LOCAL COURT RULES
CLAY COUNTY CIRCUIT COURT
SEVENTH JUDICIAL CIRCUIT OF MISSOURI

* * *

HONORABLE SHANE T. ALEXANDER
JUDGE, DIVISION ONE
Glenda K. Wylie, Official Court Reporter

HONORABLE ANTHONY REX GABBERT
JUDGE, DIVISION TWO
Sherry L. Whitney, Official Court Reporter

HONORABLE K. ELIZABETH DAVIS
DIVISION THREE
Janice Ensminger, Official Court Reporter

HONORABLE LARRY D. HARMAN
JUDGE, DIVISION FOUR
Jerry W. Davis, Official Court Reporter

HONORABLE DAVID P. CHAMBERLAIN
JUDGE, DIVISION FIVE

HONORABLE KAREN L. KRAUSER
JUDGE, DIVISION SIX

HONORABLE JANET SUTTON
JUDGE, DIVISION SEVEN

HONORABLE SHERRILL P. ROBERTS
FAMILY COURT COMMISSIONER
DIVISION EIGHT

* * *

STEPHEN HAYMES
CIRCUIT CLERK
11 South Water
Liberty, Missouri 64068

LOCAL COURT RULES
CLAY COUNTY CIRCUIT COURT
SEVENTH JUDICIAL CIRCUIT OF MISSOURI

TABLE OF CONTENTS

**** INDICATES ADDITION OR AMENDMENT TO RULE***

ADMINISTRATION 7

RULE 1 DIVISIONS OF COURT 7

RULE 2 HOURS AND TERMS OF COURT 7
2.1 HOURS OF COURT 7
2.2 TERMS OF COURT 7
2.3 LAW DAYS 7
2.4 PARTICULAR MATTERS ON PARTICULAR DAYS 7

RULE 3 PLEADINGS 7
3.1 CAPTION 7
3.2 STYLE 8

RULE 4 FILING OF CASES 9
4.1 CRIMINAL CASES 9
4.2 CIVIL CASES 9
4.3 PROBATE CASES 9
4.4 JUVENILE CASES 9
4.5 SMALL CLAIMS CASES 9
4.6 MUNICIPAL CASES 9
4.7 SPECIAL PROCESS SERVERS 9

RULE 5 FEES, COSTS AND SURCHARGES 9
5.1 FILING FEE AND COST DEPOSIT 9
5.2 COSTS 10
5.3 WITNESS FEES 10
5.4 WAIVER OF FEES 10
5.5 MOTION FOR SECURITY 10
5.6 SURCHARGES 10
5.7 TIME PAYMENT FEE 11

RULE 6 ASSIGNMENT OF JUDGES, CASES, AND TRANSFER OF CASES 12
6.1 GENERAL ASSIGNMENT RULES 12
6.2 ASSIGNMENTS TO CIRCUIT DIVISIONS 13
6.3 FAMILY COURT 15
6.4 CIRCUIT ASSIGNMENT TO ASSOCIATE CIRCUIT DIVISIONS 15

6.5 CERTIFICATION TO CIRCUIT DIVISION 16
6.6 TRIAL DE NOVO 16
6.7 DISQUALIFICATION OF JUDGES 16
6.8 ABSENCE OF JUDGE 16
6.9 ABSENCE OF PRESIDING JUDGE 16

RULE 7 WITHDRAWAL OF PAPERS FROM CLERK'S OFFICE 17
7.1 WHEN ALLOWED 17
7.2 DUPLICATING POLICY 17

RULE 8 PUBLICATION OF DOCKETS 17
8.1 TRIAL DOCKET 17
8.2 DISMISSAL DOCKET 17
8.3 ACCELERATED DOCKET 18

RULE 9 COURTROOMS 18
9.1 ASSIGNMENT OF COURTROOM 18
9.2 PLACE OF HEARING 19
9.3 USE OF COUNSEL TABLE 19
9.4 COURTROOM DECORUM AND DRESS 19
9.5 WHO IS PERMITTED WITHIN THE BAR 19

RULE 10 COURT REPORTERS AND COMPENSATION FOR SAME..... 19
10.1 FILING OF TRANSCRIPTS 19
10.2 PREPAID FEES 19

RULE 11 RECORDING OF JUDICIAL PROCEEDINGS..... 20

RULE 12 MONEY PAID INTO COURT..... 20
12.1 BOND IN CIVIL CASES 20
12.2 PAYMENTS TO CIRCUIT CLERK FOR MAINTENANCE AND SUPPORT 20

RULE 13 COMMUNICATIONS WITH THE COURT..... 20
13.1 ORAL COMMUNICATION WITH THE COURT 20
13.2 WRITTEN COMMUNICATION WITH THE COURT 20

GENERAL RULES 21

RULE 20 COURT HEARINGS..... 21

RULE 21 ATTORNEYS..... 21
21.1 RESOLUTION OF CONFLICTING TRIAL SETTINGS 21
21.2 ENTRIES OF APPEARANCE 21
21.3 CONDUCT OF ATTORNEYS 22
21.4 WITHDRAWAL OF ATTORNEYS 22
21.5 FAILURE OF ATTORNEYS TO ANSWER DOCKET CALL 22
21.6 APPOINTMENT OF ATTORNEYS 22
21.7 AGREEMENT OF ATTORNEYS 22
21.8 ADVICE TO CLIENT AND WITNESSES OF COURTROOM PROCEDURES ... 23
21.9 RETURN OF DOCUMENTS 23

RULE 22 APPOINTMENT OF GUARDIAN AD LITEM..... 23

RULE 23 TRANSCRIPTS..... 23

RULE 24 EXHIBITS..... 23

RULE 25 SUMMONS **24**

PRE-TRIAL MATTERS 24

RULE 32 DISCOVERY **24**
32.1 USE OF DISCOVERY AND CERTIFICATION TO CIRCUIT DIVISION 24
32.2 INTERROGATORIES 24
32.3 DEPOSITIONS 24
32.4 MOTION FOR SANCTIONS 24
32.5 CRIMINAL DISCOVERY 24
32.6 GOLDEN RULE 24

RULE 33 PRE-TRIAL DISCOVERY **25**
33.1 HEARING DATES 25
33.2 BRIEFS IN SUPPORT OF MOTIONS, WHEN REQUIRED 25
33.3 ORAL ARGUMENTS WHEN DESIRED AND HOW REQUESTED 25
33.4 MOTIONS IN LIMINE 26

RULE 34 CONTINUANCES **26**
34.1 CIVIL CASES 26
34.2 CRIMINAL CASES 26

RULE 35 PRE-TRIAL CONFERENCES **26**
35. 1 SETTING PRETRIAL CONFERENCE 26

RULE 36 SETTING CASES FOR TRIAL **27**
36.1 REQUEST FOR TRIAL 27
36.2 DATE OF CALENDAR CALL 27
36.3 PREPARATION OF CALENDAR 27
36.4 CALENDAR CALL 27
36.5 REMOVAL AND INACTIVE CALENDAR 27
36.6 REVISION OF AND REMOVAL FROM PREPARED CALENDAR 27
36.7 SPECIAL ASSIGNMENTS 27

RULE 37 DISMISSALS **28**
37.1 DISMISSAL DOCKET 28
37.2 REINSTATEMENT OF CAUSE 28
37.3 DISMISSAL OF CIVIL ACTIONS 28

SETTLEMENT AND DEFAULT 28

RULE 41 SETTLEMENT **28**
41.1 NOTICE OF SETTLEMENT 28

RULE 42 DEFAULT **28**

TRIALS 29

RULE 51 COURT-TRIED CASES **29**
51.1 DEFAULT AND UNCONTESTED MATTERS 29
51.2 CONTESTED MATTERS 29
51.3 PREPARATION OF FINDINGS OF FACT AND CONCLUSIONS OF LAW 29

RULE 52 SELECTION OF JURY **29**

52.1 JURY QUESTIONNAIRES 29
52.2 ACCESS TO JUROR INFORMATION 29

RULE 53 JURY TRIALS..... 30
53.1 INSTRUCTIONS 30
53.2 CLOSING ARGUMENTS 30

RULE 54 JUDGMENT ENTRY..... 30
54.1 CONTESTED CASES 30
54.2 DEFAULT OR UNCONTESTED CASES 30

RULES RELATING TO PARTICULAR ACTIONS.....31

RULE 61 JUVENILE AND ADOPTION..... 31
61.1 FILING REQUIREMENTS 31
61.2 HOME STUDY 31

RULE 62 DRIVERS' CASES..... 31
62.1 APPLICATION FOR HARDSHIP DRIVING PRIVILEGES 32
62.2 PETITIONS FOR REVIEW 32
62.3 BREATHALYZER TEST 32

RULE 63 CASES IN DIVISIONS PRESIDED OVER BY ASSOCIATE CIRCUIT JUDGES33

RULE 64 CASES ARISING UNDER CHAPTERS 207 and 208 RSMO, 1978, COMMONLY KNOWN AS TITLE IV-D AND H.B. 601 ACTIONS..... 33

RULE 65 CIVIL CONTEMPT..... 33

RULE 66 CONDEMNATION..... 33
66.1 SEPARATE CASES FOR EXCEPTIONS 33
66.2 WITHDRAWING AWARD OF COMMISSIONERS 33

RULE 67 CRIMINAL CASES..... 34
67.1 PRE-TRIAL RELEASE 34
67.2 PRELIMINARY HEARING 35
67.3 GRAND JURY 35
67.4 ATTORNEYS 36
67.5 ARRAIGNMENTS 36
67.6 DISCOVERY 36
67.7 MOTIONS 36
67.8 PLEA BARGAINING 37
67.9 GUILTY PLEA 37
67.10 CALENDAR..... 37
67.11 PROBATION AND PAROLE..... 37
67.12 SEARCH WARRANTS..... 38

RULE 68 DISSOLUTION OF MARRIAGE..... 39

68.1 FILING REQUIREMENTS 39
68.2 SEPARATION AGREEMENT 40
68.3 FORM OF DECREES 40
68.4 FILING OF FINANCIAL STATEMENTS 42
68.5 MODIFICATION OF DECREE 42
68.6 DISCOVERY 42
68.7 PARENT EDUCATION PROGRAM - ATTENDANCE REQUIRED 44

68.8 CUSTODY/VISITATION MEDIATION 44

RULE 69 MUNICIPAL DIVISION..... 47
69.1 REFUND OF BOND ON APPLICATION FOR TRIAL DE NOVO 47

RULE 70 PARTITION..... 47

RULE 71 ADMINISTRATIVE REVIEWS..... 47

RULE 72 PROBATE..... 48
72.1 FILING REQUIREMENTS 48
72.2 ATTORNEYS REQUIRED - WHEN 48

RULE 73 SMALL CLAIMS..... 49

RULE 74 TRUST ESTATES THAT ARE SUPERVISED BY THE COURT..... 49
74.1 INVENTORY 49
74.2 REPORTS 49
74.3 RECORD 49
74.4 AUDIT 49

POST TRIAL..... 49

RULE 81 EXECUTION..... 49

RULE 82 GARNISHMENT..... 50

RULE 83 JUDICIAL SALES..... 50

RULE 84 JUDGMENTS..... 50
84.1 SATISFACTION OF JUDGMENTS 50

INTERNAL ORGANIZATION 51

RULE 100..... 51
100.1 PRESIDING JUDGE..... 51
100.2 LOCAL COURT RULES..... 52
100.3 LIBRARY FUND..... 52

RECORDS AND FILES 52
100.4 STORAGE OF RECORDS..... 52
100.5 CLERK'S DUTIES..... 53
100.6 SELECTION OF VENIREPERSONS..... 53

ADMINISTRATIVE RULES 53
100.7 DISMISSAL REVIEW COMMITTEE..... 53

ADMINISTRATION

RULE 1 DIVISIONS OF COURT

1.1 The Circuit Court of Clay County, Missouri, shall consist of a Presiding Judge and one or more judges assigned to hear civil, criminal, juvenile, domestic relations, probate and limited jurisdiction cases.

1.2 The designations of the various divisions of the Circuit Court and Associate Circuit Court shall be as set out in Local Rules 6.2, 6.3 and 6.4.

RULE 2 HOURS AND TERMS OF COURT

2.1 HOURS OF COURT

2.1.1 All divisions shall open at nine o'clock in the morning on each day of court. Special appointments and settings for any other time shall be made with the judge of the division involved.

2.2 TERMS OF COURT

2.2.1 The terms of court shall begin on the second Monday in March and June, and on the third Monday in November of each year.

2.3 LAW DAYS

(No Local Rule.)

2.4 PARTICULAR MATTERS ON PARTICULAR DAYS

(No Local Rule.)

RULE 3 PLEADINGS

3.1 CAPTION

3.1.1 The names and addresses of all the parties shall be given in the caption of all petitions, followed by a heading giving the nature of the suit. In all other pleadings, motions and papers, only the names of the first named parties need be given with an appropriate abbreviation indicating other parties.

3.2 STYLE

3.2.1 All pleadings and other papers, except exhibits and wills, offered for filing shall be legibly written in ink, typed or printed on paper which is 8 ½ x 11 inches in size, double spaced, and signed by at least one attorney of record in his or her individual name, and shall include his or her address, telephone number and attorney identification number. The court designation in the caption shall be solely: "In the Circuit Court of Clay County, Liberty, Missouri." A party not represented by an attorney shall sign his or her name to all pleadings with his or her address and telephone number.

** 3.2.2 All pleadings shall be two-hole punched and securely fastened at the top. The paragraphs and pages regularly numbered. On pleadings filed subsequent to the original petition, the division number in which said cause is pending shall be noted immediately above the file number of the cause. Pleadings need not be backed.

3.2.3 Except in the Juvenile and Probate Divisions, the original of the petition and such additional copies as there are defendants or parties named therein to be served with process, shall be filed with the Circuit Clerk of this Court; the copies so filed shall be used for service with the summons. Only the original of subsequent pleadings shall be filed, except for notice of hearings; which require original and one copy. No original papers shall be removed from the file.

3.2.4 The original of the pleadings, and such additional copies as there are case numbers, shall be filed whenever more than one case number appears on the pleading. The Circuit Clerk shall file the original of such pleading in the case file folder of the first numbered case listed on the pleading and shall file a copy of the pleading in the case file folder of each additional case listed.

3.2.5 In order to facilitate and expedite the service of process, the Court requests the following additional information:

a. In those cases where defendant's address is a rural route, rural post office box number, or similar designation, there shall be set forth in a separate attachment or cover letter, the directions to said address.

b. In those cases where a domestic corporation is a party defendant, there shall be set forth the address of the corporation, and in addition: (1) the names and addresses of its officers, or (2) its registered agent, or (3) the name of the agent in charge of the office.

c. In those cases where a foreign corporation is a party defendant, there shall be set forth: (1) its registered agent, or (2) the address of a local office and the name of the officer in charge that may receive service.

3.2.6 In any action, in which a party desiring service by publication files a verified statement showing why service cannot be obtained under Supreme Court Rules, and in which any real or personal property will be affected by such action, the attorney for said party shall prepare the order of publiccation of notice. The notice shall describe the real or personal property to be affected with specificity and in the case of real property shall set forth a complete legal description of same. In addition, the notice shall set forth in all respects the statements required by Supreme Court Rules.

3.2.7 The Circuit Clerk shall not receive for filing any pleadings, motions or papers unless there has been a full compliance with this rule.

RULE 4 FILING OF CASES

4.1 CRIMINAL CASES

4.1.1 All criminal cases are filed with the Clerk of the Circuit Court.

4.2 CIVIL CASES

4.2.1 All civil cases are filed with the Clerk of the Circuit Court.

4.3 PROBATE CASES

4.3.1 All proceedings involving probate or estate administration, proceedings for the administration of testamentary or inter-vivos trust, mental health proceedings, guardianship and conservatorship proceedings, shall be filed in the Probate Division.

4.3.2 All proceedings to appoint a successor trustee for a deed of trust or any other trust instrument, other than a testamentary or inter-vivos trust, shall be filed with the Circuit Clerk and assigned to Division Four.

4.4 JUVENILE CASES

(No Local Rule.)

4.5 SMALL CLAIMS CASES

(No Local Rule.)

4.6 MUNICIPAL CASES

4.6.1 Proceedings on municipal ordinance violations wherein the city, town or village has provided its own court and judge, shall be filed in such municipal division, and all pleadings therein shall be in such form and manner as provided by Supreme Court rule or order of the Municipal Judge.

4.7 SPECIAL PROCESS SERVERS

** 4.7.1 In any case in which a party specifically requests the appointment of a special process server (pursuant to Section 506.140 RSMo, as amended) to serve process within the State of Missouri, such request may be granted by the Circuit Clerk or any deputy which appointment shall be valid only for the case in which such person is specifically appointed. Such requests shall allege facts showing that the person to be appointed is a qualified person to serve process.

RULE 5 FEES, COSTS AND SURCHARGES

5.1 FILING FEE AND COST DEPOSIT

5.1.1 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 fee structure shall be published and available as an attachment to the Local Court Rules.

5.2 COSTS

5.2.1 Whenever a civil action, including cases involving dissolution of marriage, is dismissed by plaintiff, or is reduced to judgment, or no judgment is made as to imposition of costs; the costs shall be assessed against the plaintiff or petitioner.

5.3 WITNESS FEES

5.3.1 Attorneys are requested to see that their witnesses, who intend to claim a fee, report their attendance to the Circuit Clerk's office as soon as they are discharged from further attendance.

5.4 WAIVER OF FEES

5.4.1 Applications to the court to sue as a poor person and to waive all or part of the deposit on fees and costs shall be verified by the affidavit of the applicant, his or her guardian or next friend; shall contain a specific statement about the inability of the applicant to pay or provide security for the costs of the action; and shall state that applicant truly believes applicant has a meritorious cause of action. These applications shall be presented to the Judge to whom said action is expected to be assigned.

5.4.2 Applications to proceed as a poor person on an appeal or on application for trial de novo shall be presented to the Judge who heard the case.

5.4.3 If the Circuit Judge, Associate Circuit Judge, or Municipal Judge is unavailable to rule on the above application, it may be presented to the Presiding Judge for ruling.

5.4.4 The Circuit Clerk shall not file any other cause or proceedings until the above deposits for fees and costs have been paid or a formal order made in the proceeding sustaining an application to sue as a poor person.

5.4.5 Appeals from the Industrial Commission of the State of Missouri, and appeals or transcripts from any Federal Commission or other State Commissions where allowed by law, may be filed without the above deposit.

5.5 MOTION FOR SECURITY

5.5.1 All motions for security for costs shall be filed pursuant to Rule 77, Supreme Court Rules.

5.6 SURCHARGES

5.6.1 A surcharge of **$15.00** is included in most of the above-indicated costs for the Law Library Fund, and must be paid at the time of the filing. The **$15.00** Law Library Fund

surcharge need not be paid in the following cases: (1) actions sent to the county on change of venue; (2) cases within the probate jurisdiction; (3) cases filed under Chapter 517, RSMo procedures; (4) cases filed under small claims procedures; (5) applications for trials de novo; (6) suits, civil or criminal, filed by the county or state or any city, as per Section 514.440, et seq RSMO. **Jerry W. Davis is designated as Treasurer of the fund for library purposes as per Section 514.450 RSMO.**

5.6.2 A surcharge of **$30.00** that is applied to the Family Services and Justice Fund is included in all of the following cases and filings: dissolutions of marriage, motions to modify dissolutions, stipulations in domestic cases, adoptions, all juvenile cases as provided by law, and any other domestic relations cases. The surcharge shall not be assessed to any filing entitled "Stipulation of Emancipation". The surcharge of **$30.00** shall be deposited by the Circuit Clerk into the Family Services and Justice Fund on a monthly basis.

5.6.3 A surcharge of **$3.00** that is applied to the Domestic Relations Resolution Fund, per Section 452.554 RSMo, shall be assessed and paid at the time of filing an action of any civil circuit court case, including dissolution of marriage and legal separation. The Circuit Clerk shall collect said **$3.00** surcharge and disburse monthly to the Missouri Department of Revenue.

5.6.4 A surcharge of **$2.00** that is applied to the Missouri Court Appointed Special Advocate Fund, per Section 488.636 RSMo, shall be assessed and paid at the time of filing per case for any domestic relations petition filed before a circuit judge or associate circuit judge. The Circuit Clerk shall collect said **$2.00** surcharge and disburse monthly to the Missouri Department of Revenue.

5.6.5 A surcharge fee that is applied to the Basic Civil Legal Services Fund, per Sections 477.650 and 488.031 RSMo, shall be assessed on the filing of any civil or criminal action or proceeding, including an appeal, except that no fee shall be imposed on any traffic violation case, but drug and alcohol-related offenses will have the fee imposed. The fee schedule is as follows:

Supreme Court and Court of Appeals	**$20.00**
Circuit Courts	**10.00**
Associate Circuit Courts	**8.00**

The Circuit Clerk shall collect said surcharge fee and disburse monthly to the Office of State Courts Administrator – Basic Civil Legal Services Fund.

5.7 TIME PAYMENT FEE

5.7.1 The Clerk shall impose a fee of twenty-five dollars on each person who fails to pay a court-ordered judgment, penalty, fine, sanction, court costs, restitution or juvenile monetary assessment within thirty (30) days of the date of the court imposed judgment, penalty, fine, sanction or court cost.

Said fee shall be disbursed pursuant to Section 488.5025 (2) RSMo.

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

6.1 GENERAL ASSIGNMENT RULES

* 6.1.1 The Circuit Court, en banc, shall set forth by administrative order the assignment of civil cases. The Family Court Administrative Judge shall set forth by administrative order the assignment of domestic relations cases.

* 6.1.2 The Circuit Clerk, using the program provided by Judicial Information Services of the Office of State Courts Administrator, shall be responsible for the random and chance system of assigning civil and domestic cases in the percentages established under Rule 6.1.1.

6.1.3 Cases may be transferred between divisions by order of the Presiding Judge.

6.1.4 Cases may be transferred between the Circuit Judges by agreement of the Circuit Judges. Cases may be transferred between the divisions of the Family Court by order of the Administrative Family Court Judge.

6.1.5 Whenever there are two or more cases arising out of the same transaction, or the same acts of negligence, or relating to the same property, the Judge to which the earliest filed case has been assigned, upon motion shall request the Judge or Judges having the later filed case or cases to transfer the same to such requesting Judge so that said Judge shall dispose of all preliminary motions and try, hear, and determine all issues presented in the cases.

6.1.6 The Judge before whom said related cases are pending may consolidate the cases if in his or her judgment consolidation is authorized by the Missouri Rules of Civil Procedure.

6.1.7 All post-judgment motions and applications in civil cases shall be heard by the Judge rendering the judgment.

6.1.8 Civil Contempt actions filed by private counsel are assigned to the Judge who entered the order; which is the subject of the motion for contempt. Whenever a civil contempt action is pending, a subsequently filed motion to modify an order for dissolution of marriage, for legal separation, for separate maintenance or for child custody or child support, is assigned to the Judge before whom the civil contempt is pending.

6.1.9 Motions to modify dissolution of marriage, legal separation, separate maintenance, child custody and child support originally filed in Divisions Three and Five shall return to those divisions. All other motions to modify shall be filed in Division Eight, including those motions to modify filed after a contempt action is filed by the Prosecuting Attorney.

6.1.10 Condemnation cases shall be an exception to the assignment of civil cases under Rule 6.1.1. Divisions Two, Three and Four shall each receive one third of those cases. The Circuit Clerk, using the program provided by Judicial Information Services of the Office of State Courts Administrator, shall be responsible for the random and chance system of assigning cases under this rule.

** 6.1.11 Transfer of a criminal non-support case may be made by the judge before whom the case is pending to the Administrative Judge of the Family Court. Prior to any transfer, the defendant must sign a waiver of preliminary hearing, if applicable, and consent to transfer to Family Court. After transfer to Family Court, the Administrative Judge may transfer the case to Division Eight.

6.1.12 Nothing in these rules shall prevent the Presiding Judge from assigning civil, criminal or family court cases to other divisions than those designated in these rules when appropriate.

6.2 ASSIGNMENTS TO CIRCUIT DIVISIONS

** 6.2.1 CRIMINAL DIVISION:

** 6.2.1.1 A percentage of the circuit criminal cases shall be assigned per order of the Court en Banc to each circuit division and the percentage shall be drawn per Rule 6.1.1.

** 6.2.1.2 Division One shall act as the division for Grand Jury proceedings and Bonding Agent Qualifications.

6.2.2 CIVIL DIVISION:

** 6.2.2.1 A percentage of the circuit civil cases shall be assigned per order of the Court

6.2.3 JUVENILE DIVISION:

6.2.3.1 All juvenile cases and adoptions shall be assigned to the Juvenile Division.

6.2.3.2 Cases filed under Child Protection Orders Act are assigned to this division and the hearing of the cause shall be transferred to the Juvenile Division and set not later than fifteen (15) days after the filing of the petition on a Thursday at the Clay County Juvenile Justice Center.

6.2.3.3 All violations of Child Protection Orders filed by the Prosecuting Attorney are assigned to the Juvenile Division.

6.2.3.4 Division Three of the Circuit Court shall act as the Juvenile Division.

6.2.4 PROBATE DIVISION:

6.2.4.1 All matters filed as probate cases under Rule 4.3 and proceedings filed for the specific purpose of approval of settlement of cases involving claims by persons less than eighteen (18) years of age shall be assigned to the Probate Division.

6.2.4.2 A percentage of the circuit civil cases shall be assigned to the Probate Division per order of the Court en Banc and the percentage shall be drawn per rule 6.1.1.

6.2.4.3 Division Four of the Circuit Court shall act as the Probate Division.

6.2.5 ASSOCIATE DIVISION SIX

6.2.5.1 Cases shall be assigned to Associate Division Six as follows:

a. Criminal cases involving preliminary hearings and misdemeanors as assigned by administrative order of the Circuit Court, except those otherwise specifically assigned.

** b. All small claims cases.

c. Associate Circuit Court civil cases as assigned by administrative order of the Circuit Court.

** d. Landlord tenant and unlawful detainer, irrespective of the amount in controversy, as assigned by administrative rule.

e. All municipal cases filed originally with the Circuit Clerk, or municipal cases where the municipal judge is disqualified.

f. All municipal trial de novo cases.

6.2.6 ASSOCIATE DIVISION SEVEN

6.2.6.1 Cases shall be assigned to Associate Division Seven as follows:

a. Associate Circuit Court civil cases as assigned by administrative order of the Circuit Court.

** b. All cases filed against the Department of Revenue, including hardship driving privileges, petitions for review, retention of vehicular license plates; and appeals from the Department of Revenue.

c. Proceedings for change of name of a person.

d. Warehouse license applications.

e. All water patrol and conservation cases; which charge misdemeanor or infractions.

f. All traffic cases; which charge misdemeanor or infractions.

g. Criminal cases involving preliminary hearing and misdemeanors as assigned by administrative order of the Circuit Court; except those otherwise specifically assigned.

** h. All cases filed by governmental agencies for the collection of taxes, including income and sales tax.

6.2.7 DRUG COURT

6.2.7.1 The Drug Court shall be assigned by administrative order.

6.3 FAMILY COURT

6.3.1 Actions for dissolution of marriage, legal separation child custody, child support and adult abuse shall be assigned to the Family Court per order of the Court en banc and the percentage of the assignment shall be drawn per Rule 6.1.1.

* 6.3.2 Adult and child abuse actions shall be filed in Division Three. Such cases shall be presented for issuance of an ex parte order of protection in the following order, first to Division Three, second to Division Eight and third to Division Five, and thereafter to any available judge.

6.3.3 Divisions which shall act as the Family Court and the Judge who shall serve as Administrative Family Court Judge shall be designated by the Presiding Judge.

6.3.4 Local Rules regarding procedures in dissolution of marriage and the Family Court are set forth in detail in Rule 68.

6.4 CIRCUIT ASSIGNMENT TO ASSOCIATE CIRCUIT DIVISIONS

6.4.1 All cases assigned to Associate Circuit Judges but not within the original jurisdiction of an Associate Circuit Judge shall be heard on the record and under the practices and procedures regularly applicable before Circuit Judges.

6.4.2 Designation under 478.250 (2) RSMo:

a. A plaintiff electing to proceed under 478.250 (2) RSMo shall, at the time of filing his or her petition, also file a separate pleading designating that the case be heard and determined as provided in 478.250 (2) RSMo. The plaintiff shall furnish the Circuit Clerk sufficient copies of this separate pleading so that one may be served on each defendant. Said case shall remain in the Division to which originally assigned, and the Associate Circuit Judge of that Division shall hear said case on the record under the civil practice and procedure applicable before Circuit Judges. The record in such cases may be kept by approved electronic recording devices.

b. In the event a party to an action that is assigned to a Division presided over by an Associate Circuit Judge invokes third-party procedure, said action shall remain in that Division, and the Associate Circuit Judge of that Division shall hear said action on the record under the civil practice and procedure applicable before Circuit Judges. The record in such case may be kept by electronic recording devices.

c. In the event the defendant demands a jury trial, said action shall remain in that Division, and the Associate Circuit Judge of that Division shall hear said action on

the record under the civil practice and procedure applicable before Circuit Judges. The record in such case may be kept by electronic recording devices.

6.5 CERTIFICATION TO CIRCUIT DIVISION

(No Local Rule.)

6.6 TRIAL DE NOVO

6.6.1 All trials de novo from divisions presided over by Associate Circuit Judges shall be assigned as provided in Rule 6.1.1.

6.7 DISQUALIFICATION OF JUDGES

6.7.1 Upon application for change or disqualification of a Circuit Judge, the name of such Judge requested to be changed or disqualified shall be stated in the application, and such Judge may transfer said case to another Circuit Judge, or may confer with the Presiding Judge who may assign said case to another Judge.

6.7.2 If there is a change or disqualification of the Associate Circuit Judge in Division Six or Seven, in proceedings that are within the original jurisdiction of said Judge, then the Judge of Division Six shall transfer said case to Division Seven, and the Judge of Division Seven shall transfer said case to Division Six, or said cause may be assigned by the Presiding Judge.

6.7.3 If there is a change or disqualification of the Associate Circuit Judge in Division Five, said matter shall be transferred to the Administrative Family Court Judge for reassignment.

6.7.4 Upon the filing of a Motion for Change of Judge under Supreme Court Rule 32.07 or 32.08, the Presiding Judge shall transfer the case to any available Circuit Judge or Associate Circuit Judge without necessity for assignment by lot. In the event a Motion for Change of Judge under Supreme Court Rule 32.07 or 32.08 requests said change from the Circuit Judge who is also the Presiding Judge, the Presiding Judge will transfer the case to the Circuit Judge of the Division next beyond that of the Division of the Presiding Judge and, if needed, continuing in successive order. Said successive Judge shall act as Presiding Judge and shall transfer said case to any available Circuit Judge or Associate Circuit Judge without necessity for assignment by lot.

6.8 ABSENCE OF JUDGE

6.8.1 In the absence of any Judge, the Presiding Judge may assign another Judge to sit in the division of the absent Judge and perform all the duties of the absent Judge.

6.9 ABSENCE OF PRESIDING JUDGE

** 6.9.1 In the absence of the Presiding Judge or in case of the Presiding Judge's inability to act or when it is necessary or expedient, the Presiding Judge may designate any Circuit Judge to act in the Judge's place. In the event the Presiding Judge is absent or unavailable and has failed to designate an acting Presiding Judge or if both the Presiding Judge

and the designated Acting Presiding Judge are absent, then the Circuit Judge of the Division number next beyond that of the Division of the Presiding Judge and continuing in successive order as needed shall act as Presiding Judge.

RULE 7 WITHDRAWAL OF PAPERS FROM CLERK'S OFFICE

7.1 WHEN ALLOWED

7.1.1 No official files of the Circuit Court of any division thereof shall be removed from the Circuit Clerk except by employees of the Circuit Court.

7.2 DUPLICATING POLICY

** 7.2.1 Interested parties may obtain a copy of any file not made confidential by Statute or court order in the Circuit Clerk's Office (or any portion thereof).

Photo Copies, 10 pages or less from a single file, per page $ .25
Minimum, $1.00 plus postage

Photo Copies, more than 10 pages from one or more files,
actual cost of search and copying. Estimated on Request

Certified copies/Authenticated copies.....$ 5.00

7.2.2 No charge shall be made for attested, certified or authenticated copies of documents furnished to any department of Clay County, Missouri, to any State agency or department where such copies are requested in connection with any pending proceeding, or to any party who has been allowed to proceed in forma pauperis.

7.2.3 The Circuit Clerk's office shall not prepare copies of any depositions or written transcripts on file with the Court.

RULE 8 PUBLICATION OF DOCKETS

8.1 TRIAL DOCKET

**** 8.1.1 The criminal docket will be called at 9:00 a.m. on the first day of each term of court (second Monday in March and June; third Monday in November). All defendants in criminal cases where a court date has not been previously set, shall appear at that time in the division to which their case is assigned. The parole docket will be called at 1:15 p.m. of said day unless reset for a different date or time by the Judge of each division. The municipal trial de novo docket will be called in Division Six at 9:00 a.m. on each term day.

8.2 DISMISSAL DOCKET

Not published. (See Rule 37.1.)

8.3 ACCELERATED DOCKET

8.3.1 An accelerated docket shall be created and maintained by the Executive Secretary of the Circuit. At any time a case may be placed on the docket by agreement of all the parties, or their attorneys, and the consent of the Judge of the division in which the case is docketed. Such agreement shall be in writing and filed as a pleading with the Clerk of the Circuit Court. It shall be the duty of the attorney or party filing the pleading to provide a copy to the Executive Secretary.

a. Such pleading shall contain the following information:

(1) The names and phone numbers of all attorneys, or of any pro se party in the case.
(2) The probable length of trial.
(3) The anticipated number of witnesses to be called by each side.
(4) Whether or not a jury is waived.
(5) The date of any regular trial setting in the cause.
(6) The division in which the case is docketed.

b. In the event the matter is regularly set in any Division it shall retain that setting until and unless the matter is disposed of on the accelerated docket.

8.3.2 At any time that any Division of the Circuit shall have an opening available for the disposition of a matter on this docket, the Judge of that Division shall notify the Executive Secretary who shall provide the case to be heard as provided herein.

a. The Executive Secretary shall commence contacting the attorneys, or pro se parties beginning with the oldest case on the accelerated docket. The first case in which the parties are available shall be the case designated for trial.

b. When a case is disposed of under this docket then the Executive Secretary shall advise the Division in which the cause was originally set for trial, and the cause shall be removed from the docket in that Division.

8.3.3 Any cause pending in any Division of this Circuit may be placed on the accelerated docket as provided herein, except Probate Division matters, Juvenile Division matters, and unlawful detainers.

8.3.4 In the event that the parties do not appear for trial after two opportunities for trial, said cause shall be removed from the accelerated docket.

RULE 9 COURTROOMS

9.1 ASSIGNMENT OF COURTROOM

(No Local Rule.)

9.2 PLACE OF HEARING

(No Local Rule.)

9.3 USE OF COUNSEL TABLE

9.3.1 While examining witnesses, counsel shall stand or sit as near as practicable to the witness; and when addressing the court he or she shall stand at the counsel table.

9.3.2 Objections shall ordinarily be made by standing at the counsel table. Attorneys shall not come to the bench to make objections without permission of the Judge.

9.3.3 Attorneys shall not lean upon the bench nor appear to engage the Judge in a confidential manner.

9.4 COURTROOM DECORUM AND DRESS

** 9.4.1 All attorneys and court officials shall dress in business attire while in court. Coats and ties are mandatory for male attorneys.

** 9.4.2 Attorneys shall advise witnesses and litigants to dress appropriately for court.

** 9.4.3 With respect to this rule, judicial discretion may be exercised otherwise in extreme situations.

9.4.4 The swearing of witnesses shall be an impressive ceremony and not a mere formality. They shall be sworn individually near the bench.

9.5 WHO IS PERMITTED WITHIN THE BAR

9.5.1 During the trial of any case, or the presentation of any matter to the court, no person, including members of litigants' families, shall be permitted within the bar of the courtroom proper, other than attorneys, court personnel, litigants and witnesses called to the stand. Persons within the bar shall not disturb the order of the court.

RULE 10 COURT REPORTERS AND COMPENSATION FOR SAME

10.1 FILING OF TRANSCRIPTS

10.1 Parties ordering transcripts for appeal purposes in any case shall file with the official court reporter of the division in which the case was tried a written request therefor, complying with the Supreme Court Rules.

10.2 PREPAID FEES

10.2 The party ordering such transcript shall prepay to the reporter the reporter's estimated fee therefor in advance of the preparation of the transcript.

RULE 11 RECORDING OF JUDICIAL PROCEEDINGS

(No Local Rule.)

RULE 12 MONEY PAID INTO COURT

12.1 BOND IN CIVIL CASES

12.1.1 Original bonds in all civil actions, except in the Probate Division, pending or to be commenced in the Circuit Court shall be filed with the Circuit Clerk and shall be kept in a safe place, which is not accessible to the public.

12.1.2 The Circuit Clerk shall cause a true copy of such bond to be placed in the original file of the case with an appropriate notation thereon from which the original bond can readily be located.

12.1.3 There shall be a docket sheet entry made of the filing of each original bond which shall include the amount of the penalty and the names and addresses of all principals and sureties.

12.1.4 All personal surety bonds in civil cases, other than appeal bonds, must be approved in writing by the obligee or the obligee's attorney; otherwise the principal in the bond, unless excused from doing so by the Judge, must bring the security offered before the court for examination as to the sufficiency of such security, and notice in writing must be given to the obligee or the obligee's attorney at the time of such examination.

12.2 PAYMENTS TO CIRCUIT CLERK FOR MAINTENANCE AND SUPPORT

12.2.1 The Circuit Clerk shall accept only cash, certified check, or money order in satisfaction of maintenance or support payments under the provisions of Section 452.345 RSMo. Tender of or attempt to satisfy a support obligation by personal check shall be ineffective and shall not constitute a defense to contempt proceedings initiated under Section 452.345 RSMo.

RULE 13 COMMUNICATIONS WITH THE COURT

13.1 ORAL COMMUNICATION WITH THE COURT

(No Local Rule.)

13.2 WRITTEN COMMUNICATION WITH THE COURT

13.2.1 Any letter or communication relating directly or indirectly to any pending matter, addressed personally or unofficially to any Judge of the court, will be filed with that case, and will ordinarily be open to the inspection of the public and adverse parties.

GENERAL RULES

RULE 20 COURT HEARINGS

20.1 Counsel should seek agreement with opposing counsel and the division clerk (or Judge) on the date and time for all court hearings. The use of telephone conference is encouraged to obtain a date and time for hearing. When an agreement is reached, it is mandatory that a stipulation, signed by both counsel, be filed.

20.2 Whenever opposing counsel cannot agree on the setting of a hearing as provided in Rule 20.1, the movant shall secure a date and time from the division clerk (or Judge) and shall file with his or her motion, proof of service of a notice to the opposite party, or the party's attorney, of the date and time of the hearing, which shall not be less than three (3) days after said filing.

RULE 21 ATTORNEYS

21.1 RESOLUTION OF CONFLICTING TRIAL SETTINGS

21.1.1 When an attorney has more than one case set for trial at the same time in different divisions, the trial of the lowest numbered case shall have precedence. A case which is delayed due to this rule, shall be tried at the earliest possible time.

21.1.2 If a trial setting in a division is delayed because an attorney is "engaged" before an appellate court or in a trial in a court other than the Circuit Court of Clay County, Missouri, said case shall be reset for trial at the earliest possible time after such attorney becomes available.

21.1.3 By the term "engaged" in these rules is meant the actual and necessary participation of any attorney in the trial or hearing of a case. No attorney, however, shall be considered as so engaged unless he or she has complied with Local Rule 34.1.2 and has given written notification to the Judge of the Clay County division where the case is set, designating the other court and the approximate time the attorney will be necessarily so engaged.

21.2 ENTRIES OF APPEARANCE

21.2.1 Attorneys retained in civil cases shall file an entry of appearance for the parties they represent, before securing any order. Employment of counsel after trial setting shall not be grounds for delay of trial. Any attorney residing outside of this State in good standing as an attorney at the place of his or her residence and not licensed in this State may be recognized as an attorney only if he or she has associated with an attorney of record who is authorized to practice in Missouri and who has an office within this State, upon whom service may be had in all matters connected with such action. Regularly licensed practicing attorneys of other states, if the laws and rules of their state permit the practice in its courts of attorneys from this State without a local attorney being associated with such attorney, shall not be required to comply with the provisions of this rule.

21.3 CONDUCT OF ATTORNEYS

21.3.1 Attorneys, during trial, shall not exhibit familiarity with witnesses, jurors, or opposing attorneys, and the use of first names shall be avoided. In jury argument, no juror shall be addressed individually, or by name.

21.3.2 Only one attorney shall examine a witness in chief and one cross-examine a witness for the other side, unless the defendants answer separately and plead separate and distinct defenses. This rule shall not apply in criminal cases where there are several defendants represented by different counsel.

21.3.3 A motion to separate witnesses must be made before any evidence is heard, and before any opening statement is made in a trial.

21.4 WITHDRAWAL OF ATTORNEYS

21.4.1 Withdrawal of an attorney of record in civil cases should be accompanied by the entry of appearance of another attorney of record. Absent such entry of appearance, such withdrawal may be filed only by leave of court, in order to assure compliance with Supreme Court Rules.

21.4.2 Where there is no entry of appearance by another attorney, application for withdrawal should be filed showing the full address of the client; and either the written consent of the client should be shown or the application should be served on the client along with notice calling up the application for hearing (with a statement to the client that he or she need not appear unless he or she wishes).

21.4.3 If leave to withdraw is granted, copies of an order allowing the withdrawal are to be mailed by the clerk to the client and to the various attorneys not present at time withdrawal is granted.

21.5 FAILURE OF ATTORNEYS TO ANSWER DOCKET CALL

21.5.1 Failure of a party to appear for trial after a case has been regularly set for trial as provided in Rule 36.1.1, shall be grounds for dismissal either with or without prejudice, without further notice.

21.6 APPOINTMENT OF ATTORNEYS

(No Local Rule.)

21.7 AGREEMENT OF ATTORNEYS

21.7.1 Agreements made by counsel will be recognized if consistent with the business and duties of the court and not contrary to law or court rules. No agreement of parties or attorneys in a pending case will be accepted or enforced unless it is in writing and filed therein or made on the record in open court. No agreement respecting the assignment of cases to a particular trial division shall be recognized.

21.8 ADVICE TO CLIENT AND WITNESSES OF COURTROOM PROCEDURES

21.8.l Attorneys shall advise their clients and witnesses of the formalities of the court, including proper attire, and seek their full cooperation to avoid embarrassment and delays.

21.9 RETURN OF DOCUMENTS

21.9.1 Copies of pleadings, stamped "filed", receipts, notices, authenticated, certified, and attested copies of pleadings, orders and judgments, and other documents **will be returned to attorneys upon request if a self-addressed, stamped envelope is furnished to the court at the time the request is made. <u>The postage and envelope provided must be of sufficient amount and size for all the documents submitted.</u>**

21.9.2 Copies of items referred to above not returned pursuant to Rule 21.9.1 will be destroyed if they are not picked up from the office of the Clerk of the Circuit Court within ten (10) days.

RULE 22 APPOINTMENT OF GUARDIAN AD LITEM

(No Local Rule.)

RULE 23 TRANSCRIPTS

** 23.1 **REPEALED by order dated April 5, 2012, effective April 5, 2012.**

RULE 24 EXHIBITS

24.1 All exhibits shall be numbered consecutively, irrespective of the party offering the same. Counsel for the respective parties shall be responsible for the safekeeping of exhibits during and after the trial.

24.2 Exhibits, whenever possible, shall be marked for identification by the reporter, as required, before being used or offered, and each sheet, page or part thereof shall be separately numbered unless otherwise permitted by the court, and then be submitted to opposing counsel. Any sketch used during the course of trial shall be made on a substance capable of being perpetuated as a part of the permanent record, and where reference to any given point thereon is made, it shall be identified by a digit beginning with one, and then continuing with subsequent digits as required.

RULE 25 SUMMONS

****** **25.1** On all associate civil cases, the returned summons shall be filed with the circuit clerk's office **no later than Monday at three o'clock PM of the week when the case is scheduled for the first docket call.**

PRE-TRIAL MATTERS

RULE 32 DISCOVERY

32.1 USE OF DISCOVERY AND CERTIFICATION TO CIRCUIT DIVISION

(No Local Rule.)

32.2 INTERROGATORIES

(No Local Rule.)

32.3 DEPOSITIONS

****** 32.3.1 Upon delivery of a deposition, attorneys or parties shall file with the court an original certificate, certified with seal, showing the caption of the case, the name of the deponent, the date the deposition was taken, the name and address of the person having custody of the original deposition, the cost of the deposition and the outstanding balance, if any. **A deposition shall not be filed with the court except upon court order.**

32.4 MOTION FOR SANCTIONS

(No Local Rule.)

32.5 CRIMINAL DISCOVERY

(No Local Rule.)

32.6 GOLDEN RULE

32.6.1 In any civil action where answers to discovery are more than three days late, the attorney who propounds the discovery shall mail a "golden rule" letter to opposing counsel. The "golden rule" letter shall notify opposing counsel of exactly what discovery has not been answered, the date the discovery was due, and shall provide opposing counsel with a date ten (10) days in the future when the discovery must be received by the propounding attorney.

``

In the event discovery is not received within the period specified in the "golden rule" letter, then the propounding attorney may file a motion to compel with the court, which will be summarily ruled on by the court without hearing, requiring all discovery to be provided within ten (10) days of the court order.

In the event the motion to compel is not complied with, sanctions may be imposed after a hearing has been held on the party who has failed to respond when requested by the propounding party.

RULE 33 PRE-TRIAL DISCOVERY

33.1 HEARING DATES

(See Local Rule 20.)

33.2 BRIEFS IN SUPPORT OF MOTIONS, WHEN REQUIRED

33.2.1 A party filing any motion, except motions for new trial, motions for trial settings, or motions which require proof by introduction of evidence (as distinguished from proof by affidavit pursuant to Supreme Court Rules), shall serve and file at the same time brief written suggestions in support thereof, together with authorities relied upon. Any affidavits filed pursuant to Supreme Court Rules shall be filed at the same time as the motion and suggestions. Failure to file clear, concise suggestions may be grounds for refusing the relief requested. Within ten (10) days following service and filing of such motion, any opposing party may serve and file suggestions in opposition with citations of authorities. On the filing of suggestions in opposition by all parties entitled to file the same, or on expiration of the time for filing, whichever occurs first, the matter shall be presented to the Judge for consideration; and when the Judge rules on same, counsel for the parties shall be notified. The Judge may extend or shorten the time for filing of suggestions on application of either party. Suggestions shall be filed pursuant to this rule even though oral argument is granted.

33.2.2 Any request for an extension of time to plead shall be in writing and signed by the attorney requesting such extension.

33.2.3 It shall be the responsibility of the movant in cases wherein a motion is submitted on suggestions, to notify the Judge personally in writing of the fact that all suggestions have been filed and said motion is ready for a ruling.

33.3 ORAL ARGUMENTS WHEN DESIRED AND HOW REQUESTED

33.3.1 Any party may request oral argument on motion but the granting or refusal of the same shall be a matter for the discretion of the Judge.

33.3.2 Any request for oral argument shall be filed with the suggestions of the party requesting the same.

33.4 MOTIONS IN LIMINE

33.4.1 All motions shall be in writing and accompanied by citations of authority.

RULE 34 CONTINUANCES

34.1 CIVIL CASES

34.1.1 Motions for continuances may be filed with the division clerk.

34.1.2 All applications for continuance shall conform to Supreme Court Rule and be presented to the court no later than the Wednesday before trial date except for cause arising thereafter.

34.1.3 Once a trial setting is made, such case will not be continued except for statutory reasons, and upon written motion duly filed and notice given pursuant to local rule. Any motion for continuance must be heard at least three (3) days before the day the case is set for trial unless the grounds arise thereafter. Agreements between attorneys for continuances are not binding upon the court. Neither the court nor any of its officers shall assume the responsibility of the attorney if he or she fails to be present when the case is called.

34.2 CRIMINAL CASES

(No Local Rule.)

RULE 35 PRE-TRIAL CONFERENCES

35. 1 SETTING PRETRIAL CONFERENCE

35.1 The Judge may order, or either party in writing may request, a pre-trial conference as authorized by the Supreme Court Rules.

35.2. ATTENDANCE

35.2 Pre-trial conferences shall be attended by the attorneys who shall be in charge of the trial of the case.

RULE 36 SETTING CASES FOR TRIAL

36.1 REQUEST FOR TRIAL

36.1.1 When a civil case is at issue either party may request a trial setting in accordance with Local Rule 20.

36.2 DATE OF CALENDAR CALL

(No Local Rule.)

36.3 PREPARATION OF CALENDAR

36.3.1 Priority should be given in the setting and trial of civil cases to the following matters, and in the following order of priority:

a. Election contests (Section 115.535 RSMo)
b. Worker's Compensation appeals (Section 287.490 RSMo)
c. Unemployment Compensation appeals (Sec. 288.210 RSMo)
d. Liquor License appeals (Section 311.691 RSMo)
e. Public Assistance appeals (Section 208.110 RSMo)
f. Request for review of revocation of Driver's License based upon refusal to take chemical breath-alyzer test (Sec. 577.041 RSMo)
g. Zoning appeals.

36.3.2 For good cause shown, the Judge upon application of any party may accelerate a case on the docket.

36.4 CALENDAR CALL

(No Local Rule.)

36.5 REMOVAL AND INACTIVE CALENDAR

(No Local Rule.)

36.6 REVISION OF AND REMOVAL FROM PREPARED CALENDAR

(No Local Rule.)

36.7 SPECIAL ASSIGNMENTS

(No Local Rule.)

RULE 37 DISMISSALS

37.1 DISMISSAL DOCKET

** 37.1.1 In order to comply with Supreme Court Operating Rule 17 time standards, each division may establish procedures for compliance including dismissal dockets to be set at each division's discretion.

** 37.1.2 At least ten (10) days before any dismissal action, written notice shall be given by the Clerk to each party, not in default, at his or her last known address contained in the case file, that the case is subject to dismissal in accordance with this rule unless a dismissal hearing date has already been given.

37.2 REINSTATEMENT OF CAUSE

(No Local Rule.)

37.3 DISMISSAL OF CIVIL ACTIONS

(No Local Rule.)

SETTLEMENT AND DEFAULT

RULE 41 SETTLEMENT

41.1 NOTICE OF SETTLEMENT

41.1.1 It shall be the responsibility of each attorney of record to keep advised of the position of his or her case on the docket and to advise the court, and the attorneys on the case immediately following the case, of any continuance, settlement, or disposition of the case.

RULE 42 DEFAULT

(No Local Rule.)

TRIALS

RULE 51 COURT-TRIED CASES

51.1 DEFAULT AND UNCONTESTED MATTERS

(Refer to Local Rule 20.)

51.2 CONTESTED MATTERS

(Refer to Local Rule 20.)

51.3 PREPARATION OF FINDINGS OF FACT AND CONCLUSIONS OF LAW

51.3.1 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 as directed by the Judge.

RULE 52 SELECTION OF JURY

52.1 JURY QUESTIONNAIRES

52.1.1 Attorneys shall not, as a 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 Judge.

52.2 ACCESS TO JUROR INFORMATION

** 52.2.1 The list of names for the venire panel for any jury trial will be posted by the juror administrator by 12:00 p.m. on the preceding business day of court prior to the start of the jury trial. Additional names may be added to the list if additional venire questionnaires are filed following the posting. Counsel may obtain a copy of the list from the juror administrator following the posting. If a “casenet” search is desired, computer terminals are located in the Clay County Law Library. Court staff will not be available to assist in the “casenet” search, except to insure access to the “casenet” web site. If a casenet search of the venire panel is desired, it shall be accomplished before trial begins. Trial will not be delayed for purposes of a “casenet” search. For purposes of this rule, a jury trial is deemed to begin at the start of the voir dire examination. Failure to complete a “casenet” search during the time period allowed by this rule will be deemed a waiver of that right, except as to any venire name(s) added following the prior week’s posting. Counsel is to notify the court before the venire panel is discharged regarding any information revealed by a “casenet” search that counsel believes is inconsistent with a venire person’s answers during voir dire examination.

RULE 53 JURY TRIALS

53.1 INSTRUCTIONS

(No Local Rule.)

53.2 CLOSING ARGUMENTS

53.2.1 In cases tried before a jury, the plaintiff, except as otherwise provided herein, shall have the privilege of opening and closing the argument. Should plaintiff decline to make the opening argument, he or she will be considered as thereby waiving the privilege of closing the same, and shall not be allowed to do so. The defendant shall nevertheless have the privilege of making the argument. Before the argument begins, the Judge will announce how much time will be allowed on each side for argument, each side being allowed the same length of time. The plaintiff may apportion the time allotted between the opening and closing argument as the plaintiff may choose, provided the plaintiff shall not consume more than one-half of this time in the closing argument. In those cases in which the Judge decides that the defendant has the affirmative of the issues, the defendant shall have the opening and closing of the argument in like manner and under the same restrictions as above laid down for the plaintiff. The Judge may in his or her discretion change the order of argument as above prescribed in a particular case where the circumstances in the opinion of the Judge require it and where it is so ordered before the argument begins. The Judge may in his or her discretion allow the argument in a particular case to extend beyond the allotted time or allot additional time if the circumstances in the opinion of the Judge render it proper to do so.

RULE 54 JUDGMENT ENTRY

54.1 CONTESTED CASES

54.1.1 Unless otherwise ordered, the attorney for the prevailing party shall prepare and submit a proposed judgment entry to the Judge for approval.

54.2 DEFAULT OR UNCONTESTED CASES

54.2.1 In default and uncontested cases counsel for the prevailing party shall on the day of rendition present to the Judge for approval the proposed judgment or decree to be entered in the case. If the proposed judgment or decree cannot be provided the same day, the case shall be taken under consideration until it is received.

RULES RELATING TO PARTICULAR ACTIONS

RULE 61 JUVENILE AND ADOPTION

61.1 FILING REQUIREMENTS

61.1.1 Division Three is designated as the Juvenile Division. The Juvenile Division shall hear all adoption cases, termination of parental rights cases and all juvenile business other than juvenile matters associated with proceedings for dissolution of marriage or legal separation.

61.1.2 In the event the Judge of the Juvenile Division shall be unable to perform his or her judicial duties because of illness or absence, he or she may notify another Circuit Judge that he or she is unable to perform his or her judicial duties and another Circuit Judge may act for such Circuit Judge during disability or absence, or the Presiding Judge may designate some other Judge of this court to act for said Judge during such absence or disability. Any Circuit Judge or Associate Circuit Judge may act under Supreme Court Rule 111.07.

61.1.3 The adoption and juvenile cases may be heard either at the Clay County Juvenile Justice Center or at the Courthouse, Liberty, Missouri.

61.1.4 The **original and three copies** of the adoption petition, together with a **completed** Certificate of Decree of Adoption and filing fee shall be filed with the Division Three Clerk.

61.1.5 All applications, motions, pleadings, requests or other papers required to be served, made or filed by a party under Supreme Court Rules 110 through 128, shall be served on the Juvenile Officer in the manner set forth in Supreme Court Rule 43.01.

61.l.6 The Circuit Clerk shall provide and keep for the Juvenile Division a separate Judge's docket.

61.1.7 The Judge of the Juvenile Division shall, subject to the approval of the Court en Banc, define, direct, and coordinate the duties of the Director of Court Services for the Juvenile Division.

61.1.8 The Director of Court Services for the Juvenile Division shall be immediately responsible to the Judge of the Juvenile Division in all matters relating to the discharge of his or her duties.

61.2 HOME STUDY

(No Local Rule.)

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

62.3.1 Application for Hearing Under Section 577.041 RSMO, for Refusal to Take Breathalyzer

62.3.1.1 In all applications for hearing under Section 577.041 RSMo for refusal to take a breathalyzer, the Director of Revenue shall be made a party to the cause. The applicant shall include in the body of the petition the name of the officer filing the affidavit of refusal and the name of his or her law enforcement agency.

RULE 63 CASES IN DIVISIONS PRESIDED OVER BY ASSOCIATE CIRCUIT JUDGES

(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 CONTEMPT

(No Local Rule.)

RULE 66 CONDEMNATION

66.1 SEPARATE CASES FOR EXCEPTIONS

66.1.1 In condemnation cases where there is more than one tract of land involved, new civil case numbers shall be assigned to exceptions filed on each separate tract of land.

66.2 WITHDRAWING AWARD OF COMMISSIONERS

66.2.1 Money received on payment of commissioners' awards shall be credited to the parent condemnation case and all applications for withdrawal of the same shall be filed in the parent case.

** 66.2.2 A separate application to withdraw an award shall be filed with the Circuit Clerk as to each separate tract, together with a proposed order allowing withdrawal of the same. Each defendant who may be listed as having an interest in the property covering that particular tract shall be named in the order as a payee, or shall execute a disclaimer, acknowledged as conveyances of real estate are required to be acknowledged under the laws of this state, or in lieu of such acknowledgment, the signature of the person giving such written disclaimer. Said disclaimer shall be filed with the Circuit Clerk.

RULE 67 CRIMINAL CASES

67.1 PRE-TRIAL RELEASE

67.1.1 Motions to Set Bond and for Bond Reduction

67.1.1.1 Bail or other conditions of release shall be set and fixed by the Judge having jurisdiction over the case.

67.1.1.2 All sureties for bonds in criminal proceedings shall conform their practices to the applicable statutes and Supreme Court Rules.

67.1.1.3 Whenever a person is admitted to bail, the conditions of his or her bond must conform in every respect to Supreme Court Rules, and as such, the terms, conditions, and obligations assumed thereby shall in all cases be continuing in nature when the case moves from one division of the court to another.

** 67.1.1.4 No person shall be accepted as an individual surety upon any bail bond unless such person possesses all those qualifications required by Supreme Court Rules and applicable statutes. Individuals who desire to act as a surety without compensation should file in the case file of the defendant for whom they wish to make a bail bond two affidavits: one, demonstrating they are qualified under Supreme Court Rule 33.17, and a second in substantial accord with Missouri Criminal Procedure Form No. 23, GENERAL AFFIDAVIT OF QUALIFICATIONS OF BONDSMEN.

** 67.1.1.5 Any General Bail Bond Agent, properly licensed by the State of Missouri, with current approval by the judge of Division One shall be eligible to act as surety before any Circuit Judge, Associate Circuit Judge, Family Court Commissioner, or Municipal Judge in this county.

** 67.1.1.6 An unsatisfied judgment against a surety, entered upon any bail bond in any court of this state or of the United States, shall disqualify such surety for bonds in any cases wherein the defendant is charged with the commission of a crime. Such disqualification shall continue for so long as judgment remains unsatisfied.

** 67.1.1.7 Every surety who intends to charge and receive compensation for serving as surety must be licensed by the State of Missouri as a General Bail Bond Agent. Every licensed General Bail Bond Agent who desires to sign bail bonds in Clay County shall qualify before the judge of Division One by appropriate monthly affidavit. Such affidavit must be presented to the circuit clerk no later than the first business day (courthouse open) of each month and may be presented as early as five business days before the first business day of the month. Affidavits shall be in substantial accord with the forms and procedures prescribed by the judge of Division One. Information on required forms and procedures shall be available from the circuit clerk. The judge of Division One shall approve those General Bail Bond Agents who shall be entitled to act as surety for persons charged with crimes until the 10th of the next month, subject to disqualification under 67.1.1.6.

67.1.1.8 Nothing contained in this rule shall abridge the right of any person to give bail and execute a bond for his or her own appearance upon complying with the provisions of Supreme Court Rules and applicable statutes.

67.1.1.9 Nothing contained in this rule shall be construed as abridging or otherwise limiting the power of any Judge having jurisdiction over any criminal case to release any person accused on his or her own recognizance or upon any other proper condition of release.

67.1.1.10 No Associate Circuit Judge shall approve any surety bond in criminal case pending before him or her unless:

a. The terms, conditions, and obligations assumed therein are continuing in nature from the Associate Circuit Judge to the Circuit Judge as prescribed by Supreme Court Rules and applicable statutes; and

b. The surety shall have been qualified and approved by the judge of Division One as set forth in these rules.

67.1.2 Deposit of Operator's License

67.1.2.1 Officers of the Missouri State Highway Patrol and the Clay County Sheriff Department are hereby authorized by the rules of this court, at their discretion, to accept the chauffeur's or operator's license issued by the State of Missouri, of any person arrested and charged with a violation of a traffic law of the State of Missouri or traffic ordinance of the County of Clay in lieu of any other security for his or her appearance in court to answer any such charge.

67.1.2.2 Licenses shall not be accepted in cases involving the following charges: driving while intoxicated, driving while under the influence of intoxicating liquor or drugs, leaving the scene of an accident, driving while license is suspended or revoked, or any charge made because of a motor vehicle accident in which a death has occurred. Deposit of said license in lieu of other security shall be under and subject to the provisions of Section 544.045 RSMo.

67.1.3 Availability of Judge for Admitting Persons to Bail

67.1.3.1 The Judge of Division Six shall be available at all hours and times for the purpose of admitting persons to bail.

67.2 PRELIMINARY HEARING

67.2.1 The indictment, information, or other papers in any criminal case, shall be open to inspection by the defendant, or the defendant's attorney, after the accused is in custody or has been released on bail or other conditions of release.

67.3 GRAND JURY

(No Local Rule.)

67.4 ATTORNEYS

67.4.1 Private attorneys shall not be appointed to represent defendants except in those cases where the Public Defender is unable to serve.

67.4.2 Once a private attorney has entered an appearance on a case, the attorney will not be permitted to withdraw the appearance on the sole ground of not having collected a fee. No attorney, public or private, will be permitted to withdraw as counsel for defendant unless the Judge has granted said attorney leave to withdraw. No attorney will be granted leave to withdraw in a criminal case until another attorney has entered an appearance as attorney in such case, or until the matter has been brought before the court upon motion and with at least five (5) days written notice to the defendant.

If a private attorney wishes to limit his or her appearance to preliminary hearing proceedings or for other limited purposes, such attorney must first obtain leave of court for such limited appearance. Such limited appearance shall be duly recorded on the court's records.

67.5 ARRAIGNMENTS

67.5.1 In General
(No Local Rule.)

67.5.2 Dates

67.5.2.1 Each Associate Circuit Judge shall order all persons accused of felonies who are bound over by said judge to appear in the Criminal Division, Clay County Circuit Court, Division One at nine a.m., on Thursday of the week immediately following the action of said Associate Circuit Judge.

67.5.2.2 In all cases pending in the Criminal Division where the defendant remains in the custody of the Sheriff of Clay County, Missouri, in which no date for appearance has been set by the court, the Sheriff shall deliver the defendants to Division One on the Thursday immediately following the date such defendant comes into the Sheriff's custody.

In such cases where a date for appearance has been previously set by the court, the Sheriff shall deliver the defendants to said court on the date and time as set by the court.

All proceedings in the Criminal Division shall commence at 9:00 a.m. unless otherwise ordered by the Judge and all defendants in criminal cases shall appear at that time unless otherwise ordered by the Judge.

67.6 DISCOVERY

(No Local Rule.)

67.7 MOTIONS

(No Local Rule.)

67.8 PLEA BARGAINING

(No Local Rule.)

67.9 GUILTY PLEA

(No Local Rule.)
67.9.l Where Entered

(No Local Rule.)

67.9.2 Petition to Enter Plea of Guilty

67.9.2.1 In all felony cases wherein the defendant desires to plead guilty, the defendant shall prepare a petition to enter a plea of guilty on a form adopted by this court. The petition to enter a plea of guilty shall be executed by the defendant in open court. Copies of this form may be secured from the Circuit Clerk's office.

67.10 CALENDAR

67.10.1 All defendants in criminal cases pending in the Clay County Circuit Court are ordered to appear in the division in which their case is pending and answer to such offenses on the first day of each term of court at nine a.m. unless another date for appearance has been previously set by the court.

67.11 PROBATION AND PAROLE

67.11.1 In all criminal cases where the Judge orders a sentencing assessment report, the Missouri Department of Probation and Parole shall make proper investigation and prepare such report. The report shall be delivered to the court at least twenty-four (24) hours prior to the time of sentencing if practicable. The defendant and his or her attorney will be given a reasonable time to read and examine such report prior to sentencing. Prior to sentencing, the Judge shall allow the defendant to suggest corrections, additions or deletions to the report.

67.12 SEARCH WARRANTS

67.12.1 Applications for search warrants may be filed in the division of any judge. Each division shall maintain a search warrant docket sheet on which to record the filing of each application for a search warrant presented to that division.

67.12.2 Applications shall be date marked "filed" with the time of filing noted. The date and time of filing shall be followed by the number of division and a capital letter to identify the order in which applications are filed that day. The first application of the day will bear the letter "A." Judges to whom an application is presented when a deputy clerk is unavailable should write the word "filed" on the application and note all other required information thereon.

67.12.3 The division search warrant docket sheet entry for each application will show the date, the division number, the identifying letter, and the time of filing, with reference to an "Application."

67.12.4 The issuance of a search warrant shall be docketed on the division search warrant docket sheet with reference to the application.

67.12.5 The denial of an application shall be reflected by an entry on the division search warrant docket sheet that describes the application, followed by the ruling.

67.12.6 The return, when filed in the division, shall be date marked "filed." The division search warrant docket sheet entry for the return shall reflect the application the return relates to and contain reference to "Return."

67.12.7 Division search warrant docket sheets are public records. Denied applications shall be treated as confidential records. Granted applications and resulting warrants shall be treated as confidential records until a return is filed. Thereafter, granted applications, the resulting warrants, and returns are public records. On written motion and for good cause shown, the court may order that an application and resulting warrant being treated as confidential records be opened to the public before the return is filed. Such a motion will be *in rem*, styled, for example, "In re Search Warrant Application, January 1, 2004, 6A," and be addressed to and filed in the division in which the judge who ruled the application sits. Any such motion shall be docketed on the division search warrant docket sheet and be stored with the application in question. Rulings thereon shall be made on the docket sheet clearly referring to the application in question.

67.12.8 Denied applications and applications to which a return has been filed will be centrally stored by the Circuit Clerk. Granted applications shall be held in division **until a return is filed and docketed.** Each warrant issued shall be stored with the successful application.

RULE 68 DISSOLUTION OF MARRIAGE

68.1 FILING REQUIREMENTS

** 68.1.1 In compliance with Section 452.312 RSMo, every petition for dissolution of marriage or legal separation, and every petition for support of a minor child, shall comply with the statute.

** 68.1.2 Every responsive pleading to a petition for dissolution of marriage, legal separation, or for support of a minor child shall comply with the statute.

68.1.3 No hearing shall be conducted nor a decree entered in any dissolution case until thirty (30) days have elapsed after date of filing of the petition.

68.1.4 All decrees of dissolution of marriage or legal separation affecting title to real estate shall be prepared by counsel and upon entry thereof, counsel shall either record an appropriate deed or a certified copy of the decree in the Office of the Recorder of Deeds in the county and state where each tract of real estate is situated.

68.1.5 Attorneys shall furnish all judgment entries for decrees, motions, dismissals, temporary orders, orders for publication, and any order required.

68.1.6 In all default dissolution of marriage cases, or separate maintenance cases, all costs must be paid before a decree is granted.

68.1.7 In all dissolution cases, motions to modify and paternity cases in which there are minor children, the parties shall submit a Form 14. The parties shall also submit a Notice to Circuit Clerk to Effect Income Withholding unless the parties have a written separation agreement to the contrary. These forms shall be furnished by the Circuit Clerk and submitted by the parties at least five days prior to the hearing.

68.1.8 A completed contested property grid shall be submitted to the court by the Petitioner's attorney no later than 4:00 p.m. on the Friday before the dissolution of marriage is set for trial. The property grid shall include all assets and liabilities of Petitioner and Respondent, the values as set forth by sides, the present possession and requested disposition by Petitioner and Respondent. The Respondent and his/her attorney shall fully cooperate with Petitioner's attorney and supply information for the property grid to him/her no later than 4:00 p.m. on Wednesday of that same week.

68.1.9 Attorneys shall furnish all orders for decrees, motions, dismissals, temporary orders, orders for publication, etc.

** 68.1.10 Every decree dissolving a marriage, or granting separate maintenance, every order modifying a previous decree of dissolution, separate maintenance or divorce, and every order for support of a minor child shall comply with the statute.

68.1.11 In all default dissolution of marriage cases, or separate maintenance cases, all costs must be paid before a decree is granted.

68.1.12 In all dissolution cases, motions to modify and paternity cases in which there are minor children, the parties shall submit a Form 14. The parties shall also submit a Notice to Circuit Clerk to Effect Income Withholding unless the parties have a written separation

agreement to the contrary. These forms shall be furnished by the Circuit Clerk and submitted by the parties at least five days prior to the hearing.

68.1.13 A completed contested property grid shall be submitted to the court by the Petitioner's attorney no later than 4:00 p.m. on the Friday before the dissolution of marriage is set for trial. The property grid shall include all assets and liabilities of Petitioner and Respondent, the values as set forth by both sides, the present possession and requested disposition by Petitioner and Respondent. The Respondent and his/her attorney shall fully cooperate with Petitioner's attorney and supply information for the property grid to him/her no later than 4:00 p.m. on Wednesday of that same week.

68.2 SEPARATION AGREEMENT

68.2.1 In all cases where written separation agreements are made under the provisions of Section 452.325 RSMo, a copy of such agreement shall be submitted to the Judge for approval not less than five (5) days prior to the date set for hearing. Counsel shall also prepare and submit to the Judge not less than five (5) days prior to the date of hearing, a proposed decree of dissolution or legal separation in all cases where separation agreements have been made, and the decree shall include therein those terms of the separation agreement required by Sec. 452.325 RSMo. The Judge may in his or her discretion allow a shorter time for the submission of such separation agreement and proposed decree. Waiver of the division of property will not be accepted by the Judge.

68.3 FORM OF DECREES

68.3.1 All decrees shall contain findings by the Judge and must include and recite:

a. The appearances of the parties and the appearances of their attorneys.

b. Date and place of marriage, place of registration of marriage and date of separation.

c. Either that: (1) one of the parties has been a resident of Missouri for ninety (90) days next preceding the commencement of the proceedings, and thirty (30) days have elapsed since the filing of the petition, or (2) one of the parties is a member of the armed services who has been stationed in this State for ninety (90) days next preceding the commencement of the proceeding and that thirty (30) days have elapsed since the filing of the petition.

d. The date of filing of any entry of appearance.

e. Whether there have been children born of the marriage, their names and birth dates.

f. Whether the wife is pregnant.

g. Either (l) that neither petitioner nor respondent is a member of the armed forces of the United States of America, or, (2) if one or both parties are members of the armed forces of the United States of America, a statement to that effect.

If the respondent is a member of the armed forces of the United States of America, that a waiver under the Soldier and Sailors Relief Act has been filed when the same is required under such Act.

h. Whether or not there is marital property to be divided by the Judge.

i. A listing of the value of all real and personal property including encumbrances, and a paragraph to the effect that the Judge finds the value of the property is as set out in the financial statement filed and marked as Exhibit __; or, if there is a difference between petitioner and respondent as to the value of the property, a paragraph as to the value of the property as found by the Judge. Oral property settlement agreements will not be accepted.

j. Whether a written separation agreement has been entered into between the parties, and if so, the decree shall set forth in full its provisions, unless the separation agreement provides otherwise. All provisions in such separation agreements pertaining to custody and child support must be included in the decree, along with a statement that the Judge has examined the separation agreement and found it not unconscionable.

k. If there is a request that the wife's maiden name or former name be restored, the findings shall so state and set out in full the requested name to be restored.

l. That there is no reasonable likelihood that the marriage can be preserved, and therefore, the marriage is irretrievably broken.

m. Each finding of fact shall be set out in a separate paragraph.

68.3.2 The decree shall contain an order which shall contain the following:

a. The marriage between (name of the parties) is dissolved.

b. When minor children are involved, the custody of the children, the amount of support payments for the same, the party to whom the payments are to be made, whether the payments are to be made through the Clerk of the Circuit Court as trustee, the date which payments are to begin, and provisions regarding visitation rights.

c. When a separation agreement has been entered into, and is to be included in the decree, the provisions of such separation agreement shall be performed, except as to child custody and support.

d. If the wife's maiden name or former name is to be restored by the Judge at the time of the hearing, the restored name shall be specified in full.

e. Against whom the costs of the action shall be assessed.

f. All orders for child support or maintenance, entered or modified, shall include a provision notifying the obligor about the withholding of income provisions of Section 452.350 RSMo.

g. The names and current addresses of the petitioner and the respondent, their respective social security numbers, and their respective employer's name and address at the end of the decree, on the lower left hand margin.

h. Each item ordered by the Judge shall be set out in a separate paragraph.

68.3.3 In all cases an original and four copies of the decree shall be submitted to the court, plus one copy if child support is to be paid through the Clerk of the Circuit Court, plus one copy for each county in which there is real estate, title to which is transferred by the decree of the court.

68.4 FILING OF FINANCIAL STATEMENTS

68.4.1 In ALL cases a statement showing the property of the parties, their income and expenses, shall be filed with this court. Such statement shall contain the following:

a. A list of all property and a designation of whether the same is marital or non-marital.

b. The legal description of the real estate.

c. The estimated fair market value and the amount of all encumbrances on each asset.

d. The name of the party having possession or control over each asset.

e. A statement of income and expenses for both parties to the best of the ability of the party filing such statement.

68.4.2 All parties not in default shall provide such statements. Such statements shall be in the form furnished by the Circuit Clerk.

68.5 MODIFICATION OF DECREE

68.5.1 In compliance with Section 452.312 RSMo, every motion for modification of a decree respecting maintenance or support, or motion for support of a minor child, shall contain the name and address of the current employer and the social security number of the petitioner or movant, and, if known to the petitioner or movant, the name and address of the current employer and the social security number of the respondent.

68.5.2 Every responsive pleading to a motion for modification of a decree respecting maintenance or support, or motion for support of a minor child, shall contain the name and address of the current employer and the social security number of the respondent.

68.6 DISCOVERY

****** 68.6.1 In a domestic relations case, any party (including third parties) may serve upon any other party a request that the party served execute one or more authorizations for release of information, including, but not limited to, the form authorizations pre-approved by the Court and furnished by the Circuit Clerk. Such request, designate the specific person or entity to whom the authorization will be submitted. Such request may, without leave of Court, be served upon the petitioner or movant, as the case may be, after commencement of the action and upon any other party with or after service of the summons and the initial pleading upon that party. Unless the request is timely objected to, the party upon whom the request has been served shall execute the same before a notary public, and serve the executed authorization to the requesting party: (a.) Within ten (10) days after service of the request if the authorization sought to be executed is a Court-approved form; or (b.) Within thirty (30) days after service of the request if

the authorization is not a Court-approved form. Upon motion timely filed, the Court may allow a shorter or longer time.

The party upon whom the request is served may object to execution of the authorization, however, any such objection shall be filed with the Court and served upon the party requesting same within the time permitted for execution of same, stating the specific reasons for objection. Failure to timely object to the request shall be deemed a waiver of any objection. A party's execution of an authorization pursuant to this rule shall not be a basis for non-compliance or objection to other methods of discovery permitted by Missouri Supreme Court Rules.

The party submitting the request may move for an Order to compel compliance where the properly executed authorizations are not received when due provided, however, no objection has been filed and served and, provided further, the requesting party shall have first served upon the party to whom the request was made written notice of the failure to comply and five (5) days shall have lapsed thereafter without compliance. Upon the Court's receipt of the motion to compel compliance, where no objection has been timely filed, the Court shall summarily, without further notice and a hearing, enter an Order compelling compliance within ten (10) days from the date of such Order.

If a party fails to serve the properly executed authorizations within ten (10) days from the Court's Order summarily ordering compliance, or timely files objections thereto that are thereafter overruled and the requested authorizations are not timely executed and served thereafter, the Court may, upon motion and reasonable notice to the parties, make such Orders in regard to the failure as are just, including, without limitation, the sanctions described in Rule 61.1 (d) MRCP.

Objections to authorizations may be presented to the Court for ruling by either party by motion and notice of hearing at any time after objections are served. If, after notice and hearing, objections to the authorizations which are pre-approved by the Court are overruled, the Court may assess against such objecting party, attorney or attorney's law firm, or all of them, the attorney's fees reasonably incurred in having such objection overruled.

Upon the request of the authorizing party and upon payment by the authorizing party of one-half of the costs incurred by the requesting party, plus a reasonable copying fee not to exceed twenty-five (25) cents per page, copies of all documents obtained by the requesting party shall be provided to the authorizing party within ten (10) days from the receipt of the authorizing party's said payment.

Rule 44 MRCP, "Time," shall apply to the foregoing rule.

68.6.2 In any domestic action where answers to discovery are more than three days late, the attorney who propounds the discovery shall mail a "golden rule" letter to opposing counsel. The "golden rule" letter shall notify opposing counsel of exactly what discovery has not been answered, the date the discovery was due, and shall provide opposing counsel with a date then (10) days in the future when the discovery must be received by the propounding attorney.

In the event discovery is not received within the period specified in the "golden rule" letter, then the propounding attorney may file a motion to compel with the court which will be summarily ruled on by the court without hearing, requiring all discovery to be provided within ten (10) days of the court order.

In the event the motion to compel is not complied with, sanctions may be imposed after a hearing has been held on the party who has failed to respond when requested by the propounding party.

68.7 PARENT EDUCATION PROGRAM - ATTENDANCE REQUIRED

68.7.1 All parents in a dissolution of marriage, legal separation or paternity action in which there are minor children shall be required to attend a Parent Educational Program. Petitioner shall attend within 45 days of the filing of the original petition and Respondent shall attend within 45 days after service of process. Parents may attend the court-sponsored program or any program approved by the Administrative Family Court Judge.

68.7.2 C.O.P.E., the court's parent education parent program, will be conducted at the Juvenile Justice Center in Liberty, Missouri or at such other location as designated by the Administrative Family Court Judge. The classes will be conducted each week at a regularly scheduled time. Each parent shall be responsible for contacting the Parent Education Program Moderator regarding attendance, location and time of the class. Parents must attend the entire program to obtain a certificate of completion.

68.7.3 No dissolution of marriage, legal separation or paternity action involving minor children shall proceed to final hearing until there has been compliance with this order. The Administrative Family Court Judge may waive this requirement or the judge assigned to the case for good cause shown. Good cause does not include employment or work related conflicts.

68.7.4 The class attendance shall also be required in connection with motions to modify involving visitation or custody issues that are in dispute and motions for family access. Class attendance may be required as part of any Full Order of Protection in an adult abuse or child protection action.

68.7.5 The parties shall be required to sign a Certificate of Attendance that will be collected by the Moderator and thereafter filed with the Clerk of the Court showing that the attendance requirement was fulfilled.

68.7.6 The requirement of attendance for parents shall become effective January 1, 1996 to all cases still pending and to those cases filed after that date.

** 68.7.7 At the time of filing any case where attendance to C.O.P.E is required, the Circuit Clerk shall collect a fee of $60.00 for the parties to attend the C.O.P.E. class. Parties shall contact Family Court Services at the R. Kenneth Elliott Justice Center to enroll in a class. All fees shall be applied to the Family Services Justice Fund. **(*Effective February 1, 2010*)**

68.7.8 The fee schedule for parents and others may be reviewed and revised at any time necessary in the future.

68.8 CUSTODY/VISITATION MEDIATION

** 68.8.1 The Family Court encourages the amicable resolution of custody and visitation issues through mediation as a method of focusing the attention of the parties on the best interest of the child. In every dissolution of marriage, legal separation or paternity action in which there are contested issues of custody and/or visitation, the parties (except for the State of Missouri) shall complete mediation, as provided in Supreme Court Rule 88.02-88.08 and this rule, prior to the filing of a motion for trial setting. Any motion for trial setting shall include an averment that mediation has been completed, or that there are no contested issues regarding

custody or visitation of minor children, or that the case has been excluded or exempted from mandatory mediation as provided by this rule.

68.8.2 Parties may arrange for mediation privately, may apply to the court for an order of mediation, or may request services through the Family Court mediation program by contacting the Director of Office of Dispute Resolution Services to determine eligibility. To insure that mediation is available to all parties, regardless of financial standing; the Family Court Mediation Program shall provide services based on the income of the parties in accordance with guidelines established by the Office of Dispute Resolution Services and approved by the court *en banc*. Parties seeking to participate in the Family Court Mediation Program shall submit income information to the administrator of the Office of Dispute Resolution Services on the form designated for that purpose. Intake procedures performed by the Office of Dispute Resolution Services to screen parties for mediation and to arrange for the delivery of services, with the exception of reasonable suspicion of child abuse or neglect, shall be considered part of the mediation proceedings and treated as confidential under Supreme Court rule 88.08.

68.8.3 The Family Court Office of Dispute Resolution Services shall maintain a copy of The Missouri Bar Dispute Resolution Neutrals List and a list of mediators who are currently contracting to provide services through Family Court sponsored mediation programs who meet the qualifications under Supreme Court Rule 88.05. The lists shall be made available to all parties upon request.

68.8.4 Any party, upon the expiration of thirty (30) days from the date responsive pleadings are due on the original petition or upon the expiration of sixty (60) days from the date of service when no responsive pleading is required, may file a motion requesting the Court to order mediation in the matter. Movant may name a mediator in the request. Each party may petition the Court to disqualify one mediator without stating cause within fifteen (15) days of the designation of the mediator. Thereafter disqualification of a mediator shall be for cause shown. If the parties are unable to agree on a mediator, the court will appoint a mediator. The mediator shall advise the Court of any fact bearing upon a conflict of interest or bias, or any other facts that would be reason for his or her disqualification. If the Court disqualifies a mediator, an order shall be entered naming a qualified replacement. Nothing shall limit a mediator's ability to refuse assignment of any mediation under this rule.

68.8.5 Some cases may be inappropriate for mediation, which may include those with a history of child abuse or neglect or domestic violence. The Court appointed mediator, and the Office of Dispute Resolution Services in the case of matters participating in the court sponsored mediation program, shall screen the parties prior to conducting mediation sessions. If the case is deemed inappropriate for mediation, the mediator or program director shall immediately file the Notice of Mediation Compliance form with the Court.

68.8.6 Any party may request the court to waive the mediation requirement for good cause shown. "Good cause" may be established by specific averments showing that the case is not suitable for mediation, or at the request of any party, the court may refer the case for screening to determine the appropriateness of mediation. Screening procedures performed by the Office of Dispute Resolution Services shall be confidential pursuant to Supreme Court rule 88.08. The pre-screening report shall indicate only whether mediation is or is not appropriate

68.8.7 A mediator assigned to provide services in a case by the court or a court-sponsored program shall give the parties and their counsel of record advance notice in writing of the time and place of the initial mediation session. Any mediation beyond the initial two hours shall proceed by mutual agreement of the parties. Counsel for any party may attend the mediation sessions, but shall first notify the mediator and all counsel of record of his or her intent to attend. If counsel for any party desires to attend after receipt of such notice, but is unavailable

on the scheduled date, the mediation shall be rescheduled at a time convenient to all parties and counsel. Counsel and clients may communicate privately at any time during the mediation process. The guardian *ad litem* for a minor child, if one has been appointed, shall be considered a party to the proceeding and may participate as a party in the mediation process. The mediator shall provide the Court and counsel of record with a copy of the Notice of Mediation Compliance signed by the mediator at the termination of mediation.

68.8.8 The confidentiality provisions of Rule 88.08 shall apply to mediations undertaken to comply with this rule. Any mediator who is required by statute or program guidelines to report reasonable suspicion of child abuse or neglect shall so advise the parties and counsel in writing upon appointment. Except for the completion of the Notice of Compliance, the mediator shall make no other disclosures of a confidential nature during or at the conclusion of mediation without the consent of all participants. The identity of the party who terminates mediation shall not be disclosed.

RULE 69 MUNICIPAL DIVISION

69.1 REFUND OF BOND ON APPLICATION FOR TRIAL DE NOVO

69.1.1 If plaintiff dismisses the information against the defendant, the Circuit Clerk shall without delay return defendant's bond to said defendant.

69.1.2 If defendant dismisses application for trial de novo, the Circuit Clerk shall without delay collect costs and then return defendant's cash bond to the municipal division.

69.1.3 If judgment is rendered against defendant by this court, the Circuit Clerk shall:

a. Collect any fine and costs from the defendant's cash bond or deposit, and after thirty (30) days, shall refund any remainder to defendant, or

b. Collect immediately from the defendant any portion of the fine and costs not covered by the amount of funds on deposit with the court.

69.1.4 If defendant is found by this court to be not guilty, the Circuit Clerk shall without delay return defendant's cash bond to said defendant.

69.1.5 If the court dismisses the application for trial de novo because neither the plaintiff or defendant appears, the Circuit Clerk shall return defendant's cash bond to the municipal division after thirty (30) days.

69.1.6 If the court dismisses the application for trial de novo because the defendant fails to appear for hearing, the Circuit Clerk shall return defendant's cash bond to the municipal division after thirty (30) days.

69.1.7 If the court dismisses the application for trial de novo because the plaintiff fails to appear for hearing, the Circuit Clerk shall return defendant's cash bond to defendant after thirty (30) days.

RULE 70 PARTITION

(No Local Rule.)

RULE 71 ADMINISTRATIVE REVIEWS

(No Local Rule)

RULE 72 PROBATE

72.1 FILING REQUIREMENTS

72.1.1 Every application to the Probate Division shall be under oath or affirmation as provided by Section 472.080 RSMo, and signed by the applicant, except as otherwise provided by the Judge of the Probate Division.

72.1.2 The entire case or the matter or matters involved may be heard in the Probate Division by any other Circuit Judge at the request of the Judge of the Probate Division or any Judge on assignment by the Presiding Judge.

72.1.3 Any order entered in the Probate Division denying or modifying any relief sought by any party without notice and an opportunity for a full evidentiary hearing shall be set aside and the matter reconsidered if application therefore is made to the court by said interested party within thirty (30) days of the entry of said order.

72.1.4 Inventories, claims, and settlements, when filed in the Probate Division, shall be on forms color coded as provided by Supreme Court Operating Rule 4.49 as follows:

a. Inventories - yellow
b. Claims - pink
c. Settlements:
Decedents and conservatorships - green
Trusts - blue.

The Probate Division Clerk shall provide such color-coded forms upon request.

72.2 ATTORNEYS REQUIRED - WHEN

****** 72.2.1 Proceedings and matters for which an attorney of record is required shall include the following:

a. Affidavits of Distributees, 473.097 RSMo, Small estate, deceased estate with $40,000, or less.
b. Any proceeding concerning Letters Testamentary or Letters of Administration of deceased estates.
c. All proceedings for Letters of Conservatorship and/or Guardianship for adults shall have an attorney at least through the <u>filing and approval</u> of Annual Settlement. An attorney is recommended for the administration of the entire estate, including the filing of the Final Settlement and Distribution.
d. All proceedings for Letters of Conservatorship and/or Guardianship for minor children shall have an attorney at least through the <u>filing and approval</u> of Annual Settlement. An attorney is recommended for the administration of the entire estate including the filing of the Final Settlement and Distribution.

RULE 73 SMALL CLAIMS

(No Local Rule.)

RULE 74 TRUST ESTATES THAT ARE SUPERVISED BY THE COURT

74.1 INVENTORY

74.1.1 Within thirty (30) days after appointment, every trustee shall file and present to the Probate Division of the Circuit Court an inventory in writing of the property and effects comprising the trust estate.

74.2 REPORTS

74.2.1 Every trustee shall annually, at such time as ordered by the court, file and present a report in writing of the condition of the trust, including verification of assets.

74.3 RECORD

(No Local Rule.)

74.4 AUDIT

(No Local Rule.)

POST TRIAL

RULE 81 EXECUTION

81. Executions shall not be issued by the Circuit Clerk except upon written application therefor verified by the oath of the judgment-creditor or his or her attorney. The written application shall contain the following:

a. Style and number of case in which judgment was obtained.

b. Date judgment entered or last revived.

c. The amount of the original judgment, the amount of accrued interest on the original judgment, and the amount of the judgment and interest still unsatisfied.

d. The full name and current address, if known, of the judgment-debtor.

e. A full description of the property to be executed on.

** f. The return date designated by the applicant at the time not more than 180 days after issuance.

g. Any special instructions to be provided the sheriff performing the execution.

RULE 82 GARNISHMENT

82.1 When interrogatories to garnishee are filed in a garnishment sued out on execution on transcripts of judgments from a division presided over by an Associate Circuit Judge from another county, the same shall be given a number as used by the Circuit Clerk and treated as a separate and distinct case.

82.2 When a garnishee requests an allowance from the court, and is discharged without exceptions to or denial of the answer, the garnishee shall be allowed by the court the sum of $25.00, or, if discharged without interrogatories, the sum of $10.00, to be taxed as costs or deducted from the funds, if any, in his or her hands. In all other cases the allowance, if any, shall be such as the court shall deem reasonable.

82.3 Exceptions to and denials of answers of garnishee shall, unless otherwise ordered, be filed within ten (10) days after the filing of the answers is made upon the garnishor. Replies or other pleadings of the garnishee shall be made within ten (10) days after the garnishor serves such exceptions or denials on the garnishee.

RULE 83 JUDICIAL SALES

83.1 No report of a commissioner in partition, and no report of sale by the Sheriff or any commissioner appointed by a Judge, not excepted to, shall be confirmed unless the same has been filed for at least three (3) days. Such three-day period may be shortened if all the parties in interest, their attorneys, and any conservators, expressly request in writing that an order of confirmation be entered.

RULE 84 JUDGMENTS

84.1 SATISFACTION OF JUDGMENTS

84.1. When a Satisfaction of Judgment has been filed in a civil case heard before an Associate Circuit Judge, if a Transcript of Judgment has been filed with the Circuit Clerk, the Circuit Clerk shall enter a Satisfaction of Judgment on the Transcript.

INTERNAL ORGANIZATION

RULE 100

100.1 PRESIDING JUDGE

100.1.1 Election

100.1.1.1 A majority of all the Circuit Judges meeting en banc, each even-numbered year at a December meeting, shall elect a Circuit Judge among their number as Presiding Judge. The election shall be conducted by secret written ballot and shall require a majority vote.

100.1.2 Duties of the Presiding Judge

100.1.2.1 The Presiding Judge shall be the administrative judge of the court and shall preside at all meetings of the Court en Banc.

100.1.2.2 The Presiding Judge shall supervise the preparation of all budgets with respect to the Circuit Court and all activities thereof, and present the same to the Court en Banc for approval.

100.1.2.3 The Presiding Judge shall have the authority to transfer cases among the Circuit Judges and Associate Circuit Judges as may be necessary to expedite the docket.

100.1.2.4 Administrative decisions of the Circuit Judges en Banc shall be made only after consultation with the Associate Circuit Judges of the circuit. The Circuit Judges and Associate Circuit Judges shall meet at least once each term at the call of the Presiding Judge. The place and time of such meetings will be determined by the Presiding Judge. A majority of all the Circuit Judges shall constitute a quorum to authorize the transaction of business. All business shall be concluded by a majority vote of those Circuit Judges present, except when otherwise provided by law.

100.1.2.5 Special meetings of the Court en Banc shall be called by the Presiding Judge or upon request in writing signed by any two Circuit Judges.

100.1.3 Dispute Resolution - Procedure
(No Local Rule.)

100.1.4 Presiding Judge - Term

100.1.4.1 The Presiding Judge shall serve for a term of two (2) years, commencing on the first day of January following the election and shall be eligible for an

unlimited number of terms. The Presiding Judge may be removed during the term by a three-fourths (3/4) vote of all the Circuit Judges.

100.2 LOCAL COURT RULES

100.2.1 Formulation

100.2.1.1 These rules may be amended by a majority of all the Circuit Judges sitting en banc for that purpose.

100.2.2 Publication
(No Local Rule.)

100.3 LIBRARY FUND

100.3.1 The Law Library fees will be collected and paid by the Circuit Clerk to the Trustee of the "Clay County Law Library Fund" and shall be disbursed by said Trustee for the purposes of the Clay County Law Library as provided by law.

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 Storage 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 VENIREPERSONS

(No Local Rule.)

ADMINISTRATIVE RULES

100.7 DISMISSAL REVIEW COMMITTEE

100.7.1 The Court En Banc shall comprise the "Dismissal Review Committee" and the "Grievance Review Committee" in accordance with Supreme Court Operating Rule 7.

Meetings may be called in the same manner as other Court En Banc meetings.