# LOCAL COURT RULES

# of the

# 39th Judicial Circuit

Barry, Lawrence and Stone Counties

Circuit Judge

Hon. Robert S. Wiley

Associate Circuit Judges

Hon. Victor W. Head, Barry County, Associate Division I

Hon. Robert Foulke, Barry County, Associate Division II

Hon. Scott S. Sifferman, Lawrence County, Associate Division I

Hon. Samuel C. Jones, Lawrence County, Associate Division II

Hon. Alan M. Blankenship, Stone County, Associate Division I

Hon. Mark A. Stephens, Stone County, Associate Division II

Circuit Clerks

J. Craig Williams, Barry County

Steven W. Kahre, Lawrence County

Deborah J. Scobee, Stone County

Effective March 01, 2012

(Revised January 13, 2012)

# LOCAL COURT RULES OF THE 39TH JUDICIAL CIRCUIT

## CONSISTING OF BARRY, LAWRENCE AND STONE COUNTIES

The following local court rules are adopted for use in the 39th Judicial Circuit consisting of Barry, Lawrence and Stone Counties, pursuant to the authority granted in Article V, Section 15 of the Missouri Constitution adopted in 1977 and as implemented by the provisions of § 478.245 RSMo., and in accordance with the mandate of the Supreme Court under Administrative Rules No. 6 and 17, and shall apply to the circuit courts of this circuit and to the divisions of the circuit courts of this circuit presided over by an associate circuit judge. All prior rules of the 39th Judicial Circuit are rescinded. These rules shall become effective March 01, 2012, which is more than 30 days after filing with the circuit clerks and the clerk of the Supreme Court.

RULE 1: DIVISIONS OF COURT

There shall be three (3) divisions of court in each county as follows:

Division One: Circuit

Division Two: Associate

The Associate Division shall have jurisdiction over all cases specified by the Missouri Constitution, statute, and these rules, including small claims and municipal cases where the municipality has not elected to maintain their own court system. Division Two shall consist of two divisions in each county and shall be designated Associate Division #1 and Associate Division #2.

Division Three: Probate

RULE 2: HOURS AND TERMS OF COURT

2.1 Hours of Court

In Division One of each county the hours of court shall be as follows:

On Law Days the docket call will begin at 9:00 a.m.; Non-jury cases will begin at 9:00 a.m. Jury trials shall also commence at 9:00 o'clock a.m., but counsel shall appear in chambers at 8:30 a.m. on the first day of a jury trial.

Each associate circuit judge in the 39th Judicial Circuit shall determine the hours that his respective court shall be open.

Each circuit clerk in the 39th Judicial Circuit shall maintain office hours in accordance with the hours specified by the county commission of each respective county. However, in accordance with state statutes, the clerk's office is always deemed open.

Each division of the court will observe all holidays designated by the various county commissions within the circuit, provided however that if a jury trial is not completed before the day of such designated holiday the circuit court may of necessity complete the trial on such holiday.

2.2 Terms of Court

The circuit court of each county of the circuit shall be in continual session as provided by § 478.205 RSMo. However, the court designates Opening Days for each term of court in the 39th Judicial Circuit as follows:

| | |
|---|---|
| BARRY COUNTY: | Regular Terms: 3rd Monday in March, July, and November. |
| LAWRENCE COUNTY: | Regular Terms: 1st Monday in January, May and September. |
| STONE COUNTY: | Regular Terms: 1st Monday in April, August, and December. |

2.3 Law Days

2.3.1 Criminal and Civil Law Days for Division One (Circuit Court) may be specially designated by the circuit judge, but otherwise will be as follows:

| | |
|---|---|
| BARRY COUNTY: | 3rd Monday and Tuesday in January, February, April, May, June, August, September, October and December. |
| LAWRENCE COUNTY: | 2nd Monday and Tuesday in February, March, April, June, July, August, October, November and December. |
| STONE COUNTY: | 1st Monday and Tuesday in January, February, March, May, June, July, September, October and November. |

Should a Law Day be a holiday, the Wednesday thereafter shall be Law Day.

2.3.2. Motion Days. Each Associate Circuit Judge within the circuit shall designate regular monthly Associate Circuit Law Days (Motion Days) <u>as needed</u>,

but otherwise as follows:

| | |
|---|---|
| BARRY COUNTY: | Scheduled as needed. |
| LAWRENCE COUNTY: | Associate Division One: 1st Tuesday of each month. |
| | Associate Division Two: 2nd Tuesday of each month. |
| STONE COUNTY: | Associate Division One: 1st Friday of each month. |
| | Associate Division Two: 1st Friday of each month. |

2.4. Particular Matters on Particular Days

2.4.1. All pending motions (except motions to modify, motions for summary judgment and pre-trial motions), objections to interrogatories, *et cetera*, which have been on file for at least 5 days prior to Law Day shall be placed on the Law Day docket in each county and a copy of said docket shall go to all affected counsel.

2.4.2. On the civil docket, the court will first call motions for announcements with respect to such motions. All motions to dismiss, to strike, for production, for inspection of premises, objections to interrogatories, *et cetera*, shall be summarily overruled unless said motions are accompanied by suggestions. Counsel shall plead within ten (10) days as specified by Supreme Court Rule 55.25(c). Motions to modify shall be set in the same manner as any other contested matter.

2.4.3. Criminal cases will be set for trials at the time defendants are arraigned on Law Days. If a defendant is incarcerated, unable to make bond, and a speedy trial is requested, the case will be set within 30 days. If a speedy trial is not requested, criminal cases, except capital murder cases will usually be set within 90 days of arraignment.

2.4.4. The clerk shall have in the courtroom all files in which various motions are pending, with suggestions filed.

2.4.5. Counsel may not by agreement pass motions.

2.4.6. Each associate circuit judge shall in felony cases upon disposition in Division Two, advise the prosecuting attorney, the defendant and his attorney, of the date that the defendant shall appear in Division One for arraignment. This date should usually be the first Law Day following disposition in Division Two. If the defendant fails to appear in Division One for arraignment on the date

designated by the associate circuit judge, bond forfeiture will be ordered by the Division One judge and a capias warrant will be issued for the arrest of the defendant.

2.4.7. Motions for summary judgment and pre-trial motions will not be heard on a Law Day, but will be specially set through the office of the judge in the case. In Division I civil case which is set for trial, no motions for summary judgment will be heard unless filed at least 180 days prior to the trial setting date, except by leave of court.

2.4.8. Scheduling orders and trial settings will not be taken up at a Law Day. Requests for settings should be directed to the office of the judge in accordance with Rule 36.

2.5. Judicial Availability for Admission to Bail and for Orders of Protection.

2.5.1. A judicial officer of the circuit court shall be available as a duty judge in each county in person, by telephone or pager, by facsimile machine, or by E-mail to consider verified petitions for the purpose of admitting persons to bail with qualified sureties or on their own recognizance as required by § 478.248 RSMo., and for issuance of orders of protection filed on holidays, evenings, and weekends.

2.5.2. Each completed and verified petition for an order of protection shall be delivered to the duty judge or to the court clerk for transmission to the duty judge, who shall review the petition to determine if an *ex parte* order of protection shall issue.

2.5.3. A sheriff, deputy sheriff, or police officer may deliver an arrest warrant or a petition for an order of protection to the duty judge in person, by facsimile transmission or E-mail, and a court clerk may transmit a petition to the duty judge for review in person, by telephone, facsimile transmission, or E-mail.

2.5.4. If the duty judge determines that a warrant or an *ex parte* order of protection shall issue, the judge, or the clerk upon oral or written authorization from the judge, shall note on the warrant or ex parte order the date and time the order is issued. Any order signed by the clerk upon oral or written authorization from the duty judge shall be signed by the duty judge during the next business day.

2.5.5. If the duty judge determines that a warrant or an *ex parte* order of protection shall not issue, the duty judge, or clerk upon oral or written authorization from the duty judge, shall issue a summons unless the duty judge determines from the face of the petition that the court lacks jurisdiction.

2.5.6. Any *ex parte* order of protection or summons issued by the duty judge, or court clerk upon oral or written authorization from the duty judge, shall be

delivered in person or by facsimile transmission or E-mail by the judge or court clerk to the appropriate sheriff department or police department for delivery to the petitioner and for service of process as provided by law.

2.5.7. Notice of the court's availability on court holidays, weekends, and evenings for admission to bail or for the filing of petitions for orders of protection and the available locations with blank petitions shall be conspicuously posted in each circuit clerk's office.

RULE 3: PLEADINGS

3.1 Caption - Civil Cases - Division One

The following captions are required in all cases filed in Division One in each of the counties in the 39th Judicial Circuit, except as otherwise provided by statute or rule:

IN THE CIRCUIT OF_____COUNTY, MISSOURI
DIVISION ONE

Name _____

Address _____
_____

Plaintiff/Petitioner,

v. Case No. _____

Name _____

Address _____
_____

Defendant/Respondent.

CAUSE

Signed _____
(Attorney of Record or Party)
Address _____
Telephone Number _____
Facsimile Number _____
E-mail Address _____
Missouri Bar Number _____

3.2 Caption - Probate Cases

All probate cases shall be captioned as follows:

IN THE CIRCUIT COURT OF _____ COUNTY, MISSOURI
DIVISION THREE
Probate Division

In The Estate of

_____ Case No. _____
(Deceased)(Incapacitated)(Disabled).

3.3 Caption - Juvenile Cases

All juvenile cases shall be captioned as follows:

IN THE CIRCUIT COURT OF _____ COUNTY, MISSOURI
Associate Division - Juvenile

In The Interest Of

_____ Case No. _____

3.4 Caption - Small Claims Court

All small claims as defined by statute shall be captioned as follows:

IN THE CIRCUIT COURT OF _____ COUNTY, MISSOURI
Associate Division
Small Claims

_____
Plaintiff,
vs. Case No. _____

_____
Defendant.

3.5 Style - all cases

3.5.1. All pleadings and other papers, except exhibits, offered for filing in any court of this circuit and all forms used in any court, including opinions, shall be on 8 1/2 by 11 inch paper. Pleadings and motions shall have a top and left hand margin of at least one inch; shall be signed by the party or his attorney offering the same for filing together with the address, telephone, fax number, email address and if represented, the bar identification numbers of the trial attorney in the case; shall be captioned with the style and number of the case, the character of the pleadings and motions and, if a petition, the nature of the suit and, if consisting of more than one sheet, shall be securely bound at the top and with page numbers at the bottom. Paragraphs of pleadings shall be numbered consecutively. An attorney offering a paper for filing may sign it on behalf of a law firm or attorney when duly authorized to do so; but he must also subscribe his own signature on said paper.

3.5.2. The attorney whose signature is affixed to the pleading or paper shall be deemed to be the trial attorney in the case and shall receive all notices from the circuit clerk or court with respect to such case.

3.5.3. Where service of summons or other pleading is requested, a copy of the pleading for each party to be served shall be filed and shall include the address for each party to be served.

RULE 4: FILING OF CASES

4.1 All Cases

The 39th Circuit has a centralized filing system in each County. All cases and pleadings, motions and papers related thereto shall be filed, in the centralized filing room in the office of the circuit clerk in each county.

4.2 Fax Filings

4.2.1 Filings by facsimile (fax) transmissions of any documents are permissible in accordance with Supreme Court Rule 43.02(c). The clerks shall not process any filing by fax until the appropriate filing fees have been received. Time of receipt of any fax shall be governed by the time affixed on the fax transmission and shall be filed accordingly if the appropriate fees have been received. If the appropriate fees have not been received, the document may be discarded. Any person utilizing this method shall retain the original and shall produce it upon court order.

4.2.2 Proof of service by fax shall be made by the person causing the pleading to be transmitted. Proof of service shall indicate the telephone number to which the paper was transmitted and the method of confirmation that the transmission was received.

RULE 5: FEES AND COSTS

5.1 Filing Fees

5.1.1. In all cases filed in this circuit there shall be deposited with the appropriate circuit clerk, for which the clerk shall give a receipt, all fees assessed pursuant to Chapter 488 RSMo., including but not limited to the following:

**FILING FEES**

| | |
|---|---|
| All original circuit civil cases | $ 100.00 |
| All original associate circuit civil cases | $ 48.00 |
| All small claims cases | $ 43.00 |
| Family Access Motions | $ 100.00 |
| Adoptions | $ 150.00 |
| Trial de Novo | $ 45.00 |
| Trial de Novo – Municipal | $ 30.00 |
| Appeals | $ 70.00 |

5.2 Costs

5.2.1. In addition to all other costs specifically authorized by Missouri statute or rule, and to the extent permitted by law, any Circuit or Associate Circuit Judge may assess against a party or may pro-rate an assessment between all or some of the parties in any action or proceeding, miscellaneous expenses for administrative costs such as postage, photocopying, and administrative search fees, in addition to any filing fee or other authorized fees or surcharges.

5.2.2 Any such assessment of miscellaneous administrative costs shall not exceed:

| | |
|---|---|
| Postage | Actual cost |
| Photocopying of Judicial Records | 25 cents per page. |
| Certified Copies of Judicial Records | $1.75 for certification and 25 cents per page. |
| Photocopying of Public Records | 25 cents per page |
| Search fees – Clerk Time | 20 cents per minute |
| Certified Copies of Vital Records | $15.00 each |

| | |
|---|---|
| Other misc. charges | As determined by the Court based on actual costs |

5.3 WITNESS FEES
(No Local Rule)

5.4 WAIVER OF FEES
(No Local Rule)

5.5 MOTION FOR SECURITY
(No Local Rule)

RULE 6: ASSIGNMENT OF JUDGES, CASES and TRANSFER OF CASES

6.1 Associate Divisions I and II

The following cases will be heard by an associate circuit judge not on the record under the procedure applicable under Chapter 517, RSMo;

(1) Civil actions where the sum demanded, exclusive of interest and costs, does not exceed Twenty Five Thousand dollars;

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

(3) Replevin, attachment, and mechanic's lien action where the recovery sought is less than five thousand dollars;

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

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

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

(7) Such other cases that could be heard and determined by an associate circuit judge without assignment as an acting circuit judge under provisions of the law in effect on January 1, 1979.

6.2 In addition to the above cases, an associate circuit judge shall hear and determine the following cases:

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

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

(3) Municipal ordinance violation cases when the municipality has not made provision for a municipal judge;

(4) Small claims as provided in Chapter 482, RSMo;

(5) Cases the circuit judge can hear in chambers if the circuit judge is absent from the county;

6.3 The associate circuit judges of this circuit shall hear and determine any case specifically assigned by the presiding judge and all of the following types of cases, on the record and under procedures applicable before circuit judges:

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

(2) Cases arising under Chapter 207 and 208 RSMo and Chapter 210 RSMo.;

(3) All juvenile cases, including adoptions;

(4) All family law matters, including but not limited to all actions for dissolution of marriage, paternity cases, motions to modify, and child custody proceedings of any kind, and all contempt actions for violation of family law judgments or orders;

(5) Approval of wrongful death settlements;

(6) Felony arraignments and preliminary hearings;

(7) Any case in default, or by agreement of the parties, may be heard by an associate circuit judge within the circuit without necessity of assignment of such case by the presiding judge to the associate circuit judge;

(8) All contempt actions for child support enforcement;

(9) Change of name;

(10) Hardship driving privileges;

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

(12) Juvenile cases involving 17 year old or younger persons which allege violations of traffic laws or ordinances except felony cases such as

manslaughter, drunken driving, leaving the scene of accident and cases which would be punishable as misdemeanors or municipal ordinance violations if the juvenile was tried as an adult;

(13) All cases arising under the Adult Abuse Act and Child Protection Orders Act, Chapter 455 RSMo.;

(14) All petitions for review of Department of Revenue administrative decisions;

(15) All appeals from the municipal division;

(16) All actions concerning the title to real estate;

(17) Adversarial proceedings in the probate division.

6.4 Municipal Division

6.4.1. When a municipality has made provisions for its municipal ordinance violation cases to be heard before a municipal judge, such cases shall be filed in the office of the clerk of the municipal division.

6.4.2. When a municipality has not made provisions for its municipal ordinance violation cases to be heard before a municipal judge, such cases shall be filed in the office of the circuit clerk.

6.4.3. All cases originally filed in the Municipal Division, but in which such cases there has been a request for change of judge and/or jury trial shall be heard by an associate circuit judge.

6.5 Recording, Associate Division

6.5.1 Unless otherwise specified by the presiding judge in an order of assignment, the method of preserving the record in the above classes of cases shall be by electronic, magnetic, or mechanical sound or video recording devices approved by the office of State Courts' Administrator, and not by a court reporter or stenographer.

6.6 Automatic Assignment to Associate Circuit Judges

6.6.1. All associate circuit cases are automatically assigned to the Associate Division in the County in which said case was filed;

6.6.2. Upon disqualification of an associate circuit judge in an associate division case, the other associate judge in the county is hereby assigned to hear said cause;

6.6.3. All trials *de novo* from associate and small claims, are hereby assigned to the associate circuit judge of the other associate division;

6.6.4. Probate Assignment - In Barry County, all probate cases are assigned to the judge in Associate Division One. In Lawrence County, all probate cases are assigned to the judge in Associate Division Two. In Stone County, all probate cases are assigned to the judge in Associate Division Two. Upon disqualification of said Associate Division judge, the other Associate Division judge in the county is hereby assigned.

6.7 Special Assignment

6.7.1. The Presiding Circuit Judge may assign any associate judge to hear any case in the 39th Judicial Circuit, in Barry, Lawrence or Stone County, in accordance with Missouri Supreme Court rule, subject to disqualification as provided by statute or subject to other assignment as may be provided by statute, or Supreme Court Rule.

6.6.2. Bench Copies - Counsel and any unrepresented parties, shall provide a bench copy of all pertinent pleadings, notices, motions requesting relief, et. cetera., filed in the case, to any judge assigned to a case in a County other than the County where that judge was elected or appointed.

6.8 Assignment Upon Change of Venue (Within the 39th Judicial Circuit).

6.7.1. Whenever a change of venue is granted in an associate circuit judge case, the case will automatically be assigned to the associate circuit judge who would be assigned in accordance with Local Rule 6 if the case had originally been filed in the transferee county.

6.9 Assignment to Circuit Judges

(No Local Rule)

6.10 Certification to Circuit Division

(No Local Rule)

6.11 Trial *de novo*

6.10.1 Cases in which an application for trial *de novo* has been filed shall be docketed and assigned for hearing in the same manner as if the case had originally been filed in the office of the circuit clerk under the procedures which are applicable before circuit judges.

6.12 Disqualification of Judge

6.12.1. As provided in Supreme Court Rule 51.05, a change of judge shall be ordered in any civil action upon the timely filing of a written application therefor by any party or by his written agent or attorney. The application need not allege or prove any cause for such change of judge and need not be verified. A copy of the application and notice of the time when it will be presented to the court shall be served on all parties. Appearance of counsel is not required for a timely filed application to be sustained.

6.12.2. In any case in which an associate circuit judge has been disqualified, such case shall be certified to the presiding judge for assignment to another associate judge within the circuit, unless the other associate judge in the county is automatically assigned, pursuant to Local Rule 6.5.2. If the circuit judge is disqualified, then the circuit clerk shall request the Supreme Court to assign another judge to hear said cause.

6.12.3. The clerk shall notify each party when a new judge is assigned to the case and the date and time of the next hearing, which shall normally be scheduled on the newly assigned judge's next regular Law Day or Motion Day in accordance with Local Rule 2.3.

6.13 Absence of Judge

6.13.1 In the absence of any judge of this circuit, including the Presiding Judge, then any other circuit or associate circuit judge of this circuit may sit as the judge of the division in which the judge is absent and perform all duties of the absent judge.

RULE 7: WITHDRAWAL OF PAPERS FROM CLERK'S OFFICE

7.1 When Allowed

7.1.1. No official files of the circuit court or any division thereof shall be removed from the office of the circuit clerk or the office of any division clerk except by the presiding judge, associate circuit judge or court reporter of the 39th Judicial Circuit.

7.2 Duplicating Policy

7.2.1. Requests for copies of court records should be directed to the appropriate deputy circuit clerk. No charge shall be made for copies of documents furnished to any city, county, state agency or state department. All other parties shall be charged a reasonable fee as specified by the

Circuit Clerk in each County.

7.3 The Associate Division in each County within the 39th Judicial Circuit, may make such administrative rules as may be deemed necessary to comply with the provisions of Section 452.430 RSMo., (privacy and redacting of personal information).

RULE 8: PUBLICATION OF DOCKETS

8.1 Trial Docket--Division I

The Circuit Clerk of Division One of each county shall prepare a trial docket of all civil and criminal cases that are scheduled to be heard or set for trial on the next Law Day. The clerk shall notify each attorney of record or unrepresented party of any case on the Law Day docket involving the attorney or party, at least 5 days before the next Law Day. Such notice may be given by mail, facsimile or other electronic means.

8.2 Dismissal Docket

Each clerk (except Probate) shall each 6 months, on or about June 1st and December 1st of each year, prepare a dismissal docket of civil cases and felony criminal cases in which no activity has been noted on the docket sheet for 6 months or more, and in all other cases, including dissolution cases, cases transferred from the associate division, and misdemeanor criminal cases for 3 months or more. Each clerk shall notify counsel of record that any such case will be dismissed on a date certain (within approximately 30 days), absent good cause shown to the court. A request for trial setting after a case appears on the dismissal docket shall not constitute "good cause" either to prevent dismissal or for reinstatement of the case. The circuit clerk shall then on such dates, absent good cause shown, dismiss the cases without prejudice and without further notice to counsel.

Parties who are not represented by counsel shall receive the same notification from the circuit clerk as counsel of record receive.

Cases dismissed without prejudice may be reinstated by the judge within 30 days of the date the dismissal order is made upon the filing of a written motion with the clerk and a copy to the court and opposing counsel requesting reinstatement and showing good cause for reinstatement. If the matter is one in which there is no counsel, then the party requesting shall send a copy of such request for reinstatement to the opposing party, the clerk and the judge.

RULE 9: COURTROOMS

9.1 Assignment of Courtroom

(No Local Rule)

9.2 Place of Hearing

(No Local Rule)

9.3 Use of Counsel Table

(No Local Rule)

9.4 Courtroom Decorum and Dress

(No Local Rule)

9.5 Who Is Permitted Within Bar

(No Local Rule)

RULE 10: COURT REPORTERS AND COMPENSATION

10.1 All orders for transcripts on appeal of proceedings recorded by court reporter in Division I, shall be made in writing to the court reporter of the 39th Judicial Circuit, namely: Kim Ballay, 849 W. Crestwood, Monett MO 65708 [telephone no. (417) 235-7110] and the reporter's acceptance of service of such order shall be filed with the clerk of the court in which the case is pending. All applications for an extension of time to file transcripts shall show the date it was ordered.

10.2 Preparation of any transcript on appeal by an official court reporter shall not begin until counsel or 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 deposit is insufficient to pay for such transcript, the remaining unpaid portion of the cost thereof shall be due and payable from counsel or the person who orders the transcript to the reporter who prepared such transcript upon delivery of such transcript.

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

10.4 If the appellant desires the 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 clerk.

RULE 11: RECORDING OF JUDICIAL PROCEEDINGS

Cameras, microphones, and recording devices, including cell phones with camera and video recording capability, shall not be permitted in the Courtroom except under Supreme Court Rule 16 and except for those persons authorized by the Court to preserve the record.

RULE 12: MONEYS PAID INTO COURT

12.1 Bond in Civil Cases

(No Local Rule)

RULE 13: COMMUNICATIONS WITH COURT

13.1 Oral Communications with the Court

(No Local Rule)

13.2 Written Communications with the Court

(No Local Rule)

RULE 14: SERVICE OF ORDERS, JUDGMENTS AND OTHER DOCUMENTS BY THE COURT

In accordance with Supreme Court Rule 43.01(j), in all civil actions and all criminal proceedings, including *post* conviction motions, any order, judgment, or other document issued by the court may be transmitted to the attorney or party as authorized in subdivision (c) of Supreme Court Rule 43.01, provided service pursuant to Supreme Court Rule 54 is not required. All counsel are strongly encouraged to prepare and file a Civil Procedure Form 17, consenting to service by electronic mail pursuant to Rule 43.01(c).

RULE 15: SPECIAL PROCESS SERVERS

In accordance with § 506.140 RSMo. and Supreme Court Rule 43.01(c) process may be issued to and served by a person over the age of eighteen who is not a party to the action. A party may file an application for the court requesting that any fees paid to a special process server be taxed as costs in the action.

# GENERAL RULES

## RULE 21: ATTORNEYS

21.1 Resolution of Conflicting Trial Settings
(No Local Rule)

21.2 Entries of Appearance

(No Local Rule)

21.3 Conduct of Attorneys

(No Local Rule)

21.4 Withdrawal of Attorneys

The conditions under which an attorney is allowed to withdraw from the employ of a client are set out in Supreme Court Rule 4, Rules of Professional Conduct, Rule 1.16 Declining or Terminating Representation. An attorney who desires to withdraw as attorney of record for any party to any action pending in this court shall comply with the following procedures.

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

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

21.4.3. The last known address of the client from whose employ the attorney is seeking leave to withdraw shall be plainly set out in the motion or the certificate of service thereon.

21.4.4. The attorney seeking leave to withdraw must appear in open court and call up the motion at the time specified in the notice. If the case in which the attorney is seeking leave to withdraw is a criminal case, it shall



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be the duty of the client to appear in person in compliance with the notice mentioned above.

21.4.5. If the client fails to appear, and if the attorney is granted leave to withdraw, the attorney shall immediately notify his former client by letter of the attorney's withdrawal and shall send a copy of the letter to the clerk. Such a letter shall advise the former client of any scheduled court proceedings or pleading deadlines in the case.

21.5 Failure of Attorney to Answer Docket Call

Attorneys of record in any case or their representatives must appear on each Opening Day or Law Day to make appropriate announcements with respect to their cases. Counsel may by stipulation or letter agree as to disposition of any pending motions, except a motion for continuance.

21.6 Appointment of Attorneys

(No Local Rule)

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 filed with the court clerk or made orally in open court.

21.8 Advice to Clients and Witnesses of Courtroom Procedures

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

RULE 22: APPOINTMENT OF GUARDIAN *AD LITEM*

22.1 When Appointed

A guardian *ad litem* <u>is required</u> to be appointed in all adoption cases and in all cases involving juveniles who are dependent upon the court by reason of being neglected or abused; in all other civil proceedings in which they are defendants or in any quiet title or similar proceedings where the age of the defendants is under 21 or the age of the defendant is unknown; or <u>in any proceeding in which child abuse or neglect is alleged</u>. In all proceedings for child custody or for dissolution of marriage or legal separation where custody, visitation, or support of a child is a contested issue, the court <u>may</u> appoint a guardian *ad litem*. § 452.423 RSMo. All appointments shall be made in accordance with the current standards for

guardians *ad litem.*

22.2 Cost Deposit

Upon the Court's own motion or upon the written request of the court appointed guardian *ad litem*, and without further court order, each party shall be required to make a cost deposit to the clerk within 30 days of a sum not less than twice the guardian *ad litem's* normal professional hourly rate.

RULE 23: TRANSCRIPTS

See Local Rule 10.

RULE 24: EXHIBITS

24.1 Each attorney is responsible for all his or her exhibits before, during and after trial. Exhibits should be marked for identification prior to trial and shall be withdrawn by counsel after trial.

24.2 Attorneys or any pro se parties, shall provide the clerk responsible for making the record, an exhibit list prior to the start of any hearing on the record in which exhibits will be offered into evidence.

# PRETRIAL MATTERS

RULE 32: DISCOVERY

32.1 Use of Discovery and Certification to Circuit Division

(No Local Rule)

32.2 Interrogatories

Copies of all interrogatories and answers thereto shall not be filed with the court except upon court order or contemporaneously with a motion placing interrogatories in issue, but shall be sent to all parties. Answers and objections to interrogatories shall state the question being answered or objected to immediately before the response or objection to such interrogatories. Any objection to interrogatories shall be taken up on the next regular Opening Day, Law Day, or Motion Day at least five (5) days after filing.

The court will summarily overrule all general objections to interrogatories, objections to specific interrogatories, or requests for production unless objections are accompanied by written suggestions.



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For interrogatories in dissolution cases, see Local Rule 68.3.

32.3 Depositions

(No Local Rule)

32.4 Motions for Sanctions

No motion for sanctions will be required in order for the trial judge to assess court costs, including jury panel fees, against the parties if the case is settled within 48 hours of the trial setting date.

32.5 Criminal Discovery

There is no local rule on the above subject but judges shall expect compliance with Supreme Court Rule 25 as it pertains to discovery in criminal cases. Discovery schedules, if needed, shall be determined at the initial disposition hearing with the trial judge, or as may be required thereafter.

RULE 33: PRETRIAL MOTIONS

33.1 Hearing Dates

All pending motions shall be set as provided in Rule 2.4.

33.2 Briefs in Support of Motions, When Required

All motions shall be in writing and accompanied by a written memorandum setting forth reasons in support thereof with citations and points relied upon. If no memorandum is filed then the judge will automatically overrule any such pending motions except timely filed applications for change of judge and motions of counsel to withdraw. The judge may, after argument, require additional memorandum or briefs as the court may deem advisable and may grant counsel additional time to file same.

33.3 Oral Arguments

Unless oral argument is requested in writing at the time of filing a motion or motions, the pending motion(s) shall be ruled on the basis of the written briefs filed by counsel.

33.4 Motions *in limine*

All motions *in limine* in cases set for jury trial shall be in writing and

accompanied by citations of authority and shall be filed at least ten (10) days prior to trial unless otherwise specified by the trial judge with a copy of such motions going to opposing counsel, the judge and the court clerk.

## RULE 34: CONTINUANCES

No general continuances will be granted in any case. No continuances will automatically be granted by agreement or stipulation.

An application for continuance shall be made by written motion accompanied by the affidavit of the applicant or some other credible person setting forth the facts upon which the application for continuance is based, unless the adverse party consents that the application for continuance may be made orally. All applications for continuance and written consents thereto shall contain a current list of attorney scheduling conflicts.

No continuances shall be granted otherwise, except in Division III (Probate), or as provided in Local Rules 34.1 and 34.2 below.

### 34.1 Civil Cases

All applications for continuances in civil cases shall conform to the provisions of Supreme Court Rules 65.01 through 65.05.

Supreme Court Rule 65.01--Every continuance granted on the application of a party may be at the cost of such party, if so ordered by the court.

Supreme Court Rule 65.03--In any application for continuance made within thirty days of the date the matter is scheduled to be heard, the lawyer shall certify that the party for whose benefit the motion is filed has been consulted, that the party is aware of the contents of the motion, and the party's position with respect to the motion.

An application for continuance on account of absence of witnesses or their evidence shall comply with the requirements of Supreme Court Rule 65.04.

### 34.2 Criminal Cases

No clerk is authorized to grant a continuance by informal request except for up to two weeks for an initial appearance in Division II concerning pending traffic and/or misdemeanor charges.

All applications for continuances in criminal cases shall conform to the provisions of Supreme Court Rules 24.08, 24.09, and 24.10.



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An application for continuance on account of absence of witnesses or their evidence shall comply with the requirements of Supreme Court Rule 24.10.

A continuance will be granted in criminal cases only if the judge finds the ends of justice served by taking such an action outweighs the benefit or necessity for a speedy trial. For good cause shown, the judge may continue a criminal proceeding to a fixed day, or to a date to be set thereafter. No continuance shall be granted on the application of defendant unless the defendant waives his right to a speedy trial. The judge may assess the cost of any such continuance to the requesting party.

## RULE 35: PRETRIAL CONFERENCE

The trial judge shall schedule pretrial conferences in any pending jury case. Failure of counsel to appear for pre-trial conference shall be sufficient grounds for imposition of sanctions by the court in accordance with Local Rule 32.4.

## RULE 36: SETTING CASES FOR TRIAL

### 36.1 Requests for Trial Settings

36.1.1. Civil Circuit Jury - All civil cases may be specially set by sending the request for trial setting to the office of the judge hearing the case, with a copy of the request to the circuit clerk and opposing counsel. The request for setting shall state the nature of the case, whether jury or non-jury, and the anticipated length of trial, and provide list of conflict or available dates. Counsel for the party requesting a setting shall ascertain from opposing counsel whether a jury will be waived in any case in which there is a right to trial by jury. The court will notify the circuit clerk and all counsel of the trial setting.

36.1.2. Civil Circuit Non-jury - All civil cases in which a jury has been waived or equity cases, may be specially set and in such instances requests for settings shall be made by sending the original of such request to the office of the judge hearing the case, with a copy of such request to the circuit clerk and opposing counsel. The letter of request shall set forth the nature of the case, the date the case was at issue, whether any additional discovery is anticipated, the anticipated length of the trial, and, in those instances where a case would ordinarily be a jury case, that all counsel have waived a jury trial. Counsel for the party requesting a setting shall be expected to ascertain from opposing counsel whether a jury will be waived. All counsel together with the circuit clerk shall be notified of the date of setting.

36.1.3. When a civil case is set for jury trial, counsel shall present to the court a scheduling order to include mediation. The court will resolve any dispute among counsel as to the scheduling order.

36.1.4. Criminal Cases. The prosecuting attorney or attorney for the defendant may request that a case be placed on a Law Day Docket for a trial setting and advise the court as to whether trial is jury or non-jury, anticipated length of trial, and provide available or conflict dates. Such a request for setting may be directed to the office of the judge in the case at any time with copy to opposing counsel.

36.2 Date of Docket Call

See Local Rule 36.1

36.3 Preparation of Docket

The appropriate clerk of each of the counties in the 39th Judicial Circuit shall prepare a docket for each judge's Law Day and shall prepare dockets of scheduled trials or motions.

36.4 Docket Call

See Local Rule 36.1

36.5 Inactive Docket.

No inactive docket will be maintained.

36.6 Revision of and Removal from Prepared Docket

(No Local Rule)

36.7 Special Assignments

(No Local Rule)

RULE 37: DISMISSALS

37.1 Dismissal Docket

See Local Rule 8.2

37.2 Reinstatement of Cause

See Local Rule 8.2



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RULE 41: SETTLEMENT

41.1 Notice of Settlement

The trial judge and the court clerk shall be notified promptly by counsel if a case is settled after it has been set for trial. If no notice of settlement is received within 48 hours of a jury trial setting date, the costs, including the cost of the jury panel shall be assessed against the parties.

RULE 42: DEFAULTS

Dissolutions, default matters, adoptions, shall be heard in Division One by Presiding Judge only if scheduled through his secretary. Associate circuit judges or their designated clerks shall schedule hearings for all dissolutions, motions to modify, *et cetera*, and cases designated under Local Rule 6.

# TRIALS

RULE 51: COURT TRIED CASES

51.1 Default and Uncontested Matters

See Local Rule 42

51.2 Contested Matters

See Local Rule 36.1

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 proposed findings of facts and conclusions of law at the conclusion of the trial or within the period of time directed by the judge in electronic format such as CD or electronic mail, together with one paper copy for the file. Electronic documents must be formatted in Word.

RULE 52: SELECTION OF JURY

52.1 Jury Questionnaires

A jury questionnaire shall be submitted to each prospective juror in a self-addressed envelope and shall be delivered or mailed with the summons for jury service with directions to complete and return the form to the circuit clerk's office within 10 days. Jury questionnaires shall be available to all counsel prior to any jury trial by contacting the circuit clerk.

The jury questionnaire is a matter of public record and may be inspected by the attorneys at any time in the circuit clerk's office.

Attorneys shall not, as part of their voir dire examination, examine a member of the jury panel as to any matter contained on the jury questionnaire without the permission of the court, but may examine any jurors selected as special venirepersons who have not filled out such questionnaire.

52.2 Circuit Clerk's Duties

**The circuit clerk shall be responsible for summoning and management of the jury panel until the jury is selected, seated and sworn in all jury trials in all divisions of this circuit**.

RULE 53: JURY TRIALS

53.1 Instructions

On the first morning of any jury trial, the attorneys are required to submit all proposed jury instructions for study by the trial judge. This rule shall also apply to the prosecuting attorney and defense counsel in all criminal cases.

53.2 Closing Arguments

An attorney will be given a reasonable time for argument and the judge will decide the period of time allowed. Plaintiff may divide his time between opening and closing argument, but not more than one-half of his time may be spent in closing argument. Time for final argument may be extended at the discretion of the judge.

Final argument by counsel for cases involving multiple parties shall be made in the order of the parties named in the petition unless the order of arguments are otherwise designated by the judge.

Plaintiff or plaintiffs may decline to make an opening or closing argument and by so doing, waive their right to a closing argument. Defendant may nevertheless make his argument.

The attorneys for either party shall inform all other attorneys and the court before the time of any argument of their intention to waive argument.

53.3 Unless necessary to accommodate a speedy trial request, jury trials will not be held in December.

## RULE 54: JUDGMENT ENTRY

### 54.1 Contested Cases

Unless otherwise ordered, the attorney for the prevailing party shall prepare and submit the form of judgment entry to the judge for approval. If it is impossible to determine who may be the prevailing party the judge may designate the attorney who shall prepare the judgment entry.

### 54.2 Default or Uncontested Cases

In default or uncontested cases, counsel for the prevailing parties shall on the day of hearing present to the judge for approval the judgment that counsel has prayed to be entered. The circuit clerk shall then enter judgment in accordance with the judgment provided by counsel unless modified by the judge.

# RULES RELATING TO PARTICULAR ACTIONS

## RULE 61: ADOPTION

### 61.1 Filing Requirements

At the time of filing a petition for adoption, counsel for petitioners shall request the appointment of a *guardian ad litem* and shall prepare an order to such effect with the name of the *guardian ad litem* left blank so that the judge may designate such *guardian ad litem*... and shall request that a home study be made (see Local Rule 61.2). No adoption petition will be considered where there has been a direct placement by the mother of a child born out of wedlock with prospective adoptive parents.

### 61.2 Home Study

Home studies are required in every adoption proceeding. The Division of Family Services or Juvenile Office shall initiate an investigation of the suitability of the child for adoption and the suitability of petitioners as parents for the child. The agency, which made the original placement of the child or children in the prospective adoption home, shall make the home study pursuant to the judge's order.

In a stepparent adoption, the court shall designate the agency or individual to make the home study and counsel for petitioner shall provide such agency or individual with a copy of the petition and the exact address of petitioners.

In all adoption proceeding the petitioners, the adoptive child or children,

the *guardian ad litem* and a representative of the supervising agency shall be present at the hearing.

No order of temporary custody in an adoption case shall be made unless a home study has been made as required herein and such report is favorable to the adoptability of the child and the suitability of the petitioners for adoption.

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 CHAPTERS 207 AND 208 RSMo.1978 (Title IV-D and H.B. 601 Actions)

See Local Rule 6.3.2.

RULE 65: CIVIL COMMITMENT

(No Local Rule)

RULE 66: CONDEMNATION

(No Local Rule)

RULE 67: CRIMINAL CASES

67.1 Pretrial Release

67.1.1 Qualifications of Bail Bondsmen

All bondsmen desirous of posting bail bonds in the 39th Judicial

Circuit shall file with the respective associate circuit judges of Barry, Lawrence and Stone Counties on or before January 1st and July 1st of each year an affidavit of qualifications for all bonds in force, as set forth in Supreme Court Rule 33.17, and an affidavit of justification in compliance with and containing all information set forth in Supreme Court Rule 33.18.

Each associate circuit judge of the 39th Judicial Circuit may make such additional investigation concerning the qualifications of the surety as he shall deem necessary and for this purpose shall have authority to administer all necessary oaths. No bonds shall be approved unless the surety thereon appears to be qualified under the requirements of Supreme Court Rules.

A copy of criminal procedure forms for general affidavit of qualifications of bondsmen shall be on file in each clerk's office.

This rule shall in no way alter or amend other requirements imposed by law upon bail bondsmen, agents and sureties.

67.1.2 Motions to Set Bond and for Bond Reduction

Motions to set bond or for bond reductions shall be made in writing and be filed with the division clerk where the case is pending. Such motions shall be "noticed up" to allow the prosecuting attorney sufficient time to inform witnesses and/or victims, if required under § 595.209 RSMo.

67.1.3 Deposit of Operator's License

(No Local Rule)

67.2 Preliminary Hearing

Upon the filing of a felony information in this circuit after a waiver of preliminary hearing, the case may be heard by the judge that accepted the waiver by agreement of the parties and the judge, notwithstanding the prohibition of § 478.240.2(2) RSMo.

67.3 Grand Jury

(No Local Rule)

67.4 Attorneys

(No Local Rule)

67.5 Arraignments

67.5.1 Defendants in felony criminal cases shall normally be arraigned in Division One on the next following Criminal Law Day after being bound over from Division Two.

67.5.2 If the defendant enters a plea of not guilty on such Law Day, a date shall be set for the filing and hearing of all pretrial motions and the judge will set the case for trial.

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

In all cases where pleas of guilty are to be entered in Division I, the defendant shall personally execute a form provided by the circuit clerk on which form the defendant answers each and every question, which completed form shall be designated and marked by the court reporter as Exhibit A and shall be signed before the circuit clerk.

67.9.2 Petition to Enter a Plea of Guilty

See Local Rule 67.9.1

67.10 Docket

See Local Rule 36.1.1.

67.11 Probation and Parole

(No Local Rule)

## Rule 68: DISSOLUTION OF MARRIAGE AND CHILD CUSTODY PROCEEDINGS

### 68.1 Filing Requirements

68.1.1. In any proceeding commenced pursuant to chapter 452, *Dissolution of Marriage*, the petition, a motion to modify, a motion for family access order and a motion for contempt shall be verified and shall otherwise comply with all requirements of § 452.310 RSMo., including submission of a proposed parenting plan by the petitioner and the respondent within thirty days after service of process or the filing of the entry of appearance, whichever first occurs.

68.1.2. The Missouri Department of Health Certificate of Dissolution of Marriage shall be completed and filed with the Petition for Dissolution of Marriage.

### 68.2 Temporary Custody and Visitation

Upon the filing of a verified petition for dissolution of marriage or legal separation, until permitted by court order, neither party may remove the minor child from the parent with whom the child has primarily resided for the sixty days immediately preceding the filing. If the proposed parenting plans of the parties differ and the parties cannot resolve the differences, or if any party fails to file a proposed parenting plan,, upon motion of either party and an opportunity for the parties to be heard, the court shall enter a temporary order containing a parenting plan in accordance with §452.310.7 RSMo. Supp. 1998, which shall remain in effect until further court order. The temporary order shall not create a preference for the court in its adjudication of final custody, child support, or visitation.

### 68.3 Interrogatories

Absent leave of court, initial interrogatories shall be limited to the approved form interrogatories designated on Form DR-2, which are available from the circuit clerk.

### 68.4 Separation Agreement

In all cases where written separation agreements are made under the provisions of § 452.325, RSMo., a copy of such executed agreements shall be submitted to the trial judge on or before the date of the hearing.

### 68.5 Proposed Judgment

At the time of hearing of any uncontested dissolution proceeding counsel shall submit a proposed judgment entry. Any proposed judgment shall be

filed with a completed Missouri Department of Health Certificate of Dissolution of Marriage and a completed Information Statement to the Circuit Court for the Processing of Maintenance and Child Support Payments, if appropriate (forms available from the circuit clerk). A parenting plan that sets forth the arrangement specified in §452.310.7 RSMo. must also be included in any judgment providing for custody. §452.375.9 RSMo. Supp. 1998.

68.6 Filing of Form Dr-1 and Form 14 Required Prior to Trial

A joint DR-1 form must be completed in full and filed (together with a completed Form 14 if child support is an issue) by each party, not less than three days prior to trial. Failure to complete or submit these forms may result in the exclusion of such evidence.

Before the conclusion of trial, the Court shall be provided with an electronic copy of the joint DR-1 on CD or by email.

68.7 Educational Sessions

Prior to entry of a final judgment containing any child custody or visitation provisions, each parent must provide proof of completion of educational sessions concerning the effect of custody and dissolution of marriage on children i.a.w. § 452.372.1 RSMo.

68.8 Modification of Decree

See Local Rule 68.5.

68.9 <u>ENTRY OF JUDGMENT UPON AFFIDAVIT - REQUIREMENTS</u>

**68.9.1 Final Orders Entered – When.** Final orders in a proceeding for Dissolution of Marriage or Legal Separation, Motions to Modify, and actions for Declaration of Paternity may be entered upon the affidavit of either or both parties when:

(1) There are no minor children of the parties and the female party is not pregnant, or one of the parties is represented by counsel and the parties have entered into a written agreement determining custody and child support; and

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

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

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

68.9.2. Affidavit – Filing. If one party desires to submit the matter for entry of final orders upon an affidavit, the submitting party shall file an affidavit (Form DR-3).

68.10 Interim Family Law Order

Interim Family Law Order. In all proceedings for Dissolution of Marriage or Legal Separation the Court hereby enters the Interim Family Law Order (Form DR-4). In any such proceeding the Clerk of the Court shall attach the Interim Family Law Order (Form DR-4), to the Summons or serve a copy of such Interim Family Law Order (Form DR-4) on the parties at the addresses specified in the petition. Proof of mailing by the clerk shall constitute notice as required in this rule.

RULE 69: MUNICIPAL DIVISION

(No Local Rule)

RULE 70: PARTITION

(No Local Rule)

RULE 71: ADMINISTRATIVE REVIEWS

(No Local Rule)

RULE 72: PROBATE

The associate circuit judge assigned to Division Three in each county shall make all rules with respect to probate proceedings in such county.

RULE 73: SMALL CLAIMS

All rules with respect to proceedings in small claims cases shall be made by the associate circuit judge or judges assigned to hear small claims in each county.

RULE 74: TRUST ESTATES

(No Local Rule)

74.1 Inventory

(No Local Rule)

74.2 Reports

(No Local Rule)

74.3 Record

(No Local Rule)

74.4 Audit

(No Local Rule)

RULE 81: EXECUTION

(No Local Rule)

RULE 82: GARNISHMENT

(No Local Rule)

RULE 83: JUDICIAL SALES

(No Local Rule)

RULE 100: PRESIDING JUDGE

100.1 The presiding judge shall be the circuit judge for the 39th Judicial Circuit.

100.2 An original copy of these rules shall be on file with the circuit clerk of each county who shall make duplicate copies available at a cost of no more than $5.00 per set.

100.3 Library Fund

The law library fund surcharge on all civil cases filed in the circuit court in each county shall be $15.00 as authorized by Section 488.426 RSMo.

The circuit clerk of each county shall serve as treasurer of the library fund for that county and shall maintain the same in an interest bearing account requiring the signature of at least 1 associate circuit judge in that county and the circuit clerk.

Funds may only be disbursed by the treasurer upon request of both associate judges in that County or upon the approval of the presiding judge and said funds shall only be used for the purposes described in Section 488.429 RSMo.

100.4 Storage of Records

100.4.1 Reproduction, 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 Filed 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 Material and Space for Storage of Court Reporter Notes

(No Local Rule)

100.4.11 Procedure for Examination of Criminal Records

(No Local Rule)

100.4.12 Procedure for Expunging and Closing Criminal Records

(No Local Rule)

100.5 Clerk's Duties

100.5.1 Moneys Paid into Court - No moneys paid into court shall be accepted other than payments in cash, credit and/or debit cards or by negotiable instrument.

100.5.2 A fee of $25.00 shall be charged for each negotiable instrument returned unpaid from a bank or other financial institution for any reason.

100.6 Selection of Veniremen

(No Local Rule)

# MISCELLANEOUS RULES

## RULE 101 PRESENCE OF SHERIFF AND CLERK REQUIRED

The sheriff or deputy sheriff and the circuit clerk or a deputy circuit clerk shall be in the Division One courtroom at all times when court is in session unless excused by the judge then presiding. The sheriff or deputy sheriff shall perform the duties of bailiff and shall maintain order in the courtroom. The circuit clerk or a deputy circuit clerk shall administer such oaths as are required to bailiff, jurors, and witnesses.

## CERTIFICATION PAGE

The above and foregoing forty-two (42) pages comprise the rules of the 39th Judicial Circuit, State of Missouri, approved by the court *en banc* on January 13, 2012, to become effective on March 1, 2012.

Executed this 27th day of January, 2012.

Signed: _____
Robert S. Wiley, Presiding Judge
39th Judicial Circuit