

**LOCAL COURT
RULES
of the
ELEVENTH
JUDICIAL CIRCUIT
STATE OF
MISSOURI**



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ADMINISTRATION

RULE 1 DIVISIONS OF COURT

The Eleventh Judicial Circuit shall for the purposes of these rules be composed of Division I through XVI, Municipal Divisions, Family Court Division, Juvenile Division, Probate Division and Small Claims Court in St. Charles County.

- (a) The divisions of the Circuit Court which are presided over by Circuit Judges shall be known as “Circuit Judge, Division No. 1”, “Circuit Judge, Division No. 2”, “Circuit Judge, Division No. 3”, “Circuit Judge, Division No. 4”, "Circuit Judge, Division 5", and "Circuit Judge, Division 7”.
- (b) The divisions of the Circuit Court which are presided over by Associate Circuit Judges shall be known as “Associate Circuit Judge, Division No. 6”, “Associate Circuit Judge, Division No. 8”, Associate Circuit Judge, Division 9", "Associate Circuit Judge, Division 10", "Associate Circuit Judge, Division 11", and "Associate Circuit Judge, Division 12" “Associate Circuit Judge, Division 13”, “Associate Circuit Judge, Division No. 14” and “Associate Circuit Judge, Division 16”.
- (c) The Probate Judge shall be the Circuit Judge/Associate Judge so designated by the Presiding Judge to hear cases of the Probate Division of the Circuit Court of St. Charles County. The division of the Circuit Court presided over by the Probate Commissioner shall be known at “Probate Commissioner, Associate Circuit Division No. 15”.
- (d) The Administrative Family Court Judge shall be the Circuit Judge so designated by the Presiding Judge to hear cases of the Family Court/ Juvenile Court Division of the Circuit Court of St. Charles County.
- (e) The Juvenile Division shall be administered by the Juvenile Officer/Family Court Administrator and shall report to the Presiding Judge. The Juvenile Officer/Family Court Administrator shall be appointed by the Presiding Judge with the approval of the Court En Banc.
- (f) There shall be Municipal Divisions of the Circuit Court in St. Charles County.
 - 1) If any municipality in St. Charles County elects to retain its Municipal Judge, the Municipal Judge shall hear and determine municipal ordinance violations in the Municipal Division of the Circuit Court located in the municipality so electing to retain its Municipal Judge.
 - 2) If any municipality in St. Charles County elects not to retain its Municipal Judge, municipal ordinance violations shall be heard and determined by an Associate Judge.

- (g) Small claims cases shall be heard by Associate Judges in the Small Claims Court of the Circuit Court of St. Charles County.

(Eff. Nov. 1, 1991. Amended, eff 8/28/00, 1/2/07, 5/4/15, 3/6/23, 02/05/24.)

RULE 2 HOURS AND TERMS OF COURT

2.1 HOURS OF COURT

All divisions of this court shall open at 9:00 o'clock in the forenoon of each day of court. Special appointments and settings for any other time shall be made with the Judge of the division involved.

(Eff. Nov. 1, 1991. Amended, eff Jan. 15, 1992; Aug. 28, 2000.)

2.2 TERMS OF COURT

The terms of Court shall commence on the Second Monday in January, April, July and October.

(Note: When such Law Day or Term Day falls on a legal holiday, it will be held on the following day.)

(Eff. Nov. 1, 1991. Amended, eff Aug. 28, 2000.)

2.3 LAW DAYS

- (a) All motions or other matters preliminary to trial may be heard on any Law Day in the division the case was assigned upon five (5) days service upon or eight (8) days if by mail and written notice to adverse parties or by consent of the parties.
- (b) Default: Cases in default may be prosecuted to final judgment in any division on any Law Day.
- (c) Counsel serving said notice or desiring action by the Court on said motion, preliminary matter or default, shall notify the Clerk of the court no later than noon the last working day before any Law Day that said cause is to be heard.
- (d) The calendar for Law Days as adopted may be obtained from the Circuit Clerk's Office.
- (e) Oral arguments on motions or other matters preliminary to trial shall be no longer than ten (10) minutes for each party with moving party permitted to divide total time with not more than five (5) minutes for rebuttal. On application by either party the court may grant additional time.
- (f) No motion, default or other preliminary matters requiring twenty

(20) minutes or more for presentation shall be heard on any Law Day unless waived by the Court. On any Law Day such matters may, on proper notice, be given a special setting.

(Eff. Nov. 1, 1991. Amended, eff Aug. 28, 2000; Apr. 3, 2017)

2.4 PARTICULAR MATTERS ON PARTICULAR DAYS

(No local rule)

RULE 3 PLEADINGS

3.1 CAPTIONS

Pleadings which are filed within this Circuit shall be captioned in the following manner, and any pleadings not so captioned shall be returned by the Clerk to the party attempting to file the same.

(Eff. Nov. 1, 1991. Amended, eff. April 1, 1994.)

3.2 STYLE

(a) Circuit Judge cases:

IN THE ELEVENTH JUDICIAL CIRCUIT, STATE OF MISSOURI
JUDGE DIVISION

(b) Probate cases:

IN THE ELEVENTH JUDICIAL CIRCUIT, STATE OF MISSOURI
PROBATE DIVISION IN
THE ESTATE OF JOHN DOE, DECEASED

(c) Family Court cases:

IN THE ELEVENTH JUDICIAL CIRCUIT, STATE OF MISSOURI
FAMILY COURT DIVISION

In marriage cases:

IN RE THE MARRIAGE OF: JANE
DOE,

PETITIONER,

AND

JOHN DOE,

RESPONDENT.

In all other cases:

IN THE INTEREST OF JOHN DOE

(d) Municipal cases:

IN THE ELEVENTH JUDICIAL CIRCUIT, STATE OF MISSOURI (NAME OF CITY), MUNICIPAL DIVISION

CITY OF _____,)
PLAINTIFF)
VS.) CASE # _____
JOHN DOE,)
DEFENDANT)

(e) Associate Circuit Court cases **not** in excess of \$5,000:

IN THE ELEVENTH JUDICIAL CIRCUIT, STATE OF MISSOURI ASSOCIATE JUDGE DIVISION

(f) Associate Circuit Court cases in excess of \$5,000:

IN THE ELEVENTH JUDICIAL CIRCUIT, STATE OF MISSOURI ASSOCIATE JUDGE DIVISION CLAIM IN EXCESS OF \$5,000

(g) Title of action:

In the title of all actions there shall include a title of the action which shall be in the following form: "Petition for _____ (here insert a short and concise statement of the type of action being filed.) Any petition not so titled shall be returned by the Clerk to the party attempting to file the same.

(Eff. Nov. 1, 1991., Amended 10/6/03, Amended 1/2/07)

3.3 PLEADINGS AND PAPER – SIZE

All pleadings and other papers, except exhibits and Wills, offered for filing in any court within the Eleventh Judicial Circuit, and all forms used in any such court, including opinions, shall be on a paper of a size not larger than 8 ½ x 11 inches. An exhibit may be on paper larger than 8 ½ x 11 inches. Briefs shall be prepared as provided in Supreme Court Rules 81.17 and 84.06.

Pleadings, Motions, Suggestions, Briefs and other papers and documents except exhibits, filed or submitted to the Court shall be plainly, clearly and legibly typed or printed and double-spaced (except on lined forms with indicated spacing) and shall otherwise comply with Supreme Court rules and rules of this circuit.

(Eff. Nov. 1, 1991, Amended 1/2/07)

3.4 FILING BY FACSIMILE TRANSMISSION

Whenever only one copy of a motion, pleading or other document is required to be filed, and no filing fee or cost deposit is required for the filing, the document may be filed with the Court by facsimile transmission pursuant to Rule 43, unless the document is required to be electronically filed by rule. Unless a document is required to be filed electronically, a document received by facsimile transmission will be deemed as of the date and time recorded by the facsimile. The party transmitting the document is responsible for the completeness of the transmission.

Waiver of these rules may only be granted by the Court.

(Adopted, eff. June 5, 1995, Amended Dec. 2, 2011)

RULE 4 FILING OF CASES

4.1 CRIMINAL CASES

- (a) All criminal cases except those enumerated in paragraph (b) herein shall be filed with the Criminal Division. Upon receipt of the original pleading, the said clerk shall mark said document “filed”, set forth thereon the date of such filing, assign to said document the next chronological number and prepare such other documents necessary for the recording of the transactions and the indexing of such action. All criminal cases filed by complaint, shall be assigned to the appropriate Associate Circuit Judge, all criminal cases filed by indictment or change of venue shall be assigned to the appropriate Circuit Judge and such assignment shall be determined by a selection process approved by the Court except in the following cases:
1. When a new criminal case is filed wherein the named defendant is also a defendant in an active criminal case pending before a Judge, the new case may be assigned to the same judge as the pending case; and
 2. Only one defendant may be named in each criminal case. When cases are filed wherein more than one defendant is a co-defendant in the same alleged criminal offense, all cases naming the co-defendants may be assigned to the same Judge. The Judge shall be determined by the selection process approved by the Court.
- (b) Uniform Traffic Tickets, Conservation and Water Safety Division matters shall be filed directly by the appropriate authority in the Traffic Division of the Circuit Court.
- (c) Upon receipt of said file and the records of such assigned action, the clerk shall be charged with the responsibility of issuing process and making and storing of the electronic and/or written records of the case until it is finally determined by the assigned judge.
- (d) Upon final determination by the Judge of such division, the clerk shall mark the file closed and retain the file for permanent storage.

(Eff. Nov. 1, 1991. Amended, eff. May 1, 1992, Aug. 28, 2000, Dec. 9, 2002, May 5, 2003, Dec. 3, 2012)

4.1.1 SEARCH WARRANTS

All court records pertaining to Applications/Affidavits for Search Warrants and Search Warrants issued pursuant thereto shall be maintained as closed records unless and until a return is made thereon, or the record is opened by order of the issuing judge.

(Adopted, eff. April 1, 2002.)

4.1.2 FILING ARREST WARRANTS BY FACSIMILE TRANSMISSION

Filing by facsimile transmission of arrest warrants, complaints with attached probable cause statements, and indictments shall have the same effect as the filing of an original document, even though it may be required to be verified or submitted by affidavit. A facsimile signature shall have the same effect as an original signature. The person filing by facsimile transmission shall thereafter file the original with the facsimile.

(Adopted, eff. April 1, 2002)

4.2 CIVIL CASES

- (a) The commencement of Civil Division actions shall be upon the filing of the original pleading with the Civil Division of the Circuit Clerk. Upon receipt of the original pleading, the required filing fee and the appropriate "Civil Court Party Information Sheet", said clerk shall mark said document as "filed", set forth thereon the date of such filing, assign to said document the next chronological number and prepare such other documents necessary for the recording of the transaction and the indexing of said action.
- (b) In any action in which the original jurisdiction is or has been solely in the Circuit Judge Division, the said clerk shall perform all duties described in paragraph 1 above with respect to the filing of the original petition, shall receive all subsequent pleadings in the case and maintain the records of the case such as to properly reflect the Court's proceedings.
 1. The said Clerk shall keep and maintain separate file cabinets in which shall be kept and deposited the current files of actions above described pending before the Circuit Judge Division, unless the case is maintained electronically.
 2. When such action is finally determined, the said clerk shall remove the file of such case from the file cabinet containing the

current files of matters pending before the Civil Division an shall place or properly record such file in a separate cabinet or other container designated for the permanent storage of such records of the Court, unless the case is maintained electronically.

- (c) In any action commenced by the filing of the original pleadings and determined as an Associate Civil case of the Circuit Court, shall be filed in the Civil Division of the Circuit Court. The clerk shall perform the various required duties described in paragraph (a) above.
1. The clerk shall be charged with the responsibility of issuing process and making and storing of the electronic and/or written records of the case until it is finally determined by the Judge of that division.
 2. Bulk filing shall be authorized in Associate Civil cases by attorneys and/or law firms which file in excess of fifty (50) civil cases per year, if said attorney or law firm files a request in the Circuit Court as a bulk filer. The Associate Circuit Judges shall assign such cases to the appropriate Associate Circuit Judge. Provisions shall be made to keep an equal distribution of civil cases assigned to each division.
 3. Upon final determination by the Judge of such division, the Division Clerk shall mark the file closed and retain the file for permanent storage.

(Eff. Nov. 1, 1991. Amended, eff. May 1, 1991; Aug. 28, 2000, Dec. 9, 2002, Dec. 3, 2012.)

4.2.1 SPECIAL PROCESS SERVER

Service of process may be made per § 506.140.1 RSMo by some person specially appointed by the court or the circuit clerk for service in any cause, but such appointment shall be valid for service of the process only for which such person was specially appointed.

No person may receive an appointment under this rule unless that individual files with the office of the Circuit Clerk a notarized affidavit, to be attached to the motion for special process server, stating that the individual meets all of the following qualifications:

- (1) Be at least eighteen (18) years of age;
- (2) Be a citizen of the United States of America;
- (3) Have a high school diploma or equivalent;
- (4) Not have pled guilty to or been convicted of a felony or a misdemeanor

- involving moral turpitude;
- (5) Not be a fugitive from justice or currently charged with a felony or a misdemeanor involving moral turpitude;
 - (6) Not be related to or employed by a party in the action;
 - (7) Not have been disqualified to act as a special process server within the preceding twelve (12) months, and;
 - (8) If service is to be made outside the State of Missouri, authorized to serve process in the jurisdiction in which it is to be served.

Any application for the appointment of a special process server shall be in writing, shall be at the risk and cost of the party making the application and shall state that the person to be appointed is qualified to serve process, is a private person over 18 years of age and not a party to the action. If service is sought and served by a private person, the private person shall endorse the private person's return thereon and the return shall be by affidavit.

(Adopted, eff. Feb. 4, 2002, Amended 9/8/08, 3/4/24)

4.2.2 CONDEMNATION CASES

The Plaintiff filing suit for eminent domain shall schedule with the court to provide the names of condemnation commissioners at least 7 days prior to hearing date.

(Adopted May 5, 2003)

4.2.3 PRO SE FAMILY CASES

Pro Se litigants filing any Family Court case must use the Self Represent website and submit forms for all case types available from this site. All documents shall be filled in using the computer and may not be filled in by hand. Only licensed attorneys may assist Pro Se litigants in filling out these forms and must sign the forms before they are submitted to the court, unless otherwise approved by the Court.

(Adopted June 8, 2015)

4.3 PROBATE CASES

- (a) All original pleadings including will and initial application for letters shall be filed with the Probate Division.
- (b) The Probate Division Clerk shall be charged with all responsibilities of issuing process and making and storing of the records of the case.

4.3.1 JUDGMENTS CONFIRMING JUDGMENTS, ORDERS AND DECREES OF COMMISSIONER

- (a) The judge of the probate division shall by judgment of record reject or confirm all judgments, decrees and orders of the probate commissioner

within the time the judge could set aside such judgments, decrees and orders had the same been made by it. If so confirmed, the judgments, decrees and orders shall have the same effect as if made by the judge on the date of their confirmation.

- (b) The judgments of the confirmation of the judgments, decrees and orders of the probate commissioner are recorded in the probate file number assigned to the probate commissioner.
- (c) Each judgment, decree and order entered by the probate commissioner shall contain the following:

So Ordered:

Commissioner

Date

Notice of Confirmation

The foregoing judgment, decree and order entered by the commissioner is subject to confirmation or rejection by the judge of the probate division within the time the Court would have control over its own judgments, decree and order.

Confirmation of Commissioner’s Judgment, Decree and Order

The judgment, decree and order of the commissioner is hereby CONFIRMED, RATIFIED and APPROVED.

Judge

Date

(eff. Nov. 1, 1991. Amended, eff. August 28, 2000, Amended, eff October 11, 2022, Amended, eff November 7, 2022.)

4.4 JUVENILE CASES

(No local rule)

4.5 SMALL CLAIMS CASES

- (a) All Small Claims shall be filed directly by the appropriate authority in the Civil Division of the Circuit Court.
- (b) The clerk of said division shall make, keep and properly reflect the Court's proceedings of such actions maintained in such divisions.

(Eff. Nov. 1, 1991. Amended, eff. August 28, 2000, Dec. 9, 2002.)

4.6 MUNICIPAL CASES

Certain fees are set by statute and vary from time to time, therefore, costs deposits will be established by orders of the respective divisions and a schedule of the amounts can be obtained from the Circuit Clerk's Office.

(Eff. Nov. 1, 1991. Amended, Eff. August 28, 2000.)

RULE 5 FEES AND COSTS

5.1 FILING FEE AND COST DEPOSIT

Certain fees are set by statute and vary from time to time, therefore, costs deposits will be established by orders of the respective divisions and a schedule of the amounts can be obtained from the Circuit Clerk's Office.

(Eff. Nov. 1, 1991. Amended June 2, 1997, eff. July 1, 1997. Amended, eff. Aug. 28, 2000.)

5.2 COSTS

The Circuit Clerk shall be responsible for the collection of all costs except:

Fees in a case pending in a Municipal Division:

(Eff. Nov. 1, 1991. Amended prior to June 2, 1997. Amended, eff. Aug. 28, 2000, Dec. 9, 2002.)

5.3 WITNESS FEES

(No local rule)

5.4 WAIVER OF FEES

(No local rule)

5.5 MOTION FOR SECURITY

(a) Further security for costs may be required upon motion of defendant, the Court, or any other officer of the Court. Upon the hearing of a motion for security of costs, or to sue as a poor person, the burden of proof of establishing the grounds therefor shall be upon the party filing such motion, except when such motion is filed by the Court.

(b) In lieu of filing motion for security costs, the court reporter may require a deposit for estimated cost of transcript on appeal.

(Eff. Nov. 1, 1991. Amended, eff. Aug. 28, 2000.)

5.6 PAYMENT OF COURT COSTS AND FINES

Payment of court costs and fines may be made by cash, money order, cashier's check or credit card. Credit cards will be accepted as of November 1, 2008.

(Adopted, eff. June 5, 2000. Amended, eff. Aug. 28, 2000, Amended Sept. 8, 2008.)

5.7 TIME PAYMENT FEE

Any judgment, penalty, fine, sanction or court cost not paid in full within thirty days of the date of the court imposed the judgment, penalty, fine, sanction or court cost, or such other time as established by the court, shall have an additional time payment fee of twenty-five dollars (\$25.00) imposed.

(Effective October 1, 2003, amended 1/5/15)

5.8 CASES REFERRED FOR DEBT COLLECTION

Pursuant to Section 488.5030, RSMo St. Charles County Circuit Court has contracted with CSI (Client Services Inc.), a private collection agency, to collect past-due court-ordered penalties, fines, restitution, sanctions, court costs, including restitution and juvenile monetary assessments, or judgments due to the court.

Unless exempted by the court, cases are automatically referred for collection when the balance becomes sixty days past due. Pursuant to section 488.5030 RSMo, a fee equaling twenty percent of the amount due the court will be added to the balance due on the case. The additional twenty percent covers the cost of collection and shall be retained by CSI from the funds received, prorated to the amount collected. The remaining portion will be forwarded to the Clerk/Court Services and credited toward the balance due.

For any outstanding warrant issued for failure to pay fines and costs, on or before June 4, 2004 by St. Charles County Circuit Court, the St. Charles County Sheriff shall add twenty percent to the cash bond set by the issuing judge, and prior to release of the defendant, shall collect the total cash bond amount plus the additional twenty percent and pay the total amount over to the Circuit Court. The circuit court will receipt and credit the cash bond amount plus the collection fee and forward the total to CSI. If the case has not been referred to CSI for collection, the difference in the bond amount and the full amount of fines and costs will be refunded to the defendant by the Circuit Court.

(Adopted August 2, 2004, Amended Dec. 3, 2012)

5.9 OVERPAYMENT/UNDERPAYMENT OF COURT COSTS

Pursuant to Section 488.014 RSMo., the Circuit Clerk's Office shall not be required to refund any overpayment of court costs in an amount not to exceed five dollars or to collect any due court costs in an amount less than five dollars. Any overpaid funds are to be retained in an account with the county, and expended by the circuit clerk for the operation of the court.

(Adopted eff. Sept. 6, 2005.)

5.10 COPY FEES FOR PUBLIC RECORDS

Pursuant to Section 610.026.1 (1) RSMo., COR 2, COR 4, and COR 8, the Circuit Clerk's Office sets the copy fees for administrative and case records at \$0.25 per page. An additional fee of \$1.50 for certification and \$2.50 for authentication will be added per document, if requested.

(Adopted, eff. May 7, 2018.)

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

6.1 **ASSIGNMENT TO ASSOCIATE CIRCUIT JUDGES**

Criminal cases and civil cases of limited jurisdiction shall be immediately docketed for hearing before an Associate Circuit Judge by the appropriate division clerk, pursuant to an Individualized Docketing Plan approved by the Court, except as provided in Rule 4.1 (a) and 2 and Rule 4.2 (c) (2).

(eff. Nov. 1, 1991. Amended, eff. May 1, 1992; Aug. 28, 2000, Amended 1/2/07.)

6.2 **ASSIGNMENT TO CIRCUIT JUDGES**

All cases filed by Plaintiff that request a monetary judgment in excess of \$25,000.00, shall be filed in the Circuit Judge Division, with the exception of Rent and Possession Cases, Unlawful Detainer Cases and any cases within the exclusive jurisdiction of the Associate Divisions. All Circuit Court cases shall be assigned immediately upon filing in the Circuit Court to a division pursuant to an Individualized Docketing Plan approved by the Court.

(Eff. Nov. 1, 1991. Amended, eff. April 1, 1994; Aug. 28, 2000, May 5, 2003, Dec. 2, 2011)

6.3 **CERTIFICATION TO CIRCUIT DIVISION**

(No local rule)

6.4 **TRIAL DE NOVO**

(No local rule)

6.5 **DISQUALIFICATION OF JUDGE**

Immediately upon disqualification of any Associate Circuit Judge the cause shall be automatically assigned, by the appropriate associate division, on a random basis, to another Associate Circuit Judge without further order. If all Associate Circuit Judges are disqualified the cause shall immediately be given to the Presiding Judge for reassignment.

Immediately upon disqualification of any Circuit Judge the cause shall be given to the Presiding Judge for reassignment.

(Eff. Nov. 1, 1991. Amende, eff Aug. 28, 2000, Dec. 9, 2002, May 5, 2003.)

6.6 ABSENCE OF JUDGE

In the absence of the Circuit Judge of any division on account of sickness or otherwise, any other Circuit Judge may sit as the Judge of the division in which the Judge is absent and perform all the duties of said absent Judge. Likewise, in the absence of the Associate Circuit Judge of any division on account of sickness or otherwise, any other Associate Circuit Judge or Circuit Judge may sit as the Judge of the division in which the Judge is absent and perform all of the duties of said absent Judge.

(Eff. Nov. 1, 1991. Amended, eff. Aug 28, 2000.)

6.7 ABSENCE OF PRESIDING JUDGE

At the time of the election of each Presiding Judge of the 11th Judicial Circuit, he/she shall select another Circuit Judge to be the designated Acting Presiding Judge in the event the Presiding Judge is unavailable. In the event the Presiding Judge and the designated Acting Presiding Judge are both unavailable, the Presiding Judge may select another Circuit Judge to be the Acting Presiding Judge for a designated period of time. During such period of time as the Presiding Judge is unavailable, the Acting Presiding Judge may exercise the responsibilities prescribed by law for the Presiding Judge. Anything herein to the contrary notwithstanding, this rule shall not be interpreted as intending to apply to the type of disqualification referred to in subparagraph 1 of Section 1 of Section 478.240, RSMo 1978. And in Article 5, Section 24 of the Missouri Constitution.

For a general discussion of the duties of the Presiding Judge, see Local Rule 100.1.2.

(Eff. Nov. 1, 1991. Amended, eff. Aug. 28, 2000 and Sept. 8, 2014.)

RULE 7 WITHDRAWALS OF PAPER FROM CLERK'S OFFICE

7.1 WHEN ALLOWED

No official files of the Circuit Court or any division thereof shall leave the Office of the Circuit Clerk or the Office of any Division Clerk except in the custody of employees of the Circuit Court.

(Eff. Nov. 1, 1991.)

7.2 DUPLICATING POLICY

Requests for duplicate copies of court recorded testimony taken using sound recording equipment should be directed to the clerk of the division in which the case was heard.

Copies of a court hearing taken using digital sound recording will be duplicated by the circuit clerk's office after receipt of a fee of \$3.50 per CD. Copies of a court hearing taken using analog sound recording equipment will be duplicated from the tape by the Office of State Courts Administrator after the filing of a deposit with the circuit clerk's office and will be charged at a rate set by the Office of State Courts Administrator.

(Adopted Mar. 3, 2003, Aug. 2, 2004, eff. Aug. 28, 2004)

RULE 8 PUBLICATION OF DOCKETS

8.1 TRIAL DOCKET

(No local rule)

8.2 DISMISSAL OF INACTIVE CASES

- (a) Any case filed in the Circuit Court (excluding domestic, juvenile and probate cases) in which there has been no activity for the preceding six (6) months shall be subject to dismissal by the court for failure to prosecute. Upon order of the court a notice of intent to dismiss any such inactive case shall be sent by the Circuit Clerk to all parties by U.S. Mail or Electronic Notice. Said notice shall include a date of dismissal at least thirty (30) days after the date on the notice.
- (b) Any case for which a notice pursuant to rule 8.2 (a) has been sent, may be reinstated to active status by Order of the Court, upon a party's filing, prior to the date set for dismissal, a written motion requesting that said cause be reinstated to active status. Said motion shall be accompanied by a request for trial setting which specifies that the trial is to be a jury trial or that a jury trial is waived and which states the estimated length of the trial.
- (c) If no motion to reinstate a case to active status is filed before the intended dismissal date, the judge assigned to the case may order that the case be dismissed for failure to prosecute.
- (d) The Circuit Clerk shall send by U.S. Mail or Electronic Notice a copy of any order dismissing a case per Rule 8.2 (c) to all attorneys of record, and if there is no attorney of record, to the party.
- (e) Any order of dismissal entered pursuant to Rule 8.2 (c) may be set aside by Order of the Court upon a party timely filing a written motion requesting reinstatement and upon good cause shown. Any motion to set aside an order of dismissal shall be accompanied by a written request for trial setting which specifies that the trial is to be a jury trial or that a jury trial is waived and which states the estimated length of the trial.

(Eff. Nov. 1, 1991. Amended, eff. April 1, 1994; Jan. 1, 1995; Jan. 3, 2000, eff. March 1, 2000, Sept. 10, 2012.)

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

(No local rule)

9.4 COURTROOM DECORUM AND DRESS

(No local rule)

9.5 WHO IS PERMITTED WITHIN THE BAR

(No local rule)

RULE 10 COURT REPORTERS AND COMPENSATION FOR SAME

(No local rule)

RULE 11 RECORDING OF JUDICIAL PROCEEDINGS

11.1 NO UNAUTHORIZED RECORDINGS, PHOTOGRAPHING, BROADCAST; EXCEPTIONS

No person shall broadcast, televise, record or take photographs by any means, including but not limited to cell phones, within the St. Charles County Courts Administration Building, except for the following:

- (a) Court personnel authorized to preserve the record..
- (b) Recording of preliminary hearings authorized by the judge conducting the hearing.
- (c) Wedding parties.
- (d) Adoption ceremonies, with the permission of the judge presiding over the proceeding.

11.2 PROCEDURE TO REQUEST PERMISSION

All other persons intending to bring a camera or any other device other than a cell phone, capable of making an audio or visual recording into the St. Charles County Courts Administration Building shall first complete a written request and obtain approval for such authorization. Such request shall contain the purpose and destination of any such recording equipment. Upon receiving request, security personnel shall communicate with the appropriate person or persons authorized to approve such request.

11.3 THOSE AUTHORIZED TO GRANT PERMISSION

For the purpose of this Rule, “persons authorized to approve such requests’ are the following, when the requested use is for the approver’s office:

- (e) Any circuit or associate circuit judge.
- (f) The prosecuting attorney or his or her designee.
- (g) The circuit clerk.
- (h) The director of facilities.
- (i) The public defender.

(Eff. Nov. 1, 1991, amended Dec. 9, 2002, amended June 5, 2006, Aug. 7, 2006)

RULE 12 MONIES PAID INTO COURT

12.1 BOND IN CIVIL CASES

(No local rule)

RULE 13 COMMUNICATIONS WITH COURT

13.1 ORAL COMMUNICATIONS WITH THE COURT

The Court will not permit private interviews, arguments, or communications where interests to be affected thereby are not represented, except in cases where provisions are made by law for ex parte communications. Any such attempt will be summarily terminated by the Court.

(Eff. Nov. 1, 1991.)

13.2 WRITTEN COMMUNICATIONS WITH THE COURT

Ex parte communications to a judge will not be considered confidential, and same will be placed in the court file in the Clerk's Office, open to public inspection.

(Eff. Nov. 1, 1991.)

GENERAL RULES

RULE 21 ATTORNEYS

21.1 RESOLUTION OF CONFLICTING TRIAL SETTINGS

- (a) If more than one case, in which the same attorney appears, to be set for trial in different divisions at the same time, the following priorities shall govern:
 - (1) Circuit Judge Division cases shall have precedence over Associate Judge Division cases.
 - (2) Criminal trials shall have precedence over civil trials; and
 - (3) The oldest case filed shall have precedence over all other cases.
- (b) Should trial in one division be delayed because an attorney is engaged, said cause shall be returned to the trial docket to be reset for trial upon request of any party.
- (c) If a trial setting in a division is delayed because an attorney is engaged in an argument before an appellate court, or in another circuit court, said cause shall be returned to the trial docket to be reset for trial upon request of any party.

(Eff. Nov. 1, 1991. Amended, eff. April 1, 1994.)

21.2 ENTRIES OF APPEARANCE

No written entry of appearance will be accepted in lieu of service of summons unless the same shows that defendant has received a copy of the petition, and has been acknowledged in the same manner as deeds of conveyance are required by law to be executed.

(Eff. Nov. 1, 1991.)

21.3 CONDUCT OF ATTORNEYS

- (d) When addressing the Court, attorneys shall stand and only one argument will be heard from each side, except that the counsel first raising the point has the right to close by answering the argument of his adversary.
- (e) Where more than one attorney represents a party only one attorney shall examine or cross-examine each witness, such counsel shall be changed only by leave of Court.
- (b) In criminal cases, with more than one defendant represented by different counsel, the order of examination shall be determined by the Judge presiding at the trial.
- (d) While examining a witness, counsel shall stand or sit at the counsel table, in such manner that all attorneys engaged in the trial as well as the court and the jury may have a full view of the witness.
- (e) In case of disagreement as to the location of counsel at the table, counsel for the plaintiff or for the State shall take the table closest to the jury.
- (f) When objecting to the introduction of any evidence, counsel shall state explicitly the ground of objection without argument.
- (g) Counsel shall be expected to dress appropriately and shall inform the parties and any prospective witness that appropriate dress shall be required.

(Eff. Nov. 1, 1991. Amended, eff. April 1, 1994.)

21.4 WITHDRAWAL OF ATTORNEYS

The conditions under which an attorney is allowed to withdraw from the employ of a client are set out in Rule 4.V.A.M.R., (“Code of Professional Responsibility”) Canon 2, Ethical Consideration 2-32 and Disciplinary Rule 2-110. Any attorney who desires to withdraw as attorney of record for any party to any action pending in this Court shall comply with the following procedures, unless the withdrawal request pertains to disposed cases referred to in paragraph (f):

- (a) The attorney shall file a written motion requesting leave of Court to withdraw. If the case is then set for trial, the reason for the request must be set forth in the motion. Attached to the motion shall be a notice of the date and time at which the moving attorney will call up the motion before the court for hearing.
- (b) A copy of the motion and the notice shall be served upon all parties, including the client from whose employ the attorney is seeking leave to withdraw, in the manner provided by V.A.M.R., 43.01. If the case in which the attorney is seeking leave to withdraw is a criminal case, the notice shall instruct the client that the client must appear in person at the hearing.
- (c) The last known address of the client from whose employ the attorney is seeking leave to withdraw shall be plainly set out in the motion or the certificate of service thereon.
- (d) The attorney seeking leave to withdraw must appear in open court and call up the motion at the time specified in the notice. If the case in which the attorney is seeking leave to withdraw is a criminal case, it shall be the duty of the client to appear in person in compliance with the notice mentioned in subparagraph “2” above.
- (e) If the client fails to appear, and if the attorney is granted leave to withdraw, the attorney shall immediately notify his former client by letter of the attorney’s withdrawal and shall send a copy of the letter to the clerk. Such letter shall conform to Rule 4 EC 2.32 of the Missouri Supreme Court.
- (f) Any disposed case where the attorney of record did not file a withdrawal request after disposition, may request the court to allow them to withdraw without appearing in open court.

(Eff. Nov. 1, 1991, Amended Dec. 3, 2012.)

21.5 FAILURE OF ATTORNEYS TO ANSWER CALL DOCKET

When any case or matter pending is called for trial, and either or both parties fail to appear or answer ready, the same shall be dismissed for want of prosecution, or judgment entered, or other appropriate order made, in the discretion of the Court.

(Eff. Nov. 1, 1991.)

21.6 APPOINTMENT OF ATTORNEYS

(No local rule)

21.7 AGREEMENT OF ATTORNEYS

Except for oral stipulations agreed to by both counsel in open court, no private oral agreement between parties or counsel will be recognized by the Court. Any agreement contemplating action or the withholding of action by this Court shall be in writing and filed with the Clerk.

(Eff. Nov. 1, 1991.)

21.8 ADVISE TO CLIENT AND WITNESSES OF COURTROOM PROCEDURE

(No local rule)

RULE 22 GUARDIAN AD LITEM

22.1 APPOINTMENT OF GUARDIAN AD LITEM

(a) WHEN GUARDIAN AD LITEM MUST BE APPOINTED

The appointment of a guardian ad litem shall be made where child abuse or neglect is alleged. The appointment may be made at any time following the allegation of child abuse or neglect, including the filing of the petition if such allegations are made in the petition. The court may appoint a guardian ad litem in such cases without a hearing.

(b) WHEN A GUARDIAN AD LITEM MAY BE APPOINTED

The appointment of a guardian ad litem, at the discretion of the Court, may be made:

1. Upon the request of any party with or without a hearing.
2. In an action for declaration of paternity where the child is named as a defendant, or if the Court determines that the interest of the child and his/her Next Friend are in conflict; or
3. Upon the request of the parties in a dissolution of marriage, modification or legal separation case where child custody, child support or visitation rights are contested issues.

(Eff. Nov. 1, 1991. Amended, eff. April 1, 1994; eff. July 5, 2000.)

22.2 CONTESTED ISSUE DEFINED

Within the context of Rule 22, “Contested Issue” shall be the claim and denial, by any party, of child support, child custody, or request for more liberal or more restricted visitation rights.

(Eff. Nov. 1, 1991. Amended, eff. April 1, 1994; eff. July 5, 2000.)

22.3 PAYMENT OF GUARDIAN AD LITEM FEES

(a) SECURITY

Payment of guardian ad litem fees shall be made upon court order from the security deposited with the Court by the parties. Payment shall be made at the conclusion of the case or at intervals in which the Court deems appropriate. Additional security may be ordered by the Court to

cover additional guardian ad litem fees. Sufficient security for guardian ad litem fees may be ordered without a hearing.

(b) NO SECURITY

In the event that security has not been posted for the payment of guardian ad litem fees, such fees may be awarded as a judgment, to be paid by any party to the proceeding, or may be taxed as costs, to be paid by the party against whom costs are taxed, or from public funds. Prior to assessing guardian ad litem fees to public funds, notice shall be given pursuant to Local Court Rule 22.2.2, unless the governmental entity concerned has filed a memorandum with the Court stating that it does not intend to intervene and contest the reasonableness of the guardian ad litem fees.

(c) NOTICE

The guardian ad litem shall file a notice with the government entity having custody of public funds when he or she intends to request the Court to tax his or her fees as costs against public funds. The notice shall be filed with the Court and the government entity, in writing, prior to the trial or date of hearing.

(Eff. Nov. 1, 1991. Amended, eff. April 1, 1994; eff. July 5, 2000.)

22.4 STANDARDS WITH COMMENTS FOR GUARDIANS AD LITEM (Effective September 1, 2011)

STANDARD 1.0 Appointment of Guardians ad Litem

When appointing a guardian ad litem for a child, the court shall only appoint a lawyer licensed by the Supreme Court who has completed the training required by these standards.

The court may designate a court appointed special advocate volunteer to assist in the performance of the guardian ad litem duties for the court as provided by law.

Comment: If the court is presented with a petition or motion to modify under section 211.031.1, RSMo, requesting that a child be placed in temporary protective custody, the court immediately shall appoint a guardian ad litem for the child. In all other family law related court matters provided in chapters 210, 452, 453, and 455, RSMo, the guardian ad litem shall be appointed not later than the first proceeding at which a guardian ad litem is required by law. The

guardian ad litem shall serve until the matter is concluded or as otherwise ordered by the court.

Lawyers appointed to act as guardians ad litem shall act in accordance with the rules of professional conduct.

A non-lawyer court appointed special advocate volunteer shall not serve as guardian ad litem or provide legal representation for the child as provided by law.

STANDARD 2.0 Caseloads

A guardian ad litem has a duty to notify the court if the caseload reaches a level bearing upon the guardian ad litem's ability to meet these standards or to comply with the ethical standards of the rules of professional conduct.

Comment: The appointing court is responsible for making certain each lawyer appointed as a guardian ad litem is able to meet his or her obligations to the child. These obligations include those required under these standards and those required under the ethical and professional standards of a lawyer.

In making guardian ad litem appointments, each court will be familiar with its jurisdiction, being mindful of the amount of time that is necessary to perform the guardian ad litem's duties under these standards.

Additionally, the court should take into account if a court appointed special advocate volunteer is available to assist in the performance of the guardian ad litem duties for the court.

STANDARD 3.0 Independent Judgment of Guardian ad Litem

A guardian ad litem shall be guided by the best interests of the child and shall exercise independent judgment on behalf of the child in all matters.

Comment: The guardian ad litem must recommend only what is in the best interests of the child on each issue and must maintain an objectivity that preserves a clear focus on the child's best interests.

The roles of a guardian ad litem and a lawyer for the child are different and must be clearly distinguished. A guardian ad litem is not the lawyer for the child and, therefore, advocates the best interests of the child rather than merely representing the child's preferences.

The participation of a lawyer in a matter in which the lawyer previously has served as guardian ad litem is governed by Rule 4-1.12.

STANDARD 4.0 General Duties and Responsibilities

The guardian ad litem shall provide not only factual information to the court but also shall diligently advocate a position in the best interests of the child.

The guardian ad litem shall be prepared to participate fully in any proceedings and not merely defer to the other parties. The guardian ad litem may examine, cross examine, subpoena witnesses, and offer testimony.

The guardian ad litem when appropriate to represent the best interests of the child shall file petitions, motions, parenting plans, responses, or objections.

The court shall assure the guardian ad litem maintains independent representation of the best interests of the child. The court shall require the guardian ad litem to perform the guardian ad litem duties faithfully and, upon failure to do so, shall discharge the guardian ad litem and appoint another.

Comment: Prior to the commencement of a hearing, the guardian ad litem should conduct all necessary interviews with persons having contact with or knowledge of the child in order to ascertain the child's wishes, feelings, attachments, and attitudes. The guardian ad litem should conduct interviews with the child except when the child is too young or some other legitimate circumstance prevents an interview.

In conducting the interviews, the guardian ad litem should not communicate with a person the guardian ad litem knows to be represented by another lawyer in the matter unless the guardian ad litem has the consent of the other lawyer or is authorized to do so by law or by court order. See Rule 4-4.2.

The guardian ad litem should relate to the child according to the child's stage of development and understand the child's sense of time in relation to the child's age. The guardian ad litem should conduct regular face-to-face meetings with the child, to the extent appropriate, to observe the child's physical, mental, social, educational, and familial well-being and to form opinions concerning the child's best interests. The guardian ad litem should not diagnose or work therapeutically with the child, but regular, face-to-face contact will ensure informed observations when conferring with other specialists.

STANDARD 5.0 Access Between Guardian ad Litem and Child

The guardian ad litem and the child shall have access to each other at reasonable times and places, and this access shall not be restricted or limited by any agency or person without good cause. To ensure proper access, the guardian ad litem has the obligation to ascertain the location of the child, to initiate communication with the child, and to provide the child with contact information for the guardian ad litem promptly. The child's legal custodian shall provide the guardian ad litem with timely information regarding the current residence of the child and shall notify the guardian ad litem promptly of any change in placement of the

child.

Comment: Establishing and maintaining a relationship with the child is the foundation of effective guardian ad litem representation. Frequent communication between the guardian ad litem and the child is an important part of promoting the relationship. It is essential that the child be readily accessible to the guardian ad litem to ensure frequent communication and in order for the guardian ad litem to fulfill his or her duties. The guardian ad litem should be excluded from access with the child only in rare and extreme circumstances.

It is equally important that the guardian ad litem be easily accessible to the child. The child should be provided with the name, telephone number, and address of the guardian ad litem immediately upon the appointment of the guardian ad litem and the opportunity, at reasonable times, to initiate contact with the guardian ad litem.

STANDARD 6.0 Guardian ad Litem Access to Reports and Records

The guardian ad litem is entitled to all reports relevant to the case and shall have access to all relevant records relating to the child, the placement of the child, or the child's family members.

Comment: The guardian ad litem must have complete access to all relevant information related to the child and the child's situation. See section 210.160, RSMo. The order appointing the guardian ad litem may include an order directing the release of confidential information and records about the child to the guardian ad litem.

A key aspect of representing a child is to obtain and review all documents to be submitted to the court as well as relevant agency and party case files, educational records, medical records, mental health records, and law enforcement reports. The information contained in such records may provide a more complete context for the current problems experienced by the child and family, may suggest additional professional and lay witnesses that can provide testimony necessary to a full hearing of the issues before the court, and may reveal alternate potential placement resources.

It is essential that the guardian ad litem personally review the available information rather than relying upon descriptions, summaries, or characterizations of the evidence provided by others.

STANDARD 7.0 Confidentiality and Privilege

A guardian ad litem shall comply with all statutes, rules, and regulations relating to the receipt of confidential or privileged information received as guardian ad litem.

A guardian ad litem shall not re-disclose any confidential or privileged information without valid court order or as required by law except as permitted by Rule 4-1.6.

Comment: During the course of fulfilling the duties and obligations of serving as the guardian ad litem for a child, the guardian ad litem will have access to and will receive confidential and privileged information. This information will apply not only to the child but also may pertain to a parent or other guardian for the child or others involved in the case. This information includes but is not limited to children's division reports, educational records, and medical, psychological, and substance abuse treatment records. The guardian ad litem has a duty to maintain confidentiality of all the information received. Discussion among the parties about confidential or privileged information is allowed. However it is generally not permissible to re-disclose any of this information to any person not a participant to the case.

The guardian ad litem should protect against the release of confidential information about the child during the court process. Most court hearings are open. If testimony or evidence about the child that is confidential or privileged will be presented, the guardian ad litem may request that the courtroom be closed pursuant to Rule 122.01 or that a protective order be entered by the court.

The guardian ad litem should maintain a file consistent with the provisions of Rule 4-1.15. The child is not the owner of that file. Only the court has the authority to rule on any request concerning the handling or disposition of the file and order its release or early destruction or to rule on any request concerning the handling or disposition of the file. The guardian ad litem should not provide the file to anyone, including the child, without the consent of the court.

The guardian ad litem should be familiar with section 210.140, RSMo, 42 U.S.C. 290dd.2, and 42 C.F.R. sec. 2.

STANDARD 8.0 Progress of the Case through the Court Process

The guardian ad litem shall review the progress of a child's case through the court process and advocate for timely hearings, provision of necessary services, and compliance with court orders.

Comment: The harmful effects of prolonged foster care and a lack of permanency planning for children are serious and well documented. (*Foster Children in the Courts*, edited by Mark Hardin, 1983; *Addressing the Impact of Foster Care on Biological Children and Their Families*, by Maha Younes, 2007.)

Children need permanence, absent compelling reasons to the contrary. The guardian ad litem should advocate for a timely, permanent resolution of the case.

The guardian ad litem has a duty of diligent and prompt representation and a duty to expedite litigation, especially where placement of a young child is at issue. The guardian ad litem should attempt to reduce case delays and promote permanency for the child.

While it is recognized that delays are usually harmful, there may be some circumstances when delays may be beneficial to the child and should be utilized.

Representing the best interests of a child should reflect the passage of time and the changing needs of the child. The guardian ad litem should stay in touch with the child, third party caretakers, case workers, and service providers throughout the term of appointment to ensure the child's needs are met and the case moves quickly to an appropriate resolution. The guardian ad litem should monitor the implementation of the court's orders and communicate any noncompliance to the responsible agency and, if necessary, to the court. The guardian ad litem should ensure services are provided and the court's orders are implemented in a complete and timely fashion.

STANDARD 9.0 Relating the Court Process to the Child

The guardian ad litem shall explain, when appropriate, the court process and the role of the guardian ad litem to the child. The guardian ad litem shall ensure that the child is informed of the purpose of each court proceeding.

Comment: To decrease the trauma to the child, the guardian ad litem should explain to the child what is happening and what is expected of the child in all proceedings involving the child. All communications should be adapted to the child's age, level of education, cognitive development, cultural background, and degree of language acquisition, using an interpreter if necessary. The guardian ad litem should make a diligent effort to ensure that the child understands the nature of the proceedings, the placement or services that may result, and the possibility of future modifications in placement or services.

Older youth should be encouraged to attend hearings and should be aware of their role during proceedings. Older youth should be provided with information about their rights, services, and permanency options, including the possibility of remaining in care until their 21st birthday. The guardian ad litem will assure the child that the child's opinion and feelings will be made known to the court even when not consistent with the recommendations of the guardian ad litem.

STANDARD 10.0 Participation in Case-Related Activities

The guardian ad litem shall participate, when appropriate, in the development and negotiation of any service plans, parenting plans, proposed orders, and staffings that affect the best interests of the child as they relate to the case at hand.

The guardian ad litem shall monitor implementation of service plans and court orders while the case is pending to determine whether services ordered by the

court are being provided in a timely manner.

Comment: The guardian ad litem should be present and actively participate in staffings and meetings including, but not limited to, family support team meetings and permanency planning review team meetings affecting the safety and well-being of the child and the accomplishment of any court approved permanency goal.

STANDARD 11.0 Participation in Court Proceedings

The guardian ad litem shall appear at all court proceedings in which the guardian ad litem is appointed. The guardian ad litem shall not waive the presence of the child at court proceedings without good cause. The guardian ad litem shall participate actively and fully in all court proceedings. The guardian ad litem shall present evidence, file pleadings, and call witnesses when appropriate to ensure all information relevant to the child's best interests is presented to the court for consideration.

Comment: A guardian ad litem may testify to particular facts and issues before the court relating to the child's best interests or the guardian ad litem's recommendation, if any.

Under such circumstances, the guardian ad litem may be subject to cross-examination. It is within the discretion of the court whether or not to receive testimony from the guardian ad litem in custody proceedings under section 452.490, RSMo.

The guardian ad litem may attend other proceedings involving the child's best interests.

The guardian ad litem should ensure the court's receipt of all information relevant to the child's best interests.

STANDARD 12.0 Protecting the Child as Witness

The guardian ad litem in a pending case shall protect the interests of the child who is a witness in any judicial proceeding in which the guardian ad litem has been appointed. In matters for which the guardian ad litem is appointed, the guardian ad litem shall be present during any conferences between the counsel for a party and the child. The guardian ad litem should be notified of all proceedings or meetings involving the child.

Comment: The guardian ad litem should endeavor to protect the child from multiple depositions and repetitive examinations that are not in the child's best interests.

STANDARD 13.0 Recommendations to the Court

The guardian ad litem shall present a recommendation to the court when

authorized by law or requested by the court on the basis of the evidence presented and consistent with the best interests of the child.

During the proceedings, the guardian ad litem must inform the court of the child's wishes and preferences even though different from the guardian ad litem's recommendation.

Comment: To make a recommendation to the court that serves the child's best interests, the guardian ad litem should have knowledge of the child's circumstances from all sources, which may include, but are not limited to, the parents, caseworker, deputy juvenile officers, teachers, treatment providers, and court appointed special advocate volunteers.

If the guardian ad litem determines there is conflict between advocating for the best interests of the child and representation of the child's preferences, the guardian ad litem shall continue to perform as the guardian ad litem for the child and may request that the court appoint another lawyer to represent the child's preferences.

STANDARD 14.0 Training

The court shall not appoint a lawyer to serve as guardian ad litem until the lawyer has completed eight hours of continuing legal education devoted to guardian ad litem training. Thereafter, to continue to be appointed as a guardian ad litem, a lawyer shall complete three hours of continuing legal education devoted to guardian ad litem training annually. The hours required for guardian ad litem training qualify toward the mandatory annual 15 hours of continuing legal education.

The program sponsor shall obtain approval of the program for continuing legal education from The Missouri Bar. Any continuing legal education required by this standard shall not be completed by self study. In addition, the program sponsor shall obtain approval of the program as guardian ad litem training from the presiding judge in a circuit where the training is offered. Completion of the training hours shall be documented by an affidavit or other evidence filed with the appointing court by July 31st of each year.

Any lawyer who has completed at least six hours of guardian ad litem training within five years prior to the date of the adoption of these standards shall not be required to complete the initial eight hour course of study. Any lawyer currently approved by the court to serve as a guardian ad litem who has not completed any guardian ad litem training within five years prior to the date of the adoption of these standards shall have one year from the date of the adoption of these standards to complete the initial eight hours of training.

The judge appointing the guardian ad litem shall determine whether the lawyer has completed the required training prior to making any appointment.

Prior to appointment, the lawyer must have completed a training program in permanency planning.

Comment: Guardian ad litem practice is unique and complex and, as such, requires specialized education, training, and experience.

The specialized training may include the following topics:

- (a) Dynamics of child abuse and neglect issues;
- (b) Factors to consider in determining the best interests of the child, including the required permanency planning and the child's right to be with his or her family;
- (c) Inter-relationships between family system, legal process and the child welfare system;
- (d) Federal, state and local legislation and case law affecting children;
- (e) Cultural and ethnic diversity and gender-specific issues;
- (f) Family and domestic violence issues;
- (g) Available community resources and services;
- (h) Child development issues; and
- (i) Guardian ad litem standards.

The guardian ad litem is not expected to make diagnostic or therapeutic recommendations. The guardian ad litem must have a working knowledge of family dynamics and be able to compare and relate this concept to the observations, reports, and documentation received regarding the child and the child's family.

(Adopted, eff. July 5, 2000, Amended 9/8/08. 9/12/11)

RULE 23 TRANSCRIPTS

(No Local rule)

RULE 24 **EXHIBITS**

- (a) All exhibits offered during the trial of a case, except depositions filed, shall remain in the custody of the attorney offering the same and shall at all reasonable times be subject to examination by opposing counsel.
- (b) Except for good cause shown, the attorney shall have the reporter mark all exhibits proposed to be offered in evidence prior to trial.

(Eff. Nov. 1, 1991.)

PRETRIAL MATTERS

RULE 32 DISCOVERY

32.1 USE OF DISCOVERY AND CERTIFICATION TO CIRCUIT DIVISION

(No local rule)

32.2 INTERROGATORIES

Where a party files objections to any interrogatories the interrogatory objected to shall be set out in full before the stated objection.

(Eff. Nov. 1, 1991.)

32.3 DEPOSITIONS

- (a) When written discovery is served upon opposing counsel, which shall include Interrogatories and Requests for Production of Documents, a disc or storage medium containing such discovery shall accompany the discovery requests and shall be served on opposing counsel at the same time said written discovery is served upon opposing counsel. The disc shall be new, virus-free, high density, 1.44 megabyte disc or new virus-free CD-Rom, or may be forwarded as an e-mail attachment if consent to such service has been filed in accordance with Supreme Court Rule 43.01 (c) 1 D, or such other electronic storage device as may be commonly in use, with an adhesive label attached thereto, identifying the storage device and style of the case. The disc or storage medium shall be in either Microsoft Word or Word Perfect format.
- (b) In lieu of submitting a disc or other storage device as required by Rule 32.3(a), the attorney or party submitting the discovery may sign and submit with his discovery certification in substantially the following format: Application for Discovery Disc Exemption Pursuant to Local Rule 32, I hereby state that I do not have the technical capacity to submit my discovery request by disc or other electronic means at this time or that submission of a disc for this discovery request would constitute an undue hardship for my office due to [describe hardship], and therefore request an exemption from the requirements of Rule 32.3(a) to file a disc with this discovery.

(Adopted Dec. 1, 2003, eff. Jan. 1, 2004, amended Aug. 2, 2010, amended Feb. 14, 2012)

32.4 MOTION FOR SANCTIONS

(No local rule)

32.5 CRIMINAL DISCOVERY

(No local rule)

32.6 BUSINESS RECORDS, COPIES, REPORTS AND OTHER WRITTEN DISCOVERY

The business records and copies that constitute discovery in a case shall not be filed in the court with the affidavit of the records custodian.

Reports and other written discovery shall not be submitted to the court for filing, except by the Prosecuting Attorney's Office and the Juvenile Office.

(Adopted. Aug. 1, 2011, amended 11/3/14)

RULE 33 PRE-TRIAL MOTIONS

33.1 HEARING DATES

All motions or other matters preliminary to trial may be heard on any Law Day in any division upon five days' service upon or eight days if by mail and written notice to adverse parties or by consent of the parties.

(Eff. Nov. 1, 1991, amended 10/6/03, Amended 1/2/07)

33.2 BRIEFS IN SUPPORT OF MOTIONS, WHEN REQUIRED

(No local rule)

33.3 ORAL ARGUMENTS – WHEN DESIRED AND HOW REQUESTED

Oral argument on motions or other matters preliminary to trial shall be no longer than ten (10) minutes for each party with moving party permitted to divide total time with not more than five (5) minutes for rebuttal. On application by either party the court may grant additional time.

(Eff. Nov. 1, 1991.)

33.4 MOTIONS IN LIMINE

All Motions in Limine shall be in writing and accompanied by citations of authority. They shall be filed and notice given to the adverse party no later than five (5) day prior to the date of trial.

(Eff. Nov. 1, 1991.)

33.5 MOTIONS FOR TEMPORARY ALLOWANCES

(Repealed, see Rule 68)

(Adopted, eff. 3/16/1992, Amended 1/2/07)

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(Eff. Nov. 1, 1991.)

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(Repealed, see Rule 68)

(Adopted, eff. 3/16/1992, Amended 1/2/07)

RULE 34 **CONTINUANCES**

- (a) In accordance with Supreme Court Rules an application for a continuance shall be made by a written motion and shall be accompanied by the affidavit of the applicant or some other credible person setting forth the facts upon which the application is based.
- (b) All motions for a continuance shall be signed by the party and that party's attorney.
- (c) Continuances shall be granted upon a showing of good cause. In criminal cases no continuances shall be granted unless the court finds the ends of justice served by taking such action outweigh the benefits of a speedy trial.
- (d) When a continuance is granted in any case in the Circuit Judge Division, said case shall be restored to the trial docket.
- (e) When a continuance is granted in a Probate Division case, Juvenile Division case or Associate Judge Division case, hearing on said cause shall be reset to a date certain at the time the continuance is granted, or continued generally to be reset upon notice properly given.
- (f) Every continuance granted on the application of a party may be at the cost of such party, if so ordered by the Court.

(Eff. Nov. 1, 1991.)

34.1 **CIVIL CASES**

(No local rule)

34.2 **CRIMINAL CASES**

(No local rule)

RULE 35 **PRE-TRIAL CONFERENCES**

The Court upon request of either party or upon its own motion may order a pre-trial conference in order to clarify issues and expedite trial.

(Eff. Nov. 1, 1991.)

RULE 36 SETTING CASES FOR TRIAL

36.1 REQUEST FOR TRIAL

- (a) Circuit Judge Divisions
- (1) No case will be place on the trial docket until the case is at issue.
 - (2) Setting Cases for Trial: After a case is at issue, it will be placed on the Trial Docket.
 - (3) If a case shall not be reached on the date set, it shall be restored to the trial docket for resetting, unless otherwise ordered.
 - (4) The dates of said trial settings, names of trial counsel and the division to which it was assigned for trial will be available at the Circuit Clerk's Office; and such dates, names and assignments shall also be mailed to all attorneys of record, if any, otherwise to the parties. The parties shall advise the court in writing within ten (10) days of such mailing of any change in the trial counsel so designated.

(b) Associate Judge Division

Cases docketed in the Associate Judge Division may be set for trial by request either in writing or in open court on the return date or any setting date thereafter.

(c) Amendment of Pleadings

After a case has been place on the trial docket or set for trial, no pleadings may be amended except by leave of Court, and such leave will be granted only upon a showing of due diligence in requesting such leave at the earliest practical time.

(Eff. Nov. 1, 1991. Amended, eff. April 1, 1994.)

36.2 DATE OF CALENDAR CALL

(No local rule)

36.3 PREPARATION OF CALENDAR

(No local rule)

36.4 CALENDAR CALL

(No local rule)

36.5 INACTIVE CALENDAR

(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

(See Rule 8.2)

37.2 REINSTATEMENT OF CAUSE

(See Rule 8.2)

RULE 38 ALTERNATIVE DISPUTE RESOLUTION

38.1 ESTABLISHMENT OF LOCAL RULE

- (1) Pursuant to Supreme Court Rule 17, the Court adopts the following Alternative Dispute Resolution (A.D.R.) local rule. The purpose of this local rule shall be to foster timely, economical, fair and voluntary settlement of lawsuits without delaying or interfering with a party's right to resolve a lawsuit by trial. This rule shall apply to civil actions, heard on the record, pending in a non-family court division, upon the agreement of the parties or upon an order of the Court.
- (2) A.D.R. programs shall include arbitration, early neutral evaluation, mediation, mini-trial, and summary jury trial, all as defined by Supreme Court Rule 17.01, and any other A.D.R. procedures approved by the Court. A.D.R. shall be non-binding unless the parties enter into a written agreement to the contrary.
- (3) Nothing herein shall preclude the parties from agreeing to participate in an A.D.R. program independent of this Rule, provided that the Court is aware of and agrees to the proposed A.D.R. program.

38.2 NOTICE OF ALTERNATIVE DISPUTE RESOLUTION SERVICES

- (1) In all civil actions to which this rule applies, a Notice of the availability of A.D.R. shall be furnished to all parties. The Circuit Clerk shall mail or otherwise provide a copy of the Notice to the initiating party as soon as possible. If the initiating party is represented by an attorney of record, the Circuit Clerk may provide the Notice to the attorney of record. Upon receipt of Notice, the attorney shall immediately provide a copy to each party represented. The opposing party or parties shall be provided the Notice by attaching a copy to the summons issued in the action.
- (2) The Notice shall advise the parties of the availability and purposes of A.D.R. and shall inform the parties that the name of neutrals qualified under this rule and a description of their background and fees may be obtained from the Clerk.
- (3) Upon receipt of the A.D.R. Form contained in the Notice, and at any other time, counsel shall discuss A.D.R. with their clients.

38.3 REFERRAL TO ALTERNATIVE DISPUTE RESOLUTION

- (1) If all parties agree to utilize an A.D.R. procedure, the Court may enter an Order of Referral to A.D.R. Absent such agreement by the parties, the Court may determine on motion of a party, whether or not the case is appropriate for A.D.R. If the Court determines A.D.R. is appropriate, it shall so indicate on the Order of Referral. When the court orders the parties to participate in an A.D.R. program, the parties shall proceed accordingly and shall report the outcome thereof, but not the specific results, to the Court, as provided by Supreme Court Rule 17. The results shall be reported on a form within 90 days of the Order, or within ten days of the conclusion of the process, whichever is sooner, unless another time is set by the Court. The Court may determine the A.D.R. program. Discovery shall not be delayed during the pendency of the A.D.R. process unless ordered by the Court upon motion of a party.
- (2) If, after conferring with all other parties, a party concludes that A.D.R. has no reasonable chance of being productive, the Court shall be so advised in writing. This “opt out” notification shall be made within 30 days of the Order of Referral. The cause shall not thereafter be referred by the Court to A.D.R., absent compelling circumstances which shall be set out by the Court in subsequent Order of Referral.
- (3) The results of the A.D.R. process shall not be binding upon the parties unless the parties agree.
- (4) Settlement shall be by written document setting out the essential terms of the agreement and executed after termination of the A.D.R. process.

38.4 SELECTION OF NEUTRALS

Within ten days of the Order of Referral, the parties shall jointly select a neutral available and willing to serve from a list of qualified persons provided by the Court. Such list shall be compiled by the Circuit Clerk from applications of individuals qualified and willing to serve. In the event the parties cannot agree upon the neutral to be selected, the Court shall make the selection. The parties may, at any time, agree upon any other neutral, whether or not the neutral is on a Court maintained list, provided the neutral is qualified under Supreme Court Rule 17.04.

38.5 ATTENDANCE

Unless the Court orders otherwise, all parties (or their representatives with authority to resolve the case, including insurance carriers) shall attend the A.D.R. meeting set by the neutral.

38.6 CONFIDENTIALITY

The proceedings shall be private, confidential, and regarded as settlement negotiations as provided in Supreme Court Rules 17.05 and 17.06. No stenographic, electronic or other record of an A.D.R. process shall be made.

38.7 COMPENSATION

The mediator, arbitrator or other neutral shall receive such compensation as the parties and the person selected agree. The fee, unless otherwise agreed by the parties, shall be borne equally by the parties, and shall be paid directly to the person selected. The Court shall have the right to review the reasonableness of the fee charged by the neutral.

38.8 LIST OF NEUTRALS

The Circuit Clerk shall maintain and make available to counsel, parties and the public a list of qualified neutrals compiled by the Clerk under this rule. The list shall include the neutral's training, experience, qualifications and other information deemed appropriate. Neutrals shall be trained as provided in Supreme Court Rule 17.04. The Court en banc may remove any name from the list in its sole discretion, with or without cause. Neutrals shall advise the Clerk of any material change regarding their listing.

38.9 DISQUALIFICATION AND WITHDRAWAL OF NEUTRALS

No person shall serve as a neutral in a proceeding in which the neutral is interested, prejudiced, related to a party, has been counsel to a party in the cause, or under any other circumstances which reasonably call into question the neutral's impartiality. A neutral may withdraw for any reason deemed appropriate by the neutral.

(Adopted 10/6/03, eff. 1/1/04)

SETTLEMENT AND DEFAULT

RULE 41 SETTLEMENT

41.1 NOTICE OF SETTLEMENT

(No local rule)

RULE 42 DEFAULT

- (a) In any action or proceeding, if there shall be a default of any appearance by the defendant, the plaintiff before judgment shall file a verified petition or an affidavit setting forth facts showing that defendant is not in military service. If unable to file such verified petition or affidavit, plaintiff shall in lieu thereof file a verified petition or affidavit setting forth either that the defendant is in military service or that plaintiff is not able to determine whether or not defendant is in such service. (Source U.S.C.A. 50 app. Sec. 520)
- (b) It shall be the duty of counsel to ascertain that process has been properly served in time, and to furnish a memorandum of the amount claimed before requesting judgments on undefended actions on bonds, bills, notes and accounts.

(Eff. Nov. 1, 1991.)

TRIALS

RULE 51 COURT-TRIED CASES

51.1 DEFAULT AND UNCONTESTED MATTERS

(No local rule See Rule 42 and 54.2.)

(Eff. Nov. 1, 1991.)

51.2 CONTESTED MATTERS

(No local rule)

51.3 PREPARATION OF FINDINGS OF FACT AND CONCLUSIONS OF LAW

(No local rule)

RULE 52 SELECTION OF JURY

52.1 JURY COMMISSION BOARD

The Jury Commission Board shall consist of the Circuit Judges and the Circuit Clerk.

(Adopted, Eff. Aug. 28, 2000.)

52.2 RELEASE OF JUROR QUESTIONNAIRES

The Jury commission Board shall request all jurors to prepare a juror questionnaire in standard form. These forms shall be made available to the attorneys involved in the trial the afternoon before trial. No questionnaire shall be released until the attorney involved signs a receipt and acknowledgment certifying that there will be no unauthorized secondary release of information. The information will be returned to the Jury Office after the jury is selected. All jury lists and questionnaires shall be maintained as a closed record and shall not be otherwise disclosed without Order of the Court. The Jury Commission Board for five (5) years shall maintain a record of Jury Lists and Questionnaires of tried cases.

(Adopted, eff. April 15, 2002.)

RULE 53 JURY TRIALS

WAIVER OF JURY TRIAL - CIVIL

Parties shall be deemed to have waived trial by jury:

- (a) By failing to appear at the trial;
- (b) By filing with the Clerk written consent in person or by attorney
- (c) By oral consent in Court, entered on the minutes;
- (d) By entering into trial before the court without objections.

(Eff. Nov. 1, 1991.)

53.1 INSTRUCTIONS

Except for good cause shown:

The attorneys shall submit to the Court and to opposing counsel their proposed instructions to the jury prior to trial, reserving their right to submit requests for additional or modified instructions thereafter in light of the opposing party proposed instructions and unanticipated evidence.

(Eff. Nov. 1, 1991.)

53.2 JUROR CONFIDENTIALITY

Jury lists and questionnaires maintained by the court in criminal cases shall not be accessible except to the court and the parties. Upon conclusion of the trial, the jury lists and questionnaires shall be retained under seal by the court except as required to create the record on appeal or for post-conviction litigation. Information collected by the court or court personnel about a venireperson is confidential and shall not be disclosed by the parties or their lawyers except on application to the trial court and a showing of good cause.

(Adopted Apr. 1, 2002, eff. Apr. 15, 2002)

RULE 54 JUDGMENT ENTRY

54.1 CONTESTED CASES

Counsel for the prevailing party shall prepare and submit the form of judgment to the Court after judgment is rendered.

(Eff. Nov. 1, 1991.)

54.2 DEFAULT OR UNCONTESTED CASES

At the time of hearing, counsel for the plaintiff or petitioner shall submit a proposed form of judgment to the Court, unless waived by the Court.

(Eff. Nov. 1, 1991.)

RULES RELATING TO PARTICULAR ACTIONS

RULE 61 ADOPTIONS

61.1 FILING REQUIREMENTS

- (a) Upon the filing of a petition for adoption or for transfer of custody prior thereto, and upon application to the court, the Court will appoint a guardian ad litem for the child sought to be adopted and order the statutory investigation and report.
- (b) Counsel shall request a time certain for a hearing on said petition from the Circuit Clerk.

61.2 HOMESTUDY

(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

(No local rule)

RULE 63 ASSOCIATE DIVISION CASES

(a) FILING OF CASES

All original civil case filings Associate Division cases shall be made in the Civil Division of the Circuit Court and shall be assigned to a judge in a random manner. Traffic violations, wildlife code violations, water safety violations shall be filed directly in the Traffic Division of the Circuit Court.

Small Claims cases shall be filed directly in the Civil Division of the Circuit Court.

All criminal cases, except those cited above, shall be filed in the Criminal Division of the Circuit Court.

(b) TRANSCRIPTS OF TAPED RECORDS

The original of all taped records of proceedings before Associate Circuit Judges are on file in the offices of each respective associate division and requests for transcripts and the appropriate cost for posting shall be made in that office. Requests for copies of original tapes shall be made with the individual Division Clerk. The cost for duplicating tape shall be determined by that office and shall be posted prior to tape duplication.

(c) DISCOVERY AND THIRD PARTY ACTIONS

Pursuant to Supreme Court Rules various types of discovery and third party practice shall be recognized in the Associate Division. The Associate Circuit Judge in any case where the discovery becomes burdensome may certify the cause to the Presiding Judge. In such cases the plaintiff's attorney shall immediately post the required additional costs. In such cases the Court files shall remain in the Circuit Judge Division.

(Eff. Nov. 1,1991. Amended, eff. Aug. 28, 2000, Dec. 9, 2002, Sept. 5, 2006.)

RULE 64 **CASES ARISING UNDER CHAPTERS 207 AND 208, RSMO, 1978 (commonly known as Title IV-D and H.B. 601 ACTIONS)**

(No local rule)

RULE 65 **CIVIL COMMITMENT**

(No local rule)

RULE 67 CRIMINAL CASES

67.1 PRE-TRIAL RELEASE

- (a) All defendants bound over in felony cases shall appear on the date specified in the Order binding him over.
- (b) Associate Division cases – St. Charles County
All criminal defendants released on bond shall appear on the date the bond is first returnable.

67.1.1 MOTIONS TO SET BOND AND FOR BOND REDUCTION

(No local rule)

67.1.2 DEPOSIT OF OPERATOR'S LICENSE

(No local rule)

67.1.3 CASH BONDS

All fines and costs associated with a case must be paid prior to bond refund or said amounts will be deducted from the Bond.

(Eff. Nov. 1, 1991. Amended, eff. Dec. 4, 2000, Dec. 9, 2002.)

67.2 PRELIMINARY HEARING

(No local rule)

67.3 GRAND JURY

- (a) There shall be established in the Eleventh Judicial Circuit a standing Grand Jury. The Grand Jury shall be selected by the Presiding Judge and shall hold office for a term of six months, said term which shall be designated at the time of the selection of the Grand Jury.
- (b) The Grand Jury shall meet at a location selected by the Prosecuting Attorney and shall meet no more frequently than one day every other week, without prior approval of the Presiding Judge.
- (c) The Grand Jury shall be composed of 12 regular members and 5 alternate members. A Foreperson shall be designated by the Presiding Judge at the time of selection of the Grand Jury and the Grand Jury members may select one or more members to be the

acting Foreperson in the absence of the Foreperson. All members and alternate members may attend all sessions.

- (d) The Court en Banc reserves the right, at any time, to terminate the standing Grand Jury and this Rule shall be revisited every five (5) years, beginning as of the date of the adoption of the present rule.
- (e) This replaces the previous local court rule 67.3.

(Adopted 1/08/14, Amended, eff 10/4/21)

67.4 **ATTORNEYS**

(No local rule)

67.5 **ARRAIGNMENTS**

(No local rule)

67.5.1 **IN GENERAL**

(No local rule)

67.5.2 **DATES**

(No local rule)

67.6 **DISCOVERY**

(No local rule)

67.7 **MOTIONS**

(No local rule)

67.8 **PLEA BARGAINING**

(No local rule)

67.9 **GUILTY PLEA**

(No local rule)

67.9.1 **WHERE ENTERED**

(No local rule)

67.9.2 **PETITION TO ENTER A PLEA OF GUILTY**

(No local rule)

67.10 **CALENDAR**

(No local rule)

67.11 **PROBATION AND PAROLE**

(No local rule)

RULE 68 DISSOLUTION OF MARRIAGE (FAMILY COURT)

68.1 CREATION

As established by previous order of this Court, effective August 23, 1993 there is created within the 11th Judicial Circuit a Family Court as provided in §487.010, et seq., RSMo.

(Repealed and Adopted 1/2/07)

68.2 DESIGNATION OF DIVISIONS

All of the circuit and associate judges of the 11th Judicial Circuit shall be assigned to the Family Court Division. In accordance with §487.010.3, RSMo, the Presiding Judge shall designate certain divisions, as needed, to serve full-time in the Family Court Division. In accordance with §487.010.4, RSMo, the Presiding Judge shall further designate one division to serve as the Administrative Family Court Judge of the Family Court Division.

(Repealed and Adopted 1/2/07)

68.3 ASSIGNMENT OF FAMILY COURT CASES

- (A) New cases within the exclusive jurisdiction of the Family Court, as defined under §487.080, RSMo, shall initially be assigned to one of the divisions assigned to the Family Court Division, pursuant to an Individualized Docketing Plan approved by the Court. This initial assignment shall be considered the trial assignment for purposes of Supreme Court Rule 51.05.
- (B) Whenever a new case is filed, and the Circuit Clerk determines there is already pending a companion case involving the same parties, the new case shall be assigned to the division to which the companion case has been assigned, so that all pending matters involving the same parties may be heard before one judge.
- (C) Motions to modify, motions for contempt, family access motions or any other post-disposition motions seeking modification or enforcement of an existing judgment shall be assigned to the division, which entered the previous judgment. If the division, which entered the previous judgment, is no longer assigned to the Family Court Division, the pleading shall be treated as a new filing and shall be assigned in accordance with Paragraph A of this rule.
- (D) Should any party request a change of judge pursuant to Supreme Court Rule 51.05, the case shall be transferred to the Presiding

Judge, or, in his absence or unavailability, to the Acting Presiding Judge, for reassignment.

68.4 **FAMILY SERVICES AND JUSTICE FUND**

As provided in §488.2300, RSMo, a fee of \$30.00 per case shall be collected and deposited in the “Family Services and Justice Fund” to be expended for such purposes as allowed by law and in such amounts as the Presiding Judge or the Administrative Family Court Judge may, from time to time and with the concurrence of the Circuit Court en banc, authorize.

68.5 **FILING REQUIREMENTS**

(A) Waiting Period.

No hearing shall be conducted, nor any judgment entered, in any dissolution case until thirty days after service of process has been obtained or entry of appearance has been filed.

(B) Statistical Report.

Information necessary to give notice to the Missouri Department of Health of the entry of a judgment of dissolution of marriage or legal separation shall be supplied by counsel or the parties on the forms provided for that purpose by the Circuit Clerk. The form shall be completed and filed at the time of filing of the petition.

(C) Uniform Child Custody Act Requirements.

1. Any Petition, or Affidavit attached thereto, shall state:

- a. The name and date of birth of each child born of the marriage.
- b. The present residence of the children and the length of that residence.
- c. The residence(s) of the child(ren) for the past six months and with whom the child(ren) resided.
- d. Any prior litigation regarding custody of the child(ren) in which the petitioner has participated in any capacity in this or any other state.
- e. Any current custody proceedings pending in this or any other state.

- f. Any information regarding any person, not a party to the action, who has physical custody of the child(ren) or who claims to have custody or visitation rights with respect to the child(ren).
2. Notices of any custody proceedings shall be given to:
 - a. Any parent whose parental rights have not been terminated.
 - b. Any person having legal or physical custody of the child(ren).

(D) Family Court and Adult Abuse – Child Protection Information Sheets

1. The Circuit Clerk shall develop a Family Court Information Sheet, which shall be completed and attached to all initial pleadings filed with the Family Court Division. The Family Court Information Sheet shall include the style and case number of any case involving the parties, or their children, presently pending or previously adjudicated in any court, including, but not limited to, dissolutions of marriage, paternity, motions to modify custody or support, change of name, adult abuse, child protection, family access, juvenile neglect, juvenile abuse, juvenile delinquency, adoption or guardianship. The Family Court Information Sheet shall also set forth all other names by which any of the parties, or their children, have been known along with their social security numbers.
2. The Family Court Information Sheet shall be completed and filed at the time of filing of the petition.
3. The Adult Abuse – Child Protection Information Sheet shall be completed and filed at the time of filing of all Adult Abuse and Child Protection cases.

(E) Paternity Count. Effective January 1, 2010. Due to issues of confidentiality, in any dissolution case in which paternity of one or more children must be established, a separate case shall be filed to establish paternity with no filing fee required, except for the additional fee for registration of paternity with Bureau of Vital Records, when the paternity is filed simultaneously with the dissolution. The paternity case and the dissolution case shall automatically be assigned to the same judge for disposition. In order to avoid a separate filing fee, the attorney filing the paternity case shall be responsible for advising the Clerk of the companion divorce case and its case number.

(F) Proposed Parenting Plan.

Petitioner shall file his/her proposed parenting plan along with the filing of initial pleadings. Respondent shall file his/her proposed

parenting plan at time of filing initial responsive pleading.

(G) Paternity Actions.

Petitioner shall file his/her proposed parenting plan along with the filing of initial pleadings. Unless Respondent denies paternity, Respondent shall file his/her proposed parenting plan at time of filing initial responsive pleading.

(H) MANDATORY EXCHANGE OF DOCUMENTS

1. When applicable: This Rule shall apply to all petitions for dissolution of marriage, legal separation, annulment, declarations of paternity or orders of custody and support and all motions to modify any such existing judgments.
2. Purpose: The purpose of this Rule is to make sure that all parties have equal access to information relevant to the case at the earliest opportunity so as to encourage the settlement of disputes. It is not intended to preclude a party from serving formal discovery requests upon the other party pursuant to the Missouri Rules of Civil Procedure.
3. Notice of the requirement: Upon the filing of petition or motion, the Office of the Circuit Clerk shall provide to the filing party a copy of this Rule. A copy of the Rule shall be attached to the summons and petition and served on the opposing party along with the petition and summons.
4. Delivery of documents: Within 60 days of service of summons each party shall deliver to the other party a complete and readable copy of each of the documents specified in Section 5 of this Rule. Each party must deliver to the opposing party copies of any documents that are in their possession or control, including documents which they may obtain electronically. Counsel for the parties or the parties themselves, if unrepresented, shall coordinate a simultaneous exchange of such documents. This provision does not supersede any temporary or final order of protection which may prohibit communication between the parties. Disagreements regarding the production of certain documents shall be resolved upon the filing of an appropriate motion and notice of hearing.
5. Documents to be exchanged:
 - a) The following documents must be exchanged in all cases:
 - (1) Federal and state income tax returns including all schedules, W2, K-1 and 1099 forms for the preceding three years;

(2) All wage stubs (or other evidence of wages, tips or salaries if wage stubs are not issued) for the three months preceding the filing of the case;

(3) All documents evidencing expenses incurred in the 6 months preceding the filing of the case for work related child care costs and cost of dependent medical, dental and vision insurance coverage attributable to the children of the parties.

b). In addition, the following documents must be exchanged in cases where a party requests maintenance, attorney's fees or a division of property and debt:

(1) The three monthly statements immediately preceding the filing of the case for all financial accounts held by a party in his or her sole name or held jointly with any other person;

(2) The three monthly or quarterly statements immediately preceding the filing of the case for any retirement plan, whether vested or not vested, in which a party has an interest;

(3) Any appraisals of any marital or separate property conducted in the 12 months preceding the filing of the case;

(4) The three monthly statements immediately preceding the filing of the case for all credit cards and store charge accounts for which a party is an authorized user or card holder;

(5) The most recent mortgage statement immediately preceding the filing of the case for any real property owned jointly or separately by a party and a copy of the deed for any such property;

(6) The most recent balance statement immediately preceding the filing of the case for any existing debt owned jointly or separately by the parties.

6. Documents not provided: If a document that is required to be provided pursuant to this Rule is not produced for exchange, the party shall advise the other party in writing of the name and current address of the person, if known, who is in possession or control of the required document or, if applicable, that no such documents continue to exist or ever existed.

7. Waiver: The parties may agree in writing to waive any portion of

this Rule to the extent that they agree that certain documents are not relevant to any issue to be presented in the case. All of the requirements of this Rule shall be waived, if within 60 days of service, the case has been scheduled for a default or non-contested hearing.

8. Documentation of completion of the exchange: Upon completion of the exchange of documents, each party shall file with the court a compliance form certifying the date upon which the documents were exchanged, the documents that were exchanged or the reasons why certain documents were not exchanged. Copies of the documents exchanged shall not be filed with the Court. A Court provided compliance form is available for parties on the court website.
9. Failure to comply: Any documents required to be produced under this Rule that are not timely exchanged with the other party shall not be admissible into evidence at any hearing or trial of the case unless the court finds good cause for the failure to exchange. The court may, in its discretion, impose any other penalty within its power for the failure to comply with any provision of this rule including an award of attorney's fees.

(Repealed and Adopted 1/2/07, Amended 12/10/07, 11/2/09, 10/5/10, 7/11/11, 11/4/13, 4/7/14, 5/1/17)

68.6 SEPARATION AGREEMENT

In all cases where a written separation agreement is made under the provisions of §452.325, RSMo, a copy of such executed agreement shall be submitted to the Court for approval prior to the hearing. WAIVER OF THE DIVISION OF PROPERTY WILL NOT BE ACCEPTED BY THE COURT.

(Repealed and Adopted 1/2/07)

68.7 FORMS OF JUDGMENT

- (A) All judgments shall contain findings of the court, which must include and recite:
 1. The full name of the attorney or attorneys and the party represented by each attorney. If either party is not represented by counsel, the judgment shall so state.
 2. The last four digits of social security number of each of the parties and of each of their minor children.
 3. The addresses of the parties and the employers' names and

addresses, if disclosed in the pleadings.

4. The manner of service and when accomplished, or, if an entry of appearance is filed, the date of filing.
5. The date and place of marriage, the place of registration of such marriage, and the date of separation.
6. Residence in the State of Missouri of not less than ninety days.
7. A statement that at least thirty days have elapsed since the service of the petition upon the non-moving party.
8. A statement regarding any children born of the marriage (if none, so state) setting forth their names, last four digits of social security numbers, age of child, and in whose custody they are, and a statement reciting whether the wife is pregnant.
9. Whether either petitioner or respondent is a member of the armed forces, and, if so, a statement that the member waives the Servicemember's Civil Relief Act.
10. Whether or not there is marital property or marital debt to be divided or whether there is a written separation agreement entered into by the parties. The separation agreement shall be set forth in full, unless there is provision otherwise in the agreement. Provisions in the settlement pertaining to child custody and child support must be included in the judgment, along with a statement that the court has examined the separation agreement and found it to be fair and not unconscionable. If the parties own personal or real property, the judgment **MUST** provide for the disposition of all property. If there is no real or personal property, the judgment shall so state.
11. A specific written parenting plan, setting forth the arrangements specified in §452.310.7, RSMo. Such parenting plan may be a plan submitted by the parties pursuant to §452.310, RSMo or, in the absence thereof, a plan determined by the court.
12. If there is a request that the wife's maiden name or a former name be restored, the findings shall so state and shall set out in full the requested name to be restored.
13. In a proceeding for dissolution of marriage, a statement that the marriage is irretrievably broken and that there remains, therefore, no reasonable likelihood that the marriage can be preserved. In a proceeding for legal separation, a statement that the marriage is not irretrievably broken and that there remains, therefore, a reasonable likelihood that that the marriage can be preserved.

- (B) The decretal portion of the judgment shall contain the following provisions:
1. In a proceeding for dissolution of marriage, that the marriage between (name of the parties) is dissolved; in a proceeding for legal separation, a judgment of legal separation.
 2. An award as to custody and support of any minor children, an award as to maintenance, and a statement as to whether payments are payable to the Family Support Payment Center or directly to the receiving party.
 3. In every judgment establishing or modifying child custody or visitation, the relocation notice required by §452.377.11, RSMo.
 4. That the terms of the parenting plan shall be performed.
 5. That the terms of any separation agreement shall be performed.
 6. Dividing any marital property and any marital debt, and setting aside any separate property.
 7. **IF NOT CONTAINED IN ANY SEPARATION AGREEMENT BEING INCORPORATED INTO THE JUDGMENT, THE COMPLETE LEGAL DESCRIPTION OF ANY REAL ESTATE, TITLE TO WHICH MAY BE AFFECTED BY THE JUDGMENT.**
 8. That the parties' minor children receive counseling as ordered by the court.
 9. That the wife's restored name be set forth in full.
 10. That costs be taxed to one or both parties.
- (C) Counsel may make written request to the Circuit Clerk that any judgment of dissolution of marriage or legal separation affecting title to real estate, upon entry thereof, be filed in the office of the Recorder of Deeds in the county where the real estate is located. Said request shall specify the Office(s) of Recorder where filing is to be made, and, if other than in St. Charles County, Missouri, the mailing address. Such expense for recording the judgment shall be taxed as costs in the case. **THE COMPLETE LEGAL DESCRIPTION MUST BE INCLUDED IN ANY JUDGMENT TO BE RECORDED.**

68.8 FILING OF FINANCIAL STATEMENTS

- (A) In all actions for dissolution of marriage or legal separation, a Statement of Marital and Non-Marital Property and Debts and a Statement of Income and Expenses shall be completed by each party, executed under oath, filed with the Court and served on the opposing party. Petitioner shall file his/her statements with the petition or motion. Respondent shall file his his/her statements with the answer.
- (B) In all contested actions for modification of child support or maintenance, a Statement of Marital and Non-Marital Property and Debts and Debts and a Statement of Income and Expenses shall be completed by each party, executed under oath, filed with the Court and served on the opposing party. The moving party shall file his/her statements with the motion. The responding party shall file his his/her statements within thirty days of service of the motion.
- (C) If any changes occur prior to the date of any pendente lite hearing or trial upon the merits, the information provided shall be updated immediately and served on the opposing party with a Certificate of Service of same to the Court. In no event shall amended statements be supplied to opposing counsel less than five days prior to any pendente lite hearing or trial upon the merits.
- (D) Failure to file the original or amended statements required by this rule shall not delay any pendente lite hearing or trial upon the merits. If a party fails to timely file or update his/her Statement of Marital and Non-Marital Property and Debts or Statement of Income and Expenses, the trial judge may, at his or her discretion, order sanctions against that party, including, but not limited to, prohibiting the party so failing from presenting affirmative evidence as to the values of the property, income or expenses which were not presented to opposing counsel.
- (E) **Prior to hearing in all contested domestic relations proceedings, both parties** shall, in addition to the Statement of Marital and Non-Marital Property and Debts and the Income and Expense Statement, prepare a list of all items of personal property, stating whether said items are marital or non-marital, the fair market value of said items, the amount owed against said items, and in whose possession said items may be found.

(Repealed and Adopted 1/2/07)

68.9 ASSIGNMENT OF WAGES

Absent an exception determined by the trial court in accordance with §452.350.2, RSMo, all payments of child support or maintenance shall be made by means of automatic wage assignment payable to the Family Support Payment Center as trustee for the party receiving child support or maintenance.

(Repealed and Adopted 1/2/07)

68.10 PARENT EDUCATION PROGRAM

- (A) All parties in any proceeding for dissolution of marriage, legal separation, annulment, paternity or enforcement of child custody or visitation, who have filed pleadings or who have otherwise entered their appearance with this Court, shall be required to participate in and successfully complete a court-approved parent educational program. All parties in any proceeding for motion to modify, where the parties have not previously attended a parent education program shall be required to participate in and successfully complete a court-approved parent educational program. A certificate of completion shall be filed with the Court.
- (B) The petitioner or movant shall attend said program within sixty days of the filing of a petition or motion. The respondent in any such proceeding shall attend said program within sixty days of the date of service of process. Each party shall pay the cost of their own program.
- (C) The Court may strike or dismiss the pleadings of any non-complying party or impose any other sanctions deemed appropriate by the Court.
- (D) For good cause shown, the Court may waive application of this rule.

(Repealed and Adopted 1/2/07, Amended 4/1/13)

68.11 ENTRY OF JUDGMENT UPON AFFIDAVIT

- (A) Final Orders Entered – When
 1. Final orders in any proceeding for dissolution of marriage or legal separation, motions to modify, and in any action for declaration of paternity may be entered upon affidavit of either or both parties when:

- a. There are no minor children of the father and the mother and the mother is not pregnant, or the parties have entered into a written settlement agreement determining child custody and child support; and
 - b. The adverse party has been served in a manner provided by the Missouri Rules of Civil Procedure or has filed a verified entry of appearance or other responsive pleading; and
 - c. There is no marital property to be divided, or the parties have entered into a written settlement agreement providing for the division of their marital property.
2. Final orders in any proceeding for change of name or in any other matter falling within the exclusive jurisdiction of the Family Court, as defined under §487.080, RSMo, may be entered upon affidavit when any person entitled to service has been served or has filed an entry of appearance or other responsive pleading.

(B) Affidavit - Filing

If one party desires to submit the matter for entry of final orders upon affidavit, the submitting party shall file an affidavit setting forth sworn testimony showing the Court's jurisdiction and containing factual averments sufficient to support the relief requested, together with a copy of a proposed judgment or order, a copy of any written settlement agreement and written parenting plan proposed for adoption by the Court, a completed Form 14, and any other supporting evidence. The filing of such an affidavit shall not be deemed to shorten any statutory waiting period required for the entry of a judgment of dissolution of marriage or legal separation.

(C) Hearing Required - When

The Court shall not be bound to enter any judgment or order upon affidavits of either or both parties, but may, on its own motion, require that a formal hearing be held to determine any or all issues presented by the pleadings.

(D) Affidavit Docket

The judge of each division of the Family Court Division may establish an affidavit docket for entry of judgments submitted by affidavit. The times and dates of said docket shall be set by the division judge from time to time. So long as the requirements of Subsection A have been met, a matter may be submitted by affidavit at any time or, upon motion of either party, on a date certain. Upon the setting of a case on a specific affidavit docket for entry of final order, if all documents necessary for entry of the judgment are not

submitted to the Court on said date, absent a showing of good cause, the case shall be set for trial by counsel for the parties, or if one or both counsel fail to appear, by the Court.

(Repealed and Adopted 1/2/07, Amended 12/10/07)

68.12 CASE MANAGEMENT

(A) General

The Administrative Judge of the Family Court, in consultation with the other judges assigned to the Family Court Division, shall establish a coordinated system for the management and resolution of all cases assigned to the Family Court Division. The judge of each division of the Family Court Division may establish such trial, pendente lite, case management, settlement and motion dockets as are needed for the effective operation of that division. The times and dates of such dockets shall be set by the judge of each division.

(B) Case Management Conference Docket

1. All cases filed in the Family Court Division shall be set down for a case management conference as close to ninety days from date of filing as is practicable. Upon filing, the Circuit Clerk shall provide to the filing party a Notice of Case Management Conference, which shall set forth the assigned date and time of said conference. The Notice of Case Management Conference shall be served upon the responding party with the summons and service copy of the initial pleading.
2. Once scheduled, a Case Management Conference may only be rescheduled by the judge of the division to whom the case has been assigned. Counsel of record or unrepresented party are required to appear in person at the Case Management Conference., unless previously excused by the judge of the division to whom the case has been assigned. **Failure of the counsel of record or unrepresented party to appear for the scheduled Case Management Conference may result in the dismissal, without prejudice, of the case, or the issuance of such other sanctions as the court may deem appropriate.**
3. Attendance at the Case Management Conference shall not be required in any case that is resolved by default, affidavit or consent memorandum before the scheduled conference date.

(Repealed and Adopted 1/2/07, Amended 12/10/07, 4/1/13, 5/6/13)

68.13 MOTIONS PENDENTE LITE

- (A) All motions pendente lite seeking temporary awards of child custody, child support, maintenance or other temporary relief pending trial upon the merits shall be heard at such times as determined by the judge of the division to which the case has been assigned.
- (B) No motion pendente lite shall be noticed up for hearing prior to the first of the following: Thirty days after service of the petition upon the opposing party; waiver of service by the opposing party; or the filing of an answer by the opposing party.

(Repealed and Adopted 1/2/07, Amended 12/10/07)

68.14 GUARDIAN AD LITEM

From and after the date of this rule, the Court will select Guardians ad Litem, for service in Juvenile and Family court Cases pursuant to the following process:

- (a) **FAMILY COURT CASES:** Cases brought pursuant to Sections 210, 452, 454 and 455 shall be assigned guardians ad litem on the basis of the ability of the parties to pay for the services to be provided. The Family Court shall establish, by order entered by the Administrative Judge of the Family Court, an income threshold for consideration of the appointment of a guardian ad litem who will be paid from public funds. This order may be modified from time to time. A request for the appointment of a guardian ad litem must be accompanied by a Notice of Hearing and an up to date and complete financial statement for each party to the proceeding. The Court shall review the financial statements and compare the same with the applicable guidelines and enter such order as may be appropriate. The Court may deviate from the guideline to the extent that justice so requires. To the extent that the combined income of the parties exceeds the guideline the Court shall appoint a guardian ad litem from the list of approved guardians and shall enter an order requiring a posting of a sufficient deposit to secure the fee of the guardian. To the extent that the combined income of the parties does not exceed the guideline, or to the extent that the Court deviates from the guideline, the Court shall appoint a guardian ad litem from the list of guardians contracted by the County.
- (b) **JUVENILE CASES:** Cases brought pursuant to Section 211 shall be assigned guardians ad litem and counsel for children and parents from the list of guardians contracted for by the County. At the conclusion of the case, the Court shall, to the extent allowed by law, enter a judgment in favor of the County for the reasonable value of the guardian ad litem services.
- (c) **FEE OF GUARDIAN AD LITEM PAID BY PARTIES:** A guardian

ad litem who is paid by the parties shall be paid a fee based upon an hourly fee of \$200 per hour.

- (d) **GUARDIANS CONTRACTED BY THE COUNTY:** The County shall, on an annual basis, contract with attorneys to serve as guardians ad litem in cases where the parties' income does not exceed the established guideline. The selection of the attorneys shall be made by the Administrative Judge of the Family Court, in consultation with the other Judges who regularly hear family court or juvenile cases. The number of attorneys contracted shall be determined by the Administrative Judge of the Family Court. The compensation provided by the contract shall be determined by the Administrative Judge of the Family Court. The total cost of contracted attorney shall be included in the Circuit Court budget each year. There shall be an annual assessment of the performance of each contracted guardian and the Court may elect to offer or not offer a contract to an attorney based upon this evaluation. Contracted attorneys will be assigned a percentage of the total number of cases for which contracted attorneys are required each year. The contract will set forth the percentage of assignments and the type of assignments each attorney will receive.
- (e) **ADDITIONAL EXPENSES:** The Court shall budget, as part of the Circuit Court Budget, an additional sum to provide a fund for the payment of reasonable expenses incurred by the contracted guardians. These expenses are expected to be in the nature of service fees for subpoena, costs for depositions, sign and language interpreters for the purpose of interviewing clients and fees for witnesses. Said additional fees shall be reviewed and approved by the Court at the conclusion of the case.

(Adopted 5/10/07, revised 5/5/08, amended 4/4/11, 4/1/13, 1/8/18)

68.15 ALTERNATIVE DISPUTE RESOLUTION

- (A) Pursuant to Supreme Court Rule 17 and 88.02 through 88.08, the Court adopts the following Alternative Dispute Resolution program. The alternative dispute resolution mechanism shall be mediation.
- (B) In all actions in which this rule applies, a notice of the availability of alternative dispute resolution services shall be furnished to all parties. The Circuit Clerk shall provide a notice to the party or parties' initiating the action at the time the action is filed. All responding parties shall be provided the notice along with the summons and petition. The notice shall advise the parties of the availability of alternative dispute resolution and shall inform the parties that the name of mediators qualified under this rule and a description of their background and fees may be obtained from this

Court. Counsel for the parties shall discuss alternative dispute resolution with their clients.

- (C) A Mediation Notice and Election Form may be filed in any proceeding with the Court within thirty (30) days of the date in which responsive pleadings are due or the Court may order the mediation on its own motion at any time. When the mediation is elected or if mediation is ordered by the Court at a case management conference, counsel will obtain a copy of the list of approved Family Law Mediators from the Family Court Coordinator and select a mutually agreed upon mediator. If an agreement cannot be made, the Court will appoint a mediator.
- (D) The mediation shall be private and confidential as provided by Supreme Court Rule 17.06. No stenographic, electronic or other record of the mediation shall be made.
- (E) The parties will pay the mediator's fees according to the Court Order for Mediation. Fees shall be paid directly to the mediator selected. The Court reserves the right to review the reasonableness of the fee charged by the mediator.
- (F) The mediator must meet the qualifications as set forth in Supreme Court Rule 17.04.
- (G) The Circuit Clerk shall maintain and make available to counsel, parties, and the public the list of qualified neutrals compiled by the clerk under this rule. The list shall include the mediator's training, experience, qualifications and other information deemed appropriate by the Court.
- (H) No person shall serve as a mediator in any proceeding in which the mediator is interested, prejudiced, related to a party, has been counsel to a party in the cause, or under any circumstance which would reasonably call into question the mediator's impartiality. A mediator may withdraw for any reason set forth in this rule or for any other reason.
- (I) The results of the mediation shall not be reported to the Court except as provided in Supreme Court Rule 17.05. Parties attempting resolution through Alternative Dispute Resolution, without success, shall receive priority trial settings.

68.16 MEDIATION DEFINED

Mediation under this local rule is the process by which a neutral mediator, selected by the parties or appointed by the Court, assists the parties in reaching a mutually acceptable agreement as to issues of their case. The role of the mediator is to assist the parties in identifying the issues, reducing misunderstanding, clarifying priorities, exploring areas of compromise, and finding points of agreement. An agreement reached by the parties is to be based on the decisions of the parties and not the decisions of the mediator. The agreement reached can resolve all or only some of the disputed issues.

(Adopted 12/10/07)

68.17 MEDIATION – WHEN ELECTED – APPOINTMENT OF MEDIATOR

- (A) In every case involving contested issues of child custody and/or visitation, the parties shall participate in a minimum of two (2) hours of mediation pursuant to Missouri Supreme Court Rule 88.02 through 88.08 and this local rule unless waived by the court for good cause shown as hereinafter set forth. Unless the parties present a signed parenting plan related to custody and visitation to the Court at the initial case management conference, mediation shall be ordered under this section. In all family-law related cases referred to mediation by the terms of this rule, the parties are encouraged to mediate any or all other issues including, but not limited to, child support, property division and maintenance. Any mediation beyond the initial two hours shall proceed by mutual agreement of the parties and the mediator.
- (B) If both parties indicate a willingness to use mediation per the Mediation Notice and Election Form, or if mediation is ordered by the Court, an Order of Mediation shall then be issued by the Court. Mediation shall be completed within the time frame set forth in the court order for mediation.
- (C) If the parties have not selected a mutually agreeable mediator from the court-approved list, the court shall appoint a mediator from the court-approved list to conduct mediation pursuant to the rule. Fees for mediation may be adjusted by the court upon consideration of the parties' Statement of Income and Expenses and if resources are available to the Court.
- (D) Within fourteen (14) days of the compliance and/or completion of the mediation, the mediator shall file with the court, a notice indicating the compliance with the minimum two hours of mediation pursuant to the rule and notice of completion of the case

as to whether or not the issues were settled. Any memorandum of understanding of the parties along with the ongoing contested issues at the close of mediation shall be sent to parties and their attorneys (if any).

- (E) Some cases may be inappropriate for mediation, which may include those with a history of domestic violence. If the case is deemed inappropriate for mediation due to domestic violence or a significant imbalance of negotiating power or for any other reason determined by the mediator, the mediator shall so notify the Court in writing.

(Adopted 12/10/07, Amended 12/7/09)

68.18 MEDIATION – QUALIFICATIONS OF THE MEDIATOR

- (A) A mediator who performs mediation in a domestic relations matter pursuant to the rule shall be a person who has stated by affidavit that he or she:
 1. Is an attorney or a person who possesses a graduate degree in field that includes the study of psychiatry, psychology, social work, counseling or other behavioral science substantially related to marriage and family interpersonal relationships; and,
 2. Has completed an approved training program which consists of at least forty (40) hours of curriculum requirements approved by the Missouri Supreme Court or its designee. Such curriculum shall substantially meet the training requirements and components as established by the Association of Conflict Resolution and must include at least four (4) hours dealing with domestic violence and power imbalance issues.
- (B) All Supreme Court Rule 88 mediators trained prior to December 1, 2002, shall be exempt from the new education requirements established above with the exception of continuing education but shall advise the Court and the Office of State Courts Administrator of the number of formal hours of mediation training received.
- (C) The Family Court Coordinator shall maintain a list of persons qualified to act as mediators under this rule. Only those persons who are included on the court-maintained list of mediators may be considered as mediators according to this rule. To be included on this court-maintained list, the interested person must file the previously described affidavit with the Circuit Clerk along with a statement containing, at the minimum, the following information: business address; telephone number, fax number, e-mail address, if any; degree(s) and the institution(s) obtained therefrom; type and number of hours of mediation training; current profession and

hourly rate of mediation. The person may also attach a resume or curriculum vitae in lieu thereof.

- (D) The list of mediators shall be updated from time to time as deemed necessary by the Family Court Administrative Judge. All persons included in the list of mediators shall keep the Family Court Coordinator apprised of any changes to their qualification, including any change in status with any professional association, and their fees.
- (E) All mediators who serve in family-law related cases by court order shall submit an application for listing on the Approved Mediators List to be approved by the Administrative Family Court Judge and established and maintained by the Family Court Coordinator.
- (F) Disqualification of a mediator shall be ordered in any legal proceeding upon the filing of a written application within ten (10) days of appointment. Each party is entitled to one (1) disqualification in each proceeding, except a party may be entitled to additional disqualifications for good cause shown. A mediator who has been appointed shall advise the Court of any fact bearing on their qualifications, including any fact which would be reason for their disqualification. If a mediator is disqualified, an order shall be entered naming a qualified replacement. Nothing shall limit the mediator's ability to refuse assignment of any mediation under this rule.

68.19 MEDIATION – DUTIES OF THE MEDIATOR

- (A) In all cases in which the court orders mediation, the mediator shall use the court-approved Agreement to Mediate.
- (B) In all other mediations, the mediator in writing shall:
 1. Inform the parties of the costs of mediation;
 - 2 Advise the parties that the mediator does not represent either or both of the parties;
 3. Define and describe the process of mediation to the parties;
 4. Disclose the nature and extent to any relationships with the parties and any personal, financial, or other interests that could result in a bias or a conflict of interest;
 5. Advise each of the parties to obtain independent legal advise;

6. Disclose to the parties' attorneys any factual documentation revealed during the mediation if at the end of the mediation process the disclosure is agreed to by the parties;
 7. Ensure that the parties consider fully the best interests of the children and that the parties understand the consequences of any decision they reach concerning the children;
- (B) The mediator may meet with the children of any party with the consent of the parties, the Guardian ad Litem or upon order of the court.
- (C) The mediator shall make a written memorandum of any understanding reached by the parties. A copy of the memorandum shall be provided to the parties and their attorneys, if any, within fourteen (14) days of the last mediation appointment. The mediator shall advise each party in writing to obtain legal assistance in drafting any agreement or for reviewing any agreement drafted by the other party. Any understanding reached by the parties as a result of mediation shall not be binding upon the parties until it is reduced to writing, signed by the parties and their attorneys, if any, and then approved by the Court. If any party is not represented, the mediator shall provide to the Court the written summary of any understanding reached by the parties.
- (D) The mediator may act as a mediator in subsequent disputes between the parties. However, the mediator shall decline to act as attorney, counselor or psychotherapist for either party during or after the mediation or domestic relations proceedings unless the subsequent representation, counseling, or treatment is clearly distinct from the mediation issues. The mediator may not subsequently act as an investigator for any court-ordered report nor make any recommendations to the court regarding the child care issues.

(Adopted 12/10/07, Amended 12/7/09)

68.20 TERMINATION OF MEDIATION

- (A) Either party may terminate mediation at any time as per Supreme Court Rule 88.07
- (B) The mediator shall terminate mediation whenever the mediator believes:
1. The continuation of the process would harm or prejudice one or more of the parties or the children; or
 2. That the ability or willingness of any party to participate meaningfully in mediation is so lacking that a reasonable

agreement is unlikely.

- (C) The mediator shall report the termination of mediation to the Court. The mediator shall not state the reason for termination except when the termination is due to a conflict of interest or bias on the part of the mediator, in which case another mediator may be appointed.

(Adopted 12/10/07)

68.21 CONFIDENTIALITY

Mediation proceedings shall be regarded as settlement proceedings. With the exception of information released pursuant to subdivision 88.06(a) (6), any communication relating to the subject matter of such disputes made during the mediation shall be a confidential communication. No admission, representation, statement or other confidential communication made in setting up or conducting such proceedings not otherwise discoverable or obtainable shall be admissible as evidence or subject to discovery.

(Adopted 12/10/07)

68.22 CONFIDENTIALITY OF SPECIAL MASTER SESSIONS

- (A) Special Master sessions shall be regarded as settlement proceedings. No admission, representation, statement or other confidential communications made in setting up or conducting the Special Master session, not otherwise discoverable or obtainable shall be admissible as evidence or subject to discovery.
- (B) No person who serves as a Special Master, nor any agent or employee of that person, shall be subpoenaed or otherwise compelled to testify as to any matter disclosed in the process of setting up or conducting a Special Master session.

(Adopted Aug. 2, 2010)

RULE 69 MUNICIPAL DIVISION

SAINT CHARLES COUNTY CIRCUIT COURT OPERATIONS OF MUNICIPAL DIVISIONS

BACKGROUND

The Missouri Supreme Court Committee on Practices and Procedures in Municipal Divisions recommended establishment of “Protocols for Presiding Judges and supervising Judges of Municipal Divisions.” On December 29, 2016, the Supreme Court published said Protocols. Among the recommended Protocols is the adoption of a local Circuit Court Rule governing the operations of that circuit’s Municipal Divisions. The Local Court Rule is to “conform to all requirements of the law.” The Local Court Rule “shall specify how the Circuit’s Municipal Divisions shall comply with the “Minimum Operating Standards” in Appendix A of Rule 37.04, published in September 20, 2016.

Additionally pursuant to 479.172 RSMo, Municipal Divisions shall adopt a written policy outlining the requirements and procedures to report disposition information on all intoxication related traffic offenses to the Office of State Courts Administrator’s Office and Missouri State Highway Patrol. To comply with this requirement a copy shall be on file with the Office of the State Courts Administrator’s Office and the Missouri State Highway Patrol and if any revisions are made to this order, they shall also be forwarded to OSCA and MSHP. To accomplish this requirement and other requirements the Municipal Divisions have enacted in various forms and iterations Municipal Court Operating Order #1 initially approved in 2010, and Operating Orders #2 and #3. The attached Operating Order #4 (which is incorporated herein and made a part hereof and Marked Attachment #1) compiles those applicable statutes, Supreme Court Rules, Supreme Court Operating Rules, and standards, as are effective as of September 30, 2016, including relevant sections of Supreme Court Rule 37.04, entitled “Supervision of Courts Hearing Ordinance Violations,” including Appendix A, the Minimum Operating Standards for Municipal Courts: Municipal Divisions (“MOS”). This Order #4 shall supersede any previous Municipal Court Orders delineated or identified as Court Operating Orders #1, #2 or #3 which are now rescinded.

Court Operating Order #4 is intended to apply, as is appropriate to do so, to all Court personnel, officers of the Court, attorneys, litigants, including without limitation the judge, court administrator, clerk of court, prosecuting attorney, prosecuting attorney’s clerk, bailiff and security personnel.

Appendix B of Rule 37.04, entitled “Code of Conduct for Municipal Division Personnel,” was published on November 1, 2016, by the Supreme Court. The Code applies to all “full-time, part-time, and temporary court system employees in municipal divisions.”

For purposes of clarity, this Rule organizes the “Minimum Operating Standards” into five separate parts.

PURPOSE OF RULE

This Rule is intended to organize, and supplement the “Minimum Operating Standards” and “Code of Conduct for Municipal Division Personnel.” If there are conflicts between this Rule and the “Minimum Operating Standards” or the “Code of Conduct for Municipal Division Personnel,” the Minimum Standards and the Code of Conduct shall prevail. All the provisions of this Order shall be subordinate to Missouri Supreme Court Rules and Missouri statutes, as amended, which may differ than the provisions of this Rule.

69.1 OPERATIONS OF MUNICIPAL DIVISIONS

PART I. COURTROOM, CLERK’S OFFICE, RECORDS, SEPARATION OF POWERS

A. Courtroom – Physical Requirements.

1. All courtrooms shall be suitable and meet due process requirements for all court attendees. Section 479.060.1.
2. All courtrooms shall be open to the public of all ages and large enough to reasonably accommodate the public, parties, and attorneys, unless the court orders otherwise in a particular circumstance for good cause shown.
3. The court facility’s exterior and interior signage, design, functionality and other factors shall convey an appearance to the public that it is a separate and independent branch of government.
4. The violation bureau schedule of fines and costs shall be prominently posted at the place where fines are to be paid. Rule 37.49(d).
5. The courtroom facility shall be sufficient for the purpose of a courtroom. The facility chosen for court shall take into consideration the safety and comfort of the public, parties, and lawyers. The facility chosen shall uphold the integrity and independence of the judiciary as a separate branch of government.
6. Members of the public and the news media have access to open municipal division records in accordance with Court Operating Rules (COR) 2 and 4 and other relevant law.

B. Clerk’s Office – General.

1. The court division shall have a functional clerk’s office that organizes and preserves the judicial records of the court in a prudent and organized manner and in compliance with applicable laws and Supreme Court rules.

2. The court shall have a municipal clerk available at least 30 hours per week during regular business hours and court sessions to whom the person can pay fines and from whom the person can obtain information about charges, payments and court operations, pursuant to Missouri Supreme Court Rule 37.04 Minimum Operating Standard #8. The clerk should be available in person during these hours in an office open and accessible to the public and may perform other functions for the municipality that do not constitute an actual or apparent conflict with the impartial performance of judicial duties. In the event the court does not have sufficient staff to have a clerk available for all of the 30 hours in person, the clerk may instead be made available for up to 15 of the 30 hours to provide information about charges, payments and court operations through live communication by telephone, email, or other means of electronic communication.

C. Open Records, Recordkeeping. Each municipal court shall:

1. Maintain complete and accurate records of court proceedings, including warrants outstanding, bonds posted, case files and dispositions.

2. Ensure proper disposition of all cases is documented on the court dockets or backer sheets and that all court dockets or backer sheets are signed by the _____ municipal judge, if required by law.

3. Ensure that information signed by the prosecuting attorney is filed for each ordinance violation to be prosecuted. In addition, the court shall ensure that the prosecuting attorney signs all tickets and reviews and approves all amended and dismissed tickets. Rule 37.49(d).

4. Document proper disposition of cases in manual and electronic records and ensure that sufficient documentation is maintained to support all case actions.

5. Maintain procedures to generate monthly reports of court activity. The court shall submit these reports timely to OSCA and to the city in accordance with state law, COR 4.28 and 4.29, and section 479.080.3, RSMo.

6. Maintain regular computer data backup procedures and ensure such data is stored in a secure off-site location and also test its recovery on a regular, predefined basis.

7. Ensure unique user identifications and passwords are required for each employee. Ensure passwords are confidential and periodically changed. Ensure user access is periodically reviewed and unnecessary access, including that of terminated users, is timely removed. Review user access to data and other information resources to ensure access rights are commensurate with current user job responsibilities.

8. Segregate accounting duties to the extent possible. If not possible to segregate duties, the court shall ensure that documented periodic independent or supervisory reviews of court records are performed.

9. Maintain accurate records to account for all payments received and deposited, that receipts are posted accurately and timely, and that the method for payment is indicated on all receipts. All checks and money orders are endorsed immediately upon receipt. If manual receipts are in use, the court shall ensure that manual receipt slips are timely entered in the computerized system and the numerical sequence of manual receipt slips is accounted for properly. The court shall ensure that voided transactions are properly documented and approved.

10. Perform reconciliation of the composition of receipts to the composition of deposits, and deposit all monies intact and timely.

11. Perform monthly bank reconciliations, resolve reconciling items, and make appropriate, documented adjustments to accounting records timely.

12. Prepare monthly lists of liabilities and reconcile the lists to the bank account and/or city fund balance, and promptly investigate and resolve differences. The court shall establish procedures to review the status of liabilities to determine the appropriate disposition of funds held.

13. Develop procedures to ensure the monthly distributions are properly calculated and disbursed timely.

14. Establish procedures to routinely generate and review the accrued costs list for accuracy and properly follow up on all amounts due.

15. Obtain signed payment plans from all defendants granted such plans. Ensure that payment plans are incorporated in the case management system in accordance with court operating rules where applicable.

16. Notify the circuit clerk of its court's existence. Section 479.030.1.

17. Provide sufficient non-judicial personnel to ensure proper functioning of the court. Section 479.060.1.

18. Ensure all fines and costs collected shall be paid into the municipality's treasury at least monthly. Section 479.080.1.

19. Provide a monthly list of cases with required detail within 10 days of the end of each month to the municipality. Section 479.080.1.

20. Adopt a written policy for reporting intoxication-related traffic offenses to the central repository and provide same to OSCA and the highway patrol. Section 479.172.1 and 479.172.2. Court Operating Rule #4 shall suffice for this purpose.

21. Provide a semiannual disposition report of intoxication-related traffic offenses to the circuit court en banc. Section 479.172.3.

22. Maintain adequate documentation to support all adjustment transactions and ensure an independent review and approval of these transactions is performed and documented.

23. Maintain a change fund at an established amount and periodically count and reconcile the monies on hand to the authorized balance.

24. Maintain bond coverage for all personnel with access to municipal division monies.

25. Ensure all bond receipts are recorded and deposited timely and intact.

26. Develop procedures and maintain records to identify applicable violations and the associated fines and court cost revenues for purposes of the revenue calculations required by Section 479.359 RSMo et seq., and provide this information to the city.

D. Separation of Powers. Each court shall comply with the following requirements:

1. Administrators and clerks of court and other non-judicial personnel, when performing court-related functions, shall work solely under the direction and supervision of the municipal judge, the circuit clerk, or another officer of the judicial branch as to the work to be performed and the manner in which it is to be done.

2. Clerks of court and other non-judicial personnel shall not perform any functions that could constitute an actual or apparent conflict of interest with the impartial performance of their judicial duties.

3. Judges, clerks of court, and other non-judicial personnel shall not be subject to informal pressure, formal discipline, firing, or threats of non-retention or non-reappointment at the conclusion of a term of office by officers and administrators of the municipal government resulting from the performance of judicial duties in a manner that upholds the independence of the judiciary.

4. Judges, clerks of court, and other non-judicial personnel shall not be subject to informal pressure, formal discipline, firing, or threats of non-retention or non-reappointment at the conclusion of a term of office by officers and administrators of the municipal government that are designed to encourage or require the court to operate in such a way as to maximize the municipal revenues derived from municipal division operations or to meet specified revenue targets without regard to whether such goals or targets are communicated formally or informally to court personnel.

PART II. GENERAL COURTROOM PROCEDURES

A. Rights of Defendants. Each court shall comply with the following requirements:

1. Establish standardized procedures to assure that defendants are given advice of rights pursuant to Rules 37.47, 37.48, 37.50, and 37.58.

2. Provide a “Notice of Rights,” in a form approved by or substantially similar to that approved by the Supreme Court, to all defendants. This notice of rights shall be displayed prominently wherever the clerk of the court transacts business with the public and in the facility where court proceedings are held. This notice of rights shall be made available as a handout for those appearing before the court and is displayed on each public information website operated by the court or on behalf of the court.

3. Ensure announcements by the judge intended for the benefit of all present are made in such a manner to that they can be heard throughout the courtroom or are communicated

adequately in other ways. Such announcements shall also be communicated to those waiting outside the courtroom or otherwise made available to them when they come into the courtroom.

4. Utilize a written “Waiver of Counsel” substantially in the form of Form 37.C. Rule 37.58(d).

B. Other General Rules. Each court shall comply with the following requirements:

1. Ensure reasonable steps are taken so that, where applicable, the Violation Bureau schedule of fines and costs is provided to an accused at the same time as a violation notice. Rule 37.33(b).

2. Ensure any violation bureau established by the court processes only those violations authorized by Rule 37.49(c).

3. Ensure no additional charges shall be issued for failure to appear for a minor traffic offense.

PART III. ARRAIGNMENT, PLEAS, FINANCIAL CONDITION INQUIRIES, INDIGENCY, PAYMENT PLAN, ON-LINE

A. Fines, Costs, Surcharges, Indigency. Each court shall comply with the following requirements:

1. Fines and costs assessed on “minor traffic violations”, as defined in Section 479.353(1)(a), shall not exceed \$225.00.
2. Fines and costs assessed on “municipal ordinance violations” as defined at Section 479.350(4) shall not exceed the mandatory maximum schedule of section 479.353(1)(b).
3. Fines assessed on other ordinance violations shall not exceed the maximum amount authorized by state law and the city code.
4. Only court costs (fees, miscellaneous charges, and surcharges as defined at section 488.010) authorized by state statute shall be assessed. The OSCA bench card on municipal court costs shall be used as a reference. Sections 479.260.1, 479.360(5), and 488.012, RSMo; COR 21.01.
5. “Dismissal on Payment of Costs” [DPC] shall not be permitted. Section 479.353(5), RSMo; COR 21.01(c).
6. Court costs shall not be assessed against indigent defendants. Section 479.353(4)(5).

7. No fee shall be assessed to the defendant for the use of community service, in compliance with the requirements of Section 479.360.1, RSMo.

C. Defendant's Rights to Present Evidence of Inability to Pay. Each court shall comply with the following requirements:

1. Procedures shall be established for the judge to inquire of defendants and allow them to present evidence about their financial condition to assess their ability to pay and establishing payment requirements. The court shall ensure the indigency form provided by the Missouri Supreme Court is used in the determination of indigency. See Missouri Supreme Court Model Local Rule 69.01, Statement of Financial Condition attached.
2. Ensure procedures are in place whereby defendants may pay fines and costs within a specified period of time or make installment payments. Rule 37.65(a)(1)(2).

D. Alternative Payment, Community Service, Probation, Payment Plans. Each court shall comply with the following requirements:

1. Alternative payment plans shall be available for utilization. Rule 37.65(a)(1)(2).
2. The granting of probation shall not be conditioned upon the payment of anything other than authorized fees. Probation shall not be denied because of the inability of the defendant to pay authorized probation fees and surcharges.
3. Any probation fees assessed shall be in compliance with Sections 549.525.2, 559.604, and 559.607, RSMo, including consideration of factors exempting a probationer from part or all of the standard monthly probation fee of \$30 to \$50 per month. The court shall advise offenders of the right to request individualized consideration of exemption from paying probation fees and surcharges under these statutes.

E. Payment On-Line. Each court shall comply with the following requirements:

Ensure procedures exist to allow payments online. The court shall make available to the defendant, free, online access to information about his or her pending cases, outstanding warrants, and scheduled court dockets.

OR

Actively pursue court automation to achieve compliance with allowing payments online and making available to the defendant, free, online access to information about his or her pending cases, outstanding warrants, and scheduled court dockets.

F. Trial De Novo, Jury Trial, Change of Judge. Each court shall comply with the following requirements:

1. The judge shall follow rules cutting off or limiting his or her authority to act in a case once a motion to disqualify, motion for jury trial, or motion for trial *de novo* is filed.
2. All notices of application for trial de novo shall be filed in writing with the municipal division within ten (10) days after the date of judgment. If no application for trial de novo is filed with the municipal division within ten (10) days of the judgment, the right for trial de novo shall be deemed waived and the municipal division shall execute the judgment and sentence.
3. If a defendant files an application for trial *de novo*, the fee for trial *de novo* shall be \$30.00 and shall be deposited with the municipal division. When an application for trial de novo is made without the deposit of the trial de novo fee, the defendant shall also complete and file a Statement of Financial Condition in the form provided by the Missouri Supreme Court under Model Local Rule 69.01 and the Statement of Financial Condition shall become part of the file certified to the circuit court. The judge assigned to hear the trial de novo shall be bound by the procedures established in Rule 69.01, Part III, A., B. and C.
4. When a trial *de novo* request has been filed, the court shall certify the file to the circuit court within 15 days. The court shall ensure that when a case record is certified to the circuit court upon filing of a request for trial *de novo*, all funds received in connection with the case, any bonds, and the record, shall be transferred within 15 days.
5. If the defendant requests a jury trial, the cause shall be transferred to the circuit court. [See applicable procedure regarding request for jury trial at Rule 69.03, below]
6. Once a case has been certified or transferred to circuit court, the court shall not act on that case unless and until the case is remanded to that court.
7. Upon successful change of judge requests and recusals, the procedural requirements of Rule 37.53(d) and Section 479.230, RSMo shall be followed.
8. While hearing a trial *de novo*, the Court shall be bound by Part III A, B and C as set out above.

PART IV. DEFENDANTS IN CUSTODY, BONDS, WARRANTS AND SENTENCING

A. Defendants in Custody. Each court shall comply with the following requirements:

1. Procedures shall exist to prevent defendants from being held longer than 48 hours on minor traffic violations and 72 hours on other violations without being heard by a judge in person, by telephone, or via video conferencing.
2. The court shall make reasonable efforts to communicate to local law enforcement the 24-hour rule: "Defendants in municipal custody shall not be held more than twenty-four hours without a warrant after arrest." Section 544.170.1, RSMo.
3. Confinement may, after compliance with Rule 37.65, be utilized if the defendant is found in contempt of court for nonpayment of fines and costs.
4. There shall be a duty judge available at all times to rule promptly upon warrants, bail and conditions of pretrial release, and other matters, without undue delay.

B. Bond Schedules.

The municipal division shall ensure bond schedules be utilized only for persons arrested without a warrant and held no longer than 24 hours pursuant to sections 479.360.1(2) and 544.170.1, RSMo. Rule 37.17.

C. Warrants.

1. Warrants shall be issued only upon a finding that reasonable grounds exist to believe that the defendant will not appear upon a summons or that the accused poses a danger to a crime victim, the community, or any other person. Rule 37.43(b).
2. All warrants shall be signed only by judges unless the exception of a specific warrant ordered by a judge to be signed by a clerk is applicable. Rule 37.45(b)(6).
3. When a case is dismissed by the prosecuting attorney or otherwise finally resolved, or when the circumstances that justified issuance of a warrant no longer exist, the judge shall recall and cancel any outstanding warrants in that case as soon as practicable.
4. The recall and cancellation of outstanding warrants shall be communicated to law enforcement by the clerk without delay.
5. Due process procedures of Rule 37.65 shall be strictly followed before confining defendants for failure to pay fines and costs. Section 479.353(3).

D. Sentencing.

No person shall be sentenced to confinement on “minor traffic violations” or “municipal ordinance violations” with the exception of violations: involving alcohol or controlled substances; endangering the health or welfare of others; or involving eluding or giving false information to a law enforcement officer. Section 479.353(2).

PART V. JUDGE’S QUALIFICATIONS, REGULATIONS AND DUTIES

A. Qualifications

1. All judge(s) serving in a court municipality - full-time, part-time, substitute, and provisional - shall be selected pursuant to municipality’s ordinance or charter before serving. Section 479.020.1.
2. A judge may serve as a judge in no more than five municipalities. Section 479.020.9.
3. A judge shall not have attained age of 75 years. Section 479.020.7.
4. All lawyer judges shall obtain the following required training and continuing education, and provide documentation thereof to the presiding circuit judge:
 - a. Orientation course completed within 12 months after beginning service. Rule 18.05(d).
 - b. Five hours of judicial CLE completed annually. Rule 18.05(a).
 - c. Two hours of judicial ethics CLE completed annually. Rule 18.05(b).
 - d. CLE compliance form is submitted to the circuit court presiding judge.
 - e. If substitute/provisional judges preside, names and CLE compliance forms have been provided to the circuit court presiding judge.
 - f. Instruction on laws related to intoxicated-related traffic offenses. Section 479.172.1.

B. Duties of Judge, Generally

1. The court shall have a mechanism in place to check for judicial conflicts prohibited by Rule 37.53(b)(2), so the judge recuses himself/herself in all instances when required to do so pursuant to this rule.
2. If holding administrative hearings, the court shall be authorized by law to do so. Section 479.011.1.

C. Compliance with Minimum Standards.

By January 1 and July 1 of each year, each judge of a court shall certify to the presiding judge of his/her compliance with Minimum Operating Standards by completing the following form:

Municipal Division _____

Municipal Judge _____

Any Substitute or Provisional Judges _____

Address Where Municipal Division is Held _____

Dates and Times Where Municipal Division is Held _____

Municipal Division Telephone Number _____

Judge Contact Number _____

Judge Email _____

Court Clerk Email _____

I, _____, certify that this municipality complies with the following minimum operating standards together with all other minimum operating standards as approved by the Supreme Court of Missouri:

- Judge has received instruction on laws related to intoxicated-related traffic offenses. Section 479.172.1.
- A written policy for reporting intoxication-related traffic offenses to the central repository has been adopted and provided to OSCA and the highway patrol. Section 479.172.1 and 2.
- A copy of this written policy for reporting intoxication-related offenses to the central repository has been provided to the presiding circuit judge.
- Warrants are signed by the judge or by a clerk of the court when directed by the judge for a specific warrant. Rule 37.45.
- Judge complies with Rule 37.47: Initial Proceedings before the Judge,

including:

- Arraignment as soon as practicable if defendant has not satisfied conditions for release,
- Judge shall inform the defendant of the:
 - Ordinance violation charged,
 - Right to retain counsel,
 - Right to request the appointment of counsel if defendant is indigent and there is a possibility of a jail sentence,
 - Right to remain silent,
- Fact that anything that the defendant says may be used against him or her.
- Judge complies with Rule 37.48: Arraignment:
 - Arraignment shall be conducted in open court.
 - Judge reads the information to the defendant or states the substance of the charge.
 - Municipal division calls upon the Defendant to plead there to.
 - Defendant shall be afforded a reasonable time to examine the charge before defendant is called upon to plead.
- Judge complies with Rule 37.50: Right to Counsel:
 - If conviction for an ordinance violation could result in confinement, the judge advises the defendant of the right to counsel and willingness of the judge to appoint counsel to represent the defendant.
 - Upon a showing of indigency, judge appoints counsel to represent the defendant.
 - Judge allows the defendant to proceed without counsel if the judge finds that the defendant has knowingly, voluntarily, and intelligently waived the right to counsel.
 - If it appears during the proceedings that because of the gravity of the ordinance violation charged and other circumstances that failure to appoint counsel may result in injustice, the judge then appoints counsel. Judge gives said counsel reasonable time to prepare.
- Choose one of the following:
 - The court allows payments online and makes available free, online access to information about pending cases, outstanding warrants, and scheduled municipal division dockets. The municipal division website is _____.

OR

- The municipal division is actively pursuing court automation for compliance with payments online and making free, online access to information about pending cases, outstanding warrants, and schedule municipal division dockets is scheduled to be in place by _____(estimated date).

- Courtroom facility is sufficient for the purpose of a courtroom.
- Courtroom is open to the public of all ages and large enough to reasonably accommodate the public, parties, and attorneys.
- The facility chosen for the municipal division takes into consideration the safety and comfort of the public, parties, and lawyers.
- The facilities chosen shall uphold the integrity and independence of the judiciary as a separate branch of government.
- Following applicable law, the judge relinquishes jurisdiction over a case when a motion to disqualify, motion for jury trial, or motion for trial de novo is filed.

- When a case is transferred to circuit court, the transfer occurs within 15 days.
- Judge has certified substantial compliance with section 479.360.1(1 to 10), RSMo, and provided signed certification to the governing body in compliance with the state auditor's rules and procedures. Section 479.360.1 and 2. Additionally, the judge complies with the following provisions of section 479.360.1:
 - Procedures exist to prevent defendants from being held longer than 48 hours on minor traffic violations and 72 hours on other violations without being heard by a judge in person, by telephone, or via video conferencing.
 - The municipal division has made reasonable efforts to communicate to local law enforcement the 24-hour rule: "Defendants in municipal custody shall not be held more than twenty-four hours without a warrant after arrest." See also section 544.170.1, RSMo.
 - Confinement to coerce payment of fines and costs is utilized only if found in contempt of court after compliance with Rule 37.65.
 - The municipal division inquires of defendants and allows them to present information about their financial condition when assessing their ability to pay and establishing payment requirements for monies due.
 - The courtroom is open to the public of all ages and large enough to reasonably accommodate the public, parties, and attorneys.
 - Alternative payment plans are utilized. See also Rule 37.65(a)(1)(2).
 - Community service is utilized with no fee assessed to the defendant.
 - For minor traffic violations, procedures exist for electronic payment or payment by mail.

- Court provides to the municipality adequate information for the municipality to determine excessive revenue calculations to the state auditor.

- If judge is a lawyer, complete Section A. If judge is non-lawyer, complete

Section B.

Section A

If judge is a lawyer, the lawyer has completed each of the following:

- MJEC orientation course within 12 months after beginning service. Rule 18.05(d).
- Five hours of judicial CLE annually. Rule 18.05(a).
- Two hours of judicial ethics CLE annually. Rule 18.05(b).
- CLE compliance form is submitted to the circuit court presiding judge.
- If substitute/provisional judges preside, names and CLE compliance forms have been provided to the circuit court presiding judge.

Section B

If judge is a non-lawyer judge, the judge has completed each of the following:

- Course of instruction administered by the MJEC within six months after selection. Rule 18.04; section 479.020, RSMo.
 - Five hours of judicial CLE annually. Rule 18.05(a).
 - Two hours of judicial ethics CLE annually. Rule 18.05(b).
 - CLE compliance form is submitted to the circuit court presiding judge.
 - If substitute/provisional judges preside, names and CLE compliance forms have been provided to the circuit court presiding judge.
- Judge has read the Supreme Court's "Minimum Operating Standards for Missouri Courts: Municipal Divisions" and substantially complies with the remaining Minimum operating standards.
 - Judge has attached to this certification the following:
 - Semiannual disposition report of intoxication-related traffic offenses provided to the circuit court en banc,
 - Substantial compliance certification with section 479.360.1(1 to 10),
 - CLE compliance forms.

I hereby certify that my municipal division has complied with all of the above minimum operating standards terms.

Date

Signature

69.2 REGISTRATION OF MUNICIPAL JUDGES

Each Municipal Judge shall, within thirty (30) days of his appointment or election to office, register with the Presiding Judges Secretary of the Circuit Court, setting forth his full name, address, telephone number, term of office and name of the municipality.

69.3 JURY TRIALS – MUNICIPAL DIVISION

- (1) Where authorized by law, the defendant may demand trial by jury.
- (2) All demands for trial by jury shall be in writing, and shall be filed with the municipal division in accordance with Missouri Supreme Court Rule.
- (3) Within fifteen (15) days after a demand for trial by jury is granted, the Municipal Judge shall cause all original papers filed in the case, including any bail or appearance bonds, and any cash or other property given as security upon any such bond, to be filed with the Clerk of the Circuit Court.
- (4) Upon receipt of the original papers by the Clerk of the Circuit Court, the Clerk shall open a file and assign the case a uniform number.
- (5) In any case, the Circuit Court may assess costs and fees as provided by law against the defendant, including but not limited to jury fees, clerk fees, service fees, and witness fees.
- (6) The costs, fees, and any fine assessed may be collected in any action allowed by law, and shall be paid into the registry of the Circuit Court. After collection, the Clerk of the Circuit Court shall disburse the monies collected to the municipal division and other recipients according to applicable statutes.

69.4 DISQUALIFICATION OF JUDGE

- (1) A Municipal Judge that is disqualified, pursuant to Missouri Supreme Court Rule 37.53 shall within ten (10) days after his or her disqualification inform the Presiding Judge of the disqualification.
- (2) The Presiding Judge shall thereupon transfer another Municipal Judge to hear the case upon which the original Judge was disqualified and said transferred Judge shall have the authority to hear and determine the case.
- (3) In a municipality that has appointed a provisional judge to hear and determine cases

in those situations when the sitting municipal judge is unable to hear and determine a case, the provisional judge shall be immediately assigned to hear and determine the case from which the sitting municipal judge has been disqualified. The Municipal Judge is excused from informing the Presiding Judge of his or her disqualification when the appointed provisional judge is assigned to a case upon disqualification of the sitting judge.

69.5 AGREEMENT TO SHARE MUNICIPAL COURTROOM

- (1) Municipal Divisions may hold hearings of Municipal Court violations outside the boundaries of the municipality and inside the boundaries of another municipality within St. Charles County if the municipalities enter into a written cooperative agreement regarding the operations of the courtroom to be utilized.
- (2) Any municipality that enters into an agreement to hold Court outside its municipal boundaries shall file a copy of the agreement with the Presiding Judges Secretary. The agreement shall include the name of the Municipal Judge who is assigned to hear cases of the municipality.
- (3) Municipalities that do not share a common boundary may not hold Court outside municipal boundaries without the approval of the Presiding Judge.

69.6 INCORPORATION OF OPERATING RULE #4

The attached Operating Order #4 (which is incorporated herein and made a part hereof and Marked Attachment #1) which is effective with the adoption of these Rules by the Court en banc, compiles those applicable statutes, Supreme Court Rules, Supreme Court Operating Rules, and standards, as are effective as of September 30, 2016, including relevant sections of Supreme Court Rule 37.04, entitled "Supervision of Courts Hearing Ordinance Violations," including Appendix A, the Minimum Operating Standards for Municipal Courts: Municipal Divisions ("MOS"). This template marked Attachment 1 shall be adopted by every Municipal Division as Court Operating Order #4 shall supersede any previous Municipal Court Orders delineated or identified as Court Operating Orders #1, #2 or #3 which are now rescinded.

Attachment #1

NOTE: This Order is intended as a template for courts to use in implementing a local municipal division operating rule and local court rules. It contains informational notes within the body of the order which should be deleted before signing the final order. Other sections may contain several options where those that do not apply should be deleted, and/or blanks which must be filled in before signing the final Order.

**IN THE CIRCUIT COURT OF SAINT CHARLES COUNTY, MISSOURI
ELEVENTH JUDICIAL CIRCUIT**

MUNICIPAL DIVISION – THE CITY OF _____

MUNICIPAL DIVISION OPERATING ORDER #4

Including Eight Local Court Rule provisions

Superseding Court Operating Orders #1, #2 and #3

Effective Date – _____, 2017

**Background and Purpose of Division Operating Order #4 and
Eight Applicable Local Court Rules**

A. This Division Operating Order #4 compiles those applicable statutes, Supreme Court Rules, Supreme Court Operating Rules, and standards, as are effective as of September 30, 2016, including relevant sections of Supreme Court Rule 37.04, entitled “Supervision of Courts Hearing Ordinance Violations,” including Appendix A, the Minimum Operating Standards for Missouri Courts: Municipal Divisions (“*MOS*”). This Order shall supersede Court Operating Orders #1, #2 and #3, which are hereby rescinded. The term “Municipal Division” shall be referred to herein as “Division.”

B. This Order is intended to include in one consolidated Division Order, such relevant statutes, rules and standards, to provide for and achieve procedural fairness, order and convenience for those who appear before this Division. This Order is intended to apply, , to all Court personnel, officers of the Court, attorneys, and litigants, including without limitation the Judge, Court Administrator, Clerk of Court, Prosecuting Attorney, Prosecuting Attorney’s Clerk, Bailiff, and security personnel.

C. This Order is not intended to supersede, supplant, or alter any Missouri Supreme Court Rule, including the *MOS*, or any local circuit court rule adopted which governs the operations of a municipal division and reporting obligation, as provided in the “Protocols for Presiding Circuit Court Judges Supervising Municipal Court Judges” adopted by the Supreme Court in November, 2016. All the provisions of this Order shall be subordinate to Missouri Supreme Court Rules, Missouri statutes, and local circuit court rules, which may differ than the provisions of this Order.

D. This Order also includes in Part I, Section B, several local circuit court rules, which are not technically “operating orders” or “operating rules.” The term “Court Administrator” as used in Part I, Section B, and elsewhere, also applies to those Divisions which utilize the term “Court Clerk.” The Term “Division Clerk” shall also be considered synonymous, when that term is used in place of “Court Administrator” or “Court Clerk.” The same is true for “Deputy Court Administrators,” “Deputy Division Clerks, or “Deputy Court Clerks,” which are the same position.

PART I – ADMINISTRATION OF MUNICIPAL DIVISION

A. General Administrative Procedures.

1. General Duties of Court Administrator. Court Administrator shall ensure that the Court regularly communicates with the Circuit Clerk and the Presiding

Judge on all relevant matters, including the Division's existence. The Court Administrator shall comply with the standards set forth in "Open Records and other Recordkeeping Matters" contained in the MOS, following MOS #10. Such standards shall include maintenance of complete and accurate records of all Division proceedings, including warrants outstanding, bonds posted, case files and dispositions. All documentation "backer sheets" shall be signed by the Judge. The Court Administrator shall ensure that Division's computer data is backed-up, stored in secure offsite locations, and that passwords are kept confidential and periodically changed. Courts using the statewide case management system shall follow any published security guidelines.

2. Case Numbering and Case Indexing. Case index records shall be maintained on all municipal cases. Judgment index records shall be maintained on all municipal judgments. Case indexes shall be maintained for each case filed, including traffic or non-traffic violations. The index shall include the full name of the defendant, case number, date the case was filed with the court, and the case disposition. Confidential cases shall be accessible only by authorized personnel.

Cases filed by the prosecutor shall be assigned a unique number by the Division. The numbering system shall be that used by the Office of State Court Administrator ("**OSCA**") or that computer software vendor approved by the State Judicial Records Committee. All forms used by the Division shall be numbered sequentially and accounted for, including tickets, summons, complaints, receipt slips, bond forms, and payment agreements. *(Source: §§483.065, 483.075, and 483.082 RSMo; Supreme Court Operating Rule ("**COR**") 4.04.; payment agreement source State Auditor recommendation, Municipal Clerk Manual ("**Clerk Manual**") Section 1.1c.)*

3. Violation Bureau Schedule – Posting and Availability to Accused. The Judge shall, from time to time, appoint a Court Administrator to be the Violation Bureau Clerk. This shall be by a separate order. The Violation Bureau Schedule shall list and process only those violations authorized by Supreme Court Rule 37.49(c). It shall be prominently displayed at the place where fines are to be paid. The Court Administrator shall periodically communicate with the police department to ensure, where applicable, the schedule of fines and costs payable through the Violation Bureau is provided to an accused at the same time as a violation notice. *(Source: Supreme Court Rules ("**SCR**") 37.49 and 37.33(b).)*
4. Budget. The Court Administrator shall communicate regularly with the Judge and the City Finance Department ("**City**") regarding any budget issues involving the Division. Any budget disputes shall be resolved through a settlement conference with the Presiding Judge, if necessary. The Court Administrator shall work with the City to identify associated fines and costs

revenues for the purpose of the revenue calculations required by law. (Source: Mo. Constitution, Article II; §479.359 RSMo; COR 13.)

5. Advising Litigants of Their Rights in Court. The Court Administrator shall take necessary steps to ensure that defendants are given advice of rights pursuant to the SCR and MOS #9, including a “Notice of Rights in Municipal Division” form as approved by the Supreme Court. (Source: SCR 37.47, 37.48, 37.50, and 37.58; MOS #9.)
6. Compliance with Certifications and Reports to Auditors – Highway Patrol. The Court Administrator shall communicate with Missouri State Highway Patrol (“MSHP”), OSCA, and the Regional Justice Information System (“REJIS”) to be compliant with their policies and management agreements regarding information, including terminal operations. The Court Administrator shall communicate with the Judge and with the City to facilitate compliance with requirements of other agencies with respect to the information systems provided to the Division.

B. APPLICABLE LOCAL CIRCUIT COURT RULES.

NOTE: The following eight provisions are not “operating orders,” but in the nature of local court rules, are included here for convenience.

1. Court Administrator. The Court Administrator (or, as known in some Divisions, the “Court Clerk” or “Division Clerk”), shall be the chief administrator of the Division. The Court Administrator and all Deputy Clerks, shall be responsible for the orders contained in Parts I, II and III, except when such orders are applicable only to the Judge, to the Prosecuting Attorney, to the Prosecuting Attorney’s Clerk, or to other personnel other than the Court Administrator. The Court Administrator shall, when applicable, cooperate with the City to assist the Court Administrator to effectuate applicable provisions of this Order. To the extent not prohibited by the MOS, or other relevant law or rule, the Court Administrator shall cooperate with the Prosecuting Attorney’s Clerk, the police department, and the City.
2. Minor Traffic Violations – Special Rule. The Court Administrator shall clearly mark the jacket or outside of case files which fall under the current definition of “Minor Traffic Violations” so that the Division may readily recognize such cases when handling the file. The Court Administrator shall communicate with the Division, and with the Prosecuting Attorney’s Clerk and Prosecuting Attorney, so that all court personnel are aware of the limitations with respect to fines, costs, and other conditions imposed upon the Division by legislation. (Source: §§479.353 and 479.360 RSMo.)

3. Municipal Ordinance Violations – Special Rule. Fines and costs assessed on a “Municipal Ordinance Violation” (as defined by law) shall not exceed the mandatory maximum schedule set forth by statute. The Court Administrator shall clearly mark the Division files, to report any previous relevant violations of “Municipal Ordinance Violations” so that the Court may not impose a fine in an amount which exceeds the mandatory maximum schedule. *(Source: §§479.350(4) and 479.353(1)(b) RSMo.)*
4. Segregation of Duties. The Court Administrator shall abide by MOS #7 and, as applicable, take all steps necessary to segregate the duties of the Prosecuting Attorney and law enforcement from that of the Court Administrator. The Court Administrator and the Prosecuting Attorney’s Clerk shall cause there to be separate filing systems for prosecutor-related documents and communications, from those documents and communications under the authority of the Court Administrator.
5. Hours of Court Administrator’s Office. The Court Administrator shall communicate regularly with the Division and with the City so that the Court Administrator’s office is open and accessible to the public for the required number of hours per week, or the Court Administrator is available, all in accordance with MOS #8.
6. Confidential and Closed Records.
 - a. Identify Records. The Court Administrator shall identify all Division records that contain confidential information and maintain all confidential records in accordance with those procedures set forth in Chapter 5 of the then current Clerk Manual. The Court Administrator shall permit closed records to be inspected by the defendants, courts, and those agencies as are set forth in Section 610.120 RSMo. The Court Administrator shall identify all Court records (including docket entries for cases that have been nolle prossed, dismissed, Substance Abuse Traffic Offender Program (“*SATOP*”), or the defendant found not guilty) that contain confidential information. The Court Administrator, on behalf of the Judge, shall request the city provide adequate and secure file cabinets for the retention of confidential records and closed files. The Court Administrator shall comply with laws regarding confidentiality of identifying information contained in Court documents regarding victims of sexual or domestic assault, or stalking. *(Source: §§566.226, 610.105 and 610.120 RSMo; Section 5.1 of Clerk Manual.)*
 - b. Confidentiality of SATOP Programs. If the Division orders the defendant to participate in a SATOP program, the Court Administrator shall file all documents received from the program provider in the case file, and all documents relating to the program assessment, assignments and completion shall remain confidential.

(Source: 42 CFR Part 2, 42 U.S.C. 290 dd-3.)

7. Record Retention and Destruction. The Court Administrator shall retain all Division records unless there shall be an order signed by the Presiding Judge of the Circuit Court to destroy same. The Court Administrator shall follow COR 8 and the City shall cooperate with the Court Administrator to follow a regular schedule to destroy and/or transfer cases eligible for transfer or destruction in accordance with COR 8. The Court Administrator shall abide by those recommended procedures set forth in Chapter 5 of the then current Clerk Manual. All requests to destroy or transfer records shall be signed by the Presiding Judge. (Source: COR 8; Section 5.2 of Clerk Manual.)
8. Conflicts. In order to comply with the requirements of MOS #5, the Judge, in cooperation with the Court Administrator shall, as far as practicable, manage a conflict plan enacted by the Judge, in order to ensure there are no judicial conflicts as prohibited by SCR. The Judge shall recuse himself/herself in all instances when required to do so. Further, the Division, Court Administrator, and other non-judicial personnel shall not perform any functions which constitute an actual or apparent conflict of interest with the impartial performance of their duties. (Source: SCR 37.53(b)(2); MOS #5 and #7.)

C. REPORTING REQUIREMENTS OF THE MUNICIPAL DIVISION

1. Reporting to the City. Unless substituted with the report required under COR 4.28, within the first ten (10) days of each month, the Court Administrator shall submit to the City Clerk copies of the dockets of all cases heard during the preceding month by the Division and those cases in which there was an application for a trial de novo. If a record is closed under Chapter 610, RSMo., the Court Administrator shall not include the name of the defendant in the monthly report. For all cases that are nolle prossed, dismissed, or those in which the defendant is found not guilty, the Court Administrator shall supply all the required information, but black out the defendant's name. The Court Administrator may, pursuant to the authority in COR 4.29, substitute submission of the dockets to the City Clerk with the report required to be sent to OSCA under COR 4.28. (Source: §§479.080.1 and 479.080.3 RSMo, COR 4.28 and 4.29; Section 1.4 of Clerk Manual.)
2. Reporting to the Department of Revenue.
 - (a) Case Disposition. The Court Administrator shall report case disposition information on all moving traffic violations, alcohol and drug-related traffic offenses, including suspended imposition of sentence, all convictions while driving a commercial motor vehicle, including

commercial driver's license holders driving a personal vehicle, to the Missouri Department of Revenue ("**DOR**"). The Court Administrator shall abide by the "Case Processing Procedures" found in Chapter 3 of the then current Clerk Manual published by OSCA. The Court Administrator shall ensure that the disposition is received by the DOR within seven (7) days of the disposition. If defendant requests a *trial de novo* within the ten (10) day period after judgment against defendant, then the DOR shall not receive the disposition. (Source: §§302.225.1 and 577.051 RSMo; Section 1.4 of Clerk Manual.)

NOTE: For the judge authoring the order, three options for reporting are listed below. Retain only the appropriate section [minus text in brackets] that applies to the type of case management system operating in the Division. The other sections, as well as this note, should be deleted.

[1. Divisions Using Automated Case Management System Approved for Statewide Use] The Court Administrator shall insure the accuracy of data entered into the automated case management system approved for statewide use by the State Judicial Records Committee, so that OSCA can automatically extract required reporting information to electronically provide to the DOR. In an effort to comply with this requirement, the Court Administrator shall actively review and correct data errors identified through the case management system's problem logs.

[2. Divisions Using an Automated Case Management System Approved for Local Use and Approved for Electronic Reporting to the Department of Revenue]

The Court Administrator shall insure the accuracy of data entered into the automated case management system and ensure required reporting information is transmitted electronically in a format approved by the DOR.

[3. Divisions Not Using an Automated Case Management System or Using an Automated System Not Approved for Electronic Submission to Department of Revenue]

The Court Administrator shall complete the report by submitting a completed "Abstract of Court Record," portion of the Uniform Citation, or by submitting a completed "Record of Conviction" form referenced in SCR form 37.B – *Record of Conviction*. (Source: SCR 37.B.)

- (b) Crime Victims Compensation Fund. The Court Administrator shall cause
a
\$7.50 Crime Victims Compensation Fund (“*CVC*”) surcharge to be assessed on all non-moving and moving traffic violations and all other non-traffic municipal ordinance violations, unless the case has been dismissed, or costs have been waived due to the Division finding the defendant indigent. The Court Administrator shall forthwith cause the CVC charge to be reported to the DOR and disbursed as follows:

95% (\$7.13 of each fee) shall be sent to the DOR no less than monthly and 5% (\$.37 of each fee) to the general fund of the City in accordance with IV.C, *infra*. (Source: §§488.5339 and 595.045.6 RSMo.)

The Court Administrator shall be familiar with and abide by those provisions set forth in Sections 4.2 and 4.3 of the then current Clerk Manual.

- (c) Abuse and Lose Procedures. In the event that the Judge shall enter an order suspending or revoking the defendant’s driving privileges under the Abuse and Lose law, the Court Administrator shall, within ten (10) days of the order, send any Missouri license surrendered to the Division, along with the certified copy of the Order of Suspension on the official DOR form, to the DOR. The Court Administrator shall follow those procedures regarding Abuse and Lose reporting as set forth in Section 3.8 of the then current Clerk Manual. (Source: §§577.500 through 577.505 RSMo.)
- (d) Failure to Appear or Pay – License Suspension. The Court Administrator shall notify defendants within ten (10) days of that defendant’s failure to dispose of a moving traffic violation, that the Division will order the DOR to suspend that defendant’s license in thirty (30) days, if the charges are not disposed of or fully paid. This provision shall not apply to Minor Traffic Violations as defined in Section 479.353 RSMo (2015). For such violations for which a notice may be sent to defendants, such notification shall not be sent until a summons has been mailed to the defendant and defendant thereafter shall fail to appear. On non- Minor Traffic Violation cases that apply, the Court Administrator shall send the Failure to Appear or Pay Traffic Violation (F.A.C.T.) form to the DOR when a defendant has failed to appear on a court date after a summons has been issued to the defendant, when the defendant fails to appear on a subsequent court date to which the case has been continued, or, when the defendant,

without good cause, fails to pay any fine or costs assessed against him or her.

Upon payment of all fines and costs, or, if earlier ordered by the Judge, a compliance notice on forms approved by the DOR shall be issued to the defendant, and the Court Administrator shall forthwith advise the DOR of such compliance. (Source: §§302.341 and 427.353 RSMo; Section 3.5 of Clerk Manual.)

- (e) Withholding Renewal of License. In the event a defendant shall fail to appear when ordered, and without being first granted a continuance, and appropriate summons to follow the failure to appear, the Court Administrator shall notify the DOR within ten (10) days of the failure to appear, by using the “Lieu of Bail” form provided by the DOR, except such notification shall not be required if the Court Administrator has utilized the notification procedures set forth in Paragraph 5, *supra*. When the case is disposed of, the Court Administrator shall report the disposition as on any other traffic case. (Source: §544.045.4 RSMo; Section 3.5 of Clerk Manual.)
- (f) Non-Resident Violator Program. In the event a defendant who is not a resident of Missouri fails to appear, the defendant shall be notified by regular mail and given a specific amount of time to dispose of the traffic ticket before notification is made to the DOR. If defendant fails to comply, the Court Administrator shall forward the Non-Resident Violator Compact (NVRC) Form provided by the DOR, to the Compact Administrator at the DOR. This provision shall be in effect for non-resident defendants from all other states in the United States which are members of the Non-Resident Violator Compact. (Source: §544.046 RSMo; Sections 3.5 and 3.6 of Clerk Manual.)
- (g) Driver Improvement Programs. In the event that the Judge has ordered a non- CDL holder defendant to complete the Driver Improvement Program, the Court Administrator shall send notice of its completion to the DOR within fifteen (15) days of Program completion. The Court Administrator shall not send any notice of the Driver Improvement Program if the moving traffic violation has been amended to a non-moving violation by the Prosecuting Attorney. (Source: §302.302 RSMo; Section 3.7 of Clerk Manual.)
- (h) Ignition Interlock Device. When the Judge shall order the use of an ignition interlock device (“**IID**”), the Court Administrator shall forthwith send the Order to install the IID to the DOR properly executed, containing the requirements for the period of the use of the IID. (Source: §§577.600 through 577.614 RSMo; Section 3.2 of Clerk

Manual.)

3. Reporting to OSCA.

NOTE: For the judge authoring the order, three options for reporting are listed below. Retain only the appropriate section [minus text in brackets] that applies to the type of case management system operating in the Division. The other sections, as well as this note, should be deleted.

[1. Divisions Using Automated Case Management System Approved for Statewide Use] The Court Administrator shall insure the accuracy of data entered into an automated case management system approved for statewide use by the State Judicial Records Committee, so that OSCA can automatically extract required reporting information as provided by COR 4.28. In an effort to comply with this requirement, the Court Administrator shall actively review and correct data errors identified through the case management system and filing and disposition exception reports. *(Source: COR 4.28; Section 1.4 of Clerk Manual.)*

[2. Divisions Using an Automated Case Management System Approved for Local Use] The Court Administrator shall insure that required reporting information is transmitted either electronically or manually in a format according to provisions of COR Rule 4.28. The Court Administrator shall insure the accuracy of data entered in the case management system. This information shall be submitted to OSCA no later than the 15th day of each month, with data completed from the previous month's Division activity. *(Source: COR 4.28; Section 1.4 of Clerk Manual.)*

[3. Divisions Not Using an Automated Case Management System]

The Court Administrator shall complete and deliver the "Municipal Division Summary Reporting" form to OSCA no later than the 15th day of each month, with data completed from the previous month's Division activity. This data shall be delivered by e-mail or fax to OSCA on the then current form provided by OSCA. The Court Administrator shall complete the form in accordance with the instructions submitted from time-to-time by OSCA, and as contained in the then current Clerk Manual. A copy of the OSCA form shall be submitted to the Judge each month. *(Source: COR 4.28; Section 1.4 of Clerk Manual.)*

4. Reporting to the MSHP (Criminal History Reporting including Intoxication-Related Traffic Offenses, "Fingerprint Cards").

The Court Administrator shall report to the MSHP any violations of municipal ordinances involving alcohol or drug related driving offenses or any violations

deemed to be “comparable ordinance violations” as defined by Section 43.503 RSMo and as listed in the Missouri State Charge Code Manual. The Court Administrator shall report violations without undue delay or within 30 days of case disposition.

At any court appearance for any reportable offense, the Court Administrator shall inform the Division that the defendant needs to be fingerprinted and photographed, if not already obtained. The order for fingerprints shall contain the offense, charge code, date of offense and any other information necessary to complete the reporting.

For any reportable violation, the Court Administrator shall report to the MSHP a record of all charges filed, including all those added subsequent to the filing of the case, amended charges, and all final dispositions of cases where the central repository has a record of an arrest. The Court Administrator shall abide by reporting requirements found in Sections 1.4 and 3.3 of the then current Clerk Manual. (*Source: §§479.172, 43.503 RSMo; Sections 1.4 and 3.3 of Clerk Manual.*)

Dispositions that must be reported to the MSHP are:

- Not guilty, dismissed, nolle prossed or acquittal
- Plea of guilty or finding of guilt
- Suspended imposition of sentence
- Suspended execution of sentence
- Probation
- Conditional sentences
- Sentences of confinement

NOTE: For the judge authoring the order, two options for reporting are listed below. Retain only the appropriate section [minus text in brackets] that applies to the type of case management system operating in the Division. The other sections, as well as this note, should be deleted.

[1. Divisions Using Automated Case Management System Approved for Statewide Use] The Court Administrator shall insure the accuracy of data entered into an automated case management system approved for statewide use by the State Judicial Records Committee, so that OSCA can automatically extract required reporting information and forward it to the MSHP. In an effort

to comply with this requirement, the Court Administrator shall actively review and correct data errors identified through the case management system's problem log reports. (Source: §§ 43.503 and 43.506 RSMo; Sections 1.4 and 3.3 of Clerk Manual.)

[2. Divisions Using an Automated Case Management System Approved for Local Use or a Manual Case Management System]

The Court Administrator shall insure that required reporting information is transmitted manually by completing and sending to the MSHP the Prosecutor Action and/or Court Action Segment(s) of the State Criminal Fingerprint Card, which contains an Offense Cycle Number (OCN), pursuant to Section 43.506 RSMo. (Source: §§ 43.503 and 43.506 RSMo; Sections 1.4 and 3.3 of Clerk Manual.)

The Court Administrator shall provide any information received by the Division Administrator to the Judge, so that the Judge shall comply with the statutory requirement to receive "adequate instruction on the laws related to intoxication-related traffic offenses." (Source: §479.172.1 RSMo.)

5. Reporting Intoxication-Related Traffic Offenses to Circuit Court en Banc

The Court Administrator shall prepare a report twice annually, by June 30th and December 31st, which shall include, but shall not be limited to, the total number and disposition of every intoxication-related traffic offense adjudicated, dismissed or pending in that Division. The Division shall submit said report to the Circuit Court en Banc. The report shall include the six-month period beginning January 1st and ending June 30th and the six-month period beginning July 1st and ending December 31st of each year. The report shall be submitted to the Circuit Court en Banc no later than sixty (60) days following the end of the reporting period. The Judge shall attach the same report to the Presiding Judge in accordance with I.C.7. of this Order by January 1st of the year, recognizing that there is no sixty (60) day period to submit the report following the end of the reporting period as there is for the report to the Circuit Court en Banc. (Source:

§479.172.3 RSMo; MOS; Section 1.4 of Clerk Manual.)

NOTE: For the judge authoring the order, two options for reporting are listed below. Retain only the appropriate section [minus text in brackets] that applies to the type of case management system operating in the Division. The other sections, as well as this note, should be deleted.

[1. Divisions Using Automated Case Management System Approved for Statewide] Unless instructed by the circuit court to provide additional information or report in a different manner, the Court Administrator shall run the Report.net reports described in Chapter 1 of the then current Clerk Manual and complete the “Municipal Division Summary Reporting Form.” The Court Administrator shall send the “Municipal Division Summary Reporting Form” along with a cover letter to the Presiding Circuit Judge to meet the semi-annual reporting requirement to the Circuit Court en Banc.

[2. Divisions Using an Automated Case Management System Approved for Local Use or a Manual Case Management System]

Unless instructed by the circuit court to provide additional information or report in a different manner, the Court Administrator shall use the “Municipal Division Summary Reporting Form” that is submitted monthly to OSCA to meet the semi-annual reporting requirement to the Circuit Court en Banc. The Court Administrator shall make copies of each month’s report for the required reporting period and send along with a cover letter to the Presiding Circuit Judge.

6. Reporting to OSCA and MSHP (Intoxication-Related Traffic Offense Written Policy)

The Court Administrator shall provide a signed copy of this Order to the MSHP and OSCA at the addresses shown below. If any revisions are made to this Order, the Court Administrator shall provide a revised copy to the MSHP and OSCA. (Source: §479.172 RSMo; Section 1.4 of Clerk Manual.)

Addresses and facsimile numbers where copies shall be

sent are:

Office of State Courts Administrator

Attention: Court Services Division, DWI Reporting Policy

P.O. Box 104480 2112

Industrial Drive

Jefferson City, Missouri 65110

Fax: 573-522-5961

Missouri State Highway Patrol
Criminal Justice Information Services Division
P.O. Box 9500
Jefferson City, Missouri 65102
Email: mshpcjis@mshp.dps.mo.gov

7. Reporting to the Presiding Circuit Judge. The Court Administrator shall meet with the Judge to review the “Minimum Operating Standards Form” to be submitted semi- annually to the Presiding Circuit Judge, to ensure compliance with the items to be certified in such Form. *(Source: MOS #10.)*
8. Reporting to State Auditor. The Court Administrator shall meet and confer with the Judge to ensure that the City shall timely file with the State Auditor, together with the City’s report due under Section 105.145 RSMo, the City’s certification of its substantial compliance signed by the Judge with the Division procedures set forth in Section 79.360.1(1)(10) RSMo. The Court Administrator and the Judge shall meet periodically to review the provisions of Section 479.360(1) in order to ensure compliance with the State Auditor requirements.
9. Reporting to Judge. The Court Administrator shall assemble the reports submitted to DOR, the MSHP, OSCA, the Presiding Circuit Judge, and the State Auditor, and maintain same in a file for periodic review by the Judge, so that the Judge is aware that all reporting requirements have been complied with for the previous period.
10. Reporting to the Department of Insurance. The Court Administrator shall report all unsatisfied judgments against bail bond agents and sureties, and subsequent satisfactions of those judgments, to the Department of Insurance. The Court Administrator shall utilize those procedures set forth in the Clerk Manual. *(Source: § 374.763 RSMo; Section 2.3 of Clerk Manual.)*

D. Fines, Division Costs, Surcharges and Fidelity Bonds.

5. General Rules.

- (a) The Court Administrator shall utilize his/her best efforts so that on each case adjudicated by the Judge, the Judge's appropriate fines are assessed and general Division costs are assessed only in the amounts set forth by statute or ordinance. These shall include CVC surcharges, police officer standard and training commission ("**POST**") surcharges, law enforcement training fine ("**LETF**") surcharges, recoupment, and other legal surcharges as set forth by law and city ordinance. Those fines and costs that shall be collected shall be remitted timely to the City, and to the DOR respectively, in accordance with this Order. *(Source: MOS #4.)*
- (b) The Court Administrator shall use the OSCA Cost Card on municipal division costs as a reference. Dismissal upon payment of costs shall not be permitted. Division costs shall not be assessed against indigent defendants, as per law. *(Source: §479.353(4)(5) RSMo; MOS #4.)*
- (c) The Division shall be in compliance with the then current statutes regarding community service utilization and its costs or fees. *(Source: §479.360.1 RSMo; MOS #2 and #4.)*
- (d) The Court Administrator shall have present at all times in the courtroom sufficient copies of procedural forms so as to allow defendants to present evidence of their financial condition in assessing their ability to pay, and for the Division to establish payment plans. The Court Administrator shall have other forms as available from OSCA to comply with requirements by law. *(Source: §479.360.1 RSMo; Rule 37.65; MOS #2.)*

6. Overpayment. The Court Administrator is not required to refund any overpayment of court costs of \$5.00 or less. The Court Administrator is not required to pursue collection of underpayments of court costs of less than \$5.00.

NOTE: For the judge authoring the order, two options for reporting are listed below. Retain only the appropriate section [minus text in brackets] that applies to the type of case management system operating in the Division. The other sections, as well as this note, should be deleted.

[1. Divisions with no written agreement from the county commission or council that the city may retain funds.]

The Court Administrator shall pay such overpaid funds to the county on a regular basis when there is an overpayment of \$5.00 or less.

[2. Divisions with a written agreement from the board or council that the city may retain the funds]

The Court Administrator shall pay the overpaid funds to the city on a regular basis in the event that there is an overpayment of \$5.00 or less and a written agreement exists with the county that allows the city to retain the overpayments.

(Source: Court Cost: City Ordinance; CVC: §§488.5339. and 595.045 RSMo; POST:

§488.5336 RSMo; LETF: §488.5336 RSMo.; Overpayments/ Underpayments: §488.014 RSMo.)

7. Receipts for Payment of Fines, Division Costs and Surcharges. The Court Administrator shall issue a pre-numbered receipt for all collections and provide such a receipt to the payer if payment is made in person, and retain a duplicate copy of the receipt in the receipt book or maintain the receipt in an approved automated system. In the event that the automated system is unavailable, manual receipts shall be issued and the payment shall be accounted for immediately following the restoration of the automated system. If payment is made by mail, the Court Administrator shall file the original copy of the receipt with the case file information, or maintain the original receipt in a pre-numbered receipt book or approved automated system cross-referenced with the docket entry, unless the payer requests the receipt be returned by mail, and provides a self-addressed, stamped envelope. *(Source: COR 4.53 and Section 4.5 of Clerk Manual.)*
8. Electronic Payments. The Court Administrator shall communicate with the City to create an appropriate system to allow court payments online and further, to make available free, online access to information about pending cases, outstanding warrants and scheduled Division dockets. *(Source: MOS #6.)*
9. General Compliance with Recommended Accounting Procedures for Municipal Divisions; Deposit of Fines, Costs, Surcharges and Bonds to be placed into Applicable Accounts.
 - (a) The Court Administrator shall follow those recommended accounting procedures for municipal divisions as set forth in Section 4.5 of the Clerk Manual. The Court Administrator shall cooperate with the City to comply with the provisions of law limiting the percentage of revenue from Municipal Ordinance Violations and Minor Traffic Violations for reporting purposes. *(Source: §479.359 RSMo.)*
 - (b) The Court Administrator shall deposit all fines, costs, surcharges and bonds collected in the Division's or City's bank accounts on a daily basis, or when the amount on hand reaches \$100.00, if not on a daily basis. The Court Administrator shall, to the extent possible, work

jointly with the City to effectuate all deposits by delivery of same for deposit by police officers or other city personnel. The Court Administrator shall cause specific surcharges, including, but not limited to, CVC, POST, LETF, police recoupment, and, if applicable, domestic violence and inmate security surcharges, to be placed as separate line items or in separate accounts and to be remitted to the proper entity or account no less than monthly. *(Source: COR 21; Section 4.5 of Clerk Manual; MOS “Open Records and Other Recordkeeping Matters” and “Financial and Bookkeeping” provisions.)*

10. Fidelity Bonds. The Court Administrator shall request the City to maintain fidelity bonds, in an amount established by the City, in consultation with its auditors, covering the Court Administrator and all other personnel who handle collection or deposit of fines, court costs and surcharges related to the Division. The Court Administrator shall obtain a copy of the declaration sheets of any such bonds obtained by the City to keep in the Division permanent files. *(Source: Section 4.5 of Clerk Manual; MOS “Financial and Bookkeeping” provisions.)*

E. Surety Bonds and Confinement

1. Bond Qualifications. The Court Administrator shall keep a list of those sureties who have qualified to post surety bonds. No person shall be accepted as a surety on any bail bond unless he or she is licensed by the Department of Insurance. *(Source: SCR 37.29 and §374.710 RSMo.)*

No lawyer, elected or appointed official or municipal or state employee shall be accepted as a surety on any bond unless related to the defendant.

2. Cash Bond Schedule. Any cash bond schedule approved by the Judge shall provide for procedures to comply with law. Such procedures shall include, but not limited to the following:
 - (a) Procedures to prevent defendants from being held longer than 48 hours on Minor Traffic Violations and 72 hours on other violations without being heard by the Judge in person, by telephone or via video conferencing.
 - (b) Procedures for the Court Administrator and others requiring reasonable efforts to communicate to the city police department the “24 hour Rule,” as described in Section 544.170.1 RSMo, relating to the right to review of conditions for release when no “conditions for release” have been imposed.

- (c) Procedures for the Court Administrator to communicate with the Judge and with the city police that there shall be no confinement to coerce payment of fines and costs, except after compliance with SCR 37.65.

(Source: §§479.360.1, 479.360.2, 544.170.1 RSMo; SCR 37.1, 37.20 and 37.65; MOS

#1.)

3. Unclaimed Bond Funds and other Funds. The Court Administrator shall follow those procedures set forth in the then current Clerk Manual to pay to the State Treasurer's Office Unclaimed Property Division, all funds unclaimed for three (3) years and cash bonds unclaimed for one (1) year, from the date the bond was due back to a person. The Court Administrator shall send a letter of notification and otherwise reasonably attempt to contact the person and return the funds. Said report shall be sent to the State Treasurer's Office by November 1st of each year, and the Court Administrator shall remit said unclaimed funds with the report. The Court Administrator shall request the City assist in processing, reporting and remitting to the State Treasurer. *(Source: §§447.532, 447.539. and 447.595 RSMo; Section 4.4 of Clerk Manual.)*

F. Warrants.

1. The Court Administrator shall follow those procedures and guidelines concerning warrants as directed by the Judge, and in compliance with MOS #1. The Court Administrator shall ensure that warrants are signed only by the Judge, unless the exception of a specific warrant ordered by a Judge shall be signed by the Court Administrator is applicable. The Court Administrator shall ensure that when a case is dismissed by the prosecuting attorney or otherwise finally resolved, or when the circumstances that justified issuance of a warrant no longer exist, that the Judge is informed to cancel any outstanding warrants in that case as soon as practicable. *(Source: SCR 37.45.)*
2. The Court Administrator shall work with the Judge to create procedures to ensure that the recall and cancellation of all outstanding warrants is communicated to the police department by the Court Administrator without delay. The Court Administrator shall coordinate with the police department and the Judge to make sure there is a duty judge available at all times to rule promptly upon warrants, bails, conditions, and pretrial release, and other matters. *(Source: Chapter 2 of Clerk Manual; MOS #1.)*

- B. Administrative Search Warrants.** The Court Administrator shall keep the application and any supporting affidavits, and a copy of all search warrants issued by the Judge in the records of this Division. (*Source: Chapter 542 RSMo; Section 2.11 of Clerk Manual.*)

[NOTE: Section G is only applicable for Divisions that have city ordinances allowing the issuance of administrative search warrants.]

- C. Accounting Procedures.** The Court Administrator shall to the fullest extent possible, abide by those accounting procedures as are mandated by law, and in particular as are set forth in Chapter 4 of the then current edition of the Clerk Manual. (*Source: §§479.080, 479.350, 479.353, 479.359, 483.075, and 483.082 RSMo; Chapter 610 RSMo; SCR 37; MOS “Financial and Bookkeeping” provisions; COR 4, 8 and 21.*)

In particular, the Court Administrator shall work with the Judge and the City, to ensure that the “Financing and Bookkeeping” provisions of MOS are abided by as far as can be practicably accomplished.

- D. Marriage Records.** If the Judge performs marriages, the Court Administrator shall communicate with parties desiring to have a marriage solemnized by the Judge. The Court Administrator shall require that the parties provide a marriage license and a Certificate of Marriage blank form to the Court at least ___ days [NOTE: Number of days should be entered by local court based on local need] before a scheduled wedding to ensure adequate review of such license.

The Court Administrator shall assist the Judge in completing the license and the Certificate of Marriage. The Court Administrator shall retain a full record of the solemnization performed by making a copy of the completed marriage license and a copy of the executed Certificate of Marriage, and keeping both documents in a permanent binder or folder. The Court Administrator shall cause the executed marriage license return to be sent to the appropriate licensing official as soon as possible, but not later than 10 days after the marriage is performed. (*Source: §§451.110 through 451.130 RSMo, COR 14*)

PART II – ORDERS REGARDING OPEN DIVISION AND EXCEPTIONS

A. General Rule.

1. **Division Shall be Open to the Public.** The Division courtroom shall be open to the public of all ages and large enough to reasonably accommodate the public, parties and attorneys. The Court Administrator and Judge should take reasonable steps if it appears that longer hours or additional court dates are required to meet this provision. (*Source: §479.360.1 RSMo; MOS #8.*)

2. Opening of Division Doors. Division personnel shall open the doors to the courtroom at least one hour prior to the commencement of the Division's docket, unless a different order of the Division shall specify otherwise.
3. No Refusal of Entry. Division personnel shall not refuse entry by any person, whether defendant or other person, except and unless such person shall be in violation of any published dress code, is acting in an inappropriate manner, or if such entrance would violate the Fire Code. Division personnel shall have the right to ask persons entering the courtroom if they are a defendant or visitor, but only for purposes of directing where to sit, or to mark a name off the docket. Division personnel shall have the right to check purses, camera bags, and similar items.
4. The Division's website and general correspondence shall not state that certain persons are prevented from attending any session of Division, except that there may be reference stating that those not in compliance with any published dress code adopted by the Division will not be admitted.

B. Exceptions and Limitations to the Above General Rules Regarding Open Division. The Division recognizes and shall abide by the provisions of Sections 476.170, 479.060, 479.360 and 479.060 RSMo and MOS #8, requiring that the courtroom be open to the public of all ages and large enough to reasonably accommodate the public, parties and attorneys. The following are limited exceptions to this General Rule, as set forth in Paragraphs 1 through 5 below:

1. Disruptive Persons. If any person attending a Division session shall become disruptive in any manner, including, but not limited to, talking in anything other than a respectful whisper, creating other noise, not remaining seated, or in any other way becoming disruptive as observed by the Division personnel, that person shall be first cautioned by Division personnel, and if the offensive conduct is not immediately corrected, removed from the courtroom. The name of any defendant associated with the disruptive person shall be recorded. The defendant may be allowed to stay outside until the Judge permits re-entry to take up defendant's case.
2. Persons under the Clear Influence of Alcohol or Drugs. If any person attending a court session shall appear to Division personnel to be clearly under the influence of alcohol and/or drugs, that person shall be, if a defendant, asked for his or her name and then be asked to leave the courtroom. The defendant shall be asked to remain outside the courtroom for determination by the Division whether to continue the matter or take other action. If the affected person is not a defendant or witness in a trial, that person shall be removed

from the courtroom.

3. Appropriate Attire. When a person who desires to enter the courtroom does not meet any published dress code adopted by the Division, Division personnel shall require that said person leave the courtroom until such time as the person is appropriately dressed to meet the Code, or the Judge may continue the case upon request of the Prosecuting Attorney or defendant.
4. Overcrowding in Violation of the Fire Code. In the event of large attendance, bailiffs, police officers and other Division personnel shall count the persons present in the courtroom and shall limit access so as not to be in violation of the Fire Code. The number of persons who may be present in the courtroom without violation of the Fire Code is _____.
When it appears to the Division during any single Division session, that there will be more persons attempting to enter the courtroom than are permitted under the Fire Code, then the Division shall take such appropriate action as would be consistent with all legal and constitutional requirements.
5. Children. Subject to the right of the public of all ages to attend Division sessions, the Division may limit the presence of children unaccompanied by an adult. This shall not apply to persons under the age of seventeen (17) who are present in the courtroom as a defendant. For children sixteen (16) and under, the Division shall be open except as follows:
 - (a) When a child becomes noisy or will not remain seated, the parents or guardians of that child will be asked to remove said child or children. The bailiff or police officer shall record the name of the defendant associated with the child, and ask that the defendant and children remain in the hallway or outside the courtroom until their name is called on the docket. At such time as the defendant's name is called, the bailiff shall summon the family, including children, who may then enter the courtroom for purposes of arraignment or other business with the Division.
 - (b) The Division may exclude children if the nature of a matter being heard maybe, in the Division's discretion, inappropriate for children.

(Source: §§476.170, 479.060, 479.360 and 479.060 RSMo; MOS #8.)

C. Closing of the Courtroom. Other than closure to those persons as set forth in Sections B.1 – 5, if the Judge, Prosecuting Attorney or defendant, desires to close the courtroom during any particular motion or trial, the Judge shall will conduct a brief hearing on whether to enter an order to close the proceedings and shall be guided by the following Sections:

1. The proponent of closure must present a showing of a compelling interest for such closure. The Judge shall balance the public's right of access with the

interest identified by the proponent of closure and shall determine whether the interest identified by the proponent is such that closure of the courtroom is essential to preserve the interest under the circumstances.

2. Anyone present in the courtroom when the closure motion is made, shall be given an opportunity to object to the closure.
3. The proposed method for curtailing open access shall be in the least restrictive means available for protecting the interest identified by the proponent of closure.
4. . The order shall be no broader in its application or duration than necessary to serve its purpose.

See: State ex rel Pulitzer, Inc. v. Autrey, 19 S.W.3d 710 (Mo. App. E.D. 2000 and State v. Salazar, 414 S.W.3d 606 (Mo. App. 2013)

- D. Retention of Rights.** The Judge retains the right to post and enforce additional rules of conduct in order to maintain the integrity and decorum of the courtroom, not to conflict with MOS #8.

PART III – OTHER GENERAL RULES

A. Fax and Electronic Memoranda.

1. This Division shall be always open for purposes of receiving faxes, electronic entries of appearance and motions. Notwithstanding, entries of appearances and motions for continuances shall be submitted for any particular court session no later than twenty-four (24) hours prior to the scheduled court date.
2. Requests for warrant recall may be submitted by fax.

- B. Access to Division Files.** Members of the public, news media and attorneys of record shall have access to open Division records. There shall be an exception that requests to review files not on the docket must be made prior to the start of Division docket proceedings. The Court Administrator shall not be required to pull files not on the docket during Division sessions unless there is sufficient time to do so. (*Source: Chapter 610 RSMo; COR 2 and 4; MOS #8.*)

- C. Access required by ADA.** Pursuant to the American with Disabilities Act, this Division shall provide, based on expressed needs, auxiliary aids or services to

interpret any proceeding for a person who is deaf or hard of hearing. This requirement applies to a person who is a party, juror, witness, spectator, or a juvenile whose parent, guardian or foster parent is deaf or hard of hearing if the juvenile is brought to any proceeding. (Source: §§476.750-476.766 RSMo.)

SO ORDERED:

DATE _____

Judge, City of _____



SUPREME COURT OF MISSOURI

STATEMENT OF FINANCIAL CONDITION

Name: _____ Case Number: _____

Address: _____

Your Age and Date of Birth: _____

Phone Number: _____ (Is it OK to text you at this number? Yes / No)

1) **If you plead guilty or are found guilty, can you pay your finds and costs today?** Yes / No If

you answered "No", why not? _____

If you answered "No" to Question #1, or if you want to the court to consider your financial situation, please answer the following questions and provide the following information:

2) Are you currently in the custody of the Children's Division or DYS? Yes / No

3) Have you spent a night in jail during the past year because you were unable to post a bond?

Yes / No If "Yes," how much was your bond? \$ _____

4) Are you receiving public assistance? Yes / No If "Yes," please tell us what type of public assistance you are receiving (for example, food stamps, TANF, Medicaid, housing assistance, other types of public assistance): _____

5) Please list the following income from the **previous month** for your **entire household**:

Take home pay for the month including overtime and bonuses: _____

Social security income (including social security disability): _____

Worker's compensation income: _____

Unemployment income: _____

Retirement income: _____

All other income: _____

Total: _____

6) How many people live in your household? _____

7) Do you have cash, bank accounts, or any other assets, including vehicles or real estate free of debt, that totals more than \$5,000? Yes / No If "Yes," what type?

If you are facing the possibility of jail time and cannot afford to hire a lawyer, you are entitled to have a lawyer appointed by the court to represent you.

Do you want a lawyer to represent you in this case? Yes / No

Can you afford to hire a lawyer to represent you in this case? Yes / No

Are you asking the court to give you some more time to hire a lawyer? Yes / No

Are you asking the court to appoint a lawyer for you today? Yes / No

The above information is true and correct to the best of my knowledge under penalty of law.

Applicant

[The above form is for the Judge's use and does not replace the Legal Aid Application.]

(b) A person is presumed indigent if the person:

(1) Is in the custody of the Children's Division or the Division of Youth Services; or

(2) (A) Has unencumbered assets total under \$5,000, and

(B) Has total household monthly income below 125% of Federal Poverty Guidelines, which currently are:

1 household person:	\$1,238
2 household persons:	\$1,669
3 household persons:	\$2,100

4 household persons:	\$2,531
5 household persons:	\$2,963
6 household persons:	\$3,394
7 household persons:	\$3,826
8 household persons:	\$4,259 [Add

\$433 for each additional person]

Per Supreme Court Order dated December 14, 2016. This form shall be updated by subsequent order of the Supreme Court

(Adopted Oct. 1, 2017)

RULE 70 PARTITION

- (a) In partition sales, plaintiff's attorney shall assist the Sheriff or Commissioners in preparing all necessary reports of sale and orders of distribution and present them to the Court.
- (b) No report of commissioners in partition, and no report of a sale in partition, by the Sheriff, or any Commissioner appointed by the Court, not excepted to, shall be confirmed unless the same has been on file at least three (3) days, unless all parties in interest of their attorneys or guardians expressly request in writing that an order of confirmation be entered.

(Eff. Nov. 1, 1991.)

RULE 71 ADMINISTRATIVE REVIEWS

(No local rule)

RULE 72 PROBATE

The Probate Court of St. Charles County is a division of the Circuit Court of St. Charles County. The Circuit Clerk is the Clerk of the Probate Division, as referred to in Chapters 472, 473, 474 and 475 RSMo.

RULE 72.1 ELECTRONIC FILING IN THE PROBATE DIVISION

- (a)** Except as otherwise provided herein, all probate matters shall be filed in accordance with Supreme Court Rule 103 and Supreme Court Operating Rule 27 and Eleventh Circuit Court Rule 3. Attachments, including exhibits, that are part of any filing shall be filed electronically at the same time.
- (b) Self-Represented Parties.** Self-represented parties, except those who are attorneys licensed to practice in the State of Missouri and subject to the Missouri Electronic Filing System rules, shall file all original pleadings and documents with the clerk of the probate division.
- (c) Entry of Parties.** Attorneys shall be responsible for entering all parties into the e-filing system. Pursuant to Missouri Supreme Court Operating Rule 4.07, if the party is a person and the information is reasonably available, the full Social Security Number, date of birth and address for each party must be included on the Filing Information Sheet. If the attorney is unable to provide the above they shall file an affidavit outlining efforts to gather said information.
- (d) Required Party Information.** Parties shall also include the full name and information for each of the following as applicable:
 - 1) Petitioner(s);
 - 2) Decedent;

- 3) Respondent(s)
- 4) Minor(s);
- 5) Spouse;
- 6) Mother and Father;
- 7) All Heirs;
- 8) All Legatees/Devises
- 9) Plaintiff(s);
- 10) Defendant(s);

(e) Original Documents to be Filed. The original of the following documents shall be filed physically with the probate division after it is electronically submitted. The filing cannot proceed until said originals are filed with the court:

- 1) Original wills and original codicils. Upon electronic filing, the will or codicil will be conditionally accepted. Final acceptance of a will or codicil will not occur until the original has been filed physically in the probate division.
- 2) Original commissions.
- 3) Original bonds.

(f) Death and Birth Certificates.

- 1) In all proceedings filed pursuant to chapters 473 and/or 474 RSMo, a copy of the death certificate shall be electronically filed with the court.
- 2) In all proceedings regarding a minor child, a copy of the child's birth certificate shall be electronically filed.

(g) MO Healthnet Waivers. No administration of a decedent's estate will conclude without the filing of a waiver of MO Healthnet claims by the State of Missouri. No waivers shall be required on Affidavits for Collection of Small Estates, Applications for Refusal of Letters or Petitions to Determine Heirs.

(h) Forms Promulgated by the Probate Division. Forms promulgated by the probate division are preferred and found online at www.courts.mo.gov/hosted/circuit11.

RULE 72.2 INVENTORY

- (a) An inventory shall be filed in all estates within thirty (30) days after letters are issued.
- (b) The inventory shall include the following:
 - 1) All property of the Decedent;
 - 2) All exempt property;
 - 3) A statement of all encumbrances, liens and other charges;
- (c) Property shall be classified as follows:
 - 1) Real property;
 - 2) Furniture, household goods, and wearing apparel, but no detailed appraisal or listing of the items thereof is required;
 - 3) Corporate stocks described by name, number of shares, class or stock;

- 4) Mortgages, bonds, notes, and other written evidences of debt, together with interest due thereon, described by name of debtor, recording data, and other identification;
 - 5) Bank accounts, insurance policies payable to the personal representative, and money;
 - 6) All other personal property accurately identified, including a statement of the decedent's proportionate share in any partnership;
 - 7) All property possessed but not owned by the decedent at his death shall be listed in the inventory, but separately from other property, together with a statement as to the knowledge of the personal representative as to its ownership;
- (d) Filing of an inventory may be extended upon written request showing good cause. Said written request will include the following:
- 1) List of currently known assets of the decedent's estate,
 - 2) Efforts being made to complete the inventory
 - 3) Estimated time to complete the inventory
 - 4) Good cause for the continuance
- (e) Any real estate listed in the inventory shall include the legal description of said property.
- (f) An amended inventory shall be filed within 30 days of the discovery of any omitted, overlooked or newly discovered assets.

RULE 72.3 SETTLEMENTS

- (a) **Annual Settlement.** A settlement shall be filed on the anniversary date of the date of letters.
- (b) **Final Settlement.** A final settlement shall be filed on the first court day after the expiration of six months and ten days after the date of the first publication of notice of letters or as soon thereafter as administration is completed
- (c) **Extension.** Filing of a settlement may be extended upon written request showing good cause. Said written request will include the following: Good cause for the continuance, efforts being made to complete the settlement, estimated time to complete the settlement and proof of notice to all heirs of said request.
- (d) **Verification and Vouchers.** All settlements shall have verifying documents and vouchers filed as attachments. All original documents supporting a settlement shall be retained by the fiduciary until the fiduciary is discharged.
- (e) **Deficiencies.** After a settlement has been audited, a checklist itemizing the deficiencies will be made available to the attorney of record. The checklist will include a due date for making corrections. If the corrections are not made in a timely fashion, then a request for additional time must be submitted as set out in paragraph (c) above.

- (f) Annual and final settlements for conservatorships may be filed pro se by the Conservator.

RULE 72.4 LEGAL DESCRIPTIONS

In all pleadings involving real property including inventories, petitions to sell real estate, judgments to sell real estate, orders to approve sale of real estate, determination of heirs, judgments to determine heirs and any other petitions, motions, orders or judgments concerning real property said document shall contain the full legal description of said real property.

RULE 72.5 EXPENDITURE OF FUNDS

(a) All request to expend funds in a supervised decedent's estate or conservatorship shall be in writing and shall include any supporting documents relevant to the expenditure.

(b) The following expenditures shall be deemed approved with the filing of a petition in supervised decedent's estates and conservatorships:

1. Bond premiums, taxes and any other expenditures allowed by statute;
2. Accountant fees up to \$900 for annual tax preparation;
3. Prepaid funeral for Protectee in conservatorships up to \$8,000 (must still comply with RSMo. 475.120);
4. Brokerage fees up to 1.2% of the value of the brokerage account;
5. Safe deposit boxes up to \$200 annually;
6. Copies of bank statements;
7. Appraisals for real and personal property owned by the estate up to \$750;
8. Insurance for real and/or personal property owned by the estate;
9. Medical copays and deductibles for Protectee in conservatorships;

RULE 72.6 MOTIONS BY CONSENT

All motions which are filed by consent of the parties such as motions to continue a hearing shall be executed by all parties or a consent to the motion filed with the court, otherwise the motion will need to be noticed up for hearing.

RULE 72.7 EMERGENCY HEARINGS

(a) Any petition or motion for emergency or expedited hearing in adult guardianship

and/or conservatorship and minor guardianship and/or conservatorship, filed under RSMo. 475.075.15 and 475.060.3, shall be verified or contain an affidavit identifying in particularity facts as to the emergency that presents a substantial risk that a serious physical harm will occur to the respondent's person or irreparable damage will occur to the respondent's property.

(b) **Adult Guardianship/Conservatorship.** If the petition or motion pleads the necessary facts to meet the requirements of RSMo. 475.075.15 then the case will be set for hearing within 5 days and an attorney will be appointed for the respondent and be given notice of the hearing. Further, Petitioner shall serve the respondent with a copy of the pleadings, notice of the hearing, the name and address of the appointed counsel and the witnesses who may be called. If the requirements of RSMo. 475.075.15 are not pled and met, then the case will not be set for emergency hearing, but instead will be set for hearing on the application for guardianship and/or conservatorship.

(c) **Minor Guardianship/Conservatorship.** If the petition or motion pleads the necessary facts to meet the requirements of RSMo. 475.060.3 then the case will be set for hearing within 5 days and guardian ad litem will be appointed for the minor and be given notice of the hearing. Further, petitioner shall serve minors over 14 years of age including the date of the hearing and the name and address of the guardian ad litem or consent of the minor will be filed with the petition or motion. If the requirements of RSMo. 475.060.3 are not pled and met, then the case will not be set for emergency hearing, but instead will be set for hearing on the application for guardianship and/or conservatorship.

(d) **Orders.** After a hearing the Court may appoint an emergency guardian ad litem and/or an emergency conservator ad litem for a specified period not to exceed 90 days and for a specified purpose.

(e) **Modification and Extensions.** Orders appointing an emergency guardian ad litem and/or emergency conservator ad litem may be modified upon motion and hearing. Orders may be extended upon motion and hearing showing a continuing emergency need.

(Adopted 10/2/23)

RULE 73 SMALL CLAIMS

(No local rule. See Supreme Court Rules 140 through 155.)

(Eff. Nov. 1, 1991)

RULE 74 TRUST ESTATES

(No local rule.)

74.1 INVENTORY

(No local rule.)

74.2 REPORTS

(No local rule)

74.3 RECORD

(No local rule)

74.4 AUDIT

(No local rule)

RULE 75 TREATMENT COURT

75.1 ESTABLISHMENT OF TREATMENT COURT

75.1.1 There shall be a Treatment Court established in the 11th Judicial Circuit of St. Charles County, Missouri. The Treatment Court shall combine judicial supervision, drug and alcohol testing and treatment of Treatment Court Participants.

75.1.2 The Court en banc has approved the following Treatment Court Models:

- (a) Adult Treatment Court Deferred Prosecution Model
- (b) Adult Treatment Court, Re-entry Model
- (c) Adult Treatment Court Revocation Model
- (d) Adult Treatment Court Post-Plea Model
- (e) DWI Treatment Court Model
- (f) Adult Treatment Court, Co-occurring Illness Model
- (g) Family Treatment Court Model
- (h) Veterans Treatment Court Model

(Adopted June 3, 2002, Amended 1/2/07, Amended 3/2/15.)

75.2 PURPOSES OF TREATMENT COURT

- (a) The ADULT TREATMENT COURT, DEFERRED PROSECUTION MODEL, will provide for deferred prosecution to reduce substance abuse convictions in the community by providing a program for first-time, non-violent felony offenders to become drug-free and productive members in our community. Participation in this model of the Treatment Court is determined prior to the entry of any plea. Upon the successful completion of the Treatment Court program the criminal charges against the Defendant will be dismissed with prejudice.
- (b) The ADULT TREATMENT COURT, RE-ENTRY MODEL, provides for a defendant who has previously been sentenced to the Missouri Department of Corrections but has been released and placed on Probation pursuant to RSMo. Sec. 559.115 to be assigned to the Adult Treatment Court as a condition of their probation. This assignment will be made by the sentencing Judge and will allow a defendant to receive the treatment and counseling available in Treatment Court while on probation.
- (c) The ADULT TREATMENT COURT, REVOCATION MODEL, will provide for an opportunity for individuals presently on probation for a

criminal offense and subject to a motion to revoke probation to avoid incarceration by completing the Treatment Court program.

The Judge who accepted the Defendant's plea will make the assignment to the Treatment Court.

- (d) The ADULT TREATMENT COURT, POST PLEA MODEL, will provide for an opportunity for individuals who would normally be sentenced to the Missouri Department of Corrections for their offense to be assigned to the Treatment Court as a condition of their probation, once they have been screened and found eligible. This assignment will be made by the sentencing Judge and will allow a defendant to receive treatment and counseling available in Treatment Court while on probation.
- (e) The DWI TREATMENT COURT MODEL, will provide for a post- plea supervision of Felony DWI defendants designed to offer an intensive treatment based supervision designed to reduce recidivism and offer defendants an opportunity for substance free life.
- (f) The ADULT TREATMENT COURT, CO-OCCURRING ILLNESS MODEL, will provide for the post-plea supervision of Misdemeanor A or Felony defendants who have been diagnosed with an Axis I mental health disorder and a substance abuse disorder. This model is designed to help an individual achieve psychological stabilization and engaged with appropriate community resources to maintain a crime-free life of recovery.
- (g) The FAMILY TREATMENT COURT is targeted at parents who have been found by the Family Court to have abused and/or neglected their children and abuse or are dependent on alcohol and/or other drugs with a goal of eliminating such abuse or dependency and reunification of parent and child.
- (h) The ADULT TREATMENT COURT, VETERANS MODEL is targeted for individuals who have served in the military, and are eligible to receive benefits from the VA, that are suffering from a mental health disorder and/or a substance abuse order. This model is designed to help an individual achieve psychological stabilization and become engaged with appropriate community resources to maintain a crime-free life of recovery.

(Adopted June 3, 2002, Amended 1/2/07, Amended 2/5/07 Amended 3/2/15)

75.3 APPOINTMENT OF A TREATMENT COURT ADMINISTRATOR

The Court en banc may appoint a Treatment Court Administrator who shall assist the Drug Court Judge or Drug Court Commissioner in the administration of the Treatment Court.

(Adopted July 5, 2000, Amended 1/2/07 Amended 3/2/15)

75.4 BUDGET OF TREATMENT COURT

The budget of the Treatment Court shall be submitted in accordance with regular procedures of the 11th Judicial Circuit and shall be approved by the Court en banc.

(Adopted July 5, 2000, Amended 1/2/07, Amended 3/2/15)

75.5 TREATMENT COURT POLICIES AND PROCEDURES

The Treatment Court Administrator shall prepare a Treatment Court Policy Manual establishing the administration of the Treatment Court. The manual and any proposed changes shall be submitted for approval to the Court en banc.

(Adopted July 5, 2000, Amended 1/2/07 Amended 3/2/15)

75.6 CONDITIONS FOR REFERRAL OF PROCEEDINGS TO THE TREATMENT COURT

Applicants to the Treatment Court would be eligible if:

- (a) they are under the jurisdiction of the 11th Judicial Circuit or have been ordered as a special condition of their probation in another Circuit;
- (b) they are charged with any offense, excluding sex offenses and trafficking, that are related to or contributed to their abuse of drugs and alcohol.

75.6.1 ASSIGNMENT OF CASES TO THE TREATMENT COURT

The Drug Court Judge shall accept a participant into the Adult Treatment Court after all of the following events have occurred:

- (a) the Prosecuting Attorney has determined that the Defendant is eligible for the Treatment Court program for the diversion model or a Circuit Judge or Associate Circuit Judge assigns the defendant to the Treatment Court pursuant to a 120 day re-entry,

post plea, DWI or probation case;

- (b) that the defendant meets the criteria for Treatment Court referral in Rule 75.8;
- (c) the defendant participates in the Treatment Court screening and is found eligible for the Treatment Court program;
- (d) the defendant signs the Treatment Court Contract.
- (e) Any non-DWI or Co-Occurring defendant completes a RANT

The Drug Court Judge shall accept a participant into the Family Treatment Court after all of the following events have occurred:

- (a) a referral has been made by a Family Court Judge after considering that the parent meets the criteria for Family Treatment Court;
- (b) the parent completes a screening and assessment and are found appropriate for Treatment Court;
- (c) the parent signs the Treatment Court Contract.

(Adopted June 3, 2002, Amended 1/2/07, Amended 2/5/07 Amended 3/2/15)

75.6.2 TRANSFER OF PROCEEDINGS TO CIRCUIT COURT UPON TERMINATION FROM TREATMENT COURT PROGRAM (Adult Treatment Court)

When an Adult Treatment Court participant voluntarily terminates or is terminated by the Drug Court Judge for non-compliance with the Treatment Court Contract, the case will be transferred back to the Division which arraigned the defendant after the bound-over. In the event that the defendant has not been arraigned by a Circuit Judge the case will be randomly assigned to a Circuit Court Judge for further proceedings on that Judge's regular criminal docket. All causes should be transferred to the Presiding Judge for reassignment.

(Adopted June 3, 2002, Amended 1/2/07 Amended 3/2/15)

75.6.3 FEES FOR PARTICIPATION IN TREATMENT COURT PROGRAM

Participants in the Treatment Court Program shall be assessed a monthly fee to be approved by the Court en banc for each month or part of month they participate in the program. All fees must be paid in full before any participant

will be eligible to be considered for graduation from the program. The Drug Court Judge may waive or reduce these monthly fees at their discretion.

(Adopted June 3, 2002, Amended 1/2/07 Amended 3/2/15)

75.6.4 TREATMENT COURT PROGRAM

The Treatment Court program will be a minimum of one year in length. The program details will be fully set out in the Treatment Court Manual but will consist of an assessment phase and three graduated treatment phases before a participant will be eligible to apply for graduation. Treatment and progress in the program will be reviewed by a Treatment Court Team which will consist of the Drug Court Judge, a representative from the Prosecutor's Office, representatives from treatment providers, representatives from Probation and Parole, the Treatment Court Administrator, and such other individuals as authorized by the Drug Court Judge. Upon successful completion of the program the participants will participate in a commencement ceremony. Those participants in the Adult Treatment Court deferred prosecution model shall have their criminal charges dismissed by the State with the filing of a memorandum of Nolle Prosequi by the Prosecutor's Office.

Adopted June 3, 2002, Amended 1/2/07, Amended 03-30-15 Amended 3/2/15)

POST TRIAL

RULE 81 EXECUTION

(No local rule)

RULE 82 GARNISHMENT

82.1 TERMINATION OF CONTINUOUS WAGE GARNISHMENT

In addition to as otherwise provided by law, a continuous wage garnishment shall terminate if a garnishor fails to file a statement of judgment balance as provided by Supreme Court Rule 90.19(b).

(Adopted September 12, 2016 eff. 10/1/16)

RULE 83 JUDICIAL SALES

(No local rule)

INTERNAL ORGANIZATION

RULE 100 INTERNAL ORGANIZATION

RULE 100.1 PRESIDING JUDGE

100.1.1 ELECTION

(No local rule)

100.1.2 DUTIES OF PRESIDING JUDGE

- (a) The Presiding Judge of the Circuit shall have the authority to assign judges to hear such cases or classes of cases as the Presiding Judge may determine, and to assign judges to divisions.
- (b) The Presiding Judge of the circuit shall not have the authority to assign:
 - (1) A Municipal Judge to hear any case other than to initially hear a municipal ordinance violation case of the municipality which makes provision for such municipal judge.
 - (2) A Judge to hear the trial of a felony case when he has previously conducted the preliminary hearing in that case.

(Eff. Nov. 1, 1991. Amended, eff. Aug. 28, 2000.)

100.1.3 DISPUTE RESOLUTION - PROCEDURE

(No local rule)

100.2 LOCAL COURT RULES

Any of the above rules or parts thereof in conflict with any rule of the Supreme Court of Missouri or any law of the State of Missouri is hereby considered amended to conform to said rule or law governing same.

(Eff. Nov. 1, 1991.)

100.2.1 FORMULATION

(No local rule)

100.2.2 PUBLICATION

(No local rule)

100.3 LIBRARY FUND

- (a) Any party filing an Associate Civil case or a Circuit Civil case in this Circuit shall, at the time of filing suit, deposit with the Clerk of the Court a surcharge in the amount of \$15.00 for the Law Library Fund, (the Fund) authorized in RSMo Sections 488.426-488.432. No summons shall issue until the deposit has been made. This rule shall not apply to proceedings when costs are waived or are to be paid by the County or State or any City, nor to proceedings under RSMo Chapter 455.
- (b) Moneys collected pursuant to RSMo Section 488.426 shall be payable to the judges of the circuit court, en banc, of the county from which such surcharges were collected, or to such person as is designated by local circuit court rule as treasurer of said fund, and said fund may be applied and expended under the direction and order of the judges of the circuit court, en banc, of any such county for the maintenance and upkeep of the law library maintained by the bar association in any such county, or such other law library in any such county as may be designated by the judges of the circuit court, en banc, of any such county; provided, that the judges of the circuit court, en banc, of any such county, and the officers of all courts of record of any such county, shall be entitled at all reasonable times to use the library to the support of which said funds are applied.
- (c) In addition, such fund may also be applied and expended for the Eleventh Circuit's Family Services and Justice Fund. Such fund may also be applied and expended for courtroom renovation and technology enhancement.

- (d) Until further order of the Court en Banc, the Presiding Judges Secretary shall be charged with maintaining and accounting for the funds received by the Library Fund and acting as Treasurer of the Fund. The Presiding Judges Secretary shall issue checks for the payment of all expenses for support of the library, including payment of any staff authorized by the Court en Banc. The Presiding Judges Secretary may ask for direction from the Court en Banc as to the payment of any expense related to the Law Library. The Presiding Judges Secretary shall reconcile the accounts of the Fund not less often than every 60 days and provide a copy of the reconciliation and banks statements to the Presiding Judge, not less frequently than every 60 days. The Presiding Judge shall report to the Court en Banc, annually, the amounts of funds taken into the Fund, expended from the Fund and the balance of the Fund at the last reconciliation.
- (e) The Court en Banc may vote, from time to time, to transfer any excess funds held in the Fund to the Eleventh Circuit's Family Services and Justice Fund.

(Adopted July 5, 2000, Amended Dec. 9, 2004, Nov. 14, 2005 Sept. 9, 2013, July 7, 2014)

100.4 STORAGE OF RECORDS

(No local rule)

**100.4.1 REPRODUCTION, PRESERVATION, ARCHIVAL
STORAGE AND DISPOSITION 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 INDENTIFICATION OF REPORTER'S NOTES

(No local rule)

100.4.5 INDEX

(No local rule)

100.4.6 STORAGE OF NOTES

(No local rule)

100.4.7 NOTES OF SUBSTITUTE REPORTERS

(No local rule)

**100.4.8 STORAGE OF NOTES UPON RETIREMENT,
TERMINATION OR DEATH OF COURT REPORTER**

(No local rule)

100.4.9 BOXING AND STORING OF OLD NOTES

(No local rule)

**100.4.10 RESPONSIBILITY FOR FURNISHING MATERIALS AND
SPACE FOR STORAGE OF COURT REPORTER NOTES**

(No local rule)

**100.4.11 PROCEDURE FOR EXAMINATION OF CRIMINAL
RECORDS**

(No local rule)

**100.4.12 PROCEDURE FOR EXPUNGING AND CLOSING
CRIMINAL RECORDS**

(No local rule)

100.5 CLERK'S DUTIES

(No local rule)

100.5.1 MONIES PAID INTO COURT

(No local rule)

100.6 SELECTION OF VENIREMENT

(No local rule)