

LOCAL COURT RULES

OF THE

FOURTEENTH JUDICIAL CIRCUIT

OF THE

STATE OF MISSOURI

## ADMINISTRATION

### RULE 1      DIVISIONS OF COURT

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

Randolph County:

Division One:	Circuit
Division Two:	Associate
Division Three:	Probate
Division Four:	Juvenile
Division Five:	Small Claims
Division Six:	Municipal

Howard County:

Division One:	Circuit
Division Two:	Associate
Division Three:	Probate
Division Four:	Juvenile
Division Five:	Small Claims
Division Six:	Municipal

### RULE 2      HOURS AND TERMS OF COURT

#### 2.1      Hours of Court

All sessions of court shall begin at 9:00 a.m. in the forenoon, and any order specifying a date shall be taken to mean 9:00 a.m. on the date mentioned, unless specifically set out in the order.

a)      In order to insure that sessions of court convene in a timely manner, all courtroom personnel, including bailiffs, clerks and reporters, should be present in the courtroom in sufficient time to summon the judge promptly at 9:00 o'clock a.m. In the event that proceedings are not to begin at 9:00 a.m., it shall be the duty of the judge, through the bailiff, to advise all courtroom personnel of the change in time.

b)      At all recesses and adjournments of proceedings, the judge should announce the length thereof, and all courtroom personnel should be present in the courtroom in sufficient time to summon the judge at the end of such recess or adjournment. In the event that proceedings are not to re-convene at the time announced for such recess or adjournment, it shall be the duty of the judge, through the bailiff, to advise all courtroom personnel of the change in time.

c)      Requests by counsel for additional time for settlement or other matters

shall not affect the time for starting any session of court, said request to be considered in open court.

The court will observe the following holidays: New Year's Day, Martin Luther King Day, Lincoln's Birthday, Washington's Birthday, Truman's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day, and Christmas Day. Whenever any such holiday shall fall on a Saturday, it shall be observed on the Friday preceding, and whenever any such holiday shall fall on a Sunday, it shall be observed on the Monday following.

## 2.2 Terms of Court

The circuit court of each county of the circuit shall be in continual session as provided by Section 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 Division One shall be considered as commencing on the dates as hereafter stated:

a) In Randolph County at Moberly, on the first Monday in the months of February, June and October.\*

b) In Randolph County at Huntsville, on the first Monday in the month of April.\*

c) In Howard County at Fayette, on the second Monday in the months of January, May and September.\*

(\*In case any of these days fall on a holiday, court will be held on the day following. For a list of holidays, see Rule 2.1.)

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.

## 2.3 Law Days

Law days for all divisions of the Court will be determined on an annual basis by the Court En Banc. The same shall be posted in the Circuit/Division Clerks' Offices.

## 2.4 Particular Matters on Particular Days

a) All notices of intent to call up matters for hearing on Division One Law Days shall specify the hour of 9:00 a.m., unless otherwise allowed by the court. Attorneys are expected to be present at the beginning of the docket call. If any matter is not ready when called, it will go to the bottom of the list of its particular category, and then if not ready, it will be passed to the end of the day; except that uncontested adoptions and preliminary matters relating thereto will be heard at 1:30 p.m. on civil law days.

b) Counsel desiring to have matters heard on law day shall register each case they wish heard, indicating the category thereof, as shown in subparagraph d) below, with the circuit clerk by 4:30 p.m. on the Monday preceding so the clerk may prepare the law day docket as provided in Rule 8.1.b.

c) The clerk shall register the cases as notified by counsel and shall then prepare and provide to the court and counsel a docket listing the cases under the categories set out in subparagraph d), in the order of their registration.

d) On law day, cases will be called for disposition in the following order:

1) All matters not requiring argument or evidence, but requiring docket entries, including trial settings;

2) Matters requiring brief argument;

3) Uncontested or default matters requiring evidence;

4) Matters requiring evidence and/or extended argument;

5) Contested and undocketed matters, as time permits;

6) The foregoing order notwithstanding, adoption matters as described in subparagraph a) herein, shall be heard at 1:30 p.m.

e) It shall be the duty of counsel who wish matters to be heard on law day to cause opposing counsel (or non-defaulting party) to appear by notice or agreement.

f) The court may vary the order of hearing cases in its discretion to accommodate exigent circumstances for counsel, parties or witnesses.

## 2.5 Short Notice Consent Docket

The Circuit Clerk shall maintain for each work week a short notice consent docket. The docket shall be maintained in the Circuit Clerk's office and available to all parties and counsel. The docket shall be divided into morning and afternoon sessions for each work day.

The obligation of the parties and counsel in signing up for particular portions of particular days will be to advise approximately how much court time will be required to hear the matter intended to be presented. The party or counsel shall promptly advise the Clerk if they wish their name removed from the short notice consent docket for a particular day or days.

Any judge hearing cases in Division One or Four of the Circuit Court of Randolph

County, Missouri, may advise the Circuit Clerk of the date and hour that there will be available court time to hear any matter, civil, criminal or juvenile, that may be heard with consent or by default.

The Court shall advise the clerk of those days or portions of days when time has become available for hearing short notice consent matters, and the clerk shall immediately contact those parties or attorneys whose names appear on the docket for the particular time then available, in the order in which they have signed up. Party or counsel shall advise the clerk whether they wish to use the time, and the amount of time expected to be required. The clerk shall then advise the judge what, if any, case or cases are requested to be heard on the particular short notice consent docket.

The court may decline to hear any matter.

### **RULE 3      PLEADINGS**

#### **3.1      Caption**

The following caption is required:

IN THE CIRCUIT COURT OF \_\_\_\_\_ COUNTY, MISSOURI, AT \_\_\_\_\_  
DIVISION \_\_\_\_\_

<u>(Name)</u> _____	)	
<u>(Address)</u> _____	)	
<u>(City)</u> _____	)	Plaintiff,
	)	
vs.	)	No. _____
	)	
<u>(Name)**</u> _____	)	
<u>(Address)***</u> _____	)	
<u>(City)</u> _____	)	Defendant.

#### **CAUSE\***

Signed	<u>(Attorney of Record or Party)</u>
	<u>(Address)</u>
	<u>(Telephone Number)</u>
	<u>(Missouri Bar Number)</u>

\*If a party is required to state the nature of the action on the pleading, he should be

directed to do so under this section.

**\*\*If a corporate defendant, also list the officer or registered agent in charge with address and telephone number on the petition. If a foreign corporation, also give address of local office and name of officer in charge on the petition.**

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

### 3.2 Style

All pleadings and motions intended for filing in any case shall be legibly written on one side of the paper only, either typewritten or printed, double-spaced, with top and left-hand margin of at least one inch. Until January 1, 1986, all pleadings and papers offered for filing, excepting exhibits, shall be on either 8-1/2" x 14" or 8-1/2" x 11" paper; thereafter, such shall be on 8-1/2" x 11" paper. All papers intended for filing shall be signed by the party or his attorney offering the same for filing, together with the address, telephone and bar identification numbers of the trial attorney in the case; shall be captioned with the style and number of the case, the character of the pleadings and motions and, if a petition, the nature of the suit; if consisting of more than one sheet, shall be securely bound at the top and with page numbers at the bottom. Paragraphs of pleadings shall be numbered consecutively. An attorney offering a paper for filing may sign it on behalf of a law firm or attorney when duly authorized to do so; but he must also subscribe his own signature on said paper. The attorney whose signature is affixed to the pleading or paper shall be deemed to be the trial attorney in the case. Where service of summons or other pleading is requested, a copy of the pleading for each party to be served shall be filed.

## **RULE 4 FILING OF CASES**

Randolph County has adopted a **centralized filing system**, and all cases shall be filed with the circuit clerk.

Howard County has adopted a **decentralized filing system**, and all cases shall be filed with the appropriate clerk.

### Rule 4.1, Criminal Cases.

- (a) All complaints, informations or indictments shall contain a notation showing the Missouri Approved Charges - Criminal (MACH-CR) number, as well as the Missouri Charge Code Number. If an approved MACH-CR does not exist, the complaint, information or indictment shall cite the authority that supports the charge.
- (b) All complaints, informations or indictments shall contain the Offense Cycle Number (OCN) if available, and if not immediately available, it shall be supplied as soon as possible thereafter.

Rule 4.2, Civil Cases (including Probate).

- (a) Accompanying the initial filing, pleading or motion shall be a Party Information Form. The form will list party type, name, address, social security number and birthdate of initiating party, responding party and any additional parties, if available. The form will be furnished by the appropriate clerk.
- (b) The appropriate clerk shall not receive for filing any pleadings, motions or papers unless there has been a complete compliance with this rule.

Rule 4.3, Municipal Cases.

Cases that are heard by municipal judges shall be governed by the provisions of Section 478.245.2(3), RSMo. Municipal ordinance violations that are heard by an associate circuit judge, where the municipality has made provisions for local staff, shall be filed with the municipal division clerk. Other municipal ordinance violations that are heard by an associate circuit judge shall be filed with the appropriate clerk.

Rule 4.4, Facsimile Filing and Service.

**A. Authority for Rule.** This rule is promulgated under the authority conferred in Missouri Supreme Court Rule 43.02(c).

**B. Facsimile Filing Authorized.**

1. Any pleading or other document including an original filing, may be filed in any division of this court having, maintaining or designating a facsimile machine for the receipt of such transmissions, by transmission of the same to such facsimile machine.
2. Any pleading or document filed by facsimile transmission shall have the same effect as the filing of the original document, even though it may be required to be verified, acknowledged or sworn to by some other method.
3. The pleading or document shall be deemed filed, subject to sub paragraphs C and D hereof, on the date and at the time actually received at the office of the clerk.
4. Risk of loss in transmission, receipt or illegibility is upon the person or party transmitting and filing by facsimile.
5. If the document is not received by the clerk, or if it is illegible, it is deemed not filed, except that in the case of partial illegibility, that part which is legible is deemed filed.
6. Subject to subparagraph C of this rule, the person filing a pleading or other document by facsimile transmission shall retain the original, and make it available upon order of the court.

**C. When Filing Fee or Deposit Required and Waiver.**

1. If the pleading or document is to be filed under the provisions of Supreme Court Rule 77.03 or any other law allowing filing without a deposit, a motion to file the same without fee or deposit, and a proposed order allowing the same, shall be transmitted with

the first facsimile transmission. The same shall be presented to the court at the earliest opportunity for ruling.

2. If the provisions of the preceding subparagraph 1 are not complied with, the court may strike any pleading or document so filed, or make such other or further orders as it deems appropriate.
3. No summons or process shall be required to be issued by the clerk until receipt of the fee or order allowing filing without fee or deposit. Costs deposits shall be required to be paid within three days of facsimile transmission of the pleading or document.

**D. Court Orders Transmitted by Facsimile Transmission.** Court orders, judgments or decrees, including warrants and search warrants, may be transmitted to the clerks of the various division or others by facsimile transmission. They shall have the same effect and be acted upon by all persons as if they were the original executed by the court and shall in all instances be considered the original.

**E. Service by Facsimile Transmission.**

1. When 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 facsimile transmission of a copy to any attorney or party to be served who maintains a device for receipt of facsimile transmission.
2. Publishing a facsimile phone line number by pleading, letterhead or listing in a telephone directory or otherwise, constitutes proof of maintenance of a device for receipt of facsimile transmission.
3. Risk of loss in transmission, receipt or illegibility of the document transmitted by facsimile is upon the sender.
4. The document faxed is presumed delivered and served, unless otherwise indicated by the readout of the sender's device, to the phone number indicated by the sender's readout and at the date and time of the end of the transmission. The sender shall maintain a printout of such readout and file the same if ordered by the court.

**F. Service--How Shown.** Proof of service by facsimile machine shall be made by the person causing the paper to be transmitted. Such proof of service shall indicate the telephone number to which the paper was transmitted and the method of confirmation that the transmission was received.

**G. Facsimile Archive.** All facsimile motions, petitions, writs, orders, etc. must be on archivable paper. Those clerks' offices utilizing facsimile machines with thermal facsimile paper must make a copy of the facsimile paper or document transmitted and file the copy of the facsimile transmission as the original document in the file.

**H. Costs for Receipt of Transmission by Facsimile.**

1. The maintenance of a facsimile device by a clerk's office, and rules allowing filing by facsimile transmission benefit primarily the person desiring to file by this method of transmission. It causes the clerks or the court system additional expense to acquire and maintain a device and phone line to receive these transmissions, and often to transfer the transmission to archival quality paper.
2. The clerk of a division maintaining a device to receive or send facsimile transmissions may charge the person or entity filing by facsimile up to 40 cents per 8 ½ x 11 inch page

for receiving and processing such document, and up to \$1.00 per 8 ½ x 11 inch page for document transmission.

3. Nothing in this rule shall require a clerk of any division to maintain a device for or require them to transmit any document by this method.
4. Nothing in this rule shall require the clerk of any division to maintain, designate or receive facsimile transmission outside regular office hours on regular business days.
5. Unless a party is not subject to paying costs or expenses by law or court order, the actual per page charge presented by the clerk of a division to the person or entity sending or receiving a facsimile transmission for receipt or transmission of facsimile documents shall:
  - a. be paid upon receipt by the person or entity; or
  - b. be subject to additional filing deposit by the clerk as provided in these rules; or
  - c. be taxed as costs by the court or clerk to the party for whom the facsimile charge was incurred.
- I. **Business Day Defined.** A business day is any day, not a Saturday, Sunday or holiday recognized as such by the Missouri Supreme Court through the office of the State Courts Administrator.
- J. **Effect of Facsimile Signature.** A facsimile signature shall have the same effect as an original signature.

## RULE 5      FEES AND COSTS

### Rule 5.1, Filing Fee and Cost Deposit.

The circuit court en banc shall set forth, by administrative rules, the filing fees and cost deposits required for actions filed in divisions of the circuit court. Said fee structure shall be published in the attachments of the Local Court Rules.

The fees and costs as established by rule shall be paid by cash, certified check, business check, money order or the equivalent. Personal checks will not be accepted. The appointing authority pursuant to statute may set more restrictive policies with respect to payments.

### Rule 5.5, Motion For Security.

Upon the filing of a motion for security for costs, verified by the party or his attorney, the opposing party, not later than one (1) day prior to hearing thereon, may file and serve a counter-affidavit, and the issue presented shall be determined by the court from the evidence.

Upon opposing party's failure to file and serve a counter-affidavit, within the time aforesaid, the verified motion shall be taken as confessed.

An unverified motion for security for costs, and one to which counter-affidavit has been filed, must be sustained by proof.

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

Rule 6.1, Assignment to Associate Circuit Judges.

### *6.1.1 By Local Court Rules or Order*

The following cases can be heard by an associate circuit judge not on the record under the procedure applicable under Chapter 517, RSMo.:

- a) Civil actions where the sum demanded, exclusive of interest and costs, does not exceed three thousand dollars (\$3,000.00);
- b) Actions against any railroad company to recover damages for killing or injuring animals;
- c) Replevin, attachment and mechanics' lien actions where the recovery sought is less than three thousand dollars (\$3,000.00);
- d) Actions for unlawful detainer authorized by Chapter 534, RSMo.;
- e) Actions for rent and possession authorized by Chapter 535, RSMo.;
- f) Petition for review of driver's license revocations and for hardship driving privileges;
- g) Such other cases that could be heard and determined by an associate circuit judge without assignment as an acting circuit judge under provisions of the law in effect on January 1, 1979.

In addition to the above cases, an associate circuit judge shall hear and determine the following cases:

- a) Cases of misdemeanor or infraction, except as otherwise provided by law;
- b) Felony cases prior to the filing of an information;
- c) Municipal ordinance violation cases of the following municipalities:
  - Randolph County: City of Higbee, City of Clark and City of Renick
  - Howard County: City of New Franklin
- d) "Small Claims" cases as provided in Section 482 through Section 482.365, RSMo., 1978;

e) Cases that a circuit judge may hear in chambers when a circuit judge is absent from the county.

The associate circuit judges of this circuit shall hear and determine the following cases on the record under procedures applicable before circuit judges:

- a) Cases arising under the uniform reciprocal enforcement of support act;
- b) Cases arising under Chapters 207 and 208, RSMo.;
- c) Contempt actions for child support enforcement in addition to those arising under paragraphs a and b above;
- d) Approval of settlements in actions involving claims by or on behalf of minors;
- e) Change of name proceedings;
- f) Appeals from the municipal division;
- g) Uncontested actions involving the title to real estate;
- h) Cases assigned to an associate circuit judge by the presiding circuit judge;
- i) Adversary proceedings in the probate division;
- j) Effective January 1, 1993, all actions to establish paternity and collateral counts filed therewith for custody, child support, state debt or reimbursement of necessities, filed independently from actions for dissolution of marriage or modification of dissolution decrees or other civil actions, whether filed by a party through private counsel, by the prosecuting attorney or by the child support enforcement unit, shall be heard and determined on the record by the associate circuit judges of this circuit, under procedures applicable before circuit judges.

Under Administrative Rule 17.22 of the Supreme Court of Missouri, the time standard applicable to these cases is 90% settled, tried or otherwise concluded within 4 months from date of filing; 98% within 8 months; and 100% within 12 months. The implementation schedule is as follows:

<u>Effective 7-1-93</u>	<u>Effective 7-1-94</u>	<u>Effective 7-1-95</u>
65% in 4 months	80% in 4 months	90% in 4 months
75% in 8 months	90% in 8 months	98% in 8 months
90% in 12 months	95% in 12 months	100% in 12 months

### 6.1.2 *Special Assignment*

It is ordered that, upon written motion and by consent of all parties, any case pending in the Fourteenth Judicial Circuit of Missouri may be assigned by the Presiding Circuit Judge to any Judge of the Fourteenth Judicial Circuit, upon consent of such Judge, where such assignment is not prohibited by statute or rule.

### 6.2 Assignment to Circuit Judges

(No local rule.)

### 6.3 Certification to Circuit Division

(No local rule.)

### 6.4 Trial de Novo

(No local rule.)

### 6.5 Disqualification of Judge

(No local rule.)

### 6.6 Absence of Judge - In Cases Where an Emergency Exists and Where the Ends of Justice Require

A. In the absence or unavailability of the associate circuit judge of any division, any other associate circuit judge may sit as judge of the division in which the judge is absent or unavailable, and perform all duties of the absent or unavailable judge. In the absence or unavailability of all associate judges, the circuit judge may sit as the judge of any associate division in the circuit, and perform all the duties of the absent or unavailable judge.

B. In the absence or unavailability of the circuit judge, the resident associate circuit judge may sit as judge of the division in which the circuit judge is absent or unavailable and perform all the duties of the absent or unavailable circuit judge. In the absence or unavailability of both the circuit judge and the resident associate circuit judge, the non-resident associate circuit judge may sit as judge of the division in which the circuit judge is absent or unavailable and perform all the duties of the absent or unavailable circuit judge.

### 6.7 Absence of Presiding Judge

When the presiding circuit judge will be absent from the circuit, the presiding circuit judge may designate an associate circuit judge as acting presiding circuit judge during such period.

**RULE 7 WITHDRAWAL OF PAPERS FROM CLERK'S OFFICE****7.1 When**

No official files of the circuit court or 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 upon specific orders of the court.

In order to maintain a record of the circulation of files among judges and other employees of the court, the circuit clerk and the division clerks are authorized to request any judge and to require any other employee of the court to sign a receipt for a removed file on a form or tablet provided by the circuit clerk and division clerks. Such clerks shall insure that the return of such file is duly noted on the record.

**Rule 7.2, Duplicating Policy.**

Requests for copies of court records should be directed to the appropriate clerk. No charge shall be made for copies of documents furnished to any city, county, state agency or state department. Parties shall be charged at the rate specified below for all other documents requested:

<b>Microfilmed Copies</b>	<b>Howard County</b>	<b>Randolph County</b>
First Page	\$ .50 per page	\$ .25 per page
Additional pages, per page	\$ .50 per page	\$ .25 per page
<b>Photocopies</b>		
Probate estates	\$ .25 per page	\$ .25 per page
All other cases	\$ .25 per page	\$ .25 per page
<b>Certified and Authenticated Copies</b>	<b>Howard County</b>	<b>Randolph County</b>
Probate Division	\$1.50 per page	\$1.50 per page
All other divisions	\$1.50 per page	\$1.50 per page

**RULE 9 COURTROOMS (See Rule 21.8)****9.1 Assignment of Courtrooms**

Courtroom assignments shall be as determined by the presiding judge's secretary.

9.2 Place of Hearing

(No local rule.)

9.3 Use of Counsel Table

(No local rule.)

9.4 Courtroom Decorum and Dress

Except when otherwise necessary, attorneys, in the examination of witnesses and in addressing the court, shall remain at the counsel table and shall speak in a tone of voice audible throughout the courtroom, unless requested by the court to come to the bench. In referring to any case, the case number and the names of the parties, plaintiff and defendant, shall be given.

9.5 Who Is Permitted Within Bar

(No local 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.

## **RULE 11. RECORDING OF JUDICIAL PROCEEDINGS**

All persons shall refrain from any broadcasting, televising, recording, or taking photographs in the courtrooms of the courthouse during sessions of court or recesses between sessions, except as authorized under Missouri Supreme Court Administrative Rule 16. All persons are prohibited from such activities in the corridors or stairways adjacent to the courtrooms of the courthouse at all times during sessions of court or recesses between sessions.

The Court may authorize the use of electronic or photographic means for the presentation of evidence or for the perpetuation of a record.

## **RULE 12 MONIES PAID INTO COURT**

### **12.1 Bond in Civil Cases**

(See Rule 100.5.1) (No local rule.)

## **RULE 13 COMMUNICATIONS WITH COURT**

### **13.1 Oral Communications With the Court**

Oral communications with the court about pending or contemplated cases are not permitted unless all parties are represented during such communications.

### **13.2 Written Communications With the Court**

An attorney or party sending written communications to the court is responsible for sending a copy of the communications to all other parties, and verifying same on the copy of the communication sent to the court.

## **Rule 14, Trial Court Performance Standards**

### **14.1 Access to Justice**

14.1.1 *Public Proceedings.* The trial court conducts its proceedings and other public business openly.

14.1.2 *Safety, Accessibility and Convenience.* Trial court facilities are safe, accessible, and convenient to use.

14.1.3 *Effective Participation.* The trial court gives all who appear before it the opportunity to participate effectively, without undue hardship or inconvenience.

14.1.4 *Courtesy, Responsiveness and Respect.* Judges and other trial court personnel are courteous and responsive to the public and accord respect to all with whom they come in contact.

- 14.1.5 *Affordable Costs of Access.* The costs of access to trial court proceedings and records - whether measured in terms of money, time, or the procedures that must be followed - are reasonable, fair, and affordable.

## **14.2 Expedition and Timeliness**

- 14.2.1 *Case Processing.* The trial court establishes and complies with recognized guidelines for timely case processing while, at the same time, keeping current with its incoming caseload.
- 14.2.2 *Compliance with Schedules.* The trial court disburses funds promptly, provides reports and information according to required schedules and responds to requests for information and other services on an established schedule that assures their effective use.
- 14.2.3 *Prompt Implementation of Law and Procedure.* The trial court promptly implements changes in law and procedure.

## **14.3 Equality, Fairness and Integrity**

- 14.3.1 *Fair and Reliable Judicial Process.* Trial court procedures faithfully adhere to relevant laws, procedural rules, and established policies.
- 14.3.2 *Juries.* Jury lists are representative of the jurisdiction from which they are drawn.
- 14.3.3 *Court Decisions and Actions.* Trial courts give individual attention to cases, deciding them without undue disparity among like cases and upon legally relevant factors.
- 14.3.4 *Clarity.* The trial court renders decisions that unambiguously address the issues presented to it and clearly indicate how compliance can be achieved.
- 14.3.5 *Responsibility for Enforcement.* The trial court takes appropriate responsibility for enforcement of its orders.

**14.3.6 *Production and Preservation of Records.*** Records of all relevant court decisions and actions are accurate and properly preserved.

#### **14.4 Independence and Accountability**

14.4.1 *Independence and Comity.* The trial court maintains its institutional integrity and observes the principle of comity in governmental relations.

14.4.2 *Accountability for Public Resources.* The trial court responsibly seeks, uses, and accounts for its public resources.

14.4.3 *Personnel Practices and Decisions.* The trial court uses fair employment practices.

14.4.4 *Public Education.* The trial court informs the community about its programs.

14.4.5 *Response to Change.* The trial court anticipates new conditions and emergent events and adjusts its operations as necessary.

#### **14.5 Public Trust and Confidence**

14.5.1 *Accessibility.* The public perceives the trial court and the justice it delivers as accessible.

14.5.2 *Expeditious, Fair, and Reliable Court Functions.* The public has trust and confidence that basic court functions are conducted expeditiously and fairly, and that court decisions have integrity.

14.5.3 *Judicial Independence and Accountability.* The public perceives the trial court as independent, not unduly influenced by other components of government, and accountable.

### **RULE 17. SUPREME COURT TIME STANDARDS**

1. Pursuant to Supreme Court Administrative Rule 17, the following standards for disposition of cases are adopted:

- a. Fifty percent (50%) of Circuit civil cases shall be disposed of within 12 months after the case is filed.

- b. Fifty percent (50%) of domestic relations cases shall be disposed of within four months after the case is filed.
- c. Fifty percent (50%) of Associate civil cases shall be disposed of within 4 months after the case is filed.
- d. Fifty percent (50%) of Circuit felony cases shall be disposed of within 4 months after the information or indictment is filed, from the date a motion for new trial is sustained, a plea of guilty is withdrawn or the defendant fails to complete a court ordered program prior to plea, such as in drug court.
- e. Fifty percent (50%) of Associate criminal cases shall be disposed of within 3 months after the felony complaint or affidavit is filed, a misdemeanor information is filed, or from the date a motion for new trial is sustained, a plea of guilty is withdrawn, or the defendant fails to complete a court ordered program prior to plea.

2. When determining when a case was “filed” or “resolved”, definitions set forth in Supreme Court Operating Rule 17 shall be consulted.

## **RULE 20      CASE MANAGEMENT**

It is ordered that the Circuit Clerk shall maintain a calendar in which case files shall be listed as follows, for the purposes stated, and further, that the clerk shall enter the authorized docket entries:

- 1. 15 days from filing - if issuance of summons is withheld at request of counsel in anticipation of defendant’s/respondent’s entry of appearance and no entry of appearance has been filed at the end of 15 days, the clerk shall enter the following order:

No entry of appearance having been made, summons is ordered issued. Counsel to provide service instructions within three days hereof, and failing same, cause will be dismissed without prejudice, for inability to prosecute, unless for good cause shown. Clerk to notify.

- 2. 15 days after issuance of in-state summons to check service and 30 days after issuance of out-of-state summons to check service. If non-est return, the clerk shall enter the following order:

Plaintiff/Petitioner granted 15 days to request alias summons or other service. Failing same, cause will be dismissed for failure to obtain service, unless for good cause shown. Clerk to notify.

3. 31 days after personal service of summons or 46 days after first publication to check if in default. If in default, the clerk shall enter the following order:

Cause is set for (law day date) for default, consent hearing, scheduling conference, trial setting or other order. If for trial setting, counsel to submit available trial dates. Clerk to notify.

4. On filing of answer, clerk shall enter the following order:

Cause is set for (law day date) for consent hearing, scheduling conference, discovery schedule, trial setting or other order. Counsel requested to provide agreed upon discovery schedule on or before said date and, failing same, Court will set discovery schedule if appropriate. If for trial setting, counsel to submit available trial dates. Clerk to notify.

5. On filing of un-noticed motion not requiring evidence or extended argument, the clerk shall enter the following order:

Plaintiff's/Defendant's un-noticed Motion to \_\_\_\_\_ filed \_\_\_\_\_ is set for hearing (law day date). Clerk to notify.

6. On filing of un-noticed motion requiring evidence or extended argument, the clerk shall enter the following order:

Plaintiff's/Defendant's un-noticed Motion to \_\_\_\_\_ filed \_\_\_\_\_ is set for (law day date) for purpose of setting same for hearing and disposition.

*Note: The Court does not set un-noticed motions for temporary orders in domestic cases under this Rule.*

7. In cases where the trial court has ordered that jury instructions be supplied prior to trial, clerk shall notify the trial judge if jury instructions are not timely received.

It is further ordered that the Clerk shall docket the entry, or shall docket the setting for the next occurring law day for which timely notice may be given, and notify counsel and pro se parties, by use of the appropriate authorized docket entry attached.

It is further ordered that, in cases where evidence of discovery sought or had outside the discovery schedule is sought to be filed, the clerk shall mark such evidence as “received but not filed because outside of discovery schedule”, and shall notify counsel accordingly.

## **GENERAL RULES**

### **RULE 21 ATTORNEYS**

#### **21.1 Resolution of Conflicting Court Appearance or Trial Settings**

When an attorney has an appearance or trial date conflict in two courts, the judges of the courts involved will resolve the conflict, and not the lawyer. A lawyer with a court appearance or trial date conflict shall promptly advise the courts of the conflict, and provide the name of the courts involved, the name of the judge presiding, and style and number of the case.

#### **21.2 Entries of Appearance**

When, in actions for dissolution, an answer or entry of appearance is filed in lieu of service or process, the answer or entry of appearance shall remain on file for a period of twenty (20) days before the trial of the case, but exception may be made upon proper showing.

#### **21.3 Conduct of Attorneys**

(No local rule.)

#### **21.4 Withdrawal of Attorneys**

The conditions under which an attorney is allowed to withdraw from the employ of a client are set in Supreme Court Rule 4 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.

#### Rule 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 or answer ready, the same shall be dismissed for want of prosecution, or judgment entered, or other appropriate order made, in the discretion of the court.

#### 21.6 Appointment of Attorneys

(No local rule.)

#### 21.7 Agreement of Attorneys

No private or prior stipulation or agreement between parties or attorneys in a pending cause will be recognized unless made in writing and filed with the clerk, or made orally in open court.

#### 21.8 Advice to Client and Witnesses of Courtroom Procedure

The attorney is to advise his client and witnesses as to the formality of the court, including proper dress, and seek their cooperation therewith, thereby avoiding embarrassment.

He is to advise his client not to discuss any phase of the case with the court.

When the rule as to witnesses is invoked, each attorney is charged with the duty of seeing that the witnesses comply with that rule. If any witness violates the rule, whether willfully or otherwise, such witness shall not be permitted to testify, except by consent of opposing counsel or unless the court, in its own discretion, rules that justice requires such testimony be received, under all the circumstances considered. (See Rule 9.)

### RULE 22 APPOINTMENT OF GUARDIAN AD LITEM

(No local rule.)

## **RULE 23      TRANSCRIPTS**

(No local rule.)

## **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.

## **PRETRIAL MATTERS**

### **RULE 31. APPOINTMENT OF SPECIAL PROCESS SERVER**

The Court, upon request of any party, may appoint a special process server.

The circuit clerk may appoint a special process server as authorized by Section 506.140 RSMo., upon written request for appointment of a special process server by the party or by an attorney for the party requesting the special process.

The request for appointment shall state the name of the person to be appointed special process server.

Any application requesting that fees paid to a special process server be taxed as costs in the action shall be filed with the request for appointment.

The affidavit required by Supreme Court Rule 54.20 shall be filed with the return of service required by Supreme Court Rule 54.21.

## **RULE 32      DISCOVERY**

### **32.2    Interrogatories**

Copies of all interrogatories and answers thereto shall be sent to all parties. Answers and objections to interrogatories shall state the question being answered or objected to immediately before the response.

### **32.3    Depositions**

(No local rule.)

32.4 Motion for Sanctions

(No local rule.)

32.5 Criminal Discovery

(See Supreme Court Rule 24.) (No local rule.)

## RULE 33 PRETRIAL MOTIONS

33.1 Hearing Dates

All motions or other matters preliminary to trial or other disposition of a case may be heard on the first law day occurring at least five days after service and proper filing thereof, and five days' notice to adverse parties that they are to be presented, or within a less time and without such service or notice, by consent of the parties. The court or judge, for cause shown, may shorten or extend the time for service or hearing.

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. Either party thereafter upon five (5) days' notice may call up said motion for hearing. If no memorandum is filed, then upon notice by either party, the court will consider the motion without argument. After submission the court may require such memoranda 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 local rule.)

33.4 Motions in Limine

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

## RULE 34 CONTINUANCES

34.1 Civil Cases

An application for continuance shall be made by a written motion accompanied by the affidavit of the applicant or some other credible person setting forth the facts upon which the application is based, unless the adverse party consents that the application for continuance may be made orally. For good cause shown, the court may continue a civil action to a fixed day, or to a day for trial to be set thereafter. Every continuance granted on the application of a party may

be at the cost of such party, if so ordered by the court. All applications for continuance shall conform to Supreme Court Rule 65.

### 34.2 Criminal Cases

An application for continuance shall be made by a written motion accompanied by the affidavit of the applicant or some other credible person setting forth the facts upon which the application is based, unless the adverse party consents that the application for continuance may be made orally. A continuance will be granted in criminal cases only if the court finds the ends of justice served by taking such an action outweigh the benefits of a speedy trial. For good cause shown, the court may continue a criminal proceeding to a fixed day, or to a date to be set thereafter. Every continuance granted on the application of a party may be at the cost of such party, if so ordered by the court. All applications for continuance shall conform to Supreme Court Rule 24.

## RULE 35 PRETRIAL CONFERENCE

(No local rule.)

## RULE 36 SETTING CASES FOR TRIAL

### 36.1 Request For Trial

When a case is at issue and all discovery has been completed, any party may request that the case be set for trial. A case may be set for trial at any time when counsel for all parties are present in court. A case may be set in the absence of opposing counsel, provided that the party requesting trial shall have given the opposing counsel five (5) days' written notice of his intention to request a setting.

### 36.2 Date of Calendar Call

(No local rule.)

### 36.3 Preparation of Calendar

(No local rule.)

### 36.4 Calendar Call

(No local rule.)

### 36.5 Inactive Calendar

(See Rules 8.2 and 37.1.) (No local rule.)

36.6 Revision and Removal From Prepared Calendar

(No local rule.)

36.7 Special Assignments

(No local rule.)

**SETTLEMENT AND DEFAULT**

## RULE 41 SETTLEMENT

41.1 Notice of Settlement

The court and the clerk shall be notified promptly if a case is settled after it has been set for trial.

## RULE 42 DEFAULT

(See Rules 2.4, 33 and 5.) (No local rule.)

## RULE 51 COURT-TRIED CASES

51.1 Default and Uncontested Matters

(See Rules 2.4, 42 and 54.2.) (No local rule.)

51.2 Contested Matters

(No local rule.)

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

(No local rule.)

## RULE 53 JURY TRIALS

53.1 Instructions

(No local rule.)

53.2 Closing Arguments

An attorney will be given a reasonable time for argument and the court will decide the period of time allowed. Plaintiff may divide his time between opening and closing argument, but not more than one-half of his time may be spent in closing. Time may be extended at the discretion of the court.

The court may, in its discretion, change the order of the argument. Arguments by multiple parties are made in the order named in the pleading unless otherwise agreed to by the parties or directed by the court.

Plaintiff may decline to make an opening argument and by so doing, waives closing argument. Defendant may nevertheless make his argument.

The attorney is to inform all other attorneys and the court before any argument if he intends to waive argument.

53.3 Jury Room

In the interest of public health, it is ordered that no smoking will be permitted in the jury room at any time by any person, whether a member of a jury or not.

## 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

In default or uncontested cases counsel for the prevailing party shall, on the day of rendition, present to the court for its approval the judgment or decree to be entered in the cause. The court shall then authorize the clerk to enter judgment as provided therein or as modified by the court. If a modification is made affecting the substantial rights of the parties, the parties shall be notified forthwith. (See Rules 42 and 51.1.)

## RULES RELATING TO PARTICULAR ACTIONS

## **RULE 61      ADOPTION**

### 61.1    Filing Requirements

At the time of filing the petition, counsel for petitioners shall file a Certificate of Adoption (Vital Statistics Report) on a form to be provided by the clerk, as required by Section 193.360, RSMo., 1978.

### 61.2    Home Study

Unless waived pursuant to Section 453.070, RSMo., 1978, upon the filing of a petition for adoption, the Division of Family Services or other agency designated by the court shall initiate an investigation of the suitability of the child for adoption and the suitability of the petitioners as parents for said child. The clerk shall notify the appropriate agency to conduct such investigation and file a written report thereof.

**RULE 62      DRIVERS' CASES      (See Rule 71.)**

### 62.1    Application for Hardship Driving Privileges

(No local rule.)

### 62.2    Petition for Review

(No local rule.)

### 62.3    Breathalyzer Test

(No local rule.)

## **RULE 63. ASSOCIATE DIVISION CASES - Preservation of Record**

- A. Pursuant to Supreme Court Administrative Rule 5.01, associate circuit judges are authorized to preserve the record by means of any recording devices approved by the State Courts Administrator.
- B. The following cases are heard on the record, as there is no right to trial de novo and appeals would be lodged with the Missouri Court of Appeals, Western District:
  - 1. criminal jury trials;
  - 2. civil jury trials;
  - 3. misdemeanor bench trials, including trials for violations of state statutes in traffic court;
  - 4. civil bench trials when the case has been assigned by the presiding judge pursuant to Section 517,.081, RSMo.;

5. civil bench trials when the amount demanded exceeds the amount specified in Section 571.011, RSMo.;
6. ordinance violations from the municipal divisions wherein the defendant has requested a trial de novo;
7. ordinance violations wherein the defendant has requested a jury trial pursuant to Supreme court Rule 37.61; and
8. administrative review pursuant to Chapter 536, RSMo.

C. The following types of cases are not heard on the record:

1. civil bench trials when the amount demanded does not exceed the amount specified in Section 517.011, RSMo.;
2. small claims cases;
3. ordinance violations wherein the associate circuit judge is sitting as the municipal division for any cities in the circuit;
4. preliminary hearings (except as provided by Supreme Court Rule); and
5. applications for limited driving privilege.

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

(No local rule.)

RULE 66      CONDEMNATION

(No local rule.)

RULE 67      CRIMINAL CASES

67.1      Pretrial Release

67.1.1      *Presentation of Request for Warrant and Issuance of Criminal Summons*

All requests for the issuance of warrants for arrest shall be presented to the court by the prosecuting attorney or by the assistant prosecuting attorney. The court may order issuance of criminal summons unless there is a showing of reasonable grounds for the court to believe that the defendant will not appear upon the summons.

67.1.2      *Motions to Set Bond and For Bond Reduction*

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. Such motions shall be filed with the division clerk where the case is pending. 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.

#### 67.1.3 *Deposit of Operator's License*

A. The officers of the Missouri State Highway Patrol and the Deputies of the Randolph and Howard Counties Sheriff's Offices are authorized, in their discretion, to accept the chauffeur's or operator's license, issued by the State of Missouri, of any person arrested and charged with violation of a traffic law of the State of Missouri or a traffic ordinance of Randolph or Howard County in lieu of any other security for his appearance to answer any such charge.

B. The licenses shall not be deposited in the following instances:

1. Driving while intoxicated;
2. Driving under the influence of intoxicating liquor or drugs;
3. Leaving the scene of a motor vehicle accident;
4. Driving while license is suspended or revoked;
5. Any charge made because of a motor vehicle accident in which a death has occurred.

The deposit of the license in lieu of other security shall be under, and subject to, the provisions of Section 554.045, RSMo.

#### 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.)

## Rule 67.5.1, Arraignment.

Upon waiver of preliminary hearing or upon bind over from Division Two, if the Associate Circuit Judge does not arraign defendant for Division One, said judge shall direct defendant to appear for arraignment in Division One on the next scheduled law day. If the Associate Circuit Judge arraigns the defendant for Division One, the defendant shall be directed to appear in Division One on the next scheduled law day which is at least ten days from said arraignment.

(No local rule.)

67.5.2 *Dates*

If the plea is not guilty, a date shall be set for the filing and hearing of all pretrial motions. Also, the judge will set the case for trial.

67.6 Discovery

(No local rule.)

67.7 Motions

(See Rule 33.) (No local rule.)

## Rule 67.8, Plea Bargaining.

Felony plea bargains may not include an agreement for probation, or for concurrent sentencing. Negotiated pleas shall be accepted only up to and including the pre-trial conference date. Thereafter, only open pleas of guilty shall be accepted.

## Rule 67.9, Guilty Plea.

When a plea of guilty is to be made, counsel shall fill out the Guilty Plea form provided by the Clerk, and the form, fully executed by counsel and by the Defendant, shall be provided to the Court prior to the commencement of the guilty plea hearing.

67.10 Calendar

(No local rule.)

67.11 Probation and Parole

(No local rule.)

67.12 Clerk's Procedure upon Filing of Pro Se Motion under Rule 24.035 or Rule 29.15

A. For Motions under 24.035. For all pro se motions for post-conviction relief filed under Rule 24.035, where sentence was pronounced on or after January 1, 1996, the Clerk shall enter the following order upon the docket of the case:

The Court appoints the Central Appellate Division for the State Public Defender to represent Movant in this 24.035 action, and the amended motion is due sixty days from either the date of this order or the date the guilty plea and sentencing transcript is filed in the circuit court, whichever is later. Clerk to notify.

B. For Motions under 29.15. For all pro se motions for post-conviction relief filed under Rule 29.15, where sentence was pronounced on or after January 1, 1996, the Clerk shall enter the following order upon the docket of the case:

The Court appoints the Central Appellate Division for the State Public Defender to represent Movant in this 29.15 action. Counsel is granted sixty days from the date of this order and the issuance of the appellate mandate in which to file the amended motion. Clerk to notify.

RULE 68      DISSOLUTION OF MARRIAGE

68.1      Filing Requirements

At the time of filing the petition, the attorney for the petitioner shall file a Certificate of Dissolution of Marriage (Vital Statistics Report) on a form to be provided by the clerk, as required by Section 193.205 RSMo.

68.2      Separation Agreement

In all cases where written separation agreements are made under the provisions of Section 452.325, RSMo., 1978, a copy of such executed agreement shall be submitted to the court prior to the hearing.

68.3      Forms of Decrees

(No local rule.)

68.4      Filing of Financial Statements

On a form obtained from the clerk, a statement of marital and non-marital property under oath of the party making the same shall be furnished to the court prior to the date of hearing in all cases filed for dissolution of marriage or legal separation. The statement shall include a brief description of the assets, the legal description of real estate, the estimated fair market value less encumbrances and the name of the party having possession or control. Also, on a form obtained from the clerk, a statement of income and expense shall be filed in all dissolution of marriage and legal separation actions, and in all motions to modify child support or maintenance. The statement shall, to the best of the ability of the party, list income of both parties from all sources and the anticipated separate expenses of the party making the statement together with the expenses of dependent children. In all contested dissolution cases, a copy of such statement of property, income and expenses shall be supplied to the opposing attorney not less than three (3) days prior to the date of hearing. Also, an income and expense statement shall be filed and supplied to the opposing attorney not less than three (3) days prior to the date of hearing a contested motion to modify child support or maintenance.

#### 68.5 Modification of Decree

(See Rule 68.4) (No local rule.)

#### 68.6 Presumed Child Support Amount

In all dissolution, legal separation, motion to modify and other cases tried on or about December 1, 1989, where custody and/or support of a minor child or children is at issue, each party shall complete and file with the Clerk, Civil Procedure Form No. 14, Presumed Child Support Amount. Further, the parties and counsel shall exchange such forms, and each shall have a duty to compare the same, and circle or otherwise note any differences in figures or calculation; and shall supply the compared forms to the court on or before the day of hearing, and if on the day of the hearing, prior to the taking of testimony.

#### 68.7 Parent Education Program

In actions for dissolution of marriage, legal separation, or motion to modify where there is at least one child under the age of seventeen, and the parties have not previously attended the court-approved parent educational session, both parties shall attend, at separate sessions, 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 modification, 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 or movant shall attend said program within 30 days of filing the petition or motion. The respondent shall attend said program within 30 days of the date of service of process or of receipt of the petition or motion of service is waived. If the petitioner or movant fails to attend said program within 30 days of the date of filing, the court may dismiss the pending case. If the respondent fails to attend said program within 30 days from the date

respondent was so served or waived such service, 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.

#### 68.8 Parent Education Scheduling and Program Fee

It is ordered that the fee for the parent education program is set at \$35.00 per participant, and that the petitioner/moving party's fee shall be collected by the clerk as part of the cost deposit at case filing. The clerk shall schedule the education session for the petitioner/moving party at the time of filing, and shall provide notice thereof. The fee for the respondent/responding party shall be paid to the clerk by certified check, cashier's check, or money order, and the clerk shall thereupon schedule the education session for the respondent/responding party and provide notice thereof.

The clerk shall deposit the parent education program fee in to a fund hereby established as the "Parent Education Fund", and which shall be used to pay the costs of parent education. The circuit clerk is designated as custodian and treasurer of the parent education fund, and shall pay the charges for the parent education program from these fees.

#### 68.9 Family Access Proceedings

It is ordered that, effective August 28, 1998, family access proceedings as defined by Section 452.400.3 et seq., not including motions for contempt, are assigned for hearing and determination to the associate circuit judge of the county in which the relief is sought.

It is further ordered that the record of any family access proceedings may be made by sound recording.

#### 68.10 Entry Of Judgment Upon Affidavit -- Requirements

- (a) Final Judgment Entered -- When. Final judgment in a proceeding for dissolution of marriage or legal separation, motions to modify, and actions for declaration of paternity may be entered upon the affidavit of either or both parties when:
- (1) There are no minor children of the mother and father and the mother is not pregnant, or at least one party is represented by counsel and the parties have entered into a written Parenting Plan determining custody, visitation and child support; and
  - (2) The adverse party has been served in a manner provided by the Missouri Rules of Civil Procedure or has formally filed a verified entry of appearance or responsive pleading; and
  - (3) There is no genuine issue as to any material fact; and
  - (4) There is no marital property to be divided or debts to be allocated, or the

parties have entered into a written agreement for the division of their marital property and allocation of their debts.

- (b) Affidavit -- Filing. If one party desires to submit the matter for entry of final judgment upon an affidavit, the submitting party shall file an affidavit per the Form contained in these rules setting forth sworn testimony showing the Court's jurisdiction and factual averments sufficient to support the relief requested in the proceeding, together with an original and three copies of the proposed judgment, a copy of any written agreement proposed for adoption by the Court, a completed Form 14 and parenting plan (if children are involved), and any other supporting evidence. The filing of such affidavit shall not be deemed to shorten any statutory waiting period required by law.
- (c) Notice of Request. Notice of the intention of either party to request the entry of judgment upon affidavit must be given in writing, filed with the affidavit, not less than 10 days prior to the date the affidavit is to be presented to the Court, unless such notice is specifically waived in writing by the other party, or the request for such relief is by agreement of both parties. Notice shall be given to legal counsel for the opposing party or to the opposing party, if not represented, with a copy of the notice and proof of service given filed with the court. No notice shall be required to be given to a party who is in default unless otherwise required by law.
- (d) Hearing Required -- When. The Court shall not be bound to enter a judgment upon the affidavits of either or both parties, but the Court may, upon its own motion, require that a formal hearing be held to determine any or all issues presented by the pleadings.

### **FORMS -- AFFIDAVIT FOR JUDGMENT**

IN THE CIRCUIT COURT OF \_\_\_\_\_ COUNTY, MISSOURI  
AT \_\_\_\_\_

\_\_\_\_\_,  
Petitioner,  
SSN \_\_\_\_\_

vs.

Case No. \_\_\_\_\_

\_\_\_\_\_,  
Respondent,  
SSN \_\_\_\_\_

### **AFFIDAVIT FOR JUDGMENT**

(Pursuant to Local Rule 68.10)

Comes now the above-named Petitioner/Respondent (strike out whichever one does not apply), and by this Affidavit applies for Judgment upon Affidavit, pursuant to Local Court Rule 68.10, and in support thereof, under Oath, states and affirms as follows:

(Mark "x" all that apply, and mark "n/a" or strike out all that do not apply)

1. Petition for Dissolution of Marriage/Legal Separation was actually filed on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, in the Office of the Circuit Clerk.
2. Service was obtained upon the Respondent on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by: \_\_\_\_\_ personal service \_\_\_\_\_ filing of waiver of service/entry of appearance.
3. This marriage occurred on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and is registered in the County of \_\_\_\_\_, State of \_\_\_\_\_.
4. Petitioner has been a resident of the State of Missouri for more than 90 days next preceding the filing of the original Petition.
5. More than 30 days have elapsed since the filing of the petition for dissolution of marriage.
6. Petitioner is a resident of \_\_\_\_\_ County, Missouri, and Respondent is a resident of \_\_\_\_\_ County, Missouri.
7. This marriage is irretrievably broken and cannot be preserved.
8. \_\_\_\_\_ There are no children born of this marriage; \_\_\_\_\_ All children born of this marriage are emancipated; \_\_\_\_\_ The custody temporary custody, visitation, and support of all minor unemancipated children listed below have been provided for in a written parenting plan and settlement agreement executed by both parents, attached hereto as an exhibit:

Child's Name

Child's  
Birthdate

Child's Social  
Security Number

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

9. The female spouse \_\_\_\_\_ is currently pregnant; \_\_\_\_\_ is not now pregnant.
10. There is no other litigation pending in this or any other state affecting the custody of the aforesaid minor children, nor anyone not a party to these proceedings who is known to affiant to be claiming any rights with respect to the minor children aforesaid, EXCEPT AS SET FORTH ON ATTACHMENT TO THIS AFFIDAVIT. CHECK HERE, \_\_\_\_\_ IF EXCEPTIONS ARE ATTACHED.
11. Neither party to this action is currently, to affiant's knowledge, on active duty in the Armed Forces of the United States or any of its Allies. CHECK HERE \_\_\_\_\_ IF EITHER PARTY IS ON ACTIVE DUTY, AND ATTACH EXPLANATION.
12. \_\_\_\_\_ All separate property and marital property of the parties has already been divided and debts allocated and/or there remains no separate or marital property subject to division by the Court.  
\_\_\_\_\_ All separate property and marital property of the parties has already been divided and debts have been allocated, PURSUANT TO A WRITTEN PROPERTY

SETTLEMENT AGREEMENT, executed by BOTH parties, a copy of which is attached to this Affidavit. Affiant asserts under oath that the attached agreement is fair and conscionable and requests that the Court approve same and incorporate same in any Decree to be entered, by reference (except as may be otherwise provided by said Agreement).

13. \_\_\_\_\_ Affiant waives and gives up for NOW AND FOREVER any maintenance from his/her spouse, and asserts that he/she understands that such a waiver is IRREVOCABLE if approved by the Court.

Affiant requests the Court to award \_\_\_\_\_ modifiable \_\_\_\_\_ non-modifiable  
MAINTENANCE as provided in the attached settlement agreement.

14. \_\_\_\_ No award of attorney's fees shall be made to either party.  
 \_\_\_\_ Petitioner/Respondent shall be awarded \$\_\_\_\_ for attorney's fees.
15. Court costs shall be assessed to the: \_\_\_\_ Petitioner; \_\_\_\_ Respondent;  
 \_\_\_\_ Both equally; \_\_\_\_ Waived (specify reason) \_\_\_\_;  
 \_\_\_\_ Other percentage division (specify) \_\_\_\_.

The undersigned, upon oath, asserts and affirms that the foregoing is true and correct.

Petitioner/Respondent  
(Strike whichever is inapplicable)

STATE OF MISSOURI )  
                             SS  
COUNTY OF          )

Subscribed and sworn to before me, a Notary Public, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

SEAL My commission expires \_\_\_\_\_.

NOTE: Submit with an Original and 2 copies of proposed judgment unless parties desire additional copies.

## Rule 68.11 Settlement Conference

A. Effective May 1, 2009, when a case is filed under Chapter 452, RSMo in which there are issues upon which no settlement can be reached within 60 days after service has been had upon the Respondent, it will be scheduled for a mandatory settlement conference before a judge not assigned to try the case. The settlement conference shall be conducted before a trial setting is obtained in the case, unless this requirement is waived by the Court.

B. The following rules shall apply to all settlement conferences:

1. Settlement conferences shall be held in a courtroom, if available. Conferences shall be 30 minutes in length. The attorneys intending to try the case shall be present. All parties shall be present. At the commencement of the conference, the attorneys shall meet briefly with the judge. Thereafter, the attorneys and the parties and the judge shall meet. The attorneys shall be prepared to make a succinct (2-3 minute) statement describing the matters at issue. The attorneys and the parties shall be prepared to discuss any issues involved in the case with the judge. Any statements made by the attorneys or parties at the conference shall not be admissible at trial.

2. The parties shall provide to the Court and to each other the following typed documents at least three days prior to the conference:

- a. A detailed list of all disputed matters;
- b. If misconduct is alleged, a brief description of the same;
- c. If any disputed matter is predicated upon the issue of law, the issue shall be described and the underlying supportive law shall be cited and provided;
- d. If attorney's fees are at issue, a current statement of attorney's fees.

3. The parties shall file with the Court three days prior to the settlement conference, the following then-current documents (the same shall be exchanged by the parties prior to the conference):

- a. If child support is at issue, Property, Income & Expense Statements and Forms 14;
- b. If property division or maintenance is at issue, Property, Income & Expense Statements;
- c. If custody is at issue, a parenting plan.

4. Prior to the conference, counsel shall endeavor to communicate with one another regarding the requirements of this rule.

5. Parties appearing pro se (without counsel) shall be bound in all respects by the terms of this rule and all applicable laws and rules.

6. If the parties can settle their issues at the conference, the agreement shall

be reduced to a written stipulation.

7. If contested issues cannot be resolved by the conference, it shall be set for trial before the judge who is assigned to the case, and no party will be bound by any agreement or statement or settlement offer made at the mediation session; nor shall the same be considered as evidence for any purpose at trial absent agreement of counsel, and disclosed to the judge trying the case.

8. In the event all issues are resolved as a result of the conference, and all parties and the settlement conference judge agree to hear and dispose of the case as an uncontested case at the conclusion of the conference/mediation, the judge may do so, otherwise, the case will be returned to the regularly assigned judge for disposition.

9. No costs shall be assessed for this judge-mediated settlement conference.

10. Failure of any attorney, or litigant, if there is no attorney of record, to be prepared for, appear at, or cooperate in the settlement conference may subject the attorney or litigant to any authorized sanctions, including an award of attorney's fees and expenses to any attorney or litigant prejudiced or inconvenienced by such conduct. The Court may excuse an attorney's or litigant's failure to appear only upon good cause shown.

## RULE 69 MUNICIPAL DIVISION (See Rules 4, 5, 6 and 7)

### 69.01 Jurisdiction and Administrative Authority

Pursuant to Section 479.010, RSMo., all violations of municipal ordinances heard in the counties of Howard and Randolph shall be tried before divisions of the Fourteenth Judicial Circuit Court. The Presiding Judge of the Circuit shall have general administrative authority over the judges and court personnel of the Municipal Divisions within the Circuit.

### 69.02 Selection, Tenure and Compensation of a Municipal Judge

Any municipality choosing to establish a municipal division of the Circuit Court with a municipal judge presiding shall provide by ordinance for the selection, tenure and compensation of a municipal judge. A copy of said ordinance shall be filed with the Presiding Judge of the Circuit Court. Any amendments to this ordinance shall be submitted to the Presiding Judge of the Circuit Court within 15 days of passage.

The Court will promulgate additional rules relating to traffic tickets, traffic violations bureau, bond schedule, financial bookkeeping procedures, case record keeping and records retention and destruction.

## RULE 70 PARTITION

In all suits in partition and in all suits in which a guardian ad litem may be appointed by the court, fees will be allowed by the court in the following amounts, unless such amount shall be changed for good cause shown to the court by any party or unless, by agreement of the parties, a different amount is fixed by the court:

Guardian ad litem's fee	\$ 75.00
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Partition suit:

Fees shall be based on the proceeds of the sale of the property as follows:

\$0 to \$2,000	\$ 250.00
\$2,000 to \$25,000	\$ 250.00 plus 7% of amount in excess of \$2,000
\$25,001 to \$50,000	\$ 1,860.00 plus 5% of amount in excess of \$25,000
Over \$50,000	\$ 3,110.00 plus 3% of amount in excess of \$50,000

## RULE 71 ADMINISTRATIVE REVIEWS

(See Rule 62 Drivers' Cases.) (No local rule.)

RULE 72      PROBATE

(No local rule.)

## RULE 73 SMALL CLAIMS

(No local rule.)

RULE 74 TRUST ESTATES

## 74.1 Inventory

Within thirty (30) days after appointment every trustee shall file and present to the division of the circuit court wherein he was appointed, an inventory in writing of the property and effects comprising the trust estate.

## 74.2 Reports

Every trustee shall annually at such time as ordered by the court and at such other times as ordered, file and present a report in writing of the condition of the trust.

### 74.3 Record

It shall be the duty of the clerk of the appointing circuit court to maintain a record listing the number of the cause, the style, and the date the proceeding was filed, and the date the appointment was made, so that the circuit court shall be advised of the pendency of proceedings in which trustee's reports are required to be filed.

### 74.4 Audit

(No local rule.)

## POSTTRIAL

### RULE 81 EXECUTION

Executions shall not be issued by the clerk except upon written application therefor verified by the oath of the judgment creditor or his attorney. The written application shall contain the following:

- 1) Style and number of case in which judgment was obtained;
- 2) Date judgment entered or last revived;
- 3) The amount of the original judgment, the amount of accrued interest on the original judgment, and the amount of the judgment and interest still unsatisfied;
- 4) The full name and current address, if known, of the judgment debtor;
- 5) A full description of the property to be executed on;
- 6) The return date on the execution (30, 60, or 90 days);
- 7) Any special instructions to be provided the sheriff performing the execution.

### RULE 82 GARNISHMENT

(No local rule.)

### RULE 83 JUDICIAL SALES

(No local rule.)

### RULE 88 DISSOLUTION, LEGAL SEPARATION AND CHILD SUPPORT

## Rule 88.01 Presumed Child Support Amount

When determining the amount of child support to order, a court or administrative agency shall consider all relevant factors, including:

- (a) The financial resources and needs of the child;
- (b) The financial resources and needs of the parents;
- (c) The standard of living the child would have enjoyed had the marriage not been dissolved;
- (d) The physical and emotional condition of the child; and
- (e) The educational needs of the child.

There is a rebuttable presumption that the amount of child support calculated pursuant to Civil Procedure Form No. 14 is the amount of child support to be awarded in any judicial or administrative proceeding for dissolution of marriage, legal separation, or child support. It is sufficient in a particular case to rebut the presumption that the amount of child support calculated pursuant to Civil Procedure Form No. 14 is correct if the court or administrative agency enters in the case a written finding or a specific finding on the record that the amount so calculated, after consideration of all relevant factors, is unjust or inappropriate.

## INTERNAL ORGANIZATION

### RULE 100

#### 100.1 Presiding Judge

##### 100.1.1 *Election*

(No local rule.)

##### 100.1.2 *Duties of Presiding Judge*

The presiding judge is the general administrative authority of the court. In this function he shall 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.

The presiding judge has the authority to assign cases to judges and judges to divisions, but he is not to assign 1) a municipal judge to hear any case other than to initially hear municipal ordinance violation cases, 2) a judge to try a felony case when he has conducted the preliminary hearing, 3) a case to a judge contrary to Supreme Court Rule or these rules.

The meetings of the court en banc may be called by the presiding judge upon notice to other members of the court. The presiding judge has one vote and a majority vote rules. The presiding judge may call a special term of court. The presiding judge may appoint a secretary and any additional personnel to aid in the judicial business of the circuit.

#### 100.1.3 *Dispute Resolution, Procedure*

(No local rule.)

### 100.2 Local Court Rules

#### 100.2.1 *Formulation*

The local court rules for the Fourteenth 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 in accordance with provisions of Supreme Court Administrative Rules 6.02 and 6.03.

### 100.3 Library Fund

- 1) The Law Library Fund shall consist of the monies collected pursuant to these rules, and the respective circuit and associate division clerks of the counties shall collect said monies. The sum of ten dollars (\$10.00) shall constitute the Randolph County Law Library Fee for Division One cases, and the sum of five dollars (\$5.00) shall constitute the Randolph County Law Library Fee for Chapter 517 Division Two cases. The sum of five dollars (\$5.00) shall constitute the Howard County Law Library Fee for both Division One and Chapter 517 Division Two cases.
- 2) On the first day of each month, the various circuit clerks shall pay the entire fund created by said deposits during the preceding month to the treasurer of said fund. The circuit clerks are hereby designated as the treasurers of said funds.
- 3) Said funds shall be applied and expended under the direction and order of the presiding judge of this circuit for the maintenance and upkeep of a law library in each county.
- 4) The presiding judge of this circuit and all officers of all courts of record in each county, and attorneys licensed to practice law in this state shall be entitled at all

reasonable times to use said library.

- 5) The treasurer of the law library fund of each county in the circuit, upon approval by the presiding judge of the circuit, shall pay from said fund such bills and charges as shall from time to time become due for maintenance of said law libraries.

#### 100.4 Storage of Records

##### 100.4.1 *Reproduction, Preservation, Archival Storage 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 Reporter 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

(No local rule.)

100.5.1 *Monies Paid Into Court*

(No local rule.)

100.6 Selection of Veniremen

(No local rule.)