

Supreme Court of Kentucky

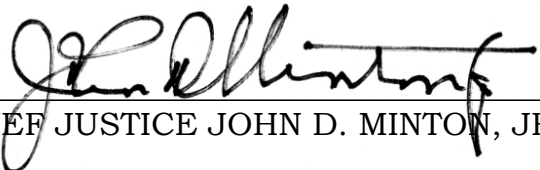
ORDER

**IN RE: ORDER APPROVING THE LOCAL RULES OF PRACTICE FOR
THE 14TH JUDICIAL CIRCUIT, BOURBON, SCOTT, AND
WOODFORD CIRCUIT COURTS**

Upon recommendation of the Chief Judge of the 14th Judicial Circuit, Bourbon, Scott, and Woodford Circuit Courts and being otherwise sufficiently advised,

The attached Local Rules of Court Practice and Procedure for the Bourbon, Scott, and Woodford 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 14th day of June 2022.


CHIEF JUSTICE JOHN D. MINTON, JR.

LOCAL RULES of the FOURTEENTH JUDICIAL CIRCUIT

PREAMBLE

Since the Civil Rules set forth all basic requirements for the operation of Circuit Courts, these special or local rules are intended to direct procedural matters not specifically addressed in the Civil Rules, yet necessary to expedite the business of the courts. The efficacy of the Local Rules of the Fourteenth Judicial Circuit in facilitating the Court's business has been demonstrated over the twenty years since they were last approved in September 2002. This present revision of the "Local Rules" was largely mandated by the addition of family court to this circuit and certain technological innovations such as remote proceedings and electronic filings. These revisions are a substantial update of the prior version of these rules and not merely for housekeeping purposes.

All persons practicing in the Fourteenth Judicial Circuit should acquaint themselves with and comply with and be governed by these Local Rules.

I. CITATION OF RULES

These Rules may be cited as LR14JC or Local Rules of the Fourteenth Judicial Circuit.

II. COMPOSITION OF CIRCUIT

The Fourteenth Judicial Circuit is a court of continuous session, consisting of Bourbon, Scott, and Woodford Counties and is comprised of both general and family court divisions. These Rules shall apply only to the general circuit divisions: Division One and Division Two. The family court shall be governed by separate local family court rules.

III. CASE ASSIGNMENTS

All cases shall be assigned at random in accordance with Supreme Court Rule 1.040. As circuit court is a court of general jurisdiction, each judge shall hear both criminal and civil matters. There shall be no separate civil and criminal judges.

A. Civil Cases

1. In each county, cases shall be assigned to each division by utilizing the random judge assignment software to select the division.
2. Except as otherwise directed by the Court, any case dismissed that is later refiled will be assigned to the same division.

B. Criminal Cases

In each county, upon the return of indictments, the presiding judge shall deliver the same to the clerk who shall then assign them to each division utilizing the random judge assignment software to select the division, with the following exceptions:

1. If a superseding indictment is returned, it shall be assigned to the same division as the previous indictment;
2. If a defendant has a prior open indictment or indictments pending before a judge, any new indictment shall be assigned to the same division;
3. If multiple indictments arise out of the same alleged criminal conduct or set of facts and result in the indictment of co-defendants, the first indictment returned shall be assigned utilizing the random judge assignment software and the additional indictments shall be assigned to the same division.

C. Appeals

All appeals shall be assigned utilizing the same random judge assignment software used in civil and criminal cases.

D. Ex Parte Applications

In ex parte applications for orders of attachment, restraining orders, the appointment of guardian ad litem, and emergencies, said matter may be presented to the nearest available judge without regard to which division the case may have been previously assigned.

D. Disqualifications and Recusals

1. In all instances where the judge otherwise assigned to the case is disqualified by motion and affidavit of a litigant or attorney, the procedure provided by statute shall be followed.

2. In those instances where the judge otherwise assigned to the case recuses him/herself from the case, the judge of the other division shall preside over the case.

3. In the event of recusal, absence, or illness of the judges of both divisions, the Chief Judge of the Bluegrass Region shall be requested to appoint a special judge to preside over the case.

E. Balancing of Dockets

In the event that the dockets of the two (2) divisions become disparate in workload due to unduly burdensome cases, unanticipated issues in one of the divisions, or for good cause, the Chief Judge may make such reassignments of cases as will aid in the expeditious disposition of cases and the orderly flow of Court business.

F. Separate Dockets

The clerk of each Circuit Court shall maintain a separate civil motion docket and a separate criminal motion docket for each division of the Court.

IV. MOTION HOUR

A. Motion Hour shall be held in each division of each Circuit Court at least once every month in Bourbon and Woodford Counties and at least twice every month in Scott County.

B. Bourbon Motion Hour

1. Division One

a. Civil Motion Hour shall be held at 9:00 a.m. on the second Tuesday of every month.

b. Criminal Motion Hour shall be held at 1:00 p.m. on the second Tuesday of every month.

2. Division Two

a. Civil Motion Hour shall be held at 9:00 a.m. on the first Tuesday of every month.

b. Criminal Motion Hour shall be held at 1:00 p.m. on the first Tuesday of every month.

C. Scott Motion Hour

1. Division One

a. Civil Motion Hour shall be held at 9:00 a.m. on the first and second Thursday of every month.

i. Matters involving the Master Commissioner shall only be heard at motion hour on the first Thursday of the month.

b. Criminal Motion Hour shall be held at 9:00 a.m. and at 1:00 p.m. on the first Monday of every month as well as 9:00 a.m. on the second Monday of every month.

2. Division Two

a. Civil Motion Hour shall be held at 1:00 p.m. on the first and second Thursday of every month.

i. Matters involving the Master Commissioner shall only be heard at motion hour on the first Thursday of the month.

b. Criminal Motion Hour shall be held at 9:00 a.m. and at 1:00 p.m. on the first Friday of every month as well as 9:00 a.m. on the second Friday of every month.

D. Woodford Motion Hour

1. Division One

a. Civil Motion Hour shall be held at 9:00 a.m. on the first Wednesday of every month.

b. Criminal Motion Hour shall be held at 1:00 p.m. on the first Wednesday of every month.

2. Division Two

a. Civil Motion Hour shall be held at 9:00 a.m. on the second Wednesday of every month.

b. Criminal Motion Hour shall be held at 1:00 p.m. on the second Wednesday of every month.

E. If a regular Motion Hour falls on a legal holiday, said Motion Hour shall be held on the following day unless otherwise ordered by the Court.

F. Remote Proceedings

All proceedings before the Fourteenth Judicial Circuit shall default to in person, unless otherwise specified by the presiding judge or these Rules. However, any proceeding may be offered as either a remote or hybrid proceeding at the discretion of the presiding judge, with the following exceptions:

1. No jury trial, whether criminal or civil, shall be conducted remotely;
2. No probation revocation hearing (excepting first appearances) shall be conducted remotely, unless the Defendant is already in custody and leave is given by the presiding judge to conduct the hearing remotely;
3. No final sentencing shall be conducted remotely, unless the Defendant is already in custody and leave is given by the presiding judge to conduct the hearing remotely;
4. No substantive adversarial hearing in a criminal matter where witness testimony will be taken shall be conducted remotely;
5. No contempt or show cause hearing shall be conducted remotely.

V. JURY TERMS

A. A petit jury panel and a grand jury shall be impaneled in each county three times during the year and at such other times as the Court may deem necessary. The grand jury and the petit jury panel shall be impaneled during the first week (unless otherwise directed by the Court) of the following months:

1. Bourbon County: January, May, September
 - a. The judge of Division One shall preside over the jury sessions of the Bourbon Circuit Court during:
 - i. the month of May in odd-numbered years; and
 - ii. the months of January and September in even-numbered years.
 - b. The judge of Division Two shall preside over the jury sessions of the Bourbon Circuit Court during:
 - i. the months of January and September in odd-numbered years; and
 - ii. the month of May in even-numbered years.

2. Scott County: February, June, October

a. The judge of Division One shall preside over the jury sessions of the Scott Circuit Court during:

- i. the month of June in odd-numbered years; and
- ii. the months of February and October in even-numbered years.

b. The judge of Division Two shall preside over the jury sessions of the Scott Circuit Court during:

- i. the months of February and October in odd-numbered years; and
- ii. the month of June in even-numbered years.

3. Woodford County: March, July, November

a. The judge of Division One shall preside over the jury sessions of the Woodford Circuit Court during:

- i. the months of March and November in odd-numbered years; and
- ii. the month of July in even-numbered years.

b. The judge of Division Two shall preside over the jury sessions of the Woodford Circuit Court during:

- i. the month of July in odd-numbered years; and
- ii. the months of March and November in even-numbered years.

B. Grand Jury

1. Selection – In each county at the beginning of each grand jury term twelve (12) members of the available jury pool shall be selected at random to be the grand jurors of that county during that term. After the selection of the twelve (12) grand jurors, six (6) additional names shall be selected at random from the available jury pool to serve as alternates in the event that a regular grand juror(s) is unavailable or unable to perform their duties on a given date. Alternate grand jurors shall only report for service on an as-needed basis to serve in place of a regular grand juror. The six (6) alternate grand jurors shall be clearly identified as such at the time the grand jury is impaneled.

2. Returns – The grand jury of each county shall return indictments in open court during the regular motion hour of the judge presiding over that grand jury's term. If said

regular motion hour is cancelled for any reason, the presiding judge shall take returns in open court at a date certain scheduled at least seventy-two (72) hours in advance.

RULES FOR CIVIL CASES

VI. MOTIONS AND MOTIONS DOCKET Form of Motion and Docketing

- A. Written motions other than those that may be heard ex parte, and notice of hearing thereof, shall be served at least one (1) week before the time specified for the hearing unless a different period is fixed by the Civil Rules, any applicable statute, or by Court order. Any motion filed electronically or utilizing a physical drop box after 8:00 a.m. on the next business day following the date of the deadline shall be deemed to be not timely filed and will not be heard. Any pleading filed that has two-sided text shall be rejected by the Clerk and shall not be placed on the motion docket.
- B. Each motion shall be assigned for hearing on the first motion date at which it can be lawfully heard under the Civil Rules, these Local Rules, and any applicable statute, unless otherwise ordered. Notice of the motion shall specify the date, time, and place of the hearing.
- C. The Circuit Clerk shall keep a motion docket for each division of the Court, on which s/he shall docket in order all motions assigned for hearing on each motion day, either by Court order or by notice duly served. This motion docket shall be called on motion day, and unless otherwise ordered, the motions will be heard in the order docketed.
- D. Every substantive motion, other than ones which may be heard ex parte, shall appear upon the motion docket; except that any motion which is accompanied by an agreed order signed by counsel for all parties affected by that order, or an order of dismissal by the Plaintiff in a matter in which there are no claims by adverse parties, shall not appear on the motion docket. All motions going to the merits of the case, including motions to dismiss, motions for summary judgment, motions to strike, and motions under Civil Rule 12.02 shall be accompanied by a brief statement of the grounds for the motion with citation of authorities relied upon. Failure to file a statement of grounds with supporting authorities may be a basis for overruling the motion. Any party properly served with a motion accompanied by a statement of grounds and authority

shall file a response containing a statement of grounds for opposing the motion with citation of supporting authorities. Such response shall be filed at or before the time specified in the notice of hearing of the motion. Failure to file a response may be grounds for sustaining the motion, but the time for filing a response may be extended for good cause shown.

- E. If an agreed order signed by counsel for all parties affected is submitted to the Circuit Clerk before the call of the motion docket, counsel need not attend the call of the motion docket.
- F. Procedural motions related to pretrial scheduling and obtaining hearing or jury trial dates from the Court may be set to be heard at the convenience of the Court so long as all Parties to the action are represented by counsel. The presiding judge may then conduct an electronic or remote scheduling conference without the necessity of counsel appearing in person. A courtesy copy of any motion set to be heard at the convenience of the court shall be provided to the presiding judge at the time of filing. This may be accomplished via email to the presiding judge's staff attorney or administrative assistant.
- G. No motion or actions shall be placed on the motion docket unless notice is filed, or request is made before 4:00 p.m., at least one (1) week preceding the motion hour designation on the notice.
- H. Copies of out-of-state authorities, unpublished Kentucky cases, or federal cases cited in briefs to the Court shall be attached to the briefs or memorandum for the Court and counsel.
- I. Copies of the relevant portions of depositions relied upon in briefs to the Court shall be attached to the briefs or memorandum for the Court and counsel.

VII. PRETRIAL CONFERENCE IN CIVIL CASES

- A. Pretrial conferences shall be held when necessary in all civil actions and upon the motion of either party or upon the Court's own motion.
- B. Pretrial conferences in all civil actions shall be assigned to be held when shall be designated by the Court. A pretrial conference may be held either in person or remotely at the discretion of the presiding judge. The attorneys attending the pretrial conference

shall be familiar with the case and shall be prepared and authorized to make such arguments, stipulations, and decisions as may be required during the conference.

- C. If a pretrial order is not entered at the time, the attorneys shall be responsible for preparation and submission of a pretrial order, incorporating the Court's rulings, agreements or stipulations of the parties in any matter designated by the Court not later than ten (10) days following the pretrial conference. The Court may require each party to submit a trial brief, consisting of a short memorandum of his/her view of the facts and law on which s/he will rely, and if so, the Court shall fix the time for filing such briefs in the pretrial order.
- D. If a pretrial conference is designated as the “final pretrial conference” the following shall be timely filed to be addressed at said final pretrial conference:
 - 1. Motions in Limine;
 - 2. Stipulations of any facts or law;
 - 3. Dispositive Motions;
 - 4. Proposed Jury Instructions;
 - 5. Witness and Exhibit Lists;
 - 6. Trial Depositions;
 - 7. Objections to any expert reports or testimony to be used at trial;
 - 8. All other matters deemed necessary by the Court to be addressed prior to trial.
- E. No continuance of a jury trial may be sought after the date of the final pretrial conference unless a party can demonstrate extraordinary circumstances which may result in an unjust hardship to the moving party. A scheduling conflict not previously disclosed or discerned is not an extraordinary circumstance.

VIII. ENTRY OF ORDERS AND JUDGMENTS

Whenever any ruling is made, or opinion rendered, an order or judgment setting out said opinion or ruling may be assigned by the presiding judge to be drafted by counsel for the prevailing or moving party. The proposed order shall then be provided to all adverse parties for endorsement as being “have seen”. All proposed orders, tendered by an attorney to another attorney, must be returned within seven (7) days to the tendering attorney, either

signed or marked refused to sign. If a dispute arises as to the contents of an opinion or order, the disputing party shall file their own competing order or judgment with the Court. The presiding judge shall then choose which order or judgment to sign or may draft their own order or judgment in place of the proposed orders tendered by the parties.

When signed by the judge, the order or judgment shall be delivered to the Clerk for entry. The counsel preparing the order or judgment shall also deliver to the Clerk enough copies, together with properly addressed stamped envelopes to permit the Clerk to complete service thereof when required by Civil Rule 77.04. Counsel may waive service of any order or judgment and notice of entry or may opt for electronic service. Envelopes and copies shall not be necessary for parties who have opted for electronic service.

IX. DEFAULT JUDGMENT

Except in cases involving the Master Commissioner, a party seeking a judgment by default, where Rules 55.01, 5.01, or 6.03 of the Civil Rules apply, shall file a written motion which must appear on the motion docket. Said motion must be accompanied by a certificate of the attorney indicating that no papers have been served upon him by the party in default and that the party in default is not an active duty member of the United States Military. A proposed default judgment must be tendered with the motion for default judgment or at the time of the hearing of said motion.

X. MOTIONS, PLEADINGS AND BRIEFS

All motions, pleadings and orders shall be written on letter-sized paper, and the ink shall be legible. All motions, pleadings and orders shall be double-spaced, except for legal descriptions of real property, and shall be written in not smaller than a 12-point font. No motion, pleading, or order shall be accepted if it is written on both sides of the paper.

XI. ANSWERING INTERROGATORIES OR REQUESTS

When answering interrogatories or requests for admissions, the replying party shall, as part of his/her answer, set forth immediately preceding the answer, the question or request made with respect to which the answer is given. Document production may be through electronic means unless expressly prohibited by the requesting party.

XII. DEPOSITIONS

All depositions shall be filed with the Circuit Clerk of the county in which the action is pending or sent in by registered mail to the Clerk for filing.

XIII. EXHIBITS TO PLEADINGS

If any exhibit or copy thereof, referred to in a pleading as part thereof, is not filed and served upon the opposing party, and if service is required of the pleadings, the opposing party shall not be required to file a responsive pleading until the exhibit has been filed, and a copy provided to the opposing party or counsel for the opposing party.

XIV. SUBMISSION OF MATTERS

- A. Upon submission of any matter to the Court for judgment or ruling, the parties shall prepare and provide to the Court proposed judgments, findings, and/or conclusions of law consistent with the relief sought from the Court. An electronic version of the proposed judgment, findings, and/or conclusions of law that may be edited shall be provided to the presiding judge through electronic filing or through email to the presiding judge's staff attorney.
- B. A matter shall be deemed submitted once all memorandums and/or briefs have been filed in the record and proposed judgments from the moving party have been tendered.
- C. No further pleadings, proof or briefs shall be filed after submission, unless ordered or allowed by the Court for good cause shown.

XV. CIVIL MEDIATION

A. REFERRAL OF CASES TO MEDIATION

All civil mediations shall be in accordance with Civil Rule 99 and Civil Rule 100.

B. NO STAY OF PROCEEDINGS

Unless otherwise ordered by the Court, mediation shall not stay any other proceedings.

C. APPOINTMENT OF MEDIATOR

Within fifteen (15) days of the order to mediate, the parties shall agree on a mediator or a mediation service. If the parties cannot agree on a mediator, the Court will select a mediator who is recognized as a mediator in civil actions.

D. ATTENDANCE AT MEDIATION

The parties must attend the mediation either in person or remotely. Counsel for all parties necessary to effectuate settlement shall attend the mediation either in person or remotely.

1. If a party is a public entity, it shall appear by the physical presence of a representative with full authority to negotiate on its behalf and to recommend settlement to the appropriate decision-making body or officer of the entity.
2. If a party is an organization other than a public entity, it shall 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.
3. If any party is insured for the claim in dispute, that party shall also be required to have its insurer(s) present by the presence of a representative of the insurance carrier(s) who is not that carrier's outside counsel, and who possesses full settlement authority. The carrier's representative may appear in person or remotely.

E. COMPLETION OR TERMINATION OF MEDIATION

The mediator may terminate the mediation after a settlement is reached, or when the mediator determines that continuation of the process would be unproductive. After the initial mediation, additional attempts to mediate may be made by agreement of the parties, their counsel and the mediator, or by order of the Court.

F. REPORT TO THE COURT

If an agreement is reached at mediation that resolves the matter and that matter is on the Court's trial calendar, at the earliest possible convenience, counsel shall notify the Court in writing that the matter has resolved and may be removed from the Court's trial calendar.

XVI. DISMISSAL OF ACTION FOR FAILURE TO PROSECUTE

To conform to the provisions of Civil Rule 41.02 and Civil Rule 77.02(2), any cause which has remained on the docket for one year with no action being taken may be dismissed for failure to prosecute on the motion of either party or the Court's motion.

RULES FOR CRIMINAL CASES

XVII. ARRAIGNMENTS

- A. After the return of indictments and case assignments, the judge of each division shall conduct arraignments on those cases which have been assigned to him/her, review bond, and decide other matters appropriate at that time.
- B. Unless otherwise ordered, all defendants shall be arraigned in open court on the first criminal motion hour following the return of an indictment or information unless there is insufficient time to give adequate notice of the arraignment, in which case the defendant will be arraigned at the following criminal motion hour or as directed by the Court.
- C. Both the defendant and his/her attorney must be present at the arraignment. If the defendant is not represented by an attorney, the Court shall, before his/her arraignment, appoint counsel to represent him/her at the arraignment or if the defendant is out of custody may pass the arraignment to the next criminal motion hour to allow the defendant an opportunity to hire private counsel.
- D. The attorney appearing for the defendant at the arraignment shall represent the defendant in all future stages of the proceedings. An attorney shall not withdraw from employment after arraignment in a criminal proceeding without seeking leave of the Court.

XVIII. STATUS CONFERENCES

- A. The prosecutor assigned to the case, the defendant's attorney, and the defendant shall attend all status conferences either remotely or in person at the discretion of the presiding judge.
- B. Following every arraignment, a first status conference post arraignment shall be held as a matter of course in all criminal cases, unless the defendant pleads guilty at the arraignment in a matter on the Court's "rocket docket". With the exception of cases on the Court's "rocket docket", all available discovery from the Commonwealth shall be provided to counsel for the defendant on or before the first status conference post arraignment. In addition, a written offer on a plea of guilty shall be provided by the

Commonwealth on or before the first status conference post arraignment or a declination to make an offer must be provided in writing. If the Commonwealth declines to make an offer, the matter shall be set for trial at the first status conference post arraignment.

- C. Up to two additional status conferences may be scheduled in each criminal matter following the first status conference post arraignment. If the matter is still pending at the third status conference, unless good cause may be shown, the presiding judge shall set the matter for a final pretrial conference and trial.

XIX. FELONY MEDIATION

- A. Upon agreement of the Commonwealth, the defendant, the defense attorney, and the victim if applicable, any case with an indictment charging A, B, or C felony offenses or a D felony offense with a PFO enhancement charge, may be set for felony mediation. Leave from the Court must be sought for felony mediation of any case with charges that do not rise above a D felony.
- B. The Commonwealth shall provide any available discovery not yet provided, to include any exculpatory discovery, at least one (1) week prior to the date of the mediation.
- C. Failure to attend a scheduled mediation by the defendant shall be treated as a failure to appear for Court and may result in sanctions up to and including revocation of bond or criminal contempt of Court.

XX. PLEA AGREEMENTS

All offer sheets shall be signed by the attorney prosecuting the case, the defendant, and the defendant's counsel and shall be filed in the record on or before the date the defendant's plea is taken. The offer sheet shall be legible and shall clearly set out any amendments to charges or dismissal of charges and the basis for the amendments and/or dismissals. A motion to enter the guilty plea or plea pursuant to *North Carolina v. Alford* shall be filed at the time the defendant's plea is taken by the Court. A DUI guilty plea form shall also be filed in the record in any matter in which the defendant pleads guilty to driving under the influence. If applicable, a motion for felony diversion and proposed order of diversion shall also be filed at the time the defendant's plea is taken. The Court shall not take any pleas

from defendants absent the proper paperwork being filed in the record on or before the time of the taking of the plea. The presiding judge shall set the matter for final formal sentencing at the time the plea is entered.

XXI. TRIALS

- A. Given the volume of criminal case work in this circuit the stacking of multiple criminal trials for the same date shall be permitted. Priority shall be given to in-custody defendants when multiple trials are set for the same date. If multiple in-custody defendants are scheduled for the same trial date, priority shall be given to the defendant who has been in custody for a longer period. The ultimate discretion as to which case shall be tried will lay with the presiding judge.
- B. All discovery to be used at the trial of the matter shall be provided on or before the date of the final pretrial conference. All motions in limine, witness and exhibit lists shall be exchanged on or before the date of the final pretrial conference.

XXII. WITHDRAWAL BY RETAINED COUNSEL FROM CRIMINAL CASES ON APPEAL

- A. Retained counsel shall secure permission of the Court before withdrawing as counsel for any defendant who has appealed a judgment of conviction.
- B. Before permission to withdraw is granted, it shall be the responsibility of retained trial counsel to prepare and file the following:
 - 1. Notice of Appeal pursuant to Criminal Rule 12.04 and Civil Rule 73.02;
 - 2. Motion, Affidavit and Order for leave to appeal In Forma Pauperis;
 - 3. Order directing preparation of the transcript; and
 - 4. Order substituting the Public Defender's Office as counsel on appeal.

RULES FOR MASTER COMMISSIONER PROCEEDINGS

XXIII. MASTER COMMISSIONER

The Fourteenth Judicial Circuit shall utilize a Master Commissioner vested with all the powers endowed by Chapter 31A of the Kentucky Revised Statutes, Civil Rules 53.01, 53.02, and 53.03, and Administrative Procedures of the Court of Justice (AP) Part IV.

XXIV. PRACTICE BEFORE THE MASTER COMMISSIONER

A. References shall be made to the Master Commissioner as provided by the Kentucky Revised Statutes, Administrative Procedures of the Court of Justice (AP) Part IV, by the Rules of Civil Procedure, by these Local Rules or by Order of the Court in individual cases. The Order shall be sufficiently specific to indicate clearly the purposes of the references and the duties to be performed by the Master Commissioner thereunder.

B. An attested copy of the Order referring the case to the Master Commissioner shall be delivered to the Master Commissioner's office.

XXV. JUDICIAL SALES

C. For judicial sales referred to the Master Commissioner, the AOC-141S (Order Referring Case to Master Commissioner for Judicial Sale) or the AOC-141SP (Order Referring Case to Special Master Commissioner for Judicial Sale), shall be utilized. For all other matters referred to the Master Commissioner, the AOC-141 (Order Referring Case to Master Commissioner) shall be utilized.

D. Master Commissioner Approval

In addition to the requirements of these Local Rules, all Judgments or Orders directing the sale of property by the Master Commissioner, directing the disbursement of monies held by the Master Commissioner, or directing the delivery of a deed shall be submitted to the Master Commissioner in advance for review and certification that it complies with AP Part IV and any other applicable rules and statutes. Upon approval, a sufficient number of copies along with self-addressed stamped

envelopes shall be submitted to the Master Commissioner who shall then deliver the Judgment or Order to the Court for approval and entry.

E. Judgments, Orders of Sale and/or Delivery of Deed

Every Judgment or Order of the Circuit Court directing the Master Commissioner to sell property or to execute or deliver a deed shall contain:

1. The legal description of the property including a street address (or if it has no street address, a brief description of its location and size), along with any number(s) assigned to the property/parcel by the tax assessor for purposes of identification and record keeping such as the parcel or property identification number;
2. The name of the party or parties whose interest is being sold or conveyed;
3. The source of the party or parties' title, with deed book, page number and date of deed or recording date of deed and/or Affidavit of Descent or Will Book and Page number if property is inherited;
4. A signature and date line for the Master Commissioner;
5. A prepared by signature line of the attorney submitting the order;
6. A certificate of service by the Circuit Court Clerk;
7. Email address, physical address, and phone number of attorney submitting document;
8. Appropriate number of copies for the Court and all parties including submitting attorney and Master Commissioner;

9. All documents shall be submitted to the Circuit Clerk and the Master Commissioner as single page documents. No double-sided copies will be accepted.

10. Self-addressed stamped envelopes for all parties including the submitting attorney and the Master Commissioner;

11. A copy of all proposed Judgments and Orders set to be heard before the Court shall be submitted to the Master Commissioner no less than seven (7) days prior to the date for which the matter is set to be heard by the Court.

12. Terms specifying that the property shall be sold on a date and time to be fixed by the Master Commissioner at each respective county within the Circuit at the following locations, or at such other location as Ordered by the Court:

- | | | |
|----|------------------|--|
| a. | Bourbon County: | Judicial Center
Main Street
Paris, Kentucky 40361 |
| b. | Scott County | Justice Building
119 N. Hamilton Street
Georgetown, Kentucky 40324 |
| c. | Woodford County: | Courthouse
130 Court Street
Versailles, Kentucky 40383 |

13. Language reflecting the priority of and request to pay all taxes for the current tax year which become due prior to the date of sale and all outstanding delinquent real property taxes without necessity of including the appropriate taxing districts as a party, which taxes shall be collected and paid from the foreclosure proceeds. The taxing districts of the respective counties of Bourbon, Scott and Woodford, inclusive of cities contained therein, shall not be named

as parties or be required to file any response nor make any appearance in foreclosure actions in order to protect their specific claim for the payment of all unpaid real property taxes. Any ad valorem taxes that are currently due as of the date of the sale or delinquent at the time of sale shall be paid out of the proceeds of sale regardless of the entity that is owed those taxes. It shall be the responsibility of the party moving for the sale to obtain appropriate written payoffs from the tax entities through date of confirmation of sale and delivery of deed, which payoffs shall be filed in the Court record; and

14. If a mobile home or trailer is situated upon the real property which is the subject of the foreclosure action, it shall not be sold as a part of the real estate if the mobile home or trailer is licensed and/or taxed as a motor vehicle, and in such event, title to any such mobile home or trailer shall not be transferred by a Master Commissioner sale. Only if the mobile home or trailer is permanently affixed to the real estate, shall title to same pass via a Master Commissioner's Deed.

F. Deposit for Advertisement and Appraisal

1. When any Order or Judgment is submitted to the Master Commissioner requiring advertisement, the submitting party shall deposit with the Master Commissioner an amount sufficient to pay the estimated costs of the proposed advertisement and/or appraisal for each property to be sold as determined in the discretion of the Master Commissioner. The Master Commissioner shall not schedule a sale or cause an advertisement or appraisal to be made until the deposit is paid.

2. When more than one sale is set for the same date, the Master Commissioner may advertise all such sales in one advertisement that includes the required information applicable to each action and sale. The total cost of advertising shall be apportioned among each of the various cases to which the advertisement applies.

G. Terms and Conditions of Sale

1. Before conducting a sale, the Master Commissioner shall place an advertisement in a newspaper meeting the requirements of KRS 424.120, and setting forth the time, terms, place of sale and description of the property to be sold. All sales shall be advertised in accordance with KRS 424.130 as follows: The advertisement shall be published at least once not less than seven (7) days nor more than twenty-one (21) days before the date of the sale, but may be published two or more times provided that one publication occurs not less than seven (7) days nor more than twenty-one (21) days before the date of sale

2. If required by Order or statute, the Master Commissioner before making a sale of real property shall have the property appraised by two (2) disinterested persons who are not related to any parties to the action, both of whom are actively engaged in or have had at least one (1) year of experience in the field of real estate. Before making appraisals, the appraisers shall be sworn by the Master Commissioner. In accordance with KRS 426.520(2) the appraisal shall be in writing, shall be signed by the persons making it, and shall be filed in the Court record by the Master Commissioner prior to the sale.

3. The property shall be sold to the highest bidder provided:

a. At the time of sale, the successful bidder shall either pay full cash or make a deposit of 10% of the purchase price with the balance on credit for thirty (30) days. If the purchase price is not paid in full, the successful bidder shall execute a bond at the time of sale with sufficient surety approved by the Master Commissioner prior to the sale to secure the unpaid purchase price. Pursuant to KRS 426.705 the bond shall bear interest at the rate the Judgment bears, from the date of sale until paid, and shall have the force and effect of a judgment. In the event the successful bidder is the Plaintiff, then in lieu of the deposit, the Plaintiff shall be allowed to bid on credit up to the judgment amount.

b. The Master Commissioner shall sell the property in a reasonable time not to exceed 90 days after the date of the order of referral except that property found to be “vacant and abandoned” shall be sold in accordance with KRS 426.205. Upon motion and good

cause shown, the court may extend the deadline established by this subsection for a period not to exceed 30 days.

c. The purchaser shall be required to assume and pay all taxes and assessments upon the property for the current tax year if not due and payable on the date of sale, and for all subsequent years. All currently due and delinquent taxes and assessments upon the property as of the date of sale shall be paid from the sale proceeds. It shall be the requirement of the party moving for the sale to properly set forth in the record all outstanding amounts due for taxes and assessments, with payoffs through the date of confirmation of sale, and payment of purchase price.

d. The property shall otherwise be sold free and clear of any right, title or interest of all parties to the action and all liens and encumbrances thereon, except easements and restrictions of record in the County Clerk's Office of each respective county in which the property is located, and such right of redemption as may exist in favor of the United States of America or the defendant(s). Upon confirmation of sale, the Master Commissioner shall not be required to execute any releases releasing the liens and encumbrances of those parties properly named in the action.

4. A party who is the successful purchaser of the property may take credit against any judgment in that party's favor against the defendant property owner for the required deposit and purchase price to the extent that the sale price is sufficient to pay such judgment, considering the priorities and amounts previously adjudicated in the action.

5. The terms and conditions set out herein concerning Order of Sale and/or Delivery of Deed and Terms and Conditions of Sale may be adopted by reference to this rule in the Order or Judgment directing the sale or conveyance or shall be restated therein.

H. Motions for Distribution

Motions for distribution of cancelled sale costs or for distribution of costs of sale shall be filed within ten (10) days immediately following the filing of the Report of Sale or Cancelled Sale and shall be noticed at the convenience of the Court, with all Orders to be submitted to the Master Commissioner for review and approval, along with appropriate number of copies for the Court, Master Commissioner, and parties on the Certificate of Service and postage paid envelopes.

I. Orders of Distribution

1. All Orders requiring distribution of funds held by the Master Commissioner shall set forth all amounts collected, identify the proper recipient(s) and the specific amounts due under the Judgment or Order.

2. For all disbursements to be made to taxing authorities or third-party purchasers of tax bills, a copy of the pertinent tax bill(s) shall be furnished to the Master Commissioner and set forth in the Order of Distribution relating to such sale.

J. Confirmation of Report of Sale

The Master Commissioner after making the sale shall report his/her actions to the Court within three (3) business days of the sale. Ten (10) days after the filing of that report, if no exceptions have been filed thereto and without motion, the sale shall be deemed confirmed and an order confirming the sale with sufficient copies and postage prepaid envelopes, shall be submitted by the Plaintiff or moving party to the Master Commissioner within twenty (20) days after the filing of the Report of Sale, who shall submit same along with the Deed conveying the subject property for approval and entry by the Court. A copy of the order of confirmation shall be served upon the purchaser of the real property. Risk of loss shall pass to the purchaser upon execution of the bond at sale or payment of the purchase price in full, whichever occurs first.

In the event the Plaintiff or moving party shall fail to submit the Order Confirming Sale to the Master Commissioner within twenty (20) days after the filing of the Report of Sale, then the Master

Commissioner shall terminate the accrual of any additional interest on the Judgment effective twenty (20) days after the filing of the Report of Sale.

K. 4.11 Bond.

In accordance with CR 4.11, in all cases where constructive service has been obtained on any Defendant, each Order for delivery of a deed to a party who has obtained Judgment in the action or the distribution of sale proceeds held by the Master Commissioner shall be accompanied by a bond, in a sum to be fixed by the Court at not less than the fair market value of the property, which shall be the appraised value or the sales price of the property, whichever is higher, and with surety to be approved by the Court.

The bond shall not be required for those Defendants constructively served who are designated as unknown tenants or occupants.

All Orders authorizing the deed or distribution of sale proceeds in any action in which a bond under C.R. 4.11 is required must contain the following language”

“The Defendant(s), _____, are before the Court solely by constructive service. Therefore, prior to the distribution of sale proceeds, or the delivery of a deed, the movant shall post a bond pursuant to CR 4.11 in the penal sum of \$_____ and furnish the Master Commissioner a copy thereof before entry of this Order.”

All bonds shall be submitted to the Master Commissioner and the Court for signature and approval along with the fee payable to the Circuit Court Clerk.

L. Fees of the Master Commissioner

1. The fee for each judicial sale shall be calculated as 3% of the final bid. The fee based upon this calculation shall be no less than \$400 and shall not exceed \$5,000 unless the sale involves more than one property, parcel, or judgment. If the sale involves more than one

property, parcel, or judgment, a fee of \$650 per additional property, parcel, or judgment shall be assessed in addition to the fee calculated above.

If the sale is withdrawn, a fee of not more than 50% of the sale fee based upon the appraisal value of the property as calculated above, or \$400, whichever is greater, shall be assessed. The fee based upon this calculation shall not exceed \$2,500 unless the sale involves more than one property, parcel, or judgment. If the sale involves more than one property, parcel, or judgment, then 50% of the \$650.00 fee per additional property, parcel, or judgment shall be assessed, in addition to the fee calculated above.

If the sale is withdrawn before an appraisal has been completed, a sale fee of \$400.00 shall be assessed; or, upon good cause shown by proper motion, the Circuit Court may approve some other amount of fee not to exceed \$2,500.

All cancelled sale fees must be paid, and Order of Distribution entered with the Court before a new sale date is set or a case is dismissed.

2. In addition to the fee authorized in subsection (1), above, the Master Commissioner may also recover necessary direct expenses attributable to the case referred for judicial sale including the cost of postage, copies, faxes, long distance telephone, advertising, appraisers, a licensed auctioneer pursuant to KRS 426.522, and the cost of the care of the property in his or her possession. As referenced in Rule XXV(F), a deposit shall be paid to the Master Commissioner sufficient to pay the direct cost of the sale. If a sale is withdrawn, incurred expenses will not be refunded.

3. A \$50 fee shall be assessed for each approval of Order of Sale or Judgment, Report of Sale, Report of Cancelled Sale, and Notice of Sale.

4. A fee of \$50 shall be charged for each report and recommendation(s) prepared on tendered foreclosure judgments in uncontested cases for enforcement of a mortgage

or other lien. Additionally, a fee of \$50 shall be charged for drafting any necessary deed or title and executing same.

5. In all mortgage foreclosure or real estate lien enforcement cases, the Judicial Sale Administrative Fee (JSAF) required by Part IV, Sec. 1(9) of the Administrative Procedures of the Court of Justice shall be collected by the Circuit Clerk along with the original filing fee. In all such actions involving the sale of multiple properties, a separate JSAF and order of referral shall be required for each property. The JSAF shall not be due and payable until a Motion for Judgment and Order of Sale is filed in an action. The Motion for Judgment and Order of Sale shall not be accepted for filing until the Clerk receives the JSAF and Order of Referral. Counsel for Plaintiff shall be responsible for preparation and filing AOC form 141S, Order of Referral, required in conjunction with payment of the JSAF. AOC form 141S, Order of Referral, shall be submitted to the Court after the Master Commissioner has reviewed and approved the JSAF, which Order shall not be entered by the Court until the JSAF is entered. The fee shall be transmitted by the Circuit Court Clerk to the Administrative Office of the Courts as directed by AOC. For a judicial sale that is withdrawn prior to the sale date and later re-scheduled for sale within six (6) months of the previous sale date, an additional \$200 JSAF shall not be charged. Any withdrawn sale that is re-scheduled after more than six (6) months from the last sale date shall be considered a “new referral for sale.” For all properties not sold within six (6) months of the date of the last appraisal of the property filed of record, a new Order of Referral and JSAF shall be due and payable before a Motion is filed to reschedule the sale of the property, or in the absence of a motion, before the property can be rescheduled for sale.

6. The Master Commissioner or Receiver shall assess the following fees when paying out money or settling estates:

3% of the first \$2,000

2 ½% for the next \$3,000

1 ½% for the excess over \$5,000

The fee shall not be assessed if a sale fee is assessed. For settlement of accounts of insolvent estates this computation shall exclude any amounts exempt from creditors. The fee shall never exceed \$5,000.

7. When the Master Commissioner hears a possessory or attachment matter pursuant to KRS Chapter 425, a fee shall be assessed for the hearing and report. This fee shall be paid to the Master Commissioner prior to the hearing.

8. For any other hearing in which there is not a sale, settlement, or receivership, a fee shall be assessed at \$60 per hour in quarter-hour increments. These fees shall be paid to the Master Commissioner and shall be due on the fifth working day following the conclusion of the hearing. No more than \$600 in hearing fees shall be assessed in any case regardless of the number and length of hearings unless recommended by the Circuit Judge and approved by the Chief Judge for extraordinary circumstances shown. If a case is reopened, additional fees totaling no more than \$200 may be assessed unless recommended by the Circuit Judge and approved by the Chief Judge for extraordinary circumstances shown.

9. The fees charged by the Master Commissioner are subject to a schedule promulgated in Part IV of the Administrative Procedures of the Court of Justice and any amendment(s) thereto.

M. Appraiser's Fees

1. In all sales of real estate where an appraisal is required, the fee of each appraiser shall be \$150.00, unless otherwise ordered by the Court. The fee shall be paid from the proceeds of the sale. In any action in which real property has not been sold within six (6) months of the date of appraisal, a new appraisal shall be required.

2. In sales of real estate under Judgment or Decree of Court, where an appraisal of commercial industrial real estate or real estate consisting of multiple parcels is required, the Court may, by Order, allow a fee in addition to that set forth above, for the appraisement including the time, labor and skill involved therein.

3. In sales of personal property under Judgment or Decree of Court directing an appraisal of personal property, the fee of each appraiser shall be fixed by the Court and shall be determined on such evidence as the Court may require regarding the kind and character of the property appraised; the number of items of property involved; its value, and the time, labor and skill involved in making said appraisal.

N. Auctioneer's Fees

In all sales of real estate where an auctioneer is ordered, the fee for the auctioneer shall be determined by the Court, which sum shall not exceed six percent (6%) of the sale price. The fee shall be paid from the proceeds of the sale.

XXVI. WRIT OF POSSESSION AND ATTACHMENT PROCEDURE

A. Pursuant to KRS 425.006, the Master Commissioner and any Deputy Commissioner is appointed a judicial officer of the Court to perform such duties as may be required of him/her by Chapter 425 of the Kentucky Revised Statutes.

B. All requests for hearing or ex parte relief under provisions of Chapter 425 shall stand automatically referred, without Order, to the Master Commissioner's office for further proceedings.

C. When a hearing has been requested or is required, it shall be the responsibility of the attorney requesting the hearing to notify the Master Commissioner's office of the request, after which the Master Commissioner shall fix a time and place for the hearing and give written notice thereof to the parties.

D. Requests for Ex Parte and Temporary Restraining Orders shall be immediately delivered to the Master Commissioner, along with the record, by the Circuit Court Clerk or the attorney requesting relief. The Master Commissioner shall then make a determination on the matter.

XXVII. DECEASED PARTIES

Before a Judgment is tendered to the Master Commissioner for approval, the party tendering the Judgment must certify in writing to the Master Commissioner that a due diligence search has been made (i.e., newspaper, online obituary, probate Court records) to ascertain the identity of the deceased party's heirs, devisees, and their respective spouses.

This certification is not to be included in the Judgment nor it is to be filed in the Court record.

APPROVED this the 14th day of June 2022 by:

/s/ Jeremy M. Mattox
Hon. Jeremy M. Mattox
Chief Circuit Judge
Fourteenth Judicial Circuit

/s/ Kathryn H. Gabhart
Hon. Kathryn H. Gabhart
Circuit Judge Division II
Fourteenth Judicial Circuit

These rules shall become effective upon the approval of the Chief Justice of Kentucky.