# Supreme Court of Kentucky

ORDER

IN RE: ORDER APPROVING THE RULES OF PRACTICE AND PROCEDURE OF THE THIRTIETH JUDICIAL CIRCUIT, JEFFERSON CIRCUIT COURT

Upon recommendation of the Chief Judge of the Thirtieth Judicial Circuit, and being otherwise sufficiently advised,

The attached Rules of Practice and Procedure for the Thirtieth Judicial Circuit, Jefferson Circuit Court, are hereby approved. This Order shall be effective as of the date of this Order, and shall remain in effect until further orders of this Court.

ENTERED: July 11, 2006.

CHIEF JUSTICE

# Thirtieth Judicial Circuit

# Jefferson Circuit Court

# Rules of Practice and Procedure

April 18, 2006

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# RULE 1 INTRODUCTION

## 101 Purpose and Scope.

These are the uniform Rules of Practice of the Jefferson Circuit Court and shall be enforced in all divisions, except Family, of the Jefferson Circuit Court. These Rules supplement the Kentucky Rules of Civil Procedure and the Kentucky Rules of Criminal Procedure.

## 102 Effective Date.

The Rules shall be effective once approved by the Chief Justice of the Supreme Court of Kentucky.

Any previously adopted Rule of this Court in conflict with these new Rules is rescinded.

## 103 Citation.

These Rules shall be cited as Jefferson Rules of Practice (JRP).

## RULE 2 STATE HOLIDAYS

### 201 Holidays.

The Court shall be closed on the following holidays, subject to the policies of the Kentucky Administrative Office of the Courts:

| | |
|---|---|
| New Year's Day | January 1 |
| Martin Luther King, Jr. Day | Third Monday in January |
| Spring Holiday | Friday preceding Easter, half-day |
| Memorial Day | Last Monday in May |
| Independence Day | July 4 |
| Labor Day | First Monday in September |
| Presidential Election Day | First Tuesday in November |
| Veteran's Day | November 11 |
| Thanksgiving Day | Fourth Thursday in November |
| Christmas Day | December 25 |

An extra day is allotted for New Years, Thanksgiving and Christmas. When a holiday falls on a Saturday, the preceding Friday shall be observed as the holiday, and when a holiday falls on a Sunday, the following Monday shall be observed as the holiday.

### 202 Rescheduling for Reasons other than State Holidays.

The Court will grant timely requests to reschedule matters docketed in conflict with religious holidays, the Kentucky Bar Association's annual meeting, Prosecutors' conference, and the Department of Public Advocates' conference.

## RULE 3 MOTION HOUR

### 301 Regular Motion Hour Schedule

Motion hour shall be on Mondays according to the following schedule:

| | Criminal | Civil |
|---|---|---|
| Division 1 | 8:30 a.m. | 8:45 a.m. |
| Division 2 | 9:00 a.m. | 9:15 a.m. |
| Division 3 | 9:30 a.m. | 9:45 a.m. |
| Division 4 | 10:00 a.m. | 10:15 a.m. |
| Division 5 | 10:30 a.m. | 10:45 a.m. |
| Division 6 | 11:00 a.m. | 11:15 a.m. |
| Division 7 | 11:30 a.m. | 11:45 a.m. |
| Division 8 | 1:00 p.m. | 1:15 p.m. |
| Division 9 | 1:30 p.m. | 1:45 p.m. |
| Division 10 | 2:00 p.m. | 2:15 p.m. |
| Division 11 | 2:30 p.m. | 2:45 p.m. |
| Division 12 | 3:00 p.m. | 3:15 p.m. |
| Division 13 | 3:30 p.m. | 3:45 p.m. |

### 302 Exceptions to the Regular Motion Hour Schedule.

There shall be no motion hour during the week of a Judicial College. Whenever a state holiday falls on a Monday, the motion hour shall be held on the following Tuesday. If the court is closed for any unforeseen reason, i.e. inclement weather, the Motion Hour shall be passed to the following Monday.

### 303 Appearance of Criminal Defendants.

Criminal Defendants do not have to appear at motion hours, except for arraignment and when otherwise notified to do so.

## 304 Deadline for Serving and Filing Motions.

All motions, civil and criminal, to be heard at motion hours shall be filed and clocked no later than noon on the preceding Thursday, with service of copies to be mailed by Wednesday, or sent by facsimile or hand-delivered by noon on Thursday. Unless otherwise ordered by the Court, motions filed after noon on Thursday shall be automatically passed to the next following motion hour.

## 305 Motion Hour Docket.

Any motion on which arguments need to be heard may be passed to a hearing date or heard at the end of the motion hour docket.

# RULE 4 MOTION PRACTICE

## 401 Motions to Dismiss; Judgment on the Pleadings, and Summary Judgments.

Motions to dismiss, for judgment on the pleadings, and for summary judgment shall not be noticed for motion hour but shall be filed with a memorandum of authority not exceeding twenty-five (25) pages in length, in type no smaller than 12-point. An opposing party shall have twenty (20) days from the certification date on the motion to respond. A reply may be filed no later than ten (10) days after the filing of a response and shall not exceed five (5) pages in length, in type no smaller than 12-point. Prior to notice of submission, counsel may request oral argument. Counsel shall file Form AOC-280, Notice of Submission of Case for Final Adjudication, when the case is ready for submission.

## 402 Motions for Discovery Orders.

Counsel in civil and criminal cases shall make a good faith effort to resolve disputes among themselves which arise in the course of discovery. No motions pertaining to discovery shall be made to the Court without a certificate of counsel that she has conferred with opposing counsel, that they are unable to reconcile their differences and that she has otherwise exhausted all extrajudicial means in an effort to reconcile her differences with opposing counsel. To the extent that extrajudicial means have not disposed of the matter, a party may file an appropriate order under CR 37. The motion shall be accompanied by a supporting memorandum with citation to legal authority, if any. The motion and memorandum shall also be accompanied by a copy of the discovery requests in dispute. Response to the motion shall be filed pursuant to CR 37.

## 403 Motions for Default Judgment.

A. Motions for Default Judgment shall not be noticed for a hearing but shall stand submitted upon filing with the Court. If the Court determines a hearing is necessary under CR 55.01, a hearing date will be assigned and notice will be given to the movant.

B. All Motions for Default Judgment involving a liquidated claim shall be accompanied by the following Default Judgment Certificate, in addition to Military Affidavit, if a Military Affidavit is required by the Soldier and Sailor Relief Act, 50 U.S.C. App. 521:

DEFAULT JUDGMENT CERTIFICATE

Plaintiff, by counsel, certifies that:

1. No papers have been served on Plaintiff's counsel by Defendant(s) in default.

2. Defendant(s) were served on (date)_____ by (how served) _____.

3. The balance due is as follows:

   A. The amount of the original obligation is $_____.
   B. The amount paid by Defendant(s) to be deducted from the original obligation is $_____.
   C. If the obligation contains precomputed interest, and other precomputed charges, the amount to be deducted pursuant to statute is $_____.
   D. The balance due from Defendant(s) is $_____.
   E. If the balance due on line D above is different from the amount sought in the Default Judgment, the reason is _____ _____.

C. A claim for liquidated damages shall be supported by sufficient written documentation to establish that the amount claimed is accurate.

**404 Motions for Attorney's Fees**

All motions for attorney's fees shall be accompanied by an affidavit of counsel setting forth in detail the dates of the services rendered, the exact nature of the service rendered on each date, the names of the persons rendering the service (if paralegal or other counsel of record), and the number of hours (or fractions thereof) rendered by each person. The number of hours shall be totaled, and a suggested reasonable amount of compensation per hour shall be set forth. The affidavit must also disclose the statute or other authority supporting the requested award of an attorney's fee. If the applicable statute is KRS 411.195, then the affidavit must also contain a showing that the required attorney's fee was actually paid, or was agreed to be paid, by the party enforcing the written obligation. When a party seeking an award of an attorney's fee relies upon a writing to establish entitlement to the fee, a copy of the writing shall be attached with the applicable portion highlighted.

# RULE 5 COMMISSIONER PRACTICE

*The Master Commissioner's office has published "Guidelines for Lien Enforcement Actions in Jefferson County, Kentucky" to assist attorneys. This booklet is available at the Commissioner's Office. While not meant to be a legal treatise, the Guidelines are designed to help practitioners avoid common pitfalls in practice and contain helpful forms. The Court encourages practitioners to review these Guidelines as an adjunct to these Rules.*

## 501 References to Master Commissioner.

References shall be made to the Master Commissioner as provided by the Rules of Civil Procedure, by the Kentucky Revised Statutes, by these Rules, or by court order in individual cases. The order shall be sufficiently specific to indicate clearly the purposes of the reference and the duties to be performed by the Master Commissioner.

## 502 Judicial Sales.

A. Sales under Execution or Attachment. Unless specific provisions are made to the contrary in the judgment or order directing a sale, all judicial sales may be made by the Master Commissioner. The Sheriff shall make sales under execution or attachment.

B. Time and Place. Unless otherwise provided in the judgment or order of sale, all judicial sales by the Master Commissioner shall be held on Tuesday at or about 10:00 a.m., at a place designated by the Master Commissioner. During the conduct of a judicial sale, the Master Commissioner shall have power to keep order or may have the Jefferson County Sheriff do so.

C. Deposit – Resale if not Made. In every case, except where a person ordering the sale shall direct otherwise, the cash deposit specified in the order or judgment of sale shall be made. If the deposit is not made immediately, the Master Commissioner shall reject the bid and resell the property forthwith. In making a resale, the Master Commissioner shall receive no bid from the rejected bidder. A deposit paid to the Master Commissioner shall stop interest on the bid to the extent of the deposit as of the date of payment.

D. Amount To Be Raised.

1) Within five (5) days of scheduling a sale, the party requesting the sale shall file a statement of the amount to be raised and serve a copy on all parties and the Master Commissioner. A form for this statement may be obtained from the Commissioner's office. A new statement shall be filed if a sale is rescheduled. The statement shall itemize all amounts included in the party's judgment, current through the sale date and a per diem rate. The statement will not include court costs and reserved amounts.

2) Any other lien holder who has secured a judgment in the case shall file with the Master Commissioner and serve a copy on all parties, an updated statement of the amount to be raised, within five (5) days after submission of the original statement by the party requesting the sale. The updated statement shall itemize all amounts included in the party's judgment, current through the sale date and a per diem rate. (The updated statement shall also include the amounts to be raised by the party requesting the sale.) If a lien holder should secure a judgment after submission of any statement of the amount to be raised, but before the sale, then the lien holder shall also file an updated statement, no later than five (5) days after entry of the new judgment.

3) Any party may file a pleading in Court soliciting a pay off from the party requesting the sale and any other lien holders who have secured a judgment. The request shall be filed at least twenty (20) days before the sale. The party requesting the sale shall file the pay off statement within ten (10) working days. The pay off (s) shall include the amount to be raised, plus itemized current charges and costs.

4) The Commissioner's handbill shall advertise the amount to be raised as set forth on the most recently updated statement(s), thirty five (35) days before the sale.

5) The Commissioner shall withdraw the sale if the debtor pays the Receiver in full either the pay off (s) or the amount to be raised from the most recent statement, and files an affidavit that the pay off statement required by JRP 502D(3) was not filed.

E. Proceeds from Sale of Real Estate. The Master Commissioner shall collect the proceeds from sales of real estate and upon appropriate orders shall distribute the proceeds or a portion thereof to parties as approved by the Court. Any *ad valorem* taxes that are delinquent at the time of sale shall be paid out of the proceeds of sale regardless of the entity that is owed those taxes unless the entity owning the delinquent tax lien timely files a pleading demanding the property be sold subject to the taxes. This shall include any *ad valorem* taxes that have become delinquent while the action was pending.

**503 Bidding Procedures.**

Bids shall be increased in amounts equal to or greater than the following minimum increments: All bids between $500 and $50,000.00 shall be increased in increments of $500.00. Bids of $50,000.00 up to $100,000.00 shall be increased in increments of $1,000.00. All bids more than $100,000.00 shall be increased in increments of $2,000.00.

The Master Commissioner shall only accept bids which specifically state the amount of the bid and shall reject bids which only state the amount that the bid is to be increased.

If the required minimum increase would cause the party to the lawsuit to exceed their authorized maximum bid, a party to the lawsuit shall be allowed one final bid which is less than the above required minimum increase provided that the bid is stated to be a final bid. Non-parties to the lawsuit shall have no right to make a final bid.

**504 Advertisement of Sale.**

A. Deposit for Advertisement. When any order is entered requiring an advertisement or notice in any newspaper or handbill, the moving party shall deposit with the Master Commissioner an amount sufficient to pay the costs of the advertisement or notice. Until the deposit is made, the Master Commissioner shall not make the advertisement or publish the notice.

B. Cost of Advertisement. When more than one sale is set for the same date, all notices in any newspaper shall be advertised by one single item with the general information applicable to each sale appearing only once and the cost of advertising the general information equally apportioned to the cost of the sale of the various cases.

**505 Inclusion by Reference in Judgment of Procedure of Sale.**

Unless the judgment specifically states otherwise, every judgment directing the Master Commissioner to sell real estate will be considered to include the following provisions, which will be a part of the judgment by reference to this Rule:

The Master Commissioner is directed to sell the real estate described in the judgment at public auction to the highest bidder on some Tuesday morning about 10:00 a.m. Notice of the time and location of the sale shall be given in two ways: first by the posting of handbills at the Master Commissioner's office and on or near the property to be sold for at least ten (10) days prior to the date of sale, and second, by placing an advertisement once a week for three (3) successive weeks next preceding the sale in the daily newspaper of the largest circulation published in Jefferson County, Kentucky. The notice shall include the place, time and terms of the sale, along with a short description of the property to be sold.

The real estate shall be sold on terms of one-fourth down and the balance on credit of six (6) months, bearing interest at the rate of twelve percent (12%) per annum from date of sale. The one-fourth down and the provisions of KRS 426.705 must be complied with in a reasonable time not to exceed thirty (30) days from the date of sale. When the purchase price is paid, the deed will be delivered. Where the property sold includes insurable improvements, the successful bidder, at the bidder's own expense, shall carry fire and extended coverage insurance on the improvements from the date of the sale until the purchase price is paid to the extent obtainable or to the court appraised value of the improvements or to the unpaid balance of the purchase price, whichever is less as a minimum, with a loss clause payable first to the Master Commissioner of the Jefferson

Circuit Court, or first to the person or persons entitled under the judgment to receive the purchase price. Failure of the purchaser to effect the insurance shall not affect the validity of the sale or the purchaser's liability but shall allow the party or parties entitled to receive the purchase price to purchase this insurance and the premium paid, or the proper portion thereof, shall be charged to the purchaser as purchaser's costs.

**506 Confirmation**

A. Report of Sale. A successful bidder at a sale may move for an order confirming the sale ten (10) or more days after the filing of a Master Commissioner's Report of Sale. Otherwise, a motion for an order confirming the sale may be filed twenty (20) or more days after the filing of a Master Commissioner's Report of Sale. The motion shall be docketed for a hearing at motion hour unless (1) all parties who are not in default (including purchaser) waive notice; (2) the Plaintiff is the purchaser and all other parties are in default for failure to appear; or (3) the motion is automatically referred to the Master Commissioner under JRP 506B.

B. Cases to enforce Liens – Reference to Master Commissioner of Post Sale Motion.

After the judicial sale has taken place in the action involving the enforcement of any lien on real estate, motions made by any party may, at the option of the movant, stand automatically referred to the Master Commissioner to examine the record and report promptly as to what disposition should be made of the motion. A motion which is automatically referred under this Rule shall not be docketed for a hearing at a motion hour. Responses and objections to a motion so referred may be made in writing, shall not be noticed for a hearing and shall be filed directly with the Court. Such responses and objections shall be served within seven (7) days of service of the motion. Unless specifically limited by the Court in a particular action, the Master Commissioner has the general powers set out in CR 53.04 and 55.01, including the power to require the filing of briefs prior to making a report.

**507 Master Commissioner Reports.**

A. Reports of the Master Commissioner shall be confirmed by the Court without the necessity of motion if no objections are filed within the time period prescribed by Civil Rules, except as otherwise provided in JRP 506.

B. Except as provided in JRP 506, objections to a Master Commissioner's Report shall not be noticed for motion hour and shall be filed directly with the Court. A response to the objections may be filed within five (5) days of the filing of the objections. The objections will then stand submitted upon the filing of Form AOC 280. Prior to submission counsel may request a hearing.

C. Objections to the Master Commissioner's Report shall be made with particulars and with a memorandum of authorities, if appropriate.

**508 Master Commissioner's Fees.**

The Master Commissioner shall assess the following fees and expenses:

A. A sale fee shall be assessed for each judicial sale, which shall be a percentage, set forth below, of the final bid, or in the case of several lots sold at the same time under the same judgment, the aggregate of the final bids. The sale fee shall be as follows:

5% of the first $5,000
2% of the next $20,000
1 ½ % of the next $175,000
½% of the excess over $200,000

However, the fee shall never exceed $5,000.

The fee for each cancelled judicial sale shall be 50% of the proposed judicial sale fee, based upon the appraised value of the property, or a flat fee of $100 if the property has not been appraised. In no case shall the fee for a cancelled sale exceed $2,500. If the property is sold, but the sale is not confirmed, the entire sale fee shall be assessed.

B. Direct expenses attributable to the case shall be assessed, including copies, advertising, printed bills and appraisals. A deposit shall be paid to the Master Commissioner sufficient to pay the direct cost of the sale. The deposit must be submitted with the Master Commissioner's copy of the JRP 502D Statement of Amount to be Raised. If a sale is withdrawn, incurred expenses will not be refunded.

C. A $50 report fee shall be assessed for each recommendation on a tendered judgment, whether the report should recommend in favor or against the tendered judgment. A fee shall not be assessed for any reports upon tendered distribution and confirmation orders. Sanction fees may be authorized by the court in cases where repeated corrective action is required, or where individual attorneys or firms repeat the same mistakes causing cases to be reviewed repeatedly by the Master Commissioner's office. Any sanction fee assessed shall be paid to the Jefferson Circuit Court Clerk.

D. A $50 deed fee shall be assessed for the Master Commissioner to draft and execute a deed. In cases which do not involve a Master Commissioner sale and the Master Commissioner does not draft the deed, a $25 deed fee shall be assessed for review and execution.

E. The Master Commissioner or Receiver shall assess the following fees when paying out money or settling estates: 3% of the first $2,000
2 ½ % for the next $3,000; and

1 ½ % for the excess over $5,000.

The fee shall not be assessed if a sale fee is assessed. For settlement of accounts of insolvent estates this computation shall exclude any amounts exempt from creditors. The fee shall never exceed $5,000.

F. When the Master Commissioner hears a possessory or attachment matter pursuant to KRS Chapter 425, a $25 fee shall be assessed for the hearing and report. This fee shall be paid to the Master Commissioner prior to the hearing.

G. For any other hearing in which there is no sale, settlement, or receivership, a fee shall be assessed at $60 per hour in quarter-hour increments. These fees shall be paid to the Master Commissioner and shall be due on the fifth working day following the conclusion of the hearing. No more than $600 in hearing fees shall be assessed in any case regardless of the number and length of hearings unless recommended by the Circuit Judge and approved by the Chief Judge for extraordinary circumstances shown. If a case is reopened, additional fees totaling no more than $200 may be assessed.

H. A fee of $7.50 shall be assessed for the initial Bill of Discovery conducted before the Master Commissioner. A fee of $7.50 shall be assessed for a Letter of Arrest.

I. The fees charged by the Master Commissioner are subject to a schedule promulgated in Part IV of the Administrative Procedures of the Court of Justice.

**509 Appraisals.**

A. In all sales of real estate under judgment or decree of Court where an appraisal is required, the fee for each appraiser shall be $100.00 and taxed as costs.

B. However, in sales of real estate under judgment or decree of Court involving an appraisal of commercial, industrial real estate or real estate consisting of multiple apartments or multiple parcels, the Court may order a fee of more than $100 for each appraiser taking into consideration the time, labor and skill involved.

C. The appraiser shall post a written or printed notice of sale upon or near the real estate to be sold.

D. Where an appraisal of personal property is directed by a judgment or decree of sale, the fee of each appraiser shall be determined by the Court on evidence as the Court may require showing the kind of property appraised, the number of items of property involved, its value, and the time, labor and skill involved in making the appraisal.

**510 Bills of Discovery.**

A. Bills of Discovery shall automatically be referred to the Master Commissioner when a copy of the notice together with the required fee is filed in the Commissioner's office. Notice shall be served under the Rules of Civil Procedure directing the party to appear before the Master Commissioner on a Friday, at 10:00 a.m., for the purpose of discovery and examination. For this notice and hearing, the Master Commissioner shall receive a fee, as set pursuant to JRP 508.

B. No party shall be subject to additional discovery proceedings for six (6) months after her appearance and examination unless an affidavit is filed by counsel showing a change of circumstances warranting this.

C. If a judgment debtor fails to respond to a notice of discovery, the judgment creditor may subpoena the debtor for an appearance before the Commissioner. If the debtor is served with a subpoena and fails to appear, a forthwith order of arrest may be sought by the creditor.

**511 Possessory and Attachment Hearings.**

A. Actions brought pursuant to KRS Chapter 425 shall automatically be referred to the Master Commissioner. The Master Commissioner and her deputies shall act as the "judicial officer" to perform whatever duties are statutorily required.

B. After an ex parte action brought under KRS Chapter 425 has been filed, the clerk shall deliver the court file to the Master Commissioner's Office. The Clerk shall also deliver files in other actions where the Defendant requests a hearing or where Plaintiff's counsel wants the Master Commissioner to act.

C. Required preliminary hearings in possessory and attachment actions shall be held before the Master Commissioner each Wednesday at 2:00 p.m., or at a day and hour designated by the Master Commissioner. Ex Parte Motions and Applications may be heard by the Master Commissioner or the Court at any convenient time.

D. The demand required by KRS 425.012 and KRS 425.301 shall inform the Defendant of this right to be heard before the Master Commissioner, and shall include the following statement:

If you want a hearing, notify the Master Commissioner either in writing (514 West Liberty Street, Louisville Kentucky 40202) or by phone (502-574-5934) within seven (7) days . If your request is in writing, send a copy of your request to the attorney for the Plaintiff. You will receive written notice of the date and time of the hearing.

If your request is by telephone, ask for the "possessory action clerk" who will tell you the date and time of the hearing.

When the Defendant's request is received, the Master Commissioner's Office shall set a date and time for a hearing and notify the Defendant and counsel for the Plaintiff of the date and time.

E. If no request for a hearing has been made within seven (7) days of the demand notice, the clerk shall issue the writ or order, upon receipt of the required compliance affidavit and bond, unless the attorney for the Plaintiff and/or the Court request findings by the Master Commissioner.

**512 Uncontested Cases to Enforce Liens – Reference to Master Commissioner.**

An action involving the enforcement of any lien on real or personal property shall be submitted for final judgment (whether submission be upon complaint or cross-complaint) to the Master Commissioner. The Master Commissioner shall examine the record and report promptly whether the case is ready for judgment and what judgment is justified by the record. Unless specifically limited by the Court in a particular action, the Master Commissioner may exercise the general powers set out in CR 53.04 and 55.01, including the power to require the filing of briefs prior to making a report.

**513 Uncontested Cases to Sell Real Estate other than Cases to Enforce Liens.**

An uncontested action involving the sale of real estate (other than a sale to enforce a lien or private sale), shall be automatically referred to the Master Commissioner for final judgment (whether submission be upon complaint or cross-complaint). The Master Commissioner shall examine the record and report promptly whether the case is ready for judgment and what judgment is justified by the record. Unless specifically limited by the Court in a particular action, the Master Commissioner may exercise the general powers set out in CR 53.04 and 55.01, including the power to require the filing of briefs prior to making a report.

**514 Procedure for Attachment and Garnishment/Service Thereof.**

A. All writs and orders of attachment and garnishment directed to third-party garnishees, such as employers and financial institutions, may be served, at the option of counsel for Plaintiff, by regular first class mail, certified mail return receipt requested, or may be personally served by any person authorized to serve a subpoena pursuant to CR 45.03. Funds attached or garnished pursuant to a writ or order shall, within twenty (20) days of service, be forwarded by the garnishee directly to the attorney for the party on whose behalf the writ or order was issued, unless the order directs otherwise.

B. All actions in enforcement of garnishment pursuant to KRS 425.501, et seq., shall be brought before the Commissioner. They may be instituted by payment of the fee set forth in JRP 508 and will be docketed for the same day and time as Bills of Discovery.

**515 Collection of Judicial Sale Administrative Fee**

Beginning January 1, 2007, in all mortgage foreclosure or real estate lien enforcement cases filed in Jefferson County, the JSAF (Judicial Sale Administrative Fee) required by Part IV, Sec. 1(9) of the Administrative Procedures of the Court of Justice shall be collected by the Jefferson Circuit Clerk along with the original filing fee. The fee shall be transmitted by the Circuit Court Clerk to the Administrative Office of the Courts on a quarterly basis as requested.

## RULE 6 RECEIVER

### 601 Date of Payment.

Payment of money to the Receiver shall be considered payment into the Court as of the date shown on the Receiver's stamp.

### 602 Method of Payment.

The Receiver may receive cash of not more than $100 in any one payment. Single payments of more than $100 shall be by check or draft payable to the Receiver.

### 603 Orders for Payment and Withdrawal.

All orders paying money into Court or withholding money shall be filed and signed by the Judge. Orders paying money into Court and withdrawing shall not be in one and the same order.

### 604 Certification for Withdrawal.

In every motion to withdraw money from the Receiver, the attorney for the movant shall certify:

A. That according to the terms of the movant's judgment, no other party has priority to the proceeds, and,

B. Whether or not the funds are subject to any attachment or garnishment served upon the Receiver.

Money paid to the Receiver shall be withdrawn by court order, checked by the Master Commissioner and certified to the Receiver. The withdrawal order shall specify the amount to withdraw and the payee, and the amount of the Receiver's fee.

### 605 Forthwith Orders of Withdrawal.

No immediate (forthwith) withdrawal of funds from the Receiver will be approved by any Circuit Judge unless extraordinary circumstances or hardship exist.

## RULE 7 FORECLOSURE CASE FILES

In order to expedite and facilitate the Court's handling of mass foreclosure actions, and to prevent unmanageable size of case files, each action filed under KRS 91.481 through 91.527 (or any other comparable statute permitting multiple counts) shall contain no more than 20 counts, or relate to no more than 20 parcels or property. However, upon a prior showing of extraordinary circumstances or hardship in a particular instance, the Chief Judge may, in her discretion, waive the limitation of this Rule, and allow a specific number of additional counts to be included in an action. No *in personam* relief shall be demanded unless specifically authorized by the statute.

# RULE 8 PRACTICE OF CRIMINAL LAW IN JEFFERSON CIRCUIT COURT

## 801 Arraignments

A. Arraignments for all indictments returned by the Grand Jury shall be held at the next motion hour for the division where the case has been allotted unless otherwise ordered by the Court;

B. Arraignments and guilty pleas for all informations returned shall be held in the division where the case has been allotted the week following the return of the information at the assigned rocket docket time.

## 802 Pretrial Conferences.

Pretrial Conferences shall be held within forty-five (45) days of arraignment. Counsel for the Commonwealth and Defendant(s), and the Defendant(s) shall be present at the Pretrial Conference. The lead investigating officer and all necessary prosecuting witnesses shall be present or contacted prior to the Pretrial Conference to allow for a full and complete discussion and possible resolution of the case. The Court may set deadlines for filing of pretrial motions which would necessitate a pretrial hearing. The Court may issue a pretrial order detailing the agreement of the parties, any deadlines for filing motions, the anticipated length of trial.

## 803 Discovery.

A. The Commonwealth may provide discovery to the Defendant on the day of arraignment, but shall provide no later than ten (10) days prior to the first pretrial conference, the following:

1. Written or recorded statements or confessions made by the Defendant(s), or copies thereof, that are known by the attorney for the Commonwealth or its agents [RCr 7.24(1)]

2. Results or reports of physical or mental examinations, and of scientific tests or experiments made in connection with this case, or copies thereof, that are known by the attorney for the Commonwealth to be in possession, custody or control of the Commonwealth or its agents [RCr 7.24(1)];

3. Any oral incriminating statement known by the attorney for the Commonwealth to have been made by the Defendant(s) to any witness [RCr 7.24(1)];

4. The statement(s) of any witness who may be called as a witness for the Commonwealth, if the statement is in the form of a document or recording

in its possession which relates to the subject matter of the witness' testimony and which (1) has been signed or initialed by him/her, or (ii) is or purports to be a substantially verbatim statement made by him/her [RCr 7.26].

B. The Commonwealth shall permit the Defendant(s) to inspect and copy or photograph books, papers, documents or tangible objects or portions thereof that are in the possession, custody or control of the Commonwealth, or its agents, and which may be material to the preparation of her defense. If there is a dispute as to the materiality of such items, this matter shall be brought to the attention of the Court by the Commonwealth at the first pretrial or as soon thereafter as the dispute arises [RCr 7.24 (2), 7.24(5)].

C. If the Defendant(s) does not desire discovery pursuant to RCr 7.24 (1) and (2), notice declining discovery shall be provided, in writing, to the Commonwealth within five (5) days of arraignment. Otherwise, within ten (10) days of compliance by the Commonwealth, the Defendant(s) shall permit the Commonwealth to inspect, copy or photograph (1) books, papers, documents or tangible objects which the Defendant(s) intends to introduce into evidence and which are in the Defendant's possession, custody or control; and (ii) any results or reports of physical or mental examinations and of scientific tests or experiments made in connection with this particular case or copies thereof, within the possession, custody or control of the Defendant(s) and which the Defendant(s) intends to introduce as evidence or which were prepared by a witness whom the Defendant(s) intends to call at trial when the results or reports relate to the witness' testimony [RCr 7.24 (3)].

D. The Commonwealth shall furnish the Defendant with a Bill of Particulars, which advises the Defendant with specificity the circumstances of the alleged offense(s), including but not limited to, exact date, time and location of the offense(s) pursuant to James v. Commonwealth, Ky., 482 S.W.2d 92 (1972), the specific acts or conduct by which the Defendant is alleged to have committed the offense(s) including, but not limited to, the particular culpable mental state of the Defendant and the specific sections and subsections of the Penal Code or other statute which the Defendant is alleged to have violated [RCr 6.22].

E. Upon written request by the Defendant, the Commonwealth shall deliver any mechanical recording, or a duplicate tape, of the grand jury proceedings relating to the Defendant's indictment, subject to appropriate arrangements for payment [RCr 5.16(3)]. The tape shall be provided to a Defendant represented by the Public Defender without cost pursuant to KRS Chapter 31.

F. The Commonwealth shall provide written disclosure of all exculpatory evidence or information to the Defendant.

G. All responses by any party shall be in writing acknowledging or denying existence of such items with copies of the responses and evidence being served upon the opposite party and filed with the Court. If, subsequent to the discovery deadline and prior to, or during trial, any party discovers additional material previously requested which is subject to discovery or inspection, counsel shall promptly notify the other party or attorney, or the Court, of its existence. [RCr 7.24(8)]. This continuing obligation also applies to the Bill of Particulars and the disclosure of exculpatory evidence. Any items not divulged according to the discovery deadlines may result in the Court granting a request for a continuance, mistrial or dismissal of the action. The evidence may be suppressed unless good cause is shown or, in the alternative, the Court may enter such other Order as may be just under the circumstances [RCr 7.24(9)].

**804 Pretrial Hearings.**

A. Hearings for bond reduction, suppression issues, discovery issues, consolidation of offenses, separate trial, etc., shall be scheduled prior to the day of trial. Motions by either party necessitating a hearing shall be in writing pursuant to RCr 8.14. The Court may designate a deadline for filing and hearings shall be held as soon as possible after filing.

B. Ex Parte Requests. Counsel for a person who is financially unable to pay for investigation, experts, the attendance of out-of-state witnesses, or other services reasonably necessary for the defense may request funds for those services in an ex parte, in camera application to the Judge and, upon such request, the Judge shall conduct the inquiry ex parte and in camera, on the record and with the record sealed.

**805 Collection of Fees Pursuant to KRS Chapter 31.**

A. Fees for Public Defender services may be set at arraignment and are subject to review at each stage of the proceedings.

B. Upon disposition, an order shall be entered indicating the total amount of the fees due, and the date (or dates if installment payments) upon which they shall be paid.

## RULE 901 DISTRICT COURT APPEALS

A. With a statement of appeal, the appellant shall tender, if available, an audio or video taped copy of any district court proceedings relevant to the appeal.

B. Upon the filing of the last counter-statement or upon the expiration of the briefing period, counsel shall file Form AOC-280, Notice of Submission of Case for Final Adjudication. Then the case shall stand submitted.

C. If a request for oral arguments has been made pursuant to CR 72.10(B) or 72.12(b), counsel shall, in lieu of notice, move for a hearing date at the Court's regular motion hour. After oral arguments, counsel shall file an AOC-280 Form, Notice of Submission of Cases for Final Adjudication. Then the case will stand submitted.

## RULE 1001 WARNING ORDER AND MILITARY ATTORNEY

A. In any Warning Order or Military Attorney matter involving only one (1) letter and report, the Court shall assess a $100 fee. For each additional Defendant, the Court shall assess a $50 fee.

B. In exceptional circumstances only, the Warning Order or Military Attorney may petition the Court to set a fee in excess of the amount(s) specified above.

C. The Warning Order or Military Attorney will file her report promptly after the expiration of fifty (50) days from the appointment, or such time as the Civil Rules may provide. Failure to do so may be ground for sanctions by the Court, whether the Warning Order or Military Attorney has been paid or not.

D. The Circuit Court Clerk shall compile a list of all attorneys who have applied to serve as Warning Order and/or Military Attorneys. The Clerk shall make appointments on a rotating and equal basis.

E. The Circuit Court Clerk shall annually provide to the Circuit Term a report of the appointments made.

F. The Circuit Term may, for good cause shown, remove any attorney from the list.

# RULE 11 ALLOCATION OF CASES, DISQUALIFICATION OF JUDGES

## 1101 Method of Allottment.

All cases shall be allotted equally and at random among the thirteen (13) divisions of the Court. However, the Chief Judge may receive a twenty-five percent (25%) reduction in criminal and civil cases assigned. Also, the Drug Court Judge may receive a 25% reduction of criminal cases assigned.

A. Civil Cases. The automated case register in the Circuit Court Clerk's Office assigns all District Court Appeals and all other civil cases to the various divisions of the Court. The register has been programmed by the AOC to ensure both the randomness of the assignments and the equal distribution of cases.

B. Criminal Cases. A stack of shuffled cards containing an equal number of cards marked for each of the thirteen (13) divisions, less the 25% case reductions allocated to the Chief and Drug Court Judge, shall be dropped in a drum. To further ensure randomness and equity of caseload, a separate drum is utilized for the assignment of murder indictments. The Grand Jury Foreperson, in open court, shall pull a card from the appropriate drum assigning the case to a division. The division shall be written on the indictment and initialed by the Judge in open court. Indictments containing only a Persistent Felony Offender Charge shall be automatically assigned to the Court where the original indictment was assigned.

C. Informations are presented by the Commonwealth Attorney's Office once weekly and are assigned by random draw to the thirteen divisions of Circuit Court in the Court Administrator's Office. They are initialed by an administrator.

## 1102 Refiled Cases.

A. Civil Cases. Whenever a case has been dismissed without prejudice and is refiled, the parties shall, after allotment, have the case transferred to that division from which it was dismissed. Whenever any Judge discovers the allotment to her division of a case so dismissed from another division, the Judge shall immediately transfer the case to the division from which it was dismissed.

B. Criminal Cases. Whenever a case has been dismissed and later presented to the Grand Jury for re-indictment, the Judge shall reassign the case to the original Trial Court. If a re-indictment or subsequent indictment of the same person arises out of the same transaction or occurrence, the case shall be assigned to the senior action.

**1103 Disqualification of Judge.**

If a judge is disqualified pursuant to KRS 26A.015, the case shall be randomly reallotted to another member of the Jefferson Circuit Bench. If all the judges of the Jefferson Circuit Bench are disqualified, the Chief Regional Judge shall certify the need to assign a special judge.

# RULE 12 VIDEOTAPED/DVD DEPOSITIONS

## 1201 Videotape/DVD Depositions.

Videotape/DVD depositions may be taken in actions pending in the Jefferson Circuit Court and shall be taxed as costs. Notice to take depositions shall be in accordance with the Rules of Civil Procedure. At the deposition, the videotape recorder shall be operated by a person qualified to operate it. The videographer shall mark the recording with the style and number of the action and the name of the witness and shall file a certificate which identifies the recording.

Electronic depositions shall be taken under the following conditions;

1. The party noticing the deposition shall provide the videographer with a copy of JRP 1201. At the beginning of the proceedings, the videographer shall either focus on and identify each attorney, party and witness present at the taking of the deposition or read a statement introducing by name the parties to the litigation and the attorneys present without focusing on each person.

2. The camera will remain stationary at all times during the deposition and will not "zoom" in or out on the witness excepting those times when the witness is displaying, for the jury's viewing, exhibits or other pieces of demonstrative proof that can only be fairly and reasonably seen by "zooming" in. The-camera will not "zoom" in on a witness solely to give unfair or undue influence to the witness' words.

3. A stenographic transcript, in addition to the recording, will not be necessary. Any party may obtain a transcript at the party's cost.

4. The recording itself will be kept in the possession of the attorney taking the deposition and will be available for comparison, viewing or copying. If discrepancies appear between the stenographic transcript, if any, and the recording, the discrepancies will be resolved by agreement of counsel or ruling of the Court. The decision on the manner in which to handle the discrepancies will be included in the agreement of counsel or ruling of the Court.

5. All objections will be reserved and shall not be stated on the recording except for objections relating to the form of the question. Objections to testimony on the recording and the ruling thereof will be resolved by agreement of counsel or ruling of the Court. All objections relating to video depositions must be made at least ten (10) days before trial. An edited version shall be presented at trial.

6. Any party may object to the video's admissibility if playing it would unfairly prejudice the party because the quality of the video is so poor or if a review of the video reveals any technical errors giving undue influence to the testimony of the witness.

# RULE 13 ALTERNATIVE DISPUTE RESOLUTION

## 1301 Preamble and Scope.

The Jefferson County Trial Courts find that certain problem-solving techniques, commonly known as Alternative Dispute Resolution, often provide an efficient and cost-effective alternative to traditional litigation. Further the wise and judicious use of Alternative Dispute Resolution methods may benefit and improve the judicial process for all citizens of this Commonwealth.

Alternative Dispute Resolution 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 will refer primarily to mediation. Nothing in this Rule shall prohibit parties from resolving disputes through other methods. The provisions of any specific Rule regarding mediation (i.e., pretrial mediation of warrants in District Court or mediation of family matters in Family Court) shall take precedence over this general Rule concerning Alternative Dispute Resolution.

## 1302 Mediation Defined.

Mediation is an informal process in which a neutral third person(s) called a mediator acts to help two or more litigants resolve part or all of their differences. The parties retain decision-making authority. The mediator assists the parties in identifying issues, fostering joint problem-solving and exploring settlement alternatives.

## 1303 Referral of Cases.

At any time on its own motion or on motion of any party, the Court may refer a case or a portion of a case for mediation or another Alternative Dispute Resolution method as agreed upon by the parties. In deciding, the Court shall consider:

(a) The stage of the litigation, including the need for discovery and the extent to which it has been conducted;

(b) The nature of the issues to be resolved;

(c) The value to the parties of confidentiality, rapid resolution, or the promotion or maintenance of on-going relationships;

(d) The willingness of the parties to mutually resolve their dispute;

(e) Other attempts at dispute resolution; and

(f) The ability of the parties to participate in the mediation process.

**1304 No Stay of Proceedings.**

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

**1305 Appointment of Mediator.**

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

**1306 Mediator Compensation.**

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

**1307 Mediation Procedure; Time and Place of Mediation Conference.**

Following selection of the mediator, the mediator shall set an initial mediation conference within thirty (30) days. Unless otherwise agreed or ordered, the mediation conference shall be held in the county in which the case is pending. 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 any material that the mediator may reasonably believe appropriate for efficiently conducting the mediation conference.

**1308 Attendance at Mediation Conference.**

Except by agreement of the parties or order of Court, all counsel of record and all parties shall attend the mediation. A public entity shall be deemed to 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 of the entity. An insured party is deemed to appear by the physical presence of a representative of the insurance carrier, who is not that carrier's outside counsel. This representative must have full settlement authority. An organization other than a public entity or an insurance carrier for an insured party shall be deemed to 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. Attendance may be varied by stipulation of the parties or by order of the Court for good cause shown.

**1309 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 the agreement of the parties, their counsel and the mediator.

**1310 Report to the Court.**

The mediator shall report to the Court that the mediation has not occurred, has not been completed, or that the mediation 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.

**1311 Agreement.**

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

**1312 Confidentiality.**

A. 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.

B. Mediation shall be considered as settlement negotiations for purposes of KRE 408.

C. Mediators shall not be subject to process requiring the disclosure of any matter discussed during mediation, but rather, such matters shall be considered confidential and privileged in nature except on order of the Court for good cause shown. The privilege and immunity resides in the mediator and may not be waived by the parties.

D. Nothing in this Rule shall prohibit the mediator from reporting abuse according to applicable law.

## RULE 14 MISCELLANEOUS

### 1401 Attorneys Prohibited from Requesting Excuse of Jurors.

Attorneys shall not contact a Circuit Judge requesting the excuse of any prospective juror from jury duty.

### 1402 Notice upon Settlement.

If a trial or hearing is scheduled, counsel shall promptly notify the clerk of the division if the case is settled so that the case may be taken from the docket.

### 1403 Telephonic Conference.

Any motion may be heard and any conference may be held by a telephonic conference among a trial judge and counsel for the respective parties. Dates for pretrial conferences may be obtained by telephonic conference with a Judge's office provided that such conference includes counsel for all parties. Counsel seeking a conference shall be responsible for including all necessary counsel. Trial and hearing dates may likewise be scheduled by telephonic conference at the discretion of the trial judge.

### 1404 Interrogatories and Requests for Admissions.

When answering interrogatories or requests for admissions, the replying parties shall set forth the entire question or the entire request immediately preceding their response. The proponent of such interrogatories or request for admissions should attempt to allow enough space between questions to allow for an answer.

### 1405 Proposed Order Required.

A draft of the proposed judgment or order shall be filed along with a motion for its entry.

### 1406 Identification Required.

Every pleading and document filed in the record by counsel or a pro se party shall contain the case number, and a typed or printed name, address and telephone number of the individual signing the paper. A rubber stamp shall not be deemed a signature either under this Rule or CR 11.

### 1407 Disposition of Evidence.

At the end of any hearing and/or the conclusion of a trial where controlled substances, guns, live ammunition, explosives, toxic or noxious materials, or currency have been entered into evidence, these items shall be returned to the police authority having custody before the hearing or trial. The Court, in its discretion, may order similar retention and safekeeping of other bulky, valuable or dangerous goods.

**1408 CR 5.06 Compliance.**

None of the following pleadings, papers, or portions thereof, shall be filed with the clerk unless attached to a motion or containing the certificate set forth below:

A. Interrogatories propounded under CR 33:

B. Requests for Production or Inspection made under CR 34:

C. Requests for Admission under CR 36.

D. Medical Records.

The certificate is:

Certificate Pursuant to JRP 1408

I hereby certify that I am familiar with Kentucky Rule of Civil Procedure 5.06 and this pleading is filed in conformity with this Rule.

_____
Typed Name of Attorney
Signing Certificate

**1409 Display of State Flag.**

In order to comply with KRS 2.030(3) the emblem, on the head of the flag staff, its raptor-like appearance notwithstanding, used to display the flag of the Commonwealth of Kentucky in Jefferson Circuit courtroom shall be deemed to be a Kentucky Cardinal in an alert but restful pose.

**1410 Procedure for Writs of Habeas Corpus.**

Petitions for Writs for Habeas Corpus are to be filed with the clerk at the suit desk in the Circuit Court Clerk's Office pursuant to KRS 419.030.

**1411 Procedure for Filing Temporary Injunctions/Restraining Orders**

Motions for Temporary Injunction and Restraining Orders shall be filed with the Circuit Court Clerks Office. If the regularly assigned division is unavailable to set a date for hearing, attorneys shall contact the Circuit Court Administrator's Office.

## 1412 Procedure for Assignment of Special Bailiffs.

Affidavits for appointment of a Special Bailiff along with a copy of the process to be served, summons issued by the clerk and the complaint should be delivered to the Circuit Court Administrators Office on the second floor of the Judicial Center. A list of approved special bailiffs can be obtained from the Circuit Clerk.