

COURT RULES OF THE 38TH JUDICIAL CIRCUIT

CHRISTIAN AND TANEY COUNTIES

The following Circuit Court Rules are adopted for use in the 38th Judicial Circuit consisting of Christian and Taney Counties, pursuant to the authority granted in Article V, Section 15 of the Missouri Constitution adopted in 1977 and as implemented by the provisions of Section 478.245, RSMo., and in accordance with the mandate of the Supreme Court under Administrative Rule No. 6, and shall apply to the Circuit Courts of this Circuit and to the Divisions of the Circuit Courts of this Circuit presided over by an Associate Circuit Judge.

All prior Rules of the 38th Judicial Circuit are herewith rescinded and declared void.

These rules shall become effective January 1, 2008.

MARK E. ORR
PRESIDING JUDGE
38TH JUDICIAL CIRCUIT

LARRY LUNA
ASSOCIATE CIRCUIT JUDGE
ASSOCIATE DIVISION I
CHRISTIAN COUNTY

JOHN S. WATERS
ASSOCIATE CIRCUIT JUDGE
ASSOCIATE DIVISION II
CHRISTIAN COUNTY

TONY WILLIAMS
ASSOCIATE CIRCUIT JUDGE
ASSOCIATE DIVISION I
TANEY COUNTY

JAMES JUSTUS
ASSOCIATE CIRCUIT JUDGE
ASSOCIATE DIVISION II
TANEY COUNTY

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ADMINISTRATION

RULE 1 DIVISIONS OF COURT

There shall be divisions of court in each county as follows:

Circuit

Associate

(Which, in addition to having jurisdiction over all cases specified by statute and these rules, shall have jurisdiction over Small Claims and Municipal Cases where the municipality has not elected to maintain its own court system.)

In each County the Associate Division shall consist of two divisions and shall be designated Associate Division I and Associate Division II.

Municipal

RULE 2 HOURS AND TERMS OF COURT

2.1 **HOURS OF COURT**

REGULAR TERM AND LAW DAYS

Court will convene at 9:00 A.M., including jury and court tried cases, unless otherwise specified by the division before which any matter is pending.

2.2 **TERMS OF COURT**

1. The circuit court of each county of the circuit shall be in continual session as provided by Section 478.205, RSMo. To the extent that a term of circuit court may be required or specified by these rules or by any provisions of law, the "terms" of court shall be considered as commencing on the dates as hereafter stated:

a) Christian County, on the first Tuesday in the

months of February, June, October; and

- b) Taney County, on the first Thursday in the months of February, June, and October.

2.3 LAW DAYS

Law Day will be held as follows, unless otherwise directed by the Court:

- a) Christian County, on the Friday after the first, second and third Thursday of each month;
- b) Taney County, on the first, second and third Thursday of each month.

2.4 PARTICULAR MATTERS ON PARTICULAR DAYS

REGULAR TERM DAY

REGULAR LAW DAY

Attorneys desiring to bring a case before the court on law day shall give opposing attorneys, if any, proper notice and shall notify the circuit clerk. The Clerk shall prepare a Law Day Docket and have a sufficient number of copies made to supply each attorney having business on that law day, and the sheriff with a copy of such docket.

The cases will be placed on the docket in the order in which the clerk is notified and will be disposed of by the Court in the order in which the clerk is notified, as follows:

All Civil Matters.....9:00 A.M.
Criminal matters.....10:00 A.M.

No matters requiring testimony, other than default civil matters, will be heard on Law Days unless specially set by the Court.

On the second Law Day of each month the Court will hear only criminal cases.

JUVENILE

Juvenile cases other than adoptions will be heard on the following days, unless otherwise directed by the court:

- a) Taney County, on Friday following the second Thursday of each month;

b) Christian County, on the second Thursday of each month.

RULE 3 PLEADINGS

3.1 CAPTION

The following caption is required:

In the Circuit Court of _____ County, at _____,
Missouri

_____ Division

(Name) _____)

(Address) _____)

(City) _____)

Plaintiff,)

vs.)

Case No. _____)

(Name) _____)

(Address) _____)

(City) _____)

Defendant.)

CAUSE

Signed (Attorney of Record, or Party)

(Address)

(Telephone Number)

(Missouri Bar Number)

3.2 STYLE

All pleadings and motions intended for filing in any case shall be legibly written on one side of the paper only, either typewritten or printed, double-spaced, on 8-1/2 by 11 inch paper; shall be signed by the party or his attorney offering the same

for filing together with the address, telephone and bar identification numbers of the trial attorney in the case; 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. 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.

3.3 FAX PLEADINGS

3.3A GENERAL

Fax transmissions of pleadings are permissible in any situation. No filing by fax shall be processed by the Clerks until the appropriate filing fees have been received.

Time of receipt of any pleading shall be governed by the time affixed on the fax transmission and shall be filed accordingly if the appropriate fees have been received. If the appropriate fees have not been received, the document shall be discarded.

Any person utilizing this method shall keep the original in his possession and shall provide same upon order of the Court for inspection.

Judges shall mail the original of any Order, Judgment, Writ or Decree to the Clerk of the Court within 10 days.

3.3B PROOF OF SERVICE

Proof of service by facsimile machine shall be made by the person causing the paper to be transmitted. Such proof of service shall indicate the telephone number to which the paper was transmitted and the method of confirmation that the transmission was received.

RULE 4 FILING OF CASES

4.1 CRIMINAL CASES (No local rule.)

4.2 CIVIL CASES

In all dissolution cases, the Vital Statistics form must accompany the petition.

The clerk shall not accept a petition for filing without said forms accompanying said petition.

4.3 PROBATE CASES
(No local rule.)

4.4 JUVENILE CASES
(No local rule.)

4.5 SMALL CLAIMS CASES
(No local rule.)

4.6 MUNICIPAL CASES

Municipal ordinance violation cases shall be filed with the clerk of the appropriate municipal division when that municipality has made provisions for a municipal judge as provided by law. If the municipality has not made such provisions, the filing shall be with the clerk of the associate circuit court.

4.7 ADULT ABUSE CASES
(No local rule.)

RULE 5 FEEES AND COSTS

5.1 FILING FEE AND COST DEPOSIT

In all cases filed in this circuit there shall be deposited with the appropriate clerk, for which he shall give his receipt, the following sums:

A. Circuit Division

All Civil Cases

Taney County	\$ 90.00
Adoption Cases	\$175.00
Each addition child	\$ 25.00
Christian County	\$ 90.00
Adoption Cases	\$183.00

B. Christian County Associate Division I

Court costs are to be paid at time of filing of petition. At least two checks will be required for fees. One check payable to the Associate Division I for the basic filing fee and one

check payable to the appropriate Sheriff's Department for service will be required. You will need to contact the appropriate Sheriff's Department for the correct service fees(s). Christian County Sheriff's fees are stated below.

Associate Cases	\$38.00
Small Claims Cases	\$25.00
Trial de Novo	\$45.00
Sheriff's Fees	
Summons:	
One Defendant	\$25.00
Additional Defendant - same address	\$20.00
Additional Defendant - different address	\$25.00
Garnishments, executions, citations, writs	\$25.00
Subpoenas	\$15.00

Collection cases are held every Tuesday at 9:00 a.m.

Small claims cases are held the first Thursday of each month at 9:00 a.m.

Any documents delivered without the proper fees will be returned.

Two copies of Interrogatories must accompany garnishments.

Subpoenas will be provided by the Court.

All correspondence to be file stamped and returned must include a self-addressed stamped envelope.

C. Taney County Associate Division I

All original civil cases	\$38.00
Small Claims by certified mail	
under \$100.00	\$30.00
over \$100.00	\$35.00

5.2 COSTS
(No local rule.)

5.3 WITNESS FEE

(No local rule.)

5.4 WAIVER OF FEES
(No local rule.)

5.5 MOTION FOR SECURITY
(No local rule.)

RULE 6 ASSIGNMENT OF JUDGES, CASES AND TRANSFER OF CASES

6.1 ASSIGNMENT TO ASSOCIATE CIRCUIT JUDGES

6.1.1 CHRISTIAN COUNTY ASSOCIATE DIVISION I

Absent other order from the Presiding Circuit Judge, the following classes of cases are hereby assigned to Christian County Associate Division I:

(a) All actions for support brought pursuant to Chapters 207 and 208, V.A.M.S., and pursuant to the Uniform Reciprocal Enforcement of Support Law as set forth in Chapter 454, V.A.M.S.;

(b) All actions brought pursuant to the Adult Abuse Act, Sections 455.010 to 455.085, RSMo.;

(c) All actions brought pursuant to the Protective Services for Adults Act, Sections 660.250 to 660.295, RSMo.;

(d) All actions brought pursuant to the Child Protection Orders Act, Sections 455.500 to 455.538.;

(e) All actions filed on behalf of the State of Missouri by the Prosecuting Attorney pursuant to Chapters 210, 452 and 454 RSMo.;

(f) Contested dissolution of marriage cases, legal separation or separate maintenance proceedings;

(g) Contested motions to modify decrees of dissolution of marriage, legal separation, separate maintenance, child custody and child support.

(h) All actions seeking a declaration of paternity.

(i) All Family Access motions brought pursuant to the provision of Section 452.400 RSMo.;

(j) All proceedings in Habeas Corpus in child custody

cases;

(k) All civil actions and proceedings for the recovery of money when the sum demanded, exclusive of interest and costs, does not exceed \$25,000.00; (Section 517.011.1(1) RSMo);

(l) Small claims cases as provided in Sections 482.300 through 482.365, V.A.M.S.;

(m) All actions for replevin, attachment and mechanics lien in which the recovery sought is less than \$25,000.00;

(n) Actions for unlawful detainer, actions for rent and; possession;

(o) All actions against any railroad company in this state for damages for killing or injuring any animal;

(p) All Juvenile cases, including adoptions.

6.1.2 CHRISTIAN COUNTY ASSOCIATE DIVISION II

Absent other order from the Presiding Circuit Judge, the following classes of cases are hereby assigned to Christian County Associate Division II:

(a) All cases of misdemeanor or infraction;

(b) Felony cases prior to the filing of the Information;

(c) Municipal ordinance violation cases of any municipality in the county for which no municipal judge is provided;

(d) All trial de novo proceedings from municipal divisions;

(e) All actions seeking reinstatement of a driver's license revoked for refusal to submit to a chemical test to determine alcoholic content of blood; and, all petitions for review of driver's license revocations;

(f) All actions seeking hardship driving privileges;

(g) All probate proceedings.

6.1.3 TANEY COUNTY ASSOCIATE DIVISION I

Absent other order from the Presiding Circuit Judge, the following classes of cases are hereby assigned to Taney County Associate Division I:

(a) All cases of misdemeanor or infraction;

- (b) Felony cases prior to the filing of the Information;
- (c) Municipal ordinance violation cases of any municipality in the county for which no municipal judge is provided;
- (d) All trial de novo proceedings from municipal divisions;
- (e) All actions seeking reinstatement of a driver's license revoked for refusal to submit to a chemical test to determine alcoholic content of blood; and, all petitions for review of driver's license revocations;
- (f) All actions seeking hardship driving privileges;
- (g) All probate proceedings.

6.1.4 TANEY COUNTY ASSOCIATE DIVISION II

Absent other order from the Presiding Circuit Judge, the following classes of cases are hereby assigned to Taney County Associate Division II:

- (a) All actions for support brought pursuant to Chapters 207 and 208, V.A.M.S., and pursuant to the Uniform Reciprocal Enforcement of Support Law as set forth in Chapter 454, V.A.M.S.;
- (b) All actions brought pursuant to the Adult Abuse Act, Sections 455.010 to 455.085, RSMo.;
- (c) All actions brought pursuant to the Protective Services for Adults Act, Sections 660.250 to 660.295, RSMo.;
- (d) All actions brought pursuant to the Child Protection Orders Act, Sections 455.500 to 455.538, RSMo.;
- (e) All actions filed on behalf of the State of Missouri by the Prosecuting Attorney pursuant to Chapters 210, 452 and 454 RSMo.;
- (f) Contested dissolution of marriage cases, legal separation or separate maintenance proceedings;
- (g) Contested motions to modify decrees of dissolution of marriage, legal separation, separate maintenance, child custody and child support.;
- (h) All actions seeking a declaration of paternity;
- (i) All Family Access motions brought pursuant to the provision of Section 452.400 RSMo.;

(j) All proceedings in Habeas Corpus in child custody cases;

(k) All civil actions and proceedings for the recovery of money when the sum demanded, exclusive of interest and costs, does not exceed \$25,000.00; (Section 517.011.1(1) RSMo);

(l) Small claims cases as provided in Sections 482,300 through 482.365, V.A.M.S.;

(m) All actions for replevin, attachment and mechanics lien in which the recovery sought is less than \$25,000.00;

(n) Actions for unlawful detainer, actions for rent and; possession;

(o) All actions against any railroad company in this state for damages for killing or injuring any animal;

(p) All Juvenile cases, including adoptions;

6.1.5 DISQUALIFICATIONS AND de NOVO TRIALS

(a) Criminal cases which originate in associate division which are transferred to the circuit division because of a request for jury trial, are assigned to the associate circuit judge of the county in which the case was originally filed;

(b) Upon disqualification of an associate circuit judge, in an associate division case or any case assigned by these rules, the other associate judge of that county is hereby assigned to hear said cause;

(c) All trials de novo from associate and small claims, are hereby assigned to the associate circuit judge of the other associate division of that county.

6.1.6 BY LOCAL COURT RULES OR ORDER

Associate circuit judges of the counties within the Thirty-eighth Circuit may hear and determine the cases or the types or classes of cases as hereafter stated which are pending in that county for which the associate circuit judge sits.

(a) Uncontested dissolution of marriage cases, legal separation or separate maintenance proceedings;

(b) Uncontested motions to modify decrees of dissolution of marriage, legal separation, separate maintenance, child custody and child support;

- (c) Proceedings for change of name of a person;
- (d) Uncontested proceedings for the approval of settlement of suit involving claims by persons under eighteen years of age; and
- (e) Uncontested actions involving the title to real estate.

6.1.7 SPECIAL ASSIGNMENT
(No local rule.)

6.2 ASSIGNMENT TO CIRCUIT JUDGES
(No local rule.)

6.3 CERTIFICATION TO CIRCUIT DIVISION
(No local rule.)

6.4 TRIAL de NOVO
(No local rule.)

6.5 DISQUALIFICATION OF JUDGE
(No local rule.)

6.6 ABSENCE OF JUDGE

In the event that an associate circuit judge is absent or unavailable to act, any associate judge of the 38th Judicial Circuit, who is present, may act in any case assigned by these Rules to the absent or unavailable associate circuit judge.

6.7 ABSENCE OF PRESIDING JUDGE

In the event that the presiding judge is from time to time absent from the circuit or is disabled; then, prior to such period of absence or disability, the presiding circuit judge shall assign an associate circuit judge in each county who shall exercise the responsibilities prescribed by law for presiding circuit judges, (as set out in Rule 100.1.2), during such period of absence or disability.

RULE 7 WITHDRAWALS OF PAPERS FROM CLERK'S OFFICE

7.1 WHEN ALLOWED

No official files of the circuit court or any division thereof shall be removed from the office of the circuit clerk or the office of any division clerk except in the custody of

employees of the circuit court, the judges or the court reporter.

7.2 DUPLICATING POLICY
(No local rule.)

RULE 8 PUBLICATION OF DOCKETS

8.1 TRIAL DOCKET
(No local rule.)

8.2 DISMISSAL DOCKET

In the first trial docket of each calendar year in each county, the circuit clerk shall designate those civil cases which are considered inactive, in accordance with Rule 37 herein.

RULE 9 COURTROOMS
(See Rule 21.8)

9.1 ASSIGNMENT OF COURTROOM

Assignment of courtrooms shall be scheduled by the Presiding Judge's secretary.

9.2 PLACE OF HEARING
(No local rule.)

9.3 USE OF COUNSEL TABLE
(No local rule.)

9.4 COURTROOM DECORUM AND DRESS
(No local rule.)

9.5 WHO IS PERMITTED WITHIN BAR
(No local rule.)

RULE 10 COURT REPORTERS AND COMPENSATION FOR SAME

Preparation of any transcript on appeal by an official court reporter shall not begin until the person ordering such transcript makes a cash deposit with the reporter of such amount as the reporter reasonably estimates such transcript will cost. In the event any cash deposit exceeds the cost of the transcript ordered, the excess shall be refunded to the person who ordered the transcript upon its completion. In the event the deposit is insufficient to pay for a transcript, the remaining unpaid

portion of the cost shall be due upon the delivery of the transcript to the person who ordered it prepared. Payment will be made to the reporter who prepared it.

RULE 11 RECORDING OF JUDICIAL PROCEEDINGS

All persons except those authorized by the court to preserve the record shall refrain from broadcasting, televising, recording, or taking photographs in the courtrooms or areas immediately adjacent thereto during sessions of court or recesses between sessions.

RULE 12 MONIES PAID INTO COURT

12.1 BOND IN CIVIL CASES
(No local rule.)

RULE 13 COMMUNICATIONS WITH COURT

13.1 ORAL COMMUNICATIONS WITH THE COURT
(No local rule.)

13.2 WRITTEN COMMUNICATIONS WITH THE COURT

Any party sending a written communication to a Judge or to the Secretary of a Judge shall send a copy thereof to counsel of record for all other parties, and to all other parties not represented by counsel.

GENERAL RULES

RULE 21 ATTORNEYS

21.1 RESOLUTION OF CONFLICTING TRIAL SETTINGS
(No local rule.)

21.2 ENTRIES OF APPEARANCE
(No local rule.)

21.3 CONDUCT OF ATTORNEYS
(No local rule.)

21.4 WITHDRAWAL OF ATTORNEYS

The conditions under which an attorney is allowed to withdraw from the employ of a client are set out in Rule 4, Supreme Court Rule, ("Code of Professional Responsibility") Canon 2, Ethical Consideration 2-32 and Disciplinary Rule 2-110. Any attorney who desires to withdraw as attorney of record for any party to any action pending in this Court shall comply with the following procedure:

(a) The attorney shall file a written motion requesting leave of court to withdraw. If the case is then set for trial the reason for the request must be set forth in the motion. Attached to the motion shall be a notice of the date and time at which the moving attorney will call up the motion before the Court for hearing.

(b) A copy of the motion and the notice shall be served upon all parties, including the client from whose employ the attorney is seeking leave to withdraw, in the manner provided by Supreme Court Rule 43.01.

21.5 FAILURE OF ATTORNEYS TO ANSWER DOCKET CALL
(No local rule.)

21.6 APPOINTMENT OF ATTORNEYS
(No local rule.)

21.7 AGREEMENT OF ATTORNEYS
(No local rule.)

21.8 ADVICE TO CLIENT AND WITNESSES OF COURTROOM PROCEDURE

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

He is to advise his client not to discuss any phase of the case with the court.

When the rule as to witnesses 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 the court, in its own discretion, rules that justice requires such testimony be received, under all the circumstances to be considered.

RULE 22 APPOINTMENT OF GUARDIAN AD LITEM
(No local rule.)

RULE 23 TRANSCRIPTS
(No local rule.)

RULE 24 EXHIBITS
(No local rule.)

PRE-TRIAL MATTERS

RULE 32 DISCOVERY

32.1 USE OF DISCOVERY AND CERTIFICATION TO CIRCUIT DIVISION
(No local rule.)

32.2 INTERROGATORIES

Interrogatories shall be prepared by the party submitting same to allow sufficient space following the interrogatory for the answer to said interrogatory. If sufficient space is not provided by the attorney submitting said interrogatory, the party requested to answer same shall continue his answer to said interrogatory on the back of the page containing said interrogatory.

Answers to interrogatories may be in the following format:

INTERROGATORY 1. State the name of any person who you believe observed the occurrence described in plaintiff's petition?

ANSWER. John Doe.

32.3 DEPOSITION
(No local rule.)

32.4 MOTION FOR SANCTIONS
(No local rule.)

32.5 CRIMINAL DISCOVERY
(No local rule.)

RULE 33 PRE-TRIAL MOTIONS

- 33.1 HEARING DATES
(No local rule.)
- 33.2 BRIEFS IN SUPPORT OF MOTIONS, WHEN REQUIRED
(No local rule.)
- 33.3 ORAL ARGUMENTS - WHEN DESIRED AND HOW REQUESTED
(No local rule.)
- 33.4 MOTIONS IN LIMINE
(No local rule.)

RULE 34 CONTINUANCES

- 34.1 CIVIL CASES
(No local rule.)
- 34.2 CRIMINAL CASES
(No local rule.)

RULE 35 PRE-TRIAL CONFERENCE
(No local rule.)

RULE 36 SETTING CASES FOR TRIAL

- 36.1 REQUEST FOR TRIAL
(No local rule.)
- 36.2 DATE OF CALENDAR CALL
(No local rule.)
- 36.3 PREPARATION OF CALENDAR
(No local rule.)
- 36.4 CALENDAR CALL
(No local rule.)
- 36.5 INACTIVE CALENDAR
(See Rules 8.2 and 37.1) (No local rule.)
- 36.6 REVISION OR REMOVAL FROM PREPARED CALENDAR

(No local rule.)

36.7 SPECIAL ASSIGNMENTS
(No local rule.)

RULE 37 - DISMISSALS BY COURT

37.1 CIRCUIT COURT CIVIL CASES.

(1) Circuit Civil Case. All cases remaining inactive and on file for a period of six (6) months shall, upon thirty (30) days written notice to the parties or their attorneys, be dismissed without prejudice for failure to prosecute, except for good cause shown.

(2) Family Law Cases. All cases remaining inactive and on file for a period of six (6) months shall, upon thirty (30) days written notice to the parties or their attorneys, be dismissed without prejudice for failure to prosecute, except for good cause shown.

(3) If There is No Service. If there is no service of process in a case within thirty (30) days of filing, it may be dismissed.

37.2 CIRCUIT COURT CRIMINAL CASES.

(1) Circuit Criminal Cases. All cases remaining inactive and on file for a period of six (6) months shall, upon thirty (30) days written notice to the parties or their attorneys, be dismissed without prejudice for failure to prosecute, except for good cause shown.

37.3 ASSOCIATE COURT CIVIL CASES.

(1) The Court May Dismiss Any Civil Case. Except as otherwise provided herein, the Court may dismiss any case still pending that is more than one hundred twenty (120) days old from the date of filing which is not set for trial.

(2) If There is No Service. If there is no service of process in a case within thirty (30) days of filing, it may be dismissed.

37.4 ASSOCIATE COURT CRIMINAL CASES.

(1) The Court May Dismiss Any Criminal Case. Except as otherwise provided herein, the Court may, at any Docket Call, dismiss any case still pending that is more than one hundred twenty (120) days old from the date of filing which is not set for trial.

37.5 DISMISSAL WITHOUT PREJUDICE.

(1) All Dismissals by the Court of Any Case Shall be Without Prejudice Unless Otherwise Stated. If any case is dismissed under this rule the dismissal shall be under this rule without prejudice unless otherwise ordered by the court or provided by law.

37.6 NOTICE OF DISMISSAL.

(1) The Clerk Shall Mail Notice of Dismissal. If a case is dismissed under this rule, the Clerk shall mail a copy of the written dismissal or docket entry to the attorneys of record for each party, or a party without counsel, at his or her last known address, by ordinary mail to notify the person of the dismissal under this rule. Proof of mailing by the clerk shall constitute notice as required in this rule.

37.7 REINSTATEMENT OF CAUSE.

(1) A Motion to Reinstate May be Filed. Within thirty (30) days from the date of dismissal, an application or motion to reinstate the case may be filed. Cases will only be reinstated for good cause shown.

(2) Notice of Filing of Motion to Reinstate. Notice of the filing of each application or motion for the reinstatement of a dismissed cause, shall, before the filing of the same, be served by counsel or a party litigant upon the opposing party of his counsel of record or upon the party litigant, and proof of such service shall be filed with such written application or motion.

SETTLEMENT AND DEFAULT

RULE 41 SETTLEMENT

41.1 NOTICE OF SETTLEMENT

The court and the clerk shall be notified promptly by counsel if a case is settled after it has been set for trial.

RULE 42 DEFAULT
(See Rules 2.4 and 5.) (No local rule.)
TRIALS

RULE 51 COURT-TRIED CASES

51.1 DEFAULT AND UNCONTESTED MATTERS
(See Rule 2.4) (No local rule.)

51.2 CONTESTED MATTERS
(No local 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, 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 thereafter as directed by the Court.

RULE 52 SELECTION OF JURY

52.1 JURY QUESTIONNAIRES

The jury questionnaire shall be delivered with the summons along with directions to fill it out and return it to the clerk's office within ten (10) days.

Copies of jury questionnaires shall be available on the day of any jury trial by contacting the clerk. At the completion of the voir dire examination, it is the responsibility of the attorney to return his copy of the jury questionnaires to the clerk.

Attorneys shall not, as part of the voir dire examination, examine a member of the jury panel as to any matter contained on the jury questionnaire, without the permission of the court, except as to events that have occurred since the signing of the questionnaire.

RULE 53 JURY TRIALS

53.1 INSTRUCTIONS
(No local rule.)

53.2 CLOSING ARGUMENTS
(No local rule.)

RULE 54 JUDGMENT ENTRY

54.1 CONTESTED CASES

Unless otherwise ordered, the attorney for the prevailing party shall prepare and submit the form of judgment entry to the court for its approval.

54.2 DEFAULT OR UNCONTESTED CASES

The form of judgment entry shall be submitted to the court at the time of hearing of the default; except in associate division.

54.3 TRIAL EXHIBITS

Parties' attorneys are ordered to withdraw all trial exhibits within ten (10) days of entry of Court's Judgment and to maintain exhibits pending appeal.

The Circuit Clerk may dispose of any unclaimed trial exhibits upon thirty (30) days written notice to the attorneys of record.

RULES RELATING TO PARTICULAR ACTIONS

RULE 61 ADOPTION

61.1 FILING REQUIREMENTS
(No local rule.)

61.2 HOME STUDY

In cases where the adoption or custody involves a minor child under eighteen (18) years of age who is the natural child of one of the petitioners the home study required by Chapter 453 is hereby waived, except the criminal history report required by RSMo., 453.070 is still required.

RULE 62 DRIVERS' CASES

- 62.1 APPLICATION FOR HARDSHIP DRIVING PRIVILEGES
(No local rule.)
- 62.2 PETITIONS FOR REVIEW
(No local rule.)
- 62.3 BREATHALYZER TEST
(No local rule.)

- RULE 63 ASSOCIATE DIVISION
(No local rule.)

- 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
 - 67.1 PRE-TRIAL RELEASE
 - 67.1.1 MOTIONS TO SET BOND AND FOR BOND REDUCTION
(No local rule.)
 - 67.1.2 DEPOSIT OF OPERATOR'S LICENSE
(No local rule.)
 - 67.2 PRELIMINARY HEARING
(No local rule.)
 - 67.3 GRAND JURY
(No local rule.)
 - 67.4 ATTORNEYS
(See Rule 21.) (No local rule.)

- 67.5 ARRAIGNMENTS
(No local rule.)
 - 67.5.1 IN GENERAL
(No local rule.)
 - 67.5.2 DATES
(No local rule.)
- 67.6 DISCOVERY
(No local rule.)
- 67.7 MOTIONS
(No local rule.)

67.8 PLEA BARGAINING
In order for a plea bargain to be approved in any felony criminal case the plea bargain or agreement shall be in writing and signed by the prosecuting attorney, the defense attorney and the defendant and shall be made a part of the permanent court file. Said plea bargain may be placed on memoranda forms provided by the court clerk.

No plea bargains, in felony cases, are allowed within 30 days of the trial date.

- 67.9 GUILTY PLEA
 - 67.9.1 WHERE ENTERED
(No local rule.)
 - 67.9.2 PETITION TO ENTER A PLEA OF GUILTY

In all felony cases wherein the defendant desires to plead guilty, the defendant and his attorney shall prepare a petition to enter a plea of guilty on a form adapted by this court. The petition to enter a plea of guilty shall be ready to be executed by the defendant and his attorney in open court.

- 67.10 CALENDAR
(No local rule.)
- 67.11 PROBATION AND PAROLE
(No local rule.)

RULE 68 DISSOLUTION OF MARRIAGE

- 68.1 FILING REQUIREMENTS

(1) Vital Statistics Report. At the time of filing the petition, the attorney for the petitioner shall file a Certificate of Dissolution of Marriage (Vital Statistics Report) on a form to be provided by the clerk, as required by Section 193.360, RSMo and in cases where there are minor children the information required by Section 452.480, RSMo shall be furnished in the original pleading or contained in a separate affidavit attached to the original pleading.

(2) Parenting Plan. In all cases wherein a parenting plan is required, the party submitting a proposed parenting plan shall, either:

(a) Submit a fully completed Supreme Court Form CV265 (Rev. 12/98), or;

(b) Submit a parenting plan together with a fully completed parenting plan checklist (Form 10).

(3) Information Statement to the Circuit Court for the Processing of Maintenance and Child Support Payments. In any dissolution case requiring child-support payments from one party to another, FORM CS15 entitled "Information Statement to the Circuit Court for the Processing of Maintenance and Child Support Payments (Confidential Record) shall be filed with the clerk of the Circuit Court before final judgment will be accepted for filing.

68.2 Interim Family Law Order

(1) Interim Family Law Order. In all proceedings for Dissolution of Marriage or Legal Separation the Court hereby enters the Interim Family Law Order (Form 12). In any such proceeding the Clerk of the Court shall attach the Interim Family Law Order (Form 12), to the Summons or serve a copy of such the Interim Family Law Order (Form 12) on the parties at the addresses specified in the petition. Proof of mailing by the clerk shall constitute notice as required in this rule.

68.4 FILING OF FINANCIAL STATEMENTS

(1) Dissolution Actions - Statement of Property & Income Required. In all actions for Dissolution of Marriage or Legal Separation, a Statement of Marital and Non-marital Assets and Debts (Form 2) and a Statement of Income and Expenses (Form 1) shall be completed by each party, executed under oath, filed with the Court and served on the opposing party within 60 days from the date the answer is filed.

(2) Motion to Modify/Paternity - Statement of Property & Income Required. In all Motions to Modify Child Support, Alimony or Maintenance, and actions to establish Paternity and Child Support, a Statement of Income and Expenses (Form 1) and a Modified Statement of Property (Form 3) shall be completed by each party, executed under oath, filed with the Court and served on the opposing party within thirty (30) days from the date the answer is filed. If no answer is filed or due, these forms shall be filed with the court and served on the opposing party within sixty (60) days from the date of service.

(3) Supplemented Statement of Property and Income Required. If any changes occur prior to the trial date, the information provided on Forms 1, 2 and 3 shall be updated no less than fifteen (15) days prior to trial and served on the opposing attorney with a Certificate of Service of same to the Court.

(4) Sanctions may be ordered - when. If a party fails to timely file or update Forms 1, 2 or 3, the judge may, at his or her discretion, order sanctions against that party such as the party so failing being prohibited from presenting affirmative evidence as to the values of the property, income or expenses which were not provided to opposing counsel.

(5) Consolidated Statement Required -Time. A consolidated statement of marital and non-marital assets and debts of Petitioner and Respondent (Form 9) shall be submitted in every contested Dissolution of Marriage or Legal Separation action. Twenty days prior to the scheduled trial date of any such action the parties shall file with the Court their Form 9. If the parties are unable to agree upon a Form 9, then each party shall submit a proposed Form 9 to the Court and the Court may schedule a pre-trial conference to resolve any differences in the proposed forms.

68.4.1 **STANDARD DISCOVERY FOR USE IN CONTESTED FAMILY LAW ACTIONS**

(1) Dissolution - Standard Interrogatories Required. In all actions for Dissolution of Marriage or Legal Separation, the court en banc approved standard sets of opening Interrogatories (Form 5) shall be first used and automatically answered by both parties unless both parties stipulate in writing the case is not contested.

(a) Within 30 days from the filing of the Answers to the Petition, each party shall serve a copy of the answers to the Form 5 Interrogatories and a certificate of service to the court

without either party being required to have actually served a copy of said Interrogatories on the other party. The original Interrogatory Answers shall be maintained by the party.

(2) Motion to Modify - Standard Interrogatories Required.

In all Motions to Modify Child Support, Alimony and Maintenance, and actions to establish Paternity and Child Support, the court en banc approved standard sets of opening Interrogatories (Form 6) shall be first used and automatically answered by each party and served on the other party within sixty (60) days of the date the Movant serves the motion on the other party, unless both parties stipulate in writing the case is not contested.

(a) Each party shall serve a copy of the answers to the Form 6 Interrogatories to the other party and file a certificate of mailing with the court without either party being required to have actually served a copy of said interrogatories on the other.

The original Interrogatory Answers shall be maintained by the party.

(3) In Contested Cases - Release for Benefits & Financial Disclosure Required. In all actions for Dissolution of Marriage, Legal Separation, Motions to Modify Child Support and actions to establish Paternity and Child Support, each party shall (unless both parties stipulate in writing that the case is not contested) within thirty (30) days of the date the Petition is served execute and serve on the other party:

(a) An original Authorization to Release Employee Benefits to the other party and that party's attorney (Form 7) directed to each current employer and to each former employer from whom the party is entitled to receive any employment or retirement benefits; and

(b) An original Authorization to Disclose Financial Institution Records to that party and the party's attorney (Form 8) to each financial institution at which the party has maintained an account within the last twenty (24) months or at which the party has an outstanding loan balance.

(4) Parties Required to Exchange Documents. Petitioner and Respondent shall exchange the following documents within thirty (30) days from the date the Answer is filed:

(a) Complete copies of any federal and state income tax returns (including all schedules, W-2 and 1099 forms) for the preceding three (3) calendar years.

(b) Complete copies of the last six (6) pay periods "paycheck" stubs or other evidence of wages, salaries or tips if no "paycheck" stub is issued.

(c) Complete copies of any benefit statements wherein a party claims an interest in any form of pension plan whether vested or non-vested.

(d) Complete copy of the plan(s) relating to any pension benefits whether vested or non-vested.

(e) Copies of any titles to real estate, notes, deeds of trust, leases, titles to motor vehicles, stock or bond certificates and any other evidence of ownership of an asset or interest in an asset claimed as marital or separate property.

(f) Copies of all life insurance policies insuring the life of either party or a minor child involved in the proceedings.

(g) Copy of most recent statement of value for any life insurance policy of either party or child, which has a cash value.

(h) Complete copies of any financial statements provided to a lender or prospective lender within the preceding three (3) calendar years.

(i) Complete copies of any appraisals relating to any marital or separate property done within one (1) calendar year.

(j) Complete copies of any trusts where a party is either the grantor or current income beneficiary of the trust.

(k) Copies of partnership agreements and/or stock certificates in any corporation in which you hold an interest, along with the most recent statement of assets and liabilities.

(5) Certificate of Service Required. When the documents specified in Paragraph 4 above are exchanged, the respective party shall file with the Court a certificate of service (Form 4) identifying the documents exchanged, the fact that a document may not now exist or has never existed or that if a document exists, but is not in the possession of the exchanging party, the name and current address of the person who has possession of the document.

(6) Court May Extend Time for Filing. The Court, upon motion of one or more parties, may extend the time for exchanging

the documents required in Paragraph 4 above or may waive the exchange of documents entirely but only for good cause shown.

(7) Requested Information Shall be Updated Prior to Trial.

All information requested in the above interrogatories and document requests shall be updated within fifteen (15) days prior to trial if any changes occur prior to the trial date except significant changes such as employment, income or expert witnesses which should be updated immediately.

(8) Sanctions May Be Imposed for Failure to Comply. Failure to timely comply with this rule shall, at the discretion of the Judge and upon motion of either party, result in such sanctions as are provided by law, to include, but not limited to, preventing the noncompliant party from presenting affirmative evidence as to the matters set forth in the documents to be exchanged or answers to interrogatories and/or the award of reasonable attorney's fees and/or costs against the noncompliant party.

68.6 CHILDREN FIRST

All litigants in a dissolution, modification or action to establish Paternity, who are parents of a minor child/children where custody is to be determined by the Circuit Court are subject to the following conditions:

(1) The Court finds that in custody determination proceedings arguing and manipulating by the parents of minor children and participation by those children in said proceedings has a detrimental effect on the emotional well-being of those children.

(2) Burrell Center, Springfield, Missouri, has available an educational program entitled *Children First* which consists of vignettes depicting typical problem situations encountered by separating parents.

(3) The Court believes that participation in the educational session(s) by the parties to a custody determination proceeding will assist them in avoiding those common problems depicted therein, and thereby benefit the parties, more particularly their children, and incidentally the Court by reducing custodial disputes.

Both parties to any proceeding involving the custody of a minor child shall be required to view the film *Children First* and attend the aforesaid educational sessions.

The petitioner or movant shall attend said sessions within sixty (60) days of the filing of the petition or motion. The respondent shall attend said program within sixty (60) days of the date of service of process. Each party shall file a certificate of completion with the Circuit Clerk on each participation within fifteen (15) days of completion. No case shall proceed to commencement of a hearing on the merits of the case until said certificate(s) are filed or the Court, for good cause shown, waives application of this rule.

Costs of this program, shall be paid by the parties to Burrell Center. The cost of the program is hereby waived in all cases filed in forma pauperis or for parties who have qualified for legal aid.

68.8 ENTRY OF JUDGMENT UPON AFFIDAVIT - REQUIREMENTS

(1) Final Orders Entered B 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:

(a) There are no minor children of the parties and the female party is not pregnant, or one of the parties is represented by counsel and the parties have entered into a written agreement determining custody and child support; and

(b) The adverse party has been served in a manner provided by Missouri Rules of Civil Procedure or has formally filed a verified entry of appearance or responsive pleading; and

(c) There is no genuine issue as to any material fact; and

(d) There is no marital property to be divided or the parties have entered into a written agreement for the division of their marital property.

(2) Affidavit B Filing. If one party desires to submit the matter for entry of final orders upon an affidavit, the submitting party shall file an affidavit (Form 11).

68.11 TEMPORARY CHILD SUPPORT

(1) Either Parent May Move for Temporary Child Support. In an original proceeding for Dissolution of Marriage or Legal Separation only, when there are minor children of the marriage who are subject to the jurisdiction of the court as a result of the filing thereof, either parent may move for an Order for Temporary Child Support under this rule.

(2) Verified Motion for Temporary Child Support. The Movant shall file a verified Motion for Temporary Child Support which shall set forth clearly and concisely the grounds for such motion. The motion shall include a *fully completed* Civil Procedure Form No. 14.

(3) Copy of Motion to Other Parent. The Movant shall then provide the other parent, or his or her attorney, as may be appropriate, with a copy of such Motion for Temporary Child Support by regular mail or by personal service, and shall provide a certificate of service.

(4) Time to Respond - Include Form 14. The other parent shall have ten (10) days from the date of such certification to respond to such motion. Any response shall be verified and shall include a *fully completed* Civil Procedure Form No. 14.

(5) Court May Rule on Motion On Verified Motions and Response. Within ten (10) days after the date upon which the response is due, the Court may rule upon such motion based solely upon the verified motion and any verified response thereto, applying the principles set forth in Missouri Rule of Civil Procedure 88 and Chapter 452, RSMo. Any orders issued under this rule shall be enforceable by contempt proceedings and shall remain in effect until further order of the Court.

(6) Court May Require Hearing. If the Court determines that it is impossible to make a determination based upon the verified motion and the verified response thereto, then the Court may set the matter down for expedited hearing, which hearing shall be held within twenty (20) days after the date upon which any response is due. The only issues which shall be considered by the Court at such expedited hearing shall be those relating specifically to temporary child support as set forth in Missouri Rule of Civil Procedure 88. The Court shall issue its orders under this rule within five days of any such hearing.

(7) Court May Issue Such Orders as Appropriate. Irrespective of whether a hearing is held, if the Court determines that any verified motion or verified response thereto, or any testimony given under oath pursuant to this rule is perjured or made with reckless disregard to whether the allegations contained therein are true, then the Court may issue such orders as it may deem appropriate, including, but not limited to, orders for costs and expenses of litigation under this rule, including attorney fees.

(8) The Time Shall Not Be Stayed or Tolled. The time frames specified in this rule shall not be stayed or tolled by the filing of any pleadings, proceedings or other motions, specifically including motion for change of temporary custody of the minor children of the parties.

68.12 PRE-TRIAL CONFERENCE

(1) Pre-Trial Conference. A pre-trial conference may be held in all contested cases to which this Rule 68 applies.

(2) Time for Conference. A pre-trial conference may be held between twenty (20) and fourteen (14) days prior to the date set for trial. It will be the responsibility of the Petitioner to set this pre-trial conference.

(3) Pre-Trial Conference - Purpose. The pre-trial conference will be held with the Judge assigned to conduct the trial and shall include the parties and their counsel and will be held for the following purposes:

(a) To decide on the amount of time needed for the proper conduct of the trial;

(b) To determine the agreed upon and contested issues in the cause;

(c) To complete Form 9 the consolidated Statement of Marital Assets, Non-Marital Assets, and Debts of the parties and Form 10, Parenting Plan Checklist;

(d) To determine whether the parties should be ordered to participate in Alternative Dispute Resolution; and

(e) To exchange updated Forms 1, 2 or 3 and update other disclosure.

68.13 DISMISSAL BY COURT

See Rule 37.1(2) for Dismissal of Family Law Cases. Rule 37.1(2) provides as follows:

(2) Family Law Cases. All cases remaining inactive and on file for a period of six (6) months shall, upon thirty (30) days written notice to the parties or their attorneys, be dismissed without prejudice for failure to prosecute, except for good cause shown.

RULE 69 MUNICIPAL DIVISION
(No local rule.)

RULE 70 PARTITION
(No local rule.)

RULE 71 ADMINISTRATIVE REVIEWS
(No local rule.)

RULE 72 PROBATE
(No local rule.)

RULE 73 SMALL CLAIMS
(No local rule.)

RULE 74 TRUST ESTATES

74.1 INVENTORY
(No local rule.)

74.2 REPORTS
(No local rule.)

74.3 RECORD
(No local rule.)

74.4 AUDIT
(No local rule.)

POST TRIAL

RULE 81 EXECUTION
(No local rule.)

RULE 82 GARNISHMENT

(No local rule.)

RULE 83 JUDICIAL SALES
(No local rule.)

INTERNAL ORGANIZATION

RULE 100

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.)

100.2 LOCAL COURT RULES

100.2.1 FORMULATION
(No local rule.)

100.2.2 PUBLICATION
(No local rule.)

100.3 LIBRARY FUND

The clerk shall use \$5.00 of the filing fee of each civil case to defray costs of a county law library. The clerk shall establish a County Library Fund. The clerk is hereby designated as treasurer of the Fund and the custodian of the library. Funds may be disbursed only upon written order of this court.

RECORDS AND FILES

100.4 STORAGE OF RECORDS

100.4.1 REPRODUCTION, PRESERVATION, ARCHIVAL STORAGE
AND DISPOSAL OF ORIGINAL CIRCUIT COURT FILES
(AND THEIR CONTENTS)

- (No local rule.)
- 100.4.2 REPRODUCTION AND PRESERVATION OF COURT RECORDS
OTHER THAN FILES (AND THEIR CONTENTS)
(No local rule.)
- 100.4.3 RESPONSIBILITY FOR INDEXING AND PRESERVING
COURT REPORTER NOTES
(No local rule.)
- 100.4.4 IDENTIFICATION OF REPORTER'S NOTES
(No local rule.)
- 100.4.5 INDEX
(No local rule.)
- 100.4.6 STORAGE OF NOTES
(No local rule.)
- 100.4.7 NOTES OF SUBSTITUTE REPORTERS
(No local rule.)
- 100.4.8 STORAGE OF NOTES UPON RETIREMENT, TERMINATION
OR DEATH OF COURT REPORTER
(No local rule.)
- 100.4.9 BOXING AND STORING OF OLD NOTES
(No local rule.)
- 100.4.10 RESPONSIBILITY FOR FURNISHING MATERIALS AND
SPACE FOR STORAGE OF COURT REPORTER NOTES
(No local rule.)
- 100.4.11 PROCEDURE FOR EXAMINATION OF CRIMINAL RECORDS
(No local rule.)
- 100.4.12 PROCEDURE FOR EXPUNGING AND CLOSING CRIMINAL
RECORDS
(No local rule.)
- 100.5 CLERK'S DUTIES
- 100.5.1 MONIES PAID INTO COURT
(No local rule.)
- 100.6 SELECTION OF VENIREMEN
(No local rule.)

MISCELLANEOUS RULES

RULE 101 PRESENCE OF SHERIFF AND CLERK REQUIRED

The sheriff or deputy sheriff and the circuit clerk or a deputy circuit clerk shall be in the circuit courtroom at all times when court is in session unless excused by the judge then presiding. The sheriff or deputy sheriff shall perform the duties of bailiff and shall maintain order in the courtroom. The circuit clerk or a deputy circuit clerk shall administer such oaths as are required to bailiff, jurors, and witnesses.