

LOCAL RULES OF COURT

19TH JUDICIAL CIRCUIT

COLE COUNTY, MISSOURI

EFFECTIVE APRIL 1, 1983

(Revisions effective 11/16/83; 3/12/84; 3/30/84; 5/1/84; 7/24/84; 4/15/85; 7/11/85; 3/27/86; 6/1/86; 7/7/86; 10/1/87; 12/1/88; 10/1/90; 10/1/91; 12/1/91; 4/1/92; 5/1/92; 7/1/92; 8/28/93; 1/3/95; 1/10/95; 1/27/95; 4/25/96; 5/4/99; 9/19/99; 10/26/00; 01/01/03; 5/29/03; 8/28/03; 6/7/04; 8/16/04; 9/1/04; 2/28/05; 3/2/05; 6/1/05; 10/11/05; 5/1/06; 1/1/07; 7/23/07; 11/21/07; 4/01/08; 1/01/09; 8/28/09; 4/01/10; 4/28/14; 10/10/14; 8/3/2017; 8/28/2018)

Honorable Jon E. Beetem
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573.634.9192

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**RULES OF THE CIRCUIT COURT OF
THE NINETEENTH JUDICIAL CIRCUIT
(COLE COUNTY)**

Effective April 1, 1983

**Including Amendments Received Through
August 3, 2017**

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ADMINISTRATION

RULE 1. DIVISIONS OF COURT

A. There shall be five (5) divisions of Court which shall be divided and assigned classes of cases as follows:

Division I:	Circuit
Division II:	Circuit
Division III:	Associate Circuit
Division IV:	Circuit
Division V:	Municipal

B. If any municipality in Cole County elects to retain or establish its municipal court, the judge of such municipal court shall hear and determine municipal ordinance violations in a municipal division of the circuit court located in the municipality so electing to retain or establish its municipal court.

If any municipality in Cole County does not elect to retain or establish its municipal court, municipal ordinance violations shall be filed, heard and determined in Division III.

(Adopted, eff. Apr. 25, 1996; Amended Jan.1, 2003; Amended Jan. 1, 2007; Amended Apr. 1, 2010.)

RULE 2. HOURS AND TERMS OF COURT

RULE 2.1 HOURS OF COURT

A. The Court is open five (5) days a week, Monday through Friday, between the hours of 8:00 A.M. and 4:30 P.M., legal holidays excepted or as otherwise directed by the Court.

B. The following hours are established for the Office of the Circuit Clerk: 8:00 A.M. to 4:30 P.M. Monday through Friday for the purpose of filing papers, legal holidays excepted or as directed by the Court.

C. The Court and the Office of the Circuit Clerk shall be closed in observance of the public holidays declared and established by § 9.010 of the Revised Statutes of the State of Missouri

and as directed by the Missouri Supreme Court or by order of the Presiding Judge of this Court.

- D. All sessions of Court shall begin at 9:00 A.M. unless otherwise provided herein or ordered by the Court. Special appointments and settings for any other times shall be made with the judge of the division involved.

(Adopted eff. Apr. 25, 1996; Amended Jan. 1, 2003.)

RULE 2.2 TERMS OF COURT

The nineteenth judicial circuit shall be considered as being in continual session, and it shall not be necessary for a term to be convened to conduct the business of the Court with respect to any case or matter before the Court. To the extent that a term of circuit court may be specified or referred to by any provision of law, the terms of the Nineteenth Judicial Circuit Court shall be considered as commencing on the first Monday in April and October; provided further, however, that no Court shall be required to hold Court on the first day of any such term solely because of this rule. Should said term date fall on a holiday it will be observed the following business day

(Adopted eff. Apr. 25, 1996; Amended Jan. 1, 2003.)

RULE 2.3 LAW DAYS

- A. Generally the civil law day for Division I will be held on the second and fourth Friday of each month. The docket shall commence at 9:00 A.M. or as otherwise directed by the court. Generally the criminal law day for Division I will be held on the second and fourth Tuesday of each month. The docket shall commence at 1:00 P.M. or as otherwise directed by the court. All Division I schedules/dockets will be posted on the courts website www.colecountycourts.com under the law day/calendar tab.
- B. Generally the civil law day for Division II will be held on the second and fourth Monday of each month. The docket shall commence at 1:30 P.M. or as otherwise directed by the court. Generally the criminal law day for Division II will be held on the second and fourth Wednesday of each month. The docket shall commence at 9:00 A.M. or as otherwise directed by the court. Generally the probate law day for Division II will be held on the second and fourth Monday of each month. The docket shall commence at 9:00 A.M. or as otherwise directed by the court. All Division II schedules/dockets will be posted on the courts website

www.colecountycourts.com under the law day/calendar tab.

- C. Generally the civil law day for Division III will be held every Monday. The docket shall commence at 9:00 A.M. or as otherwise directed by the court. Generally the criminal law day for Division III will be held every Tuesday and Friday. The docket shall commence at 9:00 A.M. or as otherwise directed by the court. All Division III schedules/dockets will be posted on the courts website www.colecountycourts.com under the law day/calendar tab.
- D. Generally the civil law day for Division IV will be held on the first and third Monday of each month. The docket shall commence at 1:30 P.M. or as otherwise directed by the court. Generally the criminal law day for Division IV will be held on the first and third Wednesday of each month. The docket shall commence at 9:00 A.M. or as otherwise directed by the court. All Division IV schedules/dockets will be posted on the courts website www.colecountycourts.com under the law day/calendar tab.
- E. Preliminary matters, status reviews, trial settings, after-trial motions, defaults, and other matters of a summary nature may be heard on law days upon five (5) days written notice to adverse parties or by consent of the parties, or upon written notice from the Court. Discretion is vested in the judge to hear any matter on a day other than law day. All files for cases scheduled for law day will be placed in the courtroom prior to court starting by the clerk of that division.

(Adopted eff. Apr. 25, 1996; Amended Jan. 1, 2003; Amended June 1, 2005; Amended October 11, 2005; Amended Jan. 1, 2007; Amended July 23, 2007; Amended Apr. 1, 2008; Amended Apr. 1, 2010; Amended Apr. 28, 2014.)

RULE 2.4 PARTICULAR MATTERS ON PARTICULAR DAYS

Division I, II, III, and IV schedules/dockets will be posted on the courts website www.colecountycourts.com under the law day/calendar tab.

(Adopted eff. Apr. 25, 1996; Amended Jan. 1, 2003; Amended Apr. 1, 2010.)

RULE 2.5 CALENDARS FOR UNCONTESTED DISSOLUTIONS

Division I, II, III, and IV schedules/dockets will be posted on the courts website www.colecountycourts.com under the law day/calendar tab.

(Adopted eff. Jan. 1, 2003; Amended Apr. 1, 2010.)

RULE 2.6 CALENDARS FOR ADULT/CHILD ABUSE CASES

Division I, II, III, and IV schedules/dockets will be posted on the courts website
www.colecountycourts.com under the law day/calendar tab.

(Adopted eff. Jan. 1, 2003; Amended Jan. 1, 2007; Amended Apr. 1, 2010.)

RULE 3. PLEADINGS

RULE 3.1 CAPTION (No Local Rule)

RULE 3.2 STYLE

Any attorney filing must file pursuant to Electronic Filing Rule 101.01-101.11. All pro se litigants are required to follow this rule.

- A. All pleadings and motions intended for filing in any case shall be legibly written on one side of the paper, either typewritten or printed, double-spaced, on paper sized 8½” x 11”, or such other size as may be prescribed by Supreme Court Rule, with a top and left-hand margin of at least one inch. All pleadings shall be two-hole punched at the top, with the holes separated by 2¾”. All pleadings, motions, and entries of appearance by attorneys shall be signed by the party or his attorney offering the same for filing and shall bear the address, telephone number, facsimile number, and bar identification number of the trial attorney in the case, or if the party appears pro se, the address and telephone number of the party.
- B. Said pleadings, and motions shall be captioned with the style and number of the case, the character of the pleadings and motions, and if a petition, the nature of the suit, and if consisting of more than one sheet, shall be securely bound at the top and with page numbers at the bottom. Paragraphs of pleadings shall be numbered consecutively. An attorney offering a paper for filing may sign it on behalf of a law firm or attorney when duly authorized to do so; but he/she must also subscribe his/her own signature on said paper. The attorney whose signature is affixed to the pleading or paper shall be deemed to be the trial attorney in the case. Where service of summons or other pleading is requested a copy of the pleading for each party to be served shall be filed and shall include the address for each party to be served. The name of an attorney shall be printed or typed under the attorney’s signature upon all documents and Court memoranda filed. The statement as to service of pleadings on opposing counsel shall designate by name the opposing counsel on whom such pleadings were served.

(Adopted eff. Jan. 1, 2003. Amended June 7, 2004; Amended Apr. 28, 2014.)

RULE 3.3 PAPER SIZE (Withdrawn eff. Jan. 1, 2003.)**RULE 3.4 SIGNATURE**

Civil and Criminal pleadings shall be signed as provided in Supreme Court Rule 55.03.
(Adopted eff. Apr. 25, 1996.)

RULE 3.5 AMENDMENT BY INTERLINEATION

Whenever leave is granted to amend a pleading by interlineation, the party to whom leave has been granted shall interlineate the amendment to the pleading to be amended and place his/her initials after the interlineation. The amendment shall be deemed abandoned unless actually interlineated following the granting of leave to do so.

(Adopted eff. Jan. 1, 2003.)

RULE 4. FILING OF CASES**RULE 4.1 CRIMINAL CASES**

- A. All indictments, informations, and complaints shall be filed in the designated office of the Circuit Clerk. Prior to filing with any Division of the Court, the Prosecuting Attorney shall place upon the original pleading, and any amendment thereof, in all criminal cases the Missouri State Criminal Charge Code for the offense(s) charges. It is the responsibility of the Prosecuting Attorney to determine the appropriate charge code(s).
- B. Bonds in criminal cases may be set by any circuit or associate circuit judge of this circuit. Bond reductions or increases or change of condition thereafter shall be determined by the judge to whom the case is assigned or in his/her absence by any circuit or associate circuit judge of this circuit. Bond schedules may be approved.
- C. All state traffic cases shall be filed in the designated office of the Circuit Clerk.

(Adopted eff. Jan. 1, 2003; Amended Aug. 16, 2004.)

RULE 4.2 CIVIL CASES

- A. The commencement of a civil case shall be upon the filing of the original pleading with the Circuit Clerk, the required filing fee and the appropriate confidential filing information sheet.

(Adopted eff. Jan. 1, 2003. Amended June 9, 2003, Amended August 28, 2009.)

B. All civil cases shall be filed in the designated office of the Circuit Clerk.

(Adopted eff. Jan. 1, 2003. Amended June 9, 2003, Amended August 28, 2009.)

C. If an individual's social security number must be included in a pleading or filing, only the last four digits of that number should be used. If financial account numbers are relevant and must be disclosed, only the last four digits of these numbers should be used. If a document is filed that includes full disclosure of the social security number, date of birth, or financial account numbers, it is the sole responsibility of counsel and the parties to be sure that the redaction of personal identifiers is done. The clerk will review each pleading for redaction and promptly notify parties.

(Adopted eff. Aug. 28, 2009.)

RULE 4.3 PROBATE CASES

All cases over which the Probate Division has jurisdiction shall be filed in the designated office of the Circuit Clerk.

(Adopted eff. Jan. 1, 2003.)

RULE 4.4 JUVENILE CASES

The commencement of a juvenile case shall be upon the filing of the original pleading with the Circuit Clerk, payment of the required filing fee and the appropriate confidential filing information sheet. Adoptions, transfers of custody of juveniles and other juvenile matters will be filed in the designated office of the Circuit Clerk.

(Adopted eff. Jan. 1, 2003; Amended Apr. 28, 2014.)

RULE 4.5 SMALL CLAIMS CASES

All small claims cases shall be filed in the designated office of the Circuit Clerk.

(Adopted eff. Jan. 1, 2003.)

RULE 4.6 MUNICIPAL CASES

Cases that are heard by municipal judges shall be governed by the provisions of Section 478.245.2(3) RSMo. Municipal ordinance violations that are heard by an associate circuit judge, where the municipality has made provisions for local staff, shall be filed with the municipal division clerk. Other municipal ordinance violations that are heard by an associate circuit judge

shall be filed in the designated office of the Circuit Clerk.

(Adopted eff. Jan. 1, 2003.)

RULE 4.7 FILING BY ELECTRONIC TRANSMISSION

Facsimile or electronic transmissions of petitions and other pleadings are authorized in accordance with Supreme Court Rules, provided that appropriate filing fees are received the same working day. If required fees have not been received, the transmission is not deemed filed.

Facsimile or electronically transmitted pleadings shall be deemed filed on the date and at the time the last page of the document is accepted at the Office of the Circuit Clerk. If the entire document is not received or if it is illegible, it is not deemed filed. Risk of loss in transmission, receipt, or illegibility is upon the party transmitting and filing the transmission.

The facsimile or electronic transmission shall have the same effect as the filing of the original document. Any person using this method of filing shall keep the original in his or her possession, as well as documentation of the transmission, and shall provide the same upon order of the court for inspection.

(Adopted eff. Jan. 1, 2003.)

RULE 4.8 EMERGENCY FILINGS WITH ON-CALL JUDGES BY FACSIMILE OR ELECTRONIC COMMUNICATIONS

Pursuant to Missouri Supreme Court Rule 20.04(h), search warrants and affidavits in support thereof, arrest warrants and informations, complaints and indictments in support thereof; ex parte orders and petitions and affidavits in support thereof; mental health/drug and alcohol commitments and petitions in support thereof; and detention and protective custody orders and petitions in support thereof may be filed with any circuit or associate circuit judge of this circuit by facsimile or electronic transmission at any time when a judge is otherwise unavailable.

Any such paper so filed shall have the same effect as the filing of an original document, even though it may be required to be verified or submitted by affidavit as an original signature. The person filing such a paper by facsimile or electronic transmission may also be required to provide the original to the court if so requested.

(Adopted eff. Jan. 1, 2003.)

RULE 5. FEES AND COSTS

RULE 5.1 FILING FEES AND COST DEPOSIT

The circuit court en banc shall set forth, by administrative order, the filing fees and cost deposits required for actions filed in divisions of the circuit court. Said administrative order shall be published in the attachments of the Local Court Rules.

The fees and costs, as established by rule, shall be paid by cash, personal check, certified check, business check, money order, debit or credit card by approved merchant accounts (merchant fees may apply), court debit accounts, or the equivalent. The appointing authority pursuant to statute may set more restrictive policies with respect to payments.

(Adopted eff. Apr. 25, 1996; Amended Jan. 1, 2003; Amended Apr. 10, 2014.)

RULE 5.2 COSTS

The circuit clerk shall be responsible for the collection of all costs after the initial filing fee except fees in a case pending in the municipal division having its own staff. In addition to other costs, the circuit clerk shall assess as costs in all criminal cases the cost of service by certified mail.

(Adopted eff. Apr. 25, 1996; Amended Jan. 1, 2003.)

RULE 5.3 WITNESS FEES

Witness fees shall not be allowed, unless claim therefore shall be made to the clerk. The attorney causing any witness to be subpoenaed shall be responsible for seeing that proper claim is made.

(Adopted eff. Jan. 1, 2003.)

RULE 5.4 WAIVER OF FEES

Effective June 1, 1986, all persons desiring to file in forma pauperis will be required to complete an authorization for Release of Financial Information. (Form 8) No service of process shall issue until Form 8 is completed, filed with the Clerk and approved by the Court.

Persons in the custody of the Missouri Department of Corrections requesting permission to proceed in forma pauperis to file a civil lawsuit shall also complete and submit to the clerk the forms entitled “Authorization for Release of Institutional Account Information” (Form 8) and “Affidavit in Support of Request to Proceed in Forma Pauperis.” (Form 10)

A motion filed pursuant to Supreme Court Rules 24.035 and 29.15 shall be filed and presented to the Division which imposed sentence without prepayment of any filing or service

fee.

Certain petitions for writ of habeas corpus shall be filed and presented to the Judge assigned as provided in Local Rule 6.2.1 without prepayment of any filing or service fee.

(Adopted eff. Apr. 25, 1996; Amended Jan. 1, 2003.)

RULE 5.5 MOTION FOR SECURITY (No Local Rule)

RULE 5.6 SPECIAL PROCESS SERVERS

The Clerk of the Circuit Court is authorized to appoint special process servers as requested by the party, however, no cost for same shall be payable by the county.

(Adopted eff. Jan. 1, 2003.)

RULE 5.7 FEES ASSESSED TO FUND DOMESTIC VIOLENCE SHELTER

Per order of the County Commission of Cole County dated September 27, 2005, in addition to all other court costs, any county or city having a shelter for victims of domestic violence; or any municipality within a county which has a shelter; or any county or municipality whose residents may be admitted to a shelter may, by ordinance, provide for an additional surcharge in the amount of two dollars (\$2.00) per case for each civil and criminal case including county or municipal ordinance violations. The surcharge shall not be collected when court costs are waived or are to be paid by the state, county or municipality. No surcharge shall be collected in any proceeding when the criminal or county ordinance case has been dismissed by the court. The fee shall be payable to the city or county where the fees originated.

(Adopted January 1, 2003; Amended October 17, 2005.)

RULE 6. ASSIGNMENT OF JUDGES, CASES AND TRANSFER OF CASES

RULE 6.1 ASSIGNMENT TO ASSOCIATE CIRCUIT JUDGES

6.1.2 Special Assignment. When the judge of the Jefferson City Municipal Division, Division V, is unable to hear or is disqualified from hearing a case, said case shall be heard by the judge of Division III as special judge.

(Adopted eff. Apr. 25, 1996.)

RULE 6.2 ASSIGNMENT TO CIRCUIT JUDGES

6.2.1 General Rule. Except as provided in Rule 6.2.2, all civil cases assigned to Divisions I, II, and IV shall be randomly selected at the time of filing by the Court automated case-management system, and it is the responsibility of the attorneys to ascertain to which Division the case has been assigned.

(Adopted eff. Apr. 25, 1996; Amended Jan. 1, 2003; Amended Jan. 1, 2007.)

6.2.2 Criminal Joinder: Whenever an Information or Indictment is filed charging multiple defendants in the same charging document, the following rules shall apply:

- A. Each defendant will be assigned a separate case number.
- B. Irrespective of the separate case numbers, the defendants shall be tried together, subject to a defendant's rights for a severance as set forth in Supreme Court Rule 24.06 and Section 545.140 RSMo.

(Adopted eff. Apr. 25, 1996; Amended Jan. 1, 2003.)

RULE 6.3 CERTIFICATION TO CIRCUIT DIVISION (No Local Rule)

RULE 6.4 TRIAL DE NOVO (No Local Rule)

RULE 6.5 DISQUALIFICATION OF JUDGE

When a judge is disqualified, whether upon the court's own motion, or the motion of a party, the following procedures shall apply, unless otherwise provided by specific order:

1. If the judge disqualified is a Circuit Judge other than the Presiding Judge, the case shall automatically be transferred to the Presiding Circuit Judge for reassignment;
2. If the judge disqualified is an Associate Circuit Judge, that judge shall certify the case to the Presiding Judge for reassignment;
3. If the judge disqualified is the Presiding Judge, the judge shall certify the case to the Circuit Judge of Division I for reassignment, or he may request the Missouri Supreme Court to transfer a judge;
4. When a change of judge has been ordered, the trial setting, if any, will be maintained if possible.

(Adopted eff. Apr. 25, 1996; Amended Jan. 1, 2003; Amended Apr. 28, 2014.)

RULE 6.6 ABSENCE OF JUDGE

In the absence of the Circuit Judge or Associate Circuit Judge of any division, any other

judge may, sit as the judge of the division in which the judge is absent and perform all duties of the absent judge.

In the absence of a Municipal Judge, the Mayor or chief executive officer of the municipality shall appoint a judge to serve during the absence of the absent judge.

(Adopted eff. Apr. 25, 1996.)

RULE 6.7 ABSENCE OF PRESIDING JUDGE

The Presiding Judge will appoint an acting Presiding Judge in his or her absence. The appointed temporary Presiding Judge shall perform the duties of the Presiding Judge.

(Adopted eff. Apr. 25, 1996; Amended Jan. 1, 2003.)

RULE 7. WITHDRAWAL OF PAPERS FROM CLERK'S OFFICE

RULE 7.1 WHEN ALLOWED (No Local Rule)

RULE 7.2 DUPLICATING POLICY

Requests for copies of Court records should be directed to the Circuit Clerk. There will be a charge made for copies of documents which shall be established by the Circuit Clerk subject to the court's approval.

(Adopted eff. Apr. 25, 1996.)

RULE 8. PUBLICATION OF DOCKETS

RULE 8.1 TRIAL DOCKET (No Local Rule)

RULE 8.2 DISMISSAL DOCKET (No Local Rule)

RULE 9. COURTROOMS

RULE 9.1 ASSIGNMENT OF COURTROOM

Courtroom assignments shall be determined by the Presiding Judge.

(Adopted eff. Jan. 1, 2003.)

RULE 9.2 PLACE OF HEARING (No Local Rule)

RULE 9.3 USE OF COUNSEL TABLE

Unless otherwise specifically permitted by the Court, only counsel of record and parties are to use counsel table. Unless the parties otherwise agree, Plaintiff shall occupy the counsel table or portion of counsel table closer to the jury box.

(Adopted eff. Apr. 25, 1996.)

RULE 9.4 COURTROOM DECORUM AND DRESS

Counsel shall be expected to dress appropriately and shall inform the parties and any prospective witness that appropriate dress shall be required.

(Adopted eff. Jan. 1, 2003.)

RULE 9.5 WHO IS PERMITTED WITHIN THE BAR

Unless otherwise specifically permitted by the Court, only litigants, licensed attorneys, court personnel and witnesses called to the stand are permitted within the bar.

(Adopted eff. Apr. 25, 1996; Amended Jan. 1, 2003.)

RULE 10. COURT REPORTERS AND COMPENSATION FOR SAME

(No Local Rule)

RULE 11. RECORDING OF JUDICIAL PROCEEDINGS

All persons shall refrain from any broadcasting, televising, recording, or taking photographs in the courtrooms of the courthouse during sessions of court or recesses between sessions, except as authorized under Missouri Supreme Court COR Rule 16. All persons are prohibited from such activities in the corridors or stairways adjacent to the courtrooms of the courthouse at all times during sessions of court or recesses between sessions. The court may authorize the use of electronic or photographic means for the presentation of evidence or for the perpetuation of a record.

(Adopted eff. Jan. 1, 2003.)

RULE 12. MONIES PAID INTO COURT

RULE 12.1 BOND IN CIVIL CASES (No Local Rule)

RULE 13. COMMUNICATIONS WITH THE COURT

RULE 13.1 ORAL COMMUNICATIONS WITH THE COURT (No Local Rule)

RULE 13.2 WRITTEN COMMUNICATIONS WITH THE COURT

An attorney or party sending written communications to the Court is responsible for sending a copy of the communication to all other parties, and verifying same on the copy of the communication sent to the Court.

(Adopted eff. Sep. 19, 1999; Amended Jan. 1, 2003.)

GENERAL RULES**RULE 21. ATTORNEYS****RULE 21.1 RESOLUTION OF CONFLICTING TRIAL SETTINGS (No Local Rule)****RULE 21.2 ENTRIES OF APPEARANCE**

Attorneys retained in pending cases shall file a written entry of appearance promptly after their employment.

(Adopted eff. Jan. 1, 2003.)

RULE 21.3 CONDUCT OF ATTORNEYS (No Local Rule)**RULE 21.4 WITHDRAWAL OF ATTORNEYS**

An attorney of record may withdraw with permission of the Court after an application and notice to the client and other counsel in the cause has been provided. In criminal cases, counsel will automatically be withdrawn after final disposition unless otherwise requested.

(Adopted eff. Apr. 25, 1996; Amended Apr. 28, 2014.)

RULE 21.5 FAILURE OF ATTORNEY TO ANSWER DOCKET CALL (No Local Rule)**RULE 21.6 APPOINTMENT OF ATTORNEYS (No Local Rule)****RULE 21.7 AGREEMENT OF ATTORNEYS (No Local Rule)****RULE 21.8 ADVICE TO CLIENTS AND WITNESSES OF COURTROOM PROCEDURES**

The attorney is to advise the client and witnesses as to the formality of the court, including proper dress, and seek their cooperation therewith, thereby avoiding embarrassment.

The attorney is to advise the client not to discuss any phase of the case with the court.

When the “rule excluding witnesses from the courtroom” is invoked, each attorney is charged with the duty of seeing that the witnesses comply with that rule. If any witness violates the rule, whether willfully or otherwise, such witness shall not be permitted to testify, except by consent of opposing counsel or unless under all of the circumstances justice would be better served by receiving such testimony, rather than excluding such testimony.

(Adopted eff. Jan. 1, 2003.)

RULE 22. APPOINTMENT OF GUARDIAN AD LITEM

(No Local Rule)

RULE 23. TRANSCRIPTS

(No Local Rule)

RULE 24. EXHIBITS

All exhibits shall be marked for identification prior to trial or hearing. At the conclusion of the proceedings, each party shall collect and be responsible for his or her exhibits, and, on appeal, they shall be tendered to the court reporter for preparation of the transcript.

(Adopted eff. Apr. 25, 1996.)

RULE 25. PROPOSED DOCKET ENTRIES, ORDERS AND JUDGMENTS

If directed by the Court, attorneys shall prepare a Form 1 which may consist of a proposed docket entry, order, judgment, or stipulation.

(Adopted eff. Apr. 25, 1996; Amended Jan. 1, 2003.)

PRETRIAL MATTERS

RULE 32. DISCOVERY

RULE 32.1 USE OF DISCOVERY AND CERTIFICATION TO CIRCUIT DIVISION

(No Local Rule)

RULE 32.2 INTERROGATORIES

A. The original of the interrogatories shall be served upon adverse counsel. The interrogatories are not to be filed with the Court except as provided hereafter. The interrogating party shall

show on the interrogatories the Certificate of Mailing and shall file with the Court at the time they are mailed a Certificate of Mailing of the interrogatories which shall include the following:

1. The party to whom mailed;
 2. The date of mailing;
 3. Designation of pleading as first interrogatories, second interrogatories, etc.;
 4. The signature of attorney or party mailing the interrogatories.
- B. The interrogated party shall retype the interrogatory before each answer, using the same interrogatory number as in the interrogatories propounded by the opponent.
- C. The interrogated party shall prepare the affidavit to be signed by the appropriate party and attach it as a last page of the interrogatories and then mail the completed original containing both interrogatories and answers thereto to the interrogating party and a copy thereof to each other party in the litigation.
- D. Where a party files objections to any interrogatories, the interrogatory objected to shall be set out in full before the stated objection.

(Adopted eff. Apr. 25, 1996.)

RULE 32.3 DEPOSITIONS (No Local Rule)

RULE 32.4 MOTIONS FOR SANCTIONS (No Local Rule)

RULE 32.5 CRIMINAL DISCOVERY

32.5.1 Production of Surveillance Records When responding to a defendant's request for disclosure pursuant to Supreme Court Rule 25.03(A)(8), the State, by reference to this local rule, may produce a copy of said surveillance records, subject to the following terms and conditions. For the purposes of this rule, the term "defense counsel" shall include counsel of record, affiliated attorneys and investigators.

- A. Acceptance and retention of surveillance records constitutes an agreement to comply with the terms and conditions set forth below and an order of this court pursuant to Supreme Court rule 25.11.
1. The State of Missouri is ordered to disclose to the defense counsel, during this litigation or proceeding for which the information is requested, all audio and or video recordings in this case, limited to legal matters relevant to this litigation.
 2. One copy shall be provided to defense counsel and it shall remain in the possession of

defense counsel during the period of litigation or proceeding for which the information has been requested.

3. Defense counsel is prohibited from making any copies of the requested information without approval from this Court prior to making such copy.
 4. Defense counsel is prohibited from using or disclosing the protected information for any purpose other than the litigation or proceeding for which the information has been requested; and
 5. Defense shall return the copy of the protected information disclosed pursuant to this order to the State at the conclusion of this litigation or proceeding.
- B. Failure to offer the surveillance records pursuant to this local rule may result in the exclusion of the records at trial or reference thereto.
- C. Nothing in this local rule should be construed to prevent a request, for good cause shown, to excuse the above conditions on the part of the State or defense counsel or to excuse production such records within the time frames established by Supreme Court Rule 25.03.

(Adopted eff. Apr. 28, 2014.)

RULE 33. PRETRIAL MOTIONS

RULE 33.1 HEARING DATES

All non-evidentiary motions and other non-evidentiary pretrial matters may be heard on Law Day upon notice pursuant to Supreme Court Rules, by consent of the parties, or by order of the Court.

All pretrial motions must be heard no later than five (5) days before trial. All motions not heard shall be deemed overruled or denied.

No pretrial motion in civil or criminal cases may be filed less than five (5) days before trial except on a showing that, despite the exercise of due diligence, such filing was not possible. No pretrial motions may be filed on the date of trial.

(Adopted eff. Apr. 25, 1996; Amended Jan. 1, 2003.)

RULE 33.2 BRIEF IN SUPPORT OF CRIMINAL MOTIONS, WHEN REQUIRED

All motions in criminal cases shall be in writing and may be accompanied by a written memorandum setting forth reasons in support thereof with citations and points relied upon. Either party thereafter upon notice pursuant to Supreme Court Rules may call up said motion for

hearing. If no memorandum is filed, then upon notice by either party, the Court will consider the motion without argument. After submission the Court may require such memoranda or briefs as the Court may deem advisable. Time to file a written memorandum may be extended by the Court for good cause shown.

(Adopted eff. Apr. 25, 1996.)

RULE 33.3 ORAL ARGUMENTS - WHEN DESIRED AND HOW REQUESTED

When it is agreed between the parties that a matter may be decided on the briefs or suggestions without evidence or further argument, it shall be the responsibility of the parties to advise the Court that the briefs or suggestions have been filed and the matter is ripe for decision.

(Adopted eff. Apr. 25, 1996.)

RULE 33.4 MOTIONS IN LIMINE (Withdrawn eff. Jan. 1, 2003.)

RULE 33.5 TIME STANDARDS (Withdrawn eff. Jan. 1, 2003.)

RULE 34. CONTINUANCES

RULE 34.1 CIVIL CASES

An application for continuance shall be made by a written motion accompanied by the affidavit of the applicant or some other credible person, setting forth the facts upon which the application is based, unless the adverse party consents that the application for continuance may be made orally. For good cause shown, the Court may continue a civil action to a fixed day, or to a day for trial to be set thereafter. Every continuance granted on the application of a party may be at the cost of such party, if so ordered by the Court. All applications for continuances shall conform to Supreme Court Rule 65.

(Adopted eff. Jan. 1, 2003.)

RULE 34.2 CRIMINAL CASES

An application for continuance shall be made by a written motion accompanied by the affidavit of the applicant or some other credible person, setting forth the facts upon which the application is based, unless the adverse party consents that the application for continuance may be made orally. A continuance will be granted in criminal cases only if the court finds the ends of justice served by taking such an action outweighs the benefits of a speedy trial. For good

cause shown, the Court may continue a criminal proceeding to a fixed day, or to a date to be set thereafter. Every continuance granted on the application of a party may be at the cost of such party, if so ordered by the Court. All applications for continuances shall conform to Supreme Court Rule 24.

(Adopted eff. Apr. 25, 1996; Amended Jan. 1, 2003.)

RULE 35. PRETRIAL CONFERENCES (Withdrawn eff. Jan. 1, 2003.)

RULE 36. SETTING CASES FOR TRIAL

RULE 36.1 REQUEST FOR TRIAL

The Judge of each Division will keep his or her own trial docket. Trial settings and settings for other evidentiary matters may be obtained on any Law Day upon proper notice to adverse counsel or any time by agreement of counsel and approved by the Court.

In Divisions I, II, and IV trial settings may also be obtained by contacting the Judge's clerk directly or by facsimile or e-mail. In such instances, counsel shall complete Form No. 2 and provide same to the clerk.

In any civil action to be tried to a jury, a pre-trial conference will be set and held, pursuant to the same notice procedure as is required for the obtaining of a trial setting.

(Adopted eff. Apr. 25, 1996; Amended Jan. 1, 2003.)

RULE 36.2 DATE OF CALENDAR CALL (No Local Rule)

RULE 36.3 PREPARATION OF CALENDAR (No Local Rule)

RULE 36.4 CALENDAR CALL (No Local Rule)

RULE 36.5 REMOVAL AND INACTIVE CALENDAR (No Local Rule)

RULE 36.6 REVISION OF AND REMOVAL FROM PREPARED CALENDAR (No Local Rule)

RULE 36.7 SPECIAL ASSIGNMENTS (No Local Rule)

RULE 37. DISMISSALS

RULE 37.1 DISMISSAL DOCKET (No Local Rule)

RULE 37.2 REINSTATEMENT OF CAUSE (No Local Rule)

SETTLEMENT AND DEFAULT

RULE 41. SETTLEMENT

RULE 41.1 NOTICE OF SETTLEMENT (No Local Rule)

RULE 42. DEFAULT

(No Local Rule)

TRIALS

RULE 51. COURT-TRIED CASES

RULE 51.1 DEFAULT AND UNCONTESTED MATTERS (No Local Rule)

RULE 51.2 CONTESTED MATTERS (No Local Rule)

**RULE 51.3 PREPARATION OF FINDINGS OF FACT AND CONCLUSIONS OF
LAW**

In all court-tried cases in which findings of fact and conclusions of law are required or properly requested or as directed by the court, the parties, through their attorneys, shall submit proposed findings of fact and conclusions of law at the conclusion of the trial or within a reasonable time as directed by the Court.

(Adopted eff. Jan. 1, 2003.)

RULE 52. SELECTION OF JURY

RULE 52.1 JURY QUESTIONNAIRES

All jurors shall complete and execute a jury questionnaire which shall be filed in the Clerk's office. Jury questionnaires shall be available on the day of any jury trial by contacting the Court Administrator or Circuit Marshal.

Upon request the Court Administrator or Circuit Marshall shall furnish a copy of the questionnaires to counsel for each of the parties. At the completion of the voir dire examination, it shall be the responsibility of the attorneys to return the questionnaires to the Court Administrator or Circuit Marshall. The jury questionnaire may be inspected and copied by the

attorney at any time that the Court is in session for the purpose of assisting the attorneys in the selection of a jury. Copies thereof may be obtained by counsel upon payment of the established cost of photocopying the questionnaires. Such questionnaires and the information contained therein are confidential and are to be treated as such by attorneys given access. Any dissemination of such information to persons not directly involved in the litigation at issue shall be deemed as a violation of these rules and subject to appropriate sanction.

(Adopted eff. Apr. 25, 1996; Amended Nov. 21, 2007.)

RULE 53. JURY TRIALS

RULE 53.1 INSTRUCTION

Prior to the commencement of civil and criminal jury trials, parties shall submit to the Court those instructions they anticipate will be offered at the close of all of the evidence.

(Adopted eff. Apr. 25, 1996; Amended Jan. 1, 2003.)

RULE 53.2 CLOSING ARGUMENTS (No Local Rule)

RULE 53.3 COUNSEL CONTACT WITH JURORS

Neither counsel nor anyone at the direction or behest of counsel may discuss with a venireperson any case upon which the venireperson deliberated as a juror until after the term of the panel upon which the venireperson served has expired without approval of the Court, nor shall counsel make available to any person, other than a party, information regarding jurors obtained from jury questionnaires without specific approval of the Court.

(Adopted eff. Apr. 25, 1996.)

RULE 54. JUDGMENT ENTRY

Proposed judgment entries shall be prepared as directed by the Court.

(Adopted eff. Apr. 25, 1996.)

RULE 54.1 CONTESTED CASES (No Local Rule)

RULE 54.2 DEFAULT OR UNCONTESTED CASES (No Local Rule)

RULES RELATING TO PARTICULAR ACTIONS

RULE 61. ADOPTION**RULE 61.1 FILING REQUIREMENTS**

No petition for adoption will be accepted by the circuit clerk, unless the information required by section 193.125, RSMo for the Bureau of Vital Statistics accompanies such petition.

(Adopted eff. Apr. 25, 1996; Amended Jan. 1, 2003.)

RULE 61.2 HOME STUDY

Upon the filing of a petition for adoption or for transfer of custody prior thereto, and upon application to the court, the court will order the statutory investigation and report.

(Adopted eff. Jan. 1, 2003.)

RULE 61.3 GUARDIAN AD LITEM

Upon the filing of a petition for adoption or for transfer of custody prior thereto, and upon application to the court, the court will appoint a guardian ad litem for the child sought to be adopted, said guardian ad litem shall be a member of the Missouri Bar. Counsel for petitioner(s) shall submit a proposed order appointing the guardian ad litem which shall contain the name of the petitioner's nominee for appointment.

(Adopted eff. Jan. 1, 2003.)

RULE 62. DRIVERS' CASES

RULE 62.1 APPLICATIONS FOR HARDSHIP DRIVING PRIVILEGES (No Local Rule)

RULE 62.2 PETITIONS FOR REVIEW (No Local Rule)

RULE 62.3 BREATHALYZER TEST (No Local Rule)

RULE 63. ASSOCIATE DIVISION CASES

RULE 63.1 EFFECT OF OTHER CIRCUIT COURT RULES ON DIVISION III

All other rules apply except as provided herein.

(Adopted eff. Apr. 25, 1996.)

RULE 63.2 MOTIONS

Notice of Hearing shall be filed at the time the motion is filed. Failure to appear and present such motion will result in the motion being overruled.

(Adopted eff. Apr. 25, 1996.)

**RULE 64. CASES ARISING UNDER CHAPTERS 207 AND 208, RSMo 1978
(COMMONLY KNOWN AS TITLE IV-D AND H.B. 601 ACTIONS)**

(No Local Rule)

RULE 65. CIVIL COMMITMENT (No Local Rule)

RULE 66. CONDEMNATION (No Local Rule)

RULE 67. CRIMINAL CASES

RULE 67.1 PRETRIAL RELEASE

67.1.1 Motion to Set Bond and for Bond Reduction. (No Local Rule)

67.1.2 Deposit of Operator's License. (No Local Rule)

67.1.3 Cash Bond. When a cash bond is posted, the receipt shall be made in the name of the defendant. Any money deposited shall be considered by the court as belonging to the defendant. If the defendant is found guilty, all assessments against the defendant, such as fines, court costs, and any other related court costs ordered by the judge may be deducted from the cash bond before any money is refunded to the defendant. A third party may claim any refundable money at the conclusion of the charges only if the defendant has properly assigned the defendant's bond receipt to that third party.

(Adopted eff. Jan. 1, 2003.)

67.1.4 Determination of Bonding Capacity.

A. Any person, firm, corporation or other business entity ("Bonding Agent" or "Bonding Agents") desiring to write bail bonds for persons charged with crimes in the 19th Judicial Circuit shall be licensed to write bail bonds by the State of Missouri.

B. The maximum bonding capacity for authorized Bonding Agents, which shall not be exceeded, shall be determined by the presiding judge or presiding judge's designee as provided for below.

C. Bonding Agents shall annually file in completed form with the Court, a General Affidavit of Qualifications and a General Affidavit of Qualifications – Questionnaire. The information provided in the Questionnaire shall be legible and shall be presented in such a fashion so that qualifying assets (as hereinafter described) may be quickly identified.

The qualifying assets as disclosed in said affidavit shall be used to determine the bonding capacity of the Bonding Agent. The bonding capacity of the Bonding Agent shall be an amount equal to 15 times the qualifying assets of the Bonding Agent. The bonding capacity of the Bonding Agent on any single bond shall be no more than 50% of the qualifying assets of the Bonding Agent.

D. Qualifying assets shall consist of the following:

1. The reasonable equity value of real estate located in Missouri. The reasonable equity value of real estate shall be based upon current appraisals by certified Missouri appraisers and/or current tax assessments after reduction by all liens and encumbrances, as verified by the appraiser, current title policy or certified bank letter;
2. Certificates of deposit issued by an FDIC-insured or NCUA-insured financial institution located in the State of Missouri or cash held on deposit by such institutions;
3. Monies deposited with the State of Missouri Department of Insurance, Financial Institutions and Professional Registration pursuant to Chapter 374 of the Revised Statutes of Missouri; and
4. Any asset that has been specifically approved by the presiding judge or the presiding judge's designee; however, the Court generally will not accept such assets as jewelry, antiques, etc.
5. Any asset presented to the Court as a qualifying asset must not be exempt from execution and must be in the name of the Bonding Agent only or accompanied by an irrevocable guaranty to the Court by any other owners of record.

E. Prior to 9 a.m. on the last working day of each month, each Bonding Agent shall certify on the Monthly Affidavit of Qualifications form provided by the court that there have been no changes in the qualifications or qualifying assets of the Bonding Agent, as they appeared on the last filed Annual General Affidavit of Qualifications and General Affidavit of Qualifications – Questionnaire. Further, each agent shall file a list of all outstanding Missouri bonds reflecting the amount of each bond and total of all bonds. If there are changes, a new Annual General Affidavit of Qualifications and General Affidavit of Qualifications – Questionnaire shall be filed.

F. If it is determined that the available bonding capacity of the Bonding Agent has dropped below \$10,000, the presiding judge or presiding judge’s designee shall endeavor to notify the Bonding Agent, sheriff and all other interested parties of such fact and, thereafter, the Bonding Agent shall have no authority to write additional bonds until such time as the presiding judge or presiding judge’s designee shall ascertain that the Bonding Agent has bonding capacity greater than \$10,000. If the Bonding Agent requests to demonstrate to the presiding judge or presiding judge’s designee that its available bonding capacity has increased over \$10,000, the presiding judge or presiding judge’s designee shall endeavor to recertify the bonding authority on a time available basis.

G. Any unsatisfied judgment against a Bonding Agent, entered upon any bail bond in any court of this state or of the United States, shall forthwith disqualify such Bonding Agent from writing bonds in the 19th Judicial Circuit. Such disqualification shall continue for so long as a judgment remains unsatisfied and until the disqualified agent is re-qualified pursuant to state law and this rule.

H. Notwithstanding the foregoing, all unresolved issues regarding the interpretation and application of this rule shall be resolved by the presiding judge or the presiding judge or presiding judge’s designee in accordance with Supreme Court Rules.

(Adopted eff. Aug. 3, 2017.)

RULE 67.2 PRELIMINARY HEARING (No Local Rule)

RULE 67.3 GRAND JURY INDICTMENTS

67.3.1 When an indictment is filed, the prosecuting attorney will advise the judge in charge

of the grand jury whether the defendant named in the indictment has a complaint pending at the associate circuit court level based on the same course of conduct which is the subject matter of the indictment. At the time of the filing of an indictment, the prosecuting attorney shall provide to the circuit clerk the offense cycle number (OCN), if one exists, necessary for criminal history reporting purposes. Such OCN shall be displayed on the face of the indictment.

67.3.2 If there is no complaint pending against the defendant based on the same course of conduct which is the subject matter of the indictment, except as provided in subparagraph (4), the indictment shall be denominated as a suppressed indictment and the judge shall order a *capias* to issue for the arrest of the defendant. Upon the arrest of the defendant, the prosecuting attorney shall notify the circuit clerk of the OCN.

67.3.3 In cases where there is a complaint pending against the defendant based on the same course of conduct which is the subject matter of the indictment, the judge in charge of the grand jury shall cause a copy of the indictment to be delivered to the associate circuit division having jurisdiction over said complaint, and the associate circuit judge of said division shall in turn order that the cause be transferred to the appropriate circuit division. In such cases, no *capias* shall issue, the circuit clerk shall keep the same cause number assigned to the complaint for the indictment, and unless otherwise ordered, the pending bond and its conditions on the complaint shall remain the same for the indictment.

67.3.4 In cases in which the defendant is incarcerated within an institution operated by the department of corrections, a warrant shall be issued, the indictment shall remain unsealed, and the prosecuting attorney shall prepare a writ of habeas corpus ad prosequendum for the judge's signature ordering the defendant to appear in circuit court at the next appropriate law day. The prosecuting attorney shall provide the OCN to the circuit clerk for such defendants at the time of the filing of the indictment. Such OCN shall be displayed on the face of the indictment.
(Adopted eff. May 4, 1999.)

RULE 67.4 ATTORNEYS (No Local Rule)

RULE 67.5 ARRAIGNMENTS

67.5.1 In General. (Withdrawn eff. Jan. 1, 2003.)

67.5.2 Dates. If the plea at arraignment is not guilty the cause may be set for trial or continued until the next Law Day for trial setting.

(Adopted eff. Apr. 25, 1996; Amended Jan. 1, 2003.)

RULE 67.6 DISCOVERY (No Local Rule)**RULE 67.7 MOTIONS**

The Clerk shall return, by return mail, any motion or other pleading presented for filing by a criminal defendant who has an attorney of record other than himself to which is not subscribed the signature of the attorney of record, except in the case of motion for substitution of counsel. (Adopted eff. Apr. 25, 1996.)

RULE 67.8 PLEA BARGAINING (No Local Rule)**RULE 67.9 GUILTY PLEA****RULE 67.10 CALENDAR (No Local Rule)****RULE 67.11 PROBATION AND PAROLE (No Local Rule)****RULE 67.12 ELECTRONIC MONITORING**

Electronic monitoring may be used as an alternative to confinement. An individual may be placed on electronic monitoring when: the person is charged with an offense where bail is applicable and has been ordered to be released on his personal recognizance; or the person has been sentenced to serve all or a portion of his sentence on electronic monitoring. The person shall pay all costs associated with the electronic monitoring. The court is not authorized to place an individual on electronic monitoring unless enrolled in the Pretrial Release Program or if the individual is unable to pay the costs associated with the electronic monitoring or if the individual was sentenced as a prior, persistent, aggravated, or chronic intoxication related traffic offender per Section 577.023 RSMo.

(Adopted eff. Aug 28.11; Amended Aug. 3, 2017.)

RULE 68. DISSOLUTION OF MARRIAGE (FAMILY COURT)**RULE 68.1 FILING REQUIREMENTS**

A. The commencement of a family law case shall be upon the filing of the original pleading with the Circuit Clerk, the required filing fee, service fees and the appropriate confidential filing information sheet (OSCA F1-10).

(Adopted eff. Aug. 28, 2009; Amended Aug. 3, 2017.)

B. Parties filing responsive pleadings in family law cases shall also file the completed confidential filing information sheet (OSCA F1-10).

(Adopted eff. Aug. 28, 2009; Amended Aug. 3, 2017.)

C. If an individual's social security number must be included in a pleading or filing, only the last four digits of that number should be used. If financial account numbers are relevant and must be disclosed, only the last four digits of these numbers should be used. If a document is filed that includes full disclosure of the social security number, date of birth, or financial account numbers, it is the sole responsibility of counsel and the parties to be sure that the redaction of personal identifiers is done. The clerk will review each pleading for redaction and promptly notify parties.

(Adopted eff. Aug. 28, 2009; Amended Aug. 3, 2017.)

RULE 68.2 SEPARATION AGREEMENT (No Local Rule)

RULE 68.3 FORMS OF JUDGMENT

A. Local Rule 54 shall apply to all judgment entries in domestic relations cases.

B. Judgment entries of dissolution of marriage or legal separation shall contain the following findings where appropriate:

1. Recitation of jurisdictional requirements;
2. The last four digits of the Social Security numbers of the parties; and employers' names and addresses, if disclosed in the pleadings;
3. Date, place and recordation of marriage;
4. Names and ages of minor, unemancipated children, proper custodian of the minor children, ability of parents to provide support; and whether a party is released by the Court from income withholding under Section 452.350 RSMo;
5. Requirements of maintenance and ability to provide same;
6. Finding of non-marital property including the value of the property unless set out in the property settlement agreement;
7. Finding and division of marital property including the value of the property unless set out in the property settlement agreement;
8. Approval of property settlement agreement;
9. Irretrievable breakdown of the marriage or necessity of separation.

C. The order in the judgment shall contain the following where appropriate:

1. Dissolution of the marriage or legal separation;
2. Award of custody and visitation;
3. Support of children;
4. Award of maintenance;
5. Division of property;
6. Award of attorney's fees;
7. Modifiability of judgment;
8. Payment of costs.

(Adopted eff. Apr. 25, 1996; Amended Jan. 1, 2003.)

RULE 68.4 FILING OF FINANCIAL STATEMENTS

In all dissolution-of-marriage and legal-separation actions, a statement of marital and non-marital property, under oath of the party making the same, shall be furnished to the Court with the first pleadings filed by either party to the action. Copies of the same shall be attached to the service copies of such pleadings.

In all dissolution of marriage and legal separation actions involving maintenance and/or child support, and in all motions to modify child support or maintenance, a statement of income and expense and a Form 14 presumed child support calculation worksheet (if applicable), shall be filed under oath of the party making the same and furnished to the Court with the first pleadings filed by either party to the action. Copies of the same shall be attached to the service pleadings. The statement shall, to the best of the ability of the party, list the income of that party from all sources and the anticipated separate expenses of the party making the statement, together with the expenses of dependent children.

If the above filings are not appropriately filed by a party, then the party's pleadings are subject to being stricken by the Court unless good cause is otherwise shown.

Any modification of such statement of property, income and expense of Form 14 shall be supplied to the opposing attorney not less than three (3) days prior to the date of the hearing.

Upon motion by either party and order of the Court, financial statements and Form 14 may be sealed and be made available only to the Court and the parties and their attorneys.

(Adopted eff. Apr. 25, 1996; Amended Jan. 1, 2003.)

RULE 68.5 MODIFICATION OF DECREE (No Local Rule)

RULE 68.6 APPLICABILITY OF RULE

Rule 68 shall apply to all cases involving dissolution of marriage; legal separation; annulment; URESA, contested actions involving administrative support orders of the Department of Social Services; separate maintenance; adult abuse; motions to modify; motions for contempt in domestic relations cases; child protection orders; paternity; writs of habeas corpus in child custody cases; and registration of foreign domestic relations judgments.

Nothing in this rule will cause automatic dismissal of a case. The intent of this rule is to comply with Supreme Court Operating Rule 17 to establish case-processing time standards to ensure the prompt and fair disposition of cases in order to provide litigants with some time frame to resolve their cases and in order to assist the judiciary in managing case loads.

(Adopted eff. Apr. 25, 1996; Amended Feb. 22, 2000; Amended Jan. 1, 2003.)

RULE 68.7 STATUS CONFERENCE

A. A status conference shall be set as soon as possible under the following guidelines:

1. Where there is no return of service and Respondent/Defendant has not filed an Entry of Appearance within thirty (30) days, Petitioner/Plaintiff will send a Notice to the Court asking that the Court place the matter on the docket for the next available law day or Family Law Motion Docket. At that time the Court will expect a status report on the ability of the Petitioner/Plaintiff to serve the Respondent/Defendant. A summons shall be issued and served in every case unless Plaintiff/Petitioner files a request that the summons not be served because the Defendant/Respondent is expected to enter an appearance no later than thirty (30) days after filing.
2. Where the return of service indicates Respondent/Defendant has been served and there is no responsive pleading in the file on the thirtieth (30th) day, Petitioner shall send a Notice to the Court asking that the Court place the matter on the docket for the next available law day or Family Law Motion Docket for the Court to conduct an evidentiary hearing and enter judgment. Where required, any Notice to the Respondent/Defendant will be sent by Petitioner.
3. Where there is filing of an Entry of Appearance or other pleading by Respondent/Defendant within thirty (30) days, Petitioner will send a Notice to the Court asking that the Court place the matter on the docket for the next available law day or Family Law Motion Docket for the Court to be advised of the status of the case and the

- time needed for discovery. Notice will be sent to Respondent/Defendant by the Petitioner.
- B. The status conference shall be conducted within this time frame unless the Court finds reason to grant a continuance. A continuance may be requested in writing and shall be date certain.
 - C. Failure of an attorney, or pro se litigant, to be prepared for, appear at, or cooperate in the status conference may subject the attorney or litigant to sanctions, including an award of attorney's fees and expenses to any attorney or litigant prejudiced or inconvenienced by such conduct. The Court may excuse an attorney or a litigant's failure to appear upon good cause shown.

(Adopted eff. Apr. 25, 1996; Amended Oct. 26, 2000; Amended Jan. 1, 2003.)

RULE 68.8 SETTLEMENT CONFERENCE

- A. A settlement conference shall be held in all contested cases to which this Rule applies.
- B. The parties shall be present in the Courthouse at the time of such conference, unless other arrangements have been made.
- C. Counsel shall file and furnish to opposing counsel at the time of the conference a proposal to settle the issues in dispute. If property division is in dispute, counsel shall file and furnish to opposing counsel at the time of the conference a proposal on the division of property setting forth the value of said property. If the issue is child custody and visitation, a proposal on custody and visitation shall be filed.
- D. A settlement conference shall be held at least thirty (30) days prior to the date scheduled for trial. If there is no trial date scheduled, the Court may schedule the matter for trial at the conclusion of the settlement conference for a date in the future. It will be the responsibility of the Petitioner/Plaintiff to schedule this settlement conference.
- E. The settlement conference shall be conducted within this time frame unless the Court finds reason to waive the time. A waiver shall be requested in writing and be date certain.
- F. Failure of an attorney, or pro se litigant, to be prepared for, appear at, or cooperate in the settlement conference may subject the attorney or litigant to sanctions, including an award of attorney's fees and expenses to any attorney or litigant prejudiced or inconvenienced by such conduct. The court may excuse an attorney's, or a litigant's failure to appear upon good cause shown.
- G. The settlement conference shall be conducted by the Court as a strong settlement tool. The discovery required by Rule 68.07 will be provided to the Court at the time of the settlement conference, unless previously waived by the Court in a status or pre-trial conference. There

will be no change of judge granted after the pre-trial conference, except as provided by Supreme Court Rules.

(Adopted eff. Apr. 25, 1996; Amended Jan. 1, 2003.)

RULE 68.9 PRE-TRIAL CONFERENCE

- A. A pre-trial conference shall be held in all contested cases to which this Rule applies.
- B. A pre-trial conference shall be held between seven and ten days prior to the date set for trial. It will be the responsibility of the Plaintiff/Petitioner to set this pre-trial conference.
- C. The pre-trial conference will be held with the judge assigned to conduct the trial and will be held for the purpose of deciding on the amount of time needed for the proper conduct of the trial.
- D. At the conclusion of the pre-trial conference, the Court shall determine which case(s) will actually be heard. All cases which the Court believes will not be heard on the day scheduled will be released from the schedule and set to a date certain.

(Adopted eff. Apr. 25, 1996; Amended Jan. 1, 2003.)

RULE 68.10 EX PARTE REQUESTS

Upon the ex parte request of any litigant, the Court may, at any time, enter an order under which, during the pendency of the proceeding, all litigants are prohibited from transferring, concealing, encumbering or in any way disposing of any property, marital or separate, except in the usual course of business or for the necessities of life, and if so enjoined, are required to notify all parties of any proposed extraordinary expenditures and account to the Court and the parties for all such expenditures after the date of issuance of the order. Any order entered hereunder shall remain in full force and effect until further order the Court or final judgment. A bond is not required unless ordered by the Court.

If there are medical and dental policies covering one party and/or the minor children and under the control of the other party, the ex parte request may include a request that the status quo as of the date of the request be ordered to be maintained until further Court order or final judgment.

If there are life insurance policies in effect with beneficiary designations naming the other party or minor children of the litigants, the ex parte request may include a request that the status quo, as of the date of the request, be ordered to be maintained until further Court order or final judgment.

(Adopted eff. Apr. 25, 1996; Amended Jan. 1, 2003.)

RULE 68.11 STANDARD INTERROGATORIES FOR FAMILY LAW CASES

- A. Court en banc approved standard sets of opening discovery interrogatories, Form No. 6, shall be used first (or portions thereof as applicable) if either party elects to propound interrogatories in contested actions for dissolution of marriage or legal separation only.
- B. The party propounding discovery interrogatories shall first set forth each question in clear and concise language, leaving an appropriate space for the answer. The original and two copies shall be served upon adverse counsel, or upon the opposing party if not represented by counsel. The answer to interrogatories will be typewritten. In the event an answer is too lengthy to be placed in the space provided, it shall be attached as an appendix and clearly identified by number. The adverse party shall prepare the affidavit to be signed by the appropriate party and attach it as a last page of the interrogatories. Interrogatories and answers shall not be filed with the Court except upon Court order or contemporaneously with a motion placing the interrogatories in issue. However, both when the interrogatories and answers are served, the party serving them shall file with the Court a Certificate of Service.

(Adopted eff. Apr. 25, 1996; Amended Jan. 1, 2003.)

RULE 68.12 PENDENTE LITE ORDERS

- A. Upon the filing of a verified application by any party, after reviewing the pleadings, including the statement of income and expenses, statement of property, and Form 14, the Court may enter an order pendente lite, without the necessity of formal hearing, for child support, health insurance, maintenance, attorney's fees and visitation. The order shall be entered upon filing of the application and effective upon service. However, no execution shall be issued thereon until the expiration of 30 days from the date of service. When the application is filed, the movant or movant's attorney shall provide a copy of the application and all documents in support thereof, with proof of service, to all other parties or their counsel of record. Suggestions and affidavits in opposition to the application may be filed. The order shall be retroactive to the date the application was served unless it appears that a retroactive award would be unjust or inappropriate.
- B. An oral hearing may be requested on any issue raised by the motion pendente lite or motion filed in response thereto, but any request will not suspend or delay commencement of the rights and obligations under the order pendente lite. Any request for oral hearing regarding

physical custody shall advise the Court of any other order or proceeding relating to the physical custody of a child whose custody is at issue. Any modification of the order pendente lite after an oral hearing may, if appropriate, be retroactive to the effective date of the original order. Any request for an oral hearing on an order pendente lite must be heard within thirty (30) days of the date that a party requests a hearing. The requesting party shall be responsible to notice up the matter for hearing at the next scheduled Family Law Motion Docket.

- C. Temporary child support shall be set in accordance with Missouri Supreme Court Rule 88.01 and Missouri Supreme Court Form 14 (local court rule Form 14) unless the Court finds that application of the child support guidelines would be unjust or inappropriate.
- D. Upon the filing of the initial pleading by the party having actual custody, unless the pleading alleges that unrestricted visitation with the non-custodial parent would endanger the child’s physical health or impair the child’s emotional development, the non-custodial parent shall have, at a minimum, temporary custody/visitation with the child(ren) born of the marriage, while the petition is pending, or until further order of the Court, as set forth on Exhibit A, unless the parties agree otherwise. However, nothing herein shall preclude either party from requesting a hearing for purposes of determining a different schedule of temporary custody/visitation in accordance with paragraph B above.

Exhibit A. Visitation Order

IN THE CIRCUIT COURT OF COLE COUNTY, MISSOURI

19TH JUDICIAL CIRCUIT

EXHIBIT A

_____ Petitioner _____ Date

vs.

_____ Respondent _____ Case No.

VISITATION ORDER

_____ is awarded reasonable visitation with the minor child(ren). In the event that the parties cannot agree on specific visitation, then visitation shall be as follows:

- A. Every other weekend beginning at 6:00 P.M. on Friday and ending at 6:00 P.M. on Sunday; beginning the weekend following the date of this order. If the custodial parent's holiday weekend, as set forth below, conflicts herewith then the non-custodial parent's next regular weekend shall be replaced with the custodial parent's next regular weekend to thereafter be followed by the original schedule so that each would have two consecutive weekends.
- B. One night each week from 5:00 P.M. until 8:00 P.M. to be on Wednesday, if the parties are unable to agree.
- C. Four weeks each summer (to be divided into two 14 consecutive day periods), and unless the parties otherwise agree, the first period to begin at 6:00 P.M, June 15 and end at 6:00 p.m., June 30 and the second period to begin at 6:00 P.M., August 1 and end at 6:00 P.M. August 15. The custodial parent shall have exclusive physical custody of the minor child(ren), not subject to the non-custodial parent's rights of visitation, for 14 consecutive days during the summer months.
- D. Holidays and Special Days as follows:
 - 1. Holidays and special days shall prevail over weekend, weekday and summer vacation set forth in subparagraphs "A", "B", and "C" above.
 - 2. Mother/Wife shall have custody of the minor child(ren) on her birthday (unless it is a school day and then the birthday visitation shall commence at 5:00 P.M. and end at 9:00 P.M.) and on Mother's Day each year from 9:00 A.M. to 9:00 P.M.; plus "Holiday Group A" in even-numbered years and "Holiday Group B" in odd-numbered years.
 - 3. Husband/Father shall have custody of the minor child(ren) on his birthday (unless it is a school day and then the birthday visitation shall commence at 5:00 P.M. and end at 9:00 P.M.) and on Father's Day of each year from 9:00 A.M. to 9:00 P.M.; plus, "Holiday Group A" in odd-numbered years and "Holiday Group B" in even-numbered years.

Holiday Group A

- 1. PRESIDENTS' DAY/WASHINGTON'S BIRTHDAY (OBSERVED) weekend from 6:00 P.M. the Friday prior through 6:00 P.M. on the Monday holiday.
- 2. A period of six days during the school Spring Break, the exact days to be selected and written notice given to the other party not later than thirty (30) days prior to the start

thereof.

3. INDEPENDENCE DAY (July 4) holiday from 9:00 A.M. on July 4 until 9:00 A.M. on July 5.
4. CHRISTMAS vacation from December 25 beginning at 10:00 A.M. through 9:00 A.M. on December 31.
5. The child's birthday from 9:00 A.M. until 9:00 P.M., if not on a school day and from 5:00 P.M. to 9:00 P.M., if on a school day.

Holiday Group B

1. MARTIN LUTHER KING DAY weekend from 6:00 P.M. the Friday prior through 6:00 P.M. on the Monday holiday.
2. MEMORIAL DAY weekend from 6:00 P.M. the Friday prior through 6:00 P.M. on the Monday holiday.
3. LABOR DAY weekend from 6:00 P.M. the Friday prior through 6:00 P.M. on the Monday holiday.
4. THANKSGIVING weekend from 6:00 P.M. the Wednesday prior through 6:00 P.M. the following Sunday.
5. CHRISTMAS vacation from 6:00 P.M. the day the school Christmas vacation begins through 10:00 A.M. on December 25 and December 31 beginning at 9:00 A.M. through 6:00 P.M. the day before the school Christmas vacation ends.
6. The day prior to the child's birthday beginning at 9:00 A.M. through 9:00 P.M., if not on a school day and from 5:00 P.M. to 9:00 P.M. if on a school day.

(Adopted eff. Apr. 25, 1996; Amended Jan. 1, 2003.)

RULE 68.13 FAMILY LAW MOTION DOCKET

- A. Family Law Motion Docket is where matters of a summary nature in any action described in Rule 68, including uncontested dissolutions, and family access motions may be taken up. Division I, II, III and IV schedules/dockets will be posted on the court's website www.colecountycourts.com under the law day/calendar tab.
- B. Any party or counsel who files a notice regarding any motion being called up for a Family Law Motion Docket shall file a notice and a proposed order which are separate and apart from the corresponding motion.
- C. All parties, or counsel for parties to any action described in Rule 68, shall have an obligation

to file a notice requesting a settlement conference, pretrial conference and trial setting at the earliest possible date.

D. If a party files a motion to dismiss any action described in Rule 68, then that party shall call the motion up for hearing on the next available Family Law Motion Docket.

(Adopted eff. Jan. 1, 2003; Amended Jan. 1, 2007; Amended Apr. 1, 2010.)

RULE 68.14 COMPLEX CASES (WITHDRAWN)

(Adopted eff. Apr. 25, 1996; Withdrawn Oct. 26, 2000.)

RULE 68.15 GUARDIAN AD LITEM

In contested custody cases, in which child abuse or neglect is raised in the pleadings, a guardian ad litem for the minor children shall be appointed. In all other contested custody cases, the Court may, within its discretion, appoint a guardian ad litem. The Court may require a bond be posted by either party or both parties for the guardian ad litem fee.

(Adopted eff. Apr. 25, 1996; Amended Jan. 1, 2003.)

RULE 68.16 HOME STUDIES

In all proceedings pursuant to Chapters 210, 452, 453, 454 and 455 RSMo, the Court, unless otherwise required by statute, may order the Division of Family Services, the County Juvenile Officer or some other competent person to conduct a home study as to the parties. Unless otherwise required by statute, the completion and delivery to counsel or to a party not represented by counsel of a home study shall not be a condition precedent to a hearing on the merits. All orders directing that home study be conducted shall contain the complete name(s) of the parties, their home address and phone number; their employers' name(s) and work telephone number(s) and name and address of each party's attorney. Upon completion of a home study(ies), the Division of Family Services shall retain the original home study and promptly mail or deliver copies of it to the attorney for each party or a party not represented by counsel.

Unless otherwise required by statute, home studies shall not be ordered simply because there are contested issues relating to custody and/or visitation.

(Adopted eff. Apr. 25, 1996; Amended Jan. 1, 2003.)

RULE 68.17 PHYSICAL AND MENTAL EXAMINATIONS

In all proceedings pursuant to Chapters 210, 452, 453, 454, 455 RSMo, upon the motion of either party, or upon the Court's own motion, a physical and/or mental examination of the parties and/or of the children may be ordered. The Court's order sustaining a motion for physical and/or mental examination shall set out the name of the licensed health care provider who is to conduct the examination; the name, home address, home phone and business phone of each party to be examined; the party having the primary physical custody of the minor children, if any; the name(s) and age(s) of the child(ren) and the name and address of the parties' and/or other child(ren)'s attorney(s). The Court may require that a bond be posted by either party or order that the parties pay the licensed health care provider directly.

Upon the completion of a physical and/or mental examination, the licensed health care provider shall file an original report with the Court, mailing copies to counsel for all parties maintained under the seal of the court.

(Adopted eff. Apr. 25, 1996; Amended Jan. 1, 2003.)

RULE 68.18 PARENT EDUCATION PROGRAM

All adult parties in a dissolution of marriage action, legal separation action, annulment action, modification action, or where a pleading has been filed requesting custody or visitation rights (excepting adult abuse and child protection proceedings and paternity actions), shall attend a Court approved education program to educate parents as to the possible detrimental effects of custody litigation on children and how best to avoid these negative effects. In any other case or of cases where minor children are involved, the Court may require the parties to attend the Court-approved education program.

The petitioner/movant shall attend said program within thirty (30) days of filing the petition or motion. The respondent shall attend said program within thirty (30) days of the date of service of process or receipt of the petition or motion if service is waived. If the petitioner/movant fails to attend said program within thirty (30) days of the date of filing, the Court may dismiss the pending case. If the respondent fails to attend said program within thirty (30) days from the date respondent was served, the Court may strike the responsive pleadings. The Court may impose any other appropriate sanctions provided by law.

No case shall proceed to a final hearing on the merits until both parties have attended a Court-approved education session. The Court, for good cause shown, may waive the requirements of this rule.

The fee for attending the program shall be paid by the petitioner or moving party and by the

respondent or non-moving party, to the Court-approved education program provider, before attending the program. The fee may be waived upon application to the Court before the date of attendance at the program.

(Adopted eff. Apr. 25, 1996; Amended Jan. 1, 2003.)

RULE 68.19 RETROACTIVE PAYMENT OF CHILD SUPPORT

Any amounts paid by a party in excess of the then existing support obligation under the decree of dissolution or order of paternity after the date of filing the movant's Statement of Income and Expenses or the date of service of the movant's Motion to Modify, whichever is later, shall be credited against the amount of any retroactive award. Any support provided "in kind" as determined by the court may be credited against the amount of any retroactive award. When the Court reduces the child support retroactively, any amount paid by a party in excess of the support obligation as modified shall be credited toward any arrearage and the balance, if any, applied to future support.

(Adopted eff. Apr. 25, 1996; Amended Jan. 1, 2003; Amended Jan. 1, 2007.)

RULE 68.20 ENTRY OF JUDGMENT UPON AFFIDAVIT - REQUIREMENTS

A. Final Orders Entered - When. Final orders in a proceeding for dissolution of marriage or legal separation, motions to modify, and actions for declaration of paternity may be entered upon the affidavit of either or both parties when:

1. Have entered into a written agreement determining property division, maintenance, and child support;
2. The adverse party has been served in a manner provided by the Missouri Rules of Civil Procedure or has formally filed a verified entry of appearance or responsive pleading; and
3. There is no genuine issue as to any material fact; and
4. There is no marital property to be divided or the parties have entered into a written agreement for the division of their marital property.

B. Affidavit – Filing. If one party desires to submit the matter for entry of final orders

upon an affidavit, the submitting party shall file an affidavit setting forth sworn testimony showing the Court's jurisdiction and factual averments sufficient to support the relief requested in the proceeding, together with a copy of the proposed decree or order, a copy of any written agreement proposed for adoption by the Court, and any other supporting evidence. The filing of such affidavit shall not be deemed to shorten any statutory waiting period required for entry of a decree of dissolution or decree of legal separation.

C. Hearing Required – When. The Court shall not be bound to enter a decree or order upon the affidavits of either or both parties, but the Court may, upon its own motion, require that a formal hearing be held to determine any or all issues presented by the pleadings. (Adopted eff. Apr. 25, 1996; Amended Jan. 1, 2003; Amended Aug. 3, 2017.)

RULE 68.21 OFFER OF JUDGMENT

Making of Offer. In a proceeding for dissolution of marriage, decree of legal separation, separate maintenance, an action under URESA, motions to modify and paternity, any time prior to fifteen (15) days before the trial begins, any party may serve upon any other party a written stipulation to entry of a judgment to be entered to the effect specified in the offer. A sealed offer shall be filed with the Court at that time. The offer may be as to all issues in the case or may be limited to one or more of the following issues: 1) custody and visitation; 2) child support; 3) maintenance; 4) attorney fees; 5) division of marital property; 6) determination of status of property as separate or marital; 7) that the marriage is irretrievably broken; 8) the existence of the parent-child relationship; or 9) a substantial and continuing change of circumstances.

Acceptance of Offer. To accept the offer of the offeror within ten (10) days of service, the offeror must serve on the offeree a written notice of agreement to stipulate to the entry of the judgment offered. This offer, the notice of acceptance and proof of service of the notice must be filed with the Court. The Court shall enter the judgment according to the terms of the stipulation unless it finds that the provisions relating to custody, visitation and/or support of the minor children is not in their best interest or that the property division is unconscionable. No judgment shall be entered regarding custody until after hearing by the Court. If the offer is not accepted within the allotted period, it is deemed withdrawn and evidence thereof is not admissible, except in a proceeding to determine costs, attorney fees, or expert and consultant fees. During the acceptance period, the offer is irrevocable.

Sanction. If the judgment finally entered is not more favorable to the offeree than the offer,

the offeree must pay the offeror's actual costs incurred subsequent to the offer in the prosecution or defense of the action or that part specified in the offer. "Actual costs" means the costs and fees taxable in a civil action and a reasonable attorney fee for services from the failure to stipulate to the entry of judgment, and any reasonable consultant or expert fees. The offeror may present evidence at trial regarding "actual costs" regardless of prior pleadings or may present such evidence at a later hearing. If a later hearing on the matter is requested, then any motion for costs under this rule shall include a copy of the offer and proof of service of the offer, and must be filed and notice given to all parties within the time that the Court retains jurisdiction over such matter after the entry of the judgment or entry of an order denying a timely motion for new trial or to set aside the judgment.

Miscellaneous.

- A. The fact that an offer is made but not accepted does not preclude a subsequent offer. If a party has made more than one offer, the most recent offer controls for the purpose of this rule.
- B. The making of an offer, pursuant to the provisions of this rule, shall not be a cause for a continuance of an action or a postponement of the trial except at the discretion of the Court.
- C. If the Court rejects the stipulation of offer of judgment as to any part, this rule shall not apply to those provisions and either party may within five (5) days withdraw their offer or acceptance as to the other provisions.

(Adopted eff. Apr. 25, 1996; Amended Jan. 1, 2003.)

RULE 68.22 MEDIATION

- A. The Nineteenth Judicial Circuit hereby elects to establish a mediation program for child custody and visitation disputes as provided in Missouri Supreme Court Rule 88.
- B. **Mediation When Ordered.** The Court may order mediation of any contested issue of child custody or visitation upon its own motion at any time or upon the motion of both parties pursuant to the provisions of Supreme Court Rules 88.02, 88.03 and 88.04. The mediator shall be subject to the limitations imposed by Supreme Court Rules 88.05, 88.06, 88.07 and 88.08.
- C. **Qualifications of the Mediator.** In addition to the requirements of Supreme Court Rule 88.05, a mediator must also submit to the Court a schedule of mediation fees which schedule may be amended from time to time, in accordance with the practices and charges of the mediator.

D. Mediator Payment of Fees and Expenses. The mediator shall be entitled to charge a reasonable fee in accordance with the schedule of fees and expenses filed with the Court. The fees shall be paid in advance to the extent that they can be determined in advance. The fees shall be paid in accordance with the agreement of the parties with the mediator or, in the discretion of the Court, taxed as costs in the case.

(Adopted eff. Apr. 25, 1996; Amended Jan. 1, 2003.)

RULE 68.23 COURT-APPOINTED EXPERTS

- A. On its own motion or the motion of any party, the Court may appoint an expert witness on any issue which the Court must resolve in any proceeding for dissolution of marriage, legal separation, declaration of paternity, modification of a decree of dissolution of marriage, or modification of an order of paternity.
- B. An expert witness may be any individual agreed upon by the parties or, in the absence of their agreement, selected as follows: each party shall submit a list of qualified individuals to the other party, who shall, upon receipt, reduce the list to one nominee who shall be submitted to the Court, which shall, upon receipt of each party's nominee, select one individual to be the expert witness.
- C. No individual shall be appointed an expert witness hereunder unless he or she consents to act. The Court shall inform the expert witness of his or her duties in writing, a copy of which shall be filed with the Clerk, or at a conference in which all parties are represented and have an opportunity to participate.
- D. An expert witness appointed hereunder shall advise all parties of his or her findings and conclusions; may be deposed by any party, may be called to testify by the Court or any party, and may be cross-examined by the Court and all parties, including the party who calls him or her as a witness.
- E. An expert witness appointed hereunder is entitled to reasonable compensation for his or her services, which compensation shall be determined by the Court, and in its sole discretion, shall be paid by the parties in such proportions and at such times as the Court directs, and may be chargeable as Court costs.
- F. Nothing herein shall prohibit any party from retaining an expert witness of his or her own selection, but, except for good cause shown, such expert witnesses shall be compensated by said party.

(Adopted eff. Apr. 25, 1996; Amended Jan. 1, 2003.)

RULE 68.24 ADULT ABUSE/CHILD PROTECTION – SANCTIONS

If the Court finds that an action filed under the Adult Abuse Chapter (Section 455.010 - Section 455.085, RSMo) or Child Protection Orders Act (Section 455.500 - Section 455.538, RSMo) has been filed for the purpose of harassment of the respondent and without foundation or good cause, the Court may assess attorney's fees, costs, or other sanctions pursuant to Section 455.075, RSMo and Missouri Supreme Court Rule 55 in the case of an Adult Abuse action, or Rule 55 sanctions in the case of a Child Protection action.

(Adopted eff. Apr, 25, 1996; Amended Jan. 1, 2003.)

RULE 68.25 CREATION OF FAMILY COURT

There is hereby created within and for the 19th Judicial Circuit a Family Court as provides in Section 487.010 RSMo and Administrative Order 12/13/05 (1).

(Adopted eff. July 23, 2007)

RULE 68.26 DESIGNATIONS OF DIVISIONS

Divisions I, II and IV are designated as Family Court Divisions.

(Adopted July 23, 2007)

RULE 68.27 ASSIGNMENT OF FAMILY CASES

Family court cases as defined in Section 487.080 RSMo, shall be assigned by the Administrative Judge of the Family Court to Family Court Divisions or by assignment by the Presiding Judge, either by class of case or on a case-by-case basis. The Presiding Judge is designated as the Administrative Judge of the Family Court Division.

(Adopted eff. July 23, 2007)

RULE 68.28 FAMILY SERVICES AND JUSTICE FUND

As provided in Section 488.2300 RSMo and Administrative Rule 12/13/05 (4), a fee of \$30.00 per case shall be collected and deposited in the "Family Services and Justice Fund" to be expended for such purposes as allowed by law.

(Adopted eff. July 23, 2007)

RULE 69. MUNICIPAL DIVISION (No Local Rule)

RULE 70. PARTITION (No Local Rule)**RULE 71. ADMINISTRATIVE REVIEWS**

On all reviews, relators or plaintiffs are required to file and to serve their briefs and suggested conclusions of law and findings of fact within twenty (20) days following the filing of the record in this Court; thereafter, respondents or defendants are required to file and to serve their briefs and suggested conclusions of law and findings of fact within twenty (20) days after compliance by relators or plaintiffs; thereafter, relators or plaintiffs are required to file and to serve their reply briefs within ten (10) days after compliance by respondents or defendants. No brief shall exceed twenty-five (25) pages in length.

Thereafter, either party is required to notify this Court that the cause is ready for argument and submission.

Oral arguments will only be set after compliance and will then be set promptly in consistence with the other work of this Court. Oral argument may be waived only by leave of Court.

Suspensions of this rule may be granted upon approval of the Court.

No review except applications for a stay order will be entertained until all briefs and suggested conclusions of law and findings of fact are on file in this Court.

All briefs, suggestions and findings of fact filed shall designate the pages and lines of the transcript on which matters referred to are supported by the facts.

Neglect to file briefs and suggested conclusions of law and findings of fact in accordance with this rule may result in forfeiture of the right to file briefs and suggested conclusions of law and findings of fact, or in dismissal of the action.

(Adopted eff. Apr. 25, 1996; Amended Jan. 1, 2003.)

RULE 72. PROBATE (No Local Rule)**RULE 73. SMALL CLAIMS (No Local Rule)****RULE 74. TRUST ESTATES****RULE 74.1 INVENTORY (No Local Rule)****RULE 74.2 REPORTS (No Local Rule)****RULE 74.3 RECORD (No Local Rule)**

RULE 74.4 AUDIT (No Local Rule)**POSTTRIAL****RULE 81. EXECUTION**

Executions shall be issued by the clerk upon written request. A written request shall be on Form No. 7, copy attached. Forms may be obtained in the Office of the Circuit Clerk. The request shall be verified only in those instances required by statute.

(Adopted eff. Apr. 25, 1996; Amended Jan. 1, 2003.)

RULE 82. GARNISHMENT (No Local Rule)**RULE 83. JUDICIAL SALES (No Local Rule)****INTERNAL ORGANIZATION****RULE 100. INTERNAL ORGANIZATION****RULE 100.1 PRESIDING JUDGE**

100.1.1 Election. (No Local Rule)

100.1.2 Duties of Presiding Judge. (No Local Rule)

100.1.3 Dispute Resolution – Procedure. (No Local Rule)

RULE 100.2 LOCAL COURT RULES

100.2.1 Formulation. These rules are to become effective April 1, 1983. Amendments to these rules may be made from time to time by order of the Presiding Judge.

100.2.2 Publications. Rules will be published by the Court online at www.colecountycourts.com and www.courts.mo.gov.

Rules will be available to pro se litigants upon request. A fee will be charged to cover the cost of mailing.

The clerk will notify the Missouri Bar and the Cole County Bar of any amendments to the rules.

(Adopted eff. Apr. 25, 1996; Amended Jan. 1, 2003.)

RULE 100.3 LIBRARY FUND

Pursuant to Section 514.475, RSMo, the sum of \$15.00 of the filing fee and cost deposit in circuit cases, and the sum of \$10.00 of the filing fee and cost deposit in Chapter 517, RSMo cases, shall constitute the Law Library Fund. This fee shall not apply to actions received on a change of venue, cases within the probate division, cases in small claims court, applications for trial de novo, or to suits civil or criminal, filed by the county or state, or any city. Each clerk who is responsible for the collection of fees shall pay said fees as set out in Section 514.480 RSMo.

The Circuit Clerk of Cole County, Missouri, is designated as the treasurer of said fund which shall be used for the maintenance and upkeep of the law library.

(Adopted eff. Jan. 1, 2003.)

RULE 101. ELECTRONIC FILING

RULE 101.01 ELECTRONIC FILING

Rule 101 and Court Operating Rule 27 govern all matters subject to electronic filing.

RULE 101.02 REGISTRATION

Registration for electronic filing shall be made as required by Court Operating Rule 27.

RULE 101.03 FILES OF THE COURT

- A. When a court accepts an electronic document for filing, the electronic document is the official court record.
- B. If a court digitizes, records, scans, or otherwise reproduces a document that is filed in paper into an electronic record, document, or image, the electronic record, document, or image is the official court record. The court may then destroy the paper document unless that document is required to be preserved by law or court order.

RULE 101.04 FORMAT OF ELECTRONICALLY FILED DOCUMENTS

- A. An electronic document shall be filed in the PDF format as defined in Court Operating Rule 27 and shall be formatted in accordance with the applicable rules governing formatting of paper documents, including page and word limits. Any document, including exhibits, which exceeds 7 megabytes in size must be submitted in sections of no more than 7mb in size and labeled appropriately.

- B. Electronic documents that are part of the official court record shall be self-contained and shall not contain hyperlinks.
- C. For the convenience of the court, in addition to any electronic document filed as the official court record, a party or amicus curiae may submit to the court a copy of an electronic document on a read-only disc (CD-R or DVD-R). A copy of any such disc also shall be provided to all other counsel and all self-represented parties.

The electronic document shall be submitted in text searchable PDF that must be identical in content and format as the electronic document filed as the official court record, except that the document may also include hyperlinks to the complete text of any authorities cited therein and to any document or other material contained in the record on appeal. In order for the hyperlinks to function properly, the record (or the cited portions of the record) and authorities must be included on the same disc as the electronic document. An adhesive label shall be affixed to each disc legibly identifying:

1. The caption of the case;
2. The party filing the disk;
3. The disc number (e.g., "Disc 1 of 2").

The filing party shall certify that the disc has been scanned for viruses and that it is virus-free.

- D. An electronic document requiring a signature shall be signed by an original signature, stamped signature or an electronic graphic representation of a signature, or in the following manner: /s/ John or Jane Person.

RULE 101.05 ELECTRONIC FILING WITH THE COURT

- A. Any filing shall be made with the clerk of the court through the electronic filing system. Attachments, including exhibits that are part of any filing, shall be filed electronically at the same time.
- B. An attachment or exhibit that exceeds the technical standards for the electronic filing system or is unable to be electronically filed must be filed with the court on approved media as defined in Court Operating Rule 27. When an attachment or exhibit is filed on approved media, a notice of exhibit attachment shall be filed through the electronic filing system. Nothing in this rule shall be construed so as to excuse the 7mb limit and attachments or exhibits which exceed that size must be submitted in sections of no more than 7mb in size.

- C. Submission of the record on review in administrative cases shall be as set forth in Local Rule 101.11 below.
- D. Any party desiring to file a pleading either under seal (for in-camera review); for increased security (access limited only to counsel of record) or to seal the entire file shall first seek and obtain an order of the Court. Counsel is directed to contact the supervisor of the appropriate division for filing instructions.

RULE 101.06 ELECTRONIC FILING DEADLINES

- A. Electronic filing is permitted at all times when the electronic filing system is available. If the electronic filing system is unavailable at the time the user attempts to file a document, the registered user shall make reasonable efforts to file the document as soon as the unavailability ends.
- B. If a registered user believes the unavailability of the electronic filing system prevented a timely filing to the party's prejudice, the registered user may submit a motion to the court within ten days of the user's first unsuccessful attempt to file the document. The motion shall state the date and time of the first unsuccessful attempt to file the document electronically and why the delay was prejudicial.
- C. If the court determines that the unavailability of the electronic filing system prevented the court from receiving the filing, the court shall deem the document filed on the day that the user initially attempted to file the document.
- D. The filing deadline for any document filed electronically is 11:59:59 p.m. central time.
- E. A document is submitted for filing when the electronic filing system receives the document and sends a confirmation receipt to the filer. The electronic filing system will issue a confirmation receipt that includes the date and time.
- F. If the clerk accepts a document for filing, the date and time of filing entered in the case management system shall be the date and time the electronic filing system received the document. The electronic filing system will affix the date and time of filing on the document.

RULE 101.07 VERIFIED DOCUMENTS AND AFFIDAVITS

A document required by law to be verified, to be signed under penalty of perjury, or to be signed by a notary public may be filed as an electronic document if the affiant, declarant, or notary public has signed a paper document. Until the entire case is finally disposed, the registered user shall be the custodian of the paper document.

RULE 101.08 SERVICE

Service shall be made to registered users through the electronic filing system and to all others as provided in Rule 43.01(c). Service by the electronic filing system is complete upon transmission except that, for the purposes of calculating the time for filing a response, a transmission made on a Saturday, Sunday, or legal holiday, or after 5:00 P.M., shall be considered complete on the next day that is not a Saturday, Sunday, or legal holiday.

RULE 101.09 NOTICE OF ENTRY OF ORDERS AND JUDGMENTS

Any notice to the parties required by Rule 74.03 shall be made to the registered users through the electronic filing system and to all others as provided in Rule 43.01.

RULE 101.10 ISSUANCE OF SUMMONS

If the electronic filing system is used to file a document that must be served with a summons, the clerk shall transmit the summons electronically to the registered user.

RULE 101.11 RECORD ON REVIEW - ADMINISTRATIVE PROCEEDINGS

Whenever possible, the record on review should be submitted in electronic format, including exhibits where possible, in either PDF or Microsoft Word ® read only formats or transcript text formats. When possible, exhibits shall be scanned and included on the disc. Filing of the disc shall be accompanied by a certification of the agency as to its record. These submissions shall be on a read-only disc (CD-R or DVD-R). A copy of any such disc also shall be provided to all other counsel and all self-represented parties.

In the event that a hearing exhibit cannot be scanned and submitted in an electronic format, the exhibit shall be submitted to the court in a sealed envelope labeled with the style of the case and the contents.

ADMINISTRATIVE ORDER**COLE COUNTY 19TH JUDICIAL CIRCUIT COURT****FILING FEES AND COSTS**

Effective January 1, 2003; Amended Aug. 28, 2003; Amended August 16, 2004; Amended May 1, 2006; ended September 1, 2004; Amended August 28, 2006; Amended February 28, 2005; Amended December 13, 2005; Amended January 1, 2007; Amended January 1, 2009; Amended April 28, 2014; August 28, 2018.

Effective August 28, 2018 thru August 28, 2024 the Juvenile Justice Preservation Fund Fee of \$3.50 is included in fees below as statutorily required.

Circuit Civil Division

Circuit Civil:	\$110.00
Dissolutions of Marriage Petition:	\$140.00
Motion to Modify:	\$140.00
Motion for Contempt:	No fee
Motion for Contempt Family Court:	No fee
Family Access Petition:	\$140.00
Foreign Judgment:	\$ 5.00
Mechanic's Lien Filing Fee	\$ 5.00
Transcript Judgment Fee	\$ 2.00

Juvenile Division

Adoption Petition:	\$195.00
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Associate Division

Associate Civil Cases	\$ 57.00
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Small Claims Division

Small Claims Cases:	\$ 45.00
Service by registered mail:	\$ 11.00

Probate Division

Decedent Estates w/o Will:	\$ 160.00
Decedent Estates with Will:	\$ 195.00
Minor Estates:	\$ 105.00
Adult Estates:	\$ 120.00
Small Estate Affidavit w/o Will:	\$ 80.00
Small Estate Affidavit with Will:	\$ 115.00
Refusal of Letters:	\$ 80.00
Miscellaneous:	\$ 80.00
Will Filed During Lifetime:	\$ 3.00

Criminal Division

Pursuant to Section 488.5030, RSMo Cole County Circuit Court has contracted with a private collection agency, to collect past-due court ordered penalties, fines, court costs, sanctions or judgments due to the court.

Unless exempted by the court, cases are automatically referred for collection when the balance becomes 90 days past due. Pursuant to section 488.5030 RSMo, a fee equaling 14.9% of the amount due will be added to the balance due on the case. The additional 14.9% covers the cost of collection and shall be retained by the agency from the funds received. The remaining portion will be forwarded to the Circuit Court and credited toward the balance due.

Criminal Costs will increase by \$1.50 effective January 1, 2019.

Additional Court Costs

Trial De Novo for Small Claims:	\$ 45.00
Trial De Novo Application from Municipal:	\$ 50.00
Appeal Fee:	\$ 70.00
Copy Fee:	\$.50 per page
Certification Fee:	\$ 1.00
Postage:	As Applicable
Copy Request Fee:	\$ 3.00 minimum
Cole County Sheriff Service Fees:	Responsibility of Filer
Publication Fees:	Responsibility of Filer

In addition to statutory fees and costs, in cases requiring appointment of counsel to represent minors, incompetents, absent parties, etc., the court may require an additional deposit of all or some parties reasonably to secure the costs of special counsel, the amount thereof is the discretion of the court.

A time payment fee of \$25.00 will be taxed to any party who fails to pay a court ordered judgment, penalty, fine, sanction, or court costs, including restitution and juvenile monetary assessments within thirty (30) days of date of the order. Time payment fee is to be assessed only on those cases disposed of after September 1, 2004.

Witness fees and mileage (in county/out of county) shall be allowed fees for their services in the amount of \$25.00 per day plus mileage.

Service fees are the responsibility of the filing party; if acting prose, costs may be included with filings but paid separately to the agency obtaining service.