Supreme Court of Kentucky

ORDER

IN RE: ORDER APPROVING THE RULES OF COURT PRACTICE AND PROCEDURE FOR THE 9TH JUDICIAL CIRCUIT, HARDIN COUNTY

Upon recommendation of the Judges of the 9th Judicial Circuit, and being otherwise sufficiently advised,

The Rules of Court Practice and Procedure for the 9th Judicial Circuit, Hardin County, 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 this the 14th day of January 2014.

CHIEF JUSTICE JOHN D. MINTON, JR.

RULES OF PRACTICE
HARDIN CIRCUIT COURT

Pursuant to RCr 13.02 and SCR 1.040(3)(a), the following rules are adopted for procedure in the Hardin Circuit Court and may be cited by the abbreviation "HCR" followed by the appropriate rule number:

RULE 1 -- EFFECTIVE DATE

All previous versions of these Rules of Practice adopted by this court are repealed, and the following Rules shall be in effect on and after January 1, 2014, pending approval by the Chief Justice of the Supreme Court of Kentucky.

RULE 2 – DIVISIONS

2.01. The Hardin Circuit Court shall convene and transact business in four divisions. The general divisions are to be designated as "Hardin Circuit Court, Division II," and "Hardin Circuit Court, Division III," and the procedure in these divisions shall be governed by these Rules. Divisions I and IV of the Hardin Circuit Court have been designated as family court divisions pursuant to Section 112(6) of the Kentucky Constitution. Procedure in the family court divisions is governed by separate rules of practice and procedure promulgated by the judges of the family court. When the judges of the family court preside on matters for Divisions II or III, then these Rules shall apply.

2.02. The Hon. Ken M. Howard and his successors in office shall preside over Division II of the circuit court.

2.03. The Hon. Kelly Mark Easton and his successors in office shall preside over Division III of the circuit court.

RULE 3 -- JURY SELECTION AND MANAGEMENT

3.01. Procedures for the selection of persons to serve on juries shall be governed by the applicable provisions of the Kentucky Revised Statutes and the Administrative Procedures of the Court of Justice.

3.02. A new petit jury and a new grand jury will be impaneled on the first Monday of January, March, May, August, and October. If a state holiday falls on the first Monday of one of those months, the juries will be impaneled on the next Monday. Once impaneled, a member of the petit jury or the grand jury shall continue to serve in that capacity until a new petit jury or grand jury is impaneled or until the completion of the last case on which that juror was selected to serve, whichever occurs last. The Chief Judge or designee may reassign jurors during the term of service. For any reason authorized by KRS 29A.100, the Chief Judge or designee may excuse any juror from additional service at any time. Also, for any reason authorized by KRS 29A.100, the Chief Judge or designee may excuse any juror from attendance in court on the first report day and permit that juror to be impaneled at a later date to serve for the duration of the term.

RULE 4 -- CRIMINAL PROCEEDINGS

4.01. Assignment of Cases

The Hardin Circuit Clerk ("Clerk") shall prepare a stack of shuffled cards containing an equal number of cards marked Divisions II and III. The Clerk shall draw, anonymously and by chance, a card from the stack and assign the next returned indictment or information to the division appearing on that card. This procedure will be repeated until all of the cards in the stack have been drawn, at which time the Clerk will prepare a new stack to be used in the same manner. If at the time of the return of indictments or informations the receiving judge determines that some indictments or informations involve co-defendants or are otherwise related, they may be processed together under this section to be assigned to the same division.

4.02. Arraignments

(1) Arraignments will be conducted during the regularly scheduled criminal Motion Hours for Divisions II and III as set out in HCR 4.06.

(2) Defendants proceeded against by information shall appear and enter a plea during the regularly scheduled criminal Motion Hours for Divisions II and III as set out in HCR 4.06.

(3) An order addressing discovery and setting deadlines for the exchange of discovery shall be entered at the arraignment. The Commonwealth shall provide discovery then available to the defendant or his or her counsel at the arraignment, or the Commonwealth may elect to wait until counsel have entered an appearance as counsel for the case to provide discovery. The Commonwealth will not be required to provide discovery more than once as a result in a change of counsel for the defendant.

4.03. Jury Trials

(1) A trial date may be set at the arraignment and shall be set at the first pretrial conference. Unless for good cause shown, a trial date shall be scheduled within six (6) months of arraignment.

(2) The court will schedule criminal trials generally in the first three weeks of each month, except in July and December.

(3) Additional jury trials may be scheduled during the first two weeks of the months of July and December in the discretion of the judges.

4.04. Pretrial Conference

(1) A pretrial conference shall be scheduled at arraignment to occur within sixty (60) days of arraignment. Any additional pretrial conference may be scheduled by motion of either party or on the court's own initiative. The parties will be expected to address pretrial issues at a pretrial conference and file written motions to be considered in advance of the pretrial conference. At the pretrial conference, the court may hear matters which are the subject of any motions filed or made orally during the pretrial conference and determine those issues then or by submission. The court also may schedule a hearing date for any motion or defer a hearing to be conducted at the beginning of or during

trial. Avoiding delay and inconvenience to jurors is a primary consideration.

4.05. Representation by Counsel

(1) Indigent Defendants: All defendants charged with violation of the penal statutes and are found by the court to be indigent shall be represented by counsel with the Kentucky Department of Public Advocacy, generally through the Elizabethtown Regional Office. Upon appointment by the court, that agency shall designate the attorney(s) who will conduct the defense of the case.

(2) Withdrawal or Removal of Counsel:

A. Appointed Counsel -- Except on a showing of extraordinary circumstances, appointed counsel will not be removed or permitted to withdraw on grounds of personality conflict or refusal of the defendant to cooperate with counsel.

B. Retained Counsel -- "Retained counsel" means any attorney authorized to practice before this court who has not been appointed by the court to represent the defendant. Except for good cause shown, retained counsel who has appeared for the defendant at any post-indictment proceeding, will not be permitted to withdraw prior to entry of final judgment. Counsel may enter a limited appearance to make a motion pertaining to the bond status of a defendant. "Good cause" does not include inability to collect an agreed fee.

4.06. Motions

(1) Motion Hour: Motion Hours for criminal actions in Divisions II and III will begin at 10:00 a.m. and 1:15 p.m. on every Tuesday, except during the months of July and December when Motion Hours will be held only on the first and second Tuesdays. Except for good cause shown, all motions to be heard at Motion Hour must be filed no later than 3:00 p.m. on the Wednesday immediately preceding the Motion Hour.

(2) Motions in Limine: Except for good cause shown, motions in limine shall be noticed for hearing no later than the Motion Hour immediately preceding the date of the trial.

4.07. Inter-Division Transfers

When the Judge of any division to which a criminal case has been assigned is disqualified, or when the necessity for an early trial date arises, or when, in the opinion of the judges, other good and sufficient reasons so require, upon orders signed by the judges of the transferring and receiving divisions, any criminal proceeding may be transferred from one division to another.

4.08. Absence of Presiding Judge

Regardless of the assignment of a criminal proceeding to a particular division, the judge of any division may, in the absence of the assigned judge, exercise jurisdiction and sign any order or entertain any proceeding when the assigned judge is not readily available or is incapacitated.

4.09. Settlements -- Notification and Entry of Pleas

(1) The parties shall immediately notify the presiding judge's secretary regarding settlement of any criminal action which is set for trial.

(2) Pleas may be entered at any time scheduled by the court as well as during any Motion Hour.

4.10. Pretrial Diversion

(1) Definition: Pretrial Diversion is the postponement of imposition of sentence upon any person who qualifies for this program, subject to certain conditions established by the court, for a period not to exceed five (5) years or until restitution is paid in full, whichever is later.

(2) Persons Eligible:

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.

B. The person charged must enter a plea of guilty 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(5), shall be ineligible for this program.

E. No person shall be eligible for this program more than once in any five (5) year period.

(3) Procedure:

A. After indictment or information any person eligible for the program may apply to the court and the Commonwealth for entry of a pretrial diversion order.

B. In applying for pretrial diversion, counsel and defendant must state on the record, that in the event diversion is granted, any right to a speedy trial or disposition of the charge(s) is waived.

C. The Commonwealth shall make a written recommendation to the court in response to each application.

D. Before making a recommendation to the court, the Commonwealth shall:

(i) Have a criminal record check performed by a reliable governmental agency to

confirm that the defendant's prior criminal record does not disqualify the defendant from receiving a pretrial diversion under applicable law. Requests are not to be sent to the local Pretrial Services' office.

(ii) Interview and seek input from the victim or deceased or incapacitated victim's family and advise them of the time, date, and place that the motion for pretrial diversion will be heard by the court; and

(iii) 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 voided.

(4) Order of Pretrial Diversion:

A. The court may, in its discretion and upon a favorable recommendation from the Commonwealth, order pretrial diversion for eligible petitioners upon terms and conditions it deems appropriate.

B. The Order of Diversion shall include:

(i) Restitution, if applicable;

(ii) Whether the diversion shall be supervised or unsupervised. If supervised, a monthly supervision fee of $25.00 shall be imposed on the defendant;

(iii) Duration of the diversion;

(iv) Require the defendant to obey all rules and regulations imposed by Probation and Parole;

(v) As required by KRS 533.030(1), direct the defendant not to commit any offense during the period of the pretrial diversion, and to comply with any other provision of KRS 533.030 or any other condition that the Court deems appropriate;

(vi) A final review date shall be set on a Motion Hour within sixty (60) days prior to the expiration of the diversion. At that review, the Commonwealth shall tender a diversion dismissal order. The submission of that order by the Clerk shall be scheduled to occur within ten (10) days after the expiration of the diversion. The order will be entered if the diversion has been successfully completed.

C. The Order of Diversion may include:

(i) That the defendant remains drug and alcohol free and be subject to random testing;
(ii) That the defendant has no violation of the Penal Code or the Controlled Substances Act;

(iii) That the defendant possesses no firearm or any other deadly weapon.

D. Duration of the pretrial diversion shall not exceed five (5) years without agreement of the defendant; however, duration of the diversion agreement shall not be less than the time required to make restitution in full, even if that exceeds five (5) years.

(5) Voiding a Diversion Order:

A. After a hearing, with notice to the Commonwealth and to the defendant, the court may void the defendant's participation in pretrial diversion upon a showing of failure to comply with the conditions of diversion or failure to make satisfactory progress.

B. If an order of pretrial diversion is voided, the defendant shall be sentenced according to law based on the defendant's prior plea of guilty.

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.

(6) Completion of Diversion Program

If the defendant successfully completes the provisions of the pretrial diversion, the charge(s) shall be dismissed and be subject to expungement upon proper application.

RULE 5 -- CIVIL PROCEEDINGS

5.01. Assignment of Cases.

(1) The Clerk shall prepare two stacks of shuffled cards containing an equal number of cards marked Divisions II and III: one stack for District Court Appeal cases and one stack for all other civil cases. The Clerk shall draw, anonymously and by chance, a card from the appropriate stack and assign the next filed case to the division appearing on that card. This procedure shall be repeated until all of the cards in a particular stack have been drawn, at which time the Clerk will prepare a new stack to be used in the same manner.

(2) An action may be transferred from one division to another by an order signed by the judges of the transferring and receiving divisions when one of the following situations exist:

A. The judge to which said action was originally assigned is disqualified to hear same;

B. There is a companion case involving like or similar facts which should be tried or considered with the same action;

C. In the opinion of the judges of both divisions other good and sufficient reasons exist.

(3) Regardless of the assignment of a case to a particular division, the judge of any other division may in the absence of another judge sign orders and judgments as permitted by KRS 26A.040.

(4) If a writ is filed by a defendant who has been indicted by the grand jury and the subject matter of the writ involves the charge(s) for which that defendant was indicted, the writ will be assigned to the same judge to whom the criminal case was assigned.

5.02. Jury Trials

(1) The court will schedule civil trials generally in the fourth week of each month, except in July and December.

(2) Jury trials may also be held during the first two weeks of the months of July and December at the discretion of the presiding judge.

5.03. Equity Trials

All trials before the court without a jury normally will be held during the last week of each month. Such trials may be scheduled at any time during July and December.

5.04. Pretrial Proceedings

(1) Pretrial conferences shall not be scheduled automatically. Should there be issues requiring such a conference, either party may request such a conference by filing a specific motion(s) to be addressed, or the court may schedule such a conference on its own initiative. At the pretrial conference, the court may hear the matters asserted, schedule a hearing date, or defer the hearing to trial.

(2) Except for good cause shown, motions in limine shall be noticed for hearing no later than the Motion Hour immediately preceding the date of trial.

5.05. Civil Contempt Proceedings

(1) A party moving for a rule against another party shall file the following with the Clerk:

A. A motion for a rule and for a hearing specifying the requested hearing date;

B. An affidavit setting forth facts supporting the motion;

C. An order incorporating the allegation of the affidavit and setting the requested date for the responding party to appear and show cause why he should not be held in contempt, e.g.,

[CAPTION]

On _____, the Defendant/Respondent was ordered to _____. The Plaintiff/

Petitioner has filed an affidavit showing prima facie that the Defendant/Respondent has violated the order by _____.

WHEREFORE, IT IS HEREBY ORDERED that the Defendant/Respondent appear in this Court on _____ at _____ a.m. to show cause why he/she should not be held in contempt of court.

This _____ day of _____, 20__.

_____
JUDGE, HARDIN CIRCUIT COURT
DIVISION ____

D. Findings of Fact, Conclusions of Law and Order to be entered if the responding party is subsequently found to be in contempt.

(2) The Clerk shall submit these papers to the judge. If the affidavit shows prima facie that the responding party is in violation of a previous court order, the show cause order will be signed, a hearing date set and all papers returned to the Clerk's office.

(3) If appropriate fees have been paid, the motion, affidavit and order will then be served on the responding party as follows:

A. Prejudgment Proceedings -- A prejudgment motion for a Rule for failure to abide by the provisions of a pendente lite order shall be served upon opposing counsel, or party not represented by counsel, no later than midnight on the Wednesday immediately preceding the Rule Day on which the motion is to be heard. "Service" shall be pursuant to Civil Rule 5.01 and as described in Civil Rule 5.02, or by placing a copy of the motion in the mail slot allotted to opposing counsel in the Clerk's office.

B. Post-Judgment Proceedings -- A post-judgment motion for a Rule for failure to abide by the provisions of any order or judgment must be filed with the clerk no later than ten (10) days prior to the Rule Day on which the motion is to be heard. Notice of such a motion must be served upon the adverse party and his attorney of record, if any, at least ten (10) days prior to the Rule Day for which the motion is noticed. Service upon the adverse party shall be as described in Civil Rule 4.01. Service upon the opposing attorney of record shall be as described in Civil Rule 5.02, or by placing a copy of the motion in the mail slot allotted to opposing counsel in the clerk's office.

(4) Proof of service on the adverse party must be filed in the record before the motion will be heard.

5.06. Settlements

(1) The parties shall immediately notify the presiding judge's secretary regarding settlement of any civil action which is set for trial.

(2) An agreed order of dismissal, signed by all parties or their counsel, shall be prepared and tendered to the presiding judge for signature upon the settlement of any civil action.

RULE 6 -- RULE DAYS AND MOTION HOURS

6.01. Rule Days

Rule Days for Divisions II and III shall be held every Tuesday, except during the months of July and December, when Rule Days will be held only on the first and second Tuesdays of the month.

6.02. Motion Hours

Motion Hour shall begin on Rule Days for civil actions at 9:15 a.m. for Division II and 8:30 a.m. for Division III.

6.03. Motion Practice

(1) Any motion accompanied by an agreed order and any motion for a default judgment (if no party is entitled to notice) may be filed with the Clerk and sent directly to the presiding judge for signature. All other motions must be noticed for a hearing at Motion Hour, unless the law permits an ex parte presentation of the motion.

(2) Each motion to be heard at Motion Hour shall be filed with the Clerk no later than 3:00 p.m. on the Wednesday immediately preceding the Rule Day for which the motion has been noticed. Each motion shall be served upon opposing counsel, or party not represented by counsel and entitled to notice, no later than midnight on the Wednesday immediately preceding the Rule Day for which the motion has been noticed. Service shall be as described in Civil Rule 5.02 or by placing a copy of the motion in the mail slot allotted to that opposing counsel in the Clerk's office. All post-judgment motions must be served upon the opposing party.

(3) Each notice shall state in general terms the subject matter of the motion and the action of the court requested by the movant.

(4) No motion will be heard by the court unless same is accompanied by a tendered order which the movant desires the court to enter and by tendered Findings of Fact and Conclusions of Law if the requested order will be a final and appealable order and such Findings and conclusions are required by law. Any motions that are improperly prepared may be voided by the Clerk and returned to the attorney of record.

(5) Any hearing required pursuant to a motion will be heard at Motion Hour or assigned to a date and hour for hearing. Except for good cause shown, any motion requiring a hearing of more than fifteen (15) minutes will be assigned for a specific time other than Motion Hour.

6.04. Motions to Assign for Trial

(1) A motion to assign a civil action for trial may be filed for any Motion Hour. When the motion is heard the court may:

A. Assign or reassign the case for trial;

B. Schedule a pretrial conference;

C. Set time limitations for the completion of discovery and identification of expert witnesses;

D. Decline to set the matter for trial;

E. Refuse to continue the trial;

F. Take such other action as may be appropriate.

(2) Any case previously set for trial continued for any reason shall be mediated prior to a subsequent trial date.

(3) Each motion for assignment of a civil action for trial must be accompanied by a tendered order, which must include the following directive:

This matter is set for trial by jury (before the court) on the ____ day of ____, 20__.

The Plaintiff shall identify all expert witnesses (not just those retained), if any, and the subject matter of their opinions, and provide same to opposing counsel on or before ____.

The Defendant shall identify all expert witnesses (not just those retained), if any, and the subject matter of their opinions, and provide same to opposing counsel on or before ____.

All discovery by all parties shall be completed no later than ____ days prior to trial.

On or before ____ days prior to said trial date, each party shall file with the Clerk a list of names and addresses of all witnesses (excepting parties) to be used by them at the trial, together with an itemized list of all damages proposed to be proven at trial, and a list of all exhibits proposed to be introduced as evidence, which shall be shown by certificate of attorney. A copy of all exhibits listed with the Clerk shall be provided to all opposing counsel or parties answering and not represented by counsel, unless said exhibits are too cumbersome and voluminous as to make same impracticable, in which case such exhibits shall be made available for viewing by all opposing counsel or parties answering and not represented by counsel. No other witnesses may be introduced or damages proven or exhibits received in evidence than those disclosed as set out above, except by agreement of all parties or in the discretion of the Court for good cause shown.

RULE 7--WARNING ORDER/MILITARY ATTORNEYS AND GUARDIANS AD LITEM

7.01. Appointment

Warning Order/Military Attorneys and Guardians ad Litem shall be appointed from a list of attorneys who are in good standing with the Hardin County Bar Association and have been approved by the presiding judges, with each attorney on the list to receive an equal number of appointments. Any attorney not wishing to receive such appointments may have his or her name removed from the list by written notification filed with the Clerk.

7.02. Fees

(1) Any litigant, except one permitted to proceed in forma pauperis, who desires the appointment of a Warning Order/Military Attorney, shall deposit with the clerk when the request is made, the sum of $125.00 as an a Warning Order/Military Attorney fee. Unusual circumstances or expenses (not including typical postage expense) may justify an additional fee. A request for an additional fee must be addressed by motion to the court.

(2) Any litigant, except one permitted to proceed in forma pauperis, who desires the appointment of a Guardian ad Litem shall deposit with the clerk when the request is made, the sum of $165.00 as an a Guardian ad Litem fee. Unusual circumstances or expenses (not including typical postage expense) may justify an additional fee. A request for an additional fee must be addressed by motion to the court.

(3) Unless objection has been filed, the Clerk shall pay the deposited fee to the Warning Order/Military Attorney or Guardian ad Litem upon filing of the attorney's report, or upon entry of final judgment.

7.03. Paupers

Any attorney appointed as Warning Order/Military Attorney or Guardian ad Litem in an in forma pauperis proceeding will also be appointed in the next non-pauper action where appointment of a Warning Order/Military Attorney or Guardian ad Litem is requested and in which that attorney is eligible for appointment.

RULE 8 – MEDIATION

8.01. Definition

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

8.02. Referral of Cases to Mediation

The court may refer a case or portion of a case for mediation at any time on its own motion or on motion of any party. The Commonwealth cannot be required to mediate in a criminal case without its agreement.

8.03. Mediator Compensation

The mediator shall be compensated at the rate agreed upon between the mediator and the parties if the mediator is 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 rate. Unless otherwise agreed by the parties or ordered by the court, the parties shall equally divide the mediator's fees.

8.04. Mediation Procedure

Following selection of the mediator, the mediator may set an initial mediation conference and shall set a mediation date. The mediation shall be held in Hardin County unless some other site is agreed by the parties. The mediator may meet with the parties or their counsel prior to the mediation for the purpose of establishing a procedure for the mediation. The mediator may require the parties to submit a confidential statement of the case or other materials that the mediator believes appropriate for efficiently conducting the mediation.

8.05. Attendance at Mediation

The parties must attend the mediation. Counsel shall attend the mediation unless otherwise agreed by the parties and the mediator, or ordered by the court. If a party is a public entity, it shall appear by the physical presence of a representative with full authority to negotiate on behalf of the entity and to recommend settlement to the appropriate decision making body or officer of the entity. If a party is an organization other than a public entity, it shall appear by the physical presence of a representative, other than the party's counsel of record, who has full authority to settle without further consultation. If any party is insured for the claim in dispute, that party shall also be required to have its insurer present 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. These requirements may be varied only by stipulation of the parties or by order of the court for good cause shown.

8.06. Completion or Termination

The mediator may terminate the mediation after a settlement is reached or when the mediator determines that continuation would be unproductive. After termination, mediation may resume only by agreement of the parties, their counsel and the mediator, or by order of the court.

8.07. 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.

8.08. Agreement

If an agreement is reached during the 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 consent of the parties.

8.09. Confidentiality

(1) Mediation sessions shall be closed to all persons other than the parties, their legal representatives, and other persons invited by the mediator with the consent of the parties.

(2) Mediation shall be regarded as settlement negotiations for purposes of KRE 408.

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

(4) Nothing in this rule shall prohibit the mediator from reporting abuse pursuant to KRS 209.030, KRS 620.030, or other applicable law.

RULE 9 -- JUDICIAL SALES

9.01. Referral to the Master Commissioner

Referral of judicial sales to the Master Commissioner shall be as provided by the Kentucky Revised Statutes, the Rules of Civil Procedure, Part IV of the Administrative Procedures of the Court of Justice, these Rules, or by court order in individual cases. The order shall specifically indicate the purpose of the referral and the duties to be performed by the Master Commissioner.

9.02. Motions for Judgment and Order of Sale

Every motion for default or summary judgment and order of sale shall be accompanied by a tendered judgment and order of sale, which shall include, but not be limited to, the following information:

(1) A statement of the manner by which this court has acquired jurisdiction over the parties to the action. For each defendant in the suit, the tendered judgment shall state:

> "The Defendant, __(Name)__, is before this Court by means of __(Type of Service)__ (i.e., personal, warning order, long-arm, etc.), which service was accomplished on __(Date)__."

(2) The legal description and the street address of the property to be sold.

(3) An order of sale, which reads as follows:

> "The Master Commissioner of this court is hereby directed to sell the real estate described in the Judgment at public auction to the highest bidder at a time and place designated by the Master Commissioner after first having caused the property to be appraised according to law; and having advertised the sale as to the time, terms, and place by posting printed handbills at the courthouse and on or near the property to be sold for at least fifteen (15) days prior to the date of sale. Notice as to its time, terms, and place of sale together with a street address or a short description of said parcel of land

shall be published once a week for three successive weeks next preceding the date of sale in the daily newspaper of the largest circulation published in Hardin County, Kentucky. The real estate shall be sold on terms of $5,000 down and the balance on a credit of sixty (60) days, bearing judgment interest from date of sale until the purchase price is paid."

(4) A certificate that a copy of the tendered judgment and order of sale was served on the Master Commissioner at the time the motion is filed.

9.03. Taxes

Unless specifically stated otherwise in the order or judgment, taxes shall be paid in the following manner:

(1) If property is purchased by a plaintiff, taxes are to be paid directly and not through the office of the Master Commissioner. Proof of payment shall be provided to the Master Commissioner, and the purchaser shall not receive credit for taxes paid upon the purchase price.

(2) If property is purchased by a third party, delinquent tax payoffs will be obtained by the Master Commissioner and paid out of the proceeds of the sale, for which the purchaser shall not receive credit upon the purchase price.

9.04. Conduct of Sale

(1) Deposit and Bond Requirements -- Resale Upon Failure to Comply and Credit against Judgment.

A. In every judicial sale, except where the order of sale directs otherwise, the cash deposit specified in the order or judgment of sale shall be made immediately upon the completion of the bidding. If a bond is required by the judgment or order of sale, the successful bidder must be ready to comply immediately with the terms of that bond, including having a surety available to sign the bond immediately upon the conclusion of the sale.

B. If the deposit, bond, or surety requirements are not complied with immediately upon the conclusion of the bidding, the Master Commissioner may reject the bid and resell the property immediately. In making such resale, the Master Commissioner shall accept no bid from the rejected bidder.

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

(2) Interest -- Accrual of interest on the successful bid shall be suspended to the extent of any payment or deposit as of the date either is made to the Master Commissioner.

9.05. Commissioner's Report, Order of Confirmation, and Delivery of Deed

(1) The Master Commissioner shall file a report of sale with the Clerk, who shall immediately serve notice of the filing upon all parties who would be entitled to notice of entry of a final judgment.

(2) Within ten (10) days after being served with notice of the filing of the report, any party may serve written objections or exceptions thereto upon the other parties. If no objections or exceptions are filed, the report will be automatically submitted to the presiding judge on the eleventh day after the notice of the report was served on the parties. If objections or exceptions are filed, any party may apply to the court for confirmation of the report by motion and pursuant to notice as described in HCR 6.03. If no objections or exceptions are filed, the court will sign an order of confirmation submitted directly to the court without notice and motion. All orders of confirmation shall be tendered by the Master Commissioner.

(3) Delivery of Deed. If the plaintiff is the purchaser of the property, the plaintiff shall prepare and tender the deed to the Master Commissioner. The Master Commissioner shall prepare all deeds for third-party purchasers. The deed must contain at least the following:

A. The name of all parties whose interests are being conveyed;

B. The name and address of the purchaser;

C. The stated consideration;

D. The legal description of the property;

E. The owner's source of title;

F. A blank for the insertion of the date that the sale was confirmed by the court;

G. A statement that the Master Commissioner does not bind himself personally by anything in the deed; and

H. All other legal requirements of a deed including applicable jurat and scrivener provisions.

9.06. Assignment of Bid

If the purchaser at a judicial sale desires to assign the bid to a third party, then this assignment shall be tendered to the Clerk for filing. The purchaser shall provide a copy of the assignment to the Master Commissioner.

9.07. Appraiser Fees

In all sales where an appraisal is required, the fee of each appraiser shall be $100.00 unless otherwise ordered by the court. Upon good cause shown, the Chief Judge may from time o time modify the appraiser fee.

9.08. Commissioner's Fees

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

RULE 10 -- CIRCUIT COURT FILING DEADLINE

The filing deadline for any pleading in a circuit court matter, civil or criminal, shall be 3:00 p.m. Any document filed after 3:00 p.m. shall be placed in a basket and clocked in on the following business day. If an emergency exists, the Clerk's office must be personally notified and arrangements made for the immediate filing of the particular document(s).

ADOPTED THIS 5th day of December, 2013.

KEN M. HOWARD, JUDGE
HARDIN CIRCUIT COURT
DIVISION II

KELLY MARK EASTON, JUDGE
HARDIN CIRCUIT COURT
DIVISION III

CERTIFICATE

I, LORETTA CRADY, Clerk of the Hardin Circuit Court, do hereby certify that the foregoing Rules of Practice were duly signed by the HON. KEN M. HOWARD, the HON. KELLY MARK EASTON, Judges of the general divisions of the Ninth Judicial Circuit of Kentucky and that same is hereby certified to the Chief Justice of the Supreme Court of Kentucky.

This 5th day of December, 2013.

CLERK, HARDIN CIRCUIT COURT