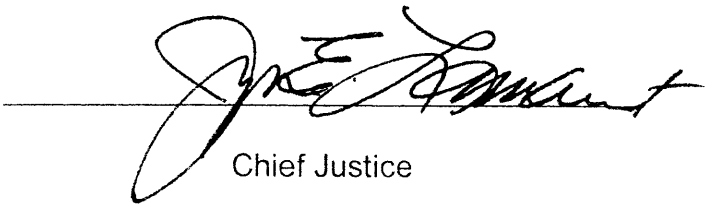
Supreme Court of Kentucky

IN RE: **Order Approving Amendments to the Rules of Practice and Procedure of the 14th Judicial Circuit, Bourbon, Scott and Woodford Counties**

The amendments to the Rules of Practice and Procedure of the 14th Judicial Circuit, Bourbon, Scott and Woodford Counties, are hereby approved.

ENTERED: September 5, 2002.



Chief Justice

RULES OF PRACTICE AND PROCEDURE
OF THE
14TH JUDICIAL CIRCUIT
BOURBON, SCOTT and WOODFORD COUNTIES

PREAMBLE

Since the Civil Rules set forth all basic requirements for the operation of Circuit Courts, these special or local rules are intended to direct procedural matters not specifically addressed in the Civil Rules, yet necessary to expedite the business of the courts. The efficacy of the local "Rules of Practice and Procedure of the Fourteenth Judicial Circuit" in facilitating the Court's business has been demonstrated over the thirteen years since they were last approved in October of 1987. This present revision of the "Local Rules" was largely mandated by the addition of a second judgeship to the Fourteenth Circuit in January, 2000. This revision does not substantially alter the previous rules, but rather attempts to codify those "housekeeping" procedures attendant to the partition of the Court into two separate Divisions.

All persons practicing in the Fourteenth Judicial Circuit should acquaint themselves with and comply with and be governed by these Local Rules.

I. CITATION OF RULES

These Rules may be cited as RBSWJC or Rules of Bourbon, Scott, Woodford Judicial Circuit.

II. COMPOSITION OF CIRCUIT

A. The Fourteenth Judicial Circuit, consisting of the Bourbon Circuit Court, Scott Circuit Court and Woodford Circuit Court, shall be composed of a criminal branch and a civil branch. The criminal branch shall have exclusive jurisdiction of all criminal causes and the civil branch shall have jurisdiction of all other causes within the jurisdiction of the Circuit Court

B. Divisions

The Fourteenth Judicial Circuit is court of continuous session. It consists of two (2) numbered divisions.

C. Division One shall be presided over by the judge elected in January, 1998, and his successors.

D. Division Two shall be presided over by the judge elected in January, 2000, and his successors.

III. CASE ASSIGNMENTS

A. All odd-numbered cases existing in January, 2000, shall be assigned to Division One; and

B. All even-numbered cases existing in January, 2000 shall be assigned to Division Two.

C. Civil Cases

1. In each county cases shall be assigned to each division by a drawing to be conducted periodically by the Circuit Clerk of that county.
2. Except as otherwise directed by the Court, any case dismissed that is later refiled will be assigned to the same division.
3. Adoption cases shall be assigned as civil cases.

D. Criminal Cases

1. Upon return of indictments, the presiding judge shall deliver the same to the clerk who shall assign them to each division in the same manner as the civil cases are assigned.
2. For purposes of case assignment, multiple indictments for the same defendant or defendants on charges growing out of same or similar alleged facts shall be considered as one case even though other defendants may be named in one or more of the same. An indictment naming one or more defendant shall also be considered as one case.
3. All appeals shall be assigned in the same manner as the civil and criminal cases are assigned.

E. Ex Parte Applications

In ex parte applications for orders of attachment, restraining orders, appointment of guardian ad litem, and emergency situations, said matter may be presented to the nearest available judge without regard to which division the case may have been previously assigned.

F. Disqualifications and Recusals

1. In all instances where the judge otherwise assigned to the case is disqualified by motion and affidavit of a litigant or attorney, the procedure provided by statute shall be followed.
2. In those instances where the judge otherwise assigned to the case recuses him/herself from the case, the judge of the other division shall preside over the case.
3. In the event of recusal, absence or illness of the judges of both divisions, the Chief Judge of the Bluegrass Region shall be requested to appoint a special judge to preside over the case.

G. Balancing of Dockets

In the event the dockets of the two (2) divisions become disparate in workload due to unduly burdensome cases or unanticipated problems in one of the divisions, or other good and sufficient reason, the Chief Judge may make such reassignments of cases as will aid in the expeditious disposition of cases and the orderly flow of Court business.

H. Separate Dockets

The clerk of each Circuit Court shall maintain a separate civil motion docket and a separate criminal motion docket for each division of the Court.

IV. MOTION DAYS

A. Motion Days shall be held in each division of each Circuit Court at least once every month.

B. Bourbon Motion Days

1. Civil Motions shall be held on the first Tuesday of the month
   a. at 9:00 A.M. in Division One; and
   b. at 1:00 P.M. in Division Two.

2. Criminal Motions shall be held on the second Tuesday of the month
   a. at 9:00 A.M. in Division One; and
   b. at 1:00 P.M. in Division Two.

C. Scott Motion Days

1. Civil Motions shall be held on the first Thursday of the month
   a. at 9:00 A.M. in Division One; and
   b. at 1:00 P.M. in Division Two.

2. Criminal Motions shall be held on first Monday of the month
   a. at 9:00 A.M. in Division One; and
   b. at 3:00 P.M. in Division Two.

D. Woodford Motion Days

1. Civil Motions shall be held on the second Wednesday of the month:
   a. at 9:00 A.M. in Division One; and
   b. at 1:00 P.M. in Division Two.

2. Criminal Motions shall be held on the first Wednesday of the month:
   a. at 9:00 A.M. in Division One; and
   b. at 1:00 P.M. in Division Two.

E. If a regular Motion Day falls on a legal holiday, said Motion Day shall be held on the following day unless otherwise ordered by the Court.

V. JURY TERMS

A. A petit jury panel and a grand jury shall be impaneled in each county three times during the year and at such other times as the Court may deem necessary. The dates the grand jury and the petit jury panel are impaneled are the first Friday (unless otherwise directed by the Court) of the following months:

1. Bourbon County: January, April, September
   a. The judge of Division One shall preside over the jury sessions of the Bourbon Circuit Court during:
      i. the month of April in odd-numbered years; and
      ii. the months of January and September in even-numbered years.
   b. The judge of Division Two shall preside over the jury sessions of the Bourbon Circuit Court during:
      i. the months of January and September in odd-numbered years; and

ii. the month of April in even-numbered years.

2. Scott County: February, May, October
   a. The judge of Division One shall preside over the jury sessions of the Scott Circuit Court during:
      i. the month of May in odd-numbered years; and
      ii. the months of February and October in even-numbered years.
   b. The judge of Division Two shall preside over the jury sessions of the Scott Circuit Court during:
      i. the months of February and October in odd-numbered years; and
      ii. the month of May in even-numbered years.

3. Woodford County: February, July, November
   a. The judge of Division One shall preside over the jury sessions of the Woodford Circuit Court during:
      i. the months of February and November in odd-numbered years; and
      ii. the month of July in even-numbered years.
   b. The judge of Division Two shall preside over the jury sessions of the Woodford Circuit Court during:
      i. the month of July in odd-numbered years; and
      ii. the months of February and November in even-numbered years.

B. Upon return of indictments, the presiding judge shall deliver them to the Circuit Clerk, who shall assign them to each division in the same manner as civil cases are assigned.

RULES FOR CIVIL ACTIONS

VI. ASSIGNMENT OF CIVIL JURY CASES

The presiding Court may assign any action to a day certain for trial by jury or for a pretrial conference, or make such other order as may be appropriate. Unless there are exceptional reasons, jury actions shall be assigned at least two (2) weeks in advance of trial.

VII. SETTLEMENT CONFERENCES

A. The Court may, at its discretion, order settlement conferences in civil

cases. All clients and principals must be in attendance. When an insurer is defending, a representative of the carrier or counsel with full authority up to the policy limits must also be present.

B. All parties shall prepare and submit to the judge a written statement of the facts that prove right of recovery, items and amounts of special damages, nature and extent of injuries incurred and claimed residuals documented by a medical report when possible, any wage loss claims showing method of computation, and any claim for future medical expenses and earnings lost. It also shall include the last demand and offer made.

VIII. PRETRIAL CONFERENCE IN CIVIL CASES

A. Pretrial conferences shall be held as a matter of course in all jury actions and upon the motion of either party or upon the Court's own motion in all other actions.

B. Pretrial conferences in all jury actions shall be assigned to be held at such time as shall be designated by the Court. The attorney attending the pretrial conference shall be familiar with the case and shall be prepared and authorized to make such arguments, stipulations and decisions as may be required during the conference.

C. Except for good cause shown, before a case is heard at the pretrial conference, the parties shall comply with the following:

1. Pleadings completed and issues compiled.
2. Discovery proceedings complete.
3. At or before the pretrial conference, submit written instructions incorporating the parties' then written understanding of the issues in the law without prejudice to the right to present further instructions as may be indicated by subsequent proceedings.
4. Be prepared to stipulate certain facts as to admissibility of certain documents or other evidence or withdraw certain allegations of the defenses appearing in the pleading whenever possible and if it can be done without prejudice to the presentation of the case by either party.
5. In tort actions involving personal injury, be prepared to exchange such medical reports and copies of medical bills or evidence of special damages as are subject to discovery under the Civil Rules.

D. If a pretrial order is not entered at the time, the attorneys shall be responsible for preparation and submission of a pretrial order,

incorporating the Court's rulings, agreements or stipulations of the parties in any matter designated by the Court not later than ten (10) days following the pretrial conference. The Court may require each party to submit a trial brief, consisting of a short memorandum of his/her view of the facts and law on which s/he will rely and, if so, the Court shall fix the time for filing such briefs in the pretrial order.

E. At the pretrial conference, any action may be assigned or reassigned to a definite date for trial and the Court shall consider the following:

1. If the parties have not complied with the provisions of these Rules, the Court may decline to set the case for trial, and refuse to continue the trial of the case, or take such other action as may be deemed appropriate.
2. Cases that have been previously assigned for trial and continued shall not be given preference as to trial date, except in those cases where good cause appears for giving such preference.

F. The conclusion date of a trial or hearing in which a commissioner or hearing officer presided shall be that date when an order of submission is entered by such commissioner or hearing officer.

IX. PROCEDURE ON RULES FOR CONTEMPT

The proper procedure in procuring a rule for contempt is as follows:

A motion should be filed asking for the rule and this should be supported by a sufficient affidavit showing that applicant is entitled to the rule. When this motion and affidavit are filed, a rule may be issued ex parte, which rule shall not come on for hearing sooner than five (5) days after the date that the rule is served, unless otherwise ordered, and no rule shall be heard unless it has been served on the person in contempt by an officer authorized to serve a summons. The rule shall contain a short statement of the grounds for its issuance.

X. DISMISSAL OF ACTION FOR FAILURE TO PROSECUTE

To conform to the provisions of Civil Rule 41.02 and Civil Rule 77.02(2), any cause which has remained on the docket for a period of one year with no action being taken, may be dismissed for failure to prosecute on the motion of either party or on the Court's own motion.

XI. COURT REPORTER

The Circuit Judge or the Circuit Clerk shall arrange for a court reporter to be present at all criminal rule days and at all trials, both civil and criminal, and by the Court and by jury. Should a party want a court reporter to be present at any civil hearing, the responsibility for arranging for a court reporter shall lie with that party.

XII. RECORDS OF PROCEEDINGS

In all cases in which the court reporter has made stenographic notes of the proceeding, upon motion of any party, the Court shall order the court reporter to make a full and accurate transcript of the proceedings as may be required. In the absence of such motion, the court reporter will be under no duty to prepare any transcript or copies thereof of any proceedings. Any order directing the court reporter to file a transcript of any proceeding shall specify which party shall pay for the transcript and any copies thereof.

XIII. MOTIONS AND MOTIONS DOCKET

Form of Motion and Docketing

A. Written motions other than those that may be heard ex parte, and notice of hearing thereof, shall be served at least six (6) days before the time specified for the hearing, unless a different period is fixed by the Civil Rules, any applicable statute, or by Court order.

B. Each motion shall be assigned for hearing on the first motion date at which it can be lawfully heard under the Civil Rules, these Local Rules and any applicable statute, unless otherwise ordered. Notice of the motion shall specify the date, time and place of the hearing.

C. The Circuit Clerk shall keep a motion docket for each division of the Court, on which s/he shall docket in order all motions assigned for hearing on each motion day, either by Court order or by notice duly served. This motion docket shall be called on motion day and, unless otherwise ordered, the motions will be heard in the order docketed.

D. Every motion, other than ones which may be heard ex parte, shall appear upon the motion docket; except that any motion which is accompanied by an agreed order signed by counsel for all parties affected by that order, shall not appear on the motion docket. All motions going to the merits of

the case, including motions to dismiss, motions for summary judgment, motions to strike and motions under Civil Rule 12.02 shall be accompanied by a brief statement of the grounds for the motion with citation of authorities relied upon. Failure to file a statement of grounds with supporting authorities may be grounds for overruling the motion. Any party properly served with a motion accompanied by a statement of grounds and authority shall file a response containing a statement of grounds for opposing the motion with citation of supporting authorities. Such response shall be filed at or prior to the time specified in the notice of hearing of the motion. Failure to file a response may be grounds for sustaining the motion, but the time for filing a response may be extended for good cause shown.

E. If an agreed order signed by counsel for all parties affected is submitted to the Circuit Clerk prior to the call of the motion docket, counsel need not attend the call of the motion docket.

F. Non-jury cases will be assigned for trial only upon motion at the call of the motion docket, at which time the Court shall be informed of the probable duration of the trial or any conflicting trial obligations of counsel for the parties.

G. No motion or actions shall be placed on the motion docket unless a notice is filed or request made before the close of business, at least six (6) days preceding the motion day designation on the notice, and at said hour the Clerk shall sign the docket on the line after the last entry.

H. Copies of out-of-state authorities or federal cases cited in briefs to the Court shall be attached to the briefs or memorandum for the Court and counsel.

I. Copies of the relevant portions of depositions relied upon in briefs to the Court shall be attached to the briefs or memorandum for the Court and counsel.

XIV. ENTRY OF ORDERS AND JUDGMENTS

Whenever any ruling is made or opinion rendered, an order or judgment in conformity therewith shall be attested by counsel for all parties thereto as in conformity to the ruling or opinion, and shall be presented to the Court. If the party against whom the order or judgment is to be entered is not represented by counsel, or is represented by counsel who declines to attest the order or judgment, such facts shall be endorsed thereon. All proposed orders, tendered by an

attorney to another attorney, must be returned within seven (7) days to the tendering attorney, either signed or marked refused to sign.

When signed by the judge, the order or judgment shall be delivered to the Clerk for entry. The counsel preparing the order or judgment shall also deliver to the Clerk a sufficient number of copies, together with properly addressed stamped envelopes to permit the Clerk to complete service thereof when required by Civil Rule 77.04. Counsel may waive service of any order or judgment, and notice of entry.

XV. DEFAULT JUDGMENT

Except as provided for in Article XXXVIII of these Rules, a party seeking a judgment by default where Rules 55.01, 5.01 or 6.03 of the Civil Rules apply, shall file a written motion which must appear on the motion docket. Said motion must be accompanied by a certificate of the attorney that no papers have been served upon him by the party in default. The judgment, when presented to the Court, must also contain a certification by the attorney for the party seeking such a judgment that no papers have been served upon him by the party in default.

When a case is submitted for judgment by default, the entire record in the case and the proposed judgment shall be delivered by the party seeking judgment.

XVI. MOTIONS, PLEADINGS AND BRIEFS

All motions, pleadings and orders shall be typewritten on 16 lb. or heavier white opaque unglazed paper, 8 ½" - 11", and the ink shall be sufficiently dark so as to be easily legible. All motions, pleadings and orders shall be double-spaced, except for legal descriptions of real property, and shall be written in not smaller than a 12 point font.

XVII. ANSWERING INTERROGATORIES OR REQUESTS

When answering interrogatories or requests for admissions, the replying party shall, as part of his/her answer, set forth immediately preceding the answer, the question or request made with respect to which the answer is given.

XVIII. DEPOSITIONS

All depositions shall be filed with the Circuit Clerk in which the action is

pending, or send it by registered mail to the Clerk for filing.

XIX. EXHIBITS TO PLEADINGS

If any exhibit or copy thereof, referred to in a pleading as part thereof, be not filed and served upon the opposing party if service is required of the pleadings, the opposing party shall not be required to file a responsive pleading thereto until the same shall have been filed, and a copy thereof delivered to him or to his counsel. The opposing party, at his/her election, may require such exhibit be filed under the penalty of the complaint, or if referred to in any other pleading, of such other pleading being stricken from the record. Photostatic copies of exhibits may be used if legible.

XX. ORDER OF SUBMISSION

A. Upon submission of any action to the Court for final judgment, the parties shall prepare and present to the Court an order of submission setting forth in particular the issue or issues on which the action is submitted.

B. An action shall be submitted only upon the entry of an order of submission.

C. No further pleadings, proof or briefs shall be filed after the entry of the order of submission, unless ordered or allowed by the Court for good cause shown.

D. The Court may, but need not, pass upon any such motion before such order of submission.

E. The conclusion date of a trial or hearing in which a commissioner or hearing officer presided, shall be that date when an order of submission is entered by such commissioner or hearing officer.

XXI. ALTERNATE DISPUTE RESOLUTION

A. PREAMBLE AND SCOPE

The Courts of the Fourteenth Judicial Circuit find that under some circumstances the process known as mediation may provide an efficient and cost-effective alternative to traditional litigation and, further, that the wise and judicious use of mediation may benefit litigants. Mediation is

intended to help both litigants and the Courts facilitate the settlement of disputes. Litigants should participate in good faith, and in an earnest attempt to resolve their differences. This Rule refers to mediation. Nothing in this Rule shall prohibit parties from resolving disputes through other methods. However, in any case where one party may pose a risk of harm to another party or family member, mediation should not be used.

B. MEDIATION DEFINED

Mediation is an informal process in which a neutral third person(s) called a mediator facilitates the resolution of a dispute between two or more parties. The process is designed to help disputing parties reach an agreement on all or part of the issues in dispute. Decision-making authority remains with the parties, not the mediator. The mediator assists the parties in identifying issues, fostering joint problem-solving and exploring settlement alternatives.

C. REFERRAL OF CASES TO MEDIATION

At any time on its own motion or on motion of any party, the Court may refer a case or portion of a case for mediation. In this decision, the Court shall consider:

1. the stage of the litigation, including the need for discovery, and the extent to which it has been conducted;
2. the nature of the issues to be resolved;
3. the value to the parties of confidentiality, rapid resolution, or the promotion or maintenance of on-going relationships;
4. the willingness of the parties to mutually resolve their dispute;
5. other attempts at dispute resolution; and
6. the ability of the parties to participate in the mediation process.

D. NO STAY OF PROCEEDINGS

Unless otherwise ordered by the Court, mediation shall not stay any other proceedings.

E. APPOINTMENT OF MEDIATOR

Within fifteen (15) days of referral, the parties shall agree on a mediator or a mediation service. If the parties cannot agree, they shall notify the Court, which will select a mediator or mediation service.

F. MEDIATOR COMPENSATION

The mediator shall be compensated at the rate agreed between the mediator and the parties if the mediator is chosen by agreement. If the mediator is appointed by the Court, the fee of the mediator shall be reasonable and no greater than the mediator's standard rate as a mediator. Unless otherwise agreed by the parties, or ordered by the Court, the parties shall equally divide the mediator's professional fees.

G. MEDIATION PROCEDURE

Following selection of the mediator, the mediator shall set an initial mediation conference within thirty (30) days. The mediation conference shall be held in the county in which the case is pending, or at a site agreed upon by the parties. The mediator may meet with the parties or their counsel prior to the mediation conference for the purpose of establishing a procedure for the mediation conference. The mediator may require the parties to submit a confidential statement of the case or other materials that the mediator may reasonably believe appropriate for efficiently conducting the mediation conference.

H. ATTENDANCE AT MEDIATION CONFERENCE

The parties must attend the mediation conference. Counsel shall attend the mediation conference unless otherwise agreed to by the parties and the mediator, or ordered by the Court.

1. If a party is a public entity, it shall appear by the physical presence of a representative with full authority to negotiate on behalf of the entity, and to recommend settlement to the appropriate decision making body or officer of the entity.
2. If a party is an organization other than a public entity, it shall appear by the physical presence of a representative, other than the party's counsel of record, who has full authority to settle without further consultation.
3. If any party is insured for the claim in dispute, that party shall also be required to have its insurer(s) present by the physical presence of a representative of the insurance carrier(s) who is not that carrier's outside counsel, and who possesses full settlement authority.

The foregoing requirements of attendance may be varied only by stipulation of the parties, or by order of the Court for good cause shown.

I. COMPLETION OR TERMINATION OF MEDIATION

The mediator may terminate the mediation conference after a settlement is reached, or when the mediator determines that continuation of the process would be unproductive. After the initial mediation conference, mediation shall continue only by agreement of the parties, their counsel and the mediator, or by order of the Court.

J. REPORT TO THE COURT

The mediator shall report to the Court that the mediation has not occurred, has not been completed, or has been completed with or without an agreement on any or all issues. With the consent of the parties, the mediator may also identify those matters which, if resolved or completed, would facilitate the possibility of a settlement.

K. AGREEMENT

If an agreement is reached during the mediation conference, it shall be reduced to writing and signed by the parties. The parties shall be responsible for the drafting of the agreement, although the mediator may assist in the drafting of the agreement with the consent of the parties.

L. CONFIDENTIALITY

1. Mediation sessions shall be closed to all persons other than the parties, their legal representatives and other persons invited by the mediator with the consent of the parties.
2. Mediation shall be regarded as settlement negotiations for purposes of K.R.E. 408.
3. Mediators shall not be subject to process requiring the disclosure of the disclosure of any matter discussed during the mediation, but rather, such matters shall be considered confidential and privileged in nature except on order of the Court for good cause shown. This privilege and immunity reside in the mediator and may not be waived by the parties.
4. Nothing in this rule shall prohibit the mediator from reporting abuse according to KRS 209.030, KRS 620.030, or applicable law.

RULES FOR CRIMINAL ACTIONS

XXII. CRIMINAL ARRAIGNMENTS

A. Subsequent to the return of indictments and case assignments, the judge of each division shall conduct arraignments on those cases which have been assigned to him/her, set bail and decide other matters appropriate at that

time.

B. Unless otherwise ordered, all defendants shall be arraigned in open court on the first criminal motion day following the return of an indictment or information unless there is insufficient time to give adequate notice of the arraignment, in which case the defendant will be arraigned at the following criminal motion day or as directed by the Court.

C. Both the defendant and his/her attorney must be present at the arraignment. If the defendant is not represented by an attorney, the Court shall, before his/her arraignment, appoint counsel to represent him/her at the arraignment.

D. The attorney appearing for the defendant at the arraignment shall represent the defendant in all future stages of the proceedings. An attorney shall not withdraw from employment after arraignment in a criminal proceeding without permission of the Court.

XXIII. PRETRIAL CONFERENCES IN CRIMINAL CASES

A. Following every arraignment, a pretrial conference shall be held as a matter of course in all criminal cases.

B. The prosecutor trying the case, the defendant's attorney and the defendant shall be in attendance at all pretrial conferences, and shall submit such written motions as s/he expects to offer in the case. No additional motions shall be offered after the pretrial conference, except by leave of the Court upon a showing of excusable neglect, or if it concerns a matter of which s/he was not aware or which did not come to his/her attention prior to the time of the pretrial conference, or in the interests of justice.

XXIV. TRIALS IN CRIMINAL CASES

A. Should the prosecutor attending the pretrial conference tender a plea recommendation, the Court shall set the case for the next Motion Day for either the entry of a plea or the setting of a trial date.

B. The Court may, at any time, reassign the trial of a criminal case to another date.

XXV. PLEA AGREEMENTS

All plea agreements between the Commonwealth and the defendant shall be reduced to writing and submitted to the Court prior to the entry of pleas made pursuant to such agreements.

XXVI. WITHDRAWAL BY RETAINED COUNSEL FROM CRIMINAL CASES ON APPEAL

A. Retained counsel shall secure permission of the Court before withdrawing as counsel for any defendant who has appealed a judgment of conviction.

B. Before permission to withdraw is granted, it shall be the responsibility of retained trial counsel to prepare and file the following:

1. Notice of Appeal pursuant to Criminal Rule 12.04 and Civil Rule 73.02;
2. Motion, Affidavit and Order for leave to appeal In Forma Pauperis;
3. Order directing preparation of the transcript; and
4. Order substituting the Public Defender's Office as counsel on appeal.

XXVII. PROBATION INSTALLMENT PAYMENT ALLOCATION

Unless otherwise ordered, when a defendant who has been sentenced to a sentence of probation makes an installment payment to the Circuit Court Clerk, the Clerk is directed to allocate said payment in the following order:

A. Payment of all Court costs.

B. Payment of the Crime Victim Compensation Fee.

C. Restitution ordered by the Court.

D. Attorney fees to the Public Defender's Office.

E. Probation Supervision Fee.

RULES FOR DOMESTIC RELATIONS MATTERS

XXVIII. COMMISSIONER FOR DOMESTIC RELATIONS MATTERS

The Fourteenth Judicial Circuit shall utilize a Commissioner for Domestic Relations Matters ("CDRM") to hear all matters pertaining thereto.

A. Appointment, Term and Qualification

The CDRM shall be appointed by the Chief Circuit Judge pursuant to Civil Rule 53.03 and shall have been licensed to practice law for at least eight (8) years at the time of the appointment.

B. Duties of the CDRM

The CDRM shall:

1. Hear all domestic relations matters filed in this Circuit and such other pending domestic relations cases as may be referred to him by the Court, excepting adoption cases or termination of parental rights cases.
2. Assign all such cases for hearing on proper motion, or on his own motion, in the respective counties of the Circuit in the Circuit Courtroom thereof or, in his discretion, at such other places in the Courthouse as may be deemed appropriate. All hearings shall be conducted in the county of the Circuit where the action is filed, except upon agreement of the parties.
3. After hearing all matters, submit his Findings of Fact, Conclusions of Law and Recommendations to the Court, within 30 days of final submission to the Commissioner of all evidence, arguments, or other documents ordered to be submitted.
4. Not hear or consider any proceedings until all costs, including the Commissioner's fee and the reporter's fee, if any, have been paid and payment endorsed on the record by the Circuit Clerk.
5. Be permitted to execute Orders and to make rules of procedure to expedite the assignment, hearing and final disposition of domestic relations cases, subject to approval of the Court.

C. Subject to these Local Rules, the CDRM shall exercise the power to regulate all proceedings in every hearing before him/her and to do all acts and take all measures necessary or proper for the efficient performance of his/her duties. S/he may require the production of all relevant evidence including books, papers, vouchers, documents and writings applicable thereto. S/he may rule upon the admissibility of evidence, and possesses the authority to put parties and/or witnesses under oath and examine them personally.

XXIX. DOMESTIC RULE DAYS

Domestic Rule Days shall be held in each county of the Circuit according to the following schedule:

A. Bourbon County: Second and fourth Monday of each month
   1. 9:00 A.M. - Uncontested dissolutions and motions for trial dates.
   2. 10:00 A.M. - Motion hour.
   3. Special hearings set per order of the CDRM.

B. Scott County: Second and Fourth Wednesday of each month
   1. 9:00 A.M. - Uncontested dissolutions and motions for trial dates.
   2. 10:00 A.M. - Motion hour.
   3. Special hearings set per order of CDRM.

C. Woodford County: Second and Fourth Thursday of each month
   1. 9:00 A.M. - Uncontested dissolutions and motions for trial dates.
   2. 10:00 A.M. - Motion hour.
   3. Special hearings set per order of CDRM.

D. Motions for Trial Dates

   All motions for trial dates shall be docketed for and heard at the 9:00 A.M. Motion Hour in Bourbon, Scott and Woodford counties.

E. All other motions

   Motions for which evidence is to be produced:
   1. solely by affidavit or by testimony of the parties shall be noticed for the 10.00 A.M. Motion Hour;
   2. other than by affidavits or testimony of the parties shall, upon appropriate motion notice, be assigned a Special Hearing date by the CDRM.
   3. All motions shall be filed with the Circuit Clerk no later than seven (7) days prior to the date scheduled for a hearing on said motion.

XXX. FEES

A. Upon the filing of any initiating pleading in an action to dissolve a marriage, or in matters dealing with child custody or support, there shall be paid to the Circuit Clerk, in addition to all other filing fees, the sum of $35.00 as the cost for a final hearing or recommended concluding Order of Judgement.

B. CDRM fees not otherwise covered in this section shall be at the hourly rate of $60.00, to be determined in half hour increments with a minimum of $50.00 for the first half hour.

C. Motion and Hearing Fees

1. The CDRM fee for any motion shall be at least $15.00. No motion shall be filed with any Circuit Clerk without prior payment of the fee having been received and duly noted in the record.
2. For Special Hearings, the CDRM shall enter an Order setting the date and estimating the length of time required for the hearing, the issues to be considered at the hearing, any other appropriate matters, and the estimated hearing and report fee. The hearing and report fee shall be paid in advance to the Circuit Clerk by the party or parties as set forth in the Order, and the CDRM shall not hear any contested matter for which the record does not indicate payment of related fees.
3. Matters may be scheduled at the discretion of the CDRM by telephone conference between the CDRM and all attorneys of record. The fee shall be $15.00.

D. If there exists unpaid fees due the CDRM, they shall be collectible as court costs upon recommendation of the CDRM and Order of the court.

XXXI. FINAL CONTESTED HEARINGS

A. After proper motion for a trial date, the CDRM shall schedule a final hearing on contested issues, in order to resolve all issues and make a recommendation to the Circuit Judge for a Final Order. Testimony, other than that of the parties, may be given by deposition, and final hearings shall not be scheduled prior to the completion and transcription of the depositions.

B. Time of Final Hearing or Submission

1. A proceeding for dissolution of marriage shall not be assigned for a final uncontested hearing or docketed for a final contested hearing until twenty (20) days (sixty [60] days if the parties have minor children) have passed since the Respondent has actually been served with a summons; is deemed to have been served by the filing of an Entry of Appearance; or a Verified Response has been filed.
2. If the service is effected by entry of a Warning Order, a proceeding

for dissolution of marriage shall not be assigned for final contested hearing until fifty (50) days (sixty [60] days if the parties have minor children) have passed since the entry of the Warning Order, provided the report drafted by the attorney filing the Warning Order has also been filed.

C. At least ten (10) days prior to a scheduled contested final hearing, each party shall submit to the Court, with service to the opposing party, a detailed verified disclosure statement. Said statement shall include the income and expenses of that party if child support or maintenance claims are being made, and a detailed schedule of all property held by that party.

D. Any and all values placed on assets owned by either party shall be supported by a report from an appraiser, unless the parties have stipulated to the value. If the disclosure reveals an asset, the value of which is being challenged by the opposing party, and should the appraiser not testify at the hearing, the hearing shall be postponed until such time as the deposition of the appraiser can be taken and supplied to the Court.

E. The disclosure shall include a detailed explanation of any property, or part thereof, which the party(s) claim to be non-marital. The disclosure shall also contain their position as to the contribution of each spouse in the acquisition of the marital property, which shall be the party's proposed percentage for the division of the marital estate.

F. No later than ten (10) days prior to any scheduled contested trial, the parties shall file in the record with service to the CDRM a Joint Trial Statement. The Joint Trial Statement shall contain stipulations by the parties, issues resolved by agreement of the parties, those issues to be resolved by the CDRM, the respective position of the parties as to the unresolved issues, and each party's proposed allocation of marital assets and debts.

XXXII. FORMS

A. Prior to a final hearing for recommendation to the Circuit Court, one or both parties shall present to the CDRM the proposed findings of fact on AOC Form 79-245, and a proposed Final Decree of Dissolution of Marriage.

B. At least one party shall attend the uncontested final hearing.

XXXIII. RECOMMENDATIONS TO THE COURT

A. The CDRM shall report by making findings of fact, conclusions of law and recommendations to the Court in all dissolution actions. All matters may be reported by any party, but such reporting shall be at the individual expense of the party requesting the same.

B. The CDRM's findings of fact, conclusions of law and recommendations shall be submitted to the Court, along with a proposed decree. Such proposed decree shall be drafted and submitted by one of the parties as directed by the CDRM. Each party shall be notified of the filing of the CDRM's report by the Circuit Clerk, pursuant to Civil Rule 53.06(1), unless waived in writing.

C. Appeals from the CDRM's report shall be styled "Exceptions to the Recommendations of the Commissioner on Domestic Relations Matters." Such motion shall briefly state express reasons for the exceptions taken. Petitioner shall schedule the hearing for the next available motion day. All such appeals may be heard de novo by the Court, or all or specific testimony be directed to be taken by deposition and then submitted to the Court, together with briefs.

D. Pursuant to Civil Rule 53.06(2), Pendente Lite matters are not subject to the taking of exceptions to the Court.

E. All hearings for temporary orders shall receive immediate action by the CDRM, and s/he shall inform all parties or their attorneys in an expeditious manner.

XXXIV. TEMPORARY MOTIONS

A. The CDRM, in his/her discretion, may rule upon any temporary motion relating to maintenance, support or custody upon the record, or may permit the introduction of evidence by oral testimony.

B. Motions for temporary child support shall be accompanied by a completed Child Support Guidelines Worksheet. Motions for temporary maintenance shall be accompanied by an affidavit setting forth the Movant's monthly income and expenses, and the Respondent's monthly income.

C. Notice of Hearing:

1. A notice of hearing shall accompany any motion for temporary

support, and shall contain the following information: "If you do not consent to pay the amount of support requested in the accompanying motion, you must file with the Court a completed Child Support Guidelines Worksheet prior to the time of the hearing."

2. A notice of hearing shall accompany any motion for temporary maintenance, and shall contain the following information: "If you do not consent to pay the amount of maintenance requested in the accompanying motion, you must file with the Court a responsive affidavit setting forth your monthly income and expenses prior to the time of the hearing."

D. Every motion to modify support shall set forth the current child support, and shall be accompanied by a completed Child Support Guidelines Worksheet.

XXXV. NOTICE

Timely notice as defined in these Rules of all hearings shall be given to all parties.

RULES FOR MASTER COMMISSIONER MATTERS

XXXVI. MASTER COMMISSIONER

The Fourteenth Judicial Circuit shall utilize a Master Commissioner vested with all the powers endowed by Chapter 31A of the Kentucky Revised Statutes and Civil Rules 53.01 and 53.02.

The Master Commissioner shall be appointed by the Chief Circuit Judge, and shall have been licensed to practice law at the time of the appointment.

XXXVII. PRACTICE BEFORE THE MASTER COMMISSIONER

A. References shall be made to the Master Commissioner as provided by the Kentucky Revised Statutes, by the Civil Rules, by these Local Rules or by Order of the Court in individual cases. The Order shall be sufficiently specific to indicate clearly the purposes of the references and the duties to be performed by the Master Commissioner thereunder.

B. An attested copy of the Order referring the case to the Master Commissioner shall be delivered to the Master Commissioner's office.

XXXVIII. JUDICIAL SALES

C. Master Commissioner Approval

In addition to the requirements of these Local Rules, all Judgments or Orders directing the sale of property by the Master Commissioner, directing the disbursement of monies held by the Master Commissioner, or directing the delivery of a deed shall be submitted to the Master Commissioner for review and certification that it complies with all applicable statutes and rules.

D. Deposit for Advertisement

1. When any Order is submitted to the Master Commissioner requiring advertisement, the submitting party shall deposit with the Master Commissioner an amount sufficient to pay the estimated costs of the proposed advertisement. The Master Commissioner shall have the authority to cancel the sale if such deposit is not made prior to the sale date.
2. When more than one sale is set for the same date, the Master Commissioner may advertise all such sales in one advertisement that includes the required information applicable to each action and sale. The total cost of advertising shall be apportioned among each of the various cases to which the advertisement applies.

E. Orders of Sale and/or Delivery of Deed

Every Order of Judgment of the Circuit Court directing the Master Commissioner to sell property or to execute or deliver a deed shall contain:

1. The legal description of the property including a street address (or if it has no street address, a brief description of its location and size);
2. The name of the party or parties whose interest is being sold or conveyed;
3. The source of the party or parties' title;
4. Terms specifying that said property shall be sold on a date and time to be fixed by the Master Commissioner at each respective county within the Circuit at the following locations, or at such

other location as Ordered by the Court:

a.	Bourbon County:	Courthouse Paris, Kentucky 40361
b.	Scott County:	Justice Building 119 N. Hamilton St. Georgetown, Kentucky 40324
c.	Woodford County	Courthouse 130 Court St. Versailles, Kentucky 40383

5. All unpaid real property taxes without necessity of including the appropriate taxing districts as a party, which taxes shall be collected and paid from the foreclosure proceeds. The taxing districts of the respective counties of Bourbon, Scott and Woodford shall not be required to file any response not make any appearance in foreclosure actions in order to protect their specific claim for the payment of all unpaid real property taxes.

F. Terms and Conditions of Sale

1. Before conducting a sale, the Master Commissioner shall place an advertisement in a newspaper meeting the requirements of KRS 424.120, and setting forth the time, terms, place of sale and description of the property to be sold. The advertisement shall appear once a week for at least three (3) consecutive weeks next preceding the date of sale.
2. If required by Order or statute, the Master Commissioner before making a sale of real property shall have the property appraised by two (2) intelligent disinterested housekeepers of each respective county who are not related to any parties to the action. Before making appraisals, the appraisers shall be sworn by the Master Commissioner. They shall return their appraisals in writing to the Master Commissioner who shall file same as a part of the record.
3. The property shall be sold to the highest bidder provided:
   a. At the time of sale the successful bidder shall either pay cash or make a deposit of 10% of the purchase price with the balance on credit for sixty (60) days. If the purchase price is not paid in full, the successful bidder shall be required to give bond with good surety as approved by the Master Commissioner for the unpaid purchase price. The bond shall bear interest at the rate of 12% per annum form

the date of the sale until paid.

b. The purchaser shall be required to assume and pay all taxes and assessments upon the property for the current tax year if not due and payable, and for all subsequent years. All taxes and assessments upon the property due and payable shall be paid from the sale proceeds if properly set forth in the record or claimed in writing filed of record by the purchaser prior to the payment of the purchase price.

c. The property shall otherwise be sold free and clear of any right, title or interest of all parties to the action and all liens and encumbrances thereon, excepting easements and restrictions of record in the County Clerk's Office of each respective county in which the property is located, and such right of redemption as may exist in favor of the United States of America or the defendant(s).

d. The terms and conditions hereinabove set out may be adopted by reference to this rule in the Order or Judgment directing the sale, or shall be restated therein.

4. A party who is the successful purchaser of the property may take credit against any Judgment in that party's favor against the defendant property owner for the required deposit and purchase price to the extent that the sale price is sufficient to pay such Judgment, considering the priorities and amounts previously adjudicated in the action.

G. Confirmation of Report of Sale

In cases in which all party defendants are in default, as well as cases in which no exceptions have been filed therein, the Master Commissioner after making the sale shall report his/her actions to the Court. Ten (10) days after the filing of that report, if no exceptions have been filed thereto and without motion, the sale shall be deemed confirmed and an Order confirming the sale, and sufficient copies thereof, shall be tendered to the Master Commissioner for entry with the Court. In all actions, the report of sale, after being submitted to the Master Commissioner for review, shall be confirmed after an appropriate hearing duly noticed and served upon the parties to the action not in default. A copy of the Order of Confirmation shall be served upon the purchaser.

H. Fees of the Master Commissioner

The Master Commissioner shall be entitled to those fees set forth in Part IV of the Administrative Procedures of the Court of Justice. In the event

the property is withdrawn, the Master Commissioner shall receive a fee of $100, or 50% of the sale fee based upon the appraised value of the property as allowed by the Court.

I. Orders of Distribution

1. Orders requiring distribution of funds held by the Master Commissioner shall set forth all amounts collected, identify the proper recipient(s) and the specific amounts due under the Judgment or Order.
2. For all disbursements to be made to taxing authorities, a copy of the pertinent tax bill(s) shall be furnished to the Master Commissioner, and set forth in the Order of Distribution relating to such sale.

J. Appraiser's Fees

1. In all sales of real estate where an appraisal is required, the fee of each appraiser shall be $100.00, unless otherwise ordered by the Court. The fee shall be paid from the proceeds of the sale.
2. In sales of real estate under Judgment or Decree of Court, where an appraisal of commercial industrial real estate or real estate consisting of multiple parcels is required, the Court may, by Order, allow a fee in addition to that set forth above, for the appraisement including the time, labor and skill involved therein.
3. In sales of personal property under Judgment or Decree of Court directing an appraisal of said personal property, the fee of each appraiser shall be fixed by the Court and shall be determined on such evidence as the Court may require regarding the kind and character of the property appraised; the number of items of property involved; its value, and the time, labor and skill involved in making said appraisal.

I. Auctioneer's Fees

In all sales of real estate where an auctioneer is required, the fee for the auctioneer shall be $150.00, unless otherwise ordered by the Court. The fee shall be paid from the proceeds of the sale.

XXXIX. WRIT OF POSSESSION AND ATTACHMENT PROCEDURE

A. Pursuant to KRS 425.006, the Master Commissioner is appointed a judicial officer of the Court to perform such duties as may be required of him/her by Chapter 425 of the Kentucky Revised Statutes

B. All requests for hearing or ex parte relief under provisions of Chapter 425 shall stand automatically referred, without Order, to the Master Commissioner's office for further proceedings.

C. When a hearing has been requested or is required, it shall be the responsibility of the attorney requesting the hearing to notify the Master Commissioner's office of the request, after which the Master Commissioner shall fix a time and place for the hearing and give written notice thereof to the parties.

D. Requests for Ex Parte and Temporary Restraining Orders shall be immediately delivered to the Master Commissioner, along with the record, by the Circuit Court Clerk or the attorney requesting relief. The Master Commissioner shall then make a determination on the matter.