

Supreme Court of Kentucky

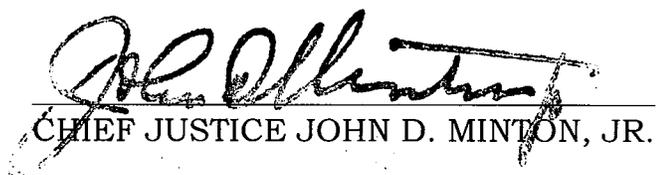
ORDER

IN RE: ORDER APPROVING THE RULES OF COURT PRACTICE AND PROCEDURE FOR THE 57TH JUDICIAL DISTRICT COURT, NELSON COUNTY

Upon recommendation of the District Judge of the 57th Judicial District, and being otherwise sufficiently advised,

The Rules of Court Practice and Procedure for the 57th Judicial District, Nelson 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 21st day of July 2016.



CHIEF JUSTICE JOHN D. MINTON, JR.

LOCAL RULES OF 57TH JUDICIAL DISTRICT

Rule 1. EFFECTIVE DATE

101. Any rules of practice heretofore adopted by this Court shall be repealed, and the following rules shall take effect and be in force on and after the approval by the Chief Justice of the Supreme Court of Kentucky.

Rule 2. STYLE OF PLEADINGS

201. All pleadings and legal papers, except the complaint, shall set forth the case number of the action the pleading or legal paper is being filed in. If any legal paper is filed in more than one action, it shall contain all the case numbers it is to be filed in at the time it is filed with the Clerk's Office and a copy shall be furnished for each case.

202. All civil complaints and subsequent pleadings that add additional parties shall contain the name and the address of all parties first named to the action.

203. All pleadings and papers requiring the signature of an attorney shall set forth on the last page thereof the typed name which the party counsel represents, complete address of counsel, including telephone number, fax number and electronic mail address (if applicable).

Rule 3. APPEARANCES & SUBSTITUTIONS

301. Whenever a party has appeared by attorney, he or she may not thereafter appear or act in his/her own behalf in the action, or take any step therein, unless an order of withdrawal or substitution shall first have been made by the court after reasonable notice to the attorney by such party, and to all other parties.

302. Attorneys at any stage of the proceeding in the case, who have been noted as attorney of record by the Clerk, may not thereafter withdraw as attorney of record in that pending case or fail to appear at any subsequent proceeding in that case, unless the attorney has appeared before the Court seeking permission to withdraw as counsel of record. The motion shall be in writing and properly noticed for hearing before the Court. In criminal and traffic cases, the notice to the defendant/client shall inform the defendant that he/she must personally

appear in court for the hearing on the motion to withdraw if substitute counsel has not entered an appearance by that time.

303. In a felony case in District Court the defendant must appear at all hearings after the initial appearance, absent permission of the Court granted only in extraordinary situations.

304. Any pleas of guilt entered by an attorney with authority from the defendant shall be in accordance with RCr 8.28. An attorney may not enter a plea for a defendant to any offense which is enhanceable.

305. All attorneys appearing in Court shall appear in proper attire. Any attorney appearing in inappropriate attire will be so advised, individually and in private. All litigants and witnesses shall appear in clean modest clothing. All attorneys are directed to advise their clients and witnesses of this rule.

Rule 4. MOTIONS

401. Motions shall be heard on the days and times set forth on the Court calendars which shall be promulgated regularly.

402. Motions involving an emergency which may cause irreparable harm or injury to persons or property if the motion is delayed until the next scheduled motion hour, may be heard when the Court's schedule permits and with prior oral approval of the Court. In such instances the Court will make the decision as to whether or not the issue constitutes an emergency. Any motions heard under this rule shall contain a certification by the moving party that reasonable efforts were made to give the opposing party notice and an opportunity to be heard.

403. All motions to be made at the date and time set forth in Rule 401 shall be filed in the Clerk's office six (6) days preceding the motion docket for which the motion is set. Each motion shall be served on opposing counsel or a party, if not represented by counsel.

404. All motions shall be separately paragraphed and separately numbered.

405. Unless otherwise agreed in advance, any motion requiring an evidentiary hearing shall be initially noticed and set on a regularly scheduled Motion Hour before the Judge to hear the motion. Witnesses need not be present. The Court will schedule an appropriate date and time to hear the motion.

406. In criminal matters, any motion regarding defenses, objections and requests that must be made before trial pursuant to RCr 8.18 must be raised at least fourteen (14) days prior to the jury trial and will not be heard on the trial date except for good cause shown.

407. Only one copy of a motion and/or attached judgment/order shall be tendered to the Court.

408. A pre-trial hearing to suppress evidence will be set only after the filing of a written motion that specifically identifies the factual and legal issues that could justify suppression of evidence.

Rule 5. CONTINUANCES

501. All cases set for trial or pre-trial conference shall be heard at the time and on the date set unless by direction or order of the Court, on good cause shown, same are properly continued pursuant to the Kentucky Rules of Civil or Criminal Procedure.

Rule 6. ARRAIGNMENTS AND PRE-TRIAL CONFERENCES

601. A Defendant, or any attorney on behalf of a Defendant, shall appear in Court for the Defendant's arraignment unless the arraignment is continued by agreement of the parties. Once an appearance is made by either the Defendant, or the Defendant's attorney, it shall be the responsibility of the Defendant to remain apprised of all future court dates. Pre-Trial Conferences shall be assigned for a date approximately twenty-one (21) days following the Defendant's arraignment, unless good cause is shown to expedite the matter.

602. The attorney for the Defendant shall be in attendance at the pre-trial conference. At the conclusion of the pretrial conference, the case shall be: 1) disposed of by plea; 2) set for a trial on a date certain; 3) scheduled for any pretrial hearings necessitated by the Pretrial

Conference; or 4) continued for an additional Pretrial Conference, on good cause shown by either the Commonwealth, the Defendant, or on joint motion of both.

Rule. 7. DUI SENTENCING

701. Whenever a Defendant wishes to enter a plea of guilty to a charge of DUI, the Defendant and his attorney, if applicable, shall be responsible for bringing the appropriate Plea Agreement, Sentencing Order, Work Release Order (if applicable), Home Incarceration Program Order (if applicable), Community Service Order (if applicable) and/or Ignition Interlock Device Application and Order (if applicable) to the bench when the Defendant intends to enter the Plea. These forms are available from the Nelson County Attorney or the Clerk.

702. Attorneys are further directed to confer with their client about which alcohol treatment facility the Defendant will attend and have this information included on the Sentencing Order. Any Attorney unsure of the name or location of a treatment facility shall ask the Clerk for a list of facilities and include all contact information for that facility on the tendered Sentencing Order prior to having the case called.

Rule 8. DEFAULT JUDGMENTS AND AGREED ORDERS

801. A party seeking a judgment by default shall first file a written motion for such a judgment. All such motions shall be heard ex parte and shall not be scheduled on Motion Hour dockets. The motions shall be accompanied by an affidavit in full compliance with 50 USCA. Appl. Sec. 520. The Judgment per se, when presented to the Court must also contain a statement by the attorney for the party seeking such a judgment conforming to the certificate required by CR 55.01.

802. Agreed orders and judgments shall be submitted to the Court at any time at the convenience of the Court and shall not be placed on any Motion Hour docket.

803. No orders or judgments tendered to the Court shall contain the letterhead or other printed identification of counsel submitting the same.

Rule 9. JURY TRIALS

901. In order to avoid needlessly summoning a jury, Counsel for the Defendant and the Commonwealth shall certify to the Court and the Clerk no later than 2 business days prior to the trial that there will not be a trial. The Court may waive this rule for good cause shown, and allow a plea either by agreement or without recommendation.

902. All criminal and civil trials shall start promptly at 9:00 a.m. However, the parties and counsel shall be present in court at 8:30 a.m. on trial dates. Any Pre-Trial motions (i.e. Motions in Limine) that need to be presented to the Court prior to the start of trial shall be noticed and heard at the final Pretrial Conference or the immediately preceding motion hour docket held by the Court, unless good cause is shown for the motion to be heard at a later time.

903. Cases assigned for a Jury Trial date will typically be taken in the following manner unless good cause is shown to deviate.

- (a).** Defendants who are presently incarcerated on the charge.
- (b).** DUI cases.
- (c).** Mental Health cases.
- (d).** Disability determination.
- (e.)** Paternity cases.
- (f.)** Criminal cases in the order they are filed.
- (g.)** Civil cases in the order they are filed.

904. If a jury is summonsed and a criminal defendant fails to appear at his/her scheduled jury trial the Defendant may be ordered to pay the full cost of all jury fees. If a jury is needlessly summonsed due to the failure of a party or the parties to notify the Court in time for the Clerk to notify the jury not to appear all jury fees may be imposed against the responsible party or parties.

905. Whenever the parties to a civil action, which has been assigned a date certain for jury trial, settle the case or plan to ask the Court to cancel the trial for any reason, they shall immediately notify the Court that the jury will not be necessary for their case on that date. Failure to notify the Court of same in time for the Clerk to notify the jury not to appear will result in the full cost of all jury fees paid to jurors who appear for jury service on that case to be taxed as costs with each party to the action paying a pro-rata share of said costs.

906. No criminal case shall be scheduled for a Trial before the Court without the Defendant tendering a Waiver of Jury Trial.

907. In all civil proceedings set for a jury trial, Jury Instructions shall be submitted to the Court at least two (2) days before trial.

(a). The Court reserves the right to allow Jury Instructions to be altered or changed at trial when special circumstances exist.

908. In mental health jury trials, Jury Instructions shall be produced by the Petitioner. The Petitioner may produce the Jury Instructions at trial.

909. Failure of the parties to strictly comply with the terms of this rule may result in dismissal of claims, default judgment, refusal to let witnesses testify or to admit exhibits, assessment of costs and expenses, including attorney fees, or other appropriate sanctions.

Rule 10. DISTRIBUTION OF ORDERS

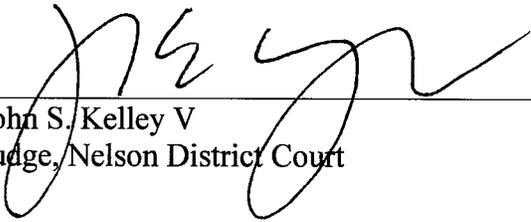
1001. The Clerk shall distribute copies of all orders by mail, electronic mail or placement in the receptacles assigned for the attorneys in the Clerk's office to the persons listed under DISTRIBUTION and shall, if possible, certify such mailing, delivery or placement by making a check mark by the person listed and shall initial and date the same at the bottom of the distribution list. All orders and judgments shall contain a distribution list, same to include any acts required of the Clerk by said order or judgment.

Rule 11. ANSWERING INTERROGATORIES OR REQUESTS

1101. When answering interrogatories or request for admission, the replying party shall, as a part of his answer, set forth immediately preceding the answer, the question or the request made with respect to which such answer is given.

Nothing within these rules shall disturb or supersede the Local Rules of Practice & Procedure – Family Practice effective March 30, 2012 with amendment approved December 9, 2015.

Adopted this 21st day of July, 2016.



John S. Kelley V
Judge, Nelson District Court