Supreme Court of Kentucky

ORDER

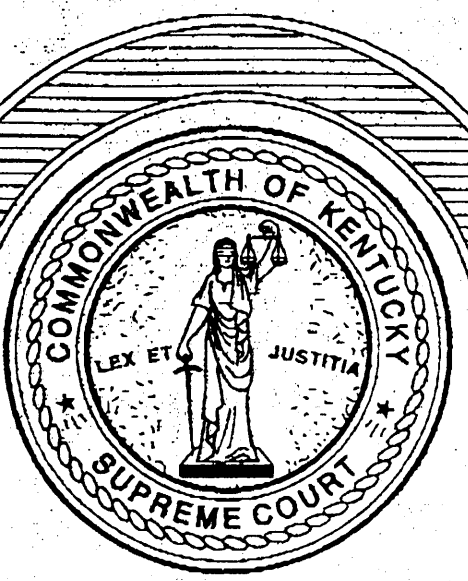
IN RE: ORDER APPROVING AMENDMENTS TO THE LOCAL RULES OF PRACTICE FOR THE 10TH JUDICIAL DISTRICT, LARUE, HART AND NELSON CIRCUIT COURTS

Upon recommendation of the Judge of the 10th Judicial District, Larue, Hart and Nelson Circuit Courts, and being otherwise sufficiently advised,

The amendments to the Local Rules of practice for the Larue, Hart and Nelson Circuit Courts are hereby approved. This order shall be effective as of the date of this Order, and shall remain in effect until further orders of this court.

Entered this the 27 day of January, 2005.

CHIEF JUSTICE



RULES OF COURT PRACTICE AND PROCEDURE

Commonwealth of Kentucky

10th Judicial Circuit

Larue-Hart-Nelson Counties

CHAPTER I

GENERAL:

A. Dress Code: All attorneys appearing in Court in inappropriate attire will be so advised, individually and in private. All litigants and witnesses shall appear in clean, modest clothing.

B. Time Zone: The Tenth Judicial Circuit is comprised of LaRue, Nelson and Hart Counties. LaRue County and Nelson County operate on eastern time, and all times set forth herein for those counties refer to eastern time. Hart County operates on central time, and all times set forth herein for that county refer to central time.

C. Rule Days:

(1) LaRue County Rule Days will be held on the first and third Mondays of each month for criminal proceedings, non-domestic relations civil matters, and those domestic relations matters that are to be heard by the presiding judge.

(2) Hart County Rule Days will be held on the first and third Tuesdays of each month for criminal proceedings, non-domestic relations civil matters, and those domestic relations matters that are to be heard by the presiding judge.

(3) Nelson County Civil Rule Days will be held on the first and third Wednesdays of each month.

(4) Nelson County Criminal Rule Days will be held on the Thursdays following the first and third Wednesdays of each month.

(5) Holidays-Rule days falling on holidays will be reassigned pursuant to Court Order.

(6) Varying or Deleting a Rule Day-If it becomes necessary to vary or delete a Rule Day, same will be effected through Court Orders.

(7) Length of Time for Hearings-On each rule day in Hart and LaRue Counties, the attorneys are to advise the Court when each docket is called whether they desire a hearing of 15 minutes or less, or a 15 to 30 minute hearing. Any hearing which will exceed 30 minutes will be continued by the Court to a date and time certain.

On each rule day in Nelson County, the attorneys are to advise the Court when each docket is called whether they desire a hearing of 3 minutes or less, or a 3 to 15 minute hearing. Any hearing which will exceed 15 minutes will be continued by the Court to a date and time certain.

D. Submission of Cases to the Court: Non-domestic relations civil cases may be submitted to the Court pursuant to motion on Rule Day or at any time on a joint motion or by agreed order. The Office of the Circuit Clerk shall be notified when a case is ready for the Court to take it under submission.

E. Setting of Cases for Trial: Motions to set a non-domestic relations civil case for trial may be made on any rule day and shall contain a certification that the case will be ready for trial by the trial date. Once a case is set for trial, continuances will be reluctantly granted by the Court and only for extraordinary reasons.

Criminal cases will be set for trial through an Arraignment and Discovery Order to be signed at arraignment.

F. Pre-Trial Statements for Non-Domestic Relations Civil Cases:

(1) Provisions-Not later than 60 days prior to the trial date, all parties shall file pre-trial compliance statements, the contents of which shall be as follows, to-wit:

(a) All exhibits which may be used at trial shall be listed and copied, and if feasible, shall be attached to the pre-trial statement. All exhibits which cannot be attached to the pre-trial

statement shall be made available for inspection by opposing counsel at a convenient location designated in the pre-trial statement.

(b) All witnesses and expert witnesses who may be used at trial shall be listed, along with their addresses and telephone numbers. Also, as to each expert witness who has not been deposed, the pre-trial statement shall state the subject matter on which the expert is expected to testify and shall state the substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion.

(c) A statement of the claim or claims of plaintiffs, including legal theories.

(d) A statement of the defenses or claims of defendants, or third parties, including legal theories.

(e) Issues of fact to be litigated.

(f) Issues of law to be litigated.

(g) All parties making claims for damages shall itemize their claimed damages, and shall specify those damages which can be calculated from objective data.

(2) Sanctions-Failure of the parties to strictly comply with the terms of this rule may result in dismissal of claims, default judgment, refusal to let witnesses testify or to admit exhibits, assessment of costs and expenses, including attorney fees, or other appropriate sanctions.

(3) Pre-trial/Settlement Conference-Upon the setting of a case for trial, the Court will also set a pre-trial/settlement conference at a time and date within thirty days of the scheduled trial. Counsel who will be trying the case and parties, or representatives of parties, shall attend that conference. Persons possessing settlement authority shall also attend that conference. Prior to such conference the parties or their counsel shall provide and file the following:

(a) An offer of stipulated facts.

(b) Statement of evidence problems likely to arise at trial, including objections to exhibits.

(c) All motions in limine of which counsel should reasonably be aware at that time.

(d) Counsel's or party's statement that he or she has conferred with opposing counsel and/or parties for the purpose of considering the possibility of settlement, and indicating the current status of negotiations relative to the possibility of settlement.

(4) In jury cases, counsel shall file trial briefs and request for instructions on the first day of trial. In non-jury cases, counsel shall provide trial briefs and proposed findings of fact and conclusions of law on the first day of trial.

G. Labeling of Exhibits: All exhibits intended for use at trial in both civil and criminal cases shall be marked for identification purposes prior to trial.

H. Trials: All criminal and non-domestic relations civil trials shall start promptly at 10:00 o'clock A.M. However, the parties and counsel shall be present in Court at 9:00 o'clock A.M. on trial dates.

I. Settled Cases: When any action which is set for trial is settled, the parties shall immediately notify the Office of the Circuit Clerk of this fact.

J. Copies To Be Sent to Court Reporter: A copy of any Notice of Appeal, Designation of Record or Order to Proceed in forma pauperis shall be sent to the Court Reporter by the attorney filing same. Any party desiring a transcript shall timely notify the Court Reporter of the date by which said transcript is needed.

K. Copies of Court Records: Any attorney or party who desires from the office of the Circuit Clerk more than five (5) copies of any item or items with respect to a case, including

juror qualifications forms, shall cause said copies to be made by himself or his representative, and shall reimburse the office of the Circuit Clerk therefor at a rate consistent with regulations promulgated by the Kentucky Administrative Office of the Courts.

L. Service of Subpoena by Law Office Personnel or Party: To the extent that the sheriff would be compensated for similar service, service of subpoena by law office personnel or a party will be considered as costs when assessing costs.

M. Distribution of Orders: The Clerk shall distribute copies of all orders by mail or delivery or placement in the receptacles assigned for the attorneys in the clerk's office to the persons listed under DISTRIBUTION and shall certify such mailing, delivery or placement by making a check mark by the person listed and shall initial and date the same at the bottom of the distribution list. All orders and judgments shall contain a distribution list, same to include any acts required of the Clerk by said order or judgment, as set out in the following example.

Distribution:

Hon. John Douglas Doe

(Address) (____)

Hon. Michelle Doe

(Address) (____)

Clerk to provide copy to Master Commissioner (____)

_____

Clerk's initials and date

CHAPTER II

CRIMINAL PROCEEDINGS:

A. Applicability of Other Chapters: The provisions of Chapter I, where applicable and except to the extent they are superseded hereinbelow, shall apply to all criminal proceedings.

B. Grand Jury:

(1) LaRue County-Grand Jury Sessions will be held at 9:00 o'clock A.M. on the second rule day of every other month, beginning in January of 2005.

(2) Hart County-Grand Jury Sessions will be held at 9:00 o'clock A.M. on the first rule day of each month.

(3) Nelson County-Grand Jury Sessions will be held at 9:00 o'clock A.M. on every civil rule day.

C. Appearances and Arraignments: Arraignments will be held on the first criminal rule day following a Grand Jury Session at 9:00 A.M. unless an Order is entered otherwise. At arraignment, an order shall be entered setting the case for pre-trial conference and for trial.

D. Discovery

(1) Commonwealth's Responsibility: Within 45 days of arraignment, the Commonwealth shall provide to the Defendant a copy of the Grand Jury tape, all information required under RCr 7.24 and 7.26, all exculpatory evidence, all aspects of line-ups or show-ups, copies of all oral, recorded or written statements made by Defendant or other persons, information received from a confidential informant, copies of all search warrants, search warrant affidavits and search warrant returns, names and addresses of witnesses the Commonwealth may call at trial, and the nature of any promises or agreements made by the Commonwealth to secure

the testimony of any such witnesses. The Defendant shall not be precluded from seeking additional discovery.

(2) Defendant's Responsibility: Within 7 days prior to the pre-trial conference, the Defendant shall provide to the Commonwealth all information in his or her possession subject to discovery by the Commonwealth under RCr 7.24.

E. Motion Hours: Motion Hours for criminal matters shall begin at 9:00 A.M. on rule days in Hart and LaRue Counties and at 9:00 A.M. on each criminal rule day in Nelson County.

F. Representation in Criminal Cases: Once an attorney appears for a defendant in a criminal case, he shall not be allowed to withdraw as counsel thereafter, except upon a showing of extraordinary circumstances. Non-payment of attorney's fees does not constitute an extraordinary circumstance. This does not, however, preclude any attorney from standing in for arraignment purposes only, if he so advises the Court beforehand at the time of arraignment.

G. Motions: Motions in criminal cases shall comport with the filing and notice requirements of Chapter III (C) (1) and (2).

H. Release of Bonds: Bonds shall not be released by the Clerk until a defendant has timely made all required court appearances.

CHAPTER III

NON-DOMESTIC RELATIONS CIVIL PROCEEDINGS-GENERAL:

A. Applicability of Other Chapters: The provisions of Chapter I above apply to all non-domestic relations civil proceedings.

B. Motion Hours:

(1) LaRue County-Motion Hour for all non-domestic relations civil matters, and domestic relations matters to be heard by the presiding judge, shall begin at 1:00 P.M. in LaRue County.

(2) Hart County-Motion Hour for all non-domestic relations civil matters, and domestic relations matters to be heard by the presiding judge, shall begin at 1:00 P.M. in Hart County.

(3) Nelson County-Motion Hour for all non-domestic relations civil matters, and domestic relations matters to be heard by the presiding judge (except for Friend of the Court), shall begin at 9:00 A.M. in Nelson County. The Friend of the Court docket shall be heard at 1:00 P.M.

C. Motion and Notice:

(1) Filing and Service of Motion and Notice-Each motion to be made on a rule day shall be filed in the office of the Circuit Clerk eight (8) days preceding the rule day for which the motion is initially set. Each motion shall be served on opposing counsel or a party, if not represented by counsel.

(2) Computation of Time for Filing and Service-Time for filing and service of a motion shall be computed in accordance with CR 6.01.

D. Filing of Interrogatories and Requests for Admissions: Pursuant to these local rules, all interrogatories and responses thereto and all requests for admissions and answers or objections thereto shall be filed of record in the office of the Circuit Clerk.

CHAPTER IV

CIVIL PROCEEDINGS-DOMESTIC RELATIONS:

A. Domestic Relations Commissioner-There shall be Domestic Relations Commissioners assigned to the Tenth Judicial Circuit, who shall possess the qualifications required by Civil Rule 53.03 (2). The Commissioners shall hear evidence concerning contested and uncontested matters arising from actions for dissolution of marriage, child custody, support and maintenance under KRS Chapter 403, except actions requesting incarceration for contempt of court, restraining orders, or injunctions, which shall be heard only by the presiding judge.

A commissioner shall have those powers and authorities in the conduct of hearings as set out in Civil Rules 53.04 and 53.05.

Upon the filing of any Domestic Relations action, the case will automatically be assigned to the Commissioner of the Court in which said action is filed.

B. Motion Hours:

(1) LaRue County – The Domestic Relations Commissioner's docket shall be the second and fourth Mondays of each month and each call shall begin at 10:00 A.M.

(2) Hart County – The Domestic Relations Commissioner's docket shall be on the second and fourth Tuesdays of each month and each call shall begin at 10:00 A.M.

(3) Nelson County – The Domestic Relations Commissioner's docket shall be on the first and third Wednesdays of each month and each call shall begin at 10:30 A.M.

C. Motion and Notice - Motions in active cases shall be noticed and heard in the same manner specified in Chapter III, Subsection C of these Local Rules. All post final judgment

motions shall initially be brought by show cause rule with service to be perfected on the party as set forth in CR 4.04.

The length of hearings on motion days shall be subject to those time limitations set forth under Chapter I, subsection C (7) of these Local Rules. Any hearing that will exceed those time limitations shall be assigned for hearing at a specific time other than motion hour.

Copies of all motions with attached required fee (Appendix 1) shall be provided to the Commissioner by mailing or delivering same to the Commissioner at his/her office.

D. Uncontested Actions for Divorce or Legal Separation:

(1) For purposes of this rule, an "Uncontested Action" is defined as follows:

> (a) An action in which there has been filed a Separation Agreement executed by both parties, and in which no motion to set aside that agreement is pending;
>
> (b) An action in which the respondent is before the Court only by Warning Order Service of Process, the Warning Order Attorney's Report has been filed, and the moving party is requesting only dissolution of the marriage, custody of children over which this court has jurisdiction and/or division of property located in Kentucky;
>
> (c) An action in which the respondent has been served with process pursuant to Civil Rule 4.01 and has filed no responsive pleading, and in which the moving party is requesting only limited relief.

(2) Uncontested actions may be heard orally by the Domestic Relations Commissioner during motion hour.

(3) If proof in an uncontested action is taken by deposition or interrogatory pursuant to Civil Rule 53.03 (5), a motion to submit need not be noticed for a regular motion hour, but may be tendered to the Commissioner for filing in the clerk's office.

(4) Any motion to submit any uncontested action must be accompanied by (a) the proposed "Findings of Fact, Conclusions of Law, Judgment and Decree" which the moving party desires the Court to adopt; (b) a proposed Report of the Commissioner recommending adoption of the proposed "Findings of Fact, Conclusions of Law, Judgment and Decree," and, the Commissioner's Fee of $15.00.

(5) If there is a Separation Agreement in the file which has been executed by both parties and no motion is pending to set aside that agreement, the parties will be deemed to have waived the right to file objections or exceptions to the Commissioner's Report and the Report shall be submitted to the presiding Judge for immediate consideration.

(6) Any Separation agreement or agreed judgment providing for a child support obligation shall include as an attachment thereto a Commonwealth of Kentucky Worksheet for Monthly Child Support Obligation along with a copy of the IV D Order or the FOC Order, whichever applies. If the child support obligation established in the separation agreement or agreed judgment does not correspond to the Child Support Guidelines contained in KRS 403.212 (6), the agreement or judgment must state the reason for deviation from the Guidelines.

E. Contested Actions for Divorce or Legal Separation:

(1) Upon the filing of a contested action for divorce or legal separation involving minor children, Local Rules visitation, as set forth in Subsection J, shall be deemed in effect.

(2) Upon the filing of a contested action for divorce or legal separation, neither party shall transfer nor dispose of any property. Each party shall keep track of current and ongoing income and expenses and shall not remove any minor child from the jurisdiction.

(3) In each contested action for divorce or legal separation, the parties shall file a Verified Disclosure Statement (VDS) no later than forty (40) days after the filing of the Petition. Each party shall have 15 days

thereafter to Amend or Supplement their respective VDS. Any amendment thereafter can be made only by proper motion and ruling by the Court. The disclosure statement shall be in the attached form. (Appendix 2). No motion for mediation may be filed by a party until such time as their VDS has been filed. Any party not complying with the provisions of this paragraph shall be responsible for the fees of the mediation and associated costs.

(4) Failure of a party to file a completed disclosure statement at least ten (10) days prior to mediation could result in sanctions deemed appropriate by the Domestic Relations Commissioner.

F. Pendente Lite Motions:

(1) Pendente lite motions for custody or child support shall be brought pursuant to KRS 403.270 et.seq., and noticed in accordance with the other provisions of these Local Rules relating to the notice of motions for hearing on motion days.

(2) Any pendente lite motion for child support shall be accompanied by the filing party's most recent wage information, cost of minor child's insurance information and child care information, if any. In cases where both parties' wage information is available to the filing party the motion shall also be accompanied by a completed Child Support Worksheet. Any agreed order setting pendente lite child support, shall be accompanied by a completed Child Support Worksheet.

G. Mediation:

Prior to setting a final hearing date, the Domestic Relations Commissioner shall require the parties to attend mediation. Mediation is mandatory unless extraordinary relief is granted by the court. A trial date will not be granted until mediation is completed or waived by the court. Rules governing mediation are contained herein in Chapter VII-Alternative Dispute Resolution.

H. Motions to Set for Trial :

If the parties are unable to settle any issue at mediation, either party shall be allowed to file a motion before the Domestic Relations Commissioner to set the case for trial.

I. Trial Dates :

Contested actions, as well as hearings on lengthy pendente lite and post-judgment motions, will be set for trial on a date and at a time to be determined by the Commissioner. A motion for trial shall certify the estimated length of time required for the hearing. The motion shall be accompanied by a Commissioner's Report as set forth in Appendix 1 and advancement of one-half (½) of the Commissioner's fees ($60.00 per hour) for the time certified. Opposing party shall pay their one-half (½) at the time the trial date is set. The Commissioner may, at his/her discretion, order a Pretrial Conference prior to the setting of a hearing or trial date.

J. Trials :

No later than fourteen (14) days prior to the trial date, the parties shall exchange witness lists and exhibits expected to be introduced at trial. Failure to make these disclosures may result in the exclusion of witnesses and exhibits at trial, or other appropriate relief, in the discretion of the Commissioner.

K. Presentation of Evidence:

(a) All contested actions shall be tried orally before the Commissioner, except that the following testimony may be taken by deposition:

(1) Those witnesses listed in CR 32.01 (c); and

(2) Those witnesses listed in 403.290(2). Reports of 403.290(2) experts and reports of other court ordered experts of the opposing party are admissible.

It is provided, however, that should the Commissioner find pursuant to motion by either party that there is good cause to permit other evidence to be presented by deposition or interrogatories, he/she may enter an order permitting proof to be taken in that manner.

(b) Cases heard orally shall be recorded either by video tape or audio tape. Depositions and interrogatories shall be on 8-1/2 x 11 inch paper, shall be typewritten in pica sized type, and double spaced.

(c) No motion for pendente lite maintenance will be considered by the Commissioner absent the filing of a completed Verified Disclosure Statement by the movant.

L. Briefs/Statements of Desired Findings, Conclusions and Judgment:

(a) Following the trial, the Commissioner may require the parties to submit briefs or desired findings, etc. and may set reasonable time limits for the filing of these documents.

M. Commissioner's Report:

(1) Contents and Filing-The Commissioner shall prepare a Report of his/her recommendations to the Court on any matter submitted to him/her within sixty (60) days, including findings of fact and conclusions of law where required by law. The Commissioner's Report shall be filed with the Clerk of the Court who shall henceforth serve notice of the filing and a copy of the Report upon all parties who have appeared in the action.

(2) Action on the Report - Within ten (10) days after being served with Notice of the filing of the Report, any party may serve written objections or exceptions thereto upon the other parties. If no objections or exceptions are filed, the Report shall be automatically submitted to the presiding Judge on the eleventh day after the notice of the filing of the Report was served on the parties. If objections or exceptions are filed, the party filing the objections or exceptions shall notice them for hearing on the next available motion hour. After hearing, the

presiding Judge may adopt the Report or modify it, or may reject it in whole or in part, or may recommit it to the Commissioner with instructions.

N. Commissioner's Fees:

(1) The Commissioner may apportion fees as appropriate pursuant to KRS 403.220.

(2) The Commissioner's fees shall be pre-paid to the Commissioner as set forth above. Any remaining billing shall be due upon receipt.

(3) No motion shall be heard by the Commissioner where a copy of said motion is not pre-filed with the Commissioner and accompanied by the Commissioner's fee of $20.00.

(4) All actions involving indigents shall be heard by the Commissioner without a fee.

O. Motions for Contempt of Court, Restraining Orders or Injunctions :

These motions will be heard by the presiding Circuit Judge.

P. Orders :

All Orders shall be accompanied by a tendered "Report" of the Commissioner recommending that the "Order" be signed by the presiding Judge.

Q. Parents Education Clinic (Nelson County only) :

Each parent with minor children must attend a Parents Education Clinic. Failure to attend prior to dissolution will result in denial of the motion for dissolution if by movant and contempt if by the non-moving party.

R. Visitation :

If the parties are living within one hundred miles of each other, then the following visitation schedule shall apply in the absence of an agreement or order of this Court, except for good cause being shown. Neither party shall be prejudiced at the hearing by application of the prehearing visitation schedule requirement.

(1) Periodic Visitation:

(a) Weekends: Alternate weekends from Friday at 6:00 o'clock P.M. until Sunday at 6:00 o'clock P.M.

(b) Telephonic: One hour per week. Each party shall make available the telephone number where the child can be reached while the child is with that party.

(c) One Evening during the week (either Tuesday, Wednesday or Thursday) after the weekend visitation from 4:00 p.m. to 9:00 p.m.

(2) Holidays - In odd numbered years, the Petitioner has Easter and Christmas Day from 9:00 a.m. until 7:30 p.m. The Respondent has July 4th, Thanksgiving and Christmas Eve from 9:00 a.m. to 7:30 p.m. In the even numbered years, the schedules are reversed. Memorial Day and Labor Day attach to the preceding weekend and end at 7:30 p.m.

(3) School Breaks

(a) Traditional School Calendar - Except as otherwise provided herein, each party shall enjoy visitation for one-half of the Spring and Christmas school breaks. In even numbered years, the Petitioner shall enjoy visitation for the first one-half of each break period with the Respondent to enjoy visitation in the second half. In odd numbered years, the schedule shall be reversed.

(b) Year Round School - Except as otherwise provided herein, each party shall enjoy visitation for one-half of the Spring, Fall, and Christmas school breaks. In even numbered years, the Petitioner shall enjoy visitation for the first one-half of each break period with the Respondent to enjoy visitation in the second half. In odd numbered years, the schedule shall be reversed. The minority custodial parent shall be entitled to exercise one-half of the spring and fall break even if the child/children is required to attend intercession classes. Calculation of the length of the break is from the first day off school to the last day before school starts, less

Christmas and Christmas Eve. Break visitation shall apply to children of all ages unless otherwise ordered by this Court after appropriate motion. If the child is not in school, the calendar of the school system where the child primarily resides shall control.

(4) Terms:

(a) A holiday that falls on a weekend should be spent with the parent who is supposed to have the child/children for that holiday. The rest of the weekend is to be spent with the parent who would normally have that weekend. These do no have to be made up.

(b) Mothers Day and Fathers Day are to be spent with the appropriate parent. Hours are as agreed or 9:00 a.m. to 7:30 p.m.

(c) Birthdays-Preferably, the child shall spend time with each parent on the child's birthday. If the parties are unable to agree, then the child shall celebrate his/her birthday in the home of the majority custodial parent, unless it falls on a visitation date.

(d) The child/children and majority custodial parent have no duty to await the visiting parent for more than thirty minutes of the visitation time. A parent who is late forfeits visitation for that time period.

(e) The following shall control cancellations: If a child is ill, the majority custodial parent should give reasonable notice to the other parent and be prepared to provide medical documentation. Time lost for the child's illness shall be made up. The minority custodial parent should give twenty-four hour notice of intent to cancel. The time canceled by the minority custodial parent is forfeited.

(f) The majority custodial parent shall send appropriate clothing for the visitation which shall be returned.

(5) Summer Vacation - The summer vacation period shall include three (3) weeks visitation each year as follows: The non-custodial parent shall exercise visitation on the first, third and fifth full week of the child's vacation from Sunday 12:00 p.m. to Sunday 12:00 p.m. The majority custodial parent shall have the balance of the vacation period. Each party must give the other notice by May 1 of vacations or special plans for the child/children if there is a scheduling conflict to see if an alternate agreement can be reached.

The following conditions apply during summer and extended visitations:

(a) Summer school necessary for the child/children to pass to the next grade must be attended.

(b) A general itinerary should be provided for the parent if vacation will be out of town.

(c) Each party will have telephone numbers and addresses for contact during periods of extended visitation.

(d) Each parent shall be entitled to telephonic visitation one evening each week during the extended summer visitation.

(e) Summer and extended visitation shall replace regularly scheduled visitation for that time period.

(6) Transportation-Each party shall be responsible for the transportation cost and for transporting the child/children to their own home.

S. Child Support – All child support shall be paid through the Friend of the Court or the Division of Child Support unless otherwise ordered by the Circuit Judge. If child support is paid through the Friend of the Court, the parties shall use the attached Order Setting Child Support (Appendix 3).

CHAPTER V

Effective Date: The Local Rules contained herein became effective at 12:01 A.M. on July 31, 2004.

CHAPTER VI

Additional General Provisions:

A. Emergency Hearings: Emergency hearings shall be granted only by the presiding Judge or Commissioner.

B. Video Tape Copies: Counsel of record shall be entitled to a video tape copy upon request. Copies to all other persons shall only be provided pursuant to Court order. The fee and tape type used for such copies shall be in accordance with the rules and recommendations of the Administrative Office of the Courts.

C. Case Numbers: Any pleading not containing the case number thereon shall not be filed by the Clerk.

D. Official Forms: The Court hereby adopts as official forms for use under Chapter IV of these Local Rules those Forms attached hereto.

CHAPTER VII - ALTERNATIVE DISPUTE RESOLUTION

A. Scope: This Rule will govern Mediation. Nothing in this rule shall prohibit parties from resolving disputes through other methods.

B. Mediation Defined: Mediation is an informal process in which a neutral third person or persons, called a mediator or mediators, act to facilitate the resolution of a dispute between two or more parties. The process is designed to help disputing parties reach an agreement on all

or part of the issues in dispute. Decision-making authority remains with the parties, not the mediator. The mediator assists the parties in identifying issues, fostering joint problem-solving, and exploring settlement alternatives.

C. Referral of Cases to Mediation: The Court may at any time on its own motion or upon motion of any party refer a case or portion of a case to mediation. Before making such decision, the Court shall consider and effectuate the following conditions, factors and proceedings:

1. The nature of the issues to be resolved;
2. The willingness of the parties to mutually resolve their dispute;
3. The ability of the parties to participate in the mediation process; and
4. Allow the parties to express objections and reasons therefor prior to making any referral.

D. Stay of Proceedings: Unless otherwise ordered by the Court, the proceedings shall be stayed pending the conclusion of the mediation process.

E. Appointment of Mediator: If the parties are unable to agree upon a mediator or mediation service by the time set by the court, the court will then select a mediator or designate a mediation service to select the mediator.

F. Mediator Compensation: The mediator shall be compensated at the rate agreed between the mediator and the parties if the mediator is chosen by agreement. In the event the mediator is appointed by the court, the fee for the mediator shall be reasonable and no greater than the mediator's standard rate as a mediator. Unless otherwise varied by agreement of the parties or by order of the court, each party shall pay an equal share of the charges of the mediator.

G. Mediation Procedure:

(1) Time and Place of Mediation Conference. Following selection of the mediator, the mediator or mediation service shall set a time and place for the mediation conference as set forth in the order of referral. The mediator may meet with the parties or their counsel prior to the mediation conference. The mediator may require the parties to submit a confidential statement of the case or other materials that the mediator may reasonably believe appropriate for efficiently conducting the mediation conference.

(2) Attendance at Mediation Conference. The parties must attend the mediation conference. Counsel who will try the case for any party are required to attend the mediation conference. If a party is a public entity, it shall be deemed to appear by the physical presence of a representative with full authority to negotiate on behalf of the entity and to recommend settlement to the appropriate decision-making body of the entity. If a party is insured for the matter in dispute, that party is deemed to appear by the physical presence of a representative of the insurance carrier, who is not that carrier's outside counsel. This representative must have full settlement authority. If a party is an organization other than a public entity or an insurance carrier for an insured party, it shall be deemed to appear by the physical presence of a representative, other than the party's counsel of record, who has full authority to settle without further consultation. The foregoing requirements of attendance may be varied by stipulation of the parties or by order of the court for good cause shown.

(3) Completion or Termination of Mediation. The mediator may terminate the mediation conference (a) after a settlement is reached, or (b) when the mediator determines that continuation of the process would be unproductive. The mediator and the parties by agreement may schedule a subsequent mediation conference or conferences.

(3) Completion or Termination of Mediation. The mediator may terminate the mediation conference (a) after a settlement is reached, or (b) when the mediator determines that continuation of the process would be unproductive. The mediator and the parties by agreement may schedule a subsequent mediation conference or conferences.

(4) Report to the Court. The mediator shall report to the court that the mediation has not occurred, has not been completed, or that the mediation has been completed with or without an agreement on any or all issues. With the consent of the parties, the mediator may also identify those matters which, if resolved or completed, would facilitate the possibility of settlement.

(5) Agreement. If an agreement is reached during the mediation conference, it shall be reduced to writing and signed by the parties. The parties shall be responsible for the drafting of the agreement, although the mediator may assist in the drafting of the agreement with the consent of the parties.

H. Confidentiality:

(1) Mediation sessions shall be closed to all persons other than the parties of record, their legal representative, and other persons invited by the mediator with the consent of the parties.

(2) Mediation shall be regarded as settlement negotiations for purposes of KRE 408.

ADOPTED THIS _____ day of _____, 2005.

Charles C. Simms III
JUDGE, TENTH JUDICIAL CIRCUIT

COMMONWEALTH OF KENTUCKY
_____ CIRCUIT COURT
CIVIL ACTION NO. _____

IN RE: THE MARRIAGE OF:

_____)
PETITIONER)
)
VS.)
)
_____)
RESPONDENT)

VERIFIED DISCLOSURE STATEMENT
OF: HUSBAND (___) WIFE (___)

The completed Verified Disclosure Statement, sworn to under oath and under penalty of perjury, shall be filed by both parties with the _____ Circuit Court Clerk within thirty days of the filing of the Petition for Dissolution of Marriage.

If there is not sufficient space on this form to provide all of the information necessary, please attach additional sheets as exhibits, which shall be made a part of this Verified Disclosure Statement, as if included verbatim therein and covered under the oath of the party. **ALL QUESTIONS ON THIS FORM MUST BE ANSWERED IN FULL OR THE WORDS "NONE" OR "NOT APPLICABLE" (N/A) INSERTED.**

Your Name: _____

Maiden Name: _____ Do you want maiden name restored? (___) yes (___) no

Your address: _____

_____

Your Social Security Number: _____

Your Birth Date: _____ Age: _____

Place of Birth (State): _____ Race: _____

Date of Marriage: _____ County and State of Marriage: _____

Date of Separation: _____ Number of Previous Marriages: _____

I. PRESENT EMPLOYMENT

Your occupation: _____

Name and address of employer: _____

Kind of business or industry: _____ Length of Employment: _____

Specialized Training: _____

II. STATEMENT OF INCOME AND DEDUCTIONS

Please attach your last Federal and State Income Tax Returns and wage statements from your employer **for the last five (5) weeks, or documented evidence of earnings for the last three (3) months.**

A. INCOME FROM EMPLOYMENT:

i. I am paid $_____(___) weekly, (___) bi-weekly, (___) semi-monthly, (___) monthly.

ii. I earn $_____ per hour and work _____ hours per week.

iii. I average _____ hours per week in overtime.

B. STATE YOUR MONTHLY GROSS INCOME FROM: (This is your income before any deductions are taken out):

i. Base pay from salary, wages, commissions $_____

ii. Overtime, commissions, tips, bonuses, second job $_____

iii. Other employment benefits:

a. Automobile expenses $_____

b. Phone/mobile phone $_____

c. Meals or allowances $_____

d. Club dues $_____

e. Housing $_____

f. Other (specify) _____ $_____

iv. Pensions and retirement $_____

v. Social Security $_____

vi. VA Benefits $_____

vii. Disability and unemployment compensation $_____

viii. Worker's Compensation $_____

ix. Public Assistance (welfare, AFDC, etc.) $_____

x. Maintenance or child support from any previous case $_____

xi. Dividends and interest (from accounts, stocks, etc.) $_____

xii. Rent $_____

xiii. All other sources of income (specify) $_____

YOUR TOTAL MONTHLY GROSS INCOME (Before any deductions): $_____

C. STATE YOUR MONTHLY DEDUCTIONS FROM YOUR INCOME:

i. State income taxes $_____

ii. Federal income taxes $_____

iii. Local income taxes $_____

iv. Social Security (FICA) $_____

v. Medicare $_____

vi. Union or other dues $_____

vii. Retirement or pension fund $_____

viii. Savings plan $_____

ix. Credit Union $_____

x. Medical insurance $_____

xi. Other deductions (specify) $_____

YOUR TOTAL MONTHLY DEDUCTIONS $_____

TOTAL MONTHLY INCOME (From "B" above) $_____
LESS TOTAL MONTHLY DEDUCTIONS (From "C" above) -$_____
EQUALS NET MONTHLY INCOME (Take home pay) $_____

III. CHILDREN'S ISSUES

State the name, age and date of birth of all children under eighteen (18) in this case and with whom the children are residing.

NAME	AGE	DOB	RESIDING WITH

A. INSURANCE: List all hospitalization, medical and dental insurance policies that cover you and/or your children:

POLICY NAME	TYPE OF INSURANCE

i. List individuals who are covered by this insurance and their relationship to you:_____
_____
_____

ii. State the monthly cost of the insurance(s):_____

iii. Who pays for the insurance(s): _____

iv. Is insurance paid through you or your spouse's employer (specify which)? _____
_____

v. Are your children covered by a state medical card?_____

vi. What would the insurance cost for you alone? _____

B. CHILD CARE COSTS:

i. The husband pays child care costs in the amount of $_____ (monthly) to _____
_____. (Attach copy of most recent billing.)

ii. The wife pays child care costs in the amount of $_____ (monthly) to _____
_____. (Attach copy of most recent billing.)

C. OTHER COURT ORDERED CHILD SUPPORT: Are you under a prior Court Order to pay child support from a previous case?

(___) Yes (___) No Amount paid per month: $_____

If yes, attach a copy of the order to pay child support. List the names and dates of births of the previous born children upon which you are paying support.

_____

D. MAINTENANCE: Are you under a Court Order to pay Maintenance in this case?

(___) Yes (___) No Amount paid per month: $_____

If yes, attach a copy of the maintenance order.

E. SPECIAL NEEDS: Specify any special needs of the children: _____
_____
_____

IV. MARITAL PROPERTY (Owned on the date of Separation).

List all marital property of the parties in the appropriate sections as follows:

A. REAL ESTATE: (Where more than one parcel of real estate is owned, attach a sheet for all additional properties. Include mobile homes in this section.)

Address of property: _____

Type of property: _____

Total present value (appraisal or assessed value): $_____ (Attach copy of appraisal and/or PVA printout.)

Mortgage balance: $_____ Mortgage Company: _____

Other liens: $_____Owed to: _____

Equity in property (present value minus total owed on property): $_____

State whether any part of the property is considered non-marital in nature: _____
If yes, state the amount and the reason for the claim: _____
_____

Who has possession of the property? _____

B. OTHER PROPERTY (As of the date of separation):

i. List all cash on hand, checking and savings accounts, certificates of deposit and money market accounts (attach a copy of most recent bank statements from each account):

FINANCIAL INSTITUTION	NAME ON ACCOUNT	TYPE OF ACCOUNT	AMOUNT

ii. List all stocks, bonds and other securities:

FINANCIAL INSTITUTION	NAME ON ACCOUNT	TYPE OF ACCOUNT	AMOUNT

iii. List all assets held in the name of or on behalf of children:

FINANCIAL INSTITUTION	NAME ON ACCOUNT	TYPE OF ACCOUNT	AMOUNT

iv. List retirement, pension, stock option and profit sharing plans (attach a copy of most recent summary):

WHERE HELD	TYPE OF ACCOUNT	AMOUNT

v. List any and all interest in/ownership of business:

BUSINESS NAME	% OWNERSHIP	VALUE

vi. List all life insurance policies:

COMPANY NAME	POLICY NUMBER	FACE VALUE	CASH VALUE

C. AUTOMOBILES, ETC.: List all automobiles of every kind, motorcycles, mopeds, four-wheelers or the likes, all boats, motors and trailers, and all other recreational vehicles of every kind, including the PVA assessed value or NADA value and amounts owed as of the date of separation.

DESCRIPTION	PVA OR NADA VALUE	AMOUNT OWED

D. HOUSEHOLD PROPERTY IN DISPUTE: List all remaining household property not previously shown that is in dispute. **If an agreement has not been reached in writing for the division of assets, you must list the assets.**

DESCRIPTION OF ITEM	VALUE

E. MISCELLANEOUS PROPERTY

DESCRIPTION OF ITEM	VALUE
Jewelry:	
Collections:	
Income Tax Refunds Expected:	
Accounts Receivable/Loans:	
Claims against others:	
Bonus expected: List how much expected and when.	
Accrued vacation pay:	
Others:	

V. NON-MARITAL PROPERTY (MUST ATTACH ALL TRACING DOCUMENTS)

List all non-marital property of every kind, whether real property or personal items, and the basis for the claim that such is non-marital (obtained prior to marriage, purchased with funds from sale of items obtained prior to marriage, inheritance, etc.).

DESCRIPTION OF ITEM	WHEN ACQUIRED	REASON FOR CLAIM

VI. MARITAL DEBTS (As of the date of separation)

CREDITOR	REASON INCURRED	MONTHLY PAYMENT	BALANCE OWED

VII. NON-MARITAL DEBTS (As of the date of separation)

CREDITOR	HUSBAND'S OR WIFE'S	MONTHLY PAYMENT	BALANCE OWED

VIII. MONTHLY EXPENSES (specify amounts) Actual Believe Needed

A. Housing:
Mortgage or rent _____ _____
Property taxes, pro-rated per month _____ _____
Homeowners/renters insurance, pro-rated per month _____ _____
Home maintenance _____ _____
Electricity _____ _____
Water and sewer _____ _____
Garbage pick-up _____ _____
Gas/Fuel _____ _____
Cable television _____ _____
Telephone _____ _____
Cell Phone _____ _____
Miscellaneous _____ _____

B. Food:
Personal _____ _____
Children _____ _____

C. Clothing (including uniforms):
Personal _____ _____
Children _____ _____

D. Dry cleaning and laundry _____ _____

E. Child care _____ _____

F. Tuition and school expenses for children _____ _____

G. Athletic and activity fees for children _____ _____

H. Transportation:
Gasoline _____ _____
Automobile maintenance _____ _____
License, registration and taxes, pro-rated per month _____ _____
Automobile payments _____ _____

	Automobile Insurance, pro-rated per month	_____	_____
I.	Medical expenses (average):		
	Doctors and drugs, personal	_____	_____
	Doctors and drugs, children	_____	_____
	Dentist, personal	_____	_____
	Dentist and orthodontist, children	_____	_____
	Eye doctor and eye glasses, personal	_____	_____
	Eye doctor and eye glasses, children	_____	_____
	Personal medical insurance	_____	_____
J.	Personal care:		
	Hairdresser/barber	_____	_____
	Hair care for children	_____	_____
	Toiletries	_____	_____
	Miscellaneous	_____	_____
K.	Entertainment:		
	Personal	_____	_____
	Children	_____	_____
L.	Contributions to church/charity	_____	_____
M.	Payment of child/spousal support from prior marriage	_____	_____
N.	All other miscellaneous payments even if included on another page:		
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
O.	TOTAL MONTHLY EXPENSES	_____	_____

IX. **REQUIRED SEPARATE ATTACHMENTS**: I have attached to this schedule applicable copies of:

_____ A. My most recent Federal and State Tax Return (Form 1040).
_____ B. My five (5) most recent pay stubs or earnings for three (3) months.
_____ C. A copy of my most recent child care billing.
_____ D. A copy of any real estate appraisals &/or PVA printout.
_____ E. A copy of my bank statements since separation.
_____ F. A copy of my most recent retirement plan summary.
_____ G. A copy of my tracing documents.
_____ H. A copy of my child support order on prior born children.
_____ I. A copy of my maintenance order.
_____ J. A copy of my work schedule.

* * * * * * * * * * * * * * *

I declare under penalty of perjury that the information set forth in this Verified Disclosure Statement is complete and accurate to the best of my knowledge and belief, and that this was executed on this the _____ day of _____, _____.

_____
Name

COMMONWEALTH OF KENTUCKY

COUNTY OF _____

SUBSCRIBED AND SWORN to before me by _____, on this the _____ day of _____, _____.

_____
Notary Public, _____
My Commission Expires: _____

IF REPRESENTED BY COUNSEL, PLEASE LIST NAME AND ADDRESS OF ATTORNEY:

_____
_____
_____

CERTIFICATE OF SERVICE

On the _____ day of _____, _____, I hereby certify that an exact copy of the foregoing Verified Disclosure Statement was (___) mailed, (___) hand-delivered to:

_____
_____
_____

_____

_____CIRCUIT COURT
10TH JUDICIAL CIRCUIT
CASE NO. _____

_____ **PETITIONER**

VS.

_____ **RESPONDENT**

COMMISSIONER'S REPORT

Comes _____, Domestic Relations Commissioner, 10th Judicial Circuit, who recommends approval and execution of the attached:

( ) Order
( ) Agreed Order
( ) Findings of Fact, Conclusions of Law and Decree
( ) Other:_____

NOTICE: HAS A DOMESTIC VIOLENCE PETITION BEEN FILED BY EITHER PARTY DURING THE PENDENCY OF THIS ACTION? YES_____ NO_____. IF YES, PLEASE FILE A COPY OF THE PETITION IN THIS CASE FILE.

The Circuit Clerk is notified of the following:

( ) Final and Appealable
( ) *Pendente Lite*
( ) Time Waived
( ) REVIEW DATE_____(FOR CLERK'S USE ONLY)

_____
_____, COMMISSIONER

TAKE NOTICE that _____, Commissioner of the _____ Circuit Court has filed a report in the above-styled action on the _____ day of _____, 200____. Within ten (10) days of the entry of this notice, any party may serve written objections to the report upon the other parties. Unless written objection is served by any party on the other parties within ten days after the date of entry of this notice, the court may adopt the report of the commissioner as submitted.

DISTRIBUTION OF REPORT & TENDERED ORDER:

COUNSEL FOR PETITIONER: _____ (HD____FCM____)

COUNSEL FOR RESPONDENT: _____ (HD____FCM____)

_____ CIRCUIT COURT
BY:_____ Deputy Clerk DATE:_____

_____ **CIRCUIT COURT**
CIVIL ACTION NO. _____

_____ PETITIONER

VS. **ORDER SETTING CHILD SUPPORT**

_____ RESPONDENT

Motion having been made and the Court being otherwise sufficiently advised, it is hereby **ORDERED** as follows:

1. That Respondent shall pay the sum of $_____monthly ($_____ child support obligation; $_____ Friend of the Court fee) for the support of the parties' minor child.

2. Child support shall be payable to **The Friend of the Court and mailed to P.O. Box 326, Bardstown, Kentucky 40004. NO OUT OF STATE CHECKS ARE ACCEPTED.**

3. Child Support forwarded directly to the recipient and accepted is in direct violation of this Order!

4. The first of said child support payments shall be due and payable on _____.

5. **This is not a wage assignment for payment of support. It is the responsibility of the Respondent to make child support payments to the Friend of the Court.**

	OBLIGOR	**OBLIGEE**
Social Security No.	_____	_____
Address	_____	_____
	_____	_____
Employer/Address	_____	

_____
HON. CHARLES C. SIMMS, JUDGE
DATE:_____

DISTRIBUTION:
( ) Counsel for Petitioner
( ) Obligor
( ) Friend of Court
( ) Counsel for Respondent
( ) Obligee

_____CIRCUIT COURT
BY:_____ D.C. DATE:_____