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ADMINISTRATION

RULE 1 - DIVISION OF COURT

There shall be two Circuit Judges in the Forty-Second Judicial Circuit and each Circuit Judge shall separately try causes and exercise and perform the duties imposed on Circuit Judges.

The two Circuit Judges of the Forty-Second Judicial Circuit shall sit in Divisions numbered One and Two as provided by Section 478.705, V.A.M.S.

There shall be one Associate Circuit Judge in each of the counties within the Forty-Second Judicial Circuit as provided by Section 478.320, V.A.M.S.

The duties of the Associate Circuit Judge of each county shall include serving in the Probate Division of the Circuit Court of that county and such further duties as are or may hereafter be prescribed by Statute, Court Rule or special assignment.

The Associate Circuit Judge of each county shall sit in Division Three and the Probate Division of the Circuit Court of that county.

There shall be a Municipal Judge in each municipality which provides for such an officer by duly enacted City Ordinance. Any Municipal Judge so provided shall serve as a Municipal Division of the Circuit Court of the county in which the municipality is situated and shall hear and determine only Municipal Ordinance violations as prescribed by Section 478.230, V.A.M.S.

1.1 CONSOLIDATION OF CLERKS

In accordance with the Mandate of the Supreme Court, it shall be the policy of this Circuit to consolidate the functions of the offices of the Circuit Clerks of each county with the offices of the Associate Circuit Clerks of each county in order to make more efficient use of public resources. Wayne County has implemented consolidation. The remaining counties shall be under contract with the State Court Administrator's Office to implement consolidation by the following dates for each county unless exempted in writing or deferred by the Presiding Judge:

Iron County	-	January 1, 2008.
Reynolds County	-	January 1, 2008.
Dent County	-	July 1, 2008.
Crawford County	-	January 1, 2009.

All rules herein inconsistent with the filing of documents in a unified court clerk system shall be abrogated as each county becomes consolidated and the rules pertaining

to the Office of Circuit Clerk shall be followed as to each unified office after consolidation.

RULE 2 - HOURS AND TERMS OF COURT

2.1 HOURS OF COURT

All sessions of Court, Division I and II, will convene at 9:00 A.M., unless otherwise designated and all sessions of court will be opened each morning by the formal announcement of the Sheriff or his deputy.

Prior to the commencing of any jury trial, the attorneys are requested to appear in court at 8:30 A.M., in the Judge's chambers for a pre-trial conference in accordance with Supreme Court Rule 62.01 and 24.12.

The Court will observe the following holidays:

New Year's Day;
Martin Luther King, Jr. Day;
Lincoln's Birthday observed;
Washington's Birthday;
Truman's Birthday observed;
Memorial Day;
Independence Day;
Labor Day;
Columbus Day;
Veteran's Day;
Thanksgiving Day;
Christmas Day

When any such holidays fall upon Sunday, the Monday next following shall be considered the holiday. When any such holidays fall upon Saturday, the Friday before that said Saturday shall be considered the holiday.

2.2 TERMS OF COURT

To the extent that Terms of Court are required by provisions of law, Terms of Court are established for the Circuit in lieu of those specified in Section 478.205, RSMo. on an annual basis and are available at the Presiding Circuit Judge's office or the Circuit Clerk's office in Crawford, Dent, Iron, Reynolds and Wayne Counties.

2.3 LAW DAYS

Regular Law Days will be held within the Circuit and established for the Circuit on an annual basis and are available at the Presiding Circuit Judge's office or the Circuit Clerk's office in Crawford, Dent, Iron, Reynolds and Wayne Counties.

2.4 PARTICULAR MATTERS ON PARTICULAR DAYS

All default matters, motions (Pendente lite Motions accepted), objections to interrogatories and requests for admissions may be heard on Law Day or Term Day or at other times by consent of the parties and of the Court. At least ten (10) days prior to hearing, a written request for hearing on such matters shall be made to the Clerk and a copy of such request shall be served on all counsel of record and parties pro se. The Clerk shall prepare a docket for Law Day and Term Day, including arraignments, pleas of guilty, sentencing of defendant(s) and related criminal matters.

Hearings on Pendente lite Motions shall be obtained in the same manner as dates for setting for trial. See Rule 36.1.

Uncontested adoptions shall be heard on Law Days and Term Days at 11:00 A.M. Adoption cases shall be listed on Law Day or Term Day docket by numbers only. Contested adoptions may be set for hearing in the same manner as other Civil cases are set for trial.

Juvenile matters, other than adoptions, shall be scheduled for hearings by the Juvenile Officer on such dates as are designated for juvenile hearings. Juvenile matters, other than adoptions, will not be heard on regular Law Days unless specifically set by the Court.

RULE 3 - PLEADINGS

The address of each attorney of record, or of the firm of each attorney of record, shall appear on all pleadings filed. Any pleading filed pro se shall contain the address of the party filing that pleading.

3.1 CAPTION

In so far as is reasonably practical, pleadings which are filed within this Circuit shall be captioned in the following manner:

(a) Probate Cases

IN THE CIRCUIT COURT OF _____ COUNTY, MISSOURI
Probate Division

In the Estate of John Doe,
Deceased

Case No. _____

(b) Juvenile Cases

IN THE CIRCUIT COURT OF _____ COUNTY, MISSOURI
Juvenile Division

In the Interest of
John Smith

Case No. _____

(c) Municipal Cases

IN THE CIRCUIT COURT OF _____ COUNTY, MISSOURI
(Name of City) Municipal

City of _____, Plaintiff
Vs
Joe Roe, Defendant

Case No. _____

(d) Small Claims Cases

IN THE CIRCUIT COURT OF _____ COUNTY, MISSOURI
Small Claims

Mary Smith, Plaintiff
Vs
Joe Roe, Defendant

Case No. _____
A. J. Division

(e) Other Cases

IN THE CIRCUIT COURT OF _____ COUNTY, MISSOURI

_____, Plaintiff
Vs
_____, Defendant

Case No. _____
Circuit Judge, Division _____
Associate Division

3.2 STYLE

All pleadings and motions intended for filing in any case shall be legibly written on one side of the paper only, either typewritten or printed, double-spaced. All such pleadings and other papers, except exhibits, shall be on paper 8 1/2 by 11 inches in size. All pleadings and motions shall be signed by the party or his attorney offering the same for filing together with the address and telephone number of the trial attorney in the case; shall be captioned with the style and number of the case, the character of the pleadings and motions, and, if a petition, the name of the suit and, if consisting of more than one sheet, shall be securely bound at the top and with page numbers at the bottom. Paragraph of pleadings shall be numbered consecutively. An attorney offering a paper for filing may sign it on behalf of a law firm or attorney when duly authorized to do so; but he

must also subscribe his own signature on said paper. (The attorney whose signature is affixed to the pleading or paper shall be deemed to be the trial attorney in the case). Where service of summons or other pleading is requested, a copy of the pleading for each party to be served shall be filed and shall include the address for each party to be served.

RULE 4 - FILING OF CASES

The Circuit Clerk shall accept for filing and shall maintain the Court files for all cases to be heard in Division One or Two of the Circuit Court or which may be heard upon special assignment by an Associate Circuit Judge.

The Clerk of the Circuit Court shall be responsible for assigning a number to each case filed in the office of the Circuit Clerk, in the order in which said cases are filed. All cases assigned an odd file number are automatically assigned to Division I and the Clerk shall make that designation on the pleadings. All cases assigned an even file number are automatically assigned to Division II and the Clerk shall make that designation on the pleadings.

Where multiple suits arising out the same transaction or occurrence are filed, or where multiple suits by the same plaintiff or plaintiffs are filed, all such cases shall be assigned to the Division to which the first of such cases was assigned under this rule .

If there is more than one criminal case filed against the same defendant or defendants, all such cases shall be assigned to the Division to which the first of such cases was assigned under this rule.

The Associate Division Clerk shall be responsible for assigning a number to each case filed in that Division as the Judge of such Division may direct.

The Division Clerk of each Associate Circuit Judge shall accept for filing and shall maintain the Court files for all Probate cases in the county and for all other cases to be heard by the Associate Circuit Judge, except those files for cases heard by special assignment.

4.1 CRIMINAL CASES

All cases of misdemeanor or infraction should be filed with the division clerk of the Associate Division.

All complaints charging a felony shall be filed with the division clerk of the Associate Division of the Circuit Court.

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

4.2 CIVIL CASES

All petitions filed in Civil cases shall be filed with the appropriate Circuit Clerk or Associate Circuit Court Division Clerk. All petitions shall be filed with sufficient number of copies for service on all defendants upon whom service is required.

All In Forma Pauperis filings shall be accompanied by verified Income and Expense Statements.

All civil cases to be initially heard on the record other than those specified in Rule 6, including dissolutions of marriage, legal separation and separate maintenance proceedings; motions to modify decree of dissolution of marriage, legal separation, separate maintenance, child custody and child support; and any other motions or actions brought pursuant to Chapter 452, RSMo shall be filed with the Circuit Clerk and shall be heard and determined by a Circuit Judge or by an Associate Circuit Judge upon special assignment by the Presiding Circuit Judge.

Pursuant to Supreme Court Rule 54.21, if process is not served in any civil case within 30 days after its date of issue, time for service is herewith extended an additional 30 days in said case and this shall be deemed an order of Court so directing.

4.3 PROBATE CASES

See Rule 4.

4.4 JUVENILE CASES

(1) The Clerk of the Circuit Court shall be responsible for assigning a number to each case filed in the office of the Circuit Clerk, in the order in which said cases are filed. Divisions I and II shall have concurrent jurisdiction in all juvenile cases.

(2) Effective July 1, 2016, Division III, Reynolds County, shall be the Juvenile Division in each county of the 42nd Judicial Circuit, shall be assigned all juvenile cases, and shall be responsible for the administration of the 42nd Judicial Circuit Juvenile Office, subject to the directions of the Presiding Judge. Effective January 1, 2019, Division III, Iron County, shall be the Juvenile Division in each county of the 42nd Judicial Circuit, shall be assigned all juvenile cases, and shall be responsible for the administration of the 42nd Judicial Circuit Juvenile Office, subject to the directions of the Presiding Judge for a term of four (4) years. Thereafter, Division III, Reynolds County shall be the Juvenile Division in each county of the 42nd Judicial Circuit, shall be assigned all juvenile cases, and shall be responsible for the administration of the 42nd Judicial Circuit Juvenile Office, subject to the directions of the Presiding Judge for a term of four (4) years, and such duties, assignments and responsibilities shall alternate, thereafter, between Division III, Iron County and Division III, Reynolds County for alternating four (4) year terms.

The Juvenile Division will get no additional special assignments from the Presiding Judge without prior consent.

(3) The Associate Circuit Judge of each county shall have jurisdiction to hear all juvenile proceedings in the absence or unavailability of the Juvenile Division Judge and shall be responsible for hearing all 72 hour hearings in weeks in which there is no Juvenile Law Day or regular Law Day by the Juvenile Division.

4.5 SMALL CLAIMS CASES

See Rule 6.

4.6 MUNICIPAL CASES

Municipal Ordinance violation cases for municipalities which provide Municipal Judges shall be filed at the site of the appropriate Municipality with those Clerks provided for that purpose by the respective Municipalities and shall be heard and determined by the appropriate Municipal Judges. When a Municipal Judge is disqualified, the case shall be transferred to the Associate Circuit Judge of the county in which the municipality or a major portion thereof is situated.

4.7 FACSIMILE AND ELECTRONIC TRANSMISSION FILING AND SERVICE

(1) Authority for Rule

This rule is promulgated under the authority conferred in Missouri Supreme Court Rules.

(2) Facsimile Filing Authorized

(a) Any pleading or other document including an original filing, may be filed in any division of this Court having, maintaining or designating a facsimile machine for the receipt of such transmissions, by transmission of the same to such facsimile machine.

(b) Any pleading or document filed by facsimile transmission shall have the same effect as the filing of the original document, even though it may be required to be verified, acknowledged or sworn to by some other method.

(c) The pleading or document shall be deemed filed, subject to subparagraphs (3) and (4) of this rule, on the date and at the time actually received at the office of the clerk.

(d) If the document is not received by the clerk, or if any part of it is illegible, it is deemed not filed.

(e) Subject to subparagraph (3) of this rule, the person filing a pleading or other document by facsimile transmission shall retain the original, and make it available upon order of the Court.

(3) When Filing Fee or Deposit Required and Waiver

(a) If the pleading or document is one which requires a filing fee or deposit, the filing of the same by facsimile transmission is conditioned upon receipt of the required fee or deposit by the clerk. Payment of filing fee for incoming fax transmission shall be accomplished only through pre-payment, unless otherwise ordered by the Court.

(b) If the pleading or document is to be filed under the provisions of S.Ct. Rule 77.03 or any other law allowing filing without a deposit, a motion to file the same without fee or deposit, and a proposed order allowing the same, shall be transmitted with the first facsimile transmission. The same shall be presented to the Court at the earliest opportunity for ruling. If leave is granted, the filing shall relate back to the date and time or receipt of the original transmission. If leave is denied, the filing is stricken, unless otherwise ordered by the Court.

(c) If the provisions of the preceding paragraphs (a) and (b) are not complied with, the Court may strike any pleading or document so filed, or make such other or further orders as it deems appropriate.

(d) No summons or process shall be required to be issued by the clerk until receipt of the fee or order allowing filing without fee or deposit.

(4) Court Orders Transmitted by Facsimile Transmission

Court orders, judgments or decrees, including warrants and search warrants, may be transmitted to the clerks of the various divisions or others by facsimile transmission, and they shall have the same effect and be acted upon by all persons as if they were the original executed by the Court.

(5) Service by Facsimile Transmission

(a) When service by ordinary mail or personal delivery is provided by Mo.S.Ct. Rule 43.01 or otherwise by law, such service may be made by facsimile transmission of a copy to any attorney or party to be served who maintains a device for receipts of facsimile transmission.

(b) Publishing a facsimile phone line number by pleading, letterhead or listing in a telephone directory or otherwise, constitutes prima facie maintenance of a device for receipt of facsimile transmission.

(c) Risk of loss in transmission, receipt or illegibility of the document transmitted by facsimile is upon the sender.

(d) The document is presumed delivered and served, unless otherwise indicated by the readout of the sender's device, to the phone number indicated by the sender's readout and at the date and time of the end of transmission. The sender shall maintain a printout of such readout and file the same if ordered by the Court.

(6) Service - How Shown

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

(7) Facsimile Archive

All facsimile motions, petitions, writs, orders, etc., must be on archival paper. Those clerks's office utilizing facsimile machines with thermal facsimile paper must make a copy of the facsimile paper or document transmitted and file the copy of the facsimile transmission as the original document in the file.

(8) Costs for Receipt of Transmission by Facsimile

(a) The maintenance of a facsimile device by a clerk's office and rules allowing filing by facsimile transmission benefit primarily the person desiring to file by this method of transmission.

It causes the clerks of the Court system additional expense to acquire and maintain a device and phone line to receive those transmissions, and often to transfer the transmission to archival quality paper.

(b) The clerk of a division maintaining a device to receive or send facsimile transmissions shall charge the persons or entity filing by facsimile 50 cents per 8 1/2 by 11 inch page for receiving and processing such document, and up to \$1.00 per 8 1/2 by 11 inch page for document transmission.

(c) Nothing in this rule shall require a clerk of any division to maintain a device for or require them to transmit any document by this method.

(d) Nothing in this rule shall require the clerk of any division to maintain, designate or receive facsimile transmission outside regular office hours or regular business days.

(e) Unless a party is not subject to paying costs or expenses by law or Court order, the actual per page charge presented by the clerk of a division to the person or

entity sending or receiving a facsimile transmission for receipt or transmission of facsimile documents shall:

(i) be paid upon receipt by the person or entity; or

(ii) be subject to additional filing deposit by the clerk as provided in these rules; or

(iii) be taxed as costs by the Court or clerk to the party for whom the facsimile charge was incurred.

(9) **Business Day Defined**

A business day is any day, not a Saturday, Sunday, or holiday recognized as such by the Missouri Supreme Court through the Office of the State Courts Administrator.

(10) **Effect of Facsimile Signature**

A facsimile signature shall have the same effect as an original signature.

4.7.1 FILINGS WITH JUDGES BY FACSIMILE OR ELECTRONIC TRANSMISSION

Pursuant to Missouri Supreme Court Rule 20.4(h), search warrant applications and affidavits in support thereof, search warrants, arrest warrants and informations, complaints, probable cause statements and indictments in support thereof; ex parte petitions and affidavits in support thereof, and orders; mental health/drug and alcohol petitions and commitment orders; and detention and protective custody orders and petitions in support thereof may be filed with any circuit or associate circuit judge of this circuit by facsimile or electronic transmission. Acceptance by facsimile or electronic transmission shall be left to the discretion of the judge to whom application is made.

Any such paper filed shall have the same effect as the filing of the original document. The person submitting the filing by electronic transmission shall also file the original with the court.

RULE 5 - FEES AND COSTS

5.1 FILING FEE AND COST DEPOSIT

The filing fee for all Circuit civil, Circuit domestic and Associate Circuit Civil cases shall be \$200.00 with the exception of Small Claims which will be \$100.00.

Cost deposits and Sheriff's service fees as required by law shall be paid at the time of filing suit.

5.2 TIME PAYMENT FEE FUND AND PAST-DUE ASSESSMENT

In each county, a fund to be known as the Time Payment Fee Fund may be established. In all cases where a Time Payment Fee has been assessed and collected pursuant to Section 488.5025, RSMo. 2003, Ten Dollars (\$10.00) of each such fee shall be paid to the Circuit Clerk of the county, or his/her designee, to be maintained in the Time Payment Fee Fund, which said fund is to be utilized by the Court to improve, maintain and enhance the ability to collect and manage moneys assessed or received by the Courts to improve case processing, enhance Court security, preservation of the record, or to improve the administration of justice. Moneys in the Time Payment Fee Fund of each county shall be expended only upon vouchers executed by the Court en Banc of the 42nd Judicial Circuit for the purposes set out above.

Pursuant to Section 488.5025 RSMo., a fee of \$25.00 shall be assessed in every case where any fine or court cost has not been paid, in full, within thirty (30) days of the date the Court imposed the fine or court costs. The Circuit Clerks of the 42nd Circuit shall add this one-time assessment automatically without further order of the Court. This assessment shall be in addition to any other enforcement provisions authorized by law, including any fees and costs incurred in any collection efforts provided by any public or private entity contracted with the 42nd Judicial Circuit to collect on the past-due fines and court costs, which shall be added to the amount due pursuant to Section 488.5030 RSMo.

5.3 WITNESS FEE

Witness fees shall not be allowed unless claim therefore shall be made to the Circuit Clerk. The attorney causing any witness to be subpoenaed is responsible for seeing that proper claim is made.

5.4 WAIVER OF FEES

(No local rule)

5.5 MOTION FOR SECURITY

A verified motion for costs shall be sustained upon its filing, without argument, and plaintiff ordered to deposit not less than \$200.00 cash or post a cost bond within ten (10) days of service of said motion, unless an application to sue as a poor person or counter-affidavit is filed by or on behalf of plaintiff. In such cases, the Court will determine whether or not a cost bond is required.

RULE 6 - ASSIGNMENT OF JUDGES, CASES AND TRANSFER OF CASES

6.1 ASSIGNMENT TO ASSOCIATE CIRCUIT JUDGES

6.1.1 BY LOCAL COURT RULES OR ORDER

The following cases shall be filed in the office of the Division Clerk of the Associate Circuit Judge for the appropriate county within the Forty-Second Judicial Circuit and shall be heard and determined in that Division by an Associate Circuit Judge unless otherwise transferred as provided by these rules:

- (1) All Civil actions and proceedings for the recovery of money when the sum demanded, exclusive of interest and costs, does not exceed \$25,000.00.
- (2) All cases of misdemeanor or infraction.
- (3) Felony cases prior to the filing of the information.
- (4) Municipal Ordinance violation cases of any municipality in the county for which municipality no Municipal Judge is provided.
- (5) "Small Claims" cases, as provided in Section 482.300 through 482.365, V.A.M.S.
- (6) All actions for replevin, attachment and mechanics' lien in which the recovery sought, exclusive of interest and costs, does not exceed \$25,000.00.
- (7) Actions for unlawful detainer and actions for rent and possession.
- (8) All trial de novo proceedings from Municipal Divisions, except when said Municipal proceedings have been heard by an Associate Circuit Judge, in which case, said appeal shall be directed to the Circuit Court of the county in which the Municipal proceeding was held.
- (9) All Probate proceedings.
- (10) All actions against any railroad company in this state for damages for killing or injuring any animal.
- (11) All actions seeking issuance or reinstatement of a driver's license or driving privileges.
- (12) Such other cases that could be heard and determined by an Associate Judge without assignment as an acting Circuit Judge under provisions of the law in effect on January 1, 1979.

Associate Circuit Judges of the counties within the Forty-Second Judicial Circuit may also hear and determine the cases or the type or classes of cases as hereafter stated in this Rule which are pending in that county for which the Associate Circuit Judge sits without special assignment.

- (a) All adult abuse cases, RSMo 455.010 et. seq., including ex-parte hearings and orders and hearing on full orders of protection and orders thereunder.
- (b) All child protection cases, RSMo 455.500 et. seq., including ex-parte hearings and orders and hearing on full orders of protection and orders thereunder.
- (c) Hearings and issuance of orders in juvenile matters when requested by a Juvenile Officer.

Each Associate Circuit Judge within the Circuit may hear and determine any uncontested civil or criminal case pending in any county of the Circuit without specific assignment by the Presiding Judge when and only when requested by all parties not in default. The term "uncontested" as used in this paragraph means a civil case which is in default or has been settled or a criminal case where a guilty plea is to be entered. The Associate Circuit Judge hearing a case under this paragraph shall make a docket entry assuming jurisdiction before proceeding.

An Associate Circuit Judge hearing a Circuit division case may check out the file in the case and proceed with trial thereof. In hearing and determining such cases, Associate Circuit Judges shall follow the procedure and practice which is regularly applicable before Circuit Judges and a record of such proceedings shall be maintained. Upon conclusion of such a case by an Associate Circuit Judge, the Court file shall be returned to the Circuit Clerk for filing as a completed case.

6.1.2 SPECIAL ASSIGNMENT

There is hereby established the position of Alternative Court Administrative Judge, which Judge shall exercise the oversight of the Drug Court Commissioner as contemplated by Section 478.003 RSMo. In the absence of the Alternative Court Administrative Judge, the Presiding Circuit Judge may exercise the same duties.

The Alternative Court Administrative Judge shall be elected by a majority of the Judges present at the En banc Meeting at which the Presiding Judge is elected. All cases of criminal defendants placed in the various Alternative Courts in the Circuit shall automatically be assigned to the Alternative Court Administrative Judge who shall assume jurisdiction without further Order. Upon the termination of any defendant from an Alternative Court Program for any reason other than successful graduation, the defendant's criminal cases shall automatically be reassigned to the original sentencing judge for further proceedings without further Order.

6.2 ASSIGNMENT TO CIRCUIT JUDGES

See Rule 6.5.

6.3 CERTIFICATION TO CIRCUIT DIVISION

(No local rule)

6.4 TRIAL de NOVO

(No local rule)

6.5 CHANGE OR DISQUALIFICATION OF JUDGE

The appropriate Clerk is ordered to bring a motion for change of judge or motion or affidavit to disqualify judge to that particular Judge's attention immediately so that said motion may be ruled upon immediately, and in addition, the Clerk or Judge is also ordered to notify the Presiding Circuit Judge when the Judge enters the Order for change or disqualification of judge.

If a Circuit Judge is removed or disqualified, he shall note the same on the docket sheet and by docket entry transfer the cause to the other Circuit Judge.

6.6 UNAVAILABILITY OF JUDGE

In the unavailability of the Circuit Judge or Associate Circuit Judge of any division, any other Circuit Judge or Associate Circuit Judge of the Forty-Second Judicial Circuit may sit as the Judge of the division in which the Judge is unavailable and perform all the duties of the unavailable Judge.

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 the absence or disability or as a result of such disqualification, the other circuit judge of this circuit shall be the acting presiding circuit judge and 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 in subparagraph 1 of Section 478.240, RSMo, 1978, and in Article 5, Section 24, Missouri Constitution.

6.8 MOTIONS TO VACATE, SET ASIDE OR CORRECT A JUDGMENT OR SENTENCE

All Motions to Vacate, Set Aside or Correct a Judgment or Sentence filed in the 42nd Judicial Circuit are assigned to the Judge before whom the Movant entered a plea of guilty, nolo contendere, or plea pursuant to North Carolina v. Alford, 400 U.S. 25, 91 S.Ct. 160, 27 L.Ed.2d 162 (1970) or the Judge before whom the defendant was tried and convicted. Clerks of the Court shall ensure the proper Judge is initially assigned upon filing.

If the Judge before whom the Movant entered a plea of guilty, nolo contendere, or plea pursuant to North Carolina v. Alford, 400 U.S. 25, 91 S.Ct. 160, 27 L.Ed.2d 162 (1970) or the Judge before whom the defendant was tried and convicted is not a current and active Judge of the 42nd Judicial Circuit, the case shall be referred by the Clerks of the Court to the Presiding Circuit Judge of the 42nd Judicial Circuit for special assignment.

RULE 7 - WITHDRAWALS OF PAPERS FROM CLERK'S OFFICE

7.1 WHEN ALLOWED

Court files shall not be removed from the Clerk's office or Courtroom unless written authorization to remove such files is obtained from the Court; provided, however, the judge of any division of the Court, the official Court Reporter of any Division of the Court or the Division Clerk of the Associate Circuit Judge Division of the Court may remove court files for purpose of considering matters taken under submission, or preparing transcripts of proceedings, upon providing the Circuit Clerk with written receipt therefore. The Circuit Clerk of each county shall establish and maintain a procedure for accounting for all files removed from his or her office, and for acknowledging return of court files which are removed, and such procedure shall be maintained as part of the official records of the office of Circuit Clerk of each county. Anything to the contrary in this rule notwithstanding, each Clerk may establish procedures whereby attorneys and abstractors may remove files to other parts of the courthouse for periods of short duration for photocopying or for review.

7.2 DUPLICATING POLICY

(No local rule)

RULE 8 - PUBLICATION OF DOCKETS

See Rule 8.1.

8.1 TRIAL DOCKET

Circuit Clerks shall, at least five (5) days prior to Law Days and Term Days, prepare and make available to all attorneys of record and pro se parties not in default a docket of cases to be called. Cases which are not caused to be placed upon the docket in accordance with law, Supreme Court Rule or these rules shall not be caused to be placed on Law Day or Term Day dockets by the Circuit Clerk, except as otherwise directed by the Judge.

8.2 DISMISSAL DOCKET

All Civil cases pending in the Circuit Court in which no activity has been noted by the docket sheet for one year or more are subject to dismissal for want of prosecution.

The Clerk shall notify last known counsel of record that any such case is subject to such court action at least thirty (30) days prior to the Court's taking that action. Parties shall be notified at their last known address only if no attorneys are then of record. This dismissal shall be without prejudice but shall be reinstated only upon written motion showing good cause. Any civil case pending in the Associate Circuit Judge Division in which no activity has been noted by the docket sheet for more than six months is subject to dismissal by the Court without prejudice and without notice.

RULE 9 - COURTROOMS

All matters pertaining to the Court and its business must be carried on in an audible tone of voice and at a reasonable distance from the Court bench. Neither attorneys nor litigants shall be permitted to stand or lounge unreasonably near the Court's bench, desk of the Clerk, or Reporter, unless the Court calls both sides of a controversy to the bench for conference, or counsel is granted permission by the Court to approach the bench.

The Sheriff, or Bailiff, and the Clerk or Deputy Clerk shall be in the Courtroom at all times when the Court is in session.

The Sheriff or his deputies shall maintain order in the courtroom and enforce the rule against smoking therein during sessions of the Court.

The Clerk of the Court, from time to time as required by the Court, shall administer oath to the Sheriff and his deputies, and in the trial of cases, shall administer oath to the jurors as to their qualifications, shall administer oath to the jury panel selected to try the case and the witnesses.

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

Appropriate attire shall be worn while in Court. Inappropriate attire includes tank tops, sleeveless shirts, crop shirts, shorts, sweatpants, lounge pants, pajamas, t-shirts depicting inappropriate photos or language.

Appropriate shoes shall be worn at all times while in Court. Inappropriate shoes include flip flops, slippers, and house shoes.

Hats or caps must be removed while in the Courtroom.

Inappropriate attire may result in a party not being permitted to proceed before the Court until corrections in appearance by the party are made to the satisfaction of the Court.

9.5 WHO IS PERMITTED WITHIN BAR

(No local rule)

9.6 CELLULAR TELEPHONE AND MOBILE DEVICE USAGE

Cellular telephone and other mobile electronic device usage within the Courtroom is prohibited. Parties and members of the public shall not bring cellular telephones or other mobile electronic devices into the Courtroom. Attorneys may bring cellular telephones and other mobile electronic devices into the Courtroom, but the cellular telephone and/or other mobile electronic devices must be turned off. Attorneys may turn on their cellular telephones and other mobile electronic devices only with prior permission of the Court. Violation of this prohibition will result in the cellular telephone and/or other mobile electronic device being seized by the Bailiff.

RULE 10 - COURT REPORTERS AND COMPENSATION FOR SAME

Preparation of any transcript on appeal by an Official Court Reporter of this Court 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, as aforesaid, 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 any such cash deposit is insufficient to pay for a transcript, the remaining unpaid portion of the cost thereof shall be due and payable from the person who ordered the transcript to the Reporter who prepared it upon delivery of the transcript.

Such orders for transcripts on appeal or testimony of witnesses heard by an Associate Circuit Judge where the record was made by electronic process shall be made direct to the Associate Circuit Judge who heard the case, who shall make such orders with respect thereto as may be reasonable and proper, until such time as the Supreme Court of Missouri has by Rule provided for handling of such matters.

RULE 11 - RECORDING OF JUDICIAL PROCEEDINGS

(1) The Associate Circuit Judge for each county within the Forty-Second Judicial Circuit shall cause a Division Clerk to establish a filing system for maintaining and

retrieving magnetic tapes used in recording proceedings in which magnetic tape recording devices are utilized in preserving a record of proceedings. Each such Division Clerk shall be responsible for the operation of such recording device during any Court proceedings in which it is used, and for maintaining appropriate witness data sheets and minute records to enable transcription of the record so made.

(2) When a Circuit Court case shall be heard on the record by the use of electronic recording, an employee of the Circuit Clerk shall operate said electronic recorder in conformance with Section 1 of this rule, unless the judge provides otherwise.

(3) All persons except those authorized by the Court to preserve the record shall refrain from broadcasting, televising, recording, or taking photographs in the courtrooms and in the corridors and stairways adjacent thereto while Court is in session and during recesses.

RULE 12 - MONIES PAID INTO COURT

Monies or property paid into Court in any cases pending, excepting fees and costs, and coming to the hands of the Clerk, shall either be separately kept secure in packages with the style of the cause designated thereof, or by order of the Court, be deposited in a special account for the cause in which said money or property was deposited. No such funds or property shall be withdrawn except on an order made and signed by the Judge presiding in the Division in which the cause is pending, or in his absence, by the Presiding Judge.

12.1 BOND IN CIVIL CASES

See Rule 5.5.

RULE 13 - COMMUNICATIONS WITH COURT

13.1 ORAL COMMUNICATIONS WITH THE COURT

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.

13.2 WRITTEN COMMUNICATIONS WITH THE COURT

All communications to the Clerk of the Court pertaining to any case must contain the style of the case, the case number, and the names and addresses of all interested counsel and parties not represented by counsel.

The Court will not permit private interviews, arguments or communications where all interest(s) to be affected thereby are not represented, except in cases where

provision is made by law and for ex parte application. Any such attempt will be summarily terminated by the Court.

RULE 14 – SPECIAL OR PRIVATE PROCESS SERVERS

(1) Any person serving process within the 42nd Judicial Circuit other than law enforcement within the Sheriff Department must establish by affidavit that he or she meets the qualifications provided in Section (3)(b) of this rule, as stated below.

(2) Any party seeking to obtain services of process through any means other than the law enforcement within the Sheriff Department, shall file a written motion with the court, requesting approval and/or appointment of a named individual, which shall be accompanied by a proposed order approving the individual to serve process. Any approval or appointment of a process server shall be valid only for the case in which the order is issued.

(3) Unless the individual named to serve process in the above-referenced motion is on the Court's Approved List within the county the request is being made, as provided in paragraph 4 below, the individual shall file a notarized affidavit with the motion stating the information required in Section (a) below, and stating that the individual meets all of the qualifications as set out in Section (b) below. Said affidavit shall not become part of the court file. All affidavits shall be maintained by the Circuit Clerk in the county in which it is filed for three years, at which time they will be destroyed.

(a) The individual's information shall include:

1. Legal name
2. Current address
3. Occupation and employer, and
4. Telephone number

(b) The individual must meet the following qualifications:

1. Be at least eighteen (18) years of age
2. Be a citizen of the United States
3. Have a high school diploma or equivalent
4. Not have plead guilty or been convicted of a felony or a misdemeanor involving moral turpitude
5. Not be a fugitive from justice or currently charged with a felony or a misdemeanor involving moral turpitude
6. Not be related to or employed by a party in the action
7. Be of good moral character
8. Not have been disqualified to act as a process server within the preceding twelve (12) months, and
9. If service is to be made outside the State of Missouri, authorized to serve process in the jurisdiction in which it is to be served.

(4) For those who perform service of process within the regular course of their business, the Circuit Clerk in each county may maintain a list of qualified process servers who have been approved as such by the Associate Judge in each county. To be eligible for the “Approved List” for that county, an individual shall submit to the Associate Judge in the county a notarized application and affidavit, containing the information required by Section (3)(a) above, and setting out their qualifications (including those items listed in Section (3)(b) above), their experience, and verifying that service of process is in the regular course of their employment or business. Approval by the Associate Judge shall be good for the county in which the Associate Judge is seated and for the calendar year in which the approval is granted and shall remain effective until December 31st of that year. Applications and accompanying documentation shall be maintained by the Circuit Clerk in each county for three years, at which time they will be destroyed. Placement on the Approved List shall allow said individual to be approved or appointed to serve process without submitting an affidavit stating the prerequisites of Section (3) above, in every case for the county where approval is gained. When a party requests that a preapproved process server be approved or appointed to serve process in a particular case, and verifies that the information contained in the qualifying affidavit is still accurate, the Circuit Clerk or any Deputy Clerk may approve or appoint such person to serve process for that case, so long as the named individual is on the Approved List. If any information in the qualifying affidavit has changed, such information must be updated with the filing of the motion, which must then be submitted to the court for a ruling. All individuals placed on the Court’s Approved List will receive a registration number. That number should be included, with the individual’s name, on all subsequent motions for approval or appointment.

(5) A person will not be appointed to serve process if said person is deemed to be ineligible by a judge of this circuit. A person may be deemed ineligible and disqualified for:

- (a) Making a false return of service
- (b) Serious and purposeful improper service of process
- (c) Failing to meet the criteria set out in section (3)
- (d) Misrepresentation of duty or authority, or
- (e) Other good cause.

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

(7) Special process servers may NOT serve garnishments, writs of sequestration, or other judgment collection proceedings, except for motions for debtor examinations and family court contempt proceedings.

GENERAL RULES

RULE 21 - ATTORNEYS

21.1 RESOLUTIONS OF CONFLICTING TRIAL SETTINGS

(No local rule)

21.2 ENTRIES OF APPEARANCE

Attorneys retained shall enter appearance by a one page document for each case.

21.3 CONDUCT OF ATTORNEYS

See Rule 9.

21.4 WITHDRAWALS OF ATTORNEYS

The conditions under which an attorney is allowed to withdraw from the employ of a client are set out in Supreme Court Rule 4 of Professional Responsibility . (Canon 2, Ethical Consideration 2-32 and Disciplinary Rule 2-110). An attorney who desires to withdraw as of record for any party to any action pending in this Court shall comply with the following procedures:

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

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

(3) 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 thereof.

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

(5) If the client fails to appear, and if the attorney is granted leave to withdraw, the attorney shall immediately notify his former client by letter of the

attorney's withdrawal and shall send a copy of the letter to the clerk. Such letter shall advise the former client of any scheduled court proceedings or pleading deadlines in the case.

21.5 FAILURE OF ATTORNEY TO ANSWER DOCKET CALL

When any case or matter pending is called for hearing, and either or both parties fail to appear or answer ready, the same shall be dismissed for want of prosecution, or judgment entered or other appropriate order made, in the discretion of the Court.

21.6 APPOINTMENT OF ATTORNEYS

(No local rule)

21.7 AGREEMENT OF ATTORNEYS

See Rule 13.1

21.8 ADVICE TO CLIENT AND WITNESSES OF COURTROOM PROCEDURE

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

He is to advise his client not to discuss any phase of the case with the Court. When the rule as to witnesses is invoked, each attorney is charged with the duty of seeing that the witnesses comply with that rule. If any witness violates the rules, whether willfully or otherwise, such witness shall not be permitted to testify, except by consent of opposing counsel or unless the Court, in its own discretion, rules that justice requires such testimony be received, under all the circumstances to be considered.

See Rule 9.

RULE 22 - APPOINTMENT OF GUARDIAN AD LITEM

(No local rule)

RULE 23 - TRANSCRIPTS

In the Circuit Court Division all orders for transcripts on appeal or of the testimony of any witness or witnesses shall be made in writing to the Official Court Reporter, and the Reporter's acceptance of service of such order shall be filed with the Clerk of the Circuit Court in which the case is pending. All applications for extension of time to file transcripts shall show the date the same was ordered.

See Rule 10.

RULE 24 - EXHIBITS

Unless otherwise specifically agreed on between the Court and attorneys, all exhibits admitted in evidence during a trial shall remain in the custody of the attorney introducing the same and shall at all times be subject to inspection by opposing counsel, or opposing party if not represented, and the Court, for one year after the date of final judgment in civil matters. In criminal cases in which the Court has ordered retention of exhibits and in which notice of appeal has not been filed within the time prescribed by Supreme Court Rules, this procedure shall be undertaken only after 12 months from the date of the final judgment and upon order of the judge rendering judgment.

PRE-TRIAL MATTERS

RULE 32 - DISCOVERY

(No local rule)

32.1 USE OF DISCOVERY AND CERTIFICATION TO CIRCUIT DIVISION

(No local rule)

32.2 INTERROGATORIES

32.2.1 FORM OF INTERROGATORIES: FORM AND PROCEDURE IN CIVIL AND DOMESTIC ACTIONS

(1) Any party propounding interrogatories in civil or domestic relations actions shall leave an appropriate space for the answer to each interrogatory.

(2) The original and two copies of the interrogatories shall be served upon adverse counsel (or adverse party if not represented). Interrogatories are not to be filed with the Court except provided by paragraph 4 hereof. The interrogating party shall show on the interrogatories the Certificate of Mailing and shall file with the Court at the time they are mailed as separate Certificate of Mailing of the Interrogatories which shall include the following:

- (a) The party to whom mailed.
- (b) The date of mailing.

(c) Designation of pleading as first interrogatories, second interrogatories, etc.

(d) The signature of attorney or party mailing the interrogatories.

(3) The answers and objections to interrogatories shall be typewritten in the spaces provided. In the event an answer or objection is too lengthy to be placed in the space provided, it shall be attached as an appendix and clearly identified.

(4) The adverse party shall prepare the affidavit to be signed by the appropriate party and attach it as a last page of the interrogatories and then file the completed original containing the answers with the Clerk, mailing a copy to the interrogating party.

(5) No party shall serve upon any other party more than twenty (20) interrogatories in the aggregate in a domestic relations case without leave of Court or consent of opposing counsel. No party shall serve on any other party more than thirty-five (35) interrogatories in the aggregate in all other civil cases without leave of Court or consent of opposing counsel. In all civil cases, including domestic relations cases, subparagraphs of any interrogatories shall relate directly to the subject matter of the interrogatory and shall not exceed four in number. Any party desiring to serve additional interrogatories shall file a written motion setting forth the proposed additional interrogatories and the reasons establishing good cause for the additional interrogatories. Any number of additional interrogatories may be filed and served if attached thereto is the written consent of counsel for the party to which the interrogatories are directed.

32.3 DEPOSITIONS

(No local rule)

32.4 MOTION FOR SANCTIONS

(No local rule)

32.5 CRIMINAL DISCOVERY

Any party propounding discovery in criminal actions shall serve the discovery demands upon the adverse counsel (or adverse party if defendant is not represented). The discovery demands are not to be filed with the Court. The requesting party shall file a Certificate of Service with the Court. When appropriate, the Certificate of Service may be included on the one page Entry of Appearance memo.

RULE 33 - PRE-TRIAL MOTIONS

33.1 HEARING DATES

In all cases where either the plaintiff or the defendant desire to file any pre-trial motions, the same shall be filed, noticed up and disposed of no later than seven (7) days prior to any trial setting date.

Except for good cause shown, and except for unusual circumstances, no motion shall be filed later than seven (7) days before the trial date and any such motion filed thereafter by either party within the seven days of trial date, shall be subject to automatic denial for failure to comply with this Rule; or, in the appropriate case, the attorney may be subjected to sanctions by the Court for dilatoriness.

33.2 BRIEFS IN SUPPORT OF MOTIONS, WHEN REQUESTED

(No local rule)

33.3 ORAL ARGUMENTS - WHEN DESIRED AND HOW REQUESTED

(No local rule)

33.4 MOTIONS IN LIMINE

All motions shall be in writing and accompanied by citations of authority, and shall be heard no less than seven (7) days prior to the date of trial.

RULE 34 - CONTINUANCES

34.1 CIVIL CASES

An application for continuance shall be made in writing. It shall identify (1) the date the cause is now set, (2) attorney's available dates, (3) available dates of opposing parties, (4) adverse parties' positions on the continuance request, and (5) an affidavit of the applicant or some other credible person setting forth the facts upon which the application is based, unless the adverse party consents that application for continuance may be made orally. For good cause shown, the Court may continue a civil action to a fixed day, or to a date for trial to be set thereafter. Every continuance granted on the application of party may be at the cost of such party, if so ordered by the Court. When appropriate, this may be included on the one page Entry of Appearance memo. All applications for continuances shall conform to Supreme Court Rule 65.

34.2 CRIMINAL CASES

An application for continuance shall be made in writing. It shall identify (1) the date the cause is now set, (2) attorney's available dates, (3) available dates of opposing parties, (4) adverse party's position on continuance request, and (5) an affidavit of the applicant or some other credible person setting forth facts upon which the application is

based, unless adverse party consents that application for continuance may be made orally. A continuance will be granted in criminal cases only if the Court finds the ends of justice served by taking such an action outweighs the benefits of a speedy trial. For good cause shown, the Court may continue a criminal proceeding to a fixed day, or to a date for trial to be set thereafter. Every continuance granted on the application of party may be at the cost of such party, if so ordered by the Court. Regarding Traffic and Misdemeanor cases, when appropriate, the application for continuance may be included on the one page Entry of Appearance memo. All applications for continuances shall conform to Supreme Court Rule 24.

RULE 35 - PRE-TRIAL CONFERENCES

Pre-trial conferences shall be held as directed by the Judge. All attorneys shall be prepared to submit for examination and identification all exhibits which he intends to offer in evidence at trial and to make such admission as will narrow the issues and scope of testimony and supply copies of proposed jury instructions.

See Rule 2.1

RULE 36 - SETTING CASES FOR TRIAL

No case will be placed on the trial docket until the case is at issue and all discovery, if any, has been completed by the party requesting a setting.

After a case has been set for trial, no pleading 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 practicable time.

Each Associate Circuit Judge shall establish procedures for setting cases for trial in the Division in which he sits. Those procedures shall be communicated to persons interested in cases pending therein upon request.

36.1 REQUEST FOR TRIAL

No case will be placed on the trial docket unless written request therefore is received by the Circuit Clerk, or Division Clerk, not less than ten (10) days before the date on which the docket is called, and copy of request simultaneously furnished opposing counsel or parties appearing pro se.

The Court may set more than one case for trial on any given day, and all cases so set shall be ready for trial.

Counsel in any case in which notice is filed requesting its placement on the trial setting docket shall appear at the next regular Law Day or Term Day of the Court for the purpose of receiving a trial setting for a certain case, or in lieu therefore, counsel shall provide the court and the other attorney with said attorney's non-available dates. Such procedure is necessary to avoid scheduling conflicts and to assure that the cases for which

trial dates have been requested are at issue with discovery therein completed. Failure of counsel who requested trial settings to appear as required above, or who fail to furnish non-available dates, may cause such cases to be stricken from the trial setting docket.

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 REMOVAL AND INACTIVE CALENDAR

See Rules 8.2 and 37.1.

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

37.2 REINSTATEMENT OF CAUSE

See Rule 8.2

SETTLEMENT AND DEFAULT

RULE 41 - SETTLEMENT

41.1 NOTICE OF SETTLEMENT

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

See Rule 2.4 and 51.1.

RULE 42 - DEFAULT

See Rule 2.4 and 51.1.

TRIALS

RULE 51 - COURT-TRIED CASES

51.1 DEFAULT AND UNCONTESTED MATTERS

Default and uncontested matters, arraignments and pleas of guilty may be heard by the Circuit Judge of either Division I or Division II. Either Judge may, at the request of the attorney of record, or on Court's own motion, transfer such default, uncontested matter, arraignments and pleas of guilty to his docket for that purpose only.

This Rule shall not be construed as to limit the Presiding Judge's authority to specially assign cases pursuant to Section 478.240 RSMo.

Counsel shall prepare and sign a written memo to be used as docket entries in all default matters, dissolution cases, entries that counsel agree to be made, and other matters where the business of the Court may be expedited.

51.2 CONTESTED MATTERS

See Rule 36.

51.3 PREPARATION OF FINDINGS OF FACT AND CONCLUSIONS OF LAW

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

RULE 52 - SELECTION OF JURY

A jury may be drawn for any county on such dates as may be established by that county's board of Jury Commissioners upon a quorum of that Board being in attendance.

A separate jury panel shall be drawn as provided by law for each term of court of each of the counties in the Forty-Second Judicial Circuit.

52.1 JURY QUESTIONNAIRES

(No local rule)

RULE 53 - JURY TRIALS

53.1 INSTRUCTIONS

Prior to commencement of any jury trial of a Criminal case, the Prosecuting Attorney shall prepare proposed jury instructions for use by the Court and file same with the trial judge not less than ten (10) days prior to date of trial.

The attorney for the plaintiff shall prepare the following instructions for use in jury trials of Civil cases: Cautionary, facts not assumed, burden of proof, verdict, together with forms of verdicts. All parties shall have the proposed instructions they wish to submit and file same with the trial judge not less than ten (10) days prior to date of trial.

The failure to file written instructions in accordance with this rule shall be cause for the Circuit Clerk to not summons a jury for the trial, except as otherwise directed by the Judge.

53.2 CLOSING ARGUMENTS

Counsel will be allowed reasonable time to argue any case. Not more than one-half of the time allotted to counsel for opening argument shall be consumed in his closing argument. If either counsel expects to waive his argument, he shall so inform adversary counsel before any argument begins.

RULE 54 - JUDGMENT ENTRY

Counsel for the party in whose favor an order is made or judgment rendered, shall prepare the form of order of judgment and deliver the same to the Clerk of the Court within seven (7) days, with copy to opposing counsel. If no objection is filed with the Clerk by opposing counsel within seven (7) days after the date of service of copy (as shown by certificate of service), the Clerk shall record the order of judgment. If objection is made and no agreement reached between counsel, the objection shall be submitted to the Court promptly for determination.

54.1 CONTESTED CASES

See Rule 54.

54.2 DEFAULT OR UNCONTESTED CASES

See Rule 54.

RULES RELATING TO PARTICULAR ACTIONS

RULE 61 - ADOPTION

See Rule 2.4.

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., 1978.

61.2 HOME STUDY

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

RULE 62 - DRIVERS' CASES

62.1 APPLICATION FOR HARDSHIP DRIVING PRIVILEGES

See Rule 6.

62.2 PETITIONS FOR REVIEW

(No local rule)

62.3 BREATHALYZER TEST

(No local rule)

RULE 63 - ASSOCIATE DIVISION CASES

See Rule 1 and 6.

63.1 ASSOCIATE DIVISION CASES – RETURN ON SERVICE OF SUMMONS

All returns on service of summons shall be filed with the Court no later than five (5) days prior to the return date as provided.

RULE 64 - CASES ARISING UNDER CHAPTERS 207 AND 208, RSMO, 1978, (COMMONLY KNOWN AS TITLE IV-D AND H. B. 601 ACTIONS).

(No local rule)

RULE 65 - CIVIL COMMITMENT

(No local rule)

RULE 66 - CONDEMNATION

(No local rule)

RULE 67 - CRIMINAL CASES

67.1 PRE-TRIAL RELEASE

(No local rule)

67.1.1 MOTIONS TO SET BOND AND FOR BOND REDUCTION

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

67.1.2 DEPOSIT OF OPERATOR'S LICENSE

(No local rule)

67.2 PRELIMINARY HEARING

(No local rule)

67.3 GRAND JURY

(No local rule)

67.4 ATTORNEYS

See Rule 21.

67.5 ARRAIGNMENTS

67.5.1 IN GENERAL

All defendants bound over from the Associate Circuit Division in felony cases shall be Ordered to appear in the Circuit Court, Division I or II, for arraignment on a day certain as soon as practicable, but not more than 40 days after completion or waiver of the preliminary hearing.

See Rule 51.

67.5.2 DATES

See Rule 51 and 67.5.1.

67.6 DISCOVERY

(No local rule)

67.7 MOTIONS

See Rule 33.

67.8 PLEA BARGAINING

(No local rule)

67.9 GUILTY PLEA

67.9.1 WHERE ENTERED

See Rule 51.1.

67.9.2 PETITION TO ENTER A PLEA OF GUILTY

(No local rule)

67.10 CALENDAR

The Clerks of the Circuit Court, Divisions I and II, for the first day of each Term shall cause to be listed on the trial docket all criminal cases pending in the Division which docket will be called.

67.11 PROBATION AND PAROLE

67.11.1 LEVEL OF SUPERVISION

In all cases in which defendants are placed on a term of probation supervision with Division of Probation and Parole, initial supervision will be at a minimum of Level II supervision, unless otherwise specifically directed by the sentencing judge. A higher level of supervision may be imposed by the supervising officer if necessary or appropriate. A lower level may be approved by the sentencing judge upon application by the supervising officer.

67.11.2 EARNED COMPLIANCE CREDITS

In all cases in which defendants are placed on a term of probation supervision with Division of Probation and Parole, court costs, jail board bill, medical costs while incarcerated and victim restitution shall all be considered to be restitution for the purpose of determining when accrued earned compliance credits shall be applied for the purpose of determining optimal discharge date. No earned compliance credits shall be applied, and no early discharge shall be granted by Probation and Parole until all restitution is paid in full.

67.11.3 DRUG COURT OR ALTERNATIVE COURT PROGRAM

In all cases in which a defendant is placed on a term of probation supervision which includes a condition of probation requiring completion of the Drug Court Program or Alternative Court Program, the Division of Probation and Parole shall forward all case summary and violation reports to the Drug Court Administrator for distribution to the Drug Court Commissioner and the Drug Court Administrative Judge, as identified in 42nd Circuit Court Rule 6.1.2.

67.11.4 SHOCK TIME FOR PROBATIONERS WHO TEST POSITIVE FOR ILLEGAL SUBSTANCES

In all cases in which defendants are placed on a term of probation supervision with Division of Probation and Parole, when a probationer tests positive for use of marijuana, the supervising probation officer shall direct the probationer to serve at least forty-eight (48) hours shock time in the county jail as arranged by the supervising probation officer and pay the jail board bill thereof. When a probationer tests positive for any other illegal substance for which they do not have a valid prescription, the supervising probation officer shall direct the probationer to serve at least ninety-six (96) hours shock time in the county jail as arranged by the supervising probation officer and pay the jail board bill thereof.

RULE 68 - DISSOLUTION OF MARRIAGE

Entries of Appearance will be accepted in dissolution of marriage cases if in proper form. However, all such entries of appearance shall be on file more than thirty (30) days prior to trial. No dissolution of marriage case shall be heard until the petition therein has been filed for more than thirty (30) days.

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. 1978.

68.2 SEPARATION AGREEMENT

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

68.3 FORMS OF DECREES

See Rule 54.

68.4 FILING OF FINANCIAL STATEMENTS

On a form obtained from the Clerk, a statement of marital and non-marital property under oath of the party making the same shall be furnished to the court prior to the date of hearing in all cases filed for dissolution of marriage or legal separation and motion to modify decree of dissolution cases. The statement shall include a brief description of the assets, the legal description of real estate, the estimated fair market value less encumbrances and the name of the party having possession or control. Also, on a form obtained from the Clerk, a statement of income and expense shall be filed in all dissolution of marriage or legal separation and motion to modify decree of dissolution actions. 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 dependent children. Also, pursuant to Supreme Court Rule 88, there shall be filed in all actions involving custody of children, a calculation of presumed child support in form substantially the same as Civil Procedure Form No. 14. In all contested dissolution or legal separation and motion to modify decree of dissolution actions, a copy of such statement of property, income and expenses and calculation of presumed child support, if required, shall be supplied to the opposing attorney not less than five (5) days prior to the date of hearing.

68.5 ENTRY OF JUDGMENT UPON AFFIDAVIT - REQUIREMENTS

(1) Final Orders Entered - When. Final orders in a proceeding for dissolution of marriage or legal separations, motions to modify, and actions for declaration of paternity may be entered upon the affidavit of either or both parties when:

(a) There are no minor children of the mother and father and the mother is not pregnant; or both parties are represented by counsel and have entered into a written agreement determining 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 formally filed a verified entry of appearance or responsive pleading; and

(c) There is no genuine issue as to any material fact; and

(d) There is no marital property to be divided or the parties have entered into a written agreement for the division of their marital property.

(2) 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 Decree 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 Decree of Dissolution or Decree of Legal Separation.

(3) Hearing Required - When. The Court shall not be bound to enter a Decree 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.

68.6 MODIFICATION, CONTEMPT AND JUDICIAL REVIEW OF ADMINISTRATIVE MODIFICATIONS

In all cases when a judgment of dissolution of marriage or establishment of paternity has become final, all subsequent proceedings seeking modification or enforcement of the original judgment shall be assigned to the judge who entered the last judgment, decree or order without further assignment by the Presiding Judge.

68.7 MODIFICATION OF DECREE

(No local rule)

68.8 CONTESTED DISSOLUTION OR PATERNITY CASES WITH CHILD CUSTODY DISPUTES

In all domestic relations or paternity cases where child custody is in dispute, the parties must attend a Children's First Program or equivalent program and provide written proof of the same to the Court file at least 60 days prior to the trial. A failure to complete

such program without adequate cause shall be cause to strike the pleadings of the party failing to complete the program.

RULE 69 - MUNICIPAL DIVISION

See Rule 1, 3.1 and 4.6.

RULE 70 - PARTITION

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.

No report of Commissioners in partition, and no report of sale in partition by the Sheriff, or any Commission appointed by the Court, not excepted to, shall be confirmed unless the same has been on file at least three (3) days, and unless all parties in interest have notice thereof, shall an order of confirmation be entered.

RULE 71 - ADMINISTRATIVE REVIEWS

(No local rule)

RULE 72 - PROBATE

See Rule 1, 3.1, 4 and 5.

72.1 FILING OF PLEADINGS

All probate matters are to be filed in according with Supreme Court Rule 103 and Supreme Court Operating Rule 27. In addition, in counties with mandatory electronic filing, the original of the following documents shall be filed physically with the probate division within fifteen (15) day after it is electronically submitted:

- Original Wills
- Original Corporate Surety Bonds

If these documents are not filed physically within fifteen (15) days, the matter shall be dismissed without prejudice without notice.

In those counties with mandatory electronic filing, self-represented parties, except those who are attorneys licensed to practice in the State of Missouri and subject to the Missouri Electronic Filing System rules, shall file all original pleadings and documents with the clerk of the probate division.

72.2 CASE DISMISSAL DOCKET

Rule 8.2 applies to Probate actions.

RULE 73 - SMALL CLAIMS

See Rule 5 and 6.

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)

POST-TRIAL

RULE 81 - EXECUTION

Executions shall be issued only upon written request stating the amount for which the execution should issue and whether the return date be for thirty, sixty or ninety days. If special instructions are to be provided the Sheriff to whom any execution is directed, e.g., where garnishment or special levy is sought, those instructions shall be given in writing to the Sheriff. Upon request, the Clerk may transmit with the execution any such special instructions provided by the party requesting execution to issue.

RULE 82 - GARNISHMENT

(No local rule)

RULE 83 - JUDICIAL SALES

(No local rule)

INTERNAL ORGANIZATION

RULE 100

100.1 PRESIDING JUDGE

There shall be a Presiding Judge of the Circuit as provided by Article V, Section 15, Missouri Constitution. The Presiding Circuit Judge shall exercise the responsibilities prescribed by law. (Reference: Section 478.240, V.A.M.S.)

100.1.1 ELECTION

(No local rule)

100.1.2 DUTIES OF PRESIDING JUDGE

(No local rule)

100.1.3 DISPUTE RESOLUTION - PROCEDURE

(No local rule)

100.2 LOCAL COURT RULES

All prior Court Rules for the Forty-Second Judicial Circuit are revoked as of January 14, 2016, at 12:00 noon.

These Rules may be modified or revoked, in whole or in part, from time to time, as permitted by Section 478.245, V.A.M.S.

100.2.1 FORMULATION

(No local rule)

100.2.2 PUBLICATION

(No local rule)

100.3 LIBRARY FUND

In all cases filed which require payment of filing fees, except in cases received on change of venue from other counties, cases filed under small claims procedures, applications for trial de novo, and cases filed by the County, State or any City, the sum of

\$15.00 shall be paid by the Clerk from the filing fee and taxed as Court costs in said cases for the purpose of maintaining a County Law Library. The Prosecuting Attorney of each county is designated Treasurer of the Law Library Fund for his respective county.

On the first day of each month, the Clerks of the Court within each county shall pay the entire County Law Library Fund created by the aforesaid deposits during the preceding month to the Prosecuting Attorney of the county. The Law Library Fund shall be applied and expended under the direction of the Presiding Judge of the Circuit and the Associate Judge of each county, for the maintenance and upkeep of a law library.

The law libraries of the various counties shall be open at all reasonable times to the Judges and officers of all Courts of record, and all licensed attorneys who maintain an office within the county.

The Clerks of the Court shall keep a record of all fees received and expended and shall at least once per year present a report of same to the Judges of the Court and all members of the County Bar Association.

RECORDS AND FILES

100.4 STORAGE OF RECORDS

100.4.1 REPRODUCTION, PRESERVATION, ARCHIVAL STORAGE AND DISPOSAL OF THE ORIGINAL CIRCUIT COURT FILE (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 REPORTERS' 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

See Rule 12

100.6 SELECTION OF VENIREMEN

(No local rule)

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.

FORTY-SECOND JUDICIAL CIRCUIT EN BANC



By _____
Kelly Parker, Circuit Judge
Division II, Presiding Judge

Date: ____1-14-16____