# RULES OF THE CIRCUIT COURT OF THE FORTY-FIRST JUDICIAL CIRCUIT
# [Macon and Shelby Counties]

## ADMINISTRATION
## RULE 1. DIVISIONS OF COURT

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

Macon County.
Division One: Circuit and Juvenile
Division Two: Associate, Probate and Small Claims
Division Six: Municipal

Shelby County.
Division Three: Circuit and Juvenile
Division Four: Associate, Probate and Small Claims
Division Five:
Municipal

[Eff. Jan. 2, 1981.]

## ADMINISTRATION
## RULE 2. HOURS AND TERMS OF COURT

### RULE 2.1 HOURS OF COURT

A. All sessions of Court shall convene at 9:00 a.m., unless a different time is ordered by the court.

B. The Court will observe the following holidays: All state holidays and other days on which the Supreme Court or the Circuit Court declares that the Courts shall be closed.

[Eff. Jan. 2, 1981. Amended Jan. 1, 2002.]

### RULE 2.2 TERMS OF COURT

A. The Circuit Court of each County of the Circuit shall be in continual session as provided by Section 478.205, RSMo 2000. To the extent that a Term of Circuit Court may be required or specified by these rules or by any provisions of law, the "Terms" of Court for Divisions I, II, III and IV shall be considered as commencing on the dates as hereafter stated:

(1) In Macon County on the second Wednesday in the months of January, April, July and October; and

(2) In Shelby County on the second Thursday in the months of February, June and October.

The Court shall not be required to convene in any County in the Circuit on the first day of any "Term" solely because of this rule.

[Eff. Jan. 2, 1981. Amended Jan. 1, 2002.]

**RULE 2.3 LAW DAYS**

A. The Law Days for Division I and III will be held as follows unless otherwise directed by the Court:

(1) In Macon County on the second and fourth Wednesday of each month; and

(2) In Macon County there shall be a Juvenile Law Day on the second and fourth Monday of each month; and

(3) In Shelby County on the second Thursday of each month; and

(4) In Shelby County there shall be a Juvenile Law Day on the second Tuesday of each month.

B. The Law Days for Divisions II and IV will be held as follows unless otherwise directed by the Court:

(1) In Macon County Drug Court and criminal matters on Tuesday of each week (if Tuesday is a legal holiday, then that Court shall cancel) civil matters on the second and fourth Monday of each month (if Monday of that week is a legal holiday, then that Court shall cancel) and probate matters on the second Wednesday of each month (if Wednesday is a legal holiday, then that Court shall cancel) except on those days the Court shall cancel; and

(2) In Shelby County on Friday of each week, except the Friday following Thanksgiving Day or the Friday preceding Easter Sunday and on those days the Court shall cancel.

[Eff. Jan. 2, 1981. Amended Sept. 18, 1991; Jan. 1, 2002; Jan. 1, 2003, Jan. 1, 2005, Jan. 1, 2006, Jan. 2, 2007.]

**RULE 2.4 PARTICULAR MATTERS ON PARTICULAR DAYS**

A. All Motions and other law matters preliminary to the trial or other disposition of a case, may be heard on any Law Day or Term Day occurring at least five (5) days after notice in writing to all counsel of record, or parties if not represented by counsel, that they are to be present at such time, or at any time by consent of parties. Motions and other matters of law in any case may be heard by the Judge when in attendance or trials, by consent of parties, during any recess in the trial (consent of the Judge having theretofore been obtained).

B. At any time when counsel for all parties are present in Court, unless good cause be shown to the contrary, any case then at issue shall, at the request of either party, be set for trial at such time as may be mutually agreeable to counsel in the case and the Court; or, in the absence of such agreement, at such time as may be designated by the Court. A case may be set in the absence of opposing counsel, provided the party demanding trial shall have given the said opposite party reasonable notice of his intention to request a setting.

C. Cases in default may be prosecuted to final judgment on any Law Day; or on any day the Judge is present after such default.

D. Pretrial conferences, when ordered by the Court, shall be held as ordered by the Court.

[Eff. Jan. 2, 1981. Amended Jan. 1, 2002.] [Amended Jan. 1, 2005.]

## ADMINISTRATION
## RULE 4. FILING OF CASES

**RULE 4.1 CRIMINAL CASES**

A. Since the consolidation of the Clerk's Office in both counties in the circuit, all cases, except Municipal Division cases in cities having municipal courts, shall be filed in the Circuit Clerk's Office, and assigned to the appropriate division.

B. In all criminal actions, including post conviction motions filed pursuant to Missouri Supreme Court Rules, the Clerk shall accept for filing any facsimile transmission of motions, pleadings, and the like, and the motion, pleading or other transmitted document shall be deemed filed as of the date of the facsimile transmission is received by the Clerk, and shall have the same effect as the filing of an original document. The party utilizing the facsimile transmission of the

aforesaid document shall retain the original and make it available upon order of the Court. This Rule shall apply to all motions, including those required to be verified or submitted by affidavit.

[Eff. Jan. 2, 1981. Amended Jan. 1, 2002; Jan. 1, 2003, Amended Jan. 6, 2010.]

**RULE 4.2 CIVIL CASES**

A. All civil cases, pleadings, motions and papers relating thereto shall be filed with the Circuit Clerk's Office and assigned to the appropriate division.

B. Attorneys, when filing suits, will furnish the Clerk with a sufficient number of copies of the petition or other initial pleadings, for use in the issuance of process. Attorneys will also instruct the Clerk as to the method of service desired, giving the post office address and street number of each defendant to be served, when applicable. When service is by mail or by publication, affidavits for same must be filed; and, in service by publication, form of Order of Publication of Notice, in duplicate, must accompany the petition and affidavit when filed.

C. In all civil actions, including post conviction motions filed pursuant to Missouri Supreme Court Rules, the Clerk shall accept for filing any facsimile transmission of motions, pleadings, and the like, and the motion, pleading or other transmitted document shall be deemed filed as of the date of the facsimile transmission is received by the Clerk, and shall have the same effect as the filing of an original document. The party utilizing the facsimile transmission of the aforesaid document shall retain the original and make it available upon order of the Court. This Rule shall apply to all motions, including those required to be verified or submitted by affidavit.

D. All civil cases filed under Section 517.011 RSMo 2000 limit shall be filed with the Division II or Division IV Clerk, unless the attorney for the plaintiff, at the time of filing the case, files a written election that the case be disposed of in Division I or Division III.

E. In all civil cases in all Divisions, on a form supplied by the Clerk, the parties shall file with the court a Civil Case Party Information Sheet.

(1) In all civil cases where the appointment of a next friend for a minor is sought under Civil Rule 52.02(a) through (d) of the Missouri Rules of Civil Procedure, the petition for appointment must state the name and address of the person with whom the minor resides.

F. All of the following cases are automatically assigned to the Judges of Division II or Division IV, respectively, for disposition:

(1) Dissolution of marriages or legal separation proceedings; and

(2) Motions to modify decrees of dissolution, maintenance, child custody and child support.

[Eff. Jan. 2, 1981. Amended Oct. 1, 1990; Sept. 18, 1991; Jan. 1, 2002; Jan 1, 2003, Jan. 1, 2009, Jan. 6, 2010.]

**RULE 4.3 PROBATE CASES**

A. All cases pertaining to the Probate Laws of this State shall be filed in the Probate Division of respective county.

B. All Trust Estates are automatically assigned to Probate Division of respective county.

[Eff. Jan. 2, 1981.]

**RULE 4.4 JUVENILE CASES**

All cases and pleadings pertaining to juveniles will be filed with the Circuit Court except:

(a) Juvenile proceedings where juvenile is ward of Probate Court, and all cases on written request of Juvenile Officer shall be filed in Division II or Division IV, respectively; and

(b) Uncontested proceedings for the approval of settlements of suits involving claims of or for minors shall be filed in Division II or Division IV, respectively.

[Eff. Jan. 2, 1981. Amended Jan. 1, 2002.]

**RULE 4.5 SMALL CLAIMS CASES**

All Small Claims shall be filed in Division II or Division IV. Execution on Judgments in Small Claims shall be filed in Small Claims Court.

[Eff. Jan. 2, 1981. Amended Jan. 1, 2002.]

**RULE 4.6 MUNICIPAL CASES**

Municipal ordinance violation cases shall be filed with the Clerk of the appropriate municipal division when that municipality has made provisions for a municipal judge as provided by law. If the municipality has not made such provisions, the filing shall be with the

Clerk of the appropriate division presided over by the Associate Circuit Judge. Municipal traffic violation cases may be disposed of in the Municipal Traffic Violations Bureau in the cities of Shelbina, Shelbyville, Clarence and Hunnewell, in accordance with Section 479.050, RSMo 2000.

[Eff. Jan. 2, 1981.]

## RULE 4.7 – PRO-SE LITIGANT

Any person who is not represented by a licensed attorney and who desires to file a case in a division of this Court, except a case to be filed in the Small Claims Division of the Court and except a petition for a Protective Order under Chapter 455.RSMo., shall be required to view and familiarize themselves with the web site entitled "Representing Yourself in Missouri Court" which is accessible at www.selfrepresent.mo.gov. Before being permitted to file a case, a pro-se litigant shall execute a certificate that he or she has viewed such web site, has taken the "self assessment exercise," has read and understood the warning about proceeding without legal representation and understands that the court clerks are prohibited from assisting them or giving legal advice. If such site contains forms applicable to the type of case which the pro-se litigant desires to file, usage of such forms is mandatory. [Adopted Jan. 2, 2008, effective March 1, 2008.]

## ADMINISTRATION
## RULE 5. FEES AND COSTS

### RULE 5.1 FILING FEE AND COST DEPOSIT

In all cases filed in this Circuit there shall be deposited with the appropriate Clerk, for which he shall give his receipt, the following sums (and the same shall represent costs):

Division I, II and III

| | |
|---|---|
| Adoption | $ 300.00 |
| All original Civil cases | 150.00 |
| All original civil cases where services is waived | 100.00 |
| Civil cases filed under Chapter 517 ($20 each additional defendant) | 100.00 |
| Trial de Novo from Associate Division (In addition to costs in Associate Division) | 60.00 |
| Execution (which includes applicable Sheriff's fees) | 30.00 |
| Execution with Garnishment | |

| | |
|---|---|
| (which includes applicable Sheriff's fees) | 30.00 |
| Mechanic Liens | 5.00 |
| Trial de Novo (criminal) | 45.00 |
| Trial de Novo (from Municipal Court) | 30.00 |
| Additional costs in criminal cases, except non-moving traffic violation cases and conservation cases, per County Court Order and HB 879 & 899, 1978 | 2.00 |
| Library fee in all civil cases initiated in Circuit Court | 15.00 |
| Library fee in all cases initiated in Associate Court under Section 517 | 15.00 |
| Appeal to Appellate Court (payable direct to Appellate Court) | 70.00 |
| Registering Foreign Judgements-Specific Division clerk's fee plus cost of service | |

Probate: The deposit required for Probate cases shall be in an amount as set out in Section 488.012 RSMo 2000 and Court Operating Rule 21.01.

[Eff. Jan. 2, 1981. Amended Aug. 28, 1991; Nov. 1, 1993; Nov. 1, 1994; June 26, 1997; Dec. 11, 1998, Eff. Jan 1, 1998; Oct. 1, 1999; Jan. 1, 2002, Jan. 1, 2005, Jan. 1, 2006, Jan. 1, 2009]

**RULE 5.2 COSTS**

A. All costs, fines, fees or any moneys paid into Court shall be paid by cash, money order or bank draft. Personal checks will only be accepted by approval of the Court.

B. Costs for photocopying shall be $.25 per page. Costs for faxes shall be $1.00 for the first page and $.25 for each page thereafter.

C. Costs for copying a CD of a court proceeding shall be $25.00 per CD; this rule shall not be construed to authorize the release of a recording of any court proceeding which is closed to the public by statute, court rule or court order.

[Eff. Jan. 1, 2002, Amended Jan. 1, 2005, Jan. 1, 2009]

**RULE 5.3 WITNESS FEE**

Witness fees shall not be allowed unless claim for same is made to the Clerk on date of appearance. The attorney causing any witness to be subpoenaed is requested to see that proper claim is made. Witness fees shall be assessed as costs.

[Eff. Jan. 2, 1981. Amended Jan. 1, 2002.]

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

### RULE 6.1 ASSIGNMENT TO ASSOCIATE CIRCUIT JUDGES

A. By Local Court Rules or Order. The following cases will be heard by an Associate Circuit Judge:

(1) Civil actions where the sum demanded, exclusive of interest and costs, does not exceed the limit in Section 517.011 RSMo 2000;

(2) Actions against any railroad company to recover damages for killing or injuring animals;

(3) Replevin, attachment and mechanic's lien action where the recovery sought is under the limitation of RSMo. 533.240;

(4) Actions for unlawful detainer authorized by Chapter 534, RSMo 2000;

(5) Actions for rent and possession authorized by Chapter 535, RSMo 2000;

(6) Petitions for review of driver's license revocations and for hardship driving privileges.

(7) Actions under Adult Abuse Law and Child Protection Law; and

(8) Such other cases that could be heard and determined by an Associate Circuit Judge without assignment as an acting Circuit Judge under provisions of the law in effect on January 1, 1979.

B. In addition to the above cases, an Associate Circuit Judge shall hear and determine the following cases:

(1) Cases of misdemeanor or infraction, except as otherwise provided by law;

(2) Felony cases prior to the filing of an information;

(3) Municipal ordinance violation cases of the following municipalities: Shelbina, Shelbyville, Clarence and Hunnewell;

(4) "Small Claims" cases as provided in Chapter 482 RSMo 2000; and

(5) Cases that a Circuit Judge can hear in chambers when a Circuit Judge is absent from the County.

C. The Associate Circuit Judges of this Circuit shall hear and determine the following cases on the record under procedures applicable before Circuit Judges:

(1) Cases arising under the Uniform Reciprocal Enforcement of Support Act;

(2) Cases arising under Chapters 207 and 208, RSMo 2000;

(3) Contempt actions for child support enforcement in addition to those arising under paragraphs (1) and (2) above;

(4) Approval of settlements in actions involving claims by or on behalf of minors;

(5) Change of name proceedings;

(6) Appeals from the Municipal Division;

(7) Dissolution of marriage, legal separation or separate maintenance proceedings;

(8) Actions involving the title to real estate;

(9) Cases assigned to an Associate Circuit Judge by the Presiding Judge;

(10) Adversary proceedings in the Probate Division; and

(11) Modification of Judicial Order as to child support.

[Eff. Jan. 2, 1981. Amended Dec. 31, 1996; Jan. 1, 2002., Jan. 2, 2007.]

**RULE 6.1.2 SPECIAL ASSIGNMENT**

Upon the filing of any felony case in Division II or IV of this Court wherein a preliminary hearing is waived, the judge before whom said preliminary hearing was waived may,

upon written consent of the defendant, counsel for defendant and counsel for the state, and upon the filing of an information by the prosecutor, proceed to dispose of the case upon a plea of guilty on the record with procedures applicable before a judge of the circuit division. Nor formal assignment by the presiding judge shall be required to accept such plea, but thereupon said case is assigned for all purposes, including, but not limited to, post-conviction proceedings and probation revocation.

Preliminary hearings which are not waived will continue under procedures currently applicable for such preliminary hearings.

[Eff. Jan 2, 2003.]

**RULE 6.5 DISQUALIFICATION OF JUDGE**

A. Upon the disqualification of the Presiding Judge, either on his own motion or motion of a party, the Associate Circuit Judge in the county is hereby assigned to hear the case.

B. Upon the disqualification or unavailability of either Associate Judge, either on his own motion or motion of a party, the Associate Judge from the other county within the Circuit is hereby assigned to hear the case. Should both Associate Circuit Judges be disqualified, the case will be automatically assigned to Circuit Court for disposition. Upon the disqualification of an Associate Circuit Judge, the Clerk shall immediately notify the other Associate Circuit Judge of his assignment under this Rule to hear the case. Should both Associate Judges be disqualified, the Clerk shall transfer the file to the Circuit Clerk for disposition in Circuit Court.

[Eff. Jan. 2, 1981.]

**RULE 6.6 ABSENCE OF JUDGE**

In the absence of any Judge from the Circuit any Judge of the Circuit may sit as the Judge of the Division and perform all duties of the absent Judge.

[Eff. Jan 2, 1981.]

## ADMINISTRATION
## RULE 9. WEAPONS

**RULE 9.6 WEAPONS**

Weapons of any kind are prohibited in any courtroom, in any room or hall adjacent to any courtroom, or any office or room occupied by any employee of the Circuit Court, including the

Juvenile Office; this prohibition shall not apply to uniformed law enforcement personnel or to certified law enforcement personnel who may be in civilian clothing; provided, however, that any law enforcement personnel carrying a concealed weapon shall not enter the courtroom while court is in session without notifying the bailiff that such person has a concealed weapon.

[Eff. Jan. 1, 2004. Amended Sept. 22, 2003.]

## ADMINISTRATION
## RULE 9.7

### RULE 9.7 USE OF COURTROOM OR OTHER COURT FACILITY BY ATTORNEYS OR THE PUBLIC

The facilities occupied by the Circuit Court and its divisions may be used by attorneys or the public for purposes of taking depositions or meetings when not in use by court personnel in limited circumstances. Use of the courtrooms or the jury room may not be reserved in advance but may be used by attorneys or the public only when not being used by court personnel. Any person wishing to use court facilities may contact the secretary to the Presiding Judge to determine if the court facilities are scheduled for use. The right to use such facilities is subject to immediate termination if the facilities are needed for any court related purpose.

[Eff. Jan 1, 2006.]

## ADMINISTRATION
## RULE 10. COURT REPORTERS AND COMPENSATION FOR SAME

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

B. Preparations of a typewritten transcript of a record preserved by electronic recording device shall not begin until the Clerk is paid a sum sufficient to cover the estimated cost of this work. The estimated charges will vary depending upon how the typewritten copy is to be prepared.

C. If the appellant desires the Circuit Clerk to forward the material to the Office of State Courts Administrator for transcribing, the estimated cost will be based on rates authorized for transcripts prepared by an Official Court Reporter. It is the responsibility of the appellant to pay this amount upon being presented with a bill by the Circuit Clerk.

[Eff. Jan 2, 1981.]

## ADMINISTRATION
## RULE 11. RECORD IN ASSOCIATE CIRCUIT

All proceedings before the Associate Judge of either county, when a record is required or requested, shall be recorded electronically, unless the Presiding Judge orders otherwise.

[Eff. Jan. 1, 2002.]

## GENERAL RULES
## RULE 21. ATTORNEYS

### RULE 21.6 APPOINTMENT OF ATTORNEYS

A. All appointments of counsel to represent indigent defendants shall continue throughout the defense of the case, including appeal, unless sooner relieved by the Court.

B. The Clerk of the Court in which any attorney is appointed to represent an indigent shall, at the time the attorney is notified of the appointment, provide to the attorney a copy of the initial Complaint and any amendments thereto filed by the State, and, if the defendant is incarcerated, shall inform the attorney of the place of incarceration.

C. Forms of Request for Payment of Fees for Court-Appointed Counsel must be itemized as to dates and hours spent in handling of each case, and must show his social security number in the blank area adjacent to the line provided for his telephone number. No form will be certified for payment by the Court if this procedure is not followed. After preparation, counsel should present the Request to the Judge who heard the case on final disposition.

[Eff. Jan. 2, 1981.]

## SPECIAL PROCESS SERVERS
## RULE 28.

A. The Court or the Circuit Clerk may appoint a special process server in any case upon application of any party, or where the Court or the Circuit Clerk deems such appointment necessary for the prompt service of any process.

B. Any party seeking to obtain service of process through a special process server shall file a written motion with the Court, requesting appointment of a named individual, accompanied by a proposed order appointing such individual to serve process; such appointment shall be valid only for the case in which the order is issued.

C. No individual shall be appointed to serve process unless such person is on an "Approved List" to be maintained by the Circuit Clerk; no individual shall be approved by the Court unless such individual meets all of the qualifications set forth in paragraph D of this Rule 28.

D. In order to be approved as a special process server, an individual must meet all of the following qualifications:

a.) Be at least 18 years of age.
b.) Be a citizen of the United States.
c.) Have a high school diploma or equivalent.
d.) Not have been convicted of a felony or misdemeanor involving moral turpitude.
e.) Not be a fugitive from justice or currently charged with a felony or misdemeanor involving moral turpitude.
f.) Not be related to or employed by any party in the action.
g.) Be of good moral character.
h.) Not have been disqualified to act as a process server within the preceding three years.

E. An individual seeking to be on the "Approved List" shall file a notarized affidavit stating that the individual meets all of the qualifications set forth in paragraph D of this rule; if the Presiding Judge approves such affidavit, such individual shall be listed on the "Approved List" for the calendar year on which approval is granted.

F. An individual shall not be appointed to serve process if that individual is deemed ineligible by a judge of this circuit; a person may be deemed ineligible and may be disqualified for any of the following reasons:

a.) Making a false return of service.
b.) Serious and purposeful improper service of process.
c.) Failing to meet the criteria set forth in paragraph D hereof.
d.) Other good cause.

G. No special process server shall be appointed to serve any other writ or other process which requires any levy, seizure, sequestration, garnishment or other taking by an officer.

[Effective Jan. 1, 2004, adopted Sept. 22, 2003.]

## RULE 29
## SERVICE OF PROCESS

It is the responsibility of any party requesting service of process to ascertain through Case.net whether service of process has been returned unserved, or "non-est." Upon the return of process unserved, the party originally requesting service shall promptly request "Alias Summons" or other method of service. If process is returned "non-est" and the party does not request "Alias Summons," designate another method of service, or request additional time for service within thirty (30) days, the case may be dismissed without prejudice at the Court's discretion.

[Effective Jan. 1, 2006.]

## PRETRIAL MATTERS
## RULE 32. DISCOVERY

### RULE 32.2 INTERROGATORIES

A. Each party shall be limited to propounding a total of twenty-five (25) interrogatories. Each such interrogatory may include no more than six (6) subparts and each subpart shall relate directly to the subject matter of the interrogatory. With consent of the opposing party or with leave of Court, upon good cause shown, additional interrogatories may be propounded.

B. The original of the interrogatories shall be served upon adverse counsel. Interrogatories are not to be filed with the Court except as provided by paragraph (D) herein. The interrogating party shall show on the interrogatories the Certificate of Mailing and shall file with the Court at the time they are mailed a Certificate of Mailing of the interrogatories which shall include the following:

(1) The party to whom mailed;

(2) The date of mailing;

(3) Designation of pleading as first interrogatories, second interrogatories, etc.; and

(4) The signature of attorney or party mailing interrogatories.

C. The interrogated party shall retype the interrogatory before each answer, using the same interrogatory number as in the interrogatories propounded by the opponent. The interrogated party shall prepare the affidavit to be signed by the appropriate party and attach it as a last page of the interrogatories.

D. Interrogatories and answers shall not be filed with the Court except upon court order or contemporaneously with a motion placing the interrogatories in issue.

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

[Eff. Dec. 31, 1996. Amended Jan. 1, 2005.]

## PRETRIAL MATTERS
## RULE 33. PRETRIAL MOTIONS

### RULE 33.1 HEARING DATES

See Rule 2.4.

[Eff. Jan. 2, 1981.]

### RULE 33.4 MOTIONS IN LIMINE

Motions in Limine and other pre-trial motions shall be filed not later than one week before trial, unless the grounds for the motion were then unknown to the moving party and were not reasonably discoverable by the moving party; Motions in Limine and other pre-trial motions based upon grounds not known or reasonably discoverable one week prior to trial shall be filed immediately upon discovery of the grounds for the motion.

[Eff. Jan. 1, 2005.]

## PRETRIAL MATTERS
## RULE 34. CONTINUANCES

All motions or requests for a continuance will only be considered by the Court as long as the motion or request sets out a specific date for the matter to be taken up before the Court. Any

request for a continuance that is general in nature and not date specific will be denied unless specifically authorized by the Judge in charge of the case.

[Effective Jan. 1, 2002.]

## PRETRIAL MATTERS
## RULE 36. SETTING CASES FOR TRIAL

### RULE 36.1 REQUEST FOR TRIAL

At any time when counsel for all parties are present in Court, unless good cause be shown to the contrary, any case then at issue shall, at the request of either party, be set for trial at such time as may be mutually agreeable to counsel in the case and the Court; or, in the absence of such agreement, at such time as may be designated by the Court. Other than a setting designated by the Court, a case may be set in the absence of opposing counsel, provided the party demanding trial shall have given the said opposite party reasonable notice of his intention to request a setting.

[Eff. Jan. 2, 1981. Amended Jan. 1, 2002.]

## PRETRIAL MATTERS
## RULE 37. DISMISSALS

### RULE 37.1 DISMISSAL DOCKET - GENERAL

A. When so directed by the Judge, the Clerk shall prepare a dismissal docket, consisting of cases in which the claimants, whether plaintiff or defendant, have taken no action to prosecute their claims for a period of forty-five (45) days. The dismissal docket shall be sent to the attorney of record or to the party if not represented.

B. The dismissal docket shall be sent approximately four (4) weeks in advance of the date on which the dismissal docket will be called.

C. If the claimant's attorneys do not contact the Judge of the appropriate division on or before the call of the dismissal docket and secure an order removing their case from the dismissal docket, the cases on the dismissal docket will be dismissed without prejudice for failure to prosecute.

[Eff. Jan. 2, 1981. Amended Dec. 31, 1996; Amended Jan. 1, 2002.]

## RULE 37.2 DISMISSAL DOCKET - DISSOLUTIONS

Upon the filing of a petition for dissolution or motion to modify, the Clerk shall at such time set the case for dismissal on a date at least ninety (90) days but no more than one hundred twenty (120) days from the date the petition was filed. The only notice of such dismissal date shall be mailed to the petitioner/attorney upon initial filing.

[Eff. Jan. 1, 2002; Jan. 1, 2003.]

# SETTLEMENT AND DEFAULT
# RULE 41. SETTLEMENT

## RULE 41.1 NOTICE OF SETTLEMENT

It is the obligation of all counsel of record to promptly notify the Court and the clerk if a case which is set for trial is settled or that a jury will not be needed.

[Eff. Jan. 2, 1981. Amended Jan. 1, 2005.]

# TRIALS
# RULE 51. COURT-TRIED CASES

## RULE 51.3 PREPARATION OF FINDINGS OF FACT AND CONCLUSIONS OF LAW

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

[Eff. Jan. 2, 1981.]

# TRIALS
# RULE 52. SELECTION OF JURY

## RULE 52.1 JURY QUESTIONNAIRES

A. The jury questionnaire shall be delivered along with directions to fill it out and return it to the Clerk's Office within ten (10) days.

B. Jury questionnaires shall be available on the day of any jury trial by contacting the Circuit Clerk. At the completion of the voir dire examination it is the responsibility of the attorney to return his copy of the jury questionnaire to the Circuit Clerk.

C. The jury questionnaire is also a matter of public record and may be inspected by the attorneys at any time that the Court is in session.

D. Attorneys shall not, as part of the voir dire examination, examine a member of the jury panel as to any matter contained on the jury questionnaire, without the permission of the Court, except as to events that have occurred since the signing of the questionnaire.

[Eff. Jan. 2, 1981.] [Amended eff. Jan. 1, 2002.]

## TRIALS
## RULE 53. JURY TRIALS

### RULE 53.1 INSTRUCTIONS

Proposed jury instructions shall be furnished to the Court by counsel one week prior to the commencement of trial.

[Effective Jan. 1, 2005.]

## TRIALS
## RULE 54. JUDGMENT ENTRY

### RULE 54.1 CONTESTED CASES

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

[Eff. Jan. 2, 1981.]

### RULE 54.2 DEFAULT OR UNCONTESTED CASES

In default or uncontested cases counsel for the prevailing parties shall on the day of rendition present to the Court for its approval the judgment or decree to be entered in the cause. The Court shall then authorize the Clerk to enter judgment as provided therein or as modified by the Court. If a modification is made affecting the substantial rights of the parties, the parties shall be notified forthwith.

[Eff. Jan. 2, 1981.]

## RULES RELATING TO PARTICULAR ACTIONS
## RULE 61. ADOPTION

### RULE 61.1 FILING REQUIREMENTS

At the time of filing the petition, counsel for the petitioners shall file a Certificate of Adoption (Vital Statistics Report) on a form to be provided by the Clerk, as required by Section 193.360, RSMo 2000.

[Eff. Jan. 2, 1981.]

### RULE 61.2 HOME STUDY

Unless waived pursuant to Section 453.070, RSMo 2000 upon the filing of a petition for adoption, the Children's Division or other agency designated by the Court, shall initiate an investigation as provided in Section 457.070 RSMo 2000. The Clerk shall notify the appropriate agency to conduct such investigation and file a written report thereof.

[Eff. Jan. 2, 1981. Amended Jan. 1, 2002.]

## RULES RELATING TO PARTICULAR ACTIONS
## RULE 67. CRIMINAL CASES

### RULE 67.1 PRETRIAL RELEASE

Motions to Set Bond and for Bond Reduction. Motions to set bond and for bond reduction shall be made either orally or in writing addressed to the Judge of the Division in which the case is pending. Such motions shall be filed with the Division Clerk where the case is pending. In the event of the absence or unavailability of the Judge before whom the case is pending, such motions shall be submitted to the Presiding Judge.

[Eff. Jan. 2, 1981. Amended Jan. 1, 2002.]

### RULE 67.2 BOND CONDITION – MAINTAINING CONTACT WITH ATTORNEY

It is the obligation of every defendant who is represented by defense counsel in a criminal case to maintain contact with that attorney. Every recognizance bond for the pretrial release of any defendant shall contain, as a condition of such release, the requirement that the defendant maintain contact with defense counsel. When a case is scheduled for trial, with or without a jury,

the Court, in its discretion, may inquire of defense counsel whether or not the defendant has maintained contact with defense counsel. If the Court is advised by defense counsel that the defendant has not maintained such contact, the Court may in its discretion revoke the defendant's bond and order that the defendant be re-arrested and held in custody pending trial.

[Eff. Jan. 1, 2006.]

**RULE 67.5 ARRAIGNMENTS**

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

[Eff. Jan. 2, 1981. Amended Jan. 1, 2002.]

**RULE 67.11 PROBATION AND PAROLE**

The bond on parole violation warrants is set at the amount of bond at the time of disposition of the case, but not less than $500.

[Eff. Jan. 2, 1981.]

## RULES RELATING TO PARTICULAR ACTIONS
## RULE 68. DISSOLUTION OF MARRIAGE

**RULE 68.1 FILING REQUIREMENTS**

At the time of filing the petition, the attorney for the petitioners shall file a Certificate of Dissolution of Marriage (Vital Statistics Report) on a form to be provided by the Clerk, as required by Section 193.360, RSMo 2000.

[Eff. Jan. 2, 1981. Amended Jan. 1, 2002.]

**RULE 68.2 SEPARATION AGREEMENT**

In all cases where written separation agreements are made under the provisions of Section 452.325, RSMo 2000, a copy of such executed agreement shall be submitted to the Court at least five (5) days prior to the hearing, unless otherwise allowed by the court.

[Eff. Jan. 2, 1981. Amended Jan. 1, 2002.]

**RULE 68.4 FILING OF PROPERTY-FINANCIAL STATEMENTS-INFORMATION**

On a form obtained from the Clerk, a statement of marital and non-marital property under oath of the party making the same shall be furnished to the Court prior to or on the date of hearing in all cases filed for dissolution of marriage or legal separation, unless otherwise allowed by the Court. The statement shall include a brief description of the assets, the legal description of real estate, the estimated fair market value less encumbrances and the name of the party having possession or control. Also, on a form obtained from the Clerk, a statement of income and expense shall be filed prior to or on the date of the hearing in all dissolution of marriage and legal separation actions, all paternity actions and in all motions to establish or to modify child support or maintenance. The statement shall, to the best of the ability of the party, list income of both parties from all sources and the anticipated separate expenses of the party making the statement together with the expenses of dependent children. In all contested dissolution cases a copy of such statement of property, income and expenses shall be supplied to the opposing attorney. Also, an income and expense statement shall be filed and supplied to the opposing attorney prior to the date of hearing a contested motion to modify child support and maintenance, unless otherwise allowed by the Court. Also, on a form obtained from the Clerk, a circuit case party information sheet shall be filed with the initial pleadings.

[Eff. Jan. 2, 1981. Amended Jan. 1, 2002; Jan 1. 2003; Jan. 1, 2005.]

**RULE 68.5 PARENT EDUCATION PROGRAM**

In actions for dissolution of marriage, legal separation, or motion to modify where there is at least one child under the age of seventeen, and the parties have not previously attended the court-approved parent educational session, both parties shall attend, at separate sessions, FOCUS ON KIDS, a court-appointed educational session to educate parents as to the possible detrimental effects of divorce on children and how to avoid these negative effects. In any other case involving modification, paternity, custody, or visitation the court may, at the discretion of the judge, order one or both parties to attend FOCUS ON KIDS.

The petitioner or movant shall attend said program within thirty (30) days of filing the petition or motion. The respondent shall attend said program within sixty (60) days of the date of service of process or of receipt of the petition or motion if service is waived. If the petitioner or movant fails to attend said program within thirty (30) days of the date of filing, the court may dismiss the pending case. If the respondent fails to attend said program within sixty (60) days from the date respondent was so served or waived such service, the Court may strike the responsive pleadings. The Court may impose any other appropriate sanctions provided by law.

This Rule may be waived by the Court upon application of a party showing good cause.

[Adopted Oct. 1, 1999. Amended Jan. 1, 2002.]

**RULE 68.6 PARENT EDUCATION SCHEDULING AND PROGRAM FEE**

The Clerk shall furnish the program provider with a list of those persons required to take the parent education program and the program provider shall promptly furnish the Clerk with a list of those persons who have completed the program. The program provider shall collect the fee for such program directly from the participants prior to the participant attending the program.

[Adopted Oct. 1, 1999. Amended Jan. 1, 2005.]

**RULE 68.7 SANCTIONS**

If a party fails to comply with any of the above rules, the Court may strike that party's pleadings and may impose any other appropriate sanctions provided by law.

[Adopted Jan. 1, 2002.]

**RULE 68.10 JUDGMENT ON AFFIDAVIT**

A. Entry of Judgment upon Affidavit-Requirements. Final Orders Entered-- When. Final orders in a proceeding for dissolution of marriage or legal separation, motions to modify and actions for declaration of paternity may be entered upon the affidavit of either or both parties when:

1. There are no minor children born of husband and wife and the wife is not pregnant, or the parties are represented by counsel and have entered into a written agreement as to custody and child support; and

2. The parties are represented by counsel and have entered into a written agreement as to custody and child support and the affidavit establishes sufficient evidence that the Court can find the custody arrangement is in the best interest of the minor children; and

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

4. There is no genuine issue as to any material fact; and

5. There is no marital property to be divided or the parties have entered into a written agreement for the division of their marital property; and

6. All relevant provisions of Local Rule 68 have been complied with.

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

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

[Eff. July 1, 2003. Amended Jan. 1, 2005.]

## RULES RELATING TO PARTICULAR ACTIONS
## RULE 74. TRUST ESTATES

### RULE 74.1 INVENTORY

Repealed.

[Eff. Jan. 2, 1981. Amended Jan. 1, 2002.]

### RULE 74.2 REPORTS

Repealed.

[Eff. Jan. 2, 1981. Amended Jan. 1, 2002.]

## POST TRIAL
## RULE 81. EXECUTION

A. Executions shall not be issued by the Clerk except upon written application therefor by the judgment-creditor or his attorney. The written application shall contain the following:

(1) Style and number of case in which judgment was obtained;

(2) Date judgment entered or last revived;

(3) The amount of the original judgment, the amount of accrued interest on the original judgment, and the amount of the judgment and interest still unsatisfied;

(4) The full name and current address, if known, of the judgment-debtor;

(5) A full description of the property to be executed on;

(6) The return date on the execution (30, 60, 90, 120, 150 or 180 days); and

(7) Any special instructions to be provided the Sheriff performing the execution.

B. The sum of Forty-five Dollars ($45.00) (as adjusted from time to time) to apply toward Sheriff's fees and Clerk's fees shall be paid to the Clerk at the time of filing the application.

[Eff. Jan. 2, 1981. Amended Jan. 1, 2002.] [Amended Jan. 1, 2006.]