

# Supreme Court of Kentucky

IN RE:       **Order Approving the General Rules of Court, 34<sup>th</sup> Judicial Circuit,  
McCreary and Whitley Counties**

The amendments to the General Rules of Court for the 34th Judicial  
Circuit, McCreary and Whitley Counties, are hereby approved.

ENTERED: ~~June~~ **July 3**, 2001.

  
Chief Justice

**34TH JUDICIAL CIRCUIT  
DIVISION II  
GENERAL RULES OF COURT**

Judge - Hon. Paul E. Braden

Judge Number - 634139

Secretary - Brenda J. Berry

Court Reporter - Brenda Stewart

Legal Assistant - Linda Kathryn Braden

Telephone - Corbin	(606) 528-3013
Williamsburg	(606) 549-0825
Whitley City	(606) 376-5039
Fax No.	(606) 528-9866

Mailing Address - P. O. Box 535  
Corbin, KY 40702

**MOTION DAYS**

**McCreary Circuit Court**

4th Monday of each month for civil motions (9:00 a.m.) and criminal motions (11:00 a.m.)

**Whitley Circuit Court**

2nd Monday of each month for civil motions (9:00 a.m.) and criminal motions (11:00 a.m.)

**Domestic Relations Commissioner - Cathy Prewitt**

P. O. Box 724  
Corbin, KY 40702  
(606) 528-7177

## GENERAL RULES OF COURT

1. The 34<sup>th</sup> Judicial Circuit utilizes the Rules of Practice and Procedure of the Cumberland Region of Judicial Circuits.
2. To have a motion put on the motion docket, civil or criminal, the attorney should file the original motion with the Circuit Court Clerk and notice the motion for a particular motion date, including motions for default judgment.
3. Motions shall be served and filed with the Circuit Court Clerk **NO LATER THAN FIVE (5) DAYS PRIOR TO WHEN IT IS SCHEDULED FOR HEARING.**

## SESSIONS OF COURT

The 34th Judicial Circuit Court is a court of continuous session. There are no set dates for sessions of court, except as follows:

### Division II - McCreary:

Criminal cases are set in February, April, June, August, October and December

Civil cases are set in January, March, May, July, September and November

### Division II - Whitley

Criminal cases are set in January, March, May, July, September and November

Civil cases are set in February, April, June, August, October and December

All scheduled days for trials in Whitley County and McCreary County shall begin promptly at 9:00 a.m.

**HON. PAUL E. BRADEN**  
Circuit Judge  
34th Judicial Circuit  
Division II

**McCreary and Whitley Counties**

**Judge Braden was born in Appalachia, VA. Judge Braden now resides in Woodbine, just outside Corbin. He received his B.S. degree in 1963 from Lincoln Memorial University located in Harrogate, TN and his J.D. degree in December, 1966 from the University of Kentucky College of Law. Most of his career has been engaged in private practice in Corbin. Judge Braden has served as Assistant County Attorney, Assistant Commonwealth Attorney, Commonwealth Attorney and District Judge. He was appointed as circuit judge in the newly created division in 1996 and elected in 1998 and 1999.**

**He has served as Assistant Director and as a Member of the House of Delegates for the Kentucky State Bar Association. He has also served as President and Secretary of the Whitley County Bar Association.**

**Judge Braden and his wife Linda Kathryn have two sons, one daughter and four grandchildren.**

**34TH JUDICIAL CIRCUIT  
GENERAL RULES OF COURT**

**DIVISION I**

JUDGE - Hon. Jerry D. Winchester

SECRETARY - Nell Winchester

COURT REPORTER - Paula Gibbs

LEGAL ASSISTANT - Jennifer Nelson

TELEPHONE - CORBIN (606) 528-3013  
WILLIAMSBURG (606) 549-0825  
WHITLEY CITY (606) 376-5039  
FAX NO. (606) 528-9866

MAILING ADDRESS - 1019 Cumberland Falls Hwy.  
Corbin, KY 40701

**MOTION DAYS:**

**MCCREARY CIRCUIT COURT:**

3rd Monday of each month for civil motions (9:00 a.m.) and criminal motions (11:00 a.m.)

**WHITLEY CIRCUIT COURT:**

1st Monday of each month for civil motions (9:00 a.m.) and criminal motions (11:00 a.m.)

**DIVISION II**

JUDGE - Hon. Paul E. Braden

SECRETARY - Brenda Berry

COURT REPORTER - Brenda Stewart

LEGAL ASSISTANT - Linda K. Braden

TELEPHONE - CORBIN (606) 528-3013  
WILLIAMSBURG (606) 549-0825  
WHITLEY CITY (606) 376-5039  
FAX NO. (606) 528-9866

MAILING ADDRESS - P. O. Box 535  
Corbin, KY 40702

**MOTION DAYS:**

**MCCREARY CIRCUIT COURT:**

4th Monday of each month for civil motions (9:00 a.m.) and criminal motions (11:00 a.m.)

**WHITLEY CIRCUIT COURT:**

2nd Monday of each month for civil motions (9:00 a.m.) and criminal motions (11:00 a.m.)

## GENERAL RULES OF COURT

1. The 34th Judicial Circuit utilizes the Rules of Practice and Procedure of the Cumberland Region of Judicial Circuits.

2. To have a motion put on the motion docket, civil or criminal, the attorney should file the original motion with the Circuit Court Clerk and notice the motion for a particular date, including motions for default judgment.

3. Motions shall be served and filed with the Circuit Court Clerk no later than five (5) days prior to when it is scheduled for hearing.

## SESSIONS OF COURT

The 34th Judicial Circuit Court is a court of continuous session. There are no set dates for sessions of court, except as follows:

Division I - McCreary County:

Criminal cases are set in February, April, June, August, October and December.

Civil cases are set in January, March, May, July, September and November.

Division I - Whitley County:

Criminal cases are set in January, March, May, July, September and November.

Civil cases are set in February, April, June, August, October and December.

Division II - McCreary:

Criminal cases are set in February, April, June, August, October and December.

Civil cases are set in January, March, May, July, September and November.

Division II - Whitley County:

Criminal cases are set in January, March, May, July, September and November.

Civil cases are set in February, April, June, August, October and December.

All scheduled days for trials in Whitley County and McCreary County shall begin at 9:00 a.m.

DOMESTIC RELATIONS COMMISSIONER - Hon. Cathy E. Prewitt

(Whitley and McCreary Counties)

P. O. Box 724

Corbin, KY 40702

(606) 528-7177

MASTER COMMISSIONER - Hon. Cathy E. Prewitt

(Whitley County)

P. O. Box 724

Corbin, KY 40702

(606) 528-7177

MASTER COMMISSIONER - Hon. Charles E. King

(McCreary County)

P. O. Box 249

Pine Knot, KY 42635

(606) 354-2153

RULES OF PRACTICE AND PROCEDURE BEFORE  
THE DOMESTIC RELATIONS COMMISSIONER  
FOR THE 34TH JUDICIAL CIRCUIT

(1) All practice and procedure before the Domestic Relations Commissioner shall be subject to these local Rules, the Cumberland Region of Judicial Circuits Rules of Practice and Procedure, the Kentucky Civil Rules of Procedure and all other laws and statutes of the Commonwealth of Kentucky enacted by the General Assembly, and Rules enacted by this Court and the Court of Appeals and the Supreme Court of Kentucky.

(2) Practice and Procedure before the Domestic Relations Commissioner shall be as follows:

A. **All motions for Temporary Orders** (child custody, child support, maintenance, etc.), motions seeking injunctive relief, contempt proceedings and any other proceedings specifically designated by statute to be so heard will continue to be heard exclusively by the Circuit Judge.

All decrees, rules and all orders entered upon motions to modify or terminate decrees, restraining orders, injunctions, contempt orders and temporary orders entered upon pendente lite motions shall be signed by the Circuit Judge.

All routine Orders setting contested trial dates, contested hearing dates or affecting purely administrative matters shall be signed by the D.R.C.

B. **Uncontested domestic relations proceedings** may be submitted to the D.R.C. upon expiration of any applicable statutory time period, on motion to the Circuit Court, which may then assign the matter to the D.R.C. for final hearing. Distribution for such orders shall include the D.R.C. Upon entry of the order assigning the matter to the D.R.C., counsel should contact the D.R.C.'s office

staff to schedule a hearing time. A scheduling order will then be issued by the D.R.C. Alternatively, uncontested domestic cases may be submitted to the Court upon depositions. Counsel should be prepared to tender proposed Findings Of Fact, Conclusions Of Law and Decree to the Commissioner at the time of the hearing, or to the Court at the time of submission.

**C. Contested domestic relations cases that are referred to the D.R.C.** shall be orally heard by the D.R.C. All proceedings before the D.R.C. shall be recorded by audio tape. This should reduce the cost to the parties since a court reporter's appearance fee can then be avoided in many cases.

1. Either party may move the Circuit Court, after the expiration of any statutory time period, to refer the matter to the D.R.C. for final trial. Distribution on all such orders should include the D.R.C. Adjudication of all contested domestic relations proceedings shall be tried by bench trial before the D.R.C. Once the final trial is scheduled, a continuance may be granted only for good cause shown. Following the scheduling conference, the D.R.C. shall then issue a trial order assigning the date, time and place for the final trial.

2. Each party must file a sworn Pretrial Disclosure Statement in the form provided in the attached sample, not later than ten (10) days prior to the date set for the hearing in the D.R.C.'s scheduling order.

3. At the conclusion of the final trial the case shall stand submitted to the D.R.C. who shall issue a recommendation of Findings Of Fact, Conclusions Of Law and Decree within sixty (60) days absent good cause shown. The

recommendation shall contain the following notation along the left-hand margin:

Recommended:

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DOMESTIC RELATIONS COMMISSIONER      DATE

4. The final report of the D.R.C. shall be filed with the Office of the Circuit Court Clerk and shall be served by the Commissioner upon counsel for each of the parties.

5. Except in pendente lite matters, within ten (10) days after being served with notice of the filing of the report, any party may serve written objections thereto upon the other parties. Application to the Court for action upon the report and upon objections thereto shall be by motion and upon notice as prescribed in CR 6.04. The Court, after hearing, may adopt the report, or may modify it, or may reject it in whole or in part, or may receive further evidence, or may recommit it with instructions.

6. If no exceptions are filed with the Court within the time allowed, then the parties shall prepare an Order approving and incorporating the proposed Findings of Fact, Conclusions of Law and Decree for execution by the Circuit Court and provide thereon and appropriate opportunity for the D.R.C. to execute approval.

If exceptions have been filed subsequent to the ultimate recommendation

of the D.R.C., then the Orders relevant thereto shall be tendered directly to the Circuit Court.

7. Parenting classes may be ordered on recommendation of the D.R.C. If parenting classes are ordered, a fee of no more than \$5.00 may be required, unless a party is unable to pay.

#### **D. COMMISSIONER'S FEES AND HEARING SCHEDULE**

1. Hearings before the D.R.C. are scheduled by the D.R.C.'s office staff.

2. The D.R.C.'s trial order shall include a projected fee assessment.

D.R.C. fees are to be paid to the Circuit Court Clerk. The D.R.C., in her final report, may include a recommendation that one party reimburse the other for all or part of the fee.

Any objection to the D.R.C.'s trial fee as assessed must be timely made by motion and notice of hearing before the Circuit Judge prior to the commencement of final trial. A failure to object to the fee as assessed shall be deemed as a waiver of any such objection unless the final fee assessment should exceed that projected by the Commissioner's trial order.

3. The D.R.C. shall have the authority to refuse to hear or to continue any hearing or trial in the event the estimated fee has not been paid or when, during the course of a hearing or trial, the parties have exceeded the estimated time upon which the fee paid was based. There shall be no refunds of fees paid for hearings.

4. All cases in which one or both of the parties are proceeding in

forma pauperis should be denoted as such in the style of the case.

**E. Post-judgment motions** shall be initially scheduled for hearing by the Circuit Judge. Such matters may be assigned to the D.R.C. for hearing by the Circuit Judge in his discretion, and on a case-by-case basis. Please be aware that post-judgment motions in domestic relations cases filed more than six months following the entry of the final decree should be accompanied by a \$50.00 filing fee to be paid to the Circuit Court Clerk pursuant to K.R.S. 23A.200(8).

**F. Final trials to be heard** by the D.R.C. shall begin promptly as scheduled and counsel, parties and all witnesses should be present and ready to proceed at the designated time. Should counsel for the parties wish to obtain the services of a court reporter for the purpose of making a record of the final trial, they may do so at their own expense.

**G. All child support payments** shall be paid directly to the party unless otherwise ordered by the Court.

COMMONWEALTH OF KENTUCKY  
34TH JUDICIAL CIRCUIT  
WHITLEY CIRCUIT COURT  
DIVISION \_\_\_\_\_  
CIVIL ACTION NO. \_\_\_\_\_

PETITIONER,

VS.

**MANDATORY CASE DISCLOSURE**

RESPONDENT.

\*\*\*\*\*

All sections must be completed. If an amount is unknown, write "unknown", if the question is inapplicable, write "n/a". If a question requires further documentation or an additional schedule, please attach.

**ISSUES IN DISPUTE** (check those applicable):

- Marriage irretrievably broken
- Custody
- Child Support
- Maintenance
- Division of marital property
- Restoration of non-marital property
- Valuation issues
- Assignment of responsibility for debts
- Discovery issues
- Attorney fees/advance of attorney fees
- Advance of litigation expenses
- Other (describe) \_\_\_\_\_

I, \_\_\_\_\_, declare under oath that my personal information is:

Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Social Security #: \_\_\_\_\_

Date/place of birth: \_\_\_\_\_

Date/place of marriage: \_\_\_\_\_

Date of separation: \_\_\_\_\_

Spouse's name: \_\_\_\_\_

Spouse's birth date: \_\_\_\_\_

My occupation is: \_\_\_\_\_

I am currently employed at: \_\_\_\_\_

I earn \_\_\_\_\_ per \_\_\_\_\_ and work \_\_\_\_\_ hours.

I am paid \_\_\_\_\_ (weekly, monthly, etc.).

My year to date earnings are \_\_\_\_\_ (attach pay vouchers).

My monthly gross from employment is: \_\_\_\_\_

Payroll deductions \_\_\_\_\_  
Number of exemptions being claimed \_\_\_\_\_  
Federal Withholding Tax \_\_\_\_\_  
Social Security \_\_\_\_\_  
KY Tax \_\_\_\_\_  
Medical Insurance \_\_\_\_\_  
Life Insurance \_\_\_\_\_  
Other \_\_\_\_\_

Please list all other sources and amounts of income, including expense account allowances, AFDC, SSI/SSD/SS/Retirement, VA Benefits, Unemployment, Child Support, Maintenance, Food Stamps, etc.

SOURCE	AMOUNT
_____	_____ per _____
_____	_____ per _____
_____	_____ per _____

Have any of the parties ever received AFDC? \_\_\_\_\_

My dependent children from this marriage are \_\_\_\_\_  
and \_\_\_\_\_

\_\_\_\_\_ have monthly income of \_\_\_\_\_

They live with \_\_\_\_\_ at \_\_\_\_\_

I believe the monthly gross income of the other party to be: \_\_\_\_\_

(Attach any other pertinent information.)

### ASSETS

Husband's/Wife's (property acquired before marriage, or by gift, or inheritance)

Joint (property acquired during marriage, other than by gift or inheritance)

If additional space is needed, please attach a separate list.

Husband's      Wife's      Joint

A. Real Estate

Date \_\_\_\_\_  
Mortgage \_\_\_\_\_  
Payoff \_\_\_\_\_  
Location \_\_\_\_\_  
\_\_\_\_\_

B. Furniture

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

C. Vehicles (including boats)

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

D. Bank accounts (attach recent statements and account numbers)

Name of Bank/type of account

_____	_____	_____
_____	_____	_____
_____	_____	_____

E. Stocks and bonds (list cash surrender value)

Type: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

_____	_____	_____
_____	_____	_____
_____	_____	_____

Closely held corporations

_____	_____	_____
_____	_____	_____

F. Life Insurance (list cash surrender value, policy numbers)

Company \_\_\_\_\_  
\_\_\_\_\_

_____	_____	_____
_____	_____	_____

G Pension, Profit Sharing or Retirement Funds (attach all information)

_____	_____	_____	_____
_____	_____	_____	_____

H. Miscellaneous (other items/property of value)

_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

**TOTAL ASSETS**

_____	_____	_____
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**DEBTS**

	<u>Creditor</u>	<u>Item (M/NM)</u>	<u>Unpaid Balance</u>	<u>Monthly Payment</u>
A.	_____	_____	_____	_____
B.	_____	_____	_____	_____
C.	_____	_____	_____	_____
D.	_____	_____	_____	_____
E.	_____	_____	_____	_____
F.	_____	_____	_____	_____
G.	_____	_____	_____	_____
H.	_____	_____	_____	_____

**TOTAL MONTHLY DEBT PAYMENTS**

(Place an \* by those debts you are willing to pay yourself.)

\_\_\_\_\_

My monthly expenses for a household consisting of \_\_\_\_\_ adults and \_\_\_\_\_ children are as follows:

- A. Housing
  - Mortgage or Rent/1st \_\_\_\_\_
  - Mortgage or Rent/2nd \_\_\_\_\_
  - Maintenance \_\_\_\_\_
- B. Utilities
  - Gas/Electric/Fuel \_\_\_\_\_
  - Phone \_\_\_\_\_
  - Water/Sewer \_\_\_\_\_
  - Garbage \_\_\_\_\_
- C. Food
  - \_\_\_\_\_

D. Medical      Doctor \_\_\_\_\_  
                       Dentist \_\_\_\_\_  
                       Prescriptions \_\_\_\_\_  
                       Glasses \_\_\_\_\_

E. Insurance     Life \_\_\_\_\_  
                       Health/Hospital \_\_\_\_\_  
                       Homeowners \_\_\_\_\_  
                       Auto \_\_\_\_\_

F. Transportation    Car Payment \_\_\_\_\_  
                           Fuel \_\_\_\_\_  
                           Maintenance \_\_\_\_\_

G. Clothing        \_\_\_\_\_

H. Child Care      Work \_\_\_\_\_  
                           Other \_\_\_\_\_

I. Education        Self \_\_\_\_\_  
                           Children \_\_\_\_\_

J. Child Support    \_\_\_\_\_

K. Miscellaneous    \_\_\_\_\_  
                           (please describe any miscellaneous expenses and attach schedule if necessary)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**STATEMENT OF SPECIAL PROBLEMS**

Provide a brief narrative statement of any special problems affecting this case. As examples, state if the matter involves complex valuation problems, such as for a closely held business or special medical problems of any family member.

\_\_\_\_\_

\_\_\_\_\_

**LAY WITNESSES**

Name the lay witnesses (non-experts) you expect to call at trial and the issues you expect them to

testify about (i.e., friends, family members, etc.)

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**EXPERT WITNESSES**

Name the expert witnesses (doctors, accountants, etc.) you expect to testify for you at trial and the issue you expect them to address.

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**LENGTH OF TRIAL**

How many days of trial do you expect this case to take? \_\_\_\_\_ hours \_\_\_\_\_ days

**REQUIRED ATTACHMENTS**

I have attached:

1. My three most recent pay stubs
2. A full and complete copy of my last Federal Tax Return
3. First page of my last State Tax Return

**DEMANDS**

- A. Custody:
- B. Visitation:
- C. Support:
- D. Reasonable division of Real Estate:
- E. Reasonable division of Personal Property:



**CERTIFICATION TO COURT  
OF ATTEMPT TO SETTLE**

Come now the parties, \_\_\_\_\_ and \_\_\_\_\_,  
by Counsel, \_\_\_\_\_ and \_\_\_\_\_, respectively,  
and tender this Certification of Attempt to Settle all claims between the parties in the present action.

The parties and counsel met on \_\_\_\_\_, 199\_\_\_\_, at  
\_\_\_\_\_ (place) for \_\_\_\_\_ (time), and had conversations concerning  
settlement on this and various times and locations.

The parties have settled the issues of :

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Remaining issues before the Court include:

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and the parties desire to set this matter for trial and resolution without attending motion hour.

\_\_\_\_\_  
Petitioner

\_\_\_\_\_  
Date

\_\_\_\_\_  
Respondent

\_\_\_\_\_  
Date

\_\_\_\_\_  
Counsel for Petitioner

\_\_\_\_\_  
Date

\_\_\_\_\_  
Counsel for Respondent

\_\_\_\_\_  
Date

COMMONWEALTH OF KENTUCKY  
34TH JUDICIAL CIRCUIT  
MCCREARY & WHITLEY CIRCUIT COURTS

AMENDMENTS TO RULES OF PRACTICE AND  
PROCEDURE FOR THE 34TH JUDICIAL CIRCUIT

\* \* \* \* \*

The Court having found it necessary to set forth amounts for Warning Order fees, and further, to require motions for default judgment to be set for hearing, therefore,

**IT IS HEREBY ORDERED as follows:**

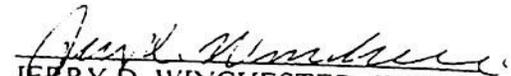
**1. WARNING ORDER ATTORNEY**

- a. In any Warning Order Attorney matter involving only one letter and report, the Court shall assess a \$50 fee. For each additional Defendant, the Court shall assess a \$15 fee.
- b. If counsel cannot agree, the Warning Order Attorney may petition the Court to set a fee in excess of amount specified in 1. a. above.
- c. The Warning Order Attorney shall file the required report within fifty (50) days of appointment pursuant to CR 4.07(1), and failure to do so may be grounds for sanctions by the Court, whether or not the Warning Order Attorney has been paid.

**2. DEFAULT JUDGMENT**

Pursuant to CR 55.01, a party seeking a judgment by default shall file a written motion for such judgment, accompanied by a certificate of the attorney that no papers have been served on said attorney by the party in default. The written motion for default judgment shall be noticed for hearing on the regular motion days for Whitley and McCreary Counties, Division I or Division II.

Dated this 2nd day of June, 1999.

  
JERRY D. WINCHESTER, JUDGE  
34TH JUDICIAL CIRCUIT  
DIVISION I

  
PAUL E. BRADEN, JUDGE  
34TH JUDICIAL CIRCUIT  
DIVISION II

**CLASS D FELONY PRETRIAL DIVERSION PROTOCOL  
FOR THE 34TH JUDICIAL CIRCUIT**

**I. DEFINITION**

Pretrial diversion is the postponement of imposition of sentence upon any person who qualifies for this program, for a period of time not to exceed five (5) years, subject to certain conditions established by the Court.

**II. PERSONS ELIGIBLE (KRS 533.250)**

- A. Any person charged with a Class D felony, who has not had a felony conviction in the ten (10) years prior to commission of the current offense, or who has not been on felony probation or parole or released from felony incarceration within the ten (10) years prior to commission of the current offense, shall be eligible for pretrial diversion. (This paragraph includes persons whose current offense involves charges of multiple Class D felonies. It also includes non-Kentucky residents who would still be supervised by the Kentucky Department of Corrections.) KRS 533.254.
- B. The person charged must enter a plea of guilty, or a plea pursuant to North Carolina v. Alford, before becoming eligible for pretrial diversion.
- C. Persons ineligible for probation, parole or conditional discharge under KRS 532.045 shall be ineligible for this program.
- D. A person convicted of a Class D felony for which early release is disallowed by statute, including KRS 189A.010(8) and KRS 189A.120(2), shall be ineligible for this program.
- E. No person shall be eligible for this program more than once in any five (5) year period.

**III. PROCEDURE**

- A. After indictment in circuit court, and no later than 30 days before trial, any person eligible for the program may apply to the Circuit Court and the Commonwealth for entry of a pretrial diversion order.
- B. In applying for pretrial diversion, counsel for the defendant must state, and the defendant must agree on the record, that in the event diversion is granted, any right to a speedy trial or disposition of the charge against him/her is waived.

- C. The defendant shall simultaneously submit an application for diversion to the Circuit Court and to the prosecutor.
- D. The Commonwealth shall make a written recommendation to the Court in response to each application. KRS 533.250(2).
- E. Before making a recommendation to the Court, the Commonwealth shall:
  - 1. Have a criminal record check made by telephoning Pretrial Services at AOC (not local pretrial services), at 1-800-928-6381, or faxing the request to (502) 573-1669.
  - 2. Interview and seek input from the victim and/or victim's family and advise them of the time, date and place the motion will be heard by the Court.
  - 3. When diversion is recommended, the Commonwealth must make written recommendations to the Court of conditions for the pretrial diversion as well as the appropriate sentence to be imposed if the diversion agreement is unsuccessful. KRS 533.252(3). AOC Form 347, styled Motion For Pretrial Diversion Of A Class D Felony, which contains the Commonwealth's recommendation and is signed by the defendant, defense attorney and the Commonwealth's Attorney, shall be used for this purpose. This diversion plan shall be submitted to the Court as part of defendant's plea agreement.
  - 4. The Commonwealth will be bound by its recommendation. In the event diversion is unsuccessful, the Commonwealth cannot argue for a sentence in excess of the original recommendation, nor can the Court impose a sentence greater than the recommendation without allowing the defendant the opportunity to withdraw the plea.
  - 5. The Court cannot consider diversion without a written, favorable recommendation from the Commonwealth.
  - 6. The Commonwealth may withhold its recommendation pending completion of a partial presentence investigation.

#### **IV. ORDER OF PRETRIAL DIVERSION**

- A. The Court may, in its discretion, order pretrial diversion for eligible petitioners upon terms and conditions it deems appropriate. AOC Form 345, styled Order Granting Pretrial Diversion Of A Class D Felony shall be used for this purpose. When a defendant who has applied for diversion enters his/her guilty plea or plea pursuant to North Carolina

v. Alford, the Court shall modify its inquiry to reflect these items on the record.

1. Is your guilty plea/plea pursuant to Alford in this case part of an agreement you and your attorney have made with the Commonwealth?
  2. In return for your guilty plea/plea pursuant to Alford, the Commonwealth has agreed to recommend a sentence of \_\_\_\_\_ Is this correct?
  3. The Commonwealth has also recommended your case be diverted on the following conditions: \_\_\_\_\_ Is this correct?
  4. The Commonwealth has tendered to the Court a diversion agreement. Have you read the diversion agreement? Have you discussed it with counsel? Has your attorney answered any questions you have about the diversion agreement?
  5. Have you signed the diversion agreement?
  6. Did you voluntarily sign the agreement?
  7. Do you understand that if you successfully complete the diversion agreement, the charge(s) against you will be dismissed?
  8. Do you understand that if the Commonwealth alleges you have failed to comply with the terms of the diversion agreement, the Court will schedule a hearing and, upon completion of the hearing, make a finding as to whether you failed to comply with the diversion agreement?
  9. Do you understand that if the Court finds you have violated the diversion agreement, the Court will schedule a sentencing hearing and at that hearing, the Court may sentence you to the penalty recommended by the Commonwealth?
- B. The Order of Diversion shall include:
1. Restitution, if applicable. (Mandatory pursuant to KRS 533.254 where victim has suffered monetary damage).
  2. Whether the diversion shall be supervised or unsupervised. If supervised, a monthly supervision fee of not less than \$10.00 nor

more than \$25.00 shall be imposed on the divertee. KRS 533.250(3).

3. Duration of the diversion.
4. Requirement that defendant obey all rules and regulations imposed by Probation and Parole.
5. As required by KRS 533.030(1), the defendant shall not commit any offense during the period of the pretrial diversion. Defendant shall also comply with the directions of the Probation and Parole Officer (and any other provision of KRS 533.030 or any other condition the Court deems appropriate).

C. The Order of Diversion shall also include:

1. Defendant shall remain drug and alcohol free and be subject to random testing.
2. Defendant shall have no violation of the Penal Code nor the Controlled Substances Act.
3. Defendant shall possess no firearm nor any other deadly weapon.

D. Duration of the pretrial diversion shall not exceed five (5) years without agreement of the defendant. Duration of the diversion agreement shall not be less than the time required to make restitution in full.

1. The Court shall advise the parties as to whether it will accept the diversion agreement. If it is accepted, a specific finding shall be made on the record that the defendant entered the plea and entered into the diversion agreement voluntarily, freely, intelligently and understandingly.
2. If the plea agreement and the diversion agreement are rejected, the Court shall notify the parties and advise the defendant he/she has the option of withdrawing the plea and proceeding to trial, OR maintaining the plea with the knowledge the Court will not order diversion but instead will impose a sentence within the penalty range permitted by law.
3. After questioning the defendant on the record, if the Court is uncertain as to whether it will accept the agreement without the benefit of a PSI, a partial PSI shall be requested. If a partial PSI is requested, the Court shall assign the case for a later date, review the partial PSI, and announce the decision either accepting or

rejecting the guilty plea and the diversion agreement.

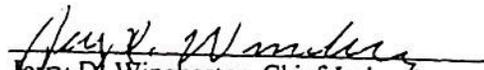
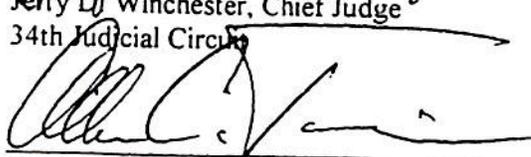
**V. VOIDING A DIVERSION ORDER(KRS 533.256)**

- A. After a hearing, with notice to the Commonwealth and to the defendant, the Court may void a person's participation in pretrial diversion upon a showing of failure to comply with the conditions of diversion or a failure to make satisfactory progress. AOC Form 346, styled Order Voiding Pretrial Diversion Of A Class D Felony, shall be used for this purpose.
- B. If an order of pretrial diversion is voided, the defendant shall be sentenced according to law, based on his or her prior plea of guilt/plea pursuant to North Carolina v. Alford. If revocation is ordered, a full PSI shall be ordered and a sentencing hearing shall be scheduled.
- C. Under KRS 533.256(2), the same criteria applicable to a probation revocation hearing applies to a proceeding to void an order granting diversion. Pursuant to KRE 1101(d)(5), the Rules of Evidence are inapplicable in miscellaneous proceedings such as those revoking probation. A proceeding to determine whether an order granting diversion should be voided also constitutes a miscellaneous proceeding and therefore Rules of Evidence are inapplicable to such hearings.

**VI. COMPLETION OF DIVERSION PROGRAM**

If the defendant successfully completes the provisions of the pretrial diversion agreement, the charges against the defendant shall be dismissed. Defendant should be informed from the beginning that successful completion of a diversion contract does not result in automatic expungement of a criminal charge under KRS 431.076.

Approved this 19 day of October, 1999, by Jerry D. Winchester, Chief Circuit Judge, and Allen Trimble, Commonwealth's Attorney, to be effective immediately.

  
Jerry D. Winchester, Chief Judge  
34th Judicial Circuit  
  
Commonwealth's Attorney

# Supreme Court of Kentucky

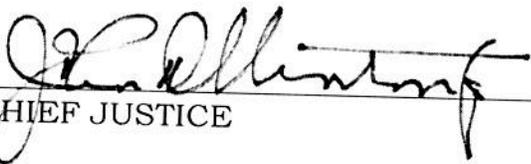
## ORDER

**IN RE: ORDER APPROVING AMENDMENT TO THE GENERAL RULES OF COURT FOR THE 34TH JUDICIAL CIRCUIT, MCCREARY AND WHITLEY COUNTIES**

Upon the recommendation of the Judges of the 34th Judicial Circuit, McCreary and Whitley counties, and being otherwise sufficiently advised,

The amendment to the General Rules of Court for the 34th Judicial Circuit is 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 this 11th day of December 2015.

  
CHIEF JUSTICE

**TWENTY-FOUR HOUR ACCESSIBILITY TO PROTECTIVE ORDERS AND LOCAL  
JOINT JURISDICTION PROTOCOL  
34<sup>TH</sup> JUDICIAL CIRCUIT AND DISTRICT  
WHITLEY AND McCREARY COUNTIES**

Pursuant to KRS 403.735 and KRS 456.030, and in compliance with Family Court Rule of Practice and Procedure Section IV, this local protective order protocol is established to ensure twenty-four hour accessibility to emergency protective orders (EPOs) and temporary interpersonal protective orders (TIPOs) and to establish written procedures for matters in which there may be joint jurisdiction between the Circuit/Family and District Courts.

**I. Uniform Protocol for Handling Cases**

- A. All petitions requested, completed and signed by persons seeking protection under KRS Chapter 403 or KRS Chapter 456 shall be made on form AOC-275.1, and shall be accepted and filed with the court. KRS 403.725, KRS 456.030.
- B. All protective order cases must be processed consistent with the rules and procedures set forth in the Kentucky Circuit Court Clerk's Manual.
- C. All cases will be assigned a "D" case number with the appropriate trailer number within the court case management system and may not be consolidated with any other case type.
- D. "No drop" policies which place limitations on a petitioner's right to modify or withdraw a petition for a protective order are not permitted. Pursuant to KRS 403.740 and KRS 456.060, any orders for relief issued directing or prohibiting any other actions that the court believes will be of assistance in eliminating future acts of domestic violence and abuse, dating violence and abuse, stalking, or sexual assault shall not order the petitioner to take any affirmative action.
- E. Cases may be reassigned within the judicial circuit and, pursuant to FCRPP 12, a case may be transferred to another circuit if there is a pending dissolution or custody matter. If reassignment or transfer occurs, the issuing judge shall re-issue a summons until the matter may be heard by the receiving judge.
- F. The court shall review a petition for a protective order immediately upon its filing. KRS 403.730, KRS 456.040. Petitioners shall not be sent away or left waiting for extended periods of time. Petitions should be reviewed within an hour of presentation to a judge or trial commissioner unless impossible due to no judge or trial commissioner being available.

## II. Twenty-four Hour Accessibility

- A. The following agencies and officers are authorized to take protective order petitions and administer oaths to petitioner **during** regular business hours:

Court Clerk and Deputy Court Clerks; the County Attorney and authorized staff.

- B. The following agencies and officers are authorized to take protective order petitions and administer oaths to petitioner **after** regular business hours and weekends:

Deputy Court Clerk who is specifically assigned this responsibility by the Clerk.  
Petitioner may go to the 911 Dispatch Center or any law enforcement officer for referral to that Deputy.

- C. Upon receipt of a petition **during** regular business hours, the authorized agency/officer shall present the petition to the following:

Any District Judge that is available. In Whitley County, if no District Judge is available, the petition shall be referred to any Circuit Judge. In McCreary County, if no District Judge is available, the petition shall be presented to the Trial Commissioner. If neither the District Judge nor the Trial Commissioner is available in McCreary County, then the petition shall be presented to a Circuit Judge.

- D. Upon receipt of a petition **after** regular business hours, the authorized agency/officer shall present the petition to:

The District Judge on call. If that District Judge is not available, see section C above.

## III. Assignment of Cases

- A. Pursuant to KRS 403.735 and KRS 456.030, jurisdiction over petitions filed under this chapter is concurrent between district, circuit, and family court.
- B. The judge reviewing a petition for an order of protection shall indicate in the "Court Action" section of the petition whether the resulting action is a domestic violence action under KRS Chapter 403 or an interpersonal protective order action under KRS Chapter 456.
- C. The circuit clerk shall assign interpersonal protective order cases to the District Court.
- D. The schedule for hearings on protective orders is as follows:

Whitley District Court – Williamsburg (Division I): Tuesdays at 1:30 p.m.

Whitley District Court – Williamsburg (Division II): Tuesdays at 1:00 p.m.

Whitley District Court – Corbin (Both Divisions): Mondays at 9:00 a.m.

McCreary District Court (Both Divisions): Thursdays at 11:00 a.m.

- E. Cases may be reassigned or transferred between courts if it is determined that there are other actions pending or circumstances indicate that review by the other court is proper. KRS 403.725, KRS 456.030. If reassignment or transfer occurs, the issuing judge shall re-issue a summons until the matter may be heard by the receiving judge.

#### IV. Contempt Proceedings

- A. Pursuant to KRS 403.763 and KRS 456.180, civil and criminal proceedings for violation of a protective order for the same violation of a protective order shall be mutually exclusive. Once a criminal or contempt proceeding has been initiated, the other shall not be undertaken regardless of the outcome of the original proceeding.
- B. Petitioners seeking to initiate contempt proceedings should contact:  
  
The Court Clerk during business hours. If it is after business hours, see IIB.
- C. No petitioner may be held in contempt for failure to appear at a domestic violence hearing or prosecute a criminal violation of a protective order.

The undersigned hereby acknowledge that all general orders, forms, policies and procedures relating to domestic violence within the judicial circuit are attached to this protocol and incorporated by reference.

The above protocol is adopted by all judicial officers in the circuit:



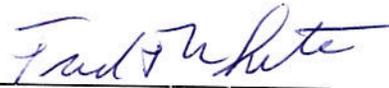
DAN BALLOU, CHIEF JUDGE  
CIRCUIT COURT, DIVISION I  
DATE: 23 Nov 2015



CATHY E. PREWITT, CHIEF JUDGE  
DISTRICT COURT, DIVISION I  
DATE: 11-24-2015



PAUL K. WINCHESTER, JUDGE  
CIRCUIT COURT, DIVISION II  
DATE: November 23<sup>rd</sup> 2015



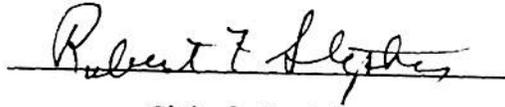
FRED WHITE, JUDGE  
DISTRICT COURT, DIVISION II,  
DATE: 11-24-15

# Supreme Court of Kentucky

IN RE: ORDER APPROVING AMENDMENT TO THE LOCAL RULES, 34TH  
JUDICIAL CIRCUIT, WHITLEY AND McCREARY COUNTIES

The Amendment to the Local Rules for the 34th Judicial  
Circuit regarding the establishment of a Parents Education Clinic  
in Whitley County are hereby approved by the undersigned.

ENTERED January 2, 1996.

A handwritten signature in cursive script, reading "Robert F. Stephens", is written over a horizontal line.

Chief Justice

COMMONWEALTH OF KENTUCKY  
34TH JUDICIAL CIRCUIT  
WHITLEY CIRCUIT COURT

GENERAL ORDER

IN RE: AMENDMENT TO GENERAL RULES OF COURT

\*\*\* \*\*

WHEREAS, the Court recognizes the potential harm to children caused by the process of legal dissolution of marriage; and

WHEREAS, a purpose of KRS 403 is to mitigate such potential harm to children; and

WHEREAS, the Court feels that professional guidance prior to final dissolution of the marriage may mitigate potential harm to children; and

WHEREAS, the Court, in consultation with the Whitley County Bar Association has developed a plan to provide some professional guidance to parties involved in divorce actions in the Whitley Circuit Court; therefore,

IT IS ORDERED that the General Rules of Court for the 34th Judicial Circuit be amended to read as follows:

PROCEDURE IN CASES INVOLVING  
CUSTODY OF OR VISITATION WITH CHILDREN

4. No proceeding for dissolution of marriage in which the custody or visitation of children is involved, including joint petitions, shall be assigned for final hearing until sixty

(60) days have elapsed from the date of service of summons, appointment of a warning order attorney, or the filing of an entry of appearance or a responsive pleading, whichever occurs first.

- a. Dissolution proceedings or other proceedings involving the custody of or visitation with children in which there are contested issues to be resolved by the Court, shall not be assigned for final hearing until the parties have attended and participated in the Parent Education Clinic held at least once each month, in the Whitley Circuit Courthouse or such other location as may be approved by the Court.
- b. Dissolution proceedings or other proceedings involving the custody of or visitation with children in which all issues have been resolved by agreement of the parties shall not be heard by the Court by deposition or upon notice in open Court, until the parties have attended and participated in the Parent Education Clinic held at least once each month, in the Whitley Circuit Courthouse or such other location as may be approved by the Court.
- c. If a party refuses or fails to attend the Clinic, the Court may make such orders in regard to the failure or refusal as are just, and among others the following:
  - (1) An order refusing to assign a trial date until the party requesting the trial date attends the Clinic;

- (2) An order declining to set or enforce permanent visitation rights for the disobedient party until the disobedient party attends the clinic;
  - (3) An order reserving the granting or approval of final custody; and
  - (4) In lieu of any of the foregoing orders or in addition thereto, an order treating as a contempt of Court the failure to obey an order to attend the Clinic.
- d. If the parties had been previously referred to mediation by the Court, or they have obtained other professional counseling regarding custody and visitation, the Court may, upon the written recommendation of such counselor, waive the requirement that parties attend the Clinic and assign the matter for trial.
  - e. A fee of Five Dollars (\$5.00) shall be paid by each party at the time of attending a Clinic; provided, however, no fee shall be payable by a party allowed to proceed in forma pauperis.

Upon entry of this Order, the provisions set out above shall be incorporated in the General Rules of Court for the 34th Judicial Circuit and shall apply to any case filed in the Whitley Circuit Court; the said Rules being a temporary measure to be followed in the Whitley Circuit Court until such time as modified by Order of this Court.

Dated this 27 day of June, 1997.

  
\_\_\_\_\_  
JERRY D. WINCHESTER, JUDGE  
WHITLEY CIRCUIT COURT

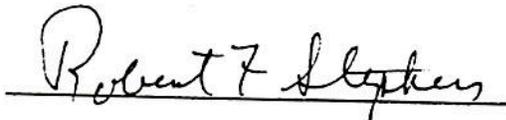
# Supreme Court of Kentucky

IN RE: ORDER APPROVING AMENDED LOCAL RULES FOR THE CUMBERLAND REGION OF JUDICIAL CIRCUITS:

- 11TH JUDICIAL CIRCUIT - TAYLOR, MARION, GREEN AND WASHINGTON CIRCUIT COURTS
- 26TH JUDICIAL CIRCUIT - HARLAN CIRCUIT COURT
- 27TH JUDICIAL CIRCUIT - LAUREL AND KNOX CIRCUIT COURTS
- 28TH JUDICIAL CIRCUIT - LINCOLN, PULASKI AND ROCKCASTLE CIRCUIT COURTS
- 29TH JUDICIAL CIRCUIT - ADAIR, CASEY, CUMBERLAND AND MONROE CIRCUIT COURTS
- 34TH JUDICIAL CIRCUIT - McCREARY AND WHITLEY CIRCUIT COURTS
- 40TH JUDICIAL CIRCUIT - CLINTON, RUSSELL AND WAYNE CIRCUIT COURTS
- 41ST JUDICIAL CIRCUIT - CLAY, JACKSON AND LESLIE CIRCUIT COURTS
- 44TH JUDICIAL CIRCUIT - BELL CIRCUIT COURT

The Amended Local Rules for the Cumberland Region of Judicial Circuits, are hereby approved by the undersigned.

ENTERED April 22, 1994.



Chief Justice

**RULES OF PRACTICE and PROCEDURE**

for the

**CUMBERLAND REGION**

of

**JUDICIAL CIRCUITS**

Including Local Rules

for the

11th, 26th, 27th, 28th, 29th, 34th,  
40th, 41st, and 44th

Judicial Circuits

(REVISED JANUARY 1994)

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**LOCAL RULES FOR THE 11TH,  
26TH, 28TH, 29TH, 34TH, 40TH  
41ST, AND 44TH JUDICIAL CIRCUITS**

**APPENDIX 1**

## GENERAL RULES OF PROCEDURE

### CPR-100 APPLICABILITY OF REGIONAL RULES

These Court Practice and Procedure Rules, Cumberland Region of Judicial Circuits, (CRJC) and the Kentucky Rules of Civil or Criminal Procedure and other law, in so far as applicable directly or by analogy, shall govern civil and criminal proceedings in the Cumberland Region of Judicial Circuit unless the same conflict with any statute or other law of the United States or Commonwealth of Kentucky, at any time legally adopted, in which event any such statute, law, rule, or order, shall at all times prevail. All local court rules presently in effect in the circuit courts of the Cumberland Region of Judicial Circuits are hereby repealed, except as contained in Appendix 1 of these rules.

### CPR-105 STYLE OF PLEADINGS

1. The heading of all pleadings and legal papers in all civil and criminal case shall be styled at the beginning and center of the first page as follows:

"COMMONWEALTH OF KENTUCKY  
# JUDICIAL CIRCUIT  
COUNTY CIRCUIT COURT  
DIVISION # (WHERE APPLICABLE)  
CIVIL ACTION NO. \_\_\_\_\_  
OR  
INDICTMENT NO. \_\_\_\_\_

2. All pages of all legal papers shall be numbered at the bottom center of each page.

**CPR-110 MOTION DAYS**

1. Matters from any county in a circuit may be heard on any Motion Day in that Circuit if applicable, regardless of location, subject to approval of the court or agreement of opposing counsel, but if the hearing is to be held outside the county where the action is filed, the attorney making the motion shall comply with CR 79.05(1) and shall personally sign out and bring the original court file to the hearing, and thereafter return it safely to the proper clerk. The attorney signing for a file shall be personally responsible for its safekeeping.

2. Motions to be heard by a special judge may be set on any regularly scheduled Motion Day of that special judge. The lawyer making the motion shall comply with CR 79.05(1) and shall personally sign out and bring to the hearing the original court file and return it to the clerk. The lawyer so doing is fully responsible for the court file.

3. Motions to be heard on Motion Days must served no later than the close of business on the fifth day before Motion Day. On the same day the attorney

serves notice of hearing, the attorney shall cause a copy of that Notice and Motion to be delivered or mailed to the clerk and judge.

**CPR-115 NOTICES, MOTIONS, AND ORDERS**

1. All motions shall be separately paragraphed and separately numbered.
2. A copy of all notices and motions for Motion Day shall also be served upon the court, as called for by the case, and such service shall also appear in the certificate of service. Any motion filed not in compliance with these rules shall be heard only in the discretion of the court.
3. Orders may be submitted to the court as to any motion, and if so shall be typed separately on plain, letter-size paper and shall accompany the copy of the motion served on the court or be presented to the court at the hearing of the motion.

**CPR-120 ATTORNEY'S NAMES, ADDRESSES, AND PHONE NUMBERS**

All pleading and papers requiring the signature of an attorney shall set forth on the last page thereof the typed name and complete address of the attorney including telephone number as in the following example:

---

JANE R. ZOE  
FOE, FOE AND ZOE  
890 Central Street  
Pineville, KY 40977  
Telephone: (606) 377-7777

ATTORNEY FOR PLAINTIFF

**CPR-125 COURT REPORTERS**

Pursuant to regulations of the Administrative Office of the Courts, the regular court reporter must serve for a special judge who is holding court in the circuit unless the court reporter is otherwise employed by the regular judge of that circuit. Should a special court reporter be required, the special judge is responsible for making the necessary arrangements. Regular judges should use their own reporter as first alternate to the regular reporter of the circuit where the case is to be tried.

**CPR-130 DISTRIBUTION OF ORDERS**

The Circuit Clerk shall distribute copies of all orders by mail or delivery to the persons listed under "DISTRIBUTION" and shall certify mailing or delivery by making a check mark by the person listed and shall initial and date the same at the

bottom of the Distribution list. All Orders shall contain a Distribution list as set out in the following example:

DISTRIBUTION:

Hon. John R. Doe  
P. O. Box 987  
Springfield, KY 40033 ( )

Hon. Mary A. Poe  
123 45th Street  
London, KY 40741 ( )

---

Clerk's initials and date

**REGIONAL RULES OF CIVIL PROCEDURE**

**CPR-135 DOMESTIC RELATIONS**

1. The court shall not hear any matters for maintenance or child support in the absence of service on a respondent of a comprehensive affidavit accompanying the motion for same in the manner pursuant to KRS 403.160, which clearly sets forth the factual basis for the motion and the amounts or other relief required. Responsive affidavits shall be utilized if possible. All motions and affidavits

required to be filed must be served at least five days prior to the date of the scheduled hearings unless the initial affidavit alleges in good faith and specifically sets forth facts, not mere conclusions, showing and also alleging the delay would endanger seriously the movant's or movant's child's physical, mental, moral, or emotional health, or constitute manifest injustice.

2. In every contested dissolution, each attorney may, at the discretion of the Court, file in the case and furnish to the Court and opposing counsel, an itemized schedule setting forth the following:

- a. Marital property of the parties and in whose name it is held, and the value thereof, including:
  1. Real estate
  2. Personal property, including cash, bank accounts, etc.;
- b. Employment status;
- c. Income, periodic and from all sources, and supporting proof thereof from employer, including wage statements, etc.;
- d. Copy of tax return for preceding year;
- e. List of property, real and personal, claimed non-marital, and the basis of the claim;
- f. Any other information the parties may believe will assist in making property disposition and fixing award for maintenance and support, where applicable.

3. If the case is scheduled for hearing, the above-mentioned schedule shall be furnished to the court and opposing counsel five days prior to the hearing date.

4. All actions for final decrees shall include the testimonies of the parties to prove residency.

5. Proposed findings of fact, conclusions of law and final decrees in original form, shall be submitted to the court typed on plain, letter-size paper when domestic relations cases are either heard orally or on deposition as provided herein.

#### **CPR-140 DEFAULT JUDGMENTS AND AGREED ORDERS**

A party seeking a judgment by default where Rules 55.01, 4.01, or 6.03 of the Kentucky Rules of Civil Procedure apply shall first file a written motion for such a judgment. All such motions shall be submitted ex parte and shall not be scheduled on Motion Day dockets. If the Court deems it necessary to establish the truth of any averment, take an accounting or to determine amount of damages, or to otherwise investigate evidentiary issues, a hearing shall be scheduled pursuant to Rule 55.01 of the Kentucky Rules of Civil Procedure.

**CPR-145 ANSWERS AND OBJECTIONS TO INTERROGATORIES  
AND REQUESTS FOR ADMISSIONS**

Answers and objections to interrogatories, requests for admission or other similar discovery procedures, shall identify and quote each interrogatory in full immediately preceding the statement of any answer or objection thereto.

**CPR-150 PRE-TRIAL CONFERENCES**

1. Pre-trial conferences may be held in the court's discretion or upon the motion of either party.

2. Pre-trial conferences may be assigned by the Court immediately upon receipt of notice and motion to set a case for trial under CR 40, or upon the Court's own order at any time.

3. Except in cases specifically ordered by the Court, before a case is placed on a jury docket, and in all cases before an action is heard at the pre-trial conference, the parties shall comply with the following:

- a. Determine that pleadings are completed and all issues of fact joined;
- b. Complete discovery if possible;
- c. Prepare proposed instructions to be tendered to the court and opposing counsel, subject to revision;

- d. Be prepared to stipulate undisputed facts by either party;
- e. In tort actions involving personal injury, be prepared to exchange medical reports and copies of medical bills or other evidence of special damages;
- f. To discuss all material points of law;
- g. To discuss the nature of the case, the theories of the parties, admitted facts, the ultimate facts which will be disputed, and the points of law to be passed on by the courts.

4. In advance of a civil pre-trial conference counsel shall consult their respective clients as to the authority for a settlement, and shall make good faith efforts to obtain authorization within certain figures for settlement.

5. The following matters, among others, may also be considered at civil pre-trial conferences:

- a. Hearing and deciding any motions pending before the court, including motions for summary judgment;
- b. On stipulation of the parties, determine issues of law, and if there is no triable issue of fact, render judgment;
- c. Inquire as to whether all discovery proceedings and physical examinations have been completed, and if not, place limits on the completion thereof, if necessary;
- d. Determine the right of a trial by jury and any demand therefor;
- e. Estimate the time required for a trial;

11TH JUDICIAL CIRCUIT  
RULES OF COURT

Judge - W. M. "Mike" Hall

Judge Number - 611015

Secretary - Marilyn Smith

Court Reporter - Lynn Ballard

Phone - (502) 465-6603

Mailing Address - P. O. Box 490  
Campbellsville, KY 42719

MOTION DAYS

TAYLOR COUNTY - 1st & 3rd Tuesday after the first Monday of each month.

MARION COUNTY - 1st & 3rd Monday of each month.

GREEN COUNTY - 1st Wednesday after the first Monday of each month.

WASHINGTON COUNTY - 1st Thursday after the first Monday of each month.

1. In the event any Motion Day falls on New Years Day, Martin Luther King Day, July 4, Labor Day, or Election Day, the same will be continued until the following Friday.

2. All Motion Days will commence at 9:00 a. m. prevailing time.

3. The 11th Judicial Circuit Court is a Court of continuous session. Cases are scheduled for trial at the discretion of the Court.

4. Copies of all motions shall be served on the Judge of the Court at least five (5) working days prior to the regular Motion Day on which such is to be heard with a statement of counsel as to the approximate time to be required for the hearing in order that a docket may be prepared in advance assigning hearings at specified times. Any moving party may call the Secretary of the Judge for a specific time for the hearing of a motion prior to service thereof.

- f. In the court's discretion, assign a date for the trial of the case;
- g. Such matters as may aid in the expeditious, economical, and just disposition of the action.

### **CPR-155 MOTIONS FOR SUMMARY JUDGMENT**

1. There may be served and filed with each motion for summary judgment filed pursuant to CR 56, proposed findings of facts and conclusions of law and a proposed summary judgment. Such proposed findings shall specifically state the material facts as to which the moving party contends there is no genuine issue.

2. Any party opposing the motion may, prior to the day of hearing, serve and file a concise "statement of genuine issues," setting forth all material facts as to which it is contended there exists a genuine issue necessary to be litigated.

### **CPR-160 CASES SUBMITTED ON DEPOSITIONS**

All cases submitted on depositions other than uncontested divorces, shall be accompanied by memorandum briefs and proposed findings of fact, conclusions of law, and judgment. Proposed findings of fact, conclusions of law, and judgment shall be furnished to opposing counsel.

**APPENDIX 1**

34TH JUDICIAL CIRCUIT  
GENERAL RULES OF COURT

Judge - Hon. Jerry D. Winchester

Judge Number - 634063

Secretary - Nell Winchester

Court Reporter - Paula Gibbs

Legal Assistant - Jennifer Nelson

Telephone - Corbin (606) 528-3013  
Williamsburg (606) 549-0825  
Whitley City (606) 376-5039

Mailing Address - 105 W. Fifth Street  
Corbin, KY 40701

MOTION DAYS

McCreary Circuit Court:  
3rd Monday of each month for CIVIL and CRIMINAL.

Whitley Circuit Court:  
1st Monday of each month for CIVIL and CRIMINAL.

DOMESTIC DAYS

McCreary Circuit Court:  
2nd Monday of each month.

Whitley Circuit Court:  
4th Monday of each month.

Domestic Relations Commissioner - Larry Conley  
109 W. First Street  
Corbin, KY 40701  
(606) 528-4140

GENERAL RULES OF COURT

1. The 34th Judicial Circuit utilizes the Rules of Practice and Procedure of the Cumberland Region of Judicial Circuits.

2. To have a motion put on the motion docket, civil or criminal, the attorney should file the original motion with the Circuit Court Clerk and notice the motion for a particular date.

3. Motions shall be served and filed with the Circuit Court Clerk no later than five (5) days prior to when it is scheduled for hearing.

#### SESSIONS OF COURT

The 34th Judicial Circuit Court is a court of continuous session. There are no set dates for sessions of court for McCreary County, except that criminal cases are heard in the months of January, March, May, July, September, and November and civil cases are heard in the months of February, April, June, August, October, and December.

HON. JERRY D. WINCHESTER  
Circuit Judge  
34th Judicial Circuit



McCreary and Whitley Counties

Judge Winchester was born in Cooperative, Kentucky. He received his J.D. from the University of Kentucky College of Law. He was in the private practice of law until his appointment as circuit judge in 1987.