

FORTY-THIRD JUDICIAL CIRCUIT
Caldwell, Clinton, Daviess, DeKalb and Livingston Counties
(Rules Updated 5-11-15 -- Effective 5-18-15)

ADMINISTRATION

RULE 1 **DIVISIONS OF COURT**

Beginning January 1, 2015, Division I shall consist of the Criminal and Civil Divisions of the Circuit Court of Daviess County; the Criminal and Civil Divisions of the Circuit Court of and Livingston County; and the Civil Division of the Circuit Court of DeKalb County. Beginning January 1, 2015, Division II shall consist of the Civil, Juvenile, and Criminal Divisions of the Circuit Court of Caldwell County; the Civil, Juvenile, and Criminal Divisions of the Circuit Court of Clinton County; the Juvenile Division of the Circuit Court of Daviess County; the Juvenile and Criminal Divisions of the Circuit Court of DeKalb County; and the Juvenile Division of the Circuit Court of Livingston County. Jurisdiction of all causes set for trial; jurisdiction of all causes pending on post-trial motions, pre-sentence investigations, appeal or under advisement; and jurisdiction of all post-conviction relief actions (pursuant to Supreme Court Rules 24.035 and 29.15) where the judge heard the underlying criminal action, shall be retained by the Judge having jurisdiction thereof as of December 31, 2014.

The Circuit Court of each county within the Circuit shall further consist of Associate Division, Probation Division and Small Claims Division, regularly presided over by an Associate Circuit Judge; and Municipal Division, regularly presided over by an Associate Circuit Judge or Municipal Judge.

RULE 2 **HOURS AND TERMS OF COURT**

2.1 **Hours of Court**

Court will convene at 9:00 a.m. unless otherwise specifically provided in the order setting the cause for trial or hearing.

2.2 **Terms of Court**

There shall be three (3) terms of Court in each county of the Circuit and the first day of said terms shall be the second Monday 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, and there will be no docket call.

2.3 Law Days

1. There shall be regularly scheduled Law Days in each county of Division I and Division II as scheduled by the Judge thereof. Printed schedules of Law Days shall be available to the Bar and public in the office of Circuit Clerk of each county.
2. Law Days are established for the purpose of hearing default, ex parte, pre-trial and post-trial matters. Such matters will not be heard on other days, except upon special setting.
3. Special settings must be requested in matters requiring time in excess of fifteen (15) minutes.
4. All notices of intent to call up any matter for hearing by the Court shall specify the hour of 9:00 a.m. unless otherwise allowed by the Court.
5. The clerk shall be notified by counsel prior to a regular Law Day that a default matter will be taken up or that a matter will be taken up by agreement of the parties without notice.
6. The clerk shall prepare a calendar for each regular Law Day listing all cases to be acted upon such day. The Court will call the docket beginning at 9:00 a.m.
7. Attorneys having business before the Court are expected to be present at the beginning of court and have all necessary parties and witnesses present at that time. Counsel will not be called at the door of the courtroom.

2.4 Particular Matters on Particular Days (No Local Rule)

RULE 3 PLEADINGS

3.1 Caption (No Local Rule)

3.2 Style (No Local Rule)

3.3 Size of Paper (No Local Rule)

3.3 (3) Court Orders Transmitted by Electronic or Facsimile Transmission

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

3.4 Entry of Appearance in Lieu of Summons

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

3.5 Amendment of Pleadings

Except as otherwise provided by Supreme Court Rule, leave to amend pleadings will be granted only upon written motion with a copy of the proposed amendment attached and upon showing of service of a copy of said motion and proposed amendment upon the adverse party, along with a written notice of hearing on the motion.

RULE 4 FILING OF CASES AND EFILING

4.1 Electronic Filing In PDF Format Required.

Unless otherwise provided, in all cases attorneys are required to submit all written documents in PDF format for filing. Unrepresented parties may be permitted to submit hard copies of any documents for filing, which shall then be scanned by the Circuit Clerk. Supreme Court Rule 103 and Court Operating Rule 27 govern all matters subject to electronic filing.

4.2 Record Retention Required

(1) Attorneys and parties shall retain original hard copies of all documents where such original documents are required by law to be retained.

(2) All parties shall retain back-up copies of all electronically filed documents.

(3) All parties, when appearing in court, shall bring paper copies of all filed documents.

4.3 Case Processing Contingency Plan.

(1) The Circuit Clerk shall print a paper copy of each docket at least one day in advance of the proceedings.

(2) Once an outage is detected, the Clerk shall immediately notify the judge, the Office of State Courts Administrators; and, when feasible, shall notify the parties.

(3) If a party is notified of an outage, the party shall bring additional copies of any filed documents which they anticipate may be addressed in the proceedings.

4.4 Filing Criminal Cases and Infractions.

All felony complaints, grand jury indictments, misdemeanor informations, and infraction citations will be permitted to be filed as written documents in the office of the Circuit Clerk. All subsequent filings in criminal and infraction cases shall be filed electronically in PDF format in the office of the Circuit Clerk.

4.5 Filing Civil Cases.

(1) Civil cases filed by attorneys shall be filed electronically in PDF format in the office of the Circuit Clerk. Civil cases filed electronically are not required to include a Filing Information Sheet.

(2) Pro se litigants, when filing cases, shall provide a Filing Information Sheet as required in Missouri Supreme Court Operating Rule 4.07, which must accompany the initial filing, pleading, or motion. Said form shall contain the following information for each party occupying the position of or on the same side as the plaintiff or defendant, each decedent, or each ward/protectee in the case:

1. Party type;
2. Party name;
3. Date of birth, if the party is a person; and
4. Social Security Number if the party is a person.

(3) The Filing Information Sheets are confidential records. The Clerk shall scan and e-file said form with each case filed and, upon satisfaction with quality assurance procedures, the form may then be destroyed.

4.6 Filing Probate Cases.

(1) Probate cases filed by attorneys shall be filed electronically in PDF format in the office of the Circuit Clerk. Probate cases filed electronically are not required to include Filing Information Sheet.

(2) Pro se litigants, when filing probate cases, shall provide a Filing Information Sheet as required in Missouri Supreme Court Operating Rule 4.07, which must accompany the initial filing, pleading, or motion. Said form shall contain the following information for each party occupying the position of or on the same side as the plaintiff or defendant, each decedent, each ward/protectee, and each heir in the case:

1. Party type;
2. Party name;
3. Date of birth, if the party is a person; and
4. Social Security Number if the party is a person.

(3) The Filing Information Sheets are confidential records. The Clerk shall scan and e-file said form with each case filed and, upon satisfaction with quality assurance procedures, the form may then be destroyed.

(4) Cancelled checks and bank statements for settlements shall be filed with the probate court as written documents and not as electronic documents.

4.7 Filing Small Claims Cases.

(1) Small claims cases shall be filed in the office of the Circuit Clerk as written documents, and shall then be scanned and converted into electronically filed PDF format by the Circuit Clerk.

(2) In every small claims case, the filing party shall provide a Filing Information Sheet as required in Missouri Supreme Court Operating Rule 4.07, which must accompany the initial filing, pleading, or motion. Said form shall contain the following information for each party occupying the position of or on the same side as the plaintiff or defendant, each decedent, each ward/protectee, and each heir in the case:

1. Party type;
2. Party name;
3. Date of birth, if the party is a person; and
4. Social Security Number if the party is a person.

(3) The Filing Information Sheets are confidential records. The Clerk shall scan and e-file said form with each case filed and, upon satisfaction with quality assurance procedures, the form may then be destroyed.

4.8 Proposed Judgments, Proposed Orders, and Related Correspondence

(1) Proposed judgments, proposed orders, and related correspondence submitted by attorneys shall not be submitted to the Circuit Clerk for filing. Unless otherwise directed by written order of the Court, the Circuit Clerk shall not accept the proposed judgment, proposed order, or related correspondence for filing; and shall return said documents to the submitting party.

(2) Proposed judgments, proposed orders, and related correspondence shall be submitted by attorneys directly to the judge by email, in electronic PDF format and also in modifiable Word format; and copies of said proposed judgments, proposed orders, and related correspondence shall also be provided to all parties.

(3) Proposed judgments, proposed orders, and related correspondence may be submitted to the Circuit Clerk by pro se litigants in paper form, and (if so submitted) shall then be scanned by the Circuit Clerk and forwarded to the judge by email or other method preferred by the judge.

(4) This rule does not address or limit the filing of post-trial motions otherwise authorized by law or Missouri Supreme Court rule.

4.9 Signing of Pleadings, Motions and Other Papers.

Every pleading, motion, and other document submitted for filing shall be signed by at least one attorney of record in the attorney's individual name; or signed by the self-represented party. An attorney who assists in the preparation of a pleading, motion, or other filing for an otherwise self-represented person is not required to sign the document. Every filing made electronically must add a certificate verifying that the attorney or party signed the original. The original signed filing must be maintained by the filer for a period of not less than the maximum time allowed to complete the appellate process. Below the signature shall be printed the signer's name, Missouri bar number (if applicable), telephone number, facsimile number, and electronic mail address.

4.10 Municipal Cases

Municipal ordinance violation cases shall be filed with the clerk of the appropriate Municipal Division when the municipality has made provision for a municipal judge as provided by law. In the event the municipality has not made such provision, the filing shall be with the clerk of the appropriate division presided over by the Associate Circuit Judge.

RULE 5 FEES AND COSTS

5.1 Filing Fee and Cost Deposit

No original suit may be maintained, except as otherwise provided by law, without leave of court until the party instituting the same shall cause to be deposited with the clerk of the court the filing fees as hereafter provided:

(1) Division I and II

All original civil cases	\$150.00
Each addition defendant	\$ 5.00
Publication requirements (additional)	\$150.00
Guardian ad Litem (additional)	\$150.00
Family Access fee	\$150.00
Adoption Fee	\$425.00

(2) Associate Division

All original civil cases	\$ 43.00
Each additional defendant	\$ 5.00
Small claims cases	\$ 30.00

(3) Additional amounts may be required if, after review by the clerk of the court, it is determined that additional amounts are needed to defray the anticipated costs including service.

5.2 Costs

Certification of document	\$ 1.50 per document
Case record copies	\$ 1.00 per page
Administrative record copies	\$.10 per page
Electronic Recording (Copy of CD)	\$25.00 per CD

5.3 Witness Fees

Witness fees shall not be allowed unless claim for the same is made to the clerk. The attorney causing the 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 (No Local Rule)

5.6 Garnishment Fees

In addition to any required deposit for anticipated service fees, the clerk of the court shall charge and collect a surcharge in the maximum amount permitted by section 488.305 RSMo (2014) for the clerk's duties when a garnishment is granted. All moneys collected under this Rule shall be placed in a fund to be used at the discretion of the circuit clerk to maintain and improve case processing and record preservation.

RULE 6 ASSIGNMENT OF JUDGES, CASES AND TRANSFER OF CASES

6.1 Assignment to Associate Circuit Judge

6.1 (1) By Local Court Rule or Order

1. In addition to cases authorized by Statute, an Associate Circuit Judge shall hear the following cases:
 - (a) Adult abuse cases;
 - (b) Child Protection Orders Act cases;
 - (c) Civil and criminal cases originally filed in the Associate Division in which trial by jury is demanded;
 - (d) Felony criminal non-support cases under Section 568.040 RSMo., subsequent to the filing of an Information, if the preliminary hearing was waived by the Defendant; and
 - (e) Any pending circuit division case assigned to an Associate Circuit Judge by the Presiding Judge.

2. In addition to cases authorized by Statute, an Associate Circuit Judge may hear the following cases:
 - (a) Uncontested dissolution of marriage, legal separation, separate maintenance, child custody and child support, and uncontested modifications thereof;
 - (b) Proceedings for change of name of a person; and
 - (c) Uncontested proceedings for the approval of settlements of suits involving claims by persons under eighteen (18) years of age.
 - (d) Felony driving while suspended and no operator's license cases under sections 302.321, RSMo, and 302.020, RSMo, respectively, subsequent to the filing of an Information if the preliminary hearing was waived by the Defendant.

6.1 (2) Special Assignment (No Local Rule)

6.2 Change of Judge – Probate Division Pursuant to Section 472.060 RSMo.

Upon the filing of verified, written objections seeking a change of judge in the probate division pursuant to Section 472.060 Rev. Stat.Mo., the probate judge shall immediately certify said objections to the Presiding Judge who shall conduct a hearing on said objections. If, after a hearing, the Court finds the affiant's objections as set forth in the motion warrant a change of judge, the Presiding Judge shall make such Order. If the affiant fails to know the facts as stated in their objections, the Presiding Judge may overrule said motion and return said cause to the Probate Judge. Said objections shall be filed with the first filing in said cause by the party seeking disqualification.

6.3 Assignment to Circuit Judge (No Local Rule)

6.4 Certification to Circuit Division (No Local Rule)

6.5 Trial de Novo (No Local Rule)

6.6 Disqualification of Judge - Assignment of Judge in a Civil Action

If a judge has been disqualified in a civil action, and if the case has not been assigned to a judge stipulated by the parties as provided under Supreme Court Civil Rule 51.05(e), a judge shall be assigned as follows:

6.6(1) If the Presiding Judge is not disqualified, the presiding judge shall assign a judge of the circuit who is not disqualified or request the Supreme Court for assignment of a new judge.

6.6(2) If the Presiding Judge has been disqualified in a civil action and the other Circuit Judge of this circuit has not been previously disqualified, the cause shall be assigned to the other circuit judge of this circuit; or transferred to the Supreme Court for assignment of a new judge.

6.6(3) If the Presiding Judge and the other Circuit Judge have both been disqualified in a civil action, and if the Associate Circuit Judge of the county where the case is filed has not been previously disqualified, then the cause shall be assigned to the Associate Circuit Judge of the county where the case is filed; or transferred to the Supreme Court for assignment of a new judge.

6.7 Absence of Judge

In the absence of the Circuit Judge of any division, any other Circuit Judge may sit as the judge of the division in which the judge is absent and perform all the duties of the absent judge. In the absence of the Associate Circuit Judge of any division, any other Associate Circuit Judge or Circuit Judge may sit as the judge of the division in which the judge is absent and perform all of the duties of the absent judge.

6.8 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 the case or matter, whatsoever; then, during any such period of 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 be contrary notwithstanding, this rule shall not be interpreted as intending to apply to the type of disqualification referred to in Subparagraph 1 of Section 478.240, RSMo., 1978, and in Article 5, Section 24, Missouri Constitution.

RULE 24 EXHIBITS

Counsel should have exhibits marked by the official court reporter and ready for introduction at the start of the trial. All exhibits introduced during the trial of the cause, except depositions, shall remain in the custody of the attorney introducing the same and shall be subject to examination by opposing counsel.

PRE-TRIAL MATTERS

RULE 32 DISCOVERY

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|-------------|---|-----------------|
| 32.1 | Use of Discovery and Certification to Circuit Division | (No Local Rule) |
| 32.2 | Interrogatories | (No Local Rule) |
| 32.3 | Depositions | (No Local Rule) |
| 32.4 | Motions for Sanctions | (No Local Rule) |
| 32.5 | Criminal Discovery | (No Local Rule) |

RULE 33 PRE-TRIAL MOTIONS

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|-------------|---|-----------------|
| 33.1 | Hearing Dates | (No Local Rule) |
| 33.2 | Briefs in Support of Motions, When Required | (No Local Rule) |
| 33.3 | Oral Arguments, When Desired and How Requested | (No Local Rule) |
| 33.4 | Motions in Limine | (No Local Rule) |
| 33.5 | Appointment of Special Process Servers, Ad Hoc by Motion | |

As provided by law, any party may by motion seek an order of court designating any qualified individual be appointed a “Special Process Server” to effect service of process for that specific cause. In determining whether the proposed individual is qualified, the Judge may consider the training, education, and experience of such person. Any such motion for appointment of Special Process Server shall be treated as an informal matter and may be submitted to the Judge assigned to the case.

RULE 34 CONTINUANCES

34.1 Civil Cases and 34.2 Criminal Cases

After a case has been set for trial, no continuance will be granted except for good cause shown. Application for a continuance shall, unless the adverse party consents that it be made orally in open court, be made by written motion accompanied by the affidavit of the applicant or some other credible person setting forth the facts on which the application is founded. Where continuances are sought by agreement, the attorneys shall consult with the Court and make full and open disclosure of the reasons for such continuance. The Court may, in its discretion, grant or refuse any application for continuance.

RULE 35 PRE-TRIAL CONFERENCES

See Rule 36.

RULE 36 SETTING CASES FOR TRIAL

**36.0 CIVIL CASE REQUIREMENTS – CIRCUIT COURT DIVISION
PRE-TRIAL SETTLEMENT CONFERENCES
MEDIATION**

1. Prior to any contested civil case being set for trial, it shall first be placed on a regularly scheduled Pre-Trial/Settlement Conference Day. The setting shall be by either party, upon proper notice, or by the Court on its own motion. Unless specifically waived by the Court, all parties and their counsel are required to be present at said conference. It is strongly recommended that most, if not all, discovery be completed prior to the Pre-Trial Settlement Conference, in order that each side is prepared to fully and finally discuss and resolve all issues. A premature pre-trial settlement conference scheduling may be subject to either: (1) A proper request for continuance filed by the opposing party, or (2) A request by the designated trial judge that a subsequent pre-trial settlement conference be held after each side is sufficiently and more adequately prepared.
2. If, after the pre-trial/settlement conference, the case has not been resolved or settled, the case may then be ordered to Mediation by the designated trial judge.
3. Upon the completion of Mediation, or the waiver thereof by the designated trial judge, if the case remains contested, it may then be noticed up for trial setting by any party.

- 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** (No Local Rule)
- 36.6 Revision of and Removal from Prepared Calendar** (No Local Rule)
- 36.7 Special Assignments** (No Local Rule)

RULE 37 DISMISSALS

37.1 Dismissal Docket

In all cases wherein there has been no action of record during the twelve (12) months just past, the Court may cause notice to be mailed to the attorneys of record that such case will be dismissed by the Court for want of prosecution unless, on a day set for that purpose, written application is made to the Court and good cause shown why it should be continued as a pending case. If such application is not made and good cause not shown, the Court may dismiss the case for want of prosecution.

- 37.2 Reinstatement of Cause** (No Local Rule)

RULE 41 SETTLEMENT

41.1 Notice of Settlement

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

RULE 42 DEFAULT (No Local Rule)

TRIALS

RULE 51 COURT-TRIED CASES

- 51.1 Default and Uncontested Matters** (No Local Rule)
(See **Local Rule 2.3 – Law Days Procedure**)
- 51.2 Contested Matters** (No Local Rule)
- 51.3 Preparation of Findings of Fact and Conclusions of Law** (No Local Rule)

RULES RELATING TO PARTICULAR ACTIONS

RULE 61 **ADOPTION**

61.1 Filing Requirements (No Local Rule)

61.2 Home Study

Upon the filing of Petition for Adoption, the clerk shall immediately request the Division of Family Services to initiate an investigation of the suitability of the child for adoption and the suitability of the petitioners as parents for the child.

No home study shall be required in a step-parent adoption, unless ordered by the Court.

61.3 Hearing

No transfer of custody of a child to the petitioners will be made until: (a) the written investigation report has been submitted or waived by the Court; (b) a Guardian ad Litem has been appointed to represent the child; and (c) and (sic) evidentiary hearing has been held concerning the suitability of the petitioners as parents of the child.

RULE 62 **DRIVERS' CASES**

62.1 Applications for Hardship Driving Privileges (No Local Rule)

62.2 Petitions for Review (No Local Rule)

62.3 Breathalyzer Test (No Local Rule)

RULE 63 **ASSOCIATE DIVISION CASES** (No Local Rule)

RULE 64 **CASES ARISING UNDER CHAPTER 207 AND 208, RSMo., 1979** (No Local Rule)
(Commonly known as Title IV-D and H.B. 601 Actions)

RULE 65 **CIVIL COMMITMENT** (No Local Rule)

RULE 66 **CONDEMNATION** (No Local Rule)

RULE 67 CRIMINAL CASES

67.1	Pretrial Release	(No Local Rule)
67.2	Preliminary Hearing	(No Local Rule)
67.3	Grand Jury	(No Local Rule)
67.4	Attorneys	(No Local Rule)
67.5	Arraignments	
67.5.1	In General	(No Local Rule)
67.5.2	Dates	(No Local Rule)
67.6	Discovery	(No Local Rule)
67.7	Motions	(No Local Rule)
67.8	Plea Bargaining	(No Local Rule)
67.9	Guilty Plea	
67.9.1	Where Entered	(No Local Rule)
67.9.2	Petition to Enter a Plea of Guilty	(No Local Rule)
67.10	Calendar	(No Local Rule)
67.11		(No Local Rule)

RULE 67.12 AMENDED INFORMATIONS IN CRIMINAL CASES -- FELONIES

All Amended Informations in felony criminal cases filed with the Court shall be accompanied by a verified Motion Requesting Leave to File Amended Information and Notice. The verified Motion shall include the following:

1. A copy of the proposed Amended Information; and
2. A statement that no additional or different offense is charged, and that the Amended Information does not require remand for a preliminary hearing; and
3. A statement that the Defendant's substantial rights are not thereby prejudiced and that the amendment shall not cause delay of a trial; and
4. Three working days notice to the Defendant and the Court, unless said notice requirement is waived by the Defendant and the Court.

RULE 68 DISSOLUTION OF MARRIAGE

68.1 Filing Requirements

At the time of filing the petition, the attorney for petitioner shall file a Vital Statistics Report form as required by Section 193.360, RSMo.

68.2 Separations Agreement

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

68.3 Forms and Decree (No Local Rule)

68.4 Filing of Financial Statements

Unless the parties shall have accomplished a division of property by a written separation agreement, a statement of marital and non-marital property under oath of the party making the same shall be filed with the Court prior to the date of hearing in all cases filed for dissolution of marriage or legal separations. The statement shall be submitted on a form available from the clerk and 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 and control. Also, a statement of income and expense on a form available from the clerk shall be filed in all contested dissolution's of marriage or legal separation actions, contested motions to modify child support or maintenance, and contested motions for temporary allowances. The statement shall list income of the party from all sources and the expenses of the party, together with the expenses of dependent children. Such statements, if required, shall be served on opposing counsel not less than three (3) days prior to the date of contested hearing.

68.5 Modification of Judgment

A motion to modify a judgment of dissolution of marriage shall be treated as an original action by the clerk, requiring the usual filing fee and issuance of summons except in cases where the parties file therewith a stipulation of modification. A contested motion to modify will be heard only upon special setting.

68.7 Notice of Default Judgment

A copy of all default judgments of dissolution of marriage or legal separation shall be delivered by counsel for the petitioner to the circuit clerk along with a statement of the last known mailing address of the respondent and the circuit clerk shall cause to be deposited in the United State Mail an envelope addressed to the respondent, return receipt requested and with postage prepaid, enclosing a certified copy of said default judgment. Expense of such mailing shall be taxed as costs.

68.8 Judgments Affecting Real Property

A copy of all judgments of dissolution of marriage or legal separation affecting title to real estate shall be delivered by counsel to the circuit clerk with a written request that the same be filed in the office of the recorder of deeds. Such request shall designate the office of the recorder where such filing is to be made. The clerk shall estimate the amount of the recording fee and shall collect the same from the party delivering the decree for filing. Such expense shall be taxed as costs in the case.

68.9 Educational Sessions

The designated provider of the educational sessions for parents mandated by § 452.605 of the Revised Statutes of Missouri is the University of Missouri Outreach and Extension Program. Both parties shall pay their own cost of the sessions, unless otherwise ordered by the Court.

68.10 Mediation

The Forty-third Judicial Circuit hereby establishes a mediation program for parenting issues as provided in Missouri Supreme Court Rule 88.

The Court may order mediation of any contested parenting issue at any time, upon the motion of a party or the Court's own motion.

Any mediation ordered under this Rule shall be governed by the provisions of Missouri Supreme Court Rule 88.02-88.08.

The cost of mediation shall be born equally by the parties unless otherwise ordered by the court. If the Court determines that neither party is able to pay some portion of the cost of the mediation, the Court may order that part or all of the mediation be provided to the parties in discharge of *pro bono publico* obligations of Court-trained mediators. The Court may order the parties to participate in the MARCH mediation program in appropriate cases.

68.11 Entry of Judgment Upon Affidavit

68.11.1 Final Orders Entered

Final orders in a proceeding for dissolution of marriage may be entered upon the affidavit of all parties, without personal court appearance by any party, when:

- (a) Both parties are represented by legal counsel; and
- (b) There are no unemancipated children of the parties and the female party is not pregnant; and
- (c) There is no marital property or marital debt to be divided, or the parties have entered into a written agreement for the division of their marital property and marital debts; and
- (d) There is no genuine issue as to any material fact; and
- (e) At least one of the parties resides in the county wherein the dissolution is being sought or, at least one of the parties is a resident of the 43rd Judicial Circuit and both parties have stipulated to venue and jurisdiction of the court in the county wherein the dissolution sought.

68.11.2 Affidavit Filing and Content.

If the parties desire to submit the matter for entry by affidavit, each party must file a separate affidavit setting forth sworn testimony showing the court's jurisdiction and factual averments sufficient to support the relief requested in the proceedings, together with a copy of the proposed Judgment Entry, a copy of a written agreement providing for the division of the parties marital property and marital debts, and a statement the party understands they have a right to a hearing before the court and are waiving their right to a hearing. The filing of such affidavit shall not be deemed to shorten any statutory waiting period required for entry of a decree of dissolution. The verified petition shall not be considered as an affidavit for purposes of this Rule.

68.11.3 Court Not Bound by Affidavits.

No Court shall be bound to enter a decree or order upon the affidavits of the parties, but the Court may, upon its own motion, require a formal hearing be held to determine any or all issues presented by the pleadings.

68.11.4 Final Orders Entered After Pre-Trial Settlement Conference Involving Unemancipated Children

The provisions of Rule 68.11.1(b) to the contrary notwithstanding the court may, in its discretion, enter a final order under this Rule 68 in cases involving unemancipated minor children after it has conducted the pre-trial settlement conference required by Rule 36.0.

RULE 69 **MUNICIPAL DIVISION** (No Local Rule)

RULE 70 **PARTITION**

1. Plaintiff's attorney shall assist the sheriff in preparing all necessary reports of sale and orders of distribution and present them to the Court.
2. No report of commissioners in partition and no report of sale by the sheriff or any commissioner appointed by the Court not excepted to, shall be confirmed unless the same has been on file for at least three (3) days, unless all the parties in interest, their attorneys and guardians expressly request in writing that an order of confirmation be entered.

RULE 71 **ADMINISTRATIVE REVIEWS** (No Local Rule)

RULE 72 **PROBATE** (No Local Rule)

RULE 73 **SMALL CLAIMS** (No Local Rule)

RULE 74 **TRUST ESTATES**

- | | | |
|------|-----------|-----------------|
| 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 **EXECUTIONS**

1. Executions shall be issued by the clerk only upon written application therefor by the judgment creditor or his attorney and upon payment to the clerk of a cost deposit in the sum of \$25.00.
2. When garnishment is requested in aid of execution, the same shall not be issued until the garnishor has filed written interrogatories asking the garnishee to state the property subject to garnishment in his possession or charge or under his control. Such interrogatories shall be served simultaneously with the summons of garnishment.

RULE 82 **GARNISHMENT** (No Local Rule)

RULE 83 **JUDICIAL SALES** (No Local Rule)

INTERNAL ORGANIZATION

RULE 100.1 PRESIDING JUDGE

100.1.1 Election

The circuit and associate circuit judges of this circuit shall select by secret ballot a circuit judge within this circuit to serve as presiding judge. The meeting shall be held in the month of October of each even numbered year. The term shall be for two (2) years beginning in January of the next following odd numbered year, provided that any sitting presiding judge shall remain in office until removed or until a successor is duly elected pursuant to these rules.

100.1.2 Duties of Presiding Judge

The Presiding Judge is the general administrative authority of the Court. In this function, he shall (1) preside at all court en banc meetings; (2) supervise and appoint any needed committees; (3) supervise preparation of the budget; (4) coordinate all duties and vacations of personnel; (5) handle media and government contacts; and (6) standardize procedures between divisions.

The Presiding Judge has the authority to assign cases to judges and judges to divisions, but he is not to assign: (1) a municipal judge to hear any case other than to initially hear municipal ordinance violation cases; (2) a judge to try a felony case when he has conducted the preliminary hearing; (3) a case to a judge contrary to Supreme Court Rule or Local Circuit Court Rules; and (4) a case to a probate judge if the case is not within 472.020 RSMo., unless the probate judge consents and he was a probate judge on January 1, 1979.

The meetings of the court en banc may be called by the Presiding Judge or by two judges giving written notice. If any judge so requests, the meeting will be on the record. The Presiding Judge has one vote and a majority vote rules. The Presiding Judge may call a special term of court. The Presiding Judge may appoint a secretary and any additional personnel to aid in the judicial business of the circuit.

100.1.3 Dispute Resolution – Procedure (No Local Rule)

RULE 100.2 LOCAL COURT RULES

100.2.1 Formulation and Change of Local Court Rules

Any proposed change to the Local Court Rules shall be submitted in writing to the Presiding Judge at least four weeks prior to a meeting of the court en banc for placement on the agenda thereof. Copies of such proposed change shall also be sent to all other judges comprising the court en banc at least four weeks prior to the meeting. No adoption or other formal action changing the Local Court Rules may occur during the first meeting after the proposed change was first submitted in writing as provided herein, unless the members in attendance shall unanimously vote to waive this requirement. All new Local Court Rules shall be approved both by the Presiding Judge and a majority of the judges comprising the court en banc.

100.2.2 Publication

(No Local Rule)

RULE 100.3 LIBRARY FUND

As a part of the cost deposit required by Local Rule 5, a ten dollar (\$10.00) surcharge shall be collected by the clerk of the circuit court. This rule shall not apply to proceedings when costs are waived or are to be paid by the county or state or any city. On the first day of each month, each clerk who is responsible for the collection of such surcharge shall pay the entire fund created by said deposits during the preceding month to the treasurer of said fund as hereinafter designated. Said fund shall be applied and expended under the direction and order of the Presiding Judge for the maintenance and upkeep of the law library maintained by the bar association in any such county, such other law library in any such county as may be designated by the Presiding Judge, or for any other purpose authorized by law.

Treasurers of the law library fund in the various counties of the circuit shall be designated by order of the Presiding Judge.

The treasurer of the law library fund shall, in January of each year, file with the Presiding Judge a report as of December 31 of each year, setting forth the monies received and disbursed during the preceding twelve (12) month period.

RECORDS AND FILES

RULE 100.4 STORAGE OF RECORDS

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| 100.4.1 | Reproductions, Preservation,
Archival Storage and Disposal
of Original Circuit Court Files
(and their contents) | (No Local Rule) |
| 100.4.2 | Reproduction and Preservation of
Court Records Other Than Files
(and their contents) | (No Local Rule) |
| 100.4.3 | Responsibility for Indexing and
Preserving Court Reporter Notes | (No Local Rule) |
| 100.4.4 | Identification of 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) |

RULE 100.5 CLERK'S DUTIES

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|----------------|-------------------------------|-----------------|
| 100.5.1 | Monies Paid into Court | (No Local Rule) |
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RULE 100.6 SELECTION OF VENIREMEN

(No Local Rule)