

# Supreme Court of Kentucky

## ORDER

**IN RE: ORDER APPROVING THE LOCAL RULES OF COURT PRACTICE  
AND PROCEDURE FOR THE 3RD JUDICIAL CIRCUIT,  
CHRISTIAN CIRCUIT COURT**

Upon recommendation of the Judges of the 3rd Judicial Circuit, and  
being otherwise sufficiently advised,

The attached Rules of Court Practice and Procedure for the 3rd Judicial  
Circuit, Christian Circuit Court, are hereby approved. This order shall be  
effective as of the date of this Order, and shall remain in effect until further  
orders of this Court.

Entered this the 28th day of August 2015.

  
\_\_\_\_\_  
CHIEF JUSTICE JOHN D. MINTON, JR.

**LOCAL RULES OF PRACTICE  
OF THE  
CHRISTIAN CIRCUIT COURT  
THIRD JUDICIAL CIRCUIT**

**RULE 1 - CITATION OF RULES**

These rules of practice may be cited as "RCCC," "Rules of Christian Circuit Court," or "Local Rules."

**RULE 2 - ORGANIZATION OF CHRISTIAN CIRCUIT COURT**

- A. The Christian Circuit Court shall be composed of a Criminal Branch and a Civil Branch. The Criminal Branch shall have exclusive jurisdiction of all criminal cases, and the Civil Branch shall have jurisdiction of all other cases within the jurisdiction of the Circuit Court.
- B. The Christian Circuit Court is a court of continuous session, and the Court shall consist of two numbered divisions, namely:
  - Division I
  - Division II
- C. The Judges of each of the Divisions shall hear cases in both the Criminal Branch and the Civil Branch of the Court. The cases in the Criminal Branch and the cases in the Civil Branch of the Court shall be divided between the two divisions as nearly equally as possible as hereinafter provided by these Local Rules.
- D. Each Judge of a Division may preside and hear and determine any case or questions in the other Division when the Judge of that Division is sick, or absent from the county, or is not available.
- E. After a case has been assigned to a Division, the Judge thereof may for any reason transfer it to the other Division by written order. Upon such transfer being made, the Clerk will make a proper endorsement upon the Rule Docket and the record.
- F. When two or more actions have been filed that may, as a matter of right or in the discretion of the Court, be consolidated and such actions are pending in different Divisions of the Court, any party to any of the actions may have any of the actions transferred to that Division of the Court in which the first

of the actions was filed. The Judge of the Court may order such transfers to be made without a motion by any of the parties.

### **RULE 3 - CIVIL AND CRIMINAL MOTION DAYS**

Motion Days shall be held in Division I and in Division II on each Wednesday. Division I shall hear Civil Motions beginning at 9:00 a.m. and Criminal Motions beginning at 1:00 p.m.; Division II shall hear Criminal Motions beginning at 8:30 a.m. and Civil Motions beginning at 1:00 p.m. When Wednesday falls on a holiday, Motion Day will be rescheduled or cancelled at the discretion of the Presiding Judge. Motions will be set for a time certain and attorneys should arrange to be present promptly at the time set. Times for Motions shall be obtained by contacting the office of the Christian Circuit Court Clerk, 100 Justice Way, Hopkinsville, Kentucky 42241-0634, or by telephone at (270) 889-6539.

Parties will obtain a day and time, other than Motion Day, for a hearing which is expected to take more than 15 minutes. Contact the Civil Division of the Circuit Clerk's Office, as set out above, to arrange a time and date for an extended hearing.

Motions shall be filed with the Clerk and served at least eight (8) days prior to the time fixed for the hearing. Responses, if any, shall be filed and served at least three (3) days prior to the time fixed for the hearing. These time limits may be waived or modified by the Court upon a showing of good cause or in the interests of justice.

With consent of the presiding judge and notice to the opposing parties, a party may appear at a hearing by telephone.

Leave of Court shall be obtained to withdraw as counsel after an entry of appearance has been made. Such leave can only be obtained by a motion served on the client and other parties and properly noticed for hearing. Substitution of counsel may be accomplished by a notice signed by the withdrawing counsel and the entering counsel.

Attorneys are expected to appear at motions properly noticed or subject themselves and their clients to sanctions.

### **RULE 4 - CONTINUED MOTIONS**

An attorney who will be unable to be present at the time set for a motion, shall immediately contact the moving attorney and attempt to establish a mutually agreeable time for the hearing of the motion. Should this prove unsuccessful, the party desiring the continuance shall immediately file a motion for a continuance in writing, stating the reasons for the continuance, and shall send a copy directed to the attention of the Presiding Judge as well as filing with the Clerk.

## **RULE 5. MOTIONS UNDER CR 78(2)**

A movant may bring his or her motion under CR 78(2), which makes provisions for the determination of motions without oral hearings upon brief written statements of reasons in support and opposition. A proposed order shall accompany the motion.

The movant shall give notice that the motion is made under CR 78(2) and shall direct the attention of the opposing attorney (or party if there is no attorney) to the fact that under this local rule, the motion may be granted routinely by the Court ten days after filing unless a response is filed. The notice shall be substantially in the following form:

The foregoing motion is submitted to the Court for decision pursuant to CR 78(2). This motion will routinely be granted by the Court in ten days unless a response is filed. Should the party opposing the motion under Rule CR 78(2) wish to have an oral hearing on the question, he or she may in the response so state. After checking with the Clerk's office, as outlined above, that party shall proceed to set the motion for a Motion Day at a given time.

Motions should be filed under either CR 78(2) or noticed as set out above at RCCC 3. Motions which are not filed under one or the other of these provisions may be considered defective or nugatory and void.

A Motion to set a case for trial shall not be brought under CR 78(2).

*COMMENT: It is believed the this Local Rule will simplify things for attorneys who are making fairly routine motions, such as to amend a complaint or to bring in a third party defendant, which motions are usually routinely granted. If the opposing party has any statement to make in opposition to the motion he has the choice of simply filing a written response and setting oral hearing, all as provided earlier in these Local Rules.*

*The Court has found that a trial date can best be set if the attorneys are either personally present in Court or have present a representative (often one of the other attorneys) who is familiar with their schedules. The Court, in consultation with the Clerk, can then best set a mutually convenient trial date.*

## **RULE 6 – STATEMENT ON ELECTRONIC SERVICE**

Counsel are encouraged to consider CR 5.02 which allows service by electronic means. Every attorney shall file notice to indicate whether the attorney accepts or rejects service via electronic means under CR 5.02. Notice shall be filed within 7 days after the attorney's appearance in the case.

## **RULE 7- JURY TERMS**

A jury term shall generally consist of four (4) consecutive weeks unless otherwise modified by the Court. Jury terms shall be convened in all months, except for July and December.

A Grand Jury will be impaneled at the beginning of each term in January, March, May, July, September and November. The Chief Judge, or at his direction the other Judge of the Circuit Court, will impanel the Grand Jury.

In Division I, the first two weeks of each term shall be reserved for criminal cases, and the second two weeks of each term shall be primarily for civil cases. In Division II, the first two weeks of each term shall primarily be reserved for civil cases, and the second two weeks of each term shall be reserved for criminal cases.

## **RULE 8 - ASSIGNMENT OF CIVIL CASES**

The Clerk shall in the presence of at least one of the Judges of the Court prepare a set of fifty (50) cards. There shall be written on the back of one-half of said cards the words "Division I" and on the other half of said cards the words "Division II". The cards shall then be thoroughly mixed or shuffled so that the sequence will be entirely by chance. The cards shall be placed in the container face down in such a manner that no one can see the number of the division on the card which will be drawn next.

Whenever a suit is commenced, the Clerk, in the presence of the attorney filing the complaint, or in his absence in the presence of another Clerk, shall remove the top card of the set and assign the case to the Division shown on that card, putting the card drawn in another closed compartment for subsequent re-use.

After all cards have been drawn the cards shall be reshuffled and again placed in the container for a repetition of the above process.

## **RULE 9 - ASSIGNMENT OF CRIMINAL CASES**

Indictments shall be assigned to the Division of the Court corresponding to the number of the indictment, with odd numbered indictments being assigned to Division I and even numbered indictments being assigned to Division II. Each Judge, however, shall be authorized, without entry of any formal order, to conduct hearings concerning routine procedures on all indictments, including, for example, arraignments, hearing motions for bail and the accepting of guilty pleas. Each

Judge may try a case assigned to the other Judge with the approval of the Judge to which the case was originally assigned.

Motions prior to trial shall ordinarily be assigned to the Judge to which the case is assigned, but, as mentioned above, the Judge of the other Court may hear same for the convenience of the parties and the Court. Motions for post-conviction relief shall be filed with the Division which heard the case.

#### **RULE 10 - CRIMINAL DOCKET IN CIRCUIT COURT**

Criminal cases shall be scheduled for trial as follows:

In Division One, beginning with the first Monday of each month, and continuing for two calendar weeks.

In Division Two, beginning with the third Monday of each month, and continuing for two calendar weeks.

During months with five Mondays, the Monday and Tuesday of that week shall be available to Division Two and Thursday and Friday of that week shall be available to Division One.

The respective Courts reserve the right to schedule a criminal jury trial during the other Division's trial calendar; however, the Court that is within the aforementioned times shall have priority over the conflicting Division.

#### **RULE 11 - SUBMISSION OF NON-JURY CASES FOR FINAL ADJUDICATION**

It shall be the responsibility of the attorneys of record, or any party not represented by counsel, to file a notice of submission on the AOC 280 Form with the Clerk and with the Circuit Court Judge, with a copy mailed to the Administrative Office of the Courts, at such time that the case, or an issue therein, has been completely briefed and all necessary evidence submitted, or the time for filing briefs and submitting evidence has elapsed and the matter stands ready for a decision by the Court.

#### **RULE 12 - PRE-TRIAL CONFERENCES IN CIVIL CASES**

The Court, of its own motion, or upon motion of any party, may issue a scheduling order after consulting with the parties, attorneys and any unrepresented parties at a scheduling conference or by telephone, mail, or other means.

The scheduling order may limit the time to join other parties, amend the pleadings, complete discovery, and file motions. It also may set times for disclosures under Rule 26 of the Kentucky Rules of Court, and set dates for pretrial conferences and for trial.

Pre-trial conferences will generally be held in all civil cases unless the Court feels this is unnecessary in a particular case.

Pre-trial conferences shall be attended by an attorney for each party who is fully familiar with the facts and who has the authority, if any, to settle the case, to compromise any issue involved, or to agree to certain stipulations of facts.

Instructions, witness lists and exhibit lists shall be submitted at the Pre-trial conference or at such earlier times as may be designated by the presiding judge. Copies of the proposed instructions, witness lists and exhibit lists shall be served on all parties.

### **RULE 13 - ENTRY OF ORDERS**

Orders of the Court handed down either at a Motion Days or at some time shall be entered upon the docket according to the following procedure.

In routine matters decided on a Motion Days, the Court may simply enter an appropriate order on the Court calendar for that day or designate on the calendar which attorney is to draw the order and generally what it is to contain.

Once an attorney has prepared an order he or she shall sign same "Tendered by" or "Prepared by" and submit it to the opposing attorney for his or her signature "Have Seen". (By his or her signing the proposed order as "Tendered by" or "Prepared by" or "Have Seen", neither attorney is agreeing that the order is necessarily proper, but is only agreeing that the order as drawn reflects the Ruling of the Court). Should the responding attorney refuse or fail to sign the "Have Seen" line, the attorney submitting the order may file it with the Clerk along with a notation that the opposing attorney has declined to sign the order. In such event the Court may contact the first attorney for his or her suggestions, or the Court may enter one of the orders as drafted or as modified by the Court or the Court may prepare an order of its own.

### **RULE 14 - MASTER COMMISSIONER PRACTICE**

#### **Rule 14.01 – References to Master Commissioner**

References shall be made to the Master Commissioner as provided by the Rules of Civil Procedure, by the Kentucky Revised Statutes, by these Rules, or by Court order in individual cases. All motions seeking an order of reference to the Master

Commissioner shall be served on the Master Commissioner pursuant to CR 5.02. If such motion is seeking an order of sale it shall be accompanied by AOC Form 141.S or 141.SP, together with the administrative fee prescribed by the Administrative Office of the Courts. The administrative fee is payable to the Circuit Court Clerk.

**Rule 14.02 – Time and Place of Sales**

1. Time: Every Monday at 11:00 a.m. except on holidays.
2. Place: Christian County Courthouse,  
511 South Main Street  
Hopkinsville, Kentucky

**Rule 14.03 – Orders of Sale**

All orders of sale shall be examined and approved by the Master Commissioner prior to entry by the Court. Orders of sale should contain a blank certificate similar to the certificates described in Local Rule 13, to be signed by the Master Commissioner as "Have Seen and Approved." An approval by the Master Commissioner is his certification that said order complies with the Kentucky Revised Statutes, the Rules of Civil Procedure and with the Rules of the Christian Circuit Court.

Orders of sale of property shall contain:

1. A complete caption setting forth the names of all parties to be bound by the judicial sale. Abbreviations such as "etc." or "et al." should not be used.
2. A legal description of the property sought to be sold, together with the source of title of the present owner or owners.
3. The address of the property sought to be sold or, if it is true, a recitation of the fact that the property has no address.
4. The dollar amount of the judgment on a day certain, together with the daily amount of accruing interest thereafter (if the Order of Sale is for the purpose of enforcing a judgment for money).
5. The name and address of all attorneys and *pro se* parties who have appeared in the action.

Orders of sale may contain special conditions of sale, such as:

1. Property to be sold on site, if good cause exists for doing so.



2. Specific combinations of property containing multiple tracts.
3. Special advertising in addition to the three weekly notices required by law.
4. Directions for the Master Commissioner to employ an auctioneer, if good cause exists for doing so.

Orders of sale shall not contain the specific date that the property is to be sold.

#### **Rule 14.04 – Sale Notices**

A party seeking a Commissioner's sale should contact the office of the Master Commissioner for a specific sale date.

The Master Commissioner shall prepare all sale notices and deliver them to the *Kentucky New Era* for three weekly insertions. A copy of all sale notices will be served on each party who has appeared in the case as well as all taxing authorities. The Master Commissioner also posts all sale notices on the website [www.christiancountymastercommissioner.com](http://www.christiancountymastercommissioner.com).

#### **Rule 14.05 – Cancellations**

Sales may be cancelled at any time up to 11:00 a.m. on the day of the sale. Cancellations may be accomplished by:

1. A fax, letter or email from the party seeking the sale;
2. Informing the Master Commissioner of a pending bankruptcy in which one or more of the property owners is the debtor; OR
3. An order of the Court.

#### **Rule 14.06 – Costs of Sale**

The party seeking a sale shall pay the costs of appraisals and advertising prior to any advertising of the sale. These costs shall be reflected on the Commissioner's Report, showing a credit for their having been paid. The Commissioner's fee, direct expenses and any other costs shall be paid out of the proceeds of the sale when the property is purchased by a third party.

When the property is purchased by the party seeking the sale, such party shall pay the Commissioner's fee, direct expenses and any other costs prior to the Master Commissioner delivering a deed to the property.

### **Rule 14.07 – Preparation, Filing and Service of Documents**

The Master Commissioner shall normally prepare the following documents in connection with any judicial sale: Sale Notice; Commissioner's Report of Sale; Commissioner's Bill of Costs; Order of Confirmation; Order of Distribution and Commissioner's Deed. When the facts of a particular case render it necessary or desirable that a party prepare any of these documents, the original documents shall be filed with the Master Commissioner.

All motions concerning any matter referred to the Master Commissioner shall be served on the Master Commissioner as if he were a party who has appeared in the action.

The Report of the Master Commissioner shall be deemed a motion that said report be confirmed. Unless an exception to such report is filed within ten days following the filing of the report, the Court shall enter an Order of Confirmation upon its tender by the Master Commissioner.

When property is purchased by a person not a party to the action, all subsequent motions and reports concerning confirmation of the sale (including exceptions to the Commissioner's Report) shall be served on the purchaser in accordance with the provisions of CR 5.02.

### **Rule 14.08 – Bonds**

If a bond is required of the purchaser, the Master Commissioner shall oversee its execution by both principal and surety on the day of the sale.

Unless the Court otherwise directs in the Order of Sale, or the Master Commissioner determines it is necessary in a particular case, no bond shall be required of a purchasing creditor seeking to enforce its mortgage or lien on the property.

### **Rule 14.09 – Assignments**

Any purchaser making an assignment of its bid to another entity shall file same with the Clerk, setting forth the nature of the assignment together with the name and address of the assignee. All such assignments shall contain a certificate of service, in accordance with CR 5.03, showing that a copy has been sent to the Master Commissioner.

### **Rule 14.10 – Tax Lien Sales**

In actions brought to enforce tax liens all tax liens on the property are afforded equal priority. In those instances where the sale price is not sufficient to satisfy all outstanding tax liens, the proceeds shall be paid as follows:

1. The Master Commissioner's fees and costs.
2. Reimbursement of advertising and appraisal costs, or any other costs of the sale, to the party who advanced them.
3. Pro-rata distribution to all lien holders.

### **Rule 14.11 – Payments**

The Master Commissioner shall pay out funds in accordance with the provisions of orders of confirmation, orders of sale and judgments. In instances where funds need to be paid out and there is no order that authorizes such payment, the Master Commissioner shall obtain an order from the Court prior to making any distribution. Payments may also be made without additional court orders for:

1. Refund of selling costs previously advanced by the party seeking the sale in the event of an overpayment due to a canceled sale.
2. Appraisal fees and advertising costs actually incurred in a case where the sale is cancelled.
3. Locksmith charges actually incurred in instances where the Master Commissioner needs to have access to the property, and where the sale is cancelled.

### **RULE 15 - JURY QUESTIONNAIRE**

The contents of juror qualification forms shall be made available to the trial judge and to parties or their attorneys of record unless the Chief Circuit Judge or designee determine in any instance in the interest of justice that this information shall be kept confidential or its use limited in whole or in part. The forms and the information contained therein shall remain confidential and shall not be disclosed to anyone except the parties, the attorney of record, persons employed by the attorney of record to aid in jury selection, or court officials. The forms may be photocopied at the expense of the requesting party or attorney, but such copies are to be destroyed within a reasonable time following the jury term.

## **RULE 16 – COURT COSTS**

The Clerk will assist any person entitled to recover costs in preparing a cost bill, but the ultimate responsibility therefore shall be on the attorneys, and if they cannot agree, the Court, shall award costs under the provisions of CR 54.04. The party who took a deposition, upon notification that the original of the deposition is complete, shall forthwith pay the Court Reporter and Videographer.

## **RULE 17 – LOCAL RULE ON MEDIATION**

Mediation is encouraged, and upon motion, the Court may order mediation.

## **RULE 18 – FAMILY COURT LOCAL RULES**

All cases within the jurisdiction of the Family Court as defined in KRS § 23A.100, shall proceed in accordance with the current edition of the Rules of Court Practice and Procedure for the Christian Circuit Court, Family Court Division (adopted March 22, 2012), or as subsequently amended.

## **RULE 19 – DEPOSITIONS BY REMOTE MEANS**

A party may schedule a deposition in which he or she, or any other participant in the deposition, may participate by telephone or other remote means. In such cases, the following terms and conditions shall apply:

- A. Notice of the intent for the party or other participant to participate in the deposition by telephone or other remote means shall be given as part of the Notice of Deposition.
- B. The Court Reporter shall be present at the same location as the deponent, unless otherwise agreed by the parties. If the parties are unable to agree regarding any of the terms and conditions of the proposed deposition by remote means, either party may seek leave of Court to clarify the terms and conditions relating to the taking of the deposition.
- C. The transcript or recording of the deposition may be used for any purpose permitted by the Rules of Civil Procedure for use of a deposition.

## **RULE 20 – FILING DISCOVERY**

Discovery documents consisting of interrogatories propounded under CR 33 and answers thereto, requests for production or inspection under CR 34 and answers thereto, and requests for admission under CR 36 and answers thereto shall not be filed with the Court. Each attorney shall be custodian of his or her discovery documents and shall present

it when directed by the Court or any party or attorney involved in the proceedings. If ordered by the Court, relevant pages of discovery documents shall be filed in the record. Any portion of a discovery document may be used with any motion or with any other matter before the Court.

**RULE 21 – MOTIONS TO COMPEL**

A motion to compel discovery, for a protective order, or for sanctions may be filed pursuant to CR 26 and/or CR 37 only if counsel are unable to resolve between themselves the discovery dispute. Counsel has the duty to make a good faith effort to resolve any disputes which arise in the course of discovery. The moving party shall attach to the motion a certification of counsel that he or she has attempted to resolve the dispute and that they have been unable to do so. The certification of counsel should detail the attempts of counsel to resolve the dispute.

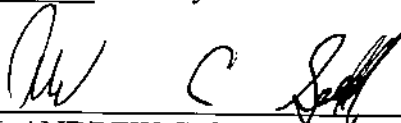
**RULE 22 - EFFECT ON PRIOR LOCAL RULES**

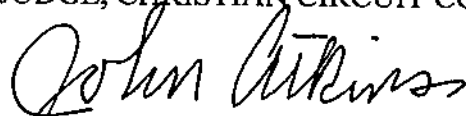
Prior local rules heretofore adopted by the Court are deemed superseded by these Local Rules.

**RULE 23 - APPLICABILITY OF RULES OF CIVIL PROCEDURE**

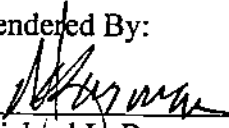

In matters not covered by these Local Rules, consult the Kentucky Rules of Civil Procedure.

Approved by unanimous consent of the Christian County Bar the 21st day of August 2015. Presented to the Kentucky Supreme Court, Honorable John D. Minton, Chief Justice, presiding, this 21 day of August 2015 by:

  
\_\_\_\_\_  
HON. ANDREW C. SELF  
JUDGE, CHRISTIAN CIRCUIT COURT, DIV. I

  
\_\_\_\_\_  
HON. JOHN L. ATKINS  
JUDGE, CHRISTIAN CIRCUIT COURT, DIV. II

Tendered By:

  8/21/15  
\_\_\_\_\_  
Michael L. Burman  
James G. Adams III  
Local Rules Committee, Christian County Bar Association