminal cases shall have a scheduled law day as follows: Criminal cases assigned to Division IV shall be on the first and third Mondays of each month except holidays, or as modified by the court. If such law day shall fall on a holiday, then the judge assigned to

that division may designate an alternate date for that law day. Cases for confined defendants will begin at 9:00 a.m. and for non-confined defendants at 1:30 p.m. or as modified by the court.

Civil cases shall have a scheduled law day as follows: Civil cases assigned to Division IV shall be on the second Tuesday of each month beginning at 9:00 a.m. or as modified by the court. If such law day shall fall on a holiday, then the judge assigned to that division may designate an alternate date for that law day.

## 2.4 PARTICULAR MATTERS ON PARTICULAR DAYS

a.) Counsel desiring to have matters heard on law days shall register their case by name and number with the Circuit Clerk by 9:00 a.m. on Thursday preceding any law day. The Clerk shall prepare a docket of cases for law day.

b.) Scheduling – Civil: Counsel desiring to have matters heard on law days shall register each case by name and number which they wish heard with the circuit clerk by 9:00 a.m. on Thursday preceding any law day. The clerk shall on Friday prepare a docket of cases for law day. On law days, the court will consider docketed cases as near as possible in the following order:

1. All formal matters which require docket entries only.
2. All other default or uncontested matters.
3. Unscheduled default and uncontested matters as time permits.

Scheduling – Criminal: All undisposed criminal matters unless otherwise scheduled for another day certain will be docketed for the next regular law day to promote an orderly resolution of pending cases within time standards adopted by the Supreme Court.

c.) Law Days for Associate Circuit Judges: Associate circuit judges may be assigned by the presiding judge to preside over and hear circuit division cases by special assignment or transfer or by block assignment. Judges may establish regular law days for block assignment cases. Inquiry may be made of the circuit clerk for a schedule of regularly established law days held by associate circuit judges hearing circuit division cases and for the procedure to schedule cases for associate circuit judge law days.

## **JUVENILE DAYS – ADOPTION – SCHEDULE AND PROCEDURE**

The juvenile officer or designated deputy shall be responsible to schedule adoption and juvenile matters under direction of the court hearing the case. If counsel desires and adoption matter to be heard, the juvenile officer shall be notified at least one week prior to the juvenile day to permit scheduling of cases to be heard. Schedules prepared by the juvenile officer shall refer to cases by number to protect confidentiality. At least one juvenile day per month will be scheduled, which date may be learned by contacting the juvenile officer in the respective county.

## RULE 3 PLEADINGS

### 3.1 CAPTION

The following caption is required:

IN THE CIRCUIT COURT OF \_\_\_\_\_ COUNTY, MO  
DIVISION \_\_\_\_\_<sup>2</sup>

Name \_\_\_\_\_, }  
  } }  
  Plaintiff, }  
   (Petitioner)}  
vs.    } Case No. \_\_\_\_\_  
  } }  
  } }  
<sup>3</sup>Name \_\_\_\_\_, }  
  } }  
  Defendant }  
   (Respondent)}

<sup>4</sup>CAUSE

Signed \_\_\_\_\_  
  (Attorney of Record or Party)  
  (Address)  
  (Telephone Number)  
  (Missouri Bar Number)

3.2 STYLE

The body of all pleadings shall be legible and prepared in the customary form traditionally used in the circuit courts of the State. Sufficient copies of each pleading requiring service by the sheriff should be furnished to the filing clerk at the time the original pleading is filed. All pleadings shall be on 8½ x 11 bond paper or, if facsimile pleading, shall be utilized on quality paper which resists fading and deterioration.

RULE 4 FILING OF CASES

4.1 CRIMINAL CASES

No rule.

4.2 CIVIL CASES

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<sup>2</sup> Insert correct division number

<sup>3</sup> If there is a corporate defendant, the pleadings should set forth the name of an officer or registered agent in charge with address and telephone number on the petition. For other defendants, a street address, or 911 address where applicable, should be set out on the petition or on separate paper directed to the clerk and sheriff to be attached to service copies in aid of service.

<sup>4</sup> On all pleadings, the party is required to state the nature of the action on the face of the pleading.



1. Civil Filing – Chapter 517 procedure where appropriate.

All civil cases shall be filed with the Circuit Clerk in accord with filing fees, bonds or other costs or deposits which may be required by statute or rule unless the same be waived by order of court. See Rule 5.4.

Pursuant to the holding in B. C. National Banks v. Potts, W. D. #27225, October 31, 2000, there are no longer monetary limits to the jurisdiction of associate divisions (Divisions III and VI). Cases heard in those divisions may be heard under procedures and rules of evidence pursuant to Chapter 517 or in accord with procedure and rules of evidence applicable to cases heretofore filed only in circuit divisions. After the effective date of these local rules, any party filing a case in Division III (Cooper County) or Division VI (Pettis County) **MUST** designate plainly on the first page of the initial pleading whether the filer intends the case to be heard pursuant to procedure and rules of evidence and ten-day summons under Chapter 517 or pursuant to rules of procedure service of summons and evidence applicable to cases heretofore filed in the circuit divisions (I and IV).

Thereafter, if at the filing of the first responsive pleading to the petition, the responding party objects to the designation of procedure pursuant to Chapter 517, the judge of that division may in his/her discretion after giving each side an opportunity to be heard, determine whether the case will be tried pursuant to Chapter 517 or general civil procedure.

Court costs and filing fees will be determined by the clerks based on whether the case is handled as a Chapter 517 case or under general rules and procedures. All case filings utilizing Chapter 517 procedure that are certified to Division 4 or Division 1 for disposition will incur additional filing fees commensurate with an original filing in those divisions that will be taxed at the final disposition of the case.

2. Facsimile Filing of Pleadings

Relative to civil cases only, a pro se party may file with the Circuit Clerk who maintains fax machine capacity routine pleadings or motions, together with related correspondence or supporting documentation which taken together do not constitute more than eight pages measuring not larger than 8 ½" x 11". The Circuit Clerk shall not accept facsimile transmission of any pleading requiring a contemporaneous filing fee, bond or other case deposit, copies for summons and service, documents which are required to be verified or documents which require contemporaneous personal appearance such as temporary restraining orders, ex parte orders, petitions for writs, etc., subject to the following:

a.) Facsimile transmissions received before 4:30 p.m. of a regular work day, excluding Saturdays and Sundays and holidays, shall be deemed filed as of that day at the time transmitted. Filings received after 5:00 p.m. shall be deemed filed as of 8:00 a.m. on the next regular court day and stamped "filed" by the clerk. Holidays are deemed to be national and state holidays and any days designated as a holiday by the Governor or the Missouri Supreme Court.

b.) Every transmission for which service on another party is required shall contain a certification of service upon such parties. If such service is accomplished by facsimile transmission, the certification shall state the time and date of transmission and the telephone number to which the transmission was made, and the method of confirmation that the transmission was received.

c.) The original of any document transmitted shall be retained by the sender and shall be made available to the court within five days of any request therefore. Failure to produce the original shall in the discretion of the court constitute grounds for striking the facsimile pleading or document appearing in the files.

d.) If a party requests from the clerk a copy of a pleading bearing a stamp "filed" by facsimile transmission, such party shall provide in advance a fee of \$2.50 for the first page and \$1.00 for each additional page of such document.

e.) Risk of loss in transmission, receipt or legibility is on the party transmitting. Parties transmitting are advised that fax machines may not be maintained in clerk's offices, but may be installed in the sheriff's office or at other locations in the courthouse. Documents and pleadings transmitted may be subject to handling, review and possible misplacement or failure of delivery by persons other than clerk personnel. Confidential documents should not be transmitted by fax.

f.) Court orders, judgments or decrees, including warrants and search warrants, may be transmitted to clerks of the various divisions or others by facsimile transmission and until receipt of the original document, shall have the same effects and be acted upon by all persons as if they were the original. The court shall cause the original to be transmitted promptly to the appropriate clerk or officer.

g.) Amended motions for post-conviction relief clearly bearing thereon the timely affixed signature and the proper and timely verification thereof shall be accepted for fax filing by the clerk, and be considered filed on the date faxed to the court. However, the original amended motion should be mailed to the clerk not later than five days thereafter, and the clerk may substitute the original for the faxed motion for the court's file. The cover page from the faxed motion bearing the date and the clerk filed the faxed motion should be affixed to the original amended motion before inclusion in the Court's file.

#### 4.3 PROBATE CASES

Probate Cases shall be filed with the Circuit Clerk.

#### 4.4 JUVENILE CASES

Juvenile cases shall be filed with the clerk of the circuit court.

#### 4.5 SMALL CLAIMS CASES

Small claims cases shall be filed with the Circuit Clerk.

#### 4.6 MUNICIPAL CASES

Municipal ordinance violation cases shall be filed with the clerk of the appropriate municipal division when that municipality has made provisions for a municipal judge as provided by law. If the municipality has not made such provisions, the filing shall be with the clerk of the appropriate division presided over by the associate circuit judge. Municipal traffic violation cases may be disposed

of in the Municipal Traffic Violations Bureau in the cities of Boonville and Sedalia in accordance with the §479.050 RSMo, 1978.

#### 4.7 SPECIAL PROCESS SERVERS

1. Any person serving within Pettis or Cooper County, Missouri, whether through appointment by the court or otherwise, must establish by affidavit that he or she meets the qualifications provided in section (3)(b) of this rule, as stated below.

2. Any party seeking to obtain service of process through any means other than a Sheriff's office or a State Department of Civil Process shall file a written motion with the court, requesting approval and/or appointment of a named individual, which shall be accompanied by a proposed order approving the individual to serve process. Any approval or appointment of a process server shall be valid only for the case in which the order is issued.

3. Unless the individual named to serve process in the above referenced motion is on the Court's approved list, as provided in paragraph 4 below, the individual shall file a notarized affidavit with the motion stating the information required in section (a) and that they meet the requirements in section (b) below, and stating that the individual understands how the law requires that process be served and will follow those laws. Said affidavit shall not become part of the court file. All affidavits shall be maintained by the Circuit Clerk for three years, at which time they will be destroyed.

a. The individual's information shall include:

- (1) Legal name;
- (2) Current address;
- (3) Occupation and employer; and
- (4) Telephone number.

b. The individual must meet the following qualifications:

- (1) Be at least eighteen (18) years of age;
- (2) Be a citizen of the United States of America;
- (3) Have a high school diploma or equivalent or work experience;
- (4) Not have plead guilty or been convicted of a felony or a misdemeanor involving moral turpitude;
- (5) Not be fugitive from justice or currently charged with a felony or misdemeanor involving moral turpitude;
- (6) Not be related to or employed by a party in the action; and
- (7) Not have been disqualified to act as a process server within the proceeding twelve (12) months.

4. For those who perform service of process within the regular course of their business, the Circuit clerk shall maintain a list of qualified process servers who have been approved as such by the presiding judge. To be eligible for the approved list an individual shall submit to the Presiding Judge a notarized application and affidavit, containing the information required by section 3(a) and 3(b) above and verifying that service of process is in the regular course of their employment or business. The Presiding Judge will cause notice to be provided to the Circuit Clerk of all persons on the approved list. Placement on the approved list shall allow said individual to be approved or appointed to serve process without submitting an affidavit as provided by section 3 above in every case. When a

party requests that a pre-approved process server be appointed to serve process in a particular case the Circuit Clerk or her deputy may appoint such person to serve process for that case. An entire group of persons may be approved as special process servers by naming the group in the Motion and Order for Special Process Server provided that the group is a business whose primary function is the service of process, and the principle of the business files an affidavit naming the group and listing the individuals who are included as members of the group, and each member named in the group files his/her affidavit and becomes currently listed on the "Approved List" of special process servers kept by the Circuit Clerk. If requests are made of the Circuit Clerk to appoint a special process server by business or group name, she may so appoint provided that the person who serves the process is on the approved service list.

5. A person will not be appointed to serve process if said person is deemed to be ineligible by a judge of the circuit. A person may be deemed ineligible and disqualified if a judge of this Circuit determines that probable cause exists to believe the person is guilty of:

- c. Making a false return of service;
- d. Serious and purposeful improper service of process;
- e. Failing to meet the criteria set out in section 3 above;
- f. Misrepresentation of duty or authority; or
- g. Other misconduct showing good cause.

6. Appointment as a special process server or private process server does not confer the Court's authority to carry a concealed firearm.

7. Special process servers may not serve motions for debtor examination, domestic contempt proceedings, garnishments or writs of sequestration effective January 1, 2014.

8. Appropriate forms for the Motion/Order and Affidavits are available in the Circuit Clerk's office.

#### 4.8 PRO SE DOMESTIC RELATIONS CASES

1. All domestic relations cases to include, but not limited to Divorces, Motions to Modify, paternity, name change, child support filed and child custody filed by a non-lawyer litigant (Pro Se) shall be filed in conformity with the "Representing Yourself in Missouri Courts - Access to Family to Family Courts" procedures provided by the Missouri Supreme Court on the [www.courts.mo.gov](http://www.courts.mo.gov) webpage. Such procedures can be found on the quick link provided.

2. All such pro se litigants shall complete the "Litigant Awareness Program" on that link and attach the Certificate of Completion to the pleadings filed with the Court.

3. This procedure shall be the exclusive procedure for filing pro se pleadings in the 18<sup>th</sup> Judicial Circuit.

4. Consistent with Supreme Court Rules, the offices of the Circuit Clerks shall aid such pro se litigants in the process to the extent that such rules allow.

5. Trial judges are allowed to waive the requirements of the rule within their discretion on a case by case basis.

## RULE 5 FEES AND COSTS

### 5.1 FILING FEES AND COST DEPOSIT

In all original filing of cases or proceedings filed in the circuit, there shall be deposited with the appropriate clerk, for which the clerk shall give a receipt, the following sums:

Small Claims	\$ 35.50
Civil Cases filed under Section 517 RSMO and Rent & Possession cases	\$ 48.50
Domestic relations cases	\$102.50
Adoptions	\$180.50
All other Civil cases	\$100.50
Adult Guardianship and/or Conservatorship only	\$108.50
Minor Guardianship in Pettis County	\$300.50
Admitting a Will to Probate (without estate)	\$ 68.50
Refusal of Letters	\$ 68.50
Open an Estate with Will	\$183.50
Opening an Estate without Will	\$148.50
Small Estate with Will	\$103.50
Small Estate without Will	\$ 68.50
All other Probate filings	\$ 68.50

Note: In all cases requiring service of process, a self-represented party requesting service shall include with the filing fee a separate check provided to the Sheriff of the County and State where service is requested to be made. The party requesting service is responsible for contacting the Sheriff to determine the amount of the required service fee.

Attorneys will be responsible for payment to the Sheriff at the time the summons is delivered to the Sheriff by the attorney.

Any party requesting service by publication shall obtain, at his/her cost, a publisher's affidavit and file the same before the case is heard.

### COPY CHARGES

First Page:	\$ 1.00
Each additional page:	\$ .50

### FAX CHARGES

First Page:	\$ 2.50
Each additional page:	\$ 1.00

### 5.2 COSTS

No rule.

### 5.3 WITNESS FEE

No rule.

#### 5.4 WAIVER OF FEES

Any application for waiver of advanced fees or costs in any cause of action where a filing fee or other advanced costs would ordinarily be required, whether the application is represented by counsel or pro se, must be accompanied by a verified affidavit of assets and income in a form to be provided by the clerk of any division where such filing is sought, unless such affidavit is waived by the judge before whom the application is to be heard. Such affidavit may be in the form as shown at Appendix B.

#### 5.5 MOTION FOR SECURITY

In all appropriate cases, including but not limited to case where guardians ad litem or defendants ad litem are or may be required to be appointed, any party may by motion seek an order of the court regarding advance deposits as security for payment of such fees and costs and the court on its own motion may order deposits in advance from any party or parties to secure payment of same.

### RULE 6 TRANSFER AND ASSIGNMENT OF JUDGES AND CASES BY BLOCK ASSIGNMENT

#### 6.1 ASSIGNMENT TO ASSOCIATE CIRCUIT JUDGES

##### 6.1.1 BY LOCAL COURT RULES OR ORDER – DOMESTIC RELATIONS CASES

In Pettis County, in all domestic relations cases, including, but not limited to dissolution of marriage, legal separation, separate maintenance, child custody and child support, or modification, contempt or show-cause proceedings relating to any of the foregoing, proceedings relating to executions, garnishment or attachment proceedings, or registration of foreign judgments relating to any of the foregoing shall automatically be assigned to an Associate Circuit Judge who shall preside over and hear the case as a Circuit Judge as hereinafter provided; and cases arising under statutes relating to adult or child abuse in both Pettis and Cooper Counties, shall automatically be assigned to an Associate Circuit Judge presiding over Divisions V and II respectively, as herein provided.

The judge of the division to which assignment is made shall hear and determine all issues in connection with any such case so filed unless that judge be disqualified or recuse in which event the case shall be certified to the Presiding Circuit Judge for further assignment except for dispositions pursuant to Local Rule 6.1.4.

All such cases filed in Pettis County (excepting adult or child abuse cases, which are assigned to the judge of Division V) bearing a filing number in which the last digit is an even number shall be assigned to the judge of Division V, and cases bearing a filing number in which the last digit is an odd number shall be assigned to the judge of Division VI.

All such cases so assigned shall be heard and presided over by the Associate Circuit Judge to whom the case has been assigned, or, if disqualified, a judge assigned by the Presiding Circuit Judge or the Supreme Court, except for disposition pursuant to Local Rule 6.1.4.

##### 6.1.2 BY LOCAL COURT RULES OR ORDER – OTHER CASES

Any judge of the circuit may hear any circuit division case as assigned by the presiding judge or by the Supreme Court or by any other provision in the court rules of this circuit. The judge of Division III in Cooper County and the judge of Division VI in Pettis County shall hear and determine municipal cases in Divisions I and IV upon trial de novo and when, according to law, municipalities have elected to abolish their municipal courts and transfer such proceedings to Divisions III and VI, unless said judge be otherwise disqualified.

In Pettis County, all Small Claims cases filed in Division VI shall automatically be assigned to the Associate Circuit Judge of Division V, who shall hear and determine all issues in connection with such cases, unless that judge be disqualified or recuse, in which event the case in question shall be certified to the Presiding Circuit Judge for further assignment.

In Pettis County, all Chapter 517 RSMo procedural cases filed in Division IV shall automatically be assigned to the Associate Circuit Judge of Division V, who shall hear and determine all issues in connection with such cases, unless that judge be disqualified or recuse, in which event the case in question shall be certified to the Presiding Circuit Judge for further assignment.

In Pettis County, all non 517 RSMO collection cases filed in Division IV shall be automatically assigned to the Associate Circuit Judge of Division VI. That judge shall hear and determine all issues in connection with such cases unless that judge be disqualified or recuses, in which event the case in question shall be certified to the Presiding Circuit Judge for further assignment.

#### 6.1.25 FELONY PLEAS OF GUILTY TAKEN BY AN ASSOCIATE CIRCUIT JUDGE – WHEN

Consistent with the intent and purpose of Missouri Supreme Court Rule 17 relating to time standards for processing cases in the trial courts of this state, and pursuant to authority granted the Presiding Judge by Missouri Supreme Court Rule 14 relating to the assignment of any case or classes of cases to any judge or division within the circuit, the following rule relating to criminal misdemeanor or felony cases shall be in effect.

Where a judge of the circuit, not previously assigned to hear and dispose of the pending case, arraigns a criminal defendant, that defendant may plead guilty before the arraigning judge upon the filing of an information, and the waiver of a preliminary hearing in felony cases; upon the written consent of the defendant; upon written consent of counsel for the defendant (unless the need for one is waived by the defendant); and with the consent of the Prosecution Attorney. The voluntary consent of the defendant, defense counsel and Prosecuting Attorney, if given in the course of the recorded guilty plea, will be sufficient in the absence of written consent. No formal assignment by the Presiding Judge shall be required.

In cases in which the preliminary hearing is not waived, or in the absence of consent of the defendant and the state and where the defendant is bound over for trial and the file is transferred to the clerk of Divisions I or IV, the return date for arraignment in those divisions shall be the next law day for the respective division.

#### 6.1.3 SPECIAL ASSIGNMENT

No rule.

#### 6.1.4 DISPOSITION BEFORE ANY JUDGE – CERTAIN CASES – WHEN

Notwithstanding the provisions of any other rule relating to assignment of domestic relations cases in this circuit, cases generally considered as “family law cases”, and in any other civil case when it shall appear that the responding party is in default, or in contested cases upon the agreement and written consent of such parties filed with the clerk or agreement set out upon the record, the final disposition of the case on the merits may be taken up and disposed of before any Circuit Judge or Associate Circuit Judge in this Circuit upon the consent of the hearing judge. Consent of any party in default shall not be required. No formal assignment by the Presiding Judge shall be required. This rule does not permit a judge other than the assigned judge to rule upon motions or other matters which are not a final disposition of the case without assignment by the Presiding Judge. Any judge who hears and disposes of a case pursuant to this rule shall be the assigned “judge of the case” for any subsequent motions or hearings.

6.2 ASSIGNMENT TO CIRCUIT JUDGES

No rule.

6.3 CERTIFICATION TO CIRCUIT DIVISION

This procedure is governed by applicable statute of the revised statutes of Missouri and by rule of the Supreme Court.

6.4 TRIAL DE NOVO

No rule.

6.5 DISQUALIFICATION OF JUDGE

This procedure is governed by applicable rule of the Supreme Court.

6.6 ABSENCE OF JUDGE

In the event of any extended absence of an associate judge or municipal judge, the presiding judge shall designate by order another associate circuit judge, municipal judge or the presiding judge, as may be indicated, to serve during such absence.

6.7 ABSENCE OF THE PRESIDING JUDGE

In the event the presiding circuit judge shall be absent from the circuit for an extended period, said judge may by order designate an associate circuit judge as acting presiding judge during such absence.

RULE 7 WITHDRAWALS OF PAPERS FROM CLERK’S OFFICE

7.1 WHEN

No official files of the circuit court of any division thereof shall be removed from the office of the circuit clerk or the office of any division clerk except in the custody of employees of the circuit court or the judge presiding over the case. The clerk may establish a check-out policy to ensure control of such files.

7.2 DUPLICATING POLICY



Requests for copies of court records shall be directed to the Circuit Clerk. No charge shall be made for copies of documents furnished to any city, county, state agency or state department.

Certified copies of court records shall be taxed as costs to the requesting party. The cost shall be \$1.50 per certification and \$2.50 per authentication of copies of court records and shall be taxed as costs to the requesting party, together with the cost of \$1.00 for the first page and \$.50 for each additional page. The cost of emailing copies of documents electronically filed will be assessed at \$1.00 per document. Any actual and additional costs for reproduction of FTR Gold CD recordings shall be paid by the party requesting the same at the rate of \$30 per CD.

## **RULE 8      PUBLICATION OF DOCKETS**

### **8.1      TRIAL DOCKET**

No rule.

### **8.2      DISMISSAL DOCKET**

Any case pending in Division I (Cooper) and Division IV (Pettis), whether originally filed in said division, or pending on trial de novo or by change of venue or transfer from some other division of this court or some other court within or without the 18<sup>th</sup> Judicial Circuit in which no activity demonstrating the matter is being actually pursued has been noted on the docket sheet for a period of one year or for such lesser period as may be directed by the presiding judge in an effort to comply with Missouri Supreme Court Rule 17 relating to time standards, shall be noted on a dismissal docket prepared by the clerk which shall note a dismissal date without prejudice at a time not less than thirty days following the publication of such dismissal docket. The clerk is directed to publish a list of cases to be dismissed under this rule on a dismissal docket at least once each year but more often if the size thereof warrants, and mail by ordinary mail a copy thereof to each party without counsel and to each counsel of record at least fifteen days prior to the dismissal date. A certificate of mailing attached to the original dismissal docket maintained by the clerk shall be proof of mailing and delivery thereof. It shall be the responsibility of parties and counsel having matters on the dismissal docket to protect their interests therein without further notice from the clerk.

If counsel desires a case appearing on the dismissal docket not to be dismissed, counsel shall notice opposing counsel for a trial setting or show to the court good cause why such case should not be dismissed and procure from the court an appropriate order removing the case from the dismissal docket.

## **RULE 9      COURTROOMS**

### **9.1      ASSIGNMENT OF COURTROOM AND PERSONNEL**

Scheduling of courtrooms shall be coordinated by the Circuit Clerk.

### **9.2      PLACE OF HEARING**

No rule.

### **9.3      USE OF COUNSEL TABLE**

No rule.

#### 9.4 COURTROOM DECORUM AND DRESS

Appropriate professional attire will be expected of counsel. Parties shall be appropriately attired.

The sheriff or his deputy is charged with the responsibility of maintaining order in this courtroom.

#### 9.5 WHO IS PERMITTED WITHIN BAR

No rule.

### RULE 10 COURT REPORTERS AND COMPENSATION FOR SAME

Preparations of any transcript on appeal by an official court reporter shall not begin until the person ordering such transcript makes a cash deposit with the reporter of such amount as the reporter reasonably estimates such transcript will cost. In the event any cash deposit exceeds the cost of the transcript ordered, the excess shall be refunded to the person who ordered the transcript upon its completion. In the event the deposit is insufficient to pay for a transcript, the remaining unpaid portion of the cost shall be due upon the delivery of the transcript to the person who ordered it prepared. Payment will be made to the reporter who prepared it.

Preparation of a typewritten transcript of a record preserved by electronic recording device for purposes of appeal shall not begin until the clerk is paid a sum sufficient to cover the estimated cost of this work. The estimated charge is determined by schedule furnished by the Office of State Courts Administrator. No transcript may be obtained for any other purpose.

See rules 11 and 23.

### RULE 11 RECORDING OF JUDICIAL PROCEEDINGS

No persons except court personnel, (including counsel to a party in any preliminary hearing as may be permitted by the court), authorized to preserve the record and duly recognized and authorized media representatives upon full compliance with the terms of Missouri Supreme Court rule 16 and directions of the media coordinator as appointed and authorized by the Missouri Supreme Court and the judge of this court who may be presiding over any proceeding, may broadcast, televise, record or photograph any proceedings in any courtroom in this circuit. No recording, broadcasting, televising or photography relating to any court proceeding or any counsel, party, witness, spectator or other person relating to any court proceeding shall be permitted in the courthouse except in a courtroom in compliance with Supreme Court rule 16. In the event of any question relating to media coverage, the judge presiding over the case in relation to which the issue may arise or the presiding judge shall be the final determiner. Media representatives covering judicial proceedings shall be fully familiar with the provisions of rule 16 and administrative order No. 11 and any rule of this court or any judge thereof presiding over the proceedings. All equipment shall be soundless and shall not require any flash, lighting or electrical connections or wiring beyond what may be readily available in any courtroom outside the well of the court and at stations within the courtroom designated for media coverage. No microphones or wiring may be laid across any floor or aisles or other place which may interfere with safe use of those areas by any person. Space limitations make it impossible for this court to provide to the media any space outside the courtroom for storage or use of equipment.

RULE 12     MONIES PAID INTO COURT

12.1     BOND IN CIVIL CASES

See Rules of Supreme Court.

RULE 13     COMMUNICATIONS WITH COURT

13.1     ORAL COMMUNICATIONS WITH THE COURT

No rule.

13.2     WRITTEN COMMUNICATIONS WITH THE COURT

No rule.

GENERAL RULES

RULE 21     ATTORNEYS

21.1     RESOLUTIONS OF CONFLICTING TRIAL SETTING

No rule.

21.2     ENTRIES OF APPEARANCE

No rule.

21.3     CONDUCT OF ATTORNEYS

No rule

21.4     WITHDRAWAL OF ATTORNEYS

The conditions under which an attorney is allowed to withdraw from the employ of a client are set out in Supreme Court Rule Four of "Professional Responsibility", Canon 2, Ethical Consideration 2-32 and Disciplinary Rule 2-110. An attorney who desires to withdraw as attorney of record for any party to any action pending in this court shall comply with the following procedures:

The attorney shall file a written motion requesting leave of court to withdraw. (See Rule 33). If the case is then set for trial, the reason for the request must be set forth in the motion. Attached to the motion shall be a notice of the date and time at which the moving attorney will call up the motion before the court for hearing.

A copy of the motion and the notice shall be served upon all parties, including the client from whose employ the attorney is seeking leave to withdraw, in the manner provided by Supreme Court Rule 43.01. If the case in which the attorney is seeking leave to withdraw is a criminal case, the notice shall instruct the client that the client must appear in person at the hearing.

The last known address of the client from whose employ the attorney is seeking leave to withdraw shall be plainly set out in the motion or the certificate of service thereon.

The attorney seeking leave to withdraw must appear in open court and call up the motion at the time specified in the notice. If the case in which the attorney is seeking leave to withdraw is a criminal case, it shall be the duty of the client to appear in person in compliance with the notice mentioned above.

If the client fails to appear, and if the attorney is granted leave to withdraw, the attorney shall immediately notify his former client by letter of the attorney's withdrawal and shall send a copy of the letter to the clerk. Such letter shall advise the former client of any scheduled court proceedings or pleading deadlines in the case.

21.5 FAILURE OF ATTORNEY TO ANSWER DOCKET CALL

No rule.

21.6 APPOINTMENT OF ATTORNEYS

No rule.

21.7 AGREEMENT OF ATTORNEYS

No rule.

21.8 ADVISE TO CLIENT AND WITNESSES OF COURTROOM PROCEDURE

No rule.

RULE 22 APPOINTMENT OF GUARDIAN AD LITEM

In accordance with §484.350 RSMO, the Circuit Court en banc has adopted the following plan for implementation of standards established by order of the Missouri Supreme Court on September 17, 1996, for representation by guardians ad litem in juvenile and domestic cases.

1. These standards shall be disseminated by email to all members to the County Bar Associations and other lawyers not so affiliated who reside in the 18<sup>th</sup> Judicial Circuit. The Local Court Rules will reference the standards as well.

2. The judge who presides over a specific case that requires a guardian ad litem will have the authority to select and appoint any guardian ad litem.

3. The Circuit Clerks in Pettis and Cooper Counties shall maintain the list of qualified guardian ad litem candidates. Lawyers or other designated special advocate volunteer may add their name to that list upon filing with the Circuit Clerk an affidavit of training and qualifications on a form provided by the Clerk and approved by the Circuit Court en banc.

4. Guardian ad litem training as required by the standards may be provided by any qualified entity approved by the Missouri Bar for providing legal educating training and shall be accredited by the Judicial Education Committee.

5. The court en banc shall review this plan at least annually the first two years after its implementation and as needed thereafter.

#### RULE 23 TRANSCRIPTS

In cases where the record was made by an official court reporter, all orders for transcripts on appeal or of the testimony of any witness or witnesses shall be made in writing to the official court reporter, and the reporter's acceptance of service of such order shall be filed with the clerk of the circuit court in which the case is pending. All applications for extension of time to file transcripts shall show the date the same was ordered.

Such orders for transcripts on appeal where the record was made by electronic process shall be made direct to the clerk of the court having custody of the record who shall collect the appropriate fee as directed by the court's administrator and forward the tape to the Office of State Courts Administrator for preparation of the transcript.

#### RULE 24 EXHIBITS

The attorney is responsible for all exhibits before, during and after trial. Exhibits should be marked by the court reporter or recording clerk for identification prior to trial.

### PRE-TRIAL MATTERS

#### RULE 32 DISCOVERY

##### 32.1 USE OF DISCOVERY AND CERTIFICATION TO CIRCUIT DIVISION

No rule beyond rules of the Supreme Court and applicable statutes.

##### 32.2 USE OF MOTIONS TO PRODUCE, REQUESTS FOR ADMISSIONS, EXAMINATION, ENTRY, ETC., AND INTERROGATORIES – OBJECTIONS THERETO

Filing and Form – Motions to Produce, Requests for Admissions, Examination, Entry, etc.

(1) Originals of motions to produce or requests for admissions, examination, entry, etc., shall be served upon adverse counsel or unrepresented parties and certification of service thereof disclosing to whom served, the manner and date of service (signed by the party or counsel causing the same to be served) shall be filed contemporaneously with the clerk of the court in which the action is pending.

##### (2) Filing, form and limitations – Interrogatories

(a) No party shall propound to another party (husband and wife or others joining in one cause are considered one party) more than fifty (50) interrogatories (each sub-part to constitute one interrogatory for purposes of determining the total allowable number). Any sub-part shall relate directly to the subject matter of the main interrogatory. Upon written motion setting out proposed additional interrogatories and upon good cause shown, the court may grant leave to propound additional interrogatories. In determining "good cause", the court shall consider whether initial interrogatories have been filed and answered and whether the party seeking to propound additional interrogatories has utilized other available discovery including depositions.

(b) Originals of interrogatories shall be served upon adverse counsel or unrepresented parties and certification of service thereof disclosing to whom served, the manner and date of service (signed by the party or counsel causing the same to be served) shall be filed contemporaneously with the clerk.

(c) Interrogatories shall be typed so as to leave sufficient space after each interrogatory or sub-part thereof for the response. A response shall be preceded immediately by the interrogatory to which it responds. Where insufficient space has been allowed, responses may be made on a separate paper, which shall restate the interrogatory to which the response is made, and attached to other interrogatory responses.

### 32.3 FORM OF OBJECTIONS TO PRODUCTIONS, REQUESTS OR INTERROGATORIES

A party objecting to production or other requests or to the interrogatories shall first reinstate the request or interrogatory to be followed by the objection. Objections not setting out the items objected to shall not be considered by the court.

Objections shall be stated specifically and shall where appropriate cite applicable rule or statute or case citation or otherwise be supported by suggestions separately filed and referred to.

#### 32.3.5 HEARINGS AND NOTICE OF HEARINGS ON MOTIONS

In any civil case filed in Divisions I, III, IV and VI of the Circuit from and after January 1, 2007, it shall be the responsibility of any party and/or his attorney therein:

1. When such party files any motion to dismiss, motion to quash or any motion directed at any pleading, motion for summary judgment or any pleading, motion for summary judgment or any motion seeking any relief short of trial on the merits; or

2. When filing any objections to any discovery, including but not limited to interrogatories, requests for admissions or notice for depositions, or motions for sanctions, to notice the same up for hearing before the judge of the court before whom the case is pending on a timely law day or other date as may specifically be made available by said judge for hearing such matters.

### 32.4 DEPOSITIONS

Disposition by Clerk Following final disposition in civil cases, the clerk of any division may cause depositions in the file of the case to be returned to the custody of the attorney for the party on whose behalf it was taken, who shall thereafter be responsible for them. If the clerk shall deliver over depositions as herein provided, notation thereof shall be made on the docket sheet of the case file.

### 32.5 MOTION FOR SANCTIONS

No rule.

### 32.6 CRIMINAL DISCOVERY

See Supreme Court rule 25.

No rule.

RULE 33     PRE-TRIAL MOTIONS

33.1     HEARING DATES

No rule.

33.2     BRIEFS IN SUPPORT OF MOTIONS, WHEN REQUIRED

All motions shall be in writing and accompanied by a written memorandum setting forth reasons in support thereof with citations and points relied upon. When counsel intends to be heard by means of oral argument, said motion must be filed five days prior to the hearing date and copy served upon opposing counsel. Either party may notice up said motion for hearing. If no memorandum is filed, then upon notice by either party, the court may require such memorandum or briefs as the court may deem advisable. Time to file written memorandum may be extended by the court for good cause shown.

33.3     ORAL ARGUMENTS-WHEN – DESIRED AND HOW REQUESTED

No rule.

33.4     MOTIONS IN LIMINE

33.2.) All motions should be in writing and accompanied by citations of authority. (See Rule

RULE 34     CONTINUANCES

34.1     CIVIL CASES

No rule.

34.2     CRIMINAL CASES

No rule.

RULE 35     PRE-TRIAL CONFERENCE

Cases are subject to being set for pre-trial conferences in accordance with Missouri Supreme Court rule 62.01.

RULE 36

36.4     CALENDAR CALL

No rule.

36.5     INACTIVE CALENDAR

No rule. (See rules 8.2 and 37.1)

36.6     REVISION OF AND REMOVAL FROM PREPARED CALENDAR

No rule.

36.7 SPECIAL ASSIGNMENTS

No rule.

RULE 37 DISMISSALS

37.1 DISMISSAL DOCKET

See rule 8.2.

37.2 REINSTATEMENT OF CAUSE

A motion to set aside a dismissal under rule 8.2 may be filed and called up for hearing prior to the order of dismissal becoming final.

SETTLEMENT AND DEFAULT

RULE 41 SETTLEMENT

41.1 NOTICE OF SETTLEMENT

The Court and Circuit Clerk shall be notified promptly in writing by one of the parties or legal counsel if the case is settled after it has been set for trial.

RULE 42 DEFAULT

See rules 2.4, 33 and 5.

In Divisions III and VI, default judgments may be taken only upon appearance of the prevailing party or upon a verified petition and by counsel for the prevailing party or by written confession of judgment or other written consent.

TRIALS

RULE 51 COURT – TRIED CASES

51.1 DEFAULT AND UNCONTESTED MATTERS

See rules 2.4, 42 and 54.2.

No rule.

51.2 CONTESTED MATTERS

See rule 36.1 for trial setting.

51.3 PREPARATION OF FINDINGS OF FACT AND CONCLUSIONS OF LAW



In all court-tried cases in which findings of fact and conclusions of law are required or properly requested, the parties, through their attorneys, shall submit proposed findings of fact and conclusions of law at the conclusion of the trial or within a reasonable time as directed by the court.

## **RULE 52      SELECTION OF JURY**

### **52.1      JURY QUESTIONNAIRES**

The Circuit Clerk is the custodians of jury questionnaires. A counsel or pro se party to any case to be tried to a jury may review the questionnaires for trial preparation.

Upon payment of the per page copying fee charged by the Circuit Clerk for copying documents filed in that office, an attorney for any party or any pro se party may obtain a copy of the jury questionnaires for all jurors summoned for a given trial upon the following conditions:

(1) Such copies shall not be available until a jury panel has been summoned for the trial (usually five days before the trial date).

(2) Jury questionnaires are considered confidential to protect sensitive and personal information supplied by the jurors. Any attorney or pro se party obtaining copies thereof are considered officers of the court and shall not reproduce questionnaires nor distribute them or information contained therein to any person not a party or counsel in the case for which the jurors are called, and shall return all of such copies to the bailiff or the clerk immediately after voir dire examination of the panel.

(3) Counsel or pro se parties in any case may examine questionnaires without copying at anytime after a panel has been summoned.

## **RULE 53      JURY TRIALS**

### **53.1      JURY INSTRUCTIONS**

Prior to the commencement of any jury trial, the attorneys are to prepare proposed jury instructions and deliver them to the court ten (10) days prior to the commencement of the trial, or earlier as may be ordered by the court. This applies to the Office of the Prosecuting Attorney in criminal cases.

### **53.2      CLOSING ARGUMENTS**

No rule.

## **RULE 54      JUDGMENT ENTRY**

### **54.1      CONTESTED CASES**

Unless otherwise ordered, the attorney for the prevailing party shall prepare and submit the form of judgment entry to the court for its approval.

### **54.2      DEFAULT OR UNCONTESTED CASES**

Same as rule 54.1.

## RULES RELATING TO PARTICULAR ACTIONS

### RULE 61 ADOPTION

#### 61.1 FILING REQUIREMENTS

Prior to the hearing on the petition for adoption, counsel for the petitioners shall file a Certificate of Adoption (Vital Statistics Report) on a form to be provided by the clerk, and procure and file a criminal record check for each adopting parent.

#### 61.2 HOME STUDY

Governed by statute.

### RULE 62 DRIVER'S CASES

#### 62.1 APPLICATION FOR HARDSHIP DRIVING PRIVILEGES

No rule.

#### 62.2 PETITION FOR REVIEW

No rule.

#### 62.3 BREATHALYZER TEST

No rule.

### RULE 63 ASSOCIATE DIVISION

No rule.

### RULE 64 CASES ARISING UNDER CHAPTERS 207 AND 208 RSMo 1978

See Rule 6.1.1.

### RULE 65 CIVIL COMMITMENT

No rule.

### RULE 66 CONDEMNATION

No rule.

### RULE 67 CRIMINAL CASES

#### 67.1 PRE-TRIAL RELEASE

##### 67.1.1 BONDS – PROCEDURE, MOTION TO SET AND MOTION TO REDUCE

Any person charged with a bailable offense shall be entitled to release pending trial as provided by law and conditions set by the court in which the matter is pending.

Motions to set bond and for bond reduction shall be made in writing addressed to the judge of the division in which the case is pending and filed with the clerk thereof. In the event of the absence or unavailability of the judge before whom the case is pending, such motions shall be submitted to the presiding judge.

General bail bond corporations or general bail bond agents duly licensed and qualified by the Commission of Insurance, Department of Insurance, State of Missouri, in accord with §374.715 and §374.763 as amended 1997 (SB No. 248) and whose names and current eligibility appear on the monthly list of duly qualified general bail bond corporations and general bail bond agents distributed to the presiding judge of this circuit by the Missouri Department of Insurance, may post bonds to secure the appearance of defendants in criminal cases in this circuit.

No agent for a general bail bond corporation or for a general bail bond agent may execute and post a bond or security for the appearance of a defendant on behalf of his or her principal (general bail bond corporation or general bail bond agents) unless he or she is duly licensed and qualified by the Commissioner of Insurance, Department of Insurance, State of Missouri, in accord with §374.715 and §374.763 as amended 1997 (SB No. 248) and produces a current bail bond agent license issued by the State of Missouri Department of Insurance and his or her name appears on the monthly list of duly qualified agents for a general bail bond corporation or as a general bail bond agent. When executing and posting any bond in a criminal case, the agent shall be required to post therewith a copy of his or her power-of-attorney from his or her principal (the general bail bond corporation or general bail bond agent).

Each general bail bond corporation or general bail bond agent shall be limited to a total bond amount (aggregate) of \$50,000. for any one defendant unless the judge handling the case (or the presiding judge) in his or her discretion, shall specifically authorize a bond or bonds totaling an amount greater than \$50,000.

The presiding judge shall furnish to each law enforcement agency and court in this circuit a copy of the list of qualified general bail bond agents and general bail bond corporations or general bail bond agents as the same are provided by the Department of Insurance, and no law enforcement agency or court clerk or judge shall permit a bond to be posted in a criminal case by any general bail bond corporation or general bail bond agent or executed by an agent thereof whose name does not appear on said list.

If at any time, upon failure of a bonded defendant to appear, a bond shall be ordered forfeited by any division of this court, the clerk of the court shall in writing notify, if possible, the general bail bond corporation or general bail bond agent or its or his or her agent posting the bond of the forfeiture. If the absent defendant shall not be produced or the bond not paid to the court within thirty days of the order of forfeiture, the authority of the general bail bond corporation or general bail bond agent to post bonds in this circuit shall be forfeited until the bond amount is fully paid. The clerk shall notify the Department of Insurance of the forfeiture order and default of payment.

For good cause shown in the sole discretion of the court, the court may extend the thirty-day period to produce the bonded defendant or rescind the order of forfeiture.

This rule shall not preclude the posting of cash bonds or property bonds in accord with statute or court rule. General bail bond corporations and general bail bond agents are not required to qualify directly with this court. Qualification with the Missouri Department of Insurance is deemed sufficient.

In cases where real estate is used to secure performance of the bond, the surety shall provide:

1) A written statement of an abstracter certifying the legal description of the real estate; the existence of liens, if any; and the names of the persons holding record title. All property bonds shall be executed by all persons owning any interest therein and by their respective spouses, if any.

2) A written statement of the fair market value of each tract of real estate by a duly licensed real estate broker agent, or other appraiser approved by the court, in business in the location where the real estate is situated.

3) A written statement from any lien holder or other satisfactory evidence disclosing the current unpaid balance on each obligation constituting a lien on the real estate.

The court may require similar documentation or proof of ownership in any case where personal property is used as security for a bond.

In any case where the judge or the clerk is satisfied that he/she is sufficiently familiar with the real estate or other property securing the bond and the value thereof and the condition of title and the names of the owners thereof, he/she may, in the exercise of discretion, waive any or all of the above requirements relating to documentation of title and value.

#### 67.1.2 DEPOSIT OF OPERATOR'S LICENSE

Cooper County: The officers of the Missouri State Highway Patrol, the sheriff and the deputies of Cooper County sheriff's department, and the chief and officers of the Boonville Police Department are authorized by this rule of court, in their discretion, to accept the chauffeur's or operator's license, issued by the State of Missouri, or any person arrested and charged with violation of a traffic law of the State of Missouri while within Cooper County or a traffic ordinance of any municipality of Cooper County in lieu of any other security for his appearance in court to answer any such charges. This rule may be made applicable in Pettis County at any time the judge of Division VI shall so determine.

Further, licenses shall not be deposited in the following instances:

- a) driving while intoxicated, §577.010 RSMo;
- b) operation of motor vehicle with .10% (ten hundredths of one percent) or more alcohol in blood, §577.012 RSMo, or any other percentage amount as may be set by the state legislature by amendment to said section;
- c) leaving the scene of an accident;
- d) driving while one's license is suspended or revoked;
- e) any charge made because of a motor vehicle accident in which death or serious bodily injury has occurred;
- f) speed violations which are over 25 m.p.h. of the posted speed limit;
- g) where the operator's or chauffeur's license will expire within two months

of the date of the arrest violation.

Further, pursuant to §544.06 RSMo, personal recognizance may be allowed to the residents of those states which are members of the Compact, subject to exceptions as set forth by the statute and the preceding rule which is applicable to all motorists.

67.2 PRELIMINARY HEARING

No rule.

67.3 GRAND JURY

No rule.

67.4 ATTORNEYS

No rule (See rule 21.)

67.5 ARRAIGNMENTS

No rule.

67.5.1 IN GENERAL

No rule.

67.5.2 DATES

No rule.

67.6 DISCOVERY

No rule.

67.7 MOTIONS

No rule. (See rule 33)

67.8 PLEA BARGAINING

No rule.

67.9 GUILTY PLEA

67.9.1 WHERE ENTERED

No rule.

67.9.2 PETITION TO ENTER A PLEA OF GUILTY

No rule.

#### 67.10 CREDIT FOR TIME SERVED

Credit for time served in criminal cases will be presumed to be that which is recorded by the Sheriff's Departments of Pettis and Cooper counties and shall be submitted by those departments if requested to the sentencing courts and any such credit will be subject to the discretion of the sentencing judges of those courts and any applicable rule or statute.

#### 67.11 CALENDAR

No rule. (See rule 36)

#### 67.12 PROBATION AND PAROLE

No rule.

### RULE 68 DISSOLUTION OF MARRIAGE AND MOTIONS TO MODIFY

#### 68.1 FILING REQUIREMENTS

Prior to hearing a petition for dissolution of marriage, the petitioner or his or her attorney shall file a Certificate of Dissolution of Marriage (Vital Statistics Report) on a form to be provided by the clerk.

All petitions for dissolution of marriage and all motions to modify prior decrees or judgments shall comply with applicable statutes as to contents and shall:

a) include the last four digits of the social security numbers of both petitioner/movant and respondent and all children who may be affected by any decision or ruling in the case,

b) allege circumstances existing for the last 60 days prior to the filing date as to the custody and visitation as to any child who may be affected by any decision or ruling in the case,

c) include a "proposed parenting plan" which shall include all provisions required (as may be applicable to the case) by §452.310.7 RSMo where custody, visitation or child support may be affected by any decision or ruling in the case,

d) be accompanied by a "Form 14" pursuant to rule 88 VAMR as amended by the Missouri Supreme Court effective October 1, 1998, which shall be completed within the guidelines and comments relating to the use of said forms when any issue of custody and support of any child may be involved in the case. In the event information is not available for purposes of completing a "Form 14" at the time of filing, such form shall be filed not later than five days prior to hearing on the petition or motion by the court. §452.340,

e) (1) In a suit for dissolution of marriage or legal separation, a statement under oath of all the marital and non-marital property and debt shall be filed by Petitioner and Respondent within 45 days of service on the Respondent. The statement shall include a brief description of all marital and non-marital assets (real, personal, or otherwise) all debts, the filing party's estimated fair market value of each asset, the amount of each debt, and an indication as to which party has possession or control of the asset. A statement under oath of income and expenses shall also be filed

with the statement of property. The statement shall list income from all sources and the anticipated separate expenses of the party making the statement, including expenses for dependents;

(2) The statements required under Section 1 shall be substantially similar to the format found in Appendices A and B of these rules. The answers shall be made in good faith based upon the information available at the time of their making and shall be automatically supplemented upon the receipt of additional information;

(3) The statements required by Section 1 shall not be required by either party in cases of default or non-contested cases, although some abbreviated written statement of property and debt shall be submitted as part of the evidence at the default or un-contested hearing;

(4) The parties are encouraged to and may join in filing a single statement of marital and non-marital property in lieu of filing separate statements so long as the statement is made under oath of both parties;

(5) The parties are encouraged but, not mandated, to submit the required statements on CD disk in Microsoft Word format to aid the Court; and

(6) Failure to comply with the requirements of this rule may be sanctioned as prescribed by Supreme Court Rule 61.

Any respondent who files any responsive pleading to any petition for dissolution or motion to modify shall, in accord with statute, include with such pleading the same information as required in the sub-paragraphs a) through e) above relating to the filing of petitions and motions.

Failure of any party to comply with pleading requirements shall constitute the basis for a refusal by the court to take up and hear any pleading or, in the discretion of the court, to strike a party's pleadings.

## 68.2 SEPARATION AGREEMENT

In all cases where written separation agreements are made under provision of §452.325 RSMo 1978, a copy of such executed agreement shall be submitted to the court prior to or at the commencement of the hearing. Where property is to be divided, the agreement shall identify generally the property to be set off to each party and the parties shall agree and set out in the agreement the approximate dollar values (total and equity) ascribed to the various properties divided. The agreement shall also set out and affix responsibility for payment of marital debts. The purpose of this rule is to aid the court and the parties in determining the conscionability of division of property in accord with statute and case decisions. Failure of strict compliance as to form and content may or may not constitute a basis for objection or delay of trial of the issues in the discretion of the court.

## 68.3 FORMS OF DECREES

### 68.3.1 GENERALLY

In all cases before the courts of this circuit, all temporary or interlocutory orders shall be given effect from the date rendered from the bench or as indicated on the court's docket sheet. ALL FINAL judgments and decrees are rendered when entered. A judgment or decree is entered when a writing signed by the judge and denominated "judgment" or "decree" is filed. Every judgment or decree shall include the names and last four digits of the social security numbers of the parties and every child

affected by the court's ruling, including their dates of birth, together with a recitation of the court's orders and judgment on every other issue. Further, all judgments shall contain mandatory language as set out in §452.377.11 RSMo (effective August 28, 1998).

Failure of counsel to prepare and promptly submit to the court a formal written judgment reciting the findings and the action of the court may upon the court's own motion, pursuant to Supreme Court rule 75.01, result in the judgment or order being set aside within the thirty-day period from the date judgment or order is rendered from the bench.

As now provided by statute, the words "judgment" and "decree" shall be synonymous.

#### 68.3.2 FOR MAINTENANCE AND/OR SUPPORT

Every party submitting to the court a judgment in a dissolution case or a judgment, decree or order in any modification action in which any order for the support of any person(s) is made shall include in such judgment, decree or order to be entered by the court:

1) the name and last four digits of the social security number of each party and of each child affected by such decree including the child's age, and

2) an order that involuntary withholding order shall be initiated by the clerk and directed to the employer or other payer to the party subject to any support order and mandatory language as set out in §452.377.11 (effective August 28, 1998).

#### 68.4 PARENT EDUCATION PROGRAM AND COSTS THEREOF

In accord with requirements of §452.372 and §452.600 to §452.610.

In any petition for dissolution of marriage or motion to modify same, where there is at least one child under the age of seventeen, both parties to the dissolution or motion shall attend *Focus on Kids*, a court-approved educational session to educate parents as to the possible detrimental effects of divorce on children and how to avoid these negative effects. In any other case involving paternity, custody or visitation, the court may, at the discretion of the judge, order one or both parties to attend *Focus on Kids*.

The petitioner shall attend said program within thirty (30) days of filing the petition or motion. The respondent shall attend said program within thirty (30) days of the date of service of process or of receipt of the petition or motion if service is waived. If the petitioner fails to attend said program within thirty (30) days of the date of filing, the court may dismiss the pending case. If the respondent fails to attend said program with thirty (30) days from the date respondent was served, the court may strike the responsive pleadings. The court may impose any other appropriate sanctions provided by law.

This rule may be waived by the court upon application of a party showing good cause.

#### 68.5.2 DECREE FOR SUPPORT

In compliance with §452.370.4 RSMo, effective August 13, 1992, every person initiating a motion to modify any prior order for support of any person by reducing the amount to be paid shall allege in said motion whether or not the person entitled to receive such support under the decree or order sought to be modified has made an assignment of such support to the Division of Family Services



as a condition for receipt of A.F.D.C., and if such assignment has theretofore been made, the State of Missouri shall be made a party to said motion.

The state shall be made a party by serving a copy of the motion by certified or registered mail to the prosecuting attorney for the county in which the motion is filed, and evidence of the mailing thereof, by the filing of the postal receipt or certification of the mailing thereof by the attorney for the movant, shall be made a part of the court file.

#### 68.6 PRETRIAL CONFERENCE – MEDIATION

In every case involving dissolution, custody, modification or paternity, in which there are issues upon which no settlement can be reached for disposition without a contested evidentiary hearing, after all discovery is completed and the case is at issue, the parties shall advise the judge before whom the case is pending that no agreed upon resolution has been reached and identifying the issues which remain contested. The judge so notified will refer the matter for pretrial trial conference/mediation to another judge authorized to act within the circuit who has not previously been assigned to the case at a time and place convenient to that judge.

Parties and their counsel will appear before the judge who has been designated to confer/mediate. At the conference the following procedure, unless modified by the judge, shall be followed:

(1) The party or counsel shall identify to the judge:

- (a) All issues upon which there is no contest and the disposition of which has been agreed to, and any issues upon which there exists no agreement and which remain contested; and
- (b) Declare that all discovery is completed and the cause is ready for submission to the judge for mediation or trial. No mediation shall be conducted until each party has declared to the conferring judge that discovery is complete. Once the conference/mediation has been conducted, there shall be no further discovery process absent, (1) a finding by the judge that the parties attempted in good faith to resolve disputed issues, and (2) a showing of good cause for further discovery to the judge assigned to hear the case, and (3) an order from said judge permitting and defining the extent of any additional discovery;

It is the intent of the Court en banc to require the parties to provide in good faith to the mediating judge all relevant facts at the time of the pretrial conference/mediation, and that such procedure not be used by any party as an alternative method of discovery after trial theories and strategies have been disclosed in the mediation process.

(2) Each party shall advise the mediating judge in a succinct but full and complete statement as to what his or her evidence will be at trial on all contested issues, and provide copies of supporting documentary evidence if appropriate, and further advise as to any compromises for settlement he or she would be willing to accept to promote an uncontested disposition.

(3) The mediating judge shall then consider the respective position of the parties and then advise all parties as to what disposition on the contested issues he/she believes is supported in

the law and the evidence is reasonable under the circumstances and is likely to be reached by a judge who tries the case upon a contested hearing.

(4) If the parties can settle their issues at the hearing, the agreement shall be reduced to a written stipulation.

(5) Such conference/mediation shall not exceed 45 minutes in total length unless the conferring/mediating judge determines otherwise.

(6) If contested issues cannot be resolved by mediation, then either party may seek a trial setting for a contested hearing before the judge who is assigned to the case, and no party will be bound by any agreement or statement or of settlement offer at the mediation session, nor shall the same be considered as evidence for any purpose at trial absent agreement of counsel, or disclosed to the judge trying the case.

(7) In the event all issues are resolved as a result of mediation, and all parties and the mediating judge agrees to hear and dispose of the case as an uncontested case at the conclusion of the conference/mediation, he/she may do so pursuant to local rule 6.1.4, otherwise the case will be returned to the regularly assigned judge for disposition.

(8) No costs shall be assessed for judge mediation.

#### RULE 69      MUNICIPAL DIVISIONS

Upon compliance with applicable statutes (RSMo) the presiding judge will assign all municipal court dockets to the associate circuit judge of the county in which the municipality is located.

##### 69.1      COOPER COUNTY MUNICIPAL DIVISION

69.1.1 Boonville Municipal Division No. 18 shall be held the third Monday of each month and thereafter as continued by the court. Court will convene at 9:00 a.m. at the courthouse in Boonville, Missouri.

69.1.2 Otterville Municipal Division No. 13 shall be held the third Monday of each month and thereafter as continued by the court. Court shall convene at 1:00 p.m. at the courthouse in Boonville, Missouri.

69.1.3 Blackwater Municipal Division No. 16 shall be held the third Monday of each month and thereafter as continued by the court. Court shall convene at 1:00 p.m. at the courthouse in Boonville, Missouri.

69.1.4 Bunceton Municipal Division No. 14 shall be held the third Monday of each month and thereafter as continued by the court. Court shall convene at 1:00 p.m. at the courthouse in Boonville, Missouri.

##### 69.2      PETTIS COUNTY MUNICIPAL DIVISION

69.2.1 All Pettis County Municipal Court dockets assigned to the judge of Division VI shall be heard on the second Wednesday of every month at 2:30 p.m. or as modified by the court.

#### RULE 70      PARTITION

No rule.

RULE 71     ADMINISTRATIVE REVIEWS

No rule (See rule 62 Driver's Cases).

RULE 72     PROBATE

No rule.

RULE 73     SMALL CLAIMS

No rule.

RULE 74     TRUST ESTATES

74.1     INVENTORY

No rule.

74.2     REPORTS

No rule.

74.3     RECORD

No rule.

74.4     AUDIT

No rule.

POST TRIAL

RULE 81     EXECUTION

Execution shall not be issued by the clerk except upon written application accompanied by the required filing fees. Further, the request shall indicate the return date of the execution as allowed by law.

The clerk shall prepare and maintain a supply of forms for such applications, and no execution or writ of garnishment shall issue unless application is made upon the form so provided, setting out the required information.

RULE 82     GARNISHMENT

Garnishments shall not be issued by the sheriff unless the execution order contains information or is accompanied by information setting forth the name of the employer, business address and other pertinent information. Garnishments are to be served in compliance with Missouri Supreme Court Rules 90.03 and 54.13, which require service by the Sheriff or a person over the age of eighteen

(18) years who is not a party to the action. Supreme Court Rule 54.13 is determined to not provide for service by certified mail or for service outside the State of Missouri.

## **RULE 83      JUDICIAL SALES**

No rule.

## **INTERNAL ORGANIZATION**

### **100.1   PRESIDING JUDGE**

#### **100.1.1   ELECTION**

No rule.

#### **100.1.2   DUTIES OF PRESIDING JUDGE**

The presiding judge is the general administrative authority of the court. In this function, the presiding judge shall, among other duties inherent or imposed by law, 1) preside at all court en banc meetings, 2) supervise and appoint any needed committees, 3) supervise preparation of the budget, 4) coordinate all duties and vacations of personnel, 5) handle media and government contacts, 6) standardize procedures between divisions, and 7) assign judicial personnel as permitted by Supreme Court or by statute.

#### **100.1.3   DISPUTE RESOLUTION – PROCEDURE**

No rule.

### **100.2   LOCAL COURT RULES**

#### **100.2.1   FORMULATION**

No rule.

#### **100.2.2   PUBLICATION**

The local court rules shall be available in typewritten or printed form to all attorneys appearing before the court, as well as to any other interested person. A charge sufficient to cover costs may be required.

### **100.3   LIBRARY FUND**

Pursuant to §514.470 and §514.475, RSMo, a law library maintenance fee of fifteen (\$15) dollars is imposed at the time of filing in all civil cases, including cases filed under Chapter 517 RSMo, which fee is hereby designated and appropriated for the maintenance and upkeep of the Pettis County circuit court law library and the Cooper County circuit court law library. On the first day of each month, or as soon thereafter as is practicable, each clerk who is responsible for the collection of such fees shall pay the entire fund created by said deposits during the preceding month to the library fund trustee, or to such other person as library trustee as the presiding judge of the circuit court may from time to time designate. The circuit clerk of Pettis County and the circuit clerk of Cooper County are designated as trustees of said funds, and as such, shall apply and expend the funds toward the maintenance and upkeep of said libraries under the supervision, direction, and order of the circuit court.

The library fund shall consist of the said filing deposit, together with any sums which shall be paid out of the county treasury under the provisions of §50.640, RSMo and any other sums which may be in any respect donated for the purpose of maintaining the library.

The circuit court may designate a person or persons to act as librarian, who shall be compensated at a rate and amount to be designated by the county commission.

The circuit court may designate and post rules and regulations governing the use of the law libraries.

The term "law library" shall include collections of books and publications and computer disk libraries and related software and hardware.

## RECORDS AND FILES

### 100.4 STORAGE OF RECORDS (See Supreme Court administrative rule 8)

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

No rule.

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

No rule.

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

No rule.

#### 100.4.4 IDENTIFICATION OF REPORTER'S NOTES

No rule.

#### 100.4.5 INDEX

No rule.

#### 100.4.6 STORAGE OF NOTES

No rule.

#### 100.4.7 NOTES OF SUBSTITUTE REPORTERS

No rule.

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

No rule.

100.4.9 BOXING AND STORING OF OLD NOTES

No rule.

100.4.10 RESPONSIBILITY FOR FURNISHING MATERIALS AND SPACE FOR STORAGE OF COURT REPORTER NOTES

No rule.

100.4.11 PROCEDURE FOR EXAMINATION OF CRIMINAL RECORDS

No rule.

100.4.12 PROCEDURE FOR EXPUNGING AND CLOSING CRIMINAL RECORDS

No rule.

100.5 CLERK'S DUTIES

100.5.1 MONIES PAID INTO COURT

No rule.

100.6 SELECTION OF VENIREMEN

No rule.

Appendix A  
Appendix B  
Appendix C  
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**APPENDIX C**  
**AFFIDAVIT OF SPECIAL PROCESS SERVERS**

**Process Server's Information:**

Legal Name: \_\_\_\_\_  
Current Address: \_\_\_\_\_  
Telephone Number: \_\_\_\_\_  
Primary Occupation: \_\_\_\_\_  
Name of Employer: \_\_\_\_\_  
Percentage of work allocated to service of Process: \_\_\_\_\_

Please describe your experience and background in performing service of process:

\_\_\_\_\_  
\_\_\_\_\_

Please identify the name of the process server business, if any, that you work for:

\_\_\_\_\_.

I, \_\_\_\_\_, being duly sworn under oath and  
(Name of Process Server)  
penalty of perjury do hereby state that I meet the following qualifications:

(Indicate with initials each qualification that applies)

- \_\_\_ I am at least eighteen (18) years of age;
- \_\_\_ I am a citizen of the United States;
- \_\_\_ I have a high school diploma or equivalent;
- \_\_\_ I have not plead guilty or been convicted of a felony or a misdemeanor involving moral turpitude;
- \_\_\_ I am not a fugitive from justice or charged with a felony or a misdemeanor involving moral turpitude;
- \_\_\_ I am not related to or employed (except as a private process server) by a party in the action where service is required;
- \_\_\_ I am of good moral character;
- \_\_\_ I have not been disqualified by any court to act as a process server within the preceding twelve (12) months; and
- \_\_\_ I understand and will follow the laws regarding how service of process is to be accomplished.

\_\_\_\_\_  
Process Server's Signature

STATE OF MISSOURI                    )  
COUNTY OF PETTIS                 ) SS

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_.

(Seal)

My Commission Expires:

\_\_\_\_\_  
Notary Public Signature

Note: It is a Class A Misdemeanor to make a false affidavit for the purpose of misleading a public servant. Section 575.050 RSMO

**APPENDIX D**  
**IN THE CIRCUIT COURT OF PETTIS COUNTY, MISSOURI**

\_\_\_\_\_  
PETITIONER/PLAINTIFF,

VS.

CASE NO. \_\_\_\_\_

\_\_\_\_\_  
RESPONDENT/DEFENDANT.

**MOTION FOR APPROVAL AND APPOINTMENT**  
**OF PRIVATE PROCESS SERVER**

COMES NOW Petitioner/Plaintiff in the above captioned matter and for its Motion for Approval/ Appointment of a Private Process Server, pursuant to Local Rule 4.7 of the Pettis County Circuit Court Rules, states to the Court as follows:

The Petitioner/ Plaintiff requests that the following individual be approved and appointed to serve process in this case:

Individual's Legal Name (not a company):

\_\_\_\_\_

The Petitioner/Plaintiff states that:

- ☐ The above-named individual is qualified to serve process in this matter and that an affidavit containing the information required by rule 4.7 and attesting to such qualifications is attached and incorporated as Exhibit "A".
- ☐ The above-named individual is on the Court's List of Approved Process Servers and all of the information contained in his/her Application and Affidavit currently on file is still correct.
- ☐ The above-named individual is on the Court's List of Approved Process Servers and the information contained in his/her Application and Affidavit needs to be updated as indicated in an attachment, provided by me herewith.

\_\_\_\_\_  
Petitioner/ Plaintiff's Signature

**ORDER**

It is hereby ordered that Petitioner/ Plaintiff's Motion for Approval and Appointment of a Private Process server is sustained and the above-named individual is hereby approved and appointed to serve process in the above captioned matter.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
JUDGE



**APPENDIX E**

**APPLICATION AND AFFIDAVIT FOR PLACEMENT OF SERVICE OF PROCESS BUSINESS ON  
LIST OF APPROVED SERVERS**

**Process Server Business Information:**

Legal Name of Business: \_\_\_\_\_  
Current Address: \_\_\_\_\_  
Telephone Number: \_\_\_\_\_  
Percentage of Work allocated to service of process: \_\_\_\_\_

Please describe the business's experience and background in performing service of process:

\_\_\_\_\_  
\_\_\_\_\_

The business is registered as such or has a fictitious name with the Missouri Secretary of States Office.

Neither the business nor any of its employees have been disqualified by any court from acting as a process server within the preceding 12 months.

Please list all employees who work for the business who will be serving process. (Have such employees fill out an affidavit as to qualifications available from the Circuit Clerk):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please list the above referenced business and its employees on the acceptable list of special process servers.

**I, \_\_\_\_\_, being duly sworn under oath and penalty of perjury do  
hereby state that the preceding averments are true to the best of my knowledge and belief.**

\_\_\_\_\_  
Officer of the business authorized to bind it

STATE OF MISSOURI    )  
COUNTY OF PETTIS    )

Subscribed and sworn to before me on this date of \_\_\_\_\_

(Seal)

My Commission expires:

\_\_\_\_\_  
Notary Public Signature

Note: It is a class A Misdemeanor to make a false affidavit for the purpose  
of misleading a public servant. Section 575.050 RSMO.

## **Appendix G**

### **IN THE 18<sup>TH</sup> JUDICIAL CIRCUIT COURTS OF MISSOURI**

Affidavit: I hereby affirm subject to the penalties of false swearing that I have read the current standards now in effect for guardians ad litem in domestic and juvenile cases ordered pursuant to Supreme Court order and that I have completed \_\_\_\_ hours of training approved by the Missouri Bar for providing continuing legal education training and which is accredited by the Judicial Education Committee of the Missouri Judicial Conference.

With the filing of this Affidavit I express my intent to be placed on the list of approved Guardians ad Litem.

Executed this \_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_  
Signature

Sworn to before me this \_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_  
Signature  
Judge/Clerk/Notary

My Commission expires on \_\_\_\_\_