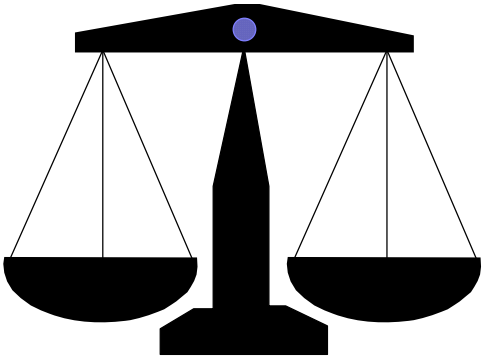
RULES OF THE CIRCUIT COURT of the ELEVENTH JUDICIAL CIRCUIT

STATE OF MISSOURI



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ADMINISTRATION

RULE 1 DIVISIONS OF COURT

The Eleventh Judicial Circuit shall for the purposes of these rules be composed of Division I through XII, Municipal Divisions, Probate Division and Small Claims Court in St. Charles County.

(a) The divisions of the Circuit Court which are presided over by Circuit Judges shall be known as “Circuit Judge, Division No. 1”, “Circuit Judge, Division No. 2”, “Circuit Judge, Division No. 3”, “Circuit Judge, Division No. 4”, "Circuit Judge, Division 5", and "Circuit Judge, Division 7.

(b) The divisions of the Circuit Court which are presided over by Associate Circuit Judges shall be known as “Associate Judge, Division No. 6”, “Associate Judge, Division No. 8”, Associate Judge, Division 9", "Associate Judge, Division 10", "Associate Judge, Division 11", and "Associate Judge, Division 12".

(c) The Probate Judge shall be the Circuit Judge so designated by the Presiding Judge to hear cases of the Probate Division of the Circuit Court of St. Charles County.

(d) The Administrative Family Court Judge shall be the Circuit Judge so designated by the Presiding Judge to hear cases of the Family Court Division of the Circuit Court of St. Charles County.

(e) There shall be Municipal Divisions of the Circuit Court in St. Charles County.

(1) If any municipality in St. Charles County elects to retain its Municipal Judge, the Municipal Judge shall hear and determine municipal ordinance violations in the Municipal Division of the Circuit Court located in the municipality so electing to retain its Municipal Judge.

(2) If any municipality in St. Charles County elects not to retain its Municipal Judge, municipal ordinance violations shall be heard and determined by an Associate Judge.

(f) Small claims cases shall be heard by Associate Judges in the Small Claims Court of the Circuit Court of St. Charles County.

(Eff. Nov. 1, 1991. Amended, eff. Aug 28, 2000, Amended 1/2/07)

RULE 2 HOURS AND TERMS OF COURT

2.1 HOURS OF COURT

All divisions of this court shall open at 9:00 o'clock in the forenoon of each day of court. Special appointments and settings for any other time shall be made with the Judge of the division involved.

(Eff. Nov. 1, 1991. Amended, eff Jan. 15, 2992; Eff. Aug. 28, 2000)

2.2 TERMS OF COURT

The terms of Court shall commence on the Second Monday in January, April, July and October.

(Note: When such Law Day or Term Day falls on a legal holiday, it will be held on the following day.)

(Eff. Nov. 1, 1991. Amended, eff Aug. 28, 2000)

2.3 LAW DAYS

(a) All motions or other matters preliminary to trial may be heard on any Law Day in the division the case was assigned upon five (5) days service upon or eight (8) days if by mail and written notice to adverse parties or by consent of the parties.

(b) Default: Cases in default may be prosecuted to final judgment in any division on any Law Day.

(c) Counsel serving said notice or desiring action by the Court on said motion, preliminary matter or default, shall notify the Clerk of the court no later than noon the last working day before any Law Day that said cause is to be heard.

(d) The calendar for Law Days as adopted may be obtained from the Circuit Clerk's Office.

(e) Oral arguments on motions or other matters preliminary to trial shall be no longer than ten (10) minutes for each party with moving party permitted to divide total time with not more than five (5) minutes for rebuttal. On application by either party the court may grant additional time.

(f) No motion, default or other preliminary matters requiring twenty (20) minutes or more for presentation shall be heard on any Law Day unless waived by the Court. On any Law Day such matters may, on proper notice, be given a special setting.

(Eff. Nov. 1, 1991. Amended, eff. Aug. 28, 2000)

2.4 PARTICULAR MATTERS ON PARTICULAR DAYS

(No local rule)

RULE 3 PLEADINGS

3.1 CAPTIONS

Pleadings which are filed within this Circuit shall be captioned in the following manner, and any pleadings not so captioned shall be returned by the Clerk to the party attempting to file the same.

(Eff. Nov. 1, 1991. Amended, eff. April 1, 1994.)

3.2 STYLE

(a) Circuit Judge cases:

IN THE ELEVENTH JUDICIAL CIRCUIT, STATE OF MISSOURI
CIRCUIT JUDGE DIVISION

(b) Probate cases:

IN THE ELEVENTH JUDICIAL CIRCUIT, STATE OF MISSOURI
PROBATE DIVISION

IN THE ESTATE OF JOHN DOE, DECEASED

(c) Family Court cases:

IN THE ELEVENTH JUDICIAL CIRCUIT, STATE OF MISSOURI
FAMILY COURT DIVISION

In marriage cases:

IN RE THE MARRIAGE OF:

JANE DOE,
PETITIONER,
AND

JOHN DOE,
RESPONDENT.

In all other cases:

IN THE INTEREST OF JOHN DOE

(d) Municipal cases:

IN THE ELEVENTH JUDICIAL CIRCUIT, STATE OF MISSOURI
(NAME OF CITY), MUNICIPAL DIVISION

CITY OF _____,	)	
PLAINTIFF	)	
VS.	)	CASE # _____
JOHN DOE,	)	
DEFENDANT	)	

(e) Associate Circuit Court cases **not** in excess of $5,000:

IN THE ELEVENTH JUDICIAL CIRCUIT, STATE OF MISSOURI
ASSOCIATE JUDGE DIVISION

(f) Associate Circuit Court cases in excess of $5,000:

IN THE ELEVENTH JUDICIAL CIRCUIT, STATE OF MISSOURI
ASSOCIATE JUDGE DIVISION CLAIM IN EXCESS OF $5,000

(g) Title of action:

In the title of all actions there shall include a title of the action which shall be in the following form: "Petition for _____ (here insert a short and concise statement of the type of action being filed.) Any petition not so titled shall be returned by the Clerk to the party attempting to file the same.

(Eff. Nov. 1, 1991., Amended 10/6/03, Amended 1/2/07)

3.3 PLEADINGS AND PAPERS – SIZE

All pleadings and other papers, except exhibits and Wills, offered for filing in any court within the Eleventh Judicial Circuit, and all forms used in any such court, including opinions, shall be on a paper of a size not larger than 8 ½ x 11 inches. An exhibit may be on paper larger than 8 ½ x 11 inches. Briefs shall be prepared as provided in Supreme Court Rules 81.17 and 84.06.

Pleadings, Motions, Suggestions, Briefs and other papers and documents except exhibits, filed or submitted to the Court shall be plainly, clearly and legibly typed or printed and double-spaced (except on lined forms with indicated spacing) and shall otherwise comply with Supreme Court rules and rules of this circuit.

(Eff. Nov. 1, 1991, Amended 1/2/07)

3.4 FILING BY FACSIMILE TRANSMISSION

Whenever only one copy of a motion, pleading or other document is required to be filed, and no filing fee or cost deposit is required for the filing, the document may be filed with the Court by facsimile transmission pursuant to Rule 43, unless the document is required to be electronically filed by rule. Unless a document is required to be filed electronically, a document received by facsimile

transmission will be deemed as of the date and time recorded by the facsimile. The party transmitting the document is responsible for the completeness of the transmission.

Waiver of these rules may only be granted by the Court.

(Adopted, eff. June 5, 1995, Amended Dec. 2, 2011

RULE 4 FILING OF CASES

4.1 CRIMINAL CASES

(a) All criminal cases except those enumerated in paragraph (b) herein shall be filed with the Criminal Division. Upon receipt of the original pleading, the said clerk shall mark said document "filed", set forth thereon the date of such filing, assign to said document the next chronological number and prepare such other documents necessary for the recording of the transactions and the indexing of such action. All criminal cases filed by complaint, shall be assigned to the appropriate Associate Circuit Judge**,** all criminal cases filed by indictment or change of venue shall be assigned to the appropriate Circuit Judge and such assignment shall be determined by a selection process approved by the Court except in the following cases:

1. When a new criminal case is filed wherein the named defendant is also a defendant in an active criminal case pending before a Judge, the new case may be assigned to the same judge as the pending case; and

2. Only one defendant may be named in each criminal case. When cases are filed wherein more than one defendant is a co-defendant in the same alleged criminal offense, all cases naming the co-defendants may be assigned to the same Judge. The Judge shall be determined by the selection process approved by the Court.

(b) Uniform Traffic Tickets, Conservation and Water Safety Division matters shall be filed directly by the appropriate authority in the Traffic Division of the Circuit Court.

(c) Upon receipt of said file and the records of such assigned action, the clerk shall be charged with the responsibility of issuing process and making and storing of the electronic and/or written records of the case until it is finally determined by the assigned Judge.

(d) Upon final determination by the Judge of such division, the clerk shall mark the file closed and retain the file for permanent storage.

(Eff. Nov. 1, 1991. Amended, eff. May 1, 1992, Aug. 28, 2000, Dec. 9, 2002, May 5, 2003, Dec. 3, 2012)

4.1.1 SEARCH WARRANTS

All Court records pertaining to Applications/Affidavits for Search Warrants and Search Warrants issued pursuant thereto shall be maintained as closed records unless and until a return is made thereon, or the record is opened by order of the issuing judge.

(Adopted, eff. April 1, 2002.)

4.1.2 FILING ARREST WARRANTS BY FACSIMILE TRANSMISSION

Filing by facsimile transmission of arrest warrants, complaints with attached probable cause statements, and indictments shall have the same effect as the filing of an original document, even though it may be required to be verified or submitted by affidavit. A facsimile signature shall have the same effect as an original signature. The person filing by facsimile transmission shall thereafter file the original with the facsimile.

(Adopted, eff. April 1, 2002)

4.2 CIVIL CASES

(a) The commencement of Civil Division actions shall be upon the filing of the original pleading with the Civil Division of the Circuit Clerk. Upon receipt of the original pleading, the required filing fee and the appropriate "Civil Court Party Information Sheet", said clerk shall mark said document as "filed", set forth thereon the date of such filing, assign to said document the next chronological number and prepare such other documents necessary for the recording of the transaction and the indexing of said action.

(b) In any action in which the original jurisdiction is or has been solely in the Circuit Judge Division, the said clerk shall perform all duties described in paragraph 1 above with respect to the filing of the original petition, shall receive all subsequent pleadings in the case and maintain the records of the case such as to properly reflect the Court's proceedings.

1. The said Clerk shall keep and maintain separate file cabinets in which shall be kept and deposited the current files of actions above described pending before the Circuit Judge Division, unless the case is maintained electronically.

2. When such action is finally determined, the said clerk shall remove the file of such case from the file cabinet containing the current files of matters pending before the Civil Division an shall place or properly record such file in a separate cabinet or other container designated for the permanent storage of such records of the Court, unless the case is maintained electronically.

(c) In any action commenced by the filing of the original pleadings and determined as an Associate Civil case of the Circuit Court, shall be filed in the Civil Division of

the Circuit Court. The clerk shall perform the various required duties described in paragraph (a) above.

1. The clerk shall be charged with the responsibility of issuing process and making and storing of the electronic and/or written records of the case until it is finally determined by the Judge of that division.

2. Bulk filing shall be authorized in Associate Civil cases by attorneys and/or law firms which file in excess of fifty (50) civil cases per year, if said attorney or law firm files a request in the Circuit Court as a bulk filer. The Associate Circuit Judges shall assign such cases to the appropriate Associate Circuit Judge. Provisions shall be made to keep an equal distribution of civil cases assigned to each division.

3. Upon final determination by the Judge of such division, the Division Clerk shall mark the file closed and retain the file for permanent storage.

(Eff. Nov. 1, 1991. Amended, eff. May 1, 1991; Aug. 28, 2000, Dec. 9, 2002, Dec. 3, 2012.)

4.2.1 SPECIAL PROCESS SERVER

Service of process may be made per § 506.140.1 RSMo by some person specially appointed by the court or the circuit clerk for service in any cause, but such appointment shall be valid for service of the process only for which such person was specially appointed.

Any application for the appointment of a special process server shall be in writing, shall be at the risk and cost of the party making the application and shall state that the person to be appointed is qualified to serve process.

(Adopted, eff. Feb. 4, 2002, Amended 9/8/08)

4.2.2 CONDEMNATION CASES

The Plaintiff filing suit for eminent domain shall schedule with the court to provide the names of condemnation commissioners at least 7 days prior to hearing date.

(Adopted May 5, 2003)

4.3 PROBATE CASES

(a) All original pleadings including will and initial application for letters shall be filed with the Probate Division.

(b) The Probate Division Clerk shall be charged with all responsibilities of issuing process and making and storing of the records of the case.

(eff. Nov. 1, 1991. Amended, eff. August 28, 2000.)

4.4 JUVENILE CASES

(No local rule)

4.5 SMALL CLAIMS CASES

(a) All Small Claims shall be filed directly by the appropriate authority in the Civil Division of the Circuit Court.

(b) The clerk of said division shall make, keep and properly reflect the Court's proceedings of such actions maintained in such divisions.

(Eff. Nov. 1, 1991. Amended, eff. August 28, 2000, Dec. 9, 2002.)

4.6 MUNICIPAL CASES

All Municipal ordinance violations shall be filed in the appropriate Municipal division.

(Eff. Nov. 1, 1991. Amended, Eff. August 28, 2000.)

RULE 5 FEES AND COSTS

5.1 FILING FEE AND COST DEPOSIT

Certain fees are set by statute and vary from time to time, therefore, costs deposits will be established by orders of the respective divisions and a schedule of the amounts can be obtained from the Circuit Clerk's Office.

(Eff. Nov. 1, 1991. Amended June 2, 1997, eff. July 1, 1997. Amended, eff. Aug. 28, 2000.)

5.2 COSTS

The Circuit Clerk shall be responsible for the collection of all costs except:

Fees in a case pending in a Municipal Division;

(Eff. Nov. 1, 1991. Amended prior to June 2, 1997. Amended, eff. Aug. 28, 2000, Dec. 9, 2002.)

5.3 WITNESS FEES

(No local rule)

5.4 WAIVER OF FEES

(No local rule)

5.5 MOTION FOR SECURITY

(a) Further security for costs may be required upon motion of defendant, the Court, or any other officer of the Court. Upon the hearing of a motion for security of costs, or to sue as a poor person, the burden of proof of establishing the grounds therefor shall be upon the party filing such motion, except when such motion is filed by the Court.

(b) In lieu of filing motion for security costs, the court reporter may require a deposit for estimated cost of transcript on appeal.

(Eff. Nov. 1, 1991. Amended, eff. Aug. 28, 2000.)

5.6 PAYMENT OF COURT COSTS AND FINES

Payment of court costs and fines may be made by cash, money order, cashier's check or credit card. Credit cards will be accepted as of November 1, 2008.

(Adopted, eff. June 5, 2000. Amended, eff. Aug. 28, 2000, Amended Sept. 8, 2008.)

5.7 TIME PAYMENT FEE

Any judgment, penalty, fine, sanction or court cost not paid in full within thirty days of the date of the court imposed the judgment, penalty, fine, sanction or court cost shall have an additional time payment fee of twenty five dollars imposed.

(Effective October 1, 2003)

5. 8 CASES REFERRED FOR DEBT COLLECTION

Pursuant to Section 488.5030, RSMo St. Charles County Circuit Court has contracted with CSI (Client Services Inc.), a private collection agency, to collect past-due court-ordered penalties, fines, restitution, sanctions, court costs, including restitution and juvenile monetary assessments, or judgments due to the court.

Unless exempted by the court, cases are automatically referred for collection when the balance becomes sixty days past due. Pursuant to section 488.5030 RSMo, a fee equaling twenty percent of the amount due the court will be added to the balance due on the case. The additional twenty percent covers the cost of collection and shall be retained by CSI from the funds received, prorated to the amount collected. The remaining portion will be forwarded to the Clerk/Court Services and credited toward the balance due.

For any outstanding warrant issued for failure to pay fines and costs, on or before June 4, 2004 by St. Charles County Circuit Court, the St. Charles County Sheriff shall add twenty percent to the cash bond set by the issuing judge, and prior to release of the defendant, shall collect the total cash bond amount plus the

additional twenty percent and pay the total amount over to the Circuit Court. The circuit court will receipt and credit the cash bond amount plus the collection fee and forward the total to CSI. If the case has not been referred to CSI for collection, the difference in the bond amount and the full amount of fines and costs will be refunded to the defendant by the Circuit Court.

(Adopted August 2, 2004, Amended Dec. 3, 2012)

5.9 OVERPAYMENT/UNDERPAYMENT OF COURT COSTS

Pursuant to Section 488.014 RSMo., the Circuit Clerk's Office shall not be required to refund any overpayment of court costs in an amount not to exceed five dollars or to collect any due court costs in an amount less than five dollars. Any overpaid funds are to be retained in an account with the county, and expended by the circuit clerk for the operation of the court.

(Adopted, eff. Sept. 6, 2005)

RULE 6 ASSIGNMENT OF JUDGES, CASES AND TRANFER OF CASES

6.1 ASSIGNMENT TO ASSOCIATE CIRCUIT JUDGES

Criminal cases and civil cases of limited jurisdiction shall be immediately docketed for hearing before an Associate Circuit Judge by the appropriate division clerk, pursuant to an Individualized Docketing Plan approved by the Court, except as provided in Rule 4.1 (a) and 2 and Rule 4.2 (c) (2).

(eff. Nov. 1, 1991. Amended, eff. May 1, 1992; Aug. 28, 2000, Amended 1/2/07.)

6.2 ASSIGNMENT TO CIRCUIT JUDGES

All cases filed by Plaintiff that request a monetary judgment in excess of $25,000.00, shall be filed in the Circuit Judge Division, with the exception of Rent and Possession Cases, Unlawful Detainer Cases and any cases within the exclusive jurisdiction of the Associate Divisions.All Circuit Court cases shall be assigned immediately upon filing in the Circuit Court

to a division pursuant to an Individualized Docketing Plan approved by the Court.

(Eff. Nov. 1, 1991. Amended, eff. April 1, 1994; Aug. 28, 2000, May 5, 2003, Dec. 2, 2011)

6.3 CERTIFICATION TO CIRCUIT DIVISION

(No local rule)

6.4 TRIAL DE NOVO

(No local rule)

6.5 DISQUALIFICATION OF JUDGE

Immediately upon disqualification of any Associate Circuit Judge the cause shall be automatically assigned, by the appropriate associate division, on a random basis, to another Associate Circuit Judge without further order. If all Associate Circuit Judges are disqualified the cause shall immediately be given to the Presiding Judge for reassignment.

Immediately upon disqualification of any Circuit Judge the cause shall be given to the Presiding Judge for reassignment.

(Eff. Nov. 1, 1991. Amende, eff Aug. 28, 2000, Dec. 9, 2002, May 5, 2003.)

6.6 ABSENCE OF JUDGE

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

(Eff. Nov. 1, 1991. Amended, eff. Aug 28, 2000.)

6.7 ABSENCE OF PRESIDING JUDGE

In the event that the Circuit Judge, who serves as Presiding Judge pursuant to Rule 100.1.1, is from time to time, absent from the circuit or is disabled or disqualified from acting in the capacity of Presiding Circuit Judge in any case or matter whatsoever, then, during any such period of absence or disability, or as a result of such disqualification, a majority of the other Circuit Judges of this circuit shall appoint an Acting Presiding Circuit Judge who may exercise the responsibilities prescribed by law for Presiding Circuit Judges. Anything herein to the contrary notwithstanding, this rule shall not be interpreted as intending to apply to the type of disqualification referred to in subparagraph 1 of Section 478.240, RSMo 1978, and in Article 5, Section 24, Missouri Constitution.

For a general discussion of the duties of the Presiding Circuit Judge, see Rule 100.1.2.

(Eff. Nov. 1, 1991. Amended, eff. Aug. 28, 2000.)

RULE 7 WITHDRAWALS OF PAPER FROM CLERK'S OFFICE

7.1 WHEN ALLOWED

No official files of the Circuit Court or any division thereof shall leave the Office of the Circuit Clerk or the Office of any Division Clerk except in the custody of employees of the Circuit Court.

(Eff. Nov. 1, 1991.)

7.2 DUPLICATING POLICY

Requests for duplicate copies of court recorded testimony taken using sound recording equipment should be directed to the clerk of the division in which the case was heard.

Copies of a court hearing taken using digital sound recording will be duplicated by the circuit clerk's office after receipt of a fee of $3.50 per CD. Copies of a court hearing taken using

analog sound recording equipment will be duplicated from the tape by the Office of State Courts Administrator after the filing of a deposit with the circuit clerk's office and will be charged at a rate set by the Office of State Courts Administrator.

(Adopted Mar. 3, 2003, Aug. 2, 2004, eff. Aug. 28, 2004)

RULE 8 PUBLICATION OF DOCKETS

8.1 TRIAL DOCKET

(No local rule)

8.2 DISMISSAL OF INACTIVE CASES

(a) Any case filed in the Circuit Court (excluding domestic, juvenile and probate cases) in which there has been no activity for the preceding six (6) months shall be subject to dismissal by the court for failure to prosecute. Upon order of the court a notice of intent to dismiss any such inactive case shall be sent by the Circuit Clerk to all parties by U.S. Mail or Electronic Notice. Said notice shall include a date of dismissal at least thirty (30) days after the date on the notice.

(b) Any case for which a notice pursuant to rule 8.2 (a) has been sent, may be reinstated to active status by Order of the Court, upon a party's filing, prior to the date set for dismissal, a written motion requesting that said cause be reinstated to active status. Said motion shall be accompanied by a request for trial setting which specifies that the trial is to be a jury trial or that a jury trial is waived and which states the estimated length of the trial.

(c) If no motion to reinstate a case to active status is filed before the intended dismissal date, the judge assigned to the case may order that the case be dismissed for failure to prosecute.

(d) The Circuit Clerk shall send by U.S. Mail or Electronic Notice a copy of any order dismissing a case per Rule 8.2 (c) to all

attorneys of record, and if there is no attorney of record, to the party.

(e) Any order of dismissal entered pursuant to Rule 8.2 (c) may be set aside by Order of the Court upon a party timely filing a written motion requesting reinstatement and upon good cause shown. Any motion to set aside an order of dismissal shall be accompanied by a written request for trial setting which specifies that the trial is to be a jury trial or that a jury trial is waived and which states the estimated length of the trial.

(Eff. Nov. 1, 1991. Amended, eff. April 1, 1994; Jan. 1, 1995; Jan. 3, 2000, eff. March 1, 2000, Sept. 10, 2012.)

RULE 9 COURTROOMS

9.1 ASSIGNMENT OF COURTROOM

(No local rule)

9.2 PLACE OF HEARING

(No local rule)

9.3 USE OF COUNSEL TABLE

(No local rule)

9.4 COURTROOM DECORUM AND DRESS

(No local rule)

9.5 WHO IS PERMITTED WITHIN BAR

(No local rule)

RULE 10 COURT REPORTERS AND COMPENSATION FOR SAME

(No local rule)

RULE 11 RECORDING OF JUDICIAL PROCEEDINGS

11.1 NO UNAUTHORIZED RECORDINGS, PHOTOGRAPHING, BROADCAST; EXCEPTIONS

No person shall broadcast, televise, record or take photographs by any means, including but not limited to cell phones, within the St.Charles County Courts Administration Building, except for the following:

(a) Court personnel authorized to preserve the record.
(b) Recording of preliminary hearings authorized by the judge conducting the hearing.
(c) Wedding parties
(d) Adoption ceremonies, with the permission of the judge presiding over the proceeding.

11.2 PROCEDURE TO REQUEST PERMISSION

All other persons intending to bring a camera or any other device other than a cell phone, capable of making an audio or visual recording into the St. Charles County Courts Administration Building shall first complete a written request and obtain approval for such authorization. Such request shall contain the purpose and destination of any such recording equipment. Upon receiving request, security personnel shall communicate with the appropriate person or persons authorized to approve such request.

11.3 THOSE AUTHORIZED TO GRANT PERMISSION

For the purpose of this Rule, "persons authorized to approve such requests' are the following, when the requested use is for the approver's office:

(a) Any circuit or associate circuit judge.
(b) The prosecuting attorney or his or her designee.
(c) The circuit clerk.
(d) The director of facilities.
(e) The public defender.

(Eff. Nov. 1, 1991, amended Dec. 9, 2002, amended June 5, 2006, Aug. 7, 2006)

RULE 12 MONIES PAID INTO COURT

12.1 BOND IN CIVIL CASES

(No local rule)

RULE 13 COMMUNICATIONS WITH COURT

13.1 ORAL COMMUNICATIONS WITH THE COURT

The Court will not permit private interviews, arguments, or communications where interests to be affected thereby are not represented, except in cases where provisions are made by law for ex parte communications. Any such attempt will be summarily terminated by the Court.

(Eff. Nov. 1, 1991.)

13.2 WRITTEN COMMUNICATIONS WITH THE COURT

Ex parte communications to a judge will not be considered confidential, and same will be placed in the court file in the Clerk's Office, open to public inspection.

(Eff. Nov. 1, 1991.)

GENERAL RULES

RULE 21 ATTORNEYS

21.1 RESOLUTION OF CONFLICTING TRIAL SETTINGS

(a) If more than one case, in which the same attorney appears, to be set for trial in different divisions at the same time, the following priorities shall govern:

(1) Circuit Judge Division cases shall have precedence over Associate Judge Division cases.
(2) Criminal trials shall have precedence over civil trials; and

(3) The oldest case filed shall have precedence over all other cases.

(b) Should trial in one division be delayed because an attorney is engaged, said cause shall be returned to the trial docket to be reset for trial upon request of any party.

(c) If a trial setting in a division is delayed because an attorney is engaged in an argument before an appellate court, or in another circuit court, said cause shall be returned to the trial docket to be reset for trial upon request of any party.

(Eff. Nov. 1, 1991. Amended, eff. April 1, 1994.)

21.2 ENTRIES OF APPEARANCE

No written entry of appearance will be accepted in lieu of service of summons unless the same shows that defendant has received a copy of the petition, and has been acknowledged in the same manner as deeds of conveyance are required by law to be executed.

(Eff. Nov. 1, 1991.)

21.3 CONDUCT OF ATTORNEYS

(a) When addressing the Court, attorneys shall stand and only one argument will be heard from each side, except that the counsel first raising the point has the right to close by answering the argument of his adversary.

(b) Where more than one attorney represents a party only one attorney shall examine or cross-examine each witness, such counsel shall be changed only by leave of Court.

(c) In criminal cases, with more than one defendant represented by different counsel, the order of examination shall be determined by the Judge presiding at the trial.

(d) While examining a witness, counsel shall stand or sit at the counsel table, in such manner that all attorneys engaged in the trial as well as the court and the jury may have a full view of the witness.

(e) In case of disagreement as to the location of counsel at the table, counsel for the plaintiff or for the State shall take the table closest to the jury.

(f) When objecting to the introduction of any evidence, counsel shall state explicitly the ground of objection without argument.

(g) Counsel shall be expected to dress appropriately and shall inform the parties and any prospective witness that appropriate dress shall be required.

(Eff. Nov. 1, 1991. Amended, eff. April 1, 1994.)

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 Rule 4.V.A.M.R., ("Code of Professional Responsibility") Canon 2, Ethical Consideration 2-32 and Disciplinary Rule 2-110. Any 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, unless the withdrawal request pertains to disposed cases referred to in paragraph (f):

(a) The attorney shall file a written motion requesting leave of Court to withdraw. 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.

(b) 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 V.A.M.R., 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.

(c) 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.

(d) 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 in subparagraph "2" above.

(e) 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 conform to Rule 4 EC 2.32 of the Missouri Supreme Court.

(f) Any disposed case where the attorney of record did not file a withdrawal request after disposition, may request the court to allow them to withdraw without appearing in open court.

(Eff. Nov. 1, 1991, Amended Deec. 3, 2012.)

21.5 FAILURE OF ATTORNEYS TO ANSWER CALL DOCKET

When any case or matter pending is called for trial, 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.

(Eff. Nov. 1, 1991.)

21.6 APPOINTMENT OF ATTORNEYS

(No local rule)

21.7 AGREEMENT OF ATTORNEYS

Except for oral stipulations agreed to by both counsel in open court, no private oral agreement between parties or counsel will be recognized by the Court. Any agreement contemplating action or the withholding of action by this Court shall be in writing and filed with the Clerk.

(Eff. Nov. 1, 1991.)

21.8 ADVISE TO CLIENT AND WITNESSES OF COURTROOM PROCEDURE

(No local rule)

RULE 22 GUARDIAN AD LITEM

22.1 APPOINTMENT OF GUARDIAN AD LITEM

(a) WHEN GUARDIAN AD LITEM MUST BE APPOINTED

The appointment of a guardian ad litem shall be made where child abuse or neglect is alleged. The appointment may be made at any time following the allegation of child abuse or neglect, including the filing of the petition if such allegations are made in the petition. The court may appoint a guardian ad litem in such cases without a hearing.

(b) WHEN A GUARDIAN AD LITEM MAY BE APPOINTED

The appointment of a guardian ad litem , at the discretion of the Court, may be made:

1. Upon the request of any party with or without a hearing.

2. In an action for declaration of paternity where the child is named as a defendant, or if the Court determines that the interest of the child and his/her Next Friend are in conflict; or

3. Upon the request of the parties in a dissolution of marriage, modification or legal separation case where child custody, child support or visitation rights are contested issues.

(Eff. Nov. 1, 1991. Amended, eff. April 1, 1994; eff. July 5, 2000.)

22.2 CONTESTED ISSUE DEFINED

Within the context of Rule 22, "Contested Issue" shall be the claim and denial, by any party, of child support, child custody, or request for more liberal or more restricted visitation rights.

(Eff. Nov. 1, 1991. Amended, eff. April 1, 1994; eff. July 5, 2000.)

22.3 PAYMENT OF GUARDIAN AD LITEM FEES

(a) SECURITY

Payment of guardian ad litem fees shall be made upon court order from the security deposited with the Court by the parties. Payment shall be made at the conclusion of the case or at intervals in which the Court deems appropriate. Additional security may be ordered by the Court to cover additional guardian ad litem fees. Sufficient security for guardian ad litem fees may be ordered without a hearing.

(b) NO SECURITY

In the event that security has not been posted for the payment of guardian ad litem fees, such fees may be awarded as a judgment, to be paid by any party to the

proceeding, or may be taxed as costs, to be paid by the party against whom costs are taxed, or from public funds. Prior to assessing guardian ad litem fees to public funds, notice shall be given pursuant to Local Court Rule 22.2.2, unless the governmental entity concerned has filed a memorandum with the Court stating that it does not intend to intervene and contest the reasonableness of the guardian ad litem fees.

(c) NOTICE

The guardian ad litem shall file a notice with the government entity having custody of public funds when he or she intends to request the Court to tax his or her fees as costs against public funds. The notice shall be filed with the Court and the government entity, in writing, prior to the trial or date of hearing.

(Eff. Nov. 1, 1991. Amended, eff. April 1, 1994; eff. July 5, 2000.)

22.4 STANDARDS WITH COMMENTS FOR GUARDIANS AD LITEM (Effective September 1, 2011)

STANDARD 1.0 Appointment of Guardians ad Litem

When appointing a guardian ad litem for a child, the court shall only appoint a lawyer licensed by the Supreme Court who has completed the training required by these standards.

The court may designate a court appointed special advocate volunteer to assist in the performance of the guardian ad litem duties for the court as provided by law.

Comment: If the court is presented with a petition or motion to modify under section 211.031.1, RSMo, requesting that a child be placed in temporary protective custody, the court immediately shall appoint a guardian ad litem for the child. In all other family law related court matters provided in chapters 210, 452, 453, and 455, RSMo, the guardian ad litem shall be appointed not later than the first proceeding at which a guardian

ad litem is required by law. The guardian ad litem shall serve until the matter is concluded or as otherwise ordered by the court.

Lawyers appointed to act as guardians ad litem shall act in accordance with the rules of professional conduct.

A non-lawyer court appointed special advocate volunteer shall not serve as guardian ad litem or provide legal representation for the child as provided by law.

STANDARD 2.0 Caseloads

A guardian ad litem has a duty to notify the court if the caseload reaches a level bearing upon the guardian ad litem's ability to meet these standards or to comply with the ethical standards of the rules of professional conduct.

Comment: The appointing court is responsible for making certain each lawyer appointed as a guardian ad litem is able to meet his or her obligations to the child. These obligations include those required under these standards and those required under the ethical and professional standards of a lawyer.

In making guardian ad litem appointments, each court will be familiar with its jurisdiction, being mindful of the amount of time that is necessary to perform the guardian ad litem's duties under these standards. Additionally, the court should take into account if a court appointed special advocate volunteer is available to assist in the performance of the guardian ad litem duties for the court.

STANDARD 3.0 Independent Judgment of Guardian ad Litem

A guardian ad litem shall be guided by the best interests of the child and shall exercise independent judgment on behalf of the child in all matters.

Comment: The guardian ad litem must recommend only what is in the best interests of the child on each issue and must maintain an objectivity that preserves a clear focus on the child's best interests.

The roles of a guardian ad litem and a lawyer for the child are different and must be clearly distinguished. A guardian ad litem is not the lawyer for the child and, therefore, advocates the best interests of the child rather than merely representing the child's preferences.

The participation of a lawyer in a matter in which the lawyer previously has served as guardian ad litem is governed by Rule 4-1.12.

STANDARD 4.0 General Duties and Responsibilities

The guardian ad litem shall provide not only factual information to the court but also shall diligently advocate a position in the best interests of the child.

The guardian ad litem shall be prepared to participate fully in any proceedings and not merely defer to the other parties. The guardian ad litem may examine, crossexamine, subpoena witnesses, and offer testimony.

The guardian ad litem when appropriate to represent the best interests of the child shall file petitions, motions, parenting plans, responses, or objections.

The court shall assure the guardian ad litem maintains independent representation of the best interests of the child. The court shall require the guardian ad litem to perform the guardian ad litem duties faithfully and, upon failure to do so, shall discharge the guardian ad litem and appoint another.

Comment: Prior to the commencement of a hearing, the guardian ad litem should conduct all necessary interviews with persons having contact with or knowledge of the child in order

to ascertain the child’s wishes, feelings, attachments, and attitudes. The guardian ad litem should conduct interviews with the child except when the child is too young or some other legitimate circumstance prevents an interview.

In conducting the interviews, the guardian ad litem should not communicate with a person the guardian ad litem knows to be represented by another lawyer in the matter unless the guardian ad litem has the consent of the other lawyer or is authorized to do so by law or by court order. See Rule 4-4.2.

The guardian ad litem should relate to the child according to the child's stage of development and understand the child's sense of time in relation to the child’s age. Theguardian ad litem should conduct regular face-to-face meetings with the child, to the extent ppropriate, to observe the child's physical, mental, social, educational, and familial well-being and to form opinions concerning the child’s best interests. The guardian ad litem should not diagnose or work therapeutically with the child, but regular, face-to-face contact will ensure informed observations when conferring with other specialists.

STANDARD 5.0 Access Between Guardian ad Litem and Child

The guardian ad litem and the child shall have access to each other at reasonable times and places, and this access shall not be restricted or limited by any agency or person without good cause. To ensure proper access, the guardian ad litem has the obligation to ascertain the location of the child, to initiate communication with the child, and to provide the child with contact information for the guardian ad litem promptly. The child’s legal custodian shall provide the guardian ad litem with timely information regarding the current residence of the child and shall notify the guardian ad litem promptly of any change in placement of the child.

Comment: Establishing and maintaining a relationship with the child is the foundation of effective guardian ad litem

representation. Frequent communication between the guardian ad litem and the child is an important part of promoting the relationship. It is essential that the child be readily accessible to the guardian ad litem to ensure frequent communication and in order for the guardian ad litem to fulfill his or her duties. The guardian ad litem should be excluded from access with the child only in rare and extreme circumstances.

It is equally important that the guardian ad litem be easily accessible to the child. The child should be provided with the name, telephone number, and address of the guardian ad litem immediately upon the appointment of the guardian ad litem and the opportunity, at reasonable times, to initiate contact with the guardian ad litem.

STANDARD 6.0 Guardian ad Litem Access to Reports and Records

The guardian ad litem is entitled to all reports relevant to the case and shall have access to all relevant records relating to the child, the placement of the child, or the child's family members.

Comment: The guardian ad litem must have complete access to all relevant information related to the child and the child's situation. See section 210.160, RSMo. The order appointing the guardian ad litem may include an order directing the release of confidential information and records about the child to the guardian ad litem.

A key aspect of representing a child is to obtain and review all documents to be submitted to the court as well as relevant agency and party case files, educational records, medical records, mental health records, and law enforcement reports. The information contained in such records may provide a more complete context for the current problems experienced by the child and family, may suggest additional professional and lay witnesses that can provide testimony necessary to a full hearing of the issues before the court, and may reveal alternate potential placement resources.

It is essential that the guardian ad litem personally review the available information rather than relying upon descriptions, summaries, or characterizations of the evidence provided by others.

STANDARD 7.0 Confidentiality and Privilege

A guardian ad litem shall comply with all statutes, rules, and regulations relating to the receipt of confidential or privileged information received as guardian ad litem.

A guardian ad litem shall not redisclose any confidential or privileged information without valid court order or as required by law except as permitted by Rule 4-1.6.

Comment: During the course of fulfilling the duties and obligations of serving as the guardian ad litem for a child, the guardian ad litem will have access to and will receive confidential and privileged information. This information will apply not only to the child but also may pertain to a parent or other guardian for the child or others involved in the case. This information includes but is not limited to children's division reports, educational records, and medical, psychological, and substance abuse treatment records.

The guardian ad litem has a duty to maintain confidentiality of all the information received. Discussion among the parties about confidential or privileged information is allowed. However it is generally not permissible to redisclose any of this information to any person not a participant to the case.

The guardian ad litem should protect against the release of confidential information about the child during the court process. Most court hearings are open. If testimony or evidence about the child that is confidential or privileged will be presented, the guardian ad litem may request that the courtroom

be closed pursuant to Rule 122.01or that a protective order be entered by the court.

The guardian ad litem should maintain a file consistent with the provisions of Rule 4-1.15. The child is not the owner of that file. Only the court has the authority to rule on any request concerning the handling or disposition of the file and order its release or early destruction or to rule on any request concerning the handling or disposition of the file. The guardian ad litem should not provide the file to anyone, including the child, without the consent of the court.

The guardian ad litem should be familiar with section 210.140, RSMo, 42 U.S.C. 290dd.2, and 42 C.F.R. sec. 2.

STANDARD 8.0 Progress of the Case through the Court Process

The guardian ad litem shall review the progress of a child's case through the court process and advocate for timely hearings, provision of necessary services, and compliance with court orders.

Comment: The harmful effects of prolonged foster care and a lack of permanency planning for children are serious and well documented. (*Foster Children in the Courts*, edited by Mark Hardin, 1983; *Addressing the Impact of Foster Care on Biological Children and Their Families*, by Maha Younes, 2007.)

Children need permanence, absent compelling reasons to the contrary. The guardian ad litem should advocate for a timely, permanent resolution of the case. The guardian ad litem has a duty of diligent and prompt representation and a duty to expedite litigation, especially where placement of a young child is at issue. The guardian ad litem should attempt to reduce case delays and promote permanency for the child. While it is recognized that delays are usually harmful, there may be some

circumstances when delays may be beneficial to the child and should be utilized.

Representing the best interests of a child should reflect the passage of time and the changing needs of the child. The guardian ad litem should stay in touch with the child, third party caretakers, case workers, and service providers throughout the term of appointment to ensure the child's needs are met and the case moves quickly to an appropriate resolution. The guardian ad litem should monitor the implementation of the court's orders and communicate any noncompliance to the responsible agency and, if necessary, to the court. The guardian ad litem should ensure services are provided and the court's orders are implemented in a complete and timely fashion.

STANDARD 9.0 Relating the Court Process to the Child

The guardian ad litem shall explain, when appropriate, the court process and the role of the guardian ad litem to the child. The guardian ad litem shall ensure that the child is informed of the purpose of each court proceeding.

Comment: To decrease the trauma to the child, the guardian ad litem should explain to the child what is happening and what is expected of the child in all proceedings involving the child. All communications should be adapted to the child's age, level of education, cognitive development, cultural background, and degree of language acquisition, using an interpreter if necessary. The guardian ad litem should make a diligent effort to ensure that the child understands the nature of the proceedings, the placement or services that may result, and the possibility of future modifications in placement or services.

Older youth should be encouraged to attend hearings and should be aware of their role during proceedings. Older youth should be provided with information about their rights, services, and permanency options, including the possibility of remaining in care until their 21st birthday. The guardian ad

litem will assure the child that the child's opinion and feelings will be made known to the court even when not consistent with the recommendations of the guardian ad litem.

STANDARD 10.0 Participation in Case-Related Activities

The guardian ad litem shall participate, when appropriate, in the development and negotiation of any service plans, parenting plans, proposed orders, and staffings that affect the best interests of the child as they relate to the case at hand.

The guardian ad litem shall monitor implementation of service plans and court orders while the case is pending to determine whether services ordered by the court are being provided in a timely manner.

Comment: The guardian ad litem should be present and actively participate in staffings and meetings including, but not limited to, family support team meetings and permanency planning review team meetings affecting the safety and well-being of the child and the accomplishment of any court approved permanency goal.

STANDARD 11.0 Participation in Court Proceedings

The guardian ad litem shall appear at all court proceedings in which the guardian ad litem is appointed. The guardian ad litem shall not waive the presence of the child at court proceedings without good cause. The guardian ad litem shall participate actively and fully in all court proceedings. The guardian ad litem shall present evidence, file pleadings, and call witnesses when appropriate to ensure all information relevant to the child's best interests is presented to the court for consideration.

Comment: A guardian ad litem may testify to particular facts and issues before the court relating to the child's best interests or the guardian ad litem's recommendation, if any.
Under such circumstances, the guardian ad litem may be subject to cross-examination. It is within the discretion of the court

whether or not to receive testimony from the guardian ad litem in custody proceedings under section 452.490, RSMo.

The guardian ad litem may attend other proceedings involving the child's best interests.

The guardian ad litem should ensure the court's receipt of all information relevant to the child's best interests.

STANDARD 12.0 Protecting the Child as Witness

The guardian ad litem in a pending case shall protect the interests of the child who is a witness in any judicial proceeding in which the guardian ad litem has been appointed. In matters for which the guardian ad litem is appointed, the guardian ad litem shall be present during any conferences between the counsel for a party and the child. The guardian ad litem should be notified of all proceedings or meetings involving the child.

Comment: The guardian ad litem should endeavor to protect the child from multiple depositions and repetitive examinations that are not in the child's best interests.

STANDARD 13.0 Recommendations to the Court

The guardian ad litem shall present a recommendation to the court when authorized by law or requested by the court on the basis of the evidence presented and consistent with the best interests of the child.

During the proceedings, the guardian ad litem must inform the court of the child's wishes and preferences even though different from the guardian ad litem's recommendation.

Comment: To make a recommendation to the court that serves the child's best interests, the guardian ad litem should have knowledge of the child's circumstances from all sources, which may include, but are not limited to, the parents, caseworker, deputy juvenile officers, teachers, treatment providers, and court appointed special advocate volunteers.

If the guardian ad litem determines there is conflict between advocating for the best interests of the child and representation of the child's preferences, the guardian ad litem shall continue to perform as the guardian ad litem for the child and may request that the court appoint another lawyer to represent the child's preferences.

STANDARD 14.0 Training

The court shall not appoint a lawyer to serve as guardian ad litem until the lawyer has completed eight hours of continuing legal education devoted to guardian ad litem training. Thereafter, to continue to be appointed as a guardian ad litem, a lawyer shall complete three hours of continuing legal education devoted to guardian ad litem training annually. The hours required for guardian ad litem training qualify toward the mandatory annual 15 hours of continuing legal education.

The program sponsor shall obtain approval of the program for continuing legal education from The Missouri Bar. Any continuing legal education required by this standard shall not be completed by self study. In addition, the program sponsor shall obtain approval of the program as guardian ad litem training from the presiding judge in a circuit where the training is offered. Completion of the training hours shall be documented by an affidavit or other evidence filed with the appointing court by July 31st of each year.

Any lawyer who has completed at least six hours of guardian ad litem training within five years prior to the date of the adoption of these standards shall not be required to complete the initial eight hour course of study. Any lawyer currently approved by the court to serve as a guardian ad litem who has not completed any guardian ad litem training within five years prior to the date of the adoption of these standards shall have one year from the date of the adoption of these standards to complete the initial eight hours of training.

The judge appointing the guardian ad litem shall determine whether the lawyer has completed the required training prior to making any appointment.

Prior to appointment, the lawyer must have completed a training program in permanency planning.

Comment: Guardian ad litem practice is unique and complex and, as such, requires specialized education, training, and experience.
The specialized training may include the following topics:

(a) Dynamics of child abuse and neglect issues;

(b) Factors to consider in determining the best interests of the child, including the required permanency planning and the child's right to be with his or her family;

(c) Inter-relationships between family system, legal process and the child welfare system;

(d) Federal, state and local legislation and case law affecting children;

(e) Cultural and ethnic diversity and gender-specific issues;

(f) Family and domestic violence issues;

(g) Available community resources and services;

(h) Child development issues; and

(i) Guardian ad litem standards.

The guardian ad litem is not expected to make diagnostic or therapeutic recommendations. The guardian ad litem must have a working knowledge of family dynamics and be able to compare and relate this concept to the observations, reports, and

documentation received regarding the child and the child's family.

(Adopted, eff. July 5, 2000, Amended 9/8/08. 9/12/11)

RULE 23 TRANSCRIPTS

All Court Reporters working for the 11th Judicial Circuit shall prepare an original and three (3) copies of all indigent criminal transcripts on appeal and the cost of the extra copy shall be submitted to the State Courts Administrator's Office.

(Eff. Nov. 1, 1991.)

RULE 24 EXHIBITS

(a) All exhibits offered during the trial of a case, except depositions filed, shall remain in the custody of the attorney offering the same and shall at all reasonable times be subject to examination by opposing counsel.

(b) Except for good cause shown, the attorney shall have the reporter mark all exhibits proposed to be offered in evidence prior to trial.

(Eff. Nov. 1, 1991.)

PRETRIAL MATTERS

RULE 32 DISCOVERY

32.1 USE OF DISCOVERY AND CERTIFICATION TO CIRCUIT DIVISION

(No local rule)

32.2 INTERROGATORIES

Where a party files objections to any interrogatories the interrogatory objected to shall be set out in full before the stated objection.

(Eff. Nov. 1, 1991.)

32.3 DEPOSITIONS

(a) When written discovery is served upon opposing counsel, which shall include Interrogatories and Requests for Production of Documents, a disc or storage medium containing such discovery shall accompany the discovery requests and shall be served on opposing counsel at the same time said written discovery is served upon opposing counsel. The disc shall be new, virus-free, high density, 1.44 megabyte disc or new virus-free CD-Rom, or may be forwarded as an e-mail attachment if consent to such service has been filed in accordance with Supreme Court Rule 43.01 (c) 1 D, or such other electronic storage device as may be commonly in use, with an adhesive label attached thereto, identifying the storage device and style of the case. The disc or storage medium shall be in either Microsoft Word or Word Perfect format.

(b) In lieu of submitting a disc or other storage device as required by Rule 32.3(a), the attorney or party submitting the discovery may sign and submit with his discovery certification in substantially the following format: Application for Discovery Disc Exemption Pursuant to Local Rule 32, I hereby state that I do not have the technical capacity to submit my discovery request by disc or other electronic means at this time or that submission of a disc for this discovery request would constitute an undue hardship for my office due to [describe hardship], and therefore request an exemption from the requirements of Rule 32.3(a) to file a disc with this discovery.

(Adopted Dec. 1, 2003, eff. Jan. 1, 2004, amended Aug.. 2, 2010, amended Feb. 14, 2012)

32.4 MOTION FOR SANCTIONS

(No local rule)

32.5 CRIMINAL DISCOVERY

(No local rule)

32.6 BUSINESS RECORDS, COPIES, REPORTS AND OTHER WRITTEN DISCOVERY

The business records and copies that constitute discovery in a case shall not be filed in the court with the affidavit of the records custodian. Reports and other written discovery shall not be submitted to the court for filing

(Adopted. Aug. 1, 2011)

RULE 33 PRE-TRIAL MOTIONS

33.1 HEARING DATES

All motions or other matters preliminary to trial may be heard on any Law Day in any division upon five days' service upon or eight days if by mail and written notice to adverse parties or by consent of the parties.

(Eff. Nov. 1, 1991, amended 10/6/03, Amended 1/2/07)

33.2 BRIEFS IN SUPPORT OF MOTIONS, WHEN REQUIRED

(No local rule)

33.3 ORAL ARGUMENTS – WHEN DESIRED AND HOW REQUESTED

Oral argument on motions or other matters preliminary to trial shall be no longer than ten (10) minutes for each party with moving party permitted to divide total time with not more than five (5) minutes for rebuttal. On application by either party the court may grant additional time.

(Eff. Nov. 1, 1991.)

33.4 MOTIONS IN LIMINE

All Motions in Limine shall be in writing and accompanied by citations of authority. They shall be filed and notice given to the adverse party no later than five (5) day prior to the date of trial.

(Eff. Nov. 1, 1991.)

33.5 MOTIONS FOR TEMPORARY ALLOWANCES

(Repealed, see Rule 68)

(Adopted, eff. March 16, 1992 Amended 1/2/07)

RULE 34 CONTINANCES

(a) In accordance with Supreme Court Rules an application for a continuance shall be made by a written motion and shall be accompanied by the affidavit of the applicant or some other credible person setting forth the facts upon which the application is based.

(b) All motions for a continuance shall be signed by the party and that party's attorney.

(c) Continuances shall be granted upon a showing of good cause. In criminal cases no continuances shall be granted unless the court finds the ends of justice served by taking such action outweigh the benefits of a speedy trial.

(d) When a continuance is granted in any case in the Circuit Judge Division, said case shall be restored to the trial docket.

(e) When a continuance is granted in a Probate Division case, Juvenile Division case or Associate Judge Division case, hearing on said cause shall be reset to a date certain at the time the continuance is granted, or continued generally to be reset upon notice properly given.

(f) Every continuance granted on the application of a party may be at the cost of such party, if so ordered by the Court.

(Eff. Nov. 1, 1991.)

34.1 CIVIL CASES

(No local rule)

34.2 CRIMINAL CASES

(No local rule)

RULE 35 PRE-TRIAL CONFERENCES

The Court upon request of either party or upon its own motion may order a pre-trial conference in order to clarify issues and expedite trial.

(Eff. Nov. 1, 1991.)

RULE 36 SETTING CASES FOR TRIAL

36.1 REQUEST FOR TRIAL

(a) Circuit Judge Divisions

(1) No case will be place on the trial docket until the case is at issue.

(2) Setting Cases for Trial: After a case is at issue, it will be placed on the Trial Docket.

(3) If a case shall not be reached on the date set, it shall be restored to the trial docket for resetting, unless otherwise ordered.

(4) The dates of said trial settings, names of trial counsel and the division to which it was assigned for trial will be available at the Circuit Clerk's Office; and such dates, names and assignments shall also be mailed to all attorneys of record, if any, otherwise to the parties. The parties shall advise the court in writing within ten (10) days of such mailing of any change in the trial counsel so designated.

(b) Associate Judge Division

Cases docketed in the Associate Judge Division may be set for trial by request either in writing or in open court on the return date or any setting date thereafter.

(c) Amendment of Pleadings

After a case has been place on the trial docket or set for trial, no pleadings may be amended except by leave of Court, and such leave will be granted only upon a showing of due diligence in requesting such leave at the earliest practical time.

(Eff. Nov. 1, 1991. Amended, eff. April 1, 1994.)

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

(No local rule)

36.6 REVISION OF AND REMOVAL FROM PREPARED CALENDAR

(No local rule)

36.7 SPECIAL ASSIGNMENTS

(No local rule)

RULE 37 DISMISSALS

37.1 DISMISSAL DOCKET

(See Rule 8.2)

(Eff. Nov. 1, 1991.)

37.2 REINSTATEMENT OF CAUSE

(See Rule 8.2)

(Eff. Nov. 1, 1991.)

RULE 38 ALTERNATIVE DISPUTE RESOLUTION

38.1 ESTABLISHMENT OF LOCAL RULE

(1) Pursuant to Supreme Court Rule 17, the Court adopts the following Alternative Dispute Resolution (A.D.R.) local rule. The purpose of this local rule shall be to foster timely, economical, fair and voluntary settlement of lawsuits without delaying or interfering with a party's right to resolve a lawsuit by trial. This rule shall apply to civil actions, heard on the record, pending in a non-family court division, upon the agreement of the parties or upon an order of the Court.

(2) A.D.R. programs shall include arbitration, early neutral evaluation, mediation, mini-trial, and summary jury trial, all as defined by Supreme Court Rule 17.01, and any other A.D.R. procedures approved by the Court. A.D.R. shall be non-binding unless the parties enter into a written agreement to the contrary.

(3) Nothing herein shall preclude the parties from agreeing to participate in an A.D.R. program independent of this Rule, provided that the Court is aware of and agrees to the proposed A.D.R. program.

38.2 NOTICE OF ALTERNATIVE DISPUTE RESOLUTION SERVICES

(1) In all civil actions to which this rule applies, a Notice of the availability of A.D.R. shall be furnished to all parties. The Circuit Clerk shall mail or otherwise provide a copy of the Notice to the initiating party as soon as possible. If the initiating party is represented by an attorney of record, the Circuit Clerk may provide the Notice to the attorney of record. Upon receipt of Notice, the attorney shall immediately provide a copy to each party represented. The opposing party or parties shall be provided the Notice by attaching a copy to the summons issued in the action.

(2) The Notice shall advise the parties of the availability and purposes of A.D.R. and shall inform the parties that the name of neutrals qualified under this rule and a description of their background and fees may be obtained from the Clerk.

(3) Upon receipt of the A.D.R. Form contained in the Notice, and at any other time, counsel shall discuss A.D.R. with their clients.

38.3 REFERRAL TO ALTERNATIVE DISPUTE RESOLUTION

(1) If all parties agree to utilize an A.D.R. procedure, the Court may enter an Order of Referral to A.D.R. Absent such agreement by the parties, the Court may determine on motion of a party, whether or not the case is appropriate for A.D.R. If the Court determines A.D.R. is appropriate, it shall so indicate on the Order of Referral. When the court orders the parties to participate in an A.D.R. program, the parties shall proceed accordingly and shall report the outcome thereof, but not the specific results, to the Court, as provided by Supreme Court Rule 17. The results shall be reported on a form within 90 days of the Order, or within ten days of the conclusion of the process, whichever is sooner, unless another time is set by the Court. The Court may determine the A.D.R. program. Discovery shall not be delayed during the pendency of the A.D.R. process unless ordered by the Court upon motion of a party.

(2) If, after conferring with all other parties, a party concludes that A.D.R. has no reasonable chance of being productive, the Court shall be so advised in writing. This “opt out” notification shall be made within 30 days of the Order of Referral. The cause shall not thereafter be referred by the Court to A.D.R., absent compelling circumstances which shall be set out by the Court in subsequent Order of Referral.

(3) The results of the A.D.R. process shall not be binding upon the parties unless the parties agree.

(4) Settlement shall be by written document setting out the essential terms of the agreement and executed after termination of the A.D.R. process.

38.4 SELECTION OF NEUTRALS

Within ten days of the Order of Referral, the parties shall jointly select a neutral available and willing to serve from a list of qualified persons provided by the Court. Such list shall be compiled by the Circuit Clerk from applications of individuals qualified and willing to serve. In the event the parties cannot agree upon the neutral to be selected, the Court shall make the selection. The parties may, at any time, agree upon any other neutral, whether or not the neutral is on a Court maintained list, provided the neutral is qualified under Supreme Court Rule 17.04.

38.5 ATTENDANCE

Unless the Court orders otherwise, all parties (or their representatives with authority to resolve the case, including insurance carriers) shall attend the A.D.R. meeting set by the neutral.

38.6 CONFIDENTIALITY

The proceedings shall be private, confidential, and regarded as settlement negotiations as provided in Supreme Court Rules 17.05 and 17.06. No stenographic, electronic or other record of an A.D.R. process shall be made.

38.7 COMPENSATION

The mediator, arbitrator or other neutral shall receive such compensation as the parties and the person selected agree. The fee, unless otherwise agreed by the parties, shall be borne equally by the parties, and shall be paid directly to the person

selected. The Court shall have the right to review the reasonableness of the fee charged by the neutral.

38.8 LIST OF NEUTRALS

The Circuit Clerk shall maintain and make available to counsel, parties and the public a list of qualified neutrals compiled by the Clerk under this rule. The list shall include the neutral's training, experience, qualifications and other information deemed appropriate. Neutrals shall be trained as provided in Supreme Court Rule 17.04. The Court en banc may remove any name from the list in its sole discretion, with or without cause. Neutrals shall advise the Clerk of any material change regarding their listing.

38.9 DISQUALIFICATION AND WITHDRAWAL OF NEUTRALS

No person shall serve as a neutral in a proceeding in which the neutral is interested, prejudiced, related to a party, has been counsel to a party in the cause, or under any other circumstances which reasonably call into question the neutral's impartiality. A neutral may withdraw for any reason deemed appropriate by the neutral.

(Adopted 10/6/03, eff. 1/1/04)

SETTLEMENT AND DEFAULT

RULE 41 SETTLEMENT

41.1 NOTICE OF SETTLEMENT

(No local rule)

RULE 42 DEFAULT

(a) In any action or proceeding, if there shall be a default of any appearance by the defendant, the plaintiff before judgment shall file a verified petition or an affidavit setting forth facts showing that defendant is not in military service. If unable to file such verified petition or affidavit, plaintiff shall in lieu thereof file a

verified petition or affidavit setting forth either that the defendant is in military service or that plaintiff is not able to determine whether or not defendant is in such service. (Source U.S.C.A. 50 app. Sec. 520)

(b) It shall be the duty of counsel to ascertain that process has been properly served in time, and to furnish a memorandum of the amount claimed before requesting judgments on undefended actions on bonds, bills, notes and accounts.

(Eff. Nov. 1, 1991.)

TRIALS

RULE 51 COURT-TRIED CASES

51.1 DEFAULT AND UNCONTESTED MATTERS

(No local rule See Rule 42 and 54.2.)

(Eff. Nov. 1, 1991.)

51.2 CONTESTED MATTERS

(No local rule)

51.3 PREPARATION OF FINDSINGS OF FACT AND CONCLUSIONS OF LAW

(No local rule)

RULE 52 SELECTION OF JURY

52.1 JURY COMMISSION BOARD

The Jury Commission Board shall consist of the Circuit Judges and the Circuit Clerk.

(Adopted, Eff. Aug. 28, 2000.)

52.2 RELEASE OF JUROR QUESTIONNAIRES

The Jury commission Board shall request all jurors to prepare a juror questionnaire in standard form. These forms shall be made available to the attorneys involved in the trial the afternoon before trial. No questionnaire shall be released until the attorney involved signs a receipt and acknowledgment certifying that there will be no unauthorized secondary release of information. The information will be returned to the Jury Office after the jury is selected. All jury lists and questionnaires shall be maintained as a closed record and shall not be otherwise disclosed without Order of the Court.
The Jury Commission Board for five (5) years shall maintain a record of Jury Lists and Questionnaires of tried cases.

(Adopted, eff. April 15, 2002.)

RULE 53 JURY TRIALS

WAIVER OF JURY TRIAL – CIVIL

Parties shall be deemed to have waived trial by jury:

(a) By failing to appear at the trial;

(b) By filing with the Clerk written consent in person or by attorney

(c) By oral consent in Court, entered on the minutes;

(d) by entering into trial before the court without objections.

(Eff. Nov. 1, 1991.)

53.1 INSTRUCTIONS

Except for good cause shown:

The attorneys shall submit to the Court and to opposing counsel their proposed instructions to the jury prior to trial, reserving their right to submit requests for additional or modified

instructions thereafter in light of the opposing party'' proposed instructions and unanticipated evidence.

(Eff. Nov. 1, 1991.)

53.2 JUROR CONFIDENTIALITY

Jury lists and questionnaires maintained by the court in criminal cases shall not be accessible except to the court and the parties. Upon conclusion of the trial, the jury lists and questionnaires shall be retained under seal by the court except as required to create the record on appeal or for post-conviction litigation. Information collected by the court or court personnel about a venireperson is confidential and shall not be disclosed by the parties or their lawyers except on application to the trial court and a showing of good cause.

(Adopted Apr. 1, 2002, eff. Apr. 15, 2002)

RULE 54 JUDGMENT ENTRY

54.1 CONTESTED CASES

Counsel for the prevailing party shall prepare and submit the form of judgment to the Court after judgment is rendered.

(Eff. Nov. 1, 1991.)

54.2 DEFAULT OR UNCONTESTED CASES

At the time of hearing, counsel for the plaintiff or petitioner shall submit a proposed form of judgment to the Court, unless waived by the Court.

(Eff. Nov. 1, 1991.)

RULES RELATING TO PARTICULAR ACTIONS

RULE 61 ADOPTION

61.1 FILING REQUIREMENTS

(a) Upon the filing of a petition for adoption or for transfer of custody prior thereto, and upon application to the court, the Court will appoint a guardian ad litem for the child sought to be adopted and order the statutory investigation and report.

(b) Counsel shall request a time certain for a hearing on said petition from the Circuit Clerk.

(Eff. Nov. 1, 1991, Amended 10/6/03.)

61.2 HOMESTUDY

(No local rule)

RULE 62 DRIVERS' CASES

62.1 APPLICATION FOR HARDSHIP DRIVING PRIVILEGES

(No local rule)

62.2 PETITIONS FOR REVIEW

(No local rule)

62.3 BREATHALYZER TEST

(No local rule)

RULE 63 ASSOCIATE DIVISION CASES

(a) FILING OF CASES

All original civil case filings Associate Division cases shall be made in the Civil Division of the Circuit Court and shall be assigned to a judge in a random manner.
Traffic violations, wildlife code violations, water safety violations shall be filed directly in the Traffic Division of the Circuit Court.

Small Claims cases shall be filed directly in the Civil Division of the Circuit Court.

All criminal cases, except those cited above, shall be filed in the Criminal Division of the Circuit Court.

(b) TRANSCRIPTS OF TAPED RECORDS

The original of all taped records of proceedings before Associate Circuit Judges are on file in the offices of each respective associate division and requests for transcripts and the appropriate cost for posting shall be made in that office.

Requests for copies of original tapes shall be made with the individual Division Clerk. The cost for duplicating tape shall be determined by that office and shall be posted prior to tape duplication.

(c) DISCOVERY AND THIRD PARTY ACTIONS

Pursuant to Supreme Court Rules various types of discovery and third party practice shall be recognized in the Associate Division. The Associate Circuit Judge in any case where the discovery becomes burdensome may certify the cause to the Presiding Judge. In such cases the plaintiff's attorney shall immediately post the required additional costs. In such cases the Court files shall remain in the Circuit Judge Division.

(Eff. Nov. 1,1991. Amended, eff. Aug. 28, 2000, Dec. 9, 2002, Sept. 5, 2006.)

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 67 CRIMINAL CASES

67.1 PRE-TRIAL RELEASE

(a) All defendants bound over in felony cases shall appear on the date specified in the Order binding him over.

(b) Associate Division cases – St. Charles County

All criminal defendants released on bond shall appear on the date the bond is first returnable.

67.1.1 MOTIONS TO SET BOND AND FOR BOND REDUCTION

(No local rule)

67.1.2 DEPOSIT OF OPERATOR'S LICENSE

(No local rule)

67.1.3 CASH BONDS

All fines and costs associated with a case must be paid prior to bond refund or said amounts will be deducted from the Bond.

(Eff. Nov. 1, 1991. Amended, eff. Dec. 4, 2000, Dec. 9, 2002.)

67.2 PRELIMINARY HEARING

(No local rule)

67.3 GRAND JURY

(No local rule)

67.4 ATTORNEYS

(No local rule)

67.5 ARRAIGNMENTS

(No local rule)

67.5.1 IN GENERAL

(No local rule)

67.5.2 DATES

(No local rule)

67.6 DISCOVERY

(No local rule)

67.7 MOTIONS

(No local rule)

67.8 PLEA BARGAINING

(No local rule)

67.9 GUILTY PLEA

(No local rule)

67.9.1 WHERE ENTERED

(No local rule)

67.9.2 PETITION TO ENTER A PLEA OF GUILTY

(No local rule)

67.10 CALENDAR

(No local rule)

67.11 PROBATION AND PAROLE

(No local rule)

RULE 68 DISSOLUTION OF MARRIAGE (FAMILY COURT)

68.1 CREATION

As established by previous order of this Court, effective August 23, 1993 there is created within the 11th Judicial Circuit a Family Court as provided in §487.010, et seq., RSMo.

(Repealed and Adopted 1/2/07)

68.2 DESIGNATION OF DIVISIONS

All of the circuit and associate judges of the 11th Judicial Circuit shall be assigned to the Family Court Division. In accordance with §487.010.3, RSMo, the Presiding Judge shall designate certain divisions, as needed, to serve full-time in the Family Court Division. In accordance with §487.010.4, RSMo, the Presiding Judge shall further designate one division to serve as the Administrative Family Court Judge of the Family Court Division.

(Repealed and Adopted 1/2/07)

68.3. ASSIGNMENT OF FAMILY COURT CASES

(A) New cases within the exclusive jurisdiction of the Family Court, as defined under §487.080, RSMo, shall initially be assigned to one of the divisions assigned to the Family Court Division, pursuant to an Individualized Docketing Plan approved by the Court. This initial assignment shall be considered the trial assignment for purposes of Supreme Court Rule 51.05.

(B) Whenever a new case is filed, and the Circuit Clerk determines there is already pending a companion case involving the same parties, the new case shall be assigned to the division to which the companion case has been assigned, so that all pending matters involving the same parties may be heard before one judge.

(C) Motions to modify, motions for contempt, family access motions or any other post-disposition motions seeking modification or enforcement of an existing judgment shall be assigned to the division, which entered the previous judgment. If the division, which entered the previous judgment, is no longer assigned to the Family

Court Division, the pleading shall be treated as a new filing and shall be assigned in accordance with Paragraph A of this rule.

(D) Should any party request a change of judge pursuant to Supreme Court Rule 51.05, the case shall be transferred to the Presiding Judge, or, in his absence or unavailability, to the Acting Presiding Judge, for reassignment.

(Repealed and Adopted 1/2/07, Amended 12/10/07)

68.4 FAMILY SERVICES AND JUSTICE FUND

As provided in §488.2300, RSMo, a fee of $30.00 per case shall be collected and deposited in the "Family Services and Justice Fund" to be expended for such purposes as allowed by law and in such amounts as the Presiding Judge or the Administrative Family Court Judge may, from time to time and with the concurrence of the Circuit Court en banc, authorize.

(Repealed and Adopted 1/2/07)

68.5. FILING REQUIREMENTS

(A) Waiting Period.

No hearing shall be conducted, nor any judgment entered, in any dissolution case until thirty days after service of process has been obtained or entry of appearance has been filed.

(B) Statistical Report.

Information necessary to give notice to the Missouri Department of Health of the entry of a judgment of dissolution of marriage or legal separation shall be supplied by counsel or the parties on the forms provided for that purpose by the Circuit Clerk. The form shall be completed and filed with initial pleadings.

(C) Uniform Child Custody Act Requirements.

1. Any Petition, or Affidavit attached thereto, shall state:

   a. The name and date of birth of each child born of the marriage.

   b. The present residence of the children and the length of that residence.

   c. The residence(s) of the child(ren) for the past six months and with whom the child(ren) resided.

   d. Any prior litigation regarding custody of the child(ren) in which the petitioner has participated in any capacity in this or any other state.

   e. Any current custody proceedings pending in this or any other state.

   f. Any information regarding any person, not a party to the action, who has physical custody of the child(ren) or who claims to have custody or visitation rights with respect to the child(ren).

2. Notices of any custody proceedings shall be given to:

   a. Any parent whose parental rights have not been terminated.

   b. Any person having legal or physical custody of the child(ren).

(D) Family Court Information Sheet

1. The Circuit Clerk shall develop a Family Court Information Sheet, which shall be completed and attached to all initial pleadings filed with the Family

Court Division. The Family Court Information Sheet shall include the style and case number of any case involving the parties, or their children, presently pending or previously adjudicated in any court, including, but not limited to, dissolutions of marriage, paternity, motions to modify custody or support, change of name, adult abuse, child protection, family access, juvenile neglect, juvenile abuse, juvenile delinquency, adoption or guardianship. The Family Court Information Sheet shall also set forth all other names by which any of the parties, or their children, have been known along with their social security numbers.

2. No initial pleading shall be accepted for filing which is not accompanied by a completed Family Court Information Sheet.

(E) Paternity Count. Effective January 1, 2010. Due to issues of confidentiality, in any dissolution case in which paternity of one or more children must be established, a separate case shall be filed to establish paternity with no filing fee required, except for the additional fee for registration of paternity with Bureau of Vital Records, when the paternity is filed simultaneously with the dissolution. The paternity case and the dissolution case shall automatically be assigned to the same judge for disposition. In order to avoid a separate filing fee, the attorney filing the paternity case shall be responsible for advising the Clerk of the companion divorce case and its case number.

(F) Proposed Parenting Plan.

Petitioner shall file his/her proposed parenting plan along with the filing of initial pleadings. Respondent shall file his/her proposed parenting plan at time of filing initial responsive pleading.

(G) Paternity Actions.

Petitioner shall file his/her proposed parenting plan along with the filing of initial pleadings. Unless Respondent denies paternity, Respondent shall file his/her proposed parenting plan at time of filing initial responsive pleading.

(Repealed and Adopted 1/2/07, Amended 12/10/07, Amended 11/2/09, Amended 10/5/10, Amended 7/11/11)

68.6 SEPARATION AGREEMENT

In all cases where a written separation agreement is made under the provisions of §452.325, RSMo, a copy of such executed agreement shall be submitted to the Court for approval prior to the hearing. WAIVER OF THE DIVISION OF PROPERTY WILL NOT BE ACCEPTED BY THE COURT.

(Repealed and Adopted 1/2/07)

68.7 FORMS OF JUDGMENT

(A) All judgments shall contain findings of the court, which must include and recite:

1. The full name of the attorney or attorneys and the party represented by each attorney. If either party is not represented by counsel, the judgment shall so state.

2. The last four digits of social security number of each of the parties and of each of their minor children.

3. The addresses of the parties and the employers' names and addresses, if disclosed in the pleadings.

4. The manner of service and when accomplished, or, if an entry of appearance is filed, the date of filing.
5. The date and place of marriage, the place of registration of such marriage, and the date of separation.

6. Residence in the State of Missouri of not less than ninety days.

7. A statement that at least thirty days have elapsed since the service of the petition upon the non-moving party.

8. A statement regarding any children born of the marriage (if none, so state) setting forth their names, last four digits of social security numbers, age of child, and in whose custody they are, and a statement reciting whether the wife is pregnant.

9. Whether either petitioner or respondent is a member of the armed forces, and, if so, a statement that the member waives the Servicemember's Civil Relief Act.

10. Whether or not there is marital property or marital debt to be divided or whether there is a written separation agreement entered into by the parties. The separation agreement shall be set forth in full, unless there is provision otherwise in the agreement. Provisions in the settlement pertaining to child custody and child support must be included in the judgment, along with a statement that the court has examined the separation agreement and found it to be fair and not unconscionable. If the parties own personal or real property, the judgment MUST provide for the disposition of all property. If there is no real or personal property, the judgment shall so state.

11. A specific written parenting plan, setting forth the arrangements specified in §452.310.7, RSMo. Such parenting plan may be a plan submitted by the parties pursuant to §452.310, RSMo or, in the absence thereof, a plan determined by the court.

12. If there is a request that the wife's maiden name or a former name be restored, the findings shall so state and shall set out in full the requested name to be restored.

13. In a proceeding for dissolution of marriage, a statement that the marriage is irretrievably broken and that there remains, therefore, no reasonable likelihood that the marriage can be preserved. In a proceeding for legal separation, a statement that the marriage is not irretrievably broken and that there remains, therefore, a reasonable likelihood that that the marriage can be preserved.

(B) The decretal portion of the judgment shall contain the following provisions:

1. In a proceeding for dissolution of marriage, that the marriage between (name of the parties) is dissolved; in a proceeding for legal separation, a judgment of legal separation.

2. An award as to custody and support of any minor children, an award as to maintenance, and a statement as to whether payments are payable to the Family Support Payment Center or directly to the receiving party.

3. In every judgment establishing or modifying child custody or visitation, the relocation notice required by §452.377.11, RSMo.

4. That the terms of the parenting plan shall be performed.

5. That the terms of any separation agreement shall be performed.

6. Dividing any marital property and any marital debt, and setting aside any separate property.

7. **IF NOT CONTAINED IN ANY SEPARATION AGREEMENT BEING INCORPORATED INTO THE JUDGMENT, THE COMPLETE LEGAL DESCRIPTION OF ANY REAL ESTATE, TITLE**

TO WHICH MAY BE AFFECTED BY THE JUDGMENT.

8. That the parties' minor children receive counseling as ordered by the court.
9. That the wife's restored name be set forth in full.

10. That costs be taxed to one or both parties.

(C) Counsel may make written request to the Circuit Clerk that any judgment of dissolution of marriage or legal separation affecting title to real estate, upon entry thereof, be filed in the office of the Recorder of Deeds in the county where the real estate is located. Said request shall specify the Office(s) of Recorder where filing is to be made, and, if other than in St. Charles County, Missouri, the mailing address. Such expense for recording the judgment shall be taxed as costs in the case. **THE COMPLETE LEGAL DESCRIPTION MUST BE INCLUDED IN ANY JUDGMENT TO BE RECORDED.**

(Repealed and Adopted 1/2/07, Amended Aug. 2, 2010)

68.8 FILING OF FINANCIAL STATEMENTS

(A) In all actions for dissolution of marriage or legal separation, a Statement of Marital and Non-Marital Property and Debts and a Statement of Income and Expenses shall be completed by each party, executed under oath, filed with the Court and served on the opposing party. Petitioner shall file his/her statements with the petition or motion. Respondent shall file his his/her statements with the answer.

(B) In all contested actions for modification of child support or maintenance, a Statement of Marital and Non-Marital Property and Debts and Debts and a Statement of Income and Expenses shall be completed by each party, executed under oath, filed with the Court and served on the opposing party. The moving party shall file his/her

statements with the motion. The responding party shall file his his/her statements within thirty days of service of the motion.

(C) If any changes occur prior to the date of any pendente lite hearing or trial upon the merits, the information provided shall be updated immediately and served on the opposing party with a Certificate of Service of same to the Court. In no event shall amended statements be supplied to opposing counsel less than five days prior to any pendente lite hearing or trial upon the merits.

(D) Failure to file the original or amended statements required by this rule shall not delay any pendente lite hearing or trial upon the merits. If a party fails to timely file or update his/her Statement of Marital and Non-Marital Property and Debts or Statement of Income and Expenses, the trial judge may, at his or her discretion, order sanctions against that party, including, but not limited to, prohibiting the party so failing from presenting affirmative evidence as to the values of the property, income or expenses which were not presented to opposing counsel.

(E) Prior to hearing in all contested domestic relations proceedings, both parties **shall, in addition to the Statement of Marital and Non-Marital Property and Debts and the Income and Expense Statement, prepare a list of all items of personal property, stating whether said items are marital or non-marital, the fair market value of said items, the amount owed against said items, and in whose possession said items may be found.**

(Repealed and Adopted 1/2/07)

68.9 ASSIGNMENT OF WAGES

Absent an exception determined by the trial court in accordance with §452.350.2, RSMo, all payments of child support or maintenance shall be made by means of automatic wage

assignment payable to the Family Support Payment Center as trustee for the party receiving child support or maintenance.

(Repealed and Adopted 1/2/07)

68.10 PARENT EDUCATION PROGRAM

(A) All parties in any proceeding for dissolution of marriage, legal separation, annulment, paternity or enforcement of child custody or visitation, who have filed pleadings or who have otherwise entered their appearance with this Court, shall be required to participate in and successfully complete a court-approved parent educational program. All parties in any proceeding for motion to modify, where the parties have not previously attended a parent education program shall be required to participate in and successfully complete a court-approved parent educational program. A certificate of completion shall be filed with the Court.

(B) The petitioner or movant shall attend said program within sixty days of the filing of a petition or motion. The respondent in any such proceeding shall attend said program within sixty days of the date of service of process. Each party shall pay the cost of their own program.

(C) The Court may strike or dismiss the pleadings of any non-complying party or impose any other sanctions deemed appropriate by the Court.

(D) For good cause shown, the Court may waive application of this rule.

(Repealed and Adopted 1/2/07, Amended 4/1/13)

68.11. ENTRY OF JUDGMENT UPON AFFIDAVIT

(A) Final Orders Entered – When

1. Final orders in any proceeding for dissolution of marriage or legal separation, motions to modify, and in

any action for declaration of paternity may be entered upon affidavit of either or both parties when:

a. There are no minor children of the father and the mother and the mother is not pregnant, or the parties have entered into a written settlement agreement determining child custody and child support; and

b. The adverse party has been served in a manner provided by the Missouri Rules of Civil Procedure or has filed a verified entry of appearance or other responsive pleading; and

c. There is no marital property to be divided, or the parties have entered into a written settlement agreement providing for the division of their marital property.

2. Final orders in any proceeding for change of name or in any other matter falling within the exclusive jurisdiction of the Family Court, as defined under §487.080, RSMo, may be entered upon affidavit when any person entitled to service has been served or has filed an entry of appearance or other responsive pleading.

(B) Affidavit - Filing

If one party desires to submit the matter for entry of final orders upon affidavit, the submitting party shall file an affidavit setting forth sworn testimony showing the Court's jurisdiction and containing factual averments sufficient to support the relief requested, together with a copy of a proposed judgment or order, a copy of any written settlement agreement and written parenting plan proposed for adoption by the Court, a completed Form 14, and any other supporting evidence. The filing of such an affidavit shall not be deemed to shorten any statutory waiting period

required for the entry of a judgment of dissolution of marriage or legal separation.

(C) Hearing Required - When

The Court shall not be bound to enter any judgment or order upon affidavits of either or both parties, but may, on its own motion, require that a formal hearing be held to determine any or all issues presented by the pleadings.

(D) Affidavit Docket

The judge of each division of the Family Court Division may establish an affidavit docket for entry of judgments submitted by affidavit. The times and dates of said docket shall be set by the division judge from time to time. So long as the requirements of Subsection A have been met, a matter may be submitted by affidavit at any time or, upon motion of either party, on a date certain. Upon the setting of a case on a specific affidavit docket for entry of final order, if all documents necessary for entry of the judgment are not submitted to the Court on said date, absent a showing of good cause, the case shall be set for trial by counsel for the parties, or if one or both counsel fail to appear, by the Court.

(Repealed and Adopted 1/2/07, Amended 12/10/07)

68.12. CASE MANAGEMENT

(A) General

The Administrative Judge of the Family Court, in consultation with the other judges assigned to the Family Court Division, shall establish a coordinated system for the management and resolution of all cases assigned to the Family Court Division. The judge of each division of the Family Court Division may establish such trial, pendente lite, case management, settlement and motion dockets as are needed for the effective operation of that division. The

times and dates of such dockets shall be set by the judge of each division.

(B) Case Management Conference Docket

1. All cases filed in the Family Court Division shall be set down for a case management conference as close to ninety days from date of filing as is practicable. Upon filing, the Circuit Clerk shall provide to the filing party a Notice of Case Management Conference, which shall set forth the assigned date and time of said conference. The Notice of Case Management Conference shall be served upon the responding party with the summons and service copy of the initial pleading.

2. Once scheduled, a Case Management Conference may only be rescheduled by the judge of the division to whom the case has been assigned. Counsel of record or unrepresented party are required to appear in person at the Case Management Conference., unless previously excused by the judge of the division to whom the case has been assigned. **Failure of the counsel of record or unrepresented party to appear for the scheduled Case Management Conference may result in the dismissal, without prejudice, of the case, or the issuance of such other sanctions as the court may deem appropriate.**

3. Attendance at the Case Management Conference shall not be required in any case that is resolved by default, affidavit or consent memorandum before the scheduled conference date.

(Repealed and Adopted 1/2/07, Amended 12/10/07, 4/1/13, 5/6/13)

68.13. MOTIONS PENDENTE LITE

(A) All motions pendente lite seeking temporary awards of child custody, child support, maintenance or other temporary relief pending trial upon the merits shall be

heard at such times as determined by the judge of the division to which the case has been assigned.

(B) No motion pendente lite shall be noticed up for hearing prior to the first of the following: Thirty days after service of the petition upon the opposing party; waiver of service by the opposing party; or the filing of an answer by the opposing party.

(Repealed and Adopted 1/2/07, Amended 12/10/07)

68.14 GUARDIAN AD LITEM

From and after the date of this rule, the Court will select Guardians ad Litem, for service in Juvenile and Family court Cases pursuant to the following process:

(a) FAMILY COURT CASES: Cases brought pursuant to Sections 210, 452, 454 and 455 shall be assigned guardians ad litem on the basis of the ability of the parties to pay for the services to be provided. The Family Court shall establish, by order entered by the Administrative Judge of the Family Court, an income threshold for consideration of the appointment of a guardian ad litem who will be paid from public funds. This order may be modified from time to time. A request for the appointment of a guardian ad litem must be accompanied by a Notice of Hearing and an up to date and complete financial statement for each party to the proceeding. The Court shall review the financial statements and compare the same with the applicable guidelines and enter such order as may be appropriate. The Court may deviate from the guideline to the extent that justice so requires. To the extent that the combined income of the parties exceeds the guideline the Court shall appoint a guardian ad litem from the list of approved guardians and shall enter an order requiring a posting of a sufficient deposit to secure the fee of the guardian. To the extent that the combined income of the parties does not exceed the guideline, or to the extent that the Court deviates from the guideline, the Court shall appoint a

guardian ad litem from the list of guardians contracted by the County.

(b) JUVENILE CASES: Cases brought pursuant to Section 211 shall be assigned guardians ad litem and counsel for children and parents from the list of guardians contracted for by the County. At the conclusion of the case, the Court shall, to the extent allowed by law, enter a judgment in favor of the County for the reasonable value of the guardian ad litem services.

(c) FEE OF GUARDIAN AD LITEM PAID BY PARTIES: A guardian ad litem who is paid by the parties shall be paid a fee based upon an hourly fee of $180 per hour.

(d) GUARDIANS CONTRACTED BY THE COUNTY: The County shall, on an annual basis, contract with attorneys to serve as guardians ad litem in cases where the parties' income does not exceed the established guideline. The selection of the attorneys shall be made by the Administrative Judge of the Family Court, in consultation with the other Judges who regularly hear family court or juvenile cases. The number of attorneys contracted shall be determined by the Administrative Judge of the Family Court. The compensation provided by the contract shall be determined by the Administrative Judge of the Family Court. The total cost of contracted attorney shall be included in the Circuit Court budget each year. There shall be an annual assessment of the performance of each contracted guardian and the Court may elect to offer or not offer a contract to an attorney based upon this evaluation. Contracted attorneys will be assigned a percentage of the total number of cases for which contracted attorneys are required each year. The contract will set forth the percentage of assignments and the type of assignments each attorney will receive.

(e) ADDITIONAL EXPENSES: The Court shall budget, as part of the Circuit Court Budget, an additional sum to

provide a fund for the payment of reasonable expenses incurred by the contracted guardians. These expenses are expected to be in the nature of service fees for subpoena, costs for depositions, sign and language interpreters for the purpose of interviewing clients and fees for witnesses. Said additional fees shall be reviewed and approved by the Court at the conclusion of the case.

(Adopted 5/10/07, revised 5/5/08, amended 4/4/11, 4/1/13)

68.15 ALTERNATIVE DISPUTE RESOLUTION

(A) Pursuant to Supreme Court Rule 17 and 88.02 through 88.08, the Court adopts the following Alternative Dispute Resolution program. The alternative dispute resolution mechanism shall be mediation.

(B) In all actions in which this rule applies, a notice of the availability of alternative dispute resolution services shall be furnished to all parties. The Circuit Clerk shall provide a notice to the party or parties' initiating the action at the time the action is filed. All responding parties shall be provided the notice along with the summons and petition. The notice shall advise the parties of the availability of alternative dispute resolution and shall inform the parties that the name of mediators qualified under this rule and a description of their background and fees may be obtained from this Court. Counsel for the parties shall discuss alternative dispute resolution with their clients.

(C) A Mediation Notice and Election Form may be filed in any proceeding with the Court within thirty (30) days of the date in which responsive pleadings are due or the Court may order the mediation on its own motion at any time. When the mediation is elected or if mediation is ordered by the Court at a case management conference, counsel will obtain a copy of the list of approved Family Law Mediators from the Family Court Coordinator and

select a mutually agreed upon mediator. If an agreement cannot be made, the Court will appoint a mediator.

(D) The mediation shall be private and confidential as provided by Supreme Court Rule 17.06. No stenographic, electronic or other record of the mediation shall be made.

(E) The parties will pay the mediator's fees according to the Court Order for Mediation. Fees shall be paid directly to the mediator selected. The Court reserves the right to review the reasonableness of the fee charged by the mediator.

(F) The mediator must meet the qualifications as set forth in Supreme Court Rule 17.04.

(G) The Circuit Clerk shall maintain and make available to counsel, parties, and the public the list of qualified neutrals compiled by the clerk under this rule. The list shall include the mediator's training, experience, qualifications and other information deemed appropriate by the Court.

(H) No person shall serve as a mediator in any proceeding in which the mediator is interested, prejudiced, related to a party, has been counsel to a party in the cause, or under any circumstance which would reasonably call into question the mediator's impartiality. A mediator may withdraw for any reason set forth in this rule or for any other reason.

(I) The results of the mediation shall not be reported to the Court except as provided in Supreme Court Rule 17.05. Parties attempting resolution through Alternative Dispute Resolution, without success, shall receive priority trial settings.

(Adopted 12/10/07, Amended 12/7/09)

68.16 MEDIATION DEFINED

Mediation under this local rule is the process by which a neutral mediator, selected by the parties or appointed by the Court, assists the parties in reaching a mutually acceptable agreement as to issues of their case. The role of the mediator is to assist the parties in identifying the issues, reducing misunderstanding, clarifying priorities, exploring areas of compromise, and finding points of agreement. An agreement reached by the parties is to be based on the decisions of the parties and not the decisions of the mediator. The agreement reached can resolve all or only some of the disputed issues.

(Adopted 12/10/07)

68.17 MEDIATION – WHEN ELECTED – APPOINTMENT OF MEDIATOR

(A) In every case involving contested issues of child custody and/or visitation, the parties shall participate in a minimum of two (2) hours of mediation pursuant to Missouri Supreme Court Rule 88.02 through 88.08 and this local rule unless waived by the court for good cause shown as hereinafter set forth. Unless the parties present a signed parenting plan related to custody and visitation to the Court at the initial case management conference, mediation shall be ordered under this section. In all family-law related cases referred to mediation by the terms of this rule, the parties are encouraged to mediate any or all other issues including, but not limited to, child support, property division and maintenance. Any mediation beyond the initial two hours shall proceed by mutual agreement of the parties and the mediator.

(B) If both parties indicate a willingness to use mediation per the Mediation Notice and Election Form, or if mediation is ordered by the Court, an Order of Mediation shall then be issued by the Court. Mediation shall be completed within the time frame set forth in the court order for mediation.

(C) If the parties have not selected a mutually agreeable mediator from the court-approved list, the court shall appoint a mediator from the court-approved list to conduct mediation pursuant to the rule. Fees for mediation may be adjusted by the court upon consideration of the parties' Statement of Income and Expenses and if resources are available to the Court.

(D) Within fourteen (14) days of the compliance and/or completion of the mediation, the mediator shall file with the court, a notice indicating the compliance with the minimum two hours of mediation pursuant to the rule and notice of completion of the case as to whether or not the issues were settled. Any memorandum of understanding of the parties along with the ongoing contested issues at the close of mediation shall be sent to parties and their attorneys (if any).

(E) Some cases may be inappropriate for mediation, which may include those with a history of domestic violence. If the case is deemed inappropriate for mediation due to domestic violence or a significant imbalance of negotiating power or for any other reason determined by the mediator, the mediator shall so notify the Court in writing.

(Adopted 12/10/07, Amended 12/7/09)

68.18 MEDIATION – QUALIFICATIONS OF THE MEDIATOR

(A) A mediator who performs mediation in a domestic relations matter pursuant to the rule shall be a person who has stated by affidavit that he or she:

1. Is an attorney or a person who possesses a graduate degree in field that includes the study of psychiatry, psychology, social work, counseling or other behavioral science substantially related to marriage and family interpersonal relationships; and,

2. Has completed an approved training program which consists of at least forty (40) hours of curriculum requirements approved by the Missouri Supreme Court or its designee. Such curriculum shall substantially meet the training requirements and components as established by the Association of Conflict Resolution and must include at least four (4) hours dealing with domestic violence and power imbalance issues.

(B) All Supreme Court Rule 88 mediators trained prior to December 1, 2002, shall be exempt from the new education requirements established above with the exception of continuing education but shall advise the Court and the Office of State Courts Administrator of the number of formal hours of mediation training received.

(C) The Circuit Clerk shall maintain a list of persons qualified to act as mediators under this rule. Only those persons who are included on the court-maintained list of mediators may be considered as mediators according to this rule. To be included on this court-maintained list, the interested person must file the previously described affidavit with the Circuit Clerk along with a statement containing, at the minimum, the following information: business address; telephone number, fax number, e-mail address, if any; degree(s) and the institution(s) obtained therefrom; type and number of hours of mediation training; current profession and hourly rate of mediation. The person may also attach a resume or curriculum vitae in lieu thereof.

(D) The list of mediators shall be updated from time to time as deemed necessary by the Family Court Administrative Judge. All persons included in the list of mediators shall keep the Circuit Clerk apprised of any changes to their qualification, including any change in status with any professional association, and their fees.

(E) All mediators who serve in family-law related cases by court order shall submit an application for listing on the Approved Mediators List to be established and maintained by the Office of State Courts Administrator.

(F) Disqualification of a mediator shall be ordered in any legal proceeding upon the filing of a written application within ten (10) days of appointment. Each party is entitled to one (1) disqualification in each proceeding, except a party may be entitled to additional disqualifications for good cause shown. A mediator who has been appointed shall advise the Court of any fact bearing on their qualifications, including any fact which would be reason for their disqualification. If a mediator is disqualified, an order shall be entered naming a qualified replacement. Nothing shall limit the mediator's ability to refuse assignment of any mediation under this rule.

(Adopted 12/10/07)

68.19 MEDIATION – DUTIES OF THE MEDIATOR

(A) In all cases in which the court orders mediation, the mediator shall use the court-approved Agreement to Mediate.

(B) In all other mediations, the mediator in writing shall:

1. Inform the parties of the costs of mediation;

2 Advise the parties that the mediator does not represent either or both of the parties;

3. Define and describe the process of mediation to the parties;

4. Disclose the nature and extent to any relationships with the parties and any personal, financial, or other interests that could result in a bias or a conflict of interest;

5. Advise each of the parties to obtain independent legal advise;

6. Disclose to the parties' attorneys any factual documentation revealed during the mediation if at the end of the mediation process the disclosure is agreed to by the parties;

7. Ensure that the parties consider fully the best interests of the children and that the parties understand the consequences of any decision they reach concerning the children;

(B) The mediator may meet with the children of any party with the consent of the parties, the Guardian ad Litem or upon order of the court.

(C) The mediator shall make a written memorandum of any understanding reached by the parties. A copy of the memorandum shall be provided to the parties and their attorneys, if any, within fourteen (14) days of the last mediation appointment. The mediator shall advise each party in writing to obtain legal assistance in drafting any agreement or for reviewing any agreement drafted by the other party. Any understanding reached by the parties as a result of mediation shall not be binding upon the parties until it is reduced to writing, signed by the parties and their attorneys, if any, and then approved by the Court. If any party is not represented, the mediator shall provide to the Court the written summary of any understanding reached by the parties.

(D) The mediator may act as a mediator in subsequent disputes between the parties. However, the mediator shall decline to act as attorney, counselor or psychotherapist for either party during or after the mediation or domestic relations

proceedings unless the subsequent representation, counseling, or treatment is clearly distinct from the mediation issues. The mediator may not subsequently act as an investigator for any court-ordered report nor make any recommendations to the court regarding the child care issues.

(Adopted 12/10/07, Amended 12/7/09)

68.20 TERMINATION OF MEDIATION

(A) Either party may terminate mediation at any time as per Supreme Court Rule 88.07

(B) The mediator shall terminate mediation whenever the mediator believes:

1. The continuation of the process would harm or prejudice one or more of the parties or the children; or

2. That the ability or willingness of any party to participate meaningfully in mediation is so lacking that a reasonable agreement is unlikely.

(C) The mediator shall report the termination of mediation to the Court. The mediator shall not state the reason for termination except when the termination is due to a conflict of interest or bias on the part of the mediator, in which case another mediator may be appointed.

(Adopted 12/10/07)

68.21 CONFIDENTIALITY

Mediation proceedings shall be regarded as settlement proceedings. With the exception of information released pursuant to subdivision 88.06(a) (6), any communication relating to the subject matter of such disputes made during the mediation shall be a confidential communication. No admission, representation, statement or other confidential communication made in setting up or conducting such

proceedings not otherwise discoverable or obtainable shall be admissible as evidence or subject to discovery.

(Adopted 12/10/07)

68.22 CONFIDENTIALITY OF SPECIAL MASTER SESSIONS

(A) Special Master sessions shall be regarded as settlement proceedings. No admission, representation, statement or other confidential communications made in setting up or conducting the Special Master session, not otherwise discoverable or obtainable shall be admissible as evidence or subject to discovery.

(B) No person who serves as a Special Master, nor any agent or employee of that person, shall be subpoenaed or otherwise compelled to testify as to any matter disclosed in the process of setting up or conducting a Special Master session.

(Adopted Aug. 2, 2010)

RULE 69 MUNICIPAL DIVISION

(No local rule)

RULE 70 PARTITION

(a) In partition sales, plaintiff's attorney shall assist the Sheriff or Commissioners in preparing all necessary reports of sale and orders of distribution and present them to the Court.

(b) No report of commissioners in partition, and no report of a sale in partition, by the Sheriff, or any Commissioner appointed by the Court, not excepted to, shall be confirmed unless the same has been on file at least three (3) days, unless all parties in interest of their attorneys or guardians expressly request in writing that an order of confirmation be entered.

(Eff. Nov. 1, 1991.)

RULE 71 ADMINISTRATIVE REVIEWS

(No local rule)

RULE 72 PROBATE

(No local rule)

RULE 73 SMALL CLAIMS

(No local rule. See Supreme Court Rules 140 through 155.)

(Eff. Nov. 1, 1991.)

RULE 74 TRUST ESTATES

(No local rule)

74.1 INVENTORY

(No local rule)

74.2 REPORTS

(No local rule)

74.3 RECORD

(No local rule)

74.4 AUDIT

(No local rule)

RULE 75 DRUG COURT

75.1 ESTABLISHMENT OF DRUG COURT

75.1.1 There shall be a Drug Court established in the 11th Judicial Circuit of St. Charles County, Missouri. The Drug Court shall combine judicial supervision, drug and alcohol testing and treatment of Drug Court Participants.

75.1.2 The Court en banc has approved the following Drug Court Models:

(a) Adult Drug Court Deferred Prosecution Model
(b) Adult Drug Court, Re-entry Model
(c) Adult Drug Court Revocation Model
(d) Adult Drug Court DWI Model
(e) Adult Drug Court, Co-occurring Illness Model
(f) Family Drug Court Model

(Adopted June 3, 2002, Amended 1/2/07.)

75.2 PURPOSES OF DRUG COURT

(a) The ADULT DRUG COURT, DEFERRED PROSECUTION MODEL, will provide for deferred prosecution to reduce substance abuse convictions in the community by providing a program for first-time, non-violent felony offenders to become drug-free and productive members in our community. Participation in this model of the Drug Court is determined prior to the entry of any plea. Upon the successful completion of the Drug Court program the criminal charges against the Defendant will be dismissed with prejudice.

(b) The ADULT DRUG COURT, RE-ENTRY MODEL, provides for a defendant who has previously been sentenced to the Missouri Department of Corrections but has been released and placed on Probation pursuant to RSMo. Sec. 559.115 to be assigned to the Adult Drug Court as a condition of their probation. This assignment will be made by the sentencing Judge and will allow a defendant to receive the treatment and counseling available in Drug Court while on probation.

(c) The ADULT DRUG COURT, REVOCATION MODEL, will provide for an opportunity for individuals presently on probation for a criminal offense and subject to a motion to revoke probation to avoid incarceration by completing the Drug Court program. The Judge who accepted the

Defendant's plea will make the assignment to the Drug Court.

(d) The ADULT DRUG COURT, DWI MODEL, will provide for a post-plea supervision of Felony DWI defendants designed to offer an intensive treatment based supervision designed to reduce recidivism and offer defendants an opportunity for substance free life.

(e) The ADULT DRUG COURT, CO-OCCURRING ILLNESS MODEL, will provide for the post-plea supervision of Misdemeanor A or Felony defendants who have been diagnosed with an Axis I mental health disorder and a substance abuse disorder. This model is designed to help an individual achieve psychological stabilization and engaged with appropriate community resources to maintain a crime-free life of recovery.

(f) The FAMILY DRUG COURT is targeted at parents who have been found by the Family Court to have abused and/or neglected their children and abuse or are dependent on alcohol and/or other drugs with a goal of eliminating such abuse or dependency and reunification of parent and child.

(Adopted June 3, 2002, Amended 1/2/07, Amended 2/5/07)

75.3 APPOINTMENT OF A DRUG COURT ADMINSTRATOR

The Court en banc may appoint a Drug Court Administrator who shall assist the Drug Court Judge or Drug Court Commissioner in the administration of the Drug Court.

(Adopted July 5, 2000, Amended 1/2/07)

75.4 BUDGET OF DRUG COURT

The budget of the Drug Court shall be submitted in accordance with regular procedures of the 11th Judicial Circuit and shall be approved by the Court en banc.

(Adopted July 5, 2000, Amended 1/2/07.)

75.5 DRUG COURT POLICIES AND PROCEDURES

The Drug Court Administrator shall prepare a Drug Court Policy Manual establishing the administration of the Drug Court. The manual and any proposed changes shall be submitted for approval to the Court en banc.

(Adopted July 5, 2000, Amended 1/2/07)

75.6 CONDITIONS FOR REFERRAL OF PROCEEDINGS TO THE DRUG COURT

Applicants to the Drug Court would be eligible if:

(a) they are a non-violent, felony offender;

(b) they are under the jurisdiction of the 11th Judicial Circuit;

(c) they are charged with possession or attempt to possess a controlled substance, fraudulent prescriptions, narcotic paraphernalia; or a non-drug, non-violent crime with indication of drug use;

(d) they do not have a history of violent offenses;

Applicants may not be eligible for Drug Court if the drugs possesses exceed the following amounts:

(a)	Methamphetamine	½ gram,
(b)	Cocaine Powder	2 grams,
(c)	Cocaine Base	½ gram,
(d)	LSD	5 hits,
(e)	Psilocybin	½ ounce,
(f)	Miscellaneous pills	5 tablets
	(Valium, dilaudid, Ritalin, talwin, ecstasy, percodan) or	
(g)	Marijuana	less than 35 grams,

Possessors of pure Methamphetamine (ice), heroin, and/or PCP are disqualified from acceptance into the program. Firearms or knives used or displayed by the applicant during the

commission of any offense disqualified them from the Drug Court program regardless of the amount of controlled substance.

(Adopted July 5, 2000, Amended 1/2/07, Amended 2/5/07)

75.6.1 ASSIGNMENT OF CASES TO THE DRUG COURT

The Drug Court Judge shall accept a participant into the Adult Drug Court after all of the following events have occurred:

(a) the Prosecuting Attorney has determined that the Defendant is a non-violent person and is eligible for the Drug Court program for the diversion model or a Circuit Judge or Associate Circuit Judge assigns the defendant to the Drug Court pursuant to a 120 day re-entry or probation case;

(b) that the defendant meets the criteria for Drug Court referral in Rule 75.8;

(c) the defendant participates in the Drug Court screening and is found eligible for the Drug Court program;

(d) the defendant signs the Drug Court Contract.

The Drug Court Judge shall accept a participant into the Family Drug Court after all of the following events have occurred:

(a) a referral has been made by a Family Court Judge after considering that the parent meets the criteria for Family Drug Court;

(b) the parent completes a screening and assessment and are found appropriate for Drug Court;

(c) the parent sign the Drug Court Contract.

(Adopted June 3, 2002, Amended 1/2/07, Amended 2/5/07)

75.6.2 TRANSFER OF PROCEEDINGS TO CIRCUIT COURT UPON TERMINATION FROM DRUG COURT PROGRAM (Adult Drug Court)

When an Adult Drug Court participant voluntarily terminates or is terminated by the Drug Court Judge for non-compliance with the Drug Court Contract, the case will be transferred back to the Division which arraigned the defendant after the bound-over. In the event that the defendant has not been arraigned by a Circuit Judge the case will be randomly assigned to a Circuit Court Judge for further proceedings on that Judge's regular criminal docket. All causes should be transferred to the Presiding Judge for reassignment.

(Adopted June 3, 2002, Amended 1/2/07)

75.6.3 FEES FOR PARTICIPATION IN DRUG COURT PROGRAM (Adult Drug Court)

Participants in the Drug Court Program shall be assessed a monthly fee to be approved by the Court en banc for each month or part of month they participate in the program. All fees must be paid in full before any participant will be eligible to be considered for graduation from the program. The Drug Court Judge may waive or reduce these monthly fees at their discretion.

(Adopted June 3, 2002, Amended 1/2/07)

75.6.4 DRUG COURT PROGRAM (Adult Drug Court)

The Drug Court program will be a minimum of one year in length. The program details will be fully set out in the Drug Court Manual but will consist of an assessment phase and three graduated treatment phases before a participant will be eligible to apply for graduation. Treatment and progress in the program will be reviewed by a Drug Court Team which will consist of the Drug Court Judge, a representative from the Prosecutor's Office, representatives from treatment

providers, representatives from Probate and Parole, the Drug Court Administrator, and such other individuals as authorized by the Drug Court Judge. Upon successful completion of the program the participants will participate in a commencement ceremony. Those participants in the Adult Drug Court deferred prosecution model shall have their criminal charges dismissed by the State with the filing of a memorandum of Nolle Prosequi by the Prosecutor's Office.

(Adopted June 3, 2002, Amended 1/2/07)

POST TRIAL

RULE 81 <u>EXECUTION</u>

(No local rule)

RULE 82 <u>GARNISHMENT</u>

(No local rule)

RULE 83 <u>JUDICIAL SALES</u>

(No local rule)

INTERNAL ORGANIZATION

RULE 100 <u>INTERNAL ORGANIZATION</u>

100.1 <u>PRESIDING JUDGE</u>

100.1.1 <u>ELECTION</u>

(No local rule)

100.1.2 <u>DUTIES OF PRESIDING JUDGE</u>

(a) The Presiding Judge of the Circuit shall have the authority to assign judges to hear such cases or classes of cases as the Presiding Judge may determine, and to assign judges to divisions.

(b) The Presiding Judge of the circuit shall not have the authority to assign:

(1) A Municipal Judge to hear any case other than to initially hear a municipal ordinance violation case of the municipality which makes provision for such municipal judge.

(2) A Judge to hear the trial of a felony case when he has previously conducted the preliminary hearing in that case.

(Eff. Nov. 1, 1991. Amended, eff. Aug. 28, 2000.)

100.1.3 DISPUTE RESOLUTION – PROCEDURE

(No local rule)

100.2 LOCAL COURT RULES

Any of the above rules or parts thereof in conflict with any rule of the Supreme Court of Missouri or any law of the State of Missouri is hereby considered amended to conform to said rule or law governing same.

(Eff. Nov. 1, 1991.)

100.2.1 FORMULATION

(No local rule)

100.2.2 PUBLICATION

(No local rule)

100.3 LIBRARY FUND

Any party filing an Associate Civil case or a Circuit Civil case in the circuit Court of this Circuit shall, at the time of filing suit, deposit with the clerk of the court a surcharge in the amount of five dollars ($5.00) for the law library fund in addition to all other deposits required

by law or court rule. Effective August 28, 2006 the law library surcharge will be eight dollars ($8.00) No summons shall issue until the deposit has been made. This rule shall not apply to proceedings when costs are waived or are to be paid by the county or state or any city, nor to proceedings filed under Chapter 455 RSMO.

Monies collected pursuant to this rule shall be payable to the Court designated treasurer of such funds to be applied and expended as provided by law for the maintenance and upkeep of the law library maintained by the Bar Association of St. Charles County.

It is further provided that the judges of the Circuit Court, the officers of all courts of record and all attorneys licensed to practice law in any such county shall be entitled at all reasonable times to use said library to the support of which said funds are applied.

(See Section 514.440 – 514.480 RSMO)
(See also Chapter 455 RSMO as amended in 1996)

(Adopted July 5, 2000, Amended Dec. 9, 2002, Aug. 28, 2004, Nov. 14, 2005)

100.4 STORAGE OF RECORDS

(No local rule)

100.4.1 REPRODUCTION, PRESERVATION, ARCHIVAL STORAGE AND DISPOSITION 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)