

31<sup>st</sup> Judicial Circuit  
Greene County Circuit Court

**LOCAL COURT RULES**

Revision Date January, 2014

# Judges of the 31<sup>st</sup> Circuit Court

Division 1	Circuit Judge Michael J. Cordonnier
Division 2	Circuit Judge David C. Jones
Division 3	Circuit Judge J. Dan Conklin
Division 4	Circuit Judge Thomas E. Mountjoy
Division 5	Circuit Judge Calvin R. Holden
Division 21	Associate Circuit Judge Dan Imhof
Division 22	Associate Circuit Judge Jason R. Brown
Division 23	Associate Circuit Judge Mark E. Fitzsimmons
Division 24	Associate Circuit Judge Mark A. Powell
Division 25	Associate Circuit Judge –Visiting Judge
Division 26	Associate Circuit Judge J. Ronald Carrier
Family Court 1	Commissioner Sue Chrisman
Family Court 2	Commissioner Scott B. Tinsley
Family Court 3	Commissioner Jeff Marquardt
Family Court 4	Commissioner John P. Lukachick
Probate Division	Commissioner Carol Aiken
Treatment Court	Commissioner Peggy Davis

## Municipal Divisions

Springfield Municipal Court	Judge Todd Thornhill
Springfield Municipal Court	Judge Becky Borthwick

Ash Grove Municipal Court  
Battlefield Municipal Court  
Fair Grove Municipal Court  
Republic Municipal Court  
Strafford Municipal Court  
Walnut Grove Municipal Court  
Willard Municipal Court

Court Administrator	Jerry Moyer
Greene County Circuit Clerk	Steve Helms

# **Table of Contents**

## **ADMINISTRATION**

- Rule 1. DIVISIONS OF COURT
  - 1.1 Probate Division
  - 1.2 Family Court
  - 1.3 Drug Court
- Rule 2. HOURS AND TERMS OF COURT
  - 2.1 Hours of Court
  - 2.2 Terms of Court
  - 2.3 Law Days
  - 2.4 Particular Matters on Particular Days
- Rule 3. PLEADINGS
  - 3.1 Caption
  - 3.2 Style
  - 3.3 Uniform Case Numbering
- Rule 4. FILING OF CASES
  - 4.1 Criminal Cases
  - 4.2 Civil Cases
  - 4.3 Probate Cases
  - 4.4 Juvenile Cases
  - 4.5 Small Claims Cases
  - 4.6 Municipal Cases
  - 4.7 On-call Judge/Duty Judge
- Rule 5. FEES AND COSTS
  - 5.1 Filing Fee and Cost Deposit
  - 5.2 Costs
  - 5.3 Witness Fees
  - 5.4 Waiver of Fees
  - 5.5 Motion for Security
- Rule 6. ASSIGNMENT OF JUDGES, CASES, AND TRANSFER OF CASES
  - 6.1 Assignment to Associate Circuit Judges
  - 6.2 Assignment to Circuit Judges
  - 6.3 Certification to Circuit Division
  - 6.4 Trial de Novo
  - 6.5 Disqualification of Judge
  - 6.6 Absence or Unavailability of Judge
  - 6.7 Absence of Presiding Judge
- Rule 7. WITHDRAWALS OF PAPERS FROM CLERK'S OFFICE
  - 7.1 When
  - 7.2 Duplicating Policy
- Rule 8. PUBLICATION OF DOCKETS
  - 8.1 Trial Docket
  - 8.2 Dismissal Docket
- Rule 9. COURTROOMS
  - 9.1 Assignment of Courtroom

- 9.2 Place of Hearing
- 9.3 Use of Counsel Table
- 9.4 Courtroom Decorum and Dress
- 9.5 Who Is Permitted Within Bar
- 9.6 Cell Phone Usage
- Rule 10. COURT REPORTERS AND COMPENSATION FOR SAME
- Rule 11. RECORDING OF JUDICIAL PROCEEDINGS
- Rule 12. MONIES PAID INTO COURT
  - 12.1 Bond in Civil Cases
- Rule 13. COMMUNICATIONS WITH COURT
  - 13.1 Oral Communications With the Court
  - 13.2 Written Communications With the Court

## **GENERAL RULES**

- Rule 21. ATTORNEYS
  - 21.1 Resolution of Conflicting Trial Settings
  - 21.2 Entries of Appearance
  - 21.3 Conduct of Attorneys
  - 21.4 Withdrawal of Attorneys
  - 21.5 Failure of Attorney to Answer Docket Call
  - 21.6 Appointment of Attorneys
  - 21.7 Agreement of Attorneys
  - 21.8 Advice to Clients and Witnesses of Courtroom Procedure
- Rule 22. APPOINTMENT OF GUARDIAN AD LITEM
- Rule 23. TRANSCRIPTS
- Rule 24. EXHIBITS

## **PRETRIAL MATTERS**

- Rule 32. DISCOVERY
  - 32.1 Use of Discovery and Certification to Circuit Division
  - 32.2 Interrogatories
  - 32.3 Production of Documents and Things
  - 32.4 Depositions
  - 32.5 Motions for Sanctions
  - 32.6 Criminal Discovery
  - 32.7 Golden Rule
- Rule 33. PRETRIAL MOTIONS
  - 33.1 Hearing Dates
  - 33.2 Briefs in Support of Motions, When Required
  - 33.3 Oral Arguments - When Desired and How Requested
  - 33.4 Motions in Limine
  - 33.5 Motions to Dismiss
- Rule 34. CONTINUANCES
  - 34.1 Civil Cases
  - 34.2 Criminal Cases
- Rule 35. PRETRIAL CONFERENCES
- Rule 36. SETTING CASES FOR TRIAL
  - 36.1 Request for Trial

- 36.2 Date of Calendar Call
- 36.3 Preparation of Calendar
- 36.4 Calendar Call
- 36.5 Inactive Calendar
- 36.6 Revision of and Removal from Prepared Calendar
- 36.7 Special Assignment
- Rule 37. DISMISSALS
- 37.1 Dismissal Docket
- 37.2 Reinstatement of Cause

## **SETTLEMENT AND DEFAULT**

- Rule 41. SETTLEMENT
- 41.1 Notice of Settlement
- Rule 42. DEFAULT

## **TRIALS**

- Rule 51. COURT-TRIED CASES
- 51.1 Default and Uncontested Matters
- 51.2 Contested Matters
- 51.3 Preparation of Findings of Fact and Conclusions of Law
- Rule 52. SELECTION OF JURY
- 52.1 Jury Questionnaires
- Rule 53. JURY TRIALS
- 53.1 Instructions
- 53.2 Closing Arguments
- Rule 54. JUDGMENT ENTRY
- 54.1 Contested Cases
- 54.2 Default or Uncontested Cases

## **RULES RELATING TO PARTICULAR ACTIONS**

- Rule 61. ADOPTION
- 61.1 Filing Requirements
- 61.2 Home Study
- Rule 62. DRIVERS' CASES
- 62.1 Applications for Hardship Driving Privileges
- 62.2 Petitions for Review
- 62.3 Breathalyzer Test
- Rule 63. ASSOCIATE DIVISION
- Rule 64. CASES ARISING UNDER CHAPTERS 207 AND 208 RSMO.  
(Commonly known as Title IV-D)
- Rule 65. CIVIL COMMITMENT
- Rule 66. CONDEMNATION
- Rule 67. CRIMINAL CASES
- 67.1 Pretrial Release
- 67.1.1 Motions to Set Bond and for Bond Reduction
- 67.1.2 Deposit of Operator's License

- 67.1.3 Open Court Bonds
- 67.2 Preliminary Hearing
- 67.3 Grand Jury
- 67.4 Attorneys
- 67.5 Arraignments
- 67.5.1 In General
- 67.5.2 Dates
- 67.6 Discovery
- 67.7 Motions
- 67.8 Plea Bargaining
- 67.9 Guilty Plea
- 67.9.1 Where Entered
- 67.9.2 Petition to Enter a Plea of Guilty
- 67.10 Calendar
- 67.11 Probation and Parole
- Rule 68. DISSOLUTION OF MARRIAGE
- 68.1 Filing Requirements
- 68.2 Separation Agreement
- 68.3 Forms of Decrees
- 68.4 Filing of Financial Statements
- 68.5 Modification of Judgment and Decree
- 68.6 Entry of Judgment or Decree of Dissolution by Affidavit
- 68.7 Procedure for Filing by Affidavit
- 68.8 Parent Education
- 68.9 Alternative Dispute Resolution Program
- Rule 69. MUNICIPAL DIVISION
- 69.1 Municipal Jury Trial Other Than Springfield Municipal Division
- 69.2 Springfield Municipal Division
- Rule 70. PARTITION
- Rule 71. ADMINISTRATIVE REVIEWS
- Rule 72. PROBATE
- Rule 73. SMALL CLAIMS
- Rule 74. TRUST ESTATES
- 74.1 Inventory
- 74.2 Report
- 74.3 Record
- 74.4 Audit
- Rule 75. WRONGFUL DEATH SETTLEMENT
- Rule 76. MINOR'S SETTLEMENT
- Rule 77. DRUG COURT
- Rule 78. DECLARATION OF PATERNITY
- 78.1 Entry of Judgment by Affidavit
- 78.2 Parent Education
- 78.3 Alternative Dispute Resolution Program
- 78.4 Documents That Must Be Included
- 78.5 Modification of Judgment of Paternity

## **POST TRIAL**

- Rule 81. EXECUTION
- Rule 82. GARNISHMENT
- Rule 83. JUDICIAL SALES

## **INTERNAL ORGANIZATION**

- Rule 100.
  - 100.1 Presiding Judge
    - 100.1.1 Election
    - 100.1.2 Duties of Presiding Judge
    - 100.1.3 Dispute Resolution – Procedure
    - 100.1.4 Absence of Presiding Judge
    - 100.1.5 Removal of Presiding Judge
    - 100.1.6 Vacancy
  - 100.2 Local Court Rules
    - 100.2.1 Formulation
    - 100.2.2 Publication
  - 100.3 Statutory Funds
    - 100.3.1 Special 31<sup>st</sup> Judicial Fund
    - 100.3.2 Family Services and Justice Fund
    - 100.3.3 Time Payment Fund
  - 100.4 Storage of Records
    - 100.4.1 Reproduction, Preservation, Archival Storage and Disposal of Original Circuit Court Files (and their contents)
    - 100.4.2 Reproduction and Preservation of Court Records Other Than Files
    - 100.4.3 Responsibility for Indexing and Preserving Court Reporter Notes
    - 100.4.4 Identification of Reporters' Notes
    - 100.4.5 Index
    - 100.4.6 Storage of Notes
    - 100.4.7 Notes of Substitute Reporters
    - 100.4.8 Storage of Notes upon Retirement, Termination or Death of Court Reporter
    - 100.4.9 Boxing and Storing of Old Notes
    - 100.4.10 Responsibility for Furnishing Materials and Space for Storage of Court Reporter Notes
    - 100.4.11 Procedure for Examination of Criminal Records
    - 100.4.12 Procedure for Expunging and Closing Criminal Records
  - 100.5 Clerk's Duties
    - 100.5.1 Monies Paid Into Court
  - 100.6 Selection of Veniremen
  - 100.7 Open Meetings

# ADMINISTRATION

## Rule 1. DIVISIONS OF COURT

The Circuit Court shall be divided into divisions as follows:

Division 1	Circuit
Division 2	Circuit
Division 3	Circuit
Division 4	Circuit
Division 5	Circuit

Division 21	Associate Circuit
Division 22	Associate Circuit
Division 23	Associate Circuit
Division 24	Associate Circuit
Division 25	Associate Circuit
Division 26	Associate Circuit

Family Court 1	Commissioner
Family Court 2	Commissioner
Family Court 3	Commissioner
Family Court 4	Commissioner
Juvenile Division	***

Probate Division	Commissioner
Drug Court	Commissioner

### Municipal Divisions

#### 1.1 Probate Division

The Presiding Judge shall designate the division or divisions of the Circuit Court that shall be the Probate Division. The Presiding Judge shall designate the Administrative Judge of the Probate Division. The Probate Administrative Judge shall be responsible to appoint a clerk of the Probate Division. See Mo. Const. Art. 5, § 15. This clerk may be the same person appointed by the Circuit Clerk to supervise filings in the Probate Division. See Local Rule 4.3.

#### 1.2 Family Court

The Presiding Judge shall designate the division or divisions of the Circuit Court that shall be the Family Court Division. If more than one division is designated, the Presiding Judge shall designate the Administrative Judge thereof.

##### 1.2.1 Juvenile Division \*\*\*

The Juvenile Division is part of the Family Court and shall be presided over by a Circuit Judge, Associate Circuit Judge, or Family Court Commissioner pursuant to the then current administrative order regarding judicial case assignments.

### 1.3 Drug Court

The Presiding Judge shall designate the division or divisions of the Circuit Court, or Associate Circuit Court that shall be the Drug Court Division. If more than one division is designated, the Presiding Judge shall designate the Administrative Judge thereof. See also Local Rule 77.

## **Rule 2. HOURS AND TERMS OF COURT**

### 2.1 Hours of Court

### 2.2 Terms of Court

The Circuit Court shall be in continual session as provided by § 478.205, RSMo. To the extent that a term of Circuit Court may be required or specified by Local Rules, Supreme Court Rules, or other provision of law, the “terms” of Court shall be considered as commencing on the second Monday in January, the first Monday in May, and the third Monday in September. The Court shall not be required to convene on the first day of any “term” solely because of this rule.

### 2.3 Law Days

### 2.4 Particular Matters on Particular Days

## **Rule 3. PLEADINGS**

### 3.1 Caption

### 3.2 Style

### 3.3 Uniform Case File Numbering

Consistent with Supreme Court Operating Rule 4, the following two digit codes will be assigned to specific case categories:

CC - Circuit Civil	PR - Probate
CR - Criminal	SC - Small Claims
AC - Associate Civil	MH - Mental Health
DR - Domestic Relations	TR - Traffic
PN - Protection Orders	JU - Juvenile
MU - Municipal Ordinance	ML - Mechanic's Lien
CY - County Ordinance	JR - Juvenile Referral
TJ - Transcript Judgments	TC - Treatment Court
AD - Administrative Orders	MC - Miscellaneous

## **Rule 4. FILING OF CASES**

All documents and papers filed by attorneys in cases pending in Greene County must be filed electronically. See Supreme Court Operating Rule 27 and Supreme Court Rule 103. Non-attorneys are permitted to file papers in the office of the appropriate clerk based on case type. Those documents filed by non-attorneys will be scanned into the electronic file and maintained electronically.

### **4.1 Criminal Cases**

The Circuit Clerk shall maintain a central filing system where all case pleadings, motions, and documents related thereto shall be filed, except municipal matters. For the filing of municipal matters see Local Rule 4.6. The filing system is electronic and all documents filed by attorneys must be electronically filed.

#### **4.1.1 Search Warrants**

Search warrants may be issued by any judge. All documents supporting the warrant, including returns thereof and inventories, issued by a judge of this Circuit shall be filed with, indexed, and maintained by the Circuit Clerk. The circuit clerk's office shall immediately open a file for that warrant. The file may be electronic.

#### **4.1.2 Inspection and Copying of Search Warrants**

The Circuit Clerk shall not permit inspection or copying of documents supporting the issuance of a search warrant for which a return has not been filed, without the express consent of the issuing judge. After the filing of a return to a search warrant, the Circuit Clerk may permit inspection and copying of such documents without such consent.

### **4.2 Civil Cases**

The Circuit Clerk shall maintain a central filing system where all case pleadings, motions, and documents related thereto shall be filed, except probate, juvenile, and municipal matters. The filing system is electronic and all documents filed by attorneys must be electronically filed.

#### **4.2.1 Appointment of Special Process Servers**

The Circuit Clerk may appoint a natural person of lawful age other than the Sheriff to serve process in any case.

- A. Except as provided by Supreme Court Rule 54.01(b)(2), any party seeking to obtain service of process through means other than the Sheriff shall file a written motion requesting appointment of a named individual and stating that the individual to be named is 18 years of age or older and is not a party to the action. The motion shall be accompanied by a proposed order approving the individual to serve process.

- B. An order appointing a person other than the Sheriff to serve process shall be in compliance with all applicable provisions of law and is made at the risk of the requesting party.
- C. The appointment as special process server does not include the authorization to carry a concealed weapon.

#### 4.3 Probate Cases

The records of the Probate Court are records of the Circuit Court. See § 483.660 RSMo. The Circuit Clerk shall maintain a filing system where all cases and pleadings, motions, and documents related thereto shall be filed. The filing system for probate matters is maintained at the Probate Division. The Circuit Clerk has appointed a Clerk of the Probate Division to supervise the filings in the Probate Division. The filing system is electronic and all documents filed by attorneys must be electronically filed.

#### 4.4 Juvenile Cases

The clerk of the Circuit Court shall act as the clerk of the Juvenile Court. See § 211.311 RSMo. The Circuit Clerk shall maintain a filing system where all cases and pleadings, motions, and documents related thereto shall be filed. The filing system for juvenile matters is maintained at the Juvenile Division. The Circuit Clerk has appointed a Clerk of the Juvenile Division to supervise the filings in the Juvenile Division. The filing system may be electronic and all documents filed by attorneys must be electronically filed.

#### 4.5 Small Claims Cases

Small Claims Cases are filed as any other civil case. See also Local Rule 4.2.

#### 4.6 Municipal Cases

Municipal ordinance violation cases shall be filed with the clerk of the appropriate municipal division when that municipality has made provisions for a municipal judge as provided by law. If the municipality has not made such provision, the filing shall be with the Greene County Circuit Clerk and thereafter the case shall be assigned to an associate circuit judge pursuant to the then current administrative order regarding case assignments. If the municipal matter is filed with the Greene County Circuit Clerk, the filing system is electronic and all documents filed by attorneys must be electronically filed. See also Local Rule 69.

#### 4.7 On-Call Judge/Duty Judge

The Greene County Circuit Court shall have one or more judges assigned at all times, including after-hours, weekends and holidays, available to handle matters of urgency that cannot otherwise be delayed until the next court business day. The judge responsible to be available is generally referred to as the “on-call judge” or the “duty judge.” The Circuit Clerk shall maintain a schedule of the judge(s) on call for any period of time. Unless otherwise agreed by the judge(s), the duty judge will be on call from Monday at 9:00 a.m. through the following Monday at 9:00 a.m.

#### 4.7.1 Responsibilities

The responsibilities of the on-call judge shall include the following:

- A. Consider and determine Ex-Parte Applications for Protection, whether adult or child, filed at any time pursuant to Chapter 455. Provision shall be made for ex-parte applications to be filed 24/7/365 and thereafter presented promptly to the on-call judge for consideration. If the on-call judge is not available, any other judge may consider and rule on the application. If the application is presented to the judge during non-court hours, the application may be considered by telephone and authority given for the entry of an ex-parte order. The written application shall be presented to the judge for review and countersigning the following court business day.
- B. Conduct hearings on Petitions for Full Orders of Protection, whether adult or child, or any Motion to Terminate an Order of Protection, whether ex-parte of full, filed or entered pursuant to Chapter 455. Such hearings shall be conducted during regular court hours, and upon notice in compliance with § 455.040 RSMo.
- C. Consider and determine Applications for Search Warrants as may be presented by law enforcement or the Greene County Prosecutor outside of normal court hours. The application for warrant and all supporting documents may be presented to the judge in person, or may be transmitted to the judge electronically for review. The judges' electronic signature shall have full force and effect pursuant to Supreme Court Rule 41.08.
- D. Consider and determine Applications for Arrest Warrants, Bail or Conditions of Release, as may be presented by law enforcement or the Greene County Prosecutor outside of normal court hours. The application for warrant, bail or conditions, and all supporting documents may be presented to the judge in person, or may be transmitted to the judge electronically for review. The judges' electronic signature shall have full force and effect pursuant to Supreme Court Rule 41.08.
- E. Consider and determine Petitions for Dissolution, Paternity, or Modifications as may be presented with supporting affidavits in compliance with Local Rules 68 and 78. All such applications, petitions and proposed judgments must be filed electronically, with all necessary exhibits attached, which will be forwarded to the on-call judge for review. Judgments and other orders will be signed electronically and made available to the attorneys by e-notice. Documents returned to non-attorneys will be sent by U.S mail.
- F. Consider and determine Applications to Take Juvenile into Judicial Custody, Temporary Protective Custody of a Juvenile and Applications for Detention of Juveniles that are considered emergencies after normal court hours. See Chapter 211 and Supreme Court Rule 123. The Court en banc may, by administrative order, assign the initial review of emergency petitions or applications regarding juveniles to the Juvenile Judge.

- G. Conduct weddings as may be scheduled by the Circuit Clerk, and sign marriage licenses for those weddings conducted.
- H. All other matters of urgency that may arise outside of normal court hours that properly require consideration and determination by a judge, and cannot be delayed until the next court business day.

**Rule 5. FEES AND COSTS**

5.1 Filing Fee and Cost Deposit

In all cases filed in this circuit there shall be deposited with the appropriate clerk the filing fee required for the specific case type. The current filing fee amount, and acceptable manner of payment, may be obtained from the clerk.

5.2 Costs

5.3 Witness Fees

5.4 Waiver of Fees

5.5 Motion for Security

**Rule 6. ASSIGNMENT OF JUDGES, CASES AND TRANSFER OF CASES**

The assignment of all cases, civil or criminal, shall be made by the Presiding Judge pursuant to one or more administrative orders regarding assignment of cases and upon consideration by the Court en banc from time-to-time.

6.1 Assignment to Associate Circuit Judges

6.1.1 By Local Court Rules or Order

- A. All cases filed before or properly assigned to an Associate Circuit Judge shall be filed with the Circuit Clerk and assigned randomly among the associate circuit judges pursuant to the then current administrative order regarding judicial assignment.
- B. The following classes of cases are within the statutory authority of an associate circuit judge and are assigned to those judges consistent with the then current administrative order regarding case assignment:
  - (1) Landlord-Tenant Actions. Chapter 535 RSMo.
  - (2) Forcible Entry and Unlawful Detainer actions. Chapter 534 RSMo.
  - (3) Chapter 517 actions. § 517.011 RSMo.
  - (4) Greene County Traffic Bureau Cases. See Supreme Court Rule 37.

- (5) Misdemeanors and Infractions.
  - (6) Felony Complaints.
  - (7) Municipal ordinance violations for which a judge is not provided by the municipality.
  - (8) Appeals/requests for a trial de novo from the following:
    - (a) Municipal Court, including cases in which an associate circuit judge or circuit judge acts in a municipal ordinance violation case.
    - (b) Small Claims Division. See Supreme Court Rule 151.
    - (c) Any case originally filed before an associate circuit judge.
    - (d) A decision of the Director of Revenue.
  - (9) Applications for a Writ of Habeas Corpus for the custody of children.
- C. In addition, any other case within the statutory authority of an associate circuit judge, and in which the petition or counterclaim states that the request for judgment for actual and punitive damages, in the aggregate, will not exceed \$25,000, may be filed with the Circuit Clerk and assigned to an associate circuit judge. If the allegation of monetary damages does not appear, such petitions must be filed with the Circuit Clerk as a circuit civil case, and assigned pursuant to the then current administrative order on judicial case assignment.

#### 6.1.2 Special Assignment

An associate circuit judge may from time-to-time be assigned other cases, including felony criminal or circuit civil cases by order of the Presiding Judge. Such assignment may be a standing administrative order related to judicial case assignment.

#### 6.2 Assignment to Circuit Judges

All actions not mentioned otherwise in this rule shall be filed as a circuit case and assigned to individual divisions of this court in a manner consistent with the then current administrative order regarding judicial case assignment.

- A. The Local Rules shall not require a circuit judge to hear cases governed by Supreme Court Rule 37, or Chapters 479, 482, 517, 534, 535 or 543 RSMO., other than upon a trial de novo, unless the Circuit Judge consents to hear such cases. See Supreme Court Operating Rule 6.05.

#### 6.3 Certification to Circuit Division

#### 6.4 Trial de Novo

## 6.5 Disqualification of Judge

In the event of a judges' recusal, or the grant of a timely filed Change of Judge, the Circuit Clerk shall randomly reassign the case pursuant to the then current administrative order regarding case assignment.

If all associate circuit judges are unable to act in a case originally filed and assigned to the Associate Circuit Division, the Circuit Clerk shall randomly reassign the case among the circuit judges without the necessity of further order of the Presiding Judge.

If all circuit judges are unable to act in a case originally filed and assigned to the Circuit Division, the Circuit Clerk shall randomly reassign the case among the associate circuit judges. The reassignment may be pursuant to the then current administrative order regarding case assignment, or by special order of the Presiding Judge.

If all circuit judges and associate circuit judges are unable to act, the case will be referred to the Presiding Judge to request reassignment consistent with Supreme Court Rule and § 478.255 RSMo.

### 6.5.1 Family Court

In the event of a family court commissioners' recusal, or the grant of a timely filed Change of Judge, the Presiding Judge shall randomly reassign the case among the Family Court Divisions. If all family court commissioners are unable to act, the case will be reassigned by the Presiding Judge among the associate circuit judges, and thereafter to a circuit judge.

If all circuit judges and associate circuit judges are unable to act, the case will be referred to the Presiding Judge for reassignment consistent with Supreme Court Rule and § 478.255 RSMo.

### 6.5.2 Probate Court

In the event of the recusal of the Probate Commissioner, or a timely filed Change of Judge, the case will be assigned to the Probate Administrative Judge. If the Probate Administrative Judge is unable to act, the case will be reassigned by the Presiding Judge to a circuit judge or an associate circuit judge.

If all circuit judges and associate circuit judges are unable to act, the case will be referred to the Presiding Judge to request reassignment consistent with Supreme Court Rule and § 478.255 RSMo.

### 6.5.3 Visiting Judge

The recusal of a visiting judge in Division 25, or the grant of a timely filed Change of Judge, is specific to the Visiting Judge, not the Division of Court. Therefore, the case shall remain in Division 25, but will be heard by a different judge.

## 6.6 Absence or Unavailability of Judge

Any associate or circuit judge may act in a case assigned to another judge or commissioner. Temporary Restraining Orders may be issued by any circuit judge or associate circuit judge in a case assigned to any other judge.

Any family court commissioner may act in a case assigned to another family court commissioner, and may act in any other case within the statutory authority of a family court commissioner.

## 6.7 Absence of Presiding Judge See Local Rule 100.1.4.

### **Rule 7. WITHDRAWALS OF PAPERS FROM CLERK'S OFFICE**

#### 7.1 When Allowed

#### 7.2 Duplicating Policy

### **Rule 8. PUBLICATION OF DOCKETS**

#### 8.1 Trial Docket

Each division of court shall maintain a trial docket for jury and non-jury cases. Information regarding the status of any case on a trial docket may be obtained from the clerk of the division in which the case is pending.

#### 8.2 Dismissal Docket See Local Rule 37.

### **Rule 9. COURTROOMS**

#### 9.1 Assignment of Courtroom

#### 9.2 Place of Hearing

#### 9.3 Use of Counsel Table

#### 9.4 Courtroom Decorum and Dress

#### 9.5 Who Is Permitted Within Bar

#### 9.6 Cell Phone Usage

Cell phones are permitted and may be used within the Judicial Court Facility. However, cell phone usage within any courtroom is prohibited, except upon permission granted by the judge. Violation of this provision may result in the cell phone being seized by the bailiff and returned at the discretion of the court. Cell phones may not be used by jurors while deliberating the verdict of a case.

## **Rule 10. COURT REPORTERS AND COMPENSATION FOR SAME**

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

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

If the appellant desires the Circuit Clerk to forward the material to the Office of State Courts Administrator for transcribing, the estimated cost will be based on rates authorized for transcripts prepared by an official court reporter. If the appellant desires to make arrangements for his own typist to prepare the transcript, the deposit required will be based on the estimated cost of having clerk personnel supervise the copying of the tape which was used to electronically record the proceedings. It is the responsibility of the appellant to pay this amount upon being presented with a bill by the Circuit Clerk.

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

A. Subject to Supreme Court Operating Rule 16, audio or video recording in the Judicial Courts Facility building is not permitted, except by prior permission of the Presiding Judge. If permission is requested the Presiding Judge shall determine the scope and manner of any recording.

B. Audio or video recording within any courtroom is subject to Supreme Court Operating Rule 16 and additionally subject to the conditions set forth by the judge presiding over the case in question. If the judge permits audio and/or video recording within a courtroom, such recording must be coordinated with the Greene County Media Coordinator.

C. This rule does not apply to the Sheriff's Office, Prosecuting Attorney's Office, the Circuit Clerk's Office or any other area exempted from this rule by the Presiding Judge.

D. This Rule is not meant to restrict access to the Judicial Courts Facility building by persons or organizations that are part of the news media or educational television. Such persons or organizations shall be allowed access to the Judicial Court Facility, with photographic and electronic recording equipment, without prior permission from the Presiding Judge, subject only to the normal rules and regulations of court security.

## **Rule 12. MONIES PAID INTO COURT**

### 12.1 Bond in Civil Cases

## **Rule 13. COMMUNICATIONS WITH COURT**

### 13.1 Oral communications with the Court

Oral communications with the Court concerning matters in a pending case are permitted only as consistent with the rules on ethics and rules prohibiting ex-parte communications.

### 13.2 Written communications with the Court

Written communications with the Court concerning matters in a pending case, including e-mail communications, are permitted only as consistent with the rules on ethics and rules prohibiting ex-parte communications. Any written or e-mail communication addressed to the Court must also be addressed to the attorney for the other parties or the other party if no attorney is of record.

## **GENERAL RULES**

## **Rule 21. ATTORNEYS**

### 21.1 Resolution of Conflicting Trial Settings

Conflicting trial settings should be brought to the Court's attention as soon as practicable once the conflict is known. The conflicting settings will be resolved by the Court based on the particular circumstances then existing, with special consideration given to the date of filing of the conflicting cases, and the date on which the conflicting cases were set for trial.

### 21.2 Entries of Appearance

### 21.3 Conduct of Attorneys

### 21.4 Withdrawal of Attorneys

Attorneys who no longer wish to receive electronic notifications concerning matters in a case must request and be granted permission to withdraw as attorney of record.

#### 21.4.1 Civil Cases

Motions for permission to withdraw in any case shall be in writing and include the name and last known address of the client within the body of the motion. Notice of hearing thereon shall be given to the client and all parties.

#### 21.4.2 Criminal Cases

Motions for permission to withdraw in any case shall be in writing and include the name and last known address of the client within the body of the motion. Notice of hearing thereon shall be given to the client and all parties. The defendant shall be present in the courtroom when the motion is heard, unless otherwise excused by the Court. The notice of hearing shall advise the defendant of the obligation to appear in person, or suffer the possible issuance of a *capias* warrant for defendant's arrest.

#### 21.5 Failure of Attorney to Answer Docket Call

#### 21.6 Appointment of Attorneys

#### 21.7 Agreement of Attorneys

No private or prior stipulation or agreement between parties or attorneys in a pending cause will be recognized unless made in writing and presented to the Court, or presented orally in open court. Such agreement or stipulation must be presented to the Court in a timely manner relative to the subject of the agreement.

#### 21.8 Advice to Clients and Witnesses of Courtroom Procedures

Attorneys are expected to instruct clients and witnesses as to appropriate attire, expectations of behavior, and formality so as to maintain a high level of decorum in the courtroom.

### **Rule 22. APPOINTMENT OF GUARDIAN AD LITEM**

### **Rule 23. TRANSCRIPTS**

See Local Rule 10.

### **Rule 24. EXHIBITS**

Exhibits should be marked for identification prior to any trial or hearing. A list of exhibits each party intends to offer should be prepared and provided to the Judge and the Court Reporter at the beginning of the trial. The attorneys are responsible for the exhibits before, during, and after the trial or hearing. At the conclusion of the case, the attorneys are responsible to withdraw the exhibits, whether or not admitted as evidence, and preserve the exhibits for safekeeping and be prepared to make those exhibits available as necessary for post-trial proceedings.

In some cases, the judge may need to maintain some or all of the exhibits for further review following a hearing or trial. At the conclusion of the court's need for the exhibits, they will be returned to the attorneys, or provided to the Circuit Clerk, where they may be retrieved by the attorneys. Thereafter the attorneys are responsible to preserve the exhibits for safekeeping and be prepared to make those exhibits available as necessary for post-trial proceedings.

# **PRETRIAL MATTERS**

## **Rule 32. DISCOVERY**

### 32.1 Use of Discovery and Certification to Circuit Division

### 32.2 Interrogatories

Standard or "pattern" interrogatories may be approved by order of the Court en banc for use in certain types of cases. Those interrogatories as approved may be accessed at [http://www.greencountymo.org/circuit\\_clerk/forms.php](http://www.greencountymo.org/circuit_clerk/forms.php). Objection(s) to the standard interrogatories will be considered by the Court only when accompanied by suggestions filed in support of the objection.

### 32.3 Production of Documents and Things

Standard or "pattern" requests for documents may be approved by order of the Court en banc for use in certain types of cases. Those requests as approved may be accessed at [http://www.greencountymo.org/circuit\\_clerk/forms.php](http://www.greencountymo.org/circuit_clerk/forms.php). Objection(s) to the standard requests will be considered by the Court only when accompanied by suggestions filed in support of the objection.

### 32.4 Depositions

### 32.5 Motions for Sanctions

### 32.6 Criminal Discovery

### 32.7 Golden Rule

Notice of hearing on a discovery dispute shall not be given unless a good faith attempt at an informal resolution of the dispute has been attempted. Any motion to compel discovery must contain the Movant's affirmative statement that this good faith attempt has been made.

## **Rule 33. PRETRIAL MOTIONS**

### 33.1 Hearing Dates

#### 33.1.1 Routine Motions

"Routine Motions" are those motions or other matters which will not require more than five (5) minutes for presentation to the Court. Routine motions may be set for hearing by attorneys upon notice to all parties in compliance with the Supreme Court Rule notice requirements. All motions that cannot be presented in the time allotted for routine motions must be scheduled for hearing through the division clerk.

## A. Civil Cases

Routine motions in circuit civil cases may be heard Tuesday, Wednesday or Thursday of each week at 9:00 a.m. subject to the Court's availability based on other scheduled court business.

Routine motions in associate civil cases may be heard may be heard Monday through Friday of each week at 9:00 a.m. subject to the Court's availability based on other scheduled court business.

Routine motions in the family court divisions may be heard Tuesday, Wednesday or Thursday of each week from 8:30 a.m. until 9:00 a.m. subject to the Court's availability based on other scheduled court business.

Routine motions in the juvenile division may be heard Wednesday of each week at 1:00 p.m. subject to the Court's availability based on other scheduled court business.

## B. Criminal Cases

33.2 Briefs in Support of Motions, When Required

33.3 Oral Arguments - When Desired and How Requested

33.4 Motions in Limine

33.5 Motions to Dismiss

Motions to Dismiss should be accompanied by written legal suggestions, otherwise the Motion may be ruled on without oral argument.

## **Rule 34. CONTINUANCES**

34.1 Civil Cases

An Application for Continuance must be made in writing and shall state the reason for the requested continuance. Compliance with Supreme Court Rule 65 is required, including the affirmative statement that the party seeking the continuance is personally aware of the application and the party's position with respect to the proposed continuance.

The Court may, for good cause shown, consider a party's oral Application for Continuance based on special circumstances then existing.

34.2 Criminal Cases

An Application for Continuance must be made in writing and shall state the reason for the requested continuance. If the application is made on behalf of a defendant, the application must contain the affirmative statement that counsel has

personally discussed the application with the defendant and the defendant's position with respect to the proposed continuance. The defendant shall be present in the courtroom when any application for continuance is heard, unless otherwise excused by the Court.

The Court may, for good cause shown, consider a party's oral Application for Continuance based on special circumstances then existing.

### **Rule 35. PRETRIAL CONFERENCES**

Pretrial conferences will be scheduled by each judge based on the circumstances then existing, including the complexity of the issues and evidence, and the anticipated length of trial. Any questions concerning the scheduling of a pretrial conference should first be directed to the clerk of the division in which the case is scheduled for trial. See also Supreme Court Rule 62.01.

### **Rule 36. SETTING CASES FOR TRIAL**

#### **36.1 Requests for Trial**

A request for trial setting shall be made in writing and filed with the Circuit Clerk. Special procedures for trial scheduling may be specific to the assigned judge. The division clerk will provide procedural information upon request.

#### **36.2 Date of Calendar Call**

#### **36.3 Preparation of Calendar**

#### **36.4 Calendar Call**

#### **36.5 Removal and Inactive Calendar**

#### **36.6 Revision of and Removal From Prepared Calendar**

#### **36.7 Special Assignments**

### **Rule 37. DISMISSALS**

#### **37.1 Dismissal Docket**

Each division will from time-to-time prepare a dismissal docket of all cases that have not had court activity in a specified period of time. The case will be dismissed without prejudice for failure to prosecute on a date set forth in the docket. Instructions for removal from the dismissal docket will be included in the docket entry scheduling the dismissal.

#### **37.2 Reinstatement of Cause**

# **SETTLEMENT AND DEFAULT**

## **Rule 41. SETTLEMENT**

### 41.1 Notice of Settlement

The division clerk shall be notified promptly of a case that has been resolved after it has been set for trial. If the case is set for jury trial, and resolves the weekend before the trial is scheduled to begin, the attorneys should promptly notify the judge of that resolution.

## **Rule 42. DEFAULT**

# **TRIALS**

## **Rule 51. COURT-TRIED CASES**

### 51.1 Default and Uncontested Matters

### 51.2 Contested Matters

### 51.3 Preparation of Findings of Fact and Conclusions of Law

In all court-tried cases in which Findings of Fact and Conclusions of Law are required or properly requested, the parties, through their attorneys, shall submit any proposed Findings of Fact and Conclusion of Law promptly upon conclusion of the trial. The time for submission of proposed findings and conclusions may be expanded at the Court's discretion upon a request made prior to the presentation of evidence in the case. The Court may direct that proposed Findings of Fact and Conclusions of Law be submitted at the beginning of trial based on the evidence anticipated.

## **Rule 52. SELECTION OF JURY**

### 52.1 Jury Questionnaires

## **Rule 53. JURY TRIALS**

### 53.1 Instructions

### 53.2 Closing Arguments

A party will be granted a reasonable period of time for argument. The Court will decide the length of time for argument based on the circumstances then existing. Plaintiff may divide the allotted time between opening and rebuttal argument, but not more than one-half of the total time may be reserved for rebuttal. The time may be extended at the discretion of the Court. Plaintiff may waive opening argument and by so doing, waives rebuttal argument. Defendant may nevertheless present a closing argument.

The Court may, in its discretion, determine the order of the arguments. Arguments by multiple parties are made in the order named in the Petition unless otherwise agreed to by the parties or directed by the Court.

If an attorney intends to waive argument, the attorney is directed to inform all other attorneys and the Court of that intent before the time for any argument. If the case is a jury trial, this information must be given no later than the Instruction Conference.

#### **Rule 54. JUDGMENT ENTRY**

##### 54.1 Contested Cases

Unless otherwise ordered by the Court, the attorney for the prevailing party shall prepare and submit the form of judgment entry to the Court electronically for approval. The submission must confirm that all other attorneys in the case approve the entry as to form. If the form is in dispute, the matter should be scheduled for hearing before the Court.

##### 54.2 Default or Uncontested Cases

Proposed Judgment forms in default, uncontested or agreed upon cases should be submitted electronically, unless otherwise ordered by the Court. The submission must confirm that all other attorneys in the case approve the entry as to form. If the form is in dispute, the matter should be scheduled for hearing before the Court.

### **RULES RELATING TO PARTICULAR ACTIONS**

#### **Rule 61. ADOPTION**

##### 61.1 Filing Requirements

##### 61.2 Home Study

#### **Rule 62. DRIVERS' CASES**

##### 62.1 Applications for Hardship Driving Privileges

##### 62.2 Petitions for Review

##### 62.3 Breathalyzer Test

#### **Rule 63. ASSOCIATE DIVISION**

See Local Rule 6.

#### **Rule 64. CASES ARISING UNDER CHAPTERS 207 AND 208 RSMO. (Commonly known as Title IV-D)**

#### **Rule 65. CIVIL COMMITMENT**

## **Rule 66. CONDEMNATION**

Each parcel of real property subject to condemnation, and to which an exception is filed shall be considered a separate case for the purpose of the rules relating to assignment and distribution of cases. See also Supreme Court Rule 86.

## **Rule 67. CRIMINAL CASES**

### **67.1 Pretrial Release**

#### **67.1.1 Motions to Set Bond and for Bond Reduction**

Motions to set bond or for bond reduction, or modifications of conditions of release shall be made in writing and filed with the circuit clerk. In those cases where victim notification is required, the prosecutor must advise the Court of the status of that notification at the beginning of any hearing on bond motions.

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

#### **67.1.3 Open Court Bonds**

An "Open Court Bond" is any bail bond set by the Court in an amount of \$25,000.00 or greater, or any special conditions of release that necessarily require a judge's action prior to release from custody, or any other bond where the judge has designated the bond as an Open Court Bond.

An Open Court Bond may only be posted by the bond agent appearing personally in court before a judge having jurisdiction over the case, or if the bond is to be posted in cash, the defendant must appear personally in court. Consequently, an Open Court Bond may not be posted, nor the defendant released from custody during non-court hours.

Upon appearance in open court, the bond agent, or defendant, may expect the Court to verify the approval status of the bond agent, if applicable, and verify that all special conditions of release are implemented prior to defendant's release. All special conditions of release as specified by the judge must be transcribed by the bond agent to the bond paperwork.

### **67.2 Preliminary Hearing**

### **67.3 Grand Jury**

### **67.4 Attorneys**

See Local Rule 21.

### **67.5 Arraignments**

#### **67.5.1 In General**

#### 67.5.2 Dates

Cases filed in circuit court upon the filing of a Felony Information, or the Return of Indictment, shall be scheduled for arraignment in the circuit division where pending on a date designated at the time the case is bound over.

#### 67.6 Discovery

#### 67.7 Motions

See Local Rule 33.

#### 67.8 Plea Bargaining

#### 67.9 Guilty Plea

##### 67.9.1 Where Entered

##### 67.9.2 Petition to Enter a Plea of Guilty

#### 67.10 Calendar

See Local Rule 36.

#### 67.11 Probation and Parole

### **RULE 68. DISSOLUTION OF MARRIAGE**

#### 68.1 Filing Requirements

At the time of filing the petition, the attorney for the petitioner or the petitioner personally if not represented by an attorney, shall file a Certificate of Dissolution of Marriage (Vital Statistics Report) on a form as required by § 193.205 RSMo. The form is available from the Greene County Clerk's office upon request. Attorney's and Petitioners without attorneys may also access the form entitled "Certificate of Dissolution of Marriage" (CAFCO65) on the Missouri Bar Association website at: [www.selfrepresent.mo.gov](http://www.selfrepresent.mo.gov).

##### 68.1.1 Documents That Must be Included With Service of Summons

If the filing party is represented by counsel, the filing attorney shall include a copy of this court's Interim Domestic Relations Order, Compulsory Disclosure Order, and Notice of Required Classes with the summons and pleading. If the action affects children who are not emancipated, the filing party must also include with the service documents a list of Court Approved Parent Education Providers. See also Local Rule 68.8. The required documents are available from the Circuit Clerk, or may be obtained at the clerk's website: [http://www.greenecountymo.org/circuit\\_clerk/forms.php](http://www.greenecountymo.org/circuit_clerk/forms.php). If the filing party is not represented by an attorney, the circuit clerk's office shall include the above forms with the service copy of the summons and pleading.

## 68.2 Separation Agreement

## 68.3 Forms of Decrees

Proposed Judgments or Decrees shall be submitted in a form approved by the family court commissioner assigned to the case.

- A. If there is real property owned by either party, whether marital or non-marital, the full legal description shall be included either in the proposed Judgment or Decree, or an attached Separation Agreement, or attached as an exhibit.

## 68.4 Filing of Financial Statements

## 68.5 Modification of Judgment and Decree

### 68.5.1 Entry of Modification by Affidavit

Modification of Final Judgment or Decree may only be entered upon evidence presented by the affidavits of both parties, or upon the affidavit of one party, accompanied by a verified stipulation agreeing to the modification when:

- A. The parties have entered into a written agreement determining custody and/or child support; **and**
- B. At least one of the parties is represented by counsel; **and**
- C. The responding party has been served in a manner provided by the Civil Rules or has formally filed a verified entry of appearance; **and**
- D. There is no genuine issue as to any material fact.
- E. The procedure for filing by Affidavit shall be as stated in Local Rule 68.7.

### 68.5.2 Parent Education

The same rules as stated in Local Rule 68.8 shall apply to a Motion for Modification.

### 68.5.2 Alternative Dispute Resolution Program

The same rules as stated in Local Rule 68.9 shall apply to a Motion for Modification.

### 68.5.3 Documents That Must Be Included

The same rule as stated in Local Rule 68.1.1 shall apply to a Motion for Modification.

## 68.6 Entry of Judgment or Decree of Dissolution by Affidavit

Final Judgment or Decree may only be entered upon evidence presented by the affidavit of either or both parties when:

- A. The female party is not pregnant; **and**
- B. There are no children of the parties who are not emancipated **or** at least one of the parties is represented by counsel, **and** the parties have entered into a written agreement determining custody and child support; **and**
- C. The non-moving party has been served in a manner provided by the Civil Rules or has formally filed a verified entry of appearance; **and**
- D. There is no genuine issue as to any material fact; **and**
- E. There is no marital property or debt to be divided or allocated, **or** the parties have entered into a written agreement for the division of marital property and allocation of marital debt.

## 68.7 Procedure for Filing by Affidavit

- A. The submitting party shall file the appropriate court-approved affidavit(s). Approved forms of affidavit may be accessed by members of the SMBA at [www.springfieldbar.com](http://www.springfieldbar.com), or by any person on the Greene County Circuit Clerk's website at [www.greenecountymo.org/circuit\\_clerk/forms.php](http://www.greenecountymo.org/circuit_clerk/forms.php).
- B. The submitting party shall file a proposed form of judgment and any written agreement to be incorporated into the judgment. If children who are not emancipated are involved, a Parenting Plan, Form 14 and a parent education completion certificate shall also be filed.
- C. The filing of such affidavit shall not be deemed to shorten any statutory waiting period required for entry of a judgment.
- D. The Court shall not be obligated to enter a final judgment upon the affidavits of either or both parties, and may require that a formal hearing be held to determine any or all issues presented by the pleadings.
- E. Request for judgment by affidavit that is not acted upon by the Court within thirty days of filing shall be deemed to have been denied.

## 68.8 Parent Education

If children who are not emancipated are involved in any action for Dissolution of Marriage, Legal Separation, Declaration of Paternity, or any modification of these actions, all parties shall participate in a court-approved parent education program designed to educate parents on the detrimental effect parental conflict may have upon children and how to avoid such conflict and the resulting negative effects.

- A. The Greene County Circuit Clerk shall maintain, and provide upon request, a list of qualified and court-approved parent education programs. See Local Rule 68.1.1.
- B. The provider of any such court approved program must prepare a certificate of completion and provide the certificate to each party who completes the program. The party shall file the certificate of completion with the Court.
- C. For good cause, the Court may waive the requirements of this rule upon application by any party.

#### **68.9 Alternative Dispute Resolution Program**

The following rules apply with regard to Alternative Dispute Resolution pursuant to Supreme Court Rule 88:

- A. In every contested family law case, except a Family Access Motion, the parties shall attend a court-approved educational session to educate the parties on the availability and potential advantages of alternative dispute resolution.
- B. In every contested family law case, except a Family Access Motion, the parties shall participate in a minimum of two hours of mediation or other alternative dispute resolution process.
- C. For good cause, the Court may waive the requirements of this rule upon the application of any party.

#### **Rule 69. MUNICIPAL DIVISION**

##### **69.1 Municipal Jury Trial Other Than Springfield Municipal Division**

In any municipality other than Springfield, whenever a defendant accused of the violation of a municipal ordinance has a right to a trial by jury and demands such trial by jury, the Municipal Judge shall certify the case for assignment. Thereafter the Presiding Judge shall assign an associate circuit judge to preside over the jury trial.

##### **69.2 Springfield Municipal Division**

- A. When a jury trial is properly requested and authorized in a case pending in the Springfield Municipal Division, the case will be assigned to a judge of the Springfield Municipal Division for all pretrial matters and trial by jury.
- B. The Circuit Clerk shall coordinate with the judges of the Springfield Municipal Division and the judges of the circuit and associate circuit divisions to arrange courtrooms in the Judicial Courts Facility, and dates for the jury trials presided over by the judges of the Springfield Municipal Division.

#### **Rule 70. PARTITION**

#### **Rule 71. ADMINISTRATIVE REVIEWS**

## **Rule 72. PROBATE**

Cases within the statutory authority of a probate judge shall be filed with the Clerk of the Probate Division and are assigned to the probate division. In addition, the following actions are assigned to the probate division and shall be filed with the Probate Clerk:

- A. All actions concerning trusts or trustees under Chapter 456 RSMo. or pertaining to the administration of a testamentary or inter vivos trust.
- B. All actions concerning escheats under Chapter 470 RSMo.
- C. All actions concerning civil commitments.

## **Rule 73. SMALL CLAIMS**

Small claims cases will be assigned to one or more Associate Circuit Divisions pursuant to the then current administrative order regarding assignment of cases. See also Local Rule 6 and Supreme Court Rule 140.

## **Rule 74. TRUST ESTATES**

74.1 Inventory

74.2 Reports

74.3 Record

74.4 Audit

## **Rule 75. WRONGFUL DEATH SETTLEMENT**

An application or petition for damages based on wrongful death under § 537.080 RSMo., or application for approval of settlement and apportionment of damages pursuant to § 537.095 RSMo., must be filed in circuit court and will be assigned to a judge pursuant to the then existing administrative order regarding assignment of circuit civil cases.

## **Rule 76. MINOR'S SETTLEMENT**

An application or petition for approval of a settlement contract involving a minor, whether by next friend, guardian ad litem, guardian or conservator pursuant to § 507.184 RSMo., must be filed in circuit court and will be assigned to a judge pursuant to the then existing administrative order regarding assignment of circuit civil cases.

**Rule 77. DRUG COURT**

A. The Court en banc has established a Drug Court pursuant to § 478.001 RSMo. The Drug Court shall be divided into individual Treatment Court Programs. Treatment Court Programs may from time-to-time be added or discontinued based on an evaluation of the effectiveness of the program and upon approval by the Court en banc.

B. The Drug Court includes the following Treatment Court Programs:

- TC 1 Criminal Drug Court
- TC 2 Intensive Supervision Court
- TC 3 Mental Health Court
- TC 4 DWI Court
- TC 5 Parents Choosing Change Court
- TC 6 Family Dependency Court

C. Treatment Court Program operating rules will be maintained in a separate Policy and Procedure Manual.

**Rule 78. DECLARATION OF PATERNITY**

**78.1 Entry of Judgment by Affidavit**

Final Judgments of Paternity may only be entered upon evidence presented by affidavit when:

- A. The parties have entered into a written agreement determining custody and child support; **and**
- B. At least one of the parties is represented by counsel, **and**
- C. The adverse party has been served in a manner provided by the Civil Rules or has filed a verified entry of appearance; **and**
- B. There is no genuine issue as to any material fact.
- C. The procedure for filing by Affidavit shall be as stated in Local Rule 68.7.

**78.2 Parent Education**

The same rules as stated in Local Rule 68.8 shall apply to a Petition for Declaration of Paternity.

**78.3 Alternative Dispute Resolution Program**

The same rules as stated in Local Rule 68.9 shall apply to a Petition for Declaration of Paternity.

#### 78.4 Documents That Must Be Included

The same rule as stated in Local Rule 68.1.1 shall apply to a Petition for Declaration of Paternity.

#### 78.5 Modification of Judgment of Paternity

The same rules as stated in Local Rule 68.5 shall apply to a Motion for Modification of a Declaration of Paternity.

## **POST TRIAL**

### **Rule 81. EXECUTION**

### **Rule 82. GARNISHMENT**

### **Rule 83. JUDICIAL SALES**

## **INTERNAL ORGANIZATION**

### **Rule 100.**

#### 100.1 Presiding Judge

##### 100.1.1 Election

The Presiding Judge shall be elected for a two-year term at the September meeting of the Court en banc in odd-numbered years. The Presiding Judge will assume office on the first day of January following the election. The Presiding Judge is to be elected from among the circuit judges within the circuit by a majority vote of the circuit and associate circuit judges. The voting shall be at a meeting of the Court en banc with the election on the agenda for the meeting, and shall be by secret ballot. The Presiding Judge may be re-elected to successive terms.

##### 100.1.2 Duties of Presiding Judge

The Presiding Judge is the general administrative authority of the court. In this function the Presiding Judge shall 1) preside at all Court en banc meetings, 2) appoint and supervise any needed committees, 3) supervise preparation of the budget, 4) coordinate all duties and judicial assignments, 5) manage media and government contacts, and 6) such other duties as may be authorized by law.

The Presiding Judge has the authority to assign cases to judges, but he or she is not to assign 1) a municipal judge to hear any case other than municipal ordinance violation cases, 2) a judge to try a felony case when the judge has conducted the preliminary hearing on the case, 3) a case to a judge contrary to Supreme Court Rule or local court rules, 4) a case to a probate commissioner if the case is not within the statutory authority of a probate commissioner, 5) a case to a family court commissioner if the case is not within the statutory authority of a family court commissioner, or (6) a

case to a drug court commissioner if the case is not within the statutory authority of a drug court commissioner.

#### 100.1.3 Dispute Resolution - Procedure

#### 100.1.4 Absence of Presiding Judge

In the event that the Presiding Judge is, from time-to-time, absent from the circuit or is disabled or disqualified from acting in the capacity of presiding judge in any case or matter whatsoever, then, during any such period of absence or disability or as a result of such disqualification, the circuit judge in attendance with seniority in office as a circuit judge shall be the acting presiding judge and may exercise the responsibilities prescribed by law for presiding judges. Anything herein to the contrary notwithstanding, this rule shall not be interpreted as intending to apply to the type of disqualification referred to in § 478.240 RSMo., and in Article 5, Section 24, Missouri Constitution.

#### 100.1.5 Removal of Presiding Judge

A presiding judge may be removed from office by the vote of the remaining circuit and associate circuit judges at a meeting called by at least three judges, after first giving at least five days written notice to the Presiding Judge and all other judges of the meeting and the cause or causes for removal. A vote for removal requires at least two-thirds of the judges in the circuit, not including the Presiding Judge. No provision is made for a judge voting on removal in absentia or by proxy. The Presiding Judge may not be removed unless an opportunity for a hearing on the causes is first afforded.

#### 100.1.6 Vacancy

A vacancy in the office of presiding judge shall be filled by election as soon as possible. The judge elected to fill the vacancy shall serve until the next regularly scheduled election for presiding judge.

### 100.2 Local Court Rules

The Court en banc shall from time to time adopt Local Court Rules pursuant to the authority in Supreme Court Rule 6.05. If no Local Court Rule is adopted, compliance with Missouri Statutes, Missouri Supreme Court Rules and current case law authority is expected.

#### 100.2.1 Formulation

#### 100.2.2 Publication

The Local Court Rules shall be available at the office of the Greene County Circuit Clerk, the Clerk's website at [http://www.greenecountymo.org/circuit\\_clerk/local\\_rules.php](http://www.greenecountymo.org/circuit_clerk/local_rules.php), the Missouri Courts website at [www.courts.state.mo.us](http://www.courts.state.mo.us), and published in **Missouri Court Rules, Volume III - Circuit.**

### 100.3 Statutory Funds

### 100.3.1 Special 31<sup>st</sup> Circuit Judicial Fund

Pursuant to § 488.426 RSMo., the 31<sup>st</sup> Judicial Circuit shall assess a surcharge upon the filing of each civil case. The surcharge shall be included and deposited with the Circuit Clerk as part of the initial filing fee required upon the filing of a civil case. This surcharge shall not apply to any proceedings when costs are waived or are to be paid by the county, or state, or any city.

The Court en banc will establish a fund known as the “Special 31<sup>st</sup> Circuit Judicial Fund.” The Court will from time-to-time designate, by administrative order, a person to serve as treasurer of this fund. The Circuit Clerk shall, no less frequently than monthly, remit all monies collected pursuant to this section to the treasurer to be deposited in the fund account. Appropriate accounting safeguards, policies and procedures recommended by OSCA must be followed. In addition, the treasurer is directed to have the account audited no less frequently than yearly by an auditor determined by the Court.

The fund shall be expended and applied at the direction of the Court en banc for any lawful purpose as set forth in § 488.429 RSMo. The Court en banc shall seek the advice and counsel of the Law Library Committee for any expenditure that may be used for the maintenance and upkeep of the law library.

#### A. Law Library Committee

The law library shall be managed by a committee of three members of the bar in good standing, and be under the supervision of the Presiding Judge or the Presiding Judge’s designee. The Presiding Judge shall appoint the members of the committee and designate one member to serve as chairperson. Appointments shall be announced at the first Court en banc meeting in January of odd-numbered years. Written notification of such appointments shall be given to the president of the Springfield Metropolitan Bar Association and a copy of the notice filed with the Circuit Clerk.

The committee members shall serve for a term of two years, or until their successors are appointed. Any member may be reappointed to successive terms. Any committee member who wishes to resign mid-term shall so advise the Presiding Judge in writing. The Presiding Judge may appoint a new member to serve the remainder of the vacated term, or may wait until the next annual date for appointment.

Upon the approval of the Court en banc, the committee shall have authority to make decisions regarding the acquisition of books, materials, and services for the library and provide rules for the operation of the library. A vote of two of the three members shall be sufficient to make a recommendation to the Presiding Judge on behalf of the Court en banc. Any member of the committee may make a short written statement either for or against a recommended acquisition. The committee shall accept and consider recommendations from members of the bar or the judiciary. Such recommendations should be in writing and presented to the members of the committee.

The committee shall meet as needed and shall keep a record of any action taken. The committee shall review the income and expenses of the library on a regular basis. The committee is authorized to maintain a separate account from which to manage the day-to-day operations of the library and to pay the necessary expenses. It is anticipated the committee will periodically request funds from the Special 31<sup>st</sup> Circuit Judicial Fund through the Court en banc. The committee shall make a yearly report to the Court en banc concerning the finances, acquisitions and long range plans for the law library. The committee may request time for presentation at any regularly scheduled Court en banc meeting if prompt action is needed.

#### 100.3.2 Family Services and Justice Fund

Pursuant to § 488.2300 RSMo., the 31<sup>st</sup> Judicial Circuit shall assess a surcharge upon the filing of all proceedings within the jurisdiction of the family court. The surcharge shall be included and deposited with the Circuit Clerk as part of the initial filing fee required upon the filing of a family court case. The surcharge shall not be charged when no court costs are otherwise required, shall not be charged against the petitioner for actions filed pursuant to the provisions of Chapter 455, but may be charged to the respondent in such actions, shall not be charged to a government agency and shall not be charged in any proceeding when costs are waived or are to be paid by the state, county or municipality.

The Court en banc will establish a fund known as the “Family Services and Justice Fund.” The Court will from time-to-time designate, by administrative order, a person to serve as treasurer of this fund. The Circuit Clerk shall, no less frequently than monthly, remit all monies collected pursuant to this section to the treasurer to be deposited in the fund account. Appropriate accounting safeguards, policies and procedures recommended by OSCA must be followed. In addition the treasurer is directed to have the account audited no less frequently than yearly by an auditor determined by the Court.

The fund shall first be used to reimburse the state for the salaries of family court commissioners appointed pursuant to § 487.020 RSMo. Thereafter the fund shall be expended and applied at the direction of the Presiding Judge or the Family Court Administrative Judge for any lawful purpose benefiting the litigants and recipients of services in the family court as set forth in § 488.2300 RSMo.

#### 100.3.3 Time Payment Fund

Pursuant to § 488.5025 RSMo., the 31<sup>st</sup> Judicial Circuit shall assess a fee on each person who pays a court-ordered judgment, penalty, fine, sanction, or court costs on a time-payment basis, including restitution and juvenile monetary assessments. A time-payment basis shall be any payment not made within 30 days of the date due. The Circuit Clerk shall collect the time payment fee on all cases to which the fee applies.

The Court en banc will establish a fund known as the “Time Payment Fund.” The Court will from time-to-time designate, by administrative order, a person to serve as treasurer of this fund. The Circuit Clerk shall, no less frequently than monthly, remit

that portion of the time payment fee collected and retained pursuant to § 488.5025(2) RSMo., to the treasurer to be deposited in the fund account. Appropriate accounting safeguards, policies and procedures recommended by OSCA must be followed. In addition the treasurer is directed to have the account audited no less frequently than yearly by an auditor determined by the Court.

The fund shall be expended and applied at the direction of the Court en banc to improve the administration of justice and any lawful purpose as set forth in § 488.5205(2) RSMo.

#### **100.4 Storage of Records**

##### **100.4.1 Reproduction, Preservation, Archival Storage and Disposal of Original Circuit Court Files**

##### **100.4.2 Reproduction and Preservation of Court Records Other than Files**

##### **100.4.3 Responsibility for Indexing and Preserving Court Reporter Notes**

##### **100.4.4 Identification of Reporter's Notes**

##### **100.4.5 Index**

##### **100.4.6 Storage of Notes**

##### **100.4.7 Notes of Substitute Reporters**

##### **100.4.8 Storage of Notes upon Retirement, Termination or Death of Court Reporter**

##### **100.4.9 Boxing and Storing of Old Notes**

##### **100.4.10 Responsibility for Furnishing Materials and Space for Storage of Court Reporter Notes**

##### **100.4.11 Procedure for Examination of Criminal Records**

##### **100.4.12 Procedure for Expunging and Closing Criminal Records**

#### **100.5 Clerk's Duties**

##### **100.5.1 Monies Paid Into Court**

#### **100.6 Selection of Veniremen**

## 100.7 Open Meetings

- A. Consistent with Supreme Court Operating Rule 20, all meetings and deliberations of the Circuit Court when operating in an administrative capacity and not in a judicial capacity shall be open to the public, unless closed by order of the Circuit Court for reasons consistent with those stated in § 610.021 RSMo. Meetings and deliberations in an 'administrative capacity' shall include those on property and budget. All meetings and deliberations of the Circuit Court when operating in a judicial capacity are closed to the public, unless opened by order of the Circuit Court.
- B. The Court en banc may hold a regularly scheduled meeting the second Wednesday of each month, unless otherwise rescheduled by the Court. If the meeting is scheduled to include consideration of matters within the administrative capacity of the Court, an agenda will be prepared and posted in compliance with Supreme Court Operating Rule 20. Otherwise, if time permits, the public and persons having business before the Court may appear and provide information to the Court. Persons may request a matter be included on the Court's agenda for the public portion of the meeting by contacting the Court Administrator. At the conclusion of any public portion of the meeting, the Court will convene its meeting in a judicial capacity that is closed to the public.
- C. At each meeting of the Court en banc a majority of the circuit and associate circuit judges shall constitute a present quorum. Each judge present, including the Presiding Judge, shall be accorded one vote on any matter requiring a vote. A simple majority vote of the quorum is sufficient to carry a measure. If any judge so requests, the meeting will be on the record. The Presiding Judge may appoint a secretary and any additional personnel to aid in the judicial business of the circuit. Minutes of any meeting the Court held in an administrative capacity shall be kept and maintained in compliance with Supreme Court Operating Rule 20.
- D. Special meetings of the Court en banc may be called by the Presiding Judge or by any two other judges by giving written notice to the Presiding Judge. Thereafter the Presiding Judge shall notify all judges of the time, place and purpose of the special meeting. At least three business days notice is required for a special meeting. Electronic mail notice is sufficient.