Supreme Court of Kentucky

IN RE: ORDER APPROVING AMENDED LOCAL RULES, 16TH, 17TH & 54TH JUDICIAL CIRCUIT, KENTON, CAMPBELL, BOONE & GALLATIN COUNTIES

The Amended Local Rules of the 16th, 17th & 54th Judicial Circuit, Kenton, Campbell, Boone & Gallatin Counties, are hereby approved by the undersigned.

ENTERED November 20, 1997.

Robert F. Stephens

Chief Justice

SUBMITTED 10/31/97

UNIFORM LOCAL RULES OF THE CIRCUIT AND DISTRICT COURTS OF BOONE, CAMPBELL, GALLATIN, AND KENTON COUNTIES

INCLUDING

GENERAL CIVIL RULES - CIRCUIT COURTS

GENERAL RULES FOR DOMESTIC RELATIONS PRACTICE

SPECIFIC CIVIL RULES FOR STATED COUNTIES - CIRCUIT COURTS

SPECIFIC CRIMINAL RULES FOR STATED COUNTIES - CIRCUIT COURTS

GENERAL CIVIL RULES - DISTRICT COURTS

GENERAL CRIMINAL RULES - DISTRICT COURTS

SPECIFIC CRIMINAL RULES FOR STATED COUNTIES

GENERAL RULES FOR PROBATE PRACTICE

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SUPREME COURT OF KENTUCKY

ORDER APPROVING AMENDED LOCAL RULES OF THE NORTHERN KENTUCKY BAR

Pursuant to SCR 1.040(3)(a), the local rules, as amended, with addendum of the Circuit and District Courts for the 54th, 17th and 16th Judicial Circuits, attached as the appendix of this order, are approved.

Entered this _____ day of _____. 1997.

_____
CHIEF JUSTICE ROBERT F. STEPHENS

GENERAL CIVIL RULES

RULE 1. PURPOSE

For the purpose of adopting uniform rules for transacting the business of the court, IT IS ORDERED that the following Rules, shall govern the business and practice of the Boone and Gallatin Circuit and District Courts (54th Judicial Circuit), the Campbell Circuit and District Courts (17th Judicial Circuit), and the Kenton Circuit and District Courts (16th Judicial Circuit), of the Commonwealth of Kentucky.

RULE 2. SCOPE, EFFECTIVE DATE AND CITATION OF LOCAL RULES

A. Scope and Construction. These Joint Local Rules of Practice for the Boone, Gallatin, Campbell and Kenton Circuit and District Courts are intended to provide a compendium of uniform procedures for the convenience of litigants, the bench and the bar. They are intended to supplement the CR and shall be construed to be consistent with those Rules.

B. These Rules are to be cited as "ULCR" for "Uniform Local Civil Rules" and "ULCr" for "Uniform Local Criminal Rules" in the Boone, Gallatin, Campbell and Kenton Circuit and District Courts.

C. These Rules shall become effective November 20, 1997. They supersede all previous local rules and orders of the Circuit and District Courts for Boone, Gallatin, Campbell and Kenton counties of the Commonwealth of Kentucky.

GENERAL CIVIL RULES - CIRCUIT COURTS

RULE 3. ORGANIZATION OF THE CIRCUIT COURTS

A. The Boone and Gallatin Circuit Courts are Courts of continuous session operating as a Multi-County One Judge Circuit.

B. **The Campbell Circuit Court** is a Court of continuous session, and the Court shall consist of two numbered divisions, namely: Division One and Division Two. Each Judge of a Division may preside and hear and determine any case or questions in any other Division when the Judge of that Division is ill or absent from the county, or is not available, or with the Judge of that Division's concurrence.

C. **The Kenton Circuit Court** is a Court of continuous session, and the Court shall consist of four numbered divisions, namely: First Division, Second Division, Third Division and Fourth Division. Each Judge of a Division may preside and hear and determine any case or questions in any other Division when the Judge of that Division is ill or absent from the county, or is not available, or with the Judge of that Division's concurrence.

RULE 4. ATTORNEYS

A. All pleadings, motions, appearances, entries of satisfaction, stipulations or any other paper required to be signed by an attorney must be signed as provided for in the CR and this Rule. In addition, the clearly legible typewritten name, address, Kentucky Bar Association number and party representation of such attorney, the office telephone number including area code, shall appear as a portion of the signature block.

B. **Appearance of Counsel.**

1. Unless otherwise permitted by this Court, an attorney shall be deemed to be an attorney of record in all actions by:

(a) Making an in-court appearance on behalf of a party;

(b) Filing an Entry of Appearance;

(c) Signing a pleading as attorney for a party; or

(d) Having his/her name listed other than "of counsel" on a pleading as an attorney in the action.

C. Withdrawal of Attorney of Record.

An attorney of record shall move for permission to withdraw as counsel for a party only:

1. Upon his/her written request with the written consent of his/her client and the entry of appearance of a substitute attorney of record, or,

2. Upon his/her written request with notice to the client and a showing of good cause with the consent of the Court and upon such terms as the Court shall impose.

RULE 5. MOTION PRACTICE (NON-DOMESTIC); MOTION DAYS (DOCKET)

Motion Practice - General.

A. *Motions.* All motions shall state precisely the relief requested. Except for routine motions, such as for extensions of time, each motion shall be accompanied by a supporting memorandum. Failure to do so may be grounds for denying the motion. A courtesy copy of the motion and all attachments shall be delivered to the office of the Judge before whom the motion will be heard. Delivering of this copy shall coincide with the day of the filing of such motion with the Clerk's office.

B. *Motions for Extension of Time.* Parties may by agreed order extend time limits on an individual case by case method required by the CR or by these rules, subject to any deadlines established by the Court. However, the Court must grant all extensions of time, even though the parties have agreed. If a request for an extension of time is opposed, the party seeking the extension shall file a motion setting forth the reasons why an extension is necessary together with a tendered

order granting the motion. The party opposing the motion shall respond within five (5) days of service of the motion, setting forth the reasons why the requested extension should not be granted.

C. *Motions for Discovery Order.* Counsel have the duty to make a good faith effort to resolve any disputes which arise in the course of discovery. Only if counsel are unable to resolve a discovery dispute, may a motion to compel discovery or for a protective order, or for sanctions be filed pursuant to CR 26 and 37. The moving party shall attach to the motion a certification of counsel that counsel have conferred and that they have been unable to resolve their differences. The certification should detail the attempts of counsel to resolve the dispute.

D. *Hearing.* At the call of the Motion Docket, all questions not appropriate for summary disposition shall be set for a time certain for hearing, or by order of the Court shall be submitted upon briefs.

E. *Motion Docket.* A Motion Docket shall be made up by the Clerk, and shall give the number and style of the case, the names of the attorneys of the parties making and adverse to the motion, and the substance of the motion. All reports requiring confirmation shall be placed on this Docket. The Clerk shall cause to be made available, copies of such Docket in advance of the Motion Docket which is the subject of said Docket. Additionally, the Clerk shall mail a copy of said Docket to any attorney who has provided the Clerk with a self-addressed and stamped envelope for that purpose.

F. *Publication Not Equivalent to Service.* Publication in the Motion Docket Bulletin shall not be deemed service as is required by CR 5.01 et seq.

Motion Days and Motion Practice - Specific.

A. *Boone and Gallatin Circuit Courts*

1. Unless the Judge of the **Boone** Circuit Court orders otherwise, the Court shall hold a Motion docket on the second (2nd) and fourth (4th) Tuesday of each month, commencing at the hour of 9:00 a.m.

2. Unless the Judge of the **Gallatin** Circuit Court orders otherwise, the Court shall hold a Motion Docket once a month on the fourth (4th) Monday of the month, commencing at the hour of 10:00 a.m.

3. The Motion Docket shall be made up by the Clerk. All reports requiring confirmation shall be placed on this docket. All motions noticed to be heard at the call of any regular Motion Docket shall be filed and received in the Circuit Clerk's Office not later than 12:00 noon on the next preceding Thursday for call on the succeeding Tuesday Motion Docket for Boone and the succeeding Monday Motion Docket for Gallatin.

4. All civil motions, other than one which may be heard ex parte, and all motions to set contested civil actions for trial, shall appear on the Motion Docket. (Contested civil actions are actions in which an Answer or Response has been filed). All motions, other than motions to set for trial, must recite authority. Motions may be disposed of at the direction of the Court without oral hearing.

5. All motions to set contested cases for trial shall state the nature of the action, whether or not a jury has been demanded, and the estimated length of trial. In addition, the filing of a motion to set for trial shall be a "Certification of Readiness", by counsel that the

case is ready to proceed to trial in sixty (60) days. Once a case has been set for trial, upon reliance of this "Certification of Readiness", it may be continued by the Court only upon exceptional circumstances.

6. Setting Uncontested Trials. All uncontested actions (i.e., uncontested dissolutions, default judgment damage hearings, voluntary terminations, adoptions) shall be set for trial by telephoning the Chambers of the Judge to which the case is assigned to obtain a hearing date.

7. Default Judgment. A party seeking a judgment by default shall file a written motion for such a judgment. The motion must be accompanied by a certificate of the attorney that no papers have been served upon him/her by the party in default. The motion must also be accompanied by a tendered default judgment for the Court's consideration. The judgment by default shall be granted without a required appearance by the party seeking the judgment.

8. Defenses referred to in CR 12.02 asserted in a responsive pleading shall be brought to the attention of the Court for disposal of the issue by a motion.

9. Orders. All orders which are required under the Civil Rules to be served upon opposing parties or counsel, including judgments, final orders and orders affecting the running time for taking an appeal, shall contain directions to the Circuit Clerk for distribution thereof in the following manner:

Mail copies to: John Jones
Attorney for Plaintiff, Jane Doe
208 Main Street
Anytown, Kentucky 41000

10. Orders - Number of Copies. No motion shall be filed in the Clerk's office unless same is accompanied by tendered order for the Court's consideration. This rule shall

not apply if the order sought is required by the Civil Rules to contain findings of fact to be made by the Court.

11. If a Motion Docket falls on a day that has been designated as a legal holiday by the Chief Judge of the Circuit Court, the Motion Docket shall be held as ordered by the Court with reasonable notice to the Bar.

12. All motions shall contain a notice of the date and time of the hearing. Motions that do not contain such notice shall be heard at the next regular Motion Docket of the Court.

13. No Motion shall be filed with a notice that it will be heard at the "convenience of the Court," with the exception of a motion asking for a permanent change of custody of a minor child or children. These motions are reviewed by the Court to see if facts have been alleged to justify a hearing, then the Court itself will set a date for hearing or overrule the motion as being insufficient to justify a hearing.

B. *Campbell Circuit Court.*

1. Unless the Judge of the Division orders otherwise, each Division of the Court shall hold a Motion Docket twice a month commencing at the hour of 9:00 a.m., as follows:

(a) First Division - on the first and third Friday of each month.

(b) Second Division - on the second and fourth Friday of each month.

2. The Motion Docket shall be made up by the Clerk. All reports requiring confirmation shall be placed on this docket. All motions noticed to be heard at the call of any regular Motion Docket shall be filed and received in the Circuit Clerk's office not later than 12:00 noon on the next preceding Tuesday for call on the succeeding Friday Motion Docket.

3. All civil motions, other than one which may be heard ex parte, and all motions

to set contested civil actions for trial, shall appear on the Motion Docket. (Contested civil actions are actions in which an Answer or Response has been filed). All motions, other than motions to set for trial, must recite authority. Motions may be disposed of at the direction of the Court without oral hearing.

4. All motions to set contested cases for trial shall state the nature of the action, whether or not a jury has been demanded, and the estimated length of trial. In addition, the filing of a motion to set for trial shall be a "Certification of Readiness", by counsel, that the case is ready to proceed to trial in sixty (60) days. Once a case has been set for trial, upon reliance of this "Certification of Readiness", it may be continued by the Court only upon exceptional circumstances.

5. Setting Uncontested Trials. All uncontested actions (i.e., uncontested dissolutions, default judgment damage hearings, voluntary terminations, adoptions) shall be set for trial by telephoning the Chambers of the Judge to which the case is assigned to obtain a hearing date.

6. Default Judgment. A party seeking a judgment by default shall file a written motion for such a judgment. The motion must be accompanied by a certificate of the attorney that no papers have been served upon him/her by the party in default. The motion must also be accompanied by a tendered default judgment for the Court's consideration. The judgment by default shall be granted without a required appearance by the party seeking the judgment.

7. Defenses referred to in CR 12.02 asserted in a responsive pleading shall be brought to the attention of the Court for disposal of the issue by a motion.

8. Orders. All orders which are required under the Civil Rules to be served upon

opposing parties or counsel, including judgments, final orders and orders affecting the running time for taking an appeal, shall contain directions to the Circuit Clerk for distribution thereof in the following manner:

Mail copies to: John Jones
Attorney for Plaintiff, Jane Doe
208 Main Street
Anytown, Kentucky 41000

9. Orders - Number of Copies. No motion shall be filed in the Clerk's office unless same is accompanied by tendered order for the Court's consideration. This rule shall not apply if the order sought is required by the Civil Rules to contain findings of fact to be made by the Court.

10. If a Motion Docket falls on a day that has been designated as a legal holiday by the Chief Judge of the Campbell Circuit Court, the Motion Docket shall be held as ordered by the Court with reasonable notice to the Bar.

11. All motions shall contain a notice of the date and time of the hearing. Motions that do not contain such notice shall be heard at the next regular Motion Docket of the Court.

12. No motion shall be filed with a notice that it will be heard at the "convenience of the Court," with the exception of a motion asking for a permanent change of custody of a minor child or children. These motions are reviewed by the Court to see if facts have been alleged to justify a hearing, then the Court itself will set a date for hearing or overrule the motion as being insufficient to justify a hearing.

C. *Kenton Circuit Court.*

1. Unless the Judge of a Division orders otherwise, each Division of the Court shall hold a Motion Docket once a month on a Monday, commencing at 9:30 a.m. as follows:

(a) First Division - first Monday.

(b) Second Division - second Monday.

(c) Third Division - third Monday.

(d) Fourth Division - fourth Monday.

2. The Motion Docket shall be made up by the Clerk. All reports requiring confirmation shall be placed on this docket. All motions noticed to be heard at the call of any regular Motion Docket shall be filed and received in the Circuit Clerk's office not later than 12:00 noon on the next preceding Wednesday for call on the succeeding Monday Motion Docket.

3. All civil motions, other than one which may be heard ex parte, and all motions to set contested civil actions for trial, shall appear on the Motion Docket. (Contested civil actions are actions in which an Answer or Response has been filed). All motions, other than motions to set for trial, must recite authority. Motions may be disposed of at the direction of the Court without oral hearing.

4. All motions to set contested cases for trial shall state the nature of the action, whether or not a jury has been demanded, and the estimated length of trial. In addition, the filing of a motion to set for trial shall be a "Certification of Readiness", by counsel that the case is ready to proceed to trial in sixty (60) days. Once a case has been set for trial, upon reliance of this "Certification of Readiness", it may be continued by the Court only upon exceptional circumstances.

5. Setting Uncontested Trials. All uncontested actions (i.e., uncontested dissolutions, default judgment damage hearings, voluntary terminations, adoptions) shall be

set for trial by telephoning the Chambers of the Judge to which the case is assigned to obtain a hearing date. Upon assignment for hearing in each case, the requesting attorney shall send Notice of Hearing to the opposing party or their counsel.

6. Default Judgment. A party seeking a judgment by default shall file a written motion for such a judgment. The motion must be accompanied by a certificate of the attorney that no papers have been served upon him/her by the party in default. The motion must also be accompanied by a tendered default judgment for the Court's consideration. The judgment by default shall be granted without a required appearance by the party seeking the judgment.

7. Defenses referred to in CR.12.02 asserted in a responsive pleading shall be brought to the attention of the Court for disposal of the issue by a motion.

8. Orders. All orders which are required under the Civil Rules to be served upon opposing parties or counsel, including judgments, final orders and orders affecting the running time for taking an appeal, shall contain directions to the Circuit Clerk for distribution thereof in the following manner:

Mail copies to: John Jones
Attorney for Plaintiff, Jane Doe
208 Main Street
Anytown, Kentucky 41000

9. Orders - Numbers of Copies. No motion shall be filed in the Clerk's office unless same is accompanied by tendered order for the Court's consideration. This rule shall not apply if the order sought is required by the Civil Rules to contain findings of fact to be made by the Court.

10. If a Motion Docket falls on a day that has been designated as a legal holiday by the Chief Judge of the Kenton Circuit Court, the Motion Docket shall be held as ordered

by the Court with reasonable notice to the Bar.

11. No motion shall be filed with a notice that it will be heard at the "convenience of the Court," with the exception of a motion asking for a permanent change of custody of a minor child or children. These motions are reviewed by the Court to see if facts have been alleged to justify a hearing, then the Court itself will set a date for hearing or overrule the motion as being insufficient to justify a hearing.

RULE 6. BRIEFS, PLEADINGS AND MEMORANDA; PROOF OF SERVICE

A. Name of Counsel. All briefs, pleadings and memoranda filed with the Court shall include the name, address, Kentucky Bar Association number, party representation and telephone number, including area code, of the attorney of record for the party filing them.

B. Originals. Originals of briefs, pleadings and memoranda filed in the Court shall not be withdrawn from the files except upon order of the Court.

C. Citation Form. All briefs, pleadings and memoranda shall use a generally accepted manner of citation.

D. Cases from Other Jurisdictions. Whenever a brief, pleading or memoranda filed in the Court contains a citation to a case outside the Commonwealth of Kentucky or to a statute other than a Kentucky statute, a copy of the cited case or statute shall be furnished to the Court.

E. Proof of Service. All briefs, pleadings or memoranda filed with the Court shall have proof of service by written certification of counsel. In the case of an ex parte proceeding, proof may be by written certification of service or by Affidavit of the person making the service. Proof of service shall state the date and manner of service and shall include the names and addresses of all attorneys and parties not represented by counsel. Additionally, the place of the hearing shall be

designated when there are parties acting pro set.

F. Sanctions. Failure to follow the requirements of this rule may result in sanctions being imposed by the Court including, but not limited to, striking any brief, pleading or memoranda in non-compliance.

RULE 7. ASSIGNMENT OF CIVIL CASES AND APPEALS

A. In Judicial Circuits containing more than one division, the Clerk shall prepare a separate set of cards for the assignment of:

1. Civil cases;
2. Adoption and termination cases;
3. Dissolution cases; and
4. Civil and Criminal Appeal cases from the District Court.

B. Each set of cards shall contain one hundred (100) cards and shall be divided equally among the divisions. After having divided the cards equally according to the number of divisions, the Clerk shall cause there to be printed, stamped or written, on the underside, the division represented by the respective subdivided quantity of cards such that each of the divisions is equally represented in a stamped, printed or written fashion on the underside of the equal number of cards. Each set of cards shall be mixed or "shuffled" so that the sequence will be entirely by chance.

C. Whenever a civil action, a dissolution, or an adoption/termination is commenced by the filing of the original complaint with the Circuit Clerk, or an appeal (civil or criminal) from the District Court is filed with the Clerk, the Clerk shall remove the top card of the appropriate set of cards and assign the case to the Division shown on the card.

D. Upon assignment to a Division, the Clerk shall stamp or type the number of the

Division on the Complaint and the Case Docket Sheet. Thereafter, all papers filed in the case shall indicate the Division to which the case is assigned.

RULE 8. DISCOVERY PRACTICE

In all cases, discovery shall be completed no later than twenty (20) days prior to the trial date. In medical malpractice cases, discovery shall be completed forty-five (45) days prior to the trial date.

A. Filing Discovery Material.

1. *Documents Not to Be Filed.* Except as herein provided, the following shall *not* be filed with the Court unless the Court orders otherwise:

(a) Interrogatories propounded under CR. 33;

(b) Requests for Production or Inspection made under CR 34; and

(c) Requests for Admission propounded under CR 36 ***unless*** the time for filing a response thereto has passed, in which event, counsel may file the original Request for Admission previously served. No original Requests for Admission shall be filed pursuant to this provision unless the original Requests for Admission contain an appropriate proof of service bearing the precise date and manner of service upon the party requested to admit and any additional time provided under the CR 6.05 for responding thereto, has expired.

2. *Custodian of Documents.* The parties responsible for service of the document shall retain the original and become the custodian. The custodian shall provide access to all parties of record during the pendency of the action. Upon conclusion of the action, the custodian of the original may move the Court that original documents be filed of record with the action to facilitate public access to the complete case file.

3. *When Documents May Be Filed.* If a document not filed pursuant to CR 5.06 is to be used at trial, or is necessary to a pre-trial or post-trial motion, or is necessary for appeal purposes, the portion of the document to be used shall be filed with the Clerk at the commencement of the trial, or at the time of filing the motion, or at the time of the appeal, if the document's use can be reasonably anticipated.

B. Propounding Interrogatories or Requests and Response.

1. When propounding Interrogatories or Requests for Production or Inspection, the propounder shall leave adequate room for reply between questions or requests.

2. When answering Interrogatories or Requests for Production or Inspection, or for admissions, or in filing objections thereto, when the initial space for response has been exhausted, the replying party shall, as a part of the answer or objection and immediately preceding it set forth the question or the request with respect to which the answer or objection is given. In all cases of objection, the replying party shall state the reason and grounds for the objection.

3. When an objection is filed to an answer or failure to answer an interrogatory or a request it shall set out the interrogatory or request in full, the answer, if any, thereto and the reasons and grounds for the objection.

C. Supplementation of Responses.

It shall be the duty of a party to supplement all required responses to discovery including the identity (names and location) of all witnesses and expert witnesses not later than thirty (30) days prior to the trial date.

RULE 9. EXHIBITS

The provisions below shall be followed unless otherwise ordered by the Court:

A. Advance Marking. All exhibits and material intended to be used during a civil trial shall be marked for identification purposes in a clear and concise fashion as herein described and additionally said markings shall not obscure nor hinder any relevant written or pictographic information contained on the exhibit itself.

B. Method of Designation. Unless otherwise ordered or directed by the Court, all exhibits shall be marked for identification purposes as follows:

1. Joint exhibits shall be identified by the prefix (JX) and shall be sequentially numbered;

2. Plaintiff's exhibits shall be identified by the prefix (PX) and shall be sequentially numbered;

3. Defendants exhibits shall be identified by the prefix (DX) and shall be sequentially numbered;

4. Third-party exhibits shall be identified by the prefix (TPX) and shall be sequentially numbered;

5. In all proceedings involving multiple plaintiffs or multiple defendants, the identification assigned each exhibit shall contain the surname of the individual plaintiff or defendant or the corporate name of the plaintiff or defendant.

C. Uniform Designation. Proposed exhibits, including those appended to requests for admission, interrogatories and depositions, as well as those to be utilized during trial, shall be uniformly identified during all phases of the case.

D. List of Exhibits. At the commencement of a civil trial, or at the pre-trial next preceding the commencement of a civil trial, each party's counsel shall tender to the Court and to opposing counsel, a list of all exhibits the party then intends to utilize at trial; the list shall contain the pre-marked number and a short description of the exhibit.

E. Copy for Judge. Except upon cause shown or as provided otherwise by the Court, a copy of each document or written exhibit intended to be tendered or entered during trial shall be furnished to the Judge at the commencement of a civil trial or at the pre-trial next preceding the commencement of a civil trial.

RULE 10. PRE-TRIAL CONFERENCES

On motion of any party, or on the Court's motion, a pre-trial may be held in any civil action. Counsel shall be given a minimum of ten (10) days notice of a pre-trial conference. Counsel shall be mindful of the requirements under Rule 9 of these RULES re: pre-trial compliance.

RULE 11. TRIAL BRIEF AND JURY INSTRUCTION

A. In all jury cases, each party to the action shall file with the Court, no later than ten (10) days prior to trial(Saturday, Sunday and legal holidays excluded), a trial brief and desired jury instructions. The brief shall outline the issues involved, points relied upon, authorities, and such other matters as may be of assistance to the Court in trying the case. Briefs and jury instructions shall be served upon opposing parties or counsel as provided for in the Civil Rules and/or these rules for service of pleadings. However, each party shall be permitted to amend or correct the jury instructions any time before or during trial, pursuant to CR 51(1).

B. In all non-jury cases, each party to the action shall file with the Court, no later than five (5) days prior to trial (Saturday, Sunday and legal holidays excluded), a trial brief. The brief shall

outline the issues involved, points relied upon, authorities and such other matters as may be of assistance to the Court in trying the case. Briefs shall be serviced upon the opposing parties or counsel as provided for in the Civil Rules and/or these rules for service of pleadings.

RULE 12. JUDGMENTS AND ORDERS

A. All judgments and orders presented to the Court for signature shall contain the scrivener's typed name and signature and:

1. Contain a certification by counsel that the order has been sent or delivered to opposing counsel and the date sent or delivered. Opposing counsel has ten (10) days within which to file an objection only on the basis that the order or judgment is not in conformity with the ruling of the Court. If no objection is filed within said time the Court will enter the order or judgment.

-or-

2. Contain a "Have Seen" endorsement of all other attorneys of record. This endorsement shall constitute an acceptance by said counsel only that the order or judgment is in conformity with the ruling of the Court.

-or-

3. The Court in its discretion may require that all orders or judgments tendered contain a "Have Seen" endorsement of all other attorneys of record. This endorsement shall constitute an acceptance by said counsel only that the order or judgment is in conformity with the ruling of the Court. Should counsel for any party refuse to endorse the judgment or final order "Have Seen", counsel who prepared it shall file the order with the Court, together with a certification that it was tendered to counsel who refused to make the endorsement and the

date of such tender. The Court shall enter the order after the expiration of five (5) (Saturday, Sunday and legal holidays excluded) days from the time it was filed, unless counsel who refused to make the endorsement shall have filed written exceptions to it and set such exceptions for hearing before the Court at the earliest practicable time.

B. Because of the number of parties in an action or for any other exceptional circumstances the Court, in its discretion, may exempt a particular order or judgment from the application of this RULE in whole or in part by endorsing said exemption on it.

RULE 13. CONSOLIDATION OF ACTIONS

A. When two or more actions have been filed that may, as a matter of right, or may, in the discretion of the Court, be consolidated and such actions are pending in the same or in different Divisions of the Court, any party to any of the actions may have any of the actions transferred to that Division of the Court in which the first of the actions was filed, upon approval of both Judges. The Judges may order such consolidation to be made without a motion by any of the parties.

B. When actions are consolidated, the Clerk shall keep the steps in the Civil Docket in the lower numbered case alone and enter in each of the other cases in the Civil Docket a reference of that case.

RULE 14. DISMISSAL OF CIVIL ACTIONS FOR FAILURE TO PROSECUTE

A. At least once a year, the Clerk shall review all pending actions on the docket. The Clerk shall cause a written Notice to be given to each attorney of record, or litigant if pro set, of every case in which no pre-trial step has been taken within the last year, that the case will be dismissed without prejudice in thirty (30) days for want of prosecution except for good cause shown by affidavit. The Court shall enter an Order dismissing each case without prejudice at Plaintiff's cost

in which no verified answer or an insufficient answer to the Notice is made. 77.02(2).

B. In each action which is not dismissed, pre-trial steps shall be taken within thirty (30) days or the action will be automatically dismissed and the Court may make such orders as will facilitate the prompt disposition of the action on the calendar for trial or hearing. CR 77.02(2).

RULE 15. REFILING ACTIONS

Whenever a case has been dismissed without prejudice and is refiled, it shall be assigned to the same division from which the dismissal was granted. Whenever a Judge shall discover that a case has been refiled within his or her division, that appropriately belongs in another division pursuant to this Rule, the Judge shall promptly transfer the case to the division from which the case was originally dismissed.

RULE 16. COURT PERSONNEL

The Sheriff or a Deputy, the Clerk or a Deputy, and the Court Reporter shall attend Court when in session, if the presence of all or any of them shall be deemed necessary by the presiding Judge.

RULE 17. PRACTICE BEFORE THE MASTER COMMISSIONER

A. The attorney who moved to refer an action to the Master Commissioner shall deliver a copy of the Order referring the case to the Master Commissioner to the Master Commissioner's Office.

B. The Reports of the Master Commissioner shall be filed in the Clerk's Office. The Clerk shall comply with the Notice Provisions of CR 53.06(1). The Master shall file a Motion to Confirm the Report and shall notice same for the Motion Docket of the Division to which the action is assigned, provided ten (10) days have lapsed between service of the notice of the filing of the

Report and the hearing or the Motion to Confirm the Report. CR 53.06.

C. Before the sale of land, the Master shall have it appraised pursuant to KRS 426.200(3). Any party to a suit objecting to an appraisal shall file written objections thereto and shall arrange with the Court to have a hearing thereon prior to the date of sale.

D. Every purchaser at a judicial sale shall, at the time thereof, deposit with the offer making the sale $100.00, to be applied to the expense of any subsequent judicial resale caused by the purchaser's default.

E. Purchasers at a judicial sale shall give bond in all cases, but the Court may, by proper Order, where judgment creditor is the purchaser, require the creditor to pay into the Court only that portion of the sale bonds superior to the creditor's judgment and credit the balance of the sale bonds on the judgment claim.

F. Sales shall be held on a day and at a time to be fixed by the Master, and report thereof shall be filed in the Clerk's Office and placed upon the Court's Docket and called for confirmation at the next motion hour of the Division to which the action is assigned. On the call of the Motion to Confirm the Report of Sale, it shall be confirmed unless objections have been filed to the Report. In cases where objections are filed to the Report of Sales, they shall be heard and passed upon as soon as possible.

G. Unless otherwise ordered, sales of realty shall be made on four, eight and twelve months' time, and of personalty, one-half cash and the balance in four months.

H. The Master shall make a report of distribution in every case in which any funds pass through his or her hands.

I. The Master shall keep books which shall show in each case separately the amount,

from whom and for what he or she has received, money, and the amount, to whom and why he or she has disbursed the same, which shall be subject at all times to inspection as other public records.

J. The Master shall acknowledge and record in the County Clerk's Office plats of all lands subdivided by him or her for sale or partition purposes, in which a change is made from the original subdivision plat, or in which a tract is laid out which has never been subdivided.

RULE 18. COURT DECORUM

A. Conduct. All attorneys shall advise their clients and witnesses of proper courtroom decorum, including, THE IMPROPRIETY OF ATTEMPTING TO DISCUSS PENDING MATTERS WITH THE COURT and the statutory prohibition against communicating with jurors. (KRS 29a.310(2)).

B. Persons Permitted Inside the Bar of the Courtroom. Unless otherwise ordered by the Court, in all proceedings held in open Court, only the parties, the witnesses when actually testifying, the jury, if any, attorneys duly admitted to practice before the Court and paralegals or legal assistants working under their direction, the sheriff and/or deputies, the clerk and/or deputies, bailiffs; and other officers and employees with the Court's permission shall be permitted inside the bar of the courtroom.

C. Dress. All attorneys shall appear before the Court dressed in appropriate attire.

RULE 19. COURT RECORDS - REMOVAL

Original papers may be taken from the Clerk's Office only upon Order of the Court and/or not longer than five (5) days. Original papers required for trial by the Court may be obtained by receipt from the Court's Secretary. Depositions may not be taken from the Clerk's Office.

RULE 20. GENERAL TERM OF COURT

A. In those judicial circuits which have more than one (1) Division, the Court may have a General Term at which the Judges of all the Divisions, if applicable, shall preside, and may at this General Term, adopt Rules of Court and may, from time to time, change such Rules subject to the approval of the Chief Justice of the Supreme Court. The Rules when adopted, shall be binding upon each Division of the Court.

B. All Rules adopted, and other business transacted, by the Judges of the General Term shall be entered by the Clerk in an Order Book of the General Term. Such Order Book of the General Term shall be kept and maintained by the Clerk, in addition to the Order Book and Judgment Book of the several Divisions of the Court.

C. The Rules of Practice Procedure of the Boone and Gallatin Circuit Courts adopted by the Court, June 8, 1978, and any amendments thereto are hereby set aside and repealed.

D. The Rules of Practice Procedure of the Campbell Circuit Court adopted by the Court, March 1, 1967, July 1, 1973, January 5, 1976, November 1, 1977, May 1, 1978 and December 15, 1989, and any amendments thereto are hereby set aside and repealed.

E. The Rules of Practice Procedure of the Kenton Circuit Court adopted by the Court, February 19, 1982, and any amendments thereto are hereby set aside and repealed.

F. All rules of practice and procedure of the Boone, Gallatin, Campbell and Kenton Circuit Courts and any amendments thereto which are inconsistent with these rules are hereby set aside and repealed.

ADDENDUM A. ARBITRATION PROCEDURES FOR BOONE, CAMPBELL, GALLATIN AND KENTON COUNTIES

A. Cases For Arbitration.

1. The Circuit Court may at any time order any case to be heard and decided by a Board of Arbitration, consisting of not more than three members of the Northern Kentucky Bar Association, to be selected as hereinafter provided, provided the following conditions are satisfied:

(a) The action must be at least three (3) months old unless earlier agreed to by all parties.

(b) The amount actually in controversy (exclusive of interest and cost) as determined by the court does not exceed $50,000.00 per case. Arbitration shall be permitted in cases where the amount in controversy exceeds the sum specified in the plan for mandatory arbitration where all parties to the action agree to arbitration.

(c) No party has filed written objection to an order referring a case to arbitration within ten (10) days of the filing of the referral order.

2. The attorneys may agree, prior to assignment to:

(a) One arbitrator instead of three to be selected by the Arbitration Commissioner, or

(b) Their own panel of one or three arbitrators.

3. All times provided herein shall be computed from the date the order is entered by the Circuit Clerk.

B. Exception to Order of Arbitrator.

1. Exceptions to an order placing a case on the arbitration list shall be raised by a motion filed within ten (10) days of the mailing of notice of such order, and shall be heard by the Court.

2. Exceptions to an arbitrator shall be raised by motion filed within five (5) days of the mailing of notice of assignment and shall be heard by the Court.

C. Selection of Arbitrators.

1. Except as otherwise provided in paragraph A 2(b), in all cases subject to arbitration, the arbitrators shall be selected by the Northern Kentucky Bar Association, (hereinafter Bar Association). The Bar Association shall prepare and maintain a list of arbitrators. Members of Arbitration Boards shall be appointed by the Bar Association from the list pursuant to Paragraph D.

2. No person may be added to the list of arbitrators unless that person is an attorney authorized to practice law in the State of Kentucky and has filed with the Bar Association a written consent to serve as an arbitrator.

3. Arbitrators subsequently desiring to be deleted from the list of arbitrators may do so by notifying the Bar Association in writing.

D. Manner of Appointment. The list of arbitrators shall be divided into three equal groups designated as Arbitrator Group (a), (b), (c). Group (a) shall consist of lawyers, listed alphabetically, who are selected from the list of arbitrators by the Chief Circuit Court Judge. These attorneys must have the qualifications of a Circuit Judge. The balance of the lawyers on the list, who need not have such qualifications, shall be divided at random and then listed alphabetically into groups

(b) and (c). Appointments to each board shall be made in alphabetical order, one from each group by the Bar Association.

E. Composition of Board: Disqualification from Appointment. The lawyer named from group (a) shall be Chairperson of the Board. Not more than one member of a law partnership or an association of attorneys shall be appointed to the same Board, nor shall an attorney be appointed to a Board who has an interest in the determination of the case or a relationship with the parties or their counsel which would interfere with an impartial consideration of the case.

F. Assignment of Cases.

1. The Bar Association shall assign one case to each Board appointed by it at the time of their appointment. Said cases shall be taken in order from the arbitration list. No case shall be assigned by the Bar Association to a Board within thirty (30) days from the time such case is ordered onto the arbitration list unless the Court directs that the case be assigned specifically within the thirty day period or in the event that a companion case may be subject to assignment within the thirty (30) day period.

2. No disclosure shall be made to the arbitrators prior to the filing of the report and award referred to in Paragraph P of any offers of settlement made by either party. Prior to the delivery of the court file to the Chairperson of the Board of Arbitrators, the Circuit Clerk shall remove from the file and retain all papers or any notations referring to demands or offers for settlement.

G. Hearings: When and Where Held: Notice.

1. Hearings shall be held at a place determined by the Chairperson, but shall not be held at the offices of any of the parties' attorneys. A hearing shall be scheduled not more

than forty-five (45) days after the appointment of the Board of Arbitration and the arbitrators and the parties or their counsel shall be notified in writing at least ten (10) days before the hearing of the time and place of the hearing. The forty-five (45) day period may be extended by the Court. No hearings shall be fixed for Saturdays, legal holidays or evenings, except upon agreement by counsel for all parties and by all of the arbitrators

2. At any time prior to the decision of the Arbitrators becoming final by entry of a judgment of the Court without appeal, the parties may settle or compromise their dispute. There shall be no communications by counsel or the parties with the arbitrators concerning the merits of the controversy prior to the commencement of any arbitration hearing.

H. Inability of Party to Proceed.

1. In the event that counsel for any party of the matter is unable to proceed, the Chairperson may mark the case continued.

2. Whenever any case has been continued twice after assignment of hearing dates, said case shall be certified by the Chairperson to the Court who shall summon the parties or their counsel. The court shall have the power to make any appropriate order, including an order of dismissal for want of prosecution, or an order that the case be again assigned to a Board of Arbitration and be heard and an award made whether or not a party appears and defends.

I. Oath of Arbitrators. When the whole number of the arbitrators shall be assembled, they shall be sworn or affirmed justly and equitably to try all matters properly at issue submitted to them, which oath or affirmation may be administered to them by any person having authority to administer oaths.

J. Default of a Party. The arbitration may proceed in the absence of any party, who after due notice, fails to be present or fails to obtain an adjournment. An award shall not be made solely on the default of a party; the Board of Arbitration shall require the other party to submit such evidence as they may require for the making of an award.

K. Conduct of Hearing: General Powers

1. Although strict conformity to legal rules of evidence is not necessary, the Board shall receive only relevant and material evidence. All evidence shall be taken in the presence of the Arbitrators and the parties except where any of the parties is absent, is in default or has waived his or her right to be present. The Chairperson shall rule on all objections raised during the hearing. The Board shall receive evidence in the following forms:

(a) Sworn testimony by competent witness;

(b) The product of all discovery completed prior to the hearing;

(c) Documentary evidence, written reports of experts, provided that such evidence has been served upon the adverse parties or their counsel at least fourteen (14) days before the hearing, unless counsel otherwise agree;

(d) Procedure in Case of Estimate. In the case of an estimate, the party intending to offer the estimate shall forward with his or her notice to the adverse party together with the copy of the estimate a statement indicating whether or not the property was repaired, and if it was, whether the estimated repairs were made in full or part, attaching a copy of the receipted bill showing the items of repair made and the amount paid.

2. All evidence shall be given such weight as the Board deems appropriate.

L. Specific Powers. The Board of Arbitration shall have the following specific powers:

1. *Administering Oaths/Admissibility of Evidence.* The Chairperson of the Board of Arbitration shall administer oaths or affirmations to witnesses, determine the admissibility of evidence, and/or permit testimony to be offered by deposition.

2. Refer to the Circuit Court for enforcement or other appropriate action for failure to comply with a properly issued and served subpoena to witness or for the production of evidence or documents.

M. Supervisory Powers of Court. The referring division of the Circuit Court shall have full supervisory powers with regard to any questions that arise in all arbitration proceedings and in the application of these rules.

N. Report and Award. Within fifteen (15) days after the hearing, the Chairperson of the Board of Arbitration shall file its award with the Circuit Clerk and the Bar Association and on the same day shall mail or otherwise forward copies thereof to all parties or their counsel. An award may not exceed $50,000.00 per case, exclusive of interest. The report and award shall be signed by all of the members of the Board. In the event all three members do not agree on the finding and award, the dissenting member shall write the word "Dissents" before his signature. A minority report shall not be required unless the arbitrator elects to submit the same due to unusual circumstances.

O. Legal Effect of Report and Award; Entry of Judgment. The award, unless appealed from as herein provided, shall be final. If no appeal is taken within the time and in the manner specified therefor, the Court shall enter judgment of such award. Subsequent to the time for appeal, the prevailing party shall prepare a judgment, which shall be submitted to the assigning judge. If no judgment has been submitted to and accepted by the Court within forty-five (45) days from the

date of the report and award, the Court will enter its own judgment.

P. Compensation of Arbitrators.

1. Each member of a Board of Arbitrators who has signed an award or files a minority report shall receive compensation for his or her services in each case a fee of sixty ($60.00) dollars. When more than one case arising out of the same transaction is heard at the same hearing or hearings, it shall be considered as one case insofar as compensation of the arbitrators is concerned. The members of a Board shall not be entitled to receive their fees until after filing the report and award with the Circuit Clerk. Fees paid to arbitrators shall not be taxed as costs nor follow the award as other costs.

2. The Chairperson shall receive as compensation the sum of Thirty ($30.00) Dollars for each case heard by the Board, in addition to the compensation fixed for members of the Board of Arbitration.

3. Upon referral of a matter for arbitration, all parties shall pay to the Circuit Clerk the fee for arbitration of Two Hundred Forty ($240) Dollars within thirty (30) days of assignment. Failure to pay their pro rata share of these costs shall be referred to the Circuit Court for appropriate orders.

4. In the event that a case shall be settled or dismissed sooner than 24 hours prior to the date scheduled for the hearing, the Board members shall not be entitled to the aforesaid fee. In the event that a case has been settled or dismissed within said 24 hour period, the Chairperson shall be entitled to receive a Fifty ($50.00) Dollar fee. Upon receiving notice that the case has been settled or dismissed more than 24 hours before the date set for hearing, the Bar Association shall assign another case to the same Board. The remaining funds

deposited for arbitrator fees shall be used to defray the cost of administering this program and paid to the Bar Association.

Q. Right to Appeal. Any party may appeal from the action of the Board of Arbitration to the Circuit Court. The right of appeal shall be subject to the following conditions, all of which shall be complied with within thirty (30) days after the entry of the award of the Board on the docket in the office of the Clerk of Courts:

The appellant shall file with the Clerk a notice of appeal accompanied by an Affidavit within thirty (30) days that the appeal is not being taken for delay. A copy of such instruments shall be served upon opposing parties or their counsel.

R. Return to Active List. If an appeal is filed from an arbitration order, the case will be set for trial and forthwith returned to the judge who previously placed the case on the arbitration list.

S. Appeal de Novo. All cases which have been duly appealed shall be tried de novo by the Court, with or without a jury.

T. Testimony of Arbitrators on Appeal. In the event of an appeal from the award or decision of the Board of Arbitration, the arbitrators shall not be called as witnesses as to what took place before them in their official capacity as arbitrators, nor shall their award be admissible into evidence.

U. Exceptions and Reasons Therefore.

1. Any party may file exceptions with the Clerk of Courts from the decision of the Board of Arbitration within thirty (30) days from the filing of the report and award for either or both of the following reasons and for no other:

(a) That the arbitrators failed to conduct themselves in a proper manner;

(b) That the action of the Board was procured by corruption or other undue means.

2. Copies of such exceptions shall be served upon each arbitrator and shall be forthwith assigned before the Circuit Court to conduct a hearing thereon.

3. If such exceptions shall be sustained, the report of the Board shall be vacated by the Court, and the case forthwith returned to the active list of the Court and in this event the Court may withhold arbitration compensation from any one or more of the arbitrators.

GENERAL RULES FOR DOMESTIC RELATIONS PRACTICE

RULE 30. DISSOLUTION

A. At the time the Verified Petition for Dissolution is filed pursuant to KRS 403.150, in either a contested or uncontested dissolution, **an initial financial disclosure affidavit shall also be filed.** The affidavit shall, to the best of the party's knowledge, outline the parties assets, debts and earnings.

B. The purpose of this initial disclosure statement is to assist the Court with the determination of motions for temporary relief pending a final hearing, it is also to assist in discovery.

C. In the event a full disclosure is objected to, pending final hearing, the disclosure statement may be sent directly to the party, or their counsel, without filing with the court.

D. A Response to the Petition shall be filed within twenty (20) days after service of the Petition and Financial Disclosure Affidavit. An initial Financial Disclosure Affidavit shall also be filed with the Response. This initial Financial Disclosure may be treated as "C" above.

RULE 31. MOTION PRACTICE

A. Kenton Circuit Court.

1. All Domestic motions designated to be heard by the Judge of the Circuit Court of Kenton County shall be set for hearing by telephoning the chambers of the Judge of the division to which the case has been assigned for a hearing date.

2. All motions must be filed in the Clerk's office no later than seven (7) days immediately preceding the day on which the matter is to be heard and a courtesy copy delivered to the Court. Strict adherence to ULCR 5 (A) shall be maintained.

3. A seven (7) day notice of the hearing date of a motion is required.

B. Boone and Gallatin Circuit Courts.

1. All motions designated to be heard by the Domestic Commissioner of the Boone Circuit Court shall be set for hearing by telephoning the chamber of the Domestic Commissioner.

2. All motions must be filed in clerk's office, with a copy served on the Domestic Commissioner, no later than the Friday immediately preceding the Wednesday on which the matter is to be heard.

3. All motions for which a deposit of the Domestic Relations Commissioner's fee is required must be accompanied by said fee for filing. See the section on fees. Any motion not accompanied by the appropriate fee will be returned.

C. Campbell Circuit Court.

1. All motions to be heard by the Judge of the Circuit Court of Campbell County, except final uncontested dissolution hearings, shall be set for hearing on the court's docket.

The court will then determine to set a hearing date or assign the matter for hearing with the Master Commissioner.

2. In pendente lite matters, the recommended order and case shall be delivered by the Master Commissioner to the presiding Judge. Unless otherwise ordered, the recommended order shall be signed by the presiding Judge and entered by the Clerk. Objections to the recommended order may be filed within ten (10) days after the order is entered.

3. All motions must be filed in Clerk's office no later than the Monday immediately preceding the Friday on which the matter is to be heard.

4. Upon assignment to the Master Commissioner, a copy of the motion shall be served on the Master Commissioner. All motions, once assigned, for which a deposit of the Master Commissioner's Fee is required should be accompanied by said deposit prior to setting a hearing date. See the section on fees.

5. The setting attorney shall be the only person authorized to cancel the set date of hearing with the court. In the event of a conflict the attorneys shall first communicate with one another to reschedule the motion if feasible. If that is not feasible due to the circumstances of the case the motion shall proceed with the Judge determining the necessity of the motion hearing at the time set.

6. A ten (10) day notice of the hearing date is required unless the parties certify in the notice reasons for a hearing on lesser notice.

D. Temporary Child Support Motions.

1. A Motion for Temporary child support may be filed with the verified Petition

or independently. This motion may be scheduled for hearing, or pursuant to KRS 403.160(5)(b) decided by the Court within 14 days of filing. This motion must be accompanied by a Child Support Worksheet and an Affidavit of the moving party setting forth the number of children of the marriage and the income of the parties.

2. If the motion is filed pursuant to KRS 403.160(5)(b), the clerk in the county of filing shall be placed on notice of the Motion and will assure that it is placed before the Judge for determination. A 160(5)(b) Motion shall also certify notice to the opposing party or their counsel of the date the Motion was filed. Upon motion either party may move for a hearing to contest or modify the child support once the court order is entered.

3. See Discovery Rules for the exchange information necessary to establish child support.

E. Temporary Child Custody Motions. See Child Custody Section G1(b) below.

F. Ex-Parte Motions.

1. Ex-parte motions shall be entertained by all Circuit Court Judges. Ex-parte Motions for temporary support shall be filed and heard in conformity with KRS 403.160. Motions for Restraining Orders or Injunctions shall be in compliance with CR 65.

2. It shall be the policy of the Circuit Courts to set a hearing within 20 days to allow the court the opportunity to hear evidence against the issued Order.

G. Child Custody.

It shall be the policy of this court to encourage the parties to cause the least disruption of the children's lives.

1. *Temporary Child Custody.*

(a) The parties are encouraged to agree to a custody arrangement which will maximize time with both parents and which will cause the least amount of disruption to the children pending final hearing.

(b) Motions for Temporary Child Custody may be set and heard pursuant to ULCR 5, Motion Practice. Motions may also be heard Ex-Parte pursuant to Rule 65.03 and by the District Court pursuant to KRS 403.715 et seq, Domestic Violence and Abuse.

2. *Disputed Child Custody And/Or Visitation.*

(a) The court encourages the parties to reach an agreement regarding custody and visitation which is in the best interest of the child(ren).

(b) At such time it is determined that custody and/or visitation is in dispute, and the parties are unable to resolve the conflict, a party or the Court sua sponte may move for appropriate action to facilitate a proper finding for custody and visitation.

(c) Such appropriate action may consist of one or more of the following: (This list is not intended to be exhaustive, or to limit the admission of relevant testimony.)

(1) Custody Evaluation;

(2) Psychological Evaluation(s) of a party or parties, and/or children;

(3) Family Counseling;

(4) Mediation where a neutral mediator assists the parties in

reaching their own resolution of the conflict;

(5) Mediation/Evaluation where the parties are assisted in reaching their own resolution of the conflict, however, if this fails a custody evaluation occurs which is given to the Court and the parties;

(6) Appointment of a Guardian Ad Litem to represent the best interest of the child(ren);

(7) Appointment of independent counsel to represent the child(ren);

(8) The appointment of such other professional for opinions or advice which the Court deems appropriate;

(9) Such other action deemed appropriate by the Court. In requesting one of the alternatives presented above counsel for a party should present those facts of the case which support the alternative requested. (KRS 403.300)

RULE 32. CHILD SUPPORT

A. Child support shall be determined pursuant to the support guideline established in KRS 403.212.

B. All child support payments by wage assignment shall be made through the Domestic Relations Office of the County in which the dissolution or Petition for Child support was granted.

C. Pursuant to KRS 403.215 child support shall be paid by wage assignment except for good cause shown. If good cause is shown, the wage assignment shall take effect when an arrearage accrues that is equal to the amount of support payable for one (1) month pursuant to KRS 405.465.

RULE 33. CONTESTED HEARINGS

A. A contested hearing is one in which the parties have not agreed upon the division of property, debts, custody, support or any one of the elements and the taking of evidence to permit the court to render a determination is necessary.

B. A motion to assign a Trial date shall appear as follows:

1. On the motion docket of the Circuit Court Judge in Kenton County.2.On the motion docket of the Domestic Relations Commissioner in Boone and Gallatin Counties.

2. On the motion docket of the Circuit Court Judge in Campbell County.

Upon assignment to the Domestic Relations Commissioner all motions to set contested dissolution cases where the attorneys who have appeared agree as to a hearing date, may be set for a hearing by contacting the Domestic Relations Commissioner to obtain a hearing date.

C. Documentation. A final hearing (trial date) shall not be assigned unless the Motion is accompanied by a final Financial Disclosure Statement. (This may be in a standardized format adopted by the courts).

The Financial Disclosure Statement (Pre-Trial Memorandum) shall include:

1. *Income and Expense Schedule.*

(a) Employment status including income and deductions therefrom (as shown by wage statements).

(b) Any additional sources of income (indicate source).

(c) Adjusted gross income for each of the preceding five (5) years as shown by federal income tax returns, copies of which shall be annexed to the schedule.

(d) Present monthly expenses as shown by past expenditures and anticipated additional expenses, if any, upon dissolution of the marriage.

2. *Property Schedule.*

(a) Marital real estate, its fair market value, and any unpaid balance of any liens thereon.

(b) Marital personal property values (which exceeds $100.00) and the unpaid balance of any liens thereon.

(c) Marital debts and amounts.

(d) Non-marital real estate, the unpaid balance of any liens thereon, and the legal basis relied upon to support such a designation.

(e) Non-marital personal property, exceeding $100.00, the unpaid balance of any liens thereon, and the legal basis relied upon to support such designation.

(f) Non-marital debts.

RULE 34. UNCONTESTED HEARINGS

A. An uncontested hearing is one in which the parties have agreed to all the necessary elements to dissolve the marriage contract, establish custody and support, maintenance, and the property and debts of the marriage or when respondent is in default or has been served by warning order and a WOA report has been filed. When a respondent is in default, the attorney for the petitioner shall submit to the Court an itemized property schedule for review at the time of the hearing.

B. A date for final uncontested hearing shall be set as follows:

1. *Boone and Gallatin Circuit Courts.* Upon order of reference to the Domestic

Relations Commissioner by telephoning the chambers of the Domestic Relations Commissioner. Upon assignment for hearing in each case, the requesting attorney shall send Notice of Hearing to the opposing party or their counsel.

2. *Campbell Circuit Court.* By telephoning the chambers of the Judge of the division to which the case has been assigned.

3. *Kenton Circuit Court.* By telephoning the chambers of the Judge of the division to which the case has been assigned.

C. Documentation.

1. (a) Boone and Gallatin Circuit Courts. The Domestic Relations Commissioner shall prepare a report of his/her recommendations to the Court upon matters submitted to him/her, pursuant to CR 53.06(1). Care should be taken to include the appropriate entry relative to the presence or absence of a waiver of the notice requirement set forth in CR 53.06(2). If Counsel is to submit a decree of dissolution for the Domestic Relations Commissioner's review, then in that event, both parties or their counsel shall have the opportunity to submit decrees for his/her consideration.

(b) Campbell Circuit Court. Counsel shall furnish to the Circuit Court Judge a Property and/or Custody Agreement. The Court will prepare Findings of Fact and Conclusions of Law and a Decree of Dissolution.

(c) Kenton Circuit Court. Counsel shall furnish to the Circuit Court Judge a Property and/or Custody Agreement, and both parties or their counsel shall tender for review and signature a Decree of Dissolution. (The court shall prepare the Findings of Facts).

2. A Final hearing date shall not be assigned unless the Property Agreement or a separate Affidavit is presented to the Court indicating that the parties have made a Full Financial Disclosure and that the terms of the agreement are equitable and the Agreement has not been signed under duress.

3. The Decree shall contain language appropriate to fulfill the mandates of KRS 403.215 and KRS 403.465. Counsel shall insure that the appropriate provisions with respect to the entry of a wage assignment and/or collection of support through the County Child Support Division is included in any decree or Settlement Agreement pertaining to child support.

RULE 35. DISCOVERY

A. Discovery shall be completed twenty (20) days prior to the hearing date.

B. It shall be the duty of a party to supplement all required responses in accordance with CR 26.05 not later than thirty (30) days prior to the hearing date or at any time prior to trial if discovered within the thirty (30) days before trial.

C. Upon application to the Court, discovery time may be expanded in custody issues and complex economic issues.

D. In Child Support Motions, pendente lite, modification of an existing child support obligation, or in a final hearing in which child support is at issue, counsel for each party shall, without formal request and as soon as practical, exchange all relevant and necessary information and documentation pertaining to his or her client's income, health care expenses covering the children, and work-related child care expenses. Appropriate income information shall include, but not necessarily be limited to, 1) complete income tax returns with all schedules for the three previous calendar years;

2) current yearly pay statements showing cumulative yearly income; and 3) documents pertaining to income from sources other than earnings. It is the court's position that a hearing is not the place for discovery; however, the interest of the children is the overriding concern. Therefore, in the event that this information is not forthcoming from a party and a subpoena is issued for compliance, then the cost of the additional attorney's fees and court cost shall be borne by the non-cooperating party.

E. Each party shall furnish to the Judge or Commissioner immediately prior to any child support hearing, a completed Worksheet for Monthly Child Support Obligations conforming to the proof the party intends to introduce. Counsel shall stipulate as much income information as possible. Counsel are encouraged to provide a joint worksheet if possible. Nothing herein shall preclude any party from presenting evidence as to the existence of an exception to the utilization of the guideline.

RULE 36. DOMESTIC RELATIONS COMMISSIONER'S FEES

The Domestic Relations Commissioners and Master Commissioners fee are set by the Administrative Procedures of the Court of Justice, Part IV, Section 4. Local Fees conform to the current schedule and are as follows:

For any hearing the commissioner shall receive a fee of $40 per hour, assessed at a rate of $10.00 for each quarter hour or part thereof. Such fees shall be paid through the office of circuit court clerk to the commissioner and shall be due on the fifth working day following the conclusion of the hearing. No more than $600 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 Justice for extraordinary circumstances shown. If a case is reopened additional fees totaling not more than $200 may be assessed. No more than $15 shall be assessed in any uncontested divorce.

There is no fee for motions to set contested hearings or to withdraw as attorney of record.

The commissioner shall be entitled to a reasonable fee for collecting any unpaid fees relating to hearings before the commissioner.

RULE 37. OFFICIAL RECORD

A. Boone and Gallatin Circuit Courts. Unless otherwise ordered, the official record of all proceedings before the Domestic Relations Commissioner shall be by video tape recording pursuant to the Order of the Supreme Court in Re: *Order Establishing Procedures for Using Video Tape Equipment to Record Video Tape Proceedings.*

B. Campbell Circuit Court. Shall be reported or recorded on audiotape or videotape in accordance with CR 53.03.(5).

C. Kenton Circuit Court. Unless otherwise ordered, the official record of all proceedings before the Court shall be by video tape recording.

ADDENDUM B. DIVORCE EDUCATION SEMINAR

THE FOLLOWING "GENERAL ORDER" IS OF RECORD

IN THE CLERK'S OFFICE OF THE COUNTIES INDICATED.

GENERAL ORDER

CAMPBELL COUNTY CIRCUIT COURT

KENTON COUNTY CIRCUIT COURT

IT IS HEREBY ORDERED that all parents with minor children who are parties to a dissolution (divorce) or legal separation in Campbell and Kenton Counties shall attend a two hour Divorce Education Seminar within 45 days of filing this action. The purpose of this seminar is to educate and sensitize parents to their own needs and the needs of their children during and after the

divorce. It is hoped that this parental education will increase parents' abilities to cope with the stress of divorce, to constructively resolve problems related to their children and the breakup of the marriage, and to facilitate children's adjustment to divorce.

The attorney representing the petitioner shall notify his or her client of this obligation, and shall attach a copy of the brochure "Parents are For Good" to the summons and petition in order that the respondent receives notification of this obligation. The brochures entitled "Parents are For Good" are located in the Circuit Clerk's Office, and will explain how to pre-register. A similar program with the same goals and objectives may be utilized by the parties either by agreement or a Court Order.

This order applies only to those couples with a child or children of the marriage. A couple may request exemption from this order by submitting a separation agreement which fully resolves custody, visitation and child support in conjunction with an agreed order to waive the Parent Education Seminar for the reason that all issues surrounding the children have been amicably resolved. Other requests for exemptions shall be granted only upon a showing of compelling reason.

RULES OF THE CIRCUIT COURT FOR CAMPBELL COUNTY FOR ECONOMICAL LITIGATION

CR 89. ECONOMICAL LITIGATION DOCKET

A. The economical litigation docket shall consist of all cases falling substantially within the following categories:

(1) contracts;

(2) personal injury;

(3) property damages;

(4) property rights;

(5) termination of parental rights.

B. Practice and procedure for cases on the economical litigation docket shall be governed by Rules 1 through 87 and the local rules of the trial court except as modified by Rules 89 through 97 relating to the economical litigation docket.

CR 90. DISCOVERY AND STATUS CONFERENCE

A. A discovery and status conference shall be held in each case for the purpose of scheduling each event in the case and determining the period of time necessary o complete discovery. The conference shall be set within fifteen (15) days after service of the last responsive pleading or the last day a responsive pleading could have been served. A date for a pretrial conference shall be set for a date not more than sixty (60) days following the discovery and status conference and a trial date shall be set not more than thirty (30) days after the pretrial conference. However, in the discretion of the trial judge these times may be extended or reduced to meet the needs of the individual case.

B. Motions for exceptions to the rules of the economical litigation docket relating to discovery must be made at the discovery and status conference.

C. All parties shall be represented at the discovery and status conference and shall be prepared to have firm dates set for the pretrial conference and the trial.

CR 91. TELEPHONE CONFERENCES

At the discretion of the trial judge, any motion may be heard and any conference may be held by a telephone conference call among the trial judge and counsel for the respective parties.

CR 92. MOTIONS, ENLARGEMENT OF TIME; SUMMARY JUDGMENT

A. Except as provided in Rule 91, motions respecting cases on the economical litigation docket shall be heard at the court's regular motion hour.

B. Motions for enlargement of time or continuances shall state the reasons therefor and will be granted only for good cause. Agreed orders pertaining to such matters will not be accepted.

C. Motions for summary judgment must be made ten (10) days prior to the pretrial conference.

CR 93. DISCOVERY

CR 93.01 Depositions

Depositions are permitted as a matter of right of parties only. The plaintiff shall be required to give his deposition before any other discovery takes place unless the defendant elects not to examine the plaintiff or the court otherwise directs. Except as otherwise ordered by the court, a deposition of a witness shall be permitted only if it will be introduced at trial.

CR 93.02 Interrogatories

The scope and manner of discovery by means of interrogatories shall be governed by Rule 33, except that the interrogatories to any party shall not exceed twenty (20) in number, each of which shall be limited to a single question.

CR 93.03 Production of Documents and Things and Entry Upon Land for Inspection and Other Purposes

Procedures respecting the production of documents and things and entry upon land for inspection and other purposes shall be as provided in Rule 34, except that notwithstanding the provisions of Rule 34.02(2), the party upon whom the request is served shall permit the inspection or copying of documents or other things or allow the entry upon land as the case might be within fifteen (15) days after service unless an objection is filed within that period. If objection is made to a part of an item or category, the part shall be specified. The party submitting the request may move

for an order under Rule 37.01 with respect to any objection to or other failure to respond to the request or any part thereof or any failure to permit inspection as requested.

CR 93.04 Exchange of Information

A. Not later than ten (10) days prior to the pretrial conference each party shall disclose the following material to all other parties with a copy to the court:

(1) Name, address and telephone number of any witness whom the party may call at trial together with a copy of any statement of such person or if there is no such statement, a summary of the testimony the person is expected to give. However, no party shall be required to furnish any statement (written or taped) protected by the attorney-client privilege or work product rule.

(2) A description, drawing or photograph of any physical evidence which is to be presented at trial.

(3) A copy of any document or writing which is to be presented at trial.

(4) A brief summary of the qualification of any expert witness the party may call at trial together with a report or statement of any such expert witness which sets forth the subject matter of the expert witnesses' anticipated testimony; the substance of the facts and opinions to which the expert is expected to testify, and a summary of the grounds for each opinion.

(5) A statement summarizing each contention in support of every claim or defense which the party will present at trial and a brief statement of the facts upon which the contentions are based.

(6) Offers of stipulation.

(7) A concise statement of each issue of law and each issue of fact recognized by the party.

B. Each party is under a continuing duty promptly to supplement all prior discovery or pretrial disclosures rendered pursuant to this Rule 93.04 with any pertinent after-acquired information.

C. Parties are required to refine issues that are to be tried in the case. If an order of stipulation is rejected and the matter is subsequently proved at trial, the rejecting party shall be subject to sanctions according to Rule 96.

CR 94. CERTIFICATE OF COMPLIANCE

A certificate of compliance with Rule 93 shall be filed by each party upon the completion of discovery.

CR 95. PRETRIAL CONFERENCE

A pretrial conference shall be scheduled in all cases at the discovery and status conference. The pretrial conference shall be for the purpose of:

A. Simplifying the issues and agreeing upon the issues of law and upon the issues of fact to be tried;

B. Exploring the possibility of settlement;

C. Disposing of all remaining motions.

D. Considering amendments to pleadings.

E. Exploring possible admissions of fact and documents that will avoid unnecessary proof.

F. Limiting the number of expert witnesses.

G. Any other matter that will aid in disposition of the case.

CR 96. SANCTIONS

If a party fails to comply with Rules 88 through 97, the trial judge may impose as appropriate any of the sanctions specified in Rule 37.02, in the same manner as if an order of the court had been violated.

CR 97. PRESENCE OF COUNSEL

Trial counsel of record must be present in order to make binding stipulations and set firm hearing dates at all hearings. Alternate counsel may be designated only if that counsel is empowered to stipulate on matters and has counsel of record's office calendar information so that he may firmly bind counsel of record in event-setting and other decisions.

LOCAL CRIMINAL RULES - CIRCUIT COURT KENTON COUNTY

ULCr RULE 1. GRAND JURIES

Four (4) Grand Juries shall be summoned and impaneled each year. One (1) such Grand Jury shall be summoned and impaneled in each of the following months: January, April, July and October. Each Division of the Court shall summon and impanel one (1) Grand Jury per year as follows:

First Division - January

Second Division - April

Third Division - July

Fourth Division - October

ULCr RULE 2. ASSIGNMENT OF CRIMINAL CASES

A. All indictments (except capital cases) and information shall be assigned for trial and for all other purposes to the division of the Court in which the indictment or information was

returned.

B. Capital case indictments shall be assigned to a Division of the Court by random selection by a separate set of cards. The procedure stated in Rule 7 of these Rules shall apply.

C. Each Division of the Court shall be assigned the indictments returned by the Grand Jury on a rotating basis (except as otherwise provided in these Rules) for a two (2) month period, commencing December, 1980, as follows:

First Division - December, 1980 and January, 1981

Second Division - February and March, 1981

Third Division - April and May, 1981

Fourth Division - June and July 1981

Such rotation shall continue until further orders.

ULCr RULE 3. CRIMINAL MOTIONS

Criminal Motions shall be set for hearing by arranging a time certain with the Judge of the Division to which the case has been assigned, and the motion shall contain a notice of the date and time of the hearing.

LOCAL CRIMINAL RULES - CIRCUIT COURT

CAMPBELL COUNTY

ULCr RULE 10. FELONY DIVERSION PROGRAM

A. (1) All persons charged in the Seventeenth Judicial Circuit with the commission of a Class C or D Felony may be eligible for participation in the Diversion Program as an alternative to criminal prosecution, subject to the following conditions and exceptions:

(a) A prior conviction for a criminal offense (felony or misdemeanor) shall

preclude eligibility, but convictions for violations as defined in KRS 532.020(4) shall not preclude eligibility.

(b) A person who has previously participated in the Diversion Program of the Seventeenth Judicial Circuit or of any other jurisdiction within or outside the Commonwealth of Kentucky shall not be eligible for participation in the Diversion Program.

(2) Where reasons of an extraordinary nature are presented which warrant consideration of a person for participation in the Program, notwithstanding a person's lack of eligibility by virtue of the above set out exclusions, that person may be considered eligible for participation in the Program.

(3) Each case will be reviewed by the Trial Judge and the Commonwealth Attorney, on an individual basis, and eligibility or non-eligibility determined according to the above criteria. Participation in the Program will be on a voluntary basis only, and the consent of the Court, the Commonwealth Attorney, and accused must be obtained prior to inclusion.

B. At the arraignment of the accused (either after indictment or waiver of grand jury) or any time subsequent to the preceding, the Trial Court, on its own motion, and/or the Commonwealth Attorney may move for a continuance for up to thirty (30) days for the tentative consideration of the accused by the Pretrial Services Division for the Diversion Program.

If the accused is found by the Pretrial Services Division to not be eligible, the accused shall be referred back to the Circuit Court for further proceedings.

C. Upon tentative acceptance into the Diversion Program by the Trial Judge, the accused, after consultation, or opportunity to consult with an attorney, must sign a statement that will waive

the accused's right to a speedy trial.

D. The accused will meet with a Diversion Officer to establish and agree to a formal contract which will specify the conditions to be required, the types of referral service to be used, the length of the contract, and the need, if any, for the accused to make any required restitution, public service work, or payment, when appropriate, to a Court approved organization. The contract shall be presented for final approval to the Trial Judge, and, upon its final approval (which shall be indicated by the signature of the Trial Judge on the contract), the accused shall be accepted into the Diversion Program and the terms of the Diversion contract shall commence to be binding.

E. The normal contract for each accused shall be for a period of six months to one year. The period, and/or the conditions of the contract, may be altered by the Trial Judge or the Diversion Officer for good cause.

F. The Divertee must comply with all provisions of the Diversion contract. Violation of the contract provisions will subject the accused to termination of Diversion participation. The Trial Judge, after consideration of all relevant proof, shall enter an order terminating the accused's participation in the Diversion Program or shall direct the resumption of the accused's participation in the Diversion Program and reinstatement of the Diversion contract, with any modifications ordered by the Trial Judge. As with the original Diversion contract, the accused must agree to the contract modifications, if any, prior to reinstatement.

G. At any time the accused may voluntarily choose to be terminated from the Diversion Program.

H. Upon termination of the accused's participation in the Diversion Program, the Commonwealth Attorney may initiate prosecutions of the accused upon the original charge(s).

I. Upon successful completion of the Diversion Contract, the formal criminal charge from which the Diversion Contract arose, shall be formally dismissed with prejudice.

J. The consent of the arresting officer or of the victim of the alleged crime, unless otherwise required by statute, is not required for acceptance of an accused into the Diversion Program. However, the arresting officer and the victim must be advised of the accused's recommended participation in the Diversion Program and afforded an opportunity to comment, in writing, prior to the accused's acceptance into the Diversion Program. Such comment, if any, shall be considered by the Trial Judge in determining acceptance in the Program.

K. Participation by an accused in the Diversion Program shall not constitutè an admission or presumption of guilt of the crime charged, nor shall participation be proof of guilt in any subsequent legal action. However, nothing contained in t his paragraph shall alter or affect the accused's obligation to perform all terms of the Diversion contract, including treatment and restitution when ordered.

L. All records of the Diversion Program will be deemed confidential except for the Program staff and the Circuit Judges for purposes of program review and supervision and will be released to no other person or agency without the written consent of the accused or the presiding Judge.

GENERAL CIVIL RULES - DISTRICT COURTS

RULE 46. DIVISION AND STYLE

There shall be multiple Civil Divisions of The District Courts of Boone, Gallatin, Campbell and Kenton Counties.

All pleadings, briefs, motions and judgments shall be styled as follows:

COURT OF JUSTICE - [Insert appropriate county] DISTRICT COURT

CIVIL DIVISION [Insert appropriate Division]

ACTION NO. _____

RULE 47. ASSIGNMENTS

At the time of filing or transfer of each case, the District Court Clerk shall assign a division by drawing a number from a box containing the numbers of the respective divisions, set up as provided for in ULCr 7.

RULE 48. MOTIONS - GENERAL

Motions may be made orally during the progress of trial in chief, but all other motions must be in writing and accompanied by legal memorandum. Rebutting memorandums must be served within ten (10) days. Motions, outside of trial, will be decided without oral argument unless oral argument is specifically requested by either party.

RULE 49. MOTIONS - DEFAULT

Motions for Default Judgments shall be accompanied by the following certificate in addition to the Military Affidavit, if a Military Affidavit is required:

DEFAULT JUDGMENT CERTIFICATE

Plaintiff, by counsel, certifies that:

A. No papers have been served on plaintiff's counsel by the defendant(s) in default.

B. Defendant(s) were served on _____

C. The balance due on the loan is as follows:

(a) The amount of the original obligation is: $_____

(b) The amount paid by defendant(s) to be deducted from the original obligation is: $_____

(c) If there is a small loan, the amount of unearned interest' rebate to be deducted pursuant to KRS 288.530(6) is: $_____

(d) The balance due from defendant's is: $_____

(e) If the balance due on line (d) above is different from the amount sought in the Default Judgment, the reason is:

_____

_____

D. If the basis of plaintiff's claim is a Promissory Note, the original note has previously been filed herein or is filed herewith. If not, the reason is:

_____

_____

E. If the basis of plaintiff(s) claim is property damage to an automobile, a copy of the repair estimate or other document evidencing the damages sought in the Complaint, with a statement that the repair estimate does not exceed the fair market value of the automobile.

RULE 50. JURY TRIAL

Any party desiring a jury trial shall, at the time of filing a Motion for a jury trial or removal from Small Claims Court, pay the jury fee to the Clerk as required. Otherwise, his or her right to trial by jury shall be waived. The cost of the jury shall be taxed as costs against the unsuccessful party. When a party who requested a jury no longer desires one, the party shall notify the Court not later than forty-eight (48) hours before the case shall be called. Failure to do so shall result in the imposition of jury costs on the requesting party.

RULE 51. JURY POOL

The jury panel shall be provided by the District Court pool according to the Administrative Procedures, Part II regulating same.

RULE 52. JURY INSTRUCTIONS

Written instructions shall be tendered to the District Court in compliance with ULCR 11.

RULE 53. ORDERS OF DELIVERY

All orders of delivery shall be by seven (7) days notice to the party having possession of the personal property unless a verified statement is filed setting forth the reasons for non-notice. Notice shall also be given to any person who has an interest in the personal property. This notice shall be returnable and heard before the District Court at the time provided for the hearing of said motion by the District Court.

RULE 54. MONIES PAID INTO COURT

All monies paid into District Court shall be paid to the Clerk of the District Court and withdrawn according to rules for the District Court Clerk, except the Court in order to protect an attorney's lien or otherwise in the furtherance of justice, or for the convenience of administration, may

order payment to an attorney of record. The Clerk shall not pay such money to an attorney unless such attorney is so authorized by name in the order of withdrawal. Such order may issue on motion without notice.

RULE 55. WITNESS, PERSONAL APPEARANCE

The personal appearance of a party or witness in aid of execution on a judgment shall be heard by the District Court according to the rules pertaining to same.

RULE 56. WITNESS UPON JUDGMENT

Whenever a defendant, party or witness has appeared and been examined under oath on a discovery proceeding upon a judgment, such person shall not be compelled to appear again within six months unless an affidavit is filed by counsel showing a change of conditions or circumstances warranting same.

RULE 57. SPECIAL BAILIFFS

Special bailiffs may be appointed upon the affidavit of the moving party pursuant to KRS 454.145.

RULE 58. SPECIAL BAILIFFS COMPENSATION

Special bailiffs may be compensated as provided in KRS 24A.170 by setting out the mileage and total amount due the special bailiff, which shall be taxed as costs of the action, upon affidavit of the special bailiff specifically setting for such costs.

RULE 59. DISMISSING OF ACTION

No action shall be dismissed until all costs have been paid in full to the Clerk unless good cause is shown by affidavit and motion.

LOCAL CRIMINAL RULES--BOONE DISTRICT COURT

ULCr Rule 60. BOONE DISTRICT COURT LOCAL RULE FOR MEDIATION UPON CRIMINAL COMPLAINT

A. Private citizens who wish to obtain criminal process or otherwise register a complaint within Boone County shall provide any person authorized to take criminal complaints with a written and sworn affidavit for a criminal complaint.

B. The County Attorney and his assistants shall have the discretion to screen all affidavits and determine whether the dispute is appropriate for submission to the mediation program. If mediation is appropriate no criminal process shall be issued.

C. The affidavit shall be forwarded to the mediation officer(s) who shall be responsible for explaining the mediation process to the complainant and notifying the respondent of the date, time and location of the mediation hearing.

D. The mediation hearing shall be informal and shall not be legally binding or enforceable. Records of the hearing procedures and statements made during the hearing shall be privileged and shall not be admissible or discoverable for any purpose. However, the records and accumulated data respecting the mediation program may be utilized for the purpose of monitoring and evaluating the program.

E. The informal and voluntary nature of mediation hearings limits the scope of the hearing officer's authority to establish non-binding agreements between the disputants. The role and function of the hearing officer is such that he/she is not an officer of the court, is not

authorized to issue process and is not acting as or performing the duties of judge.

F. If either the complainant or the respondent is dissatisfied with the results of the mediation hearing, or if either party refuses to submit to a voluntary settlement agreement, or if the agreement is subsequently unfulfilled, the hearing officer will refer the complainant to the County Attorney's office with the affidavit for consideration of issuance of a criminal complaint.

G. Any agreement accomplished between the parties is voluntary. Compliance with the agreement is not legally enforceable by either party, the mediation program or the courts. Relief for non-compliance with the mediation agreement is effected only through initiation of court process as described in rule F above.

H. All records of the mediation program shall be privileged and exempt from subpoena and will be deemed confidential except for the program staff and the Chief District Judge for purposes of program review and supervision and will be released to no other person or agency without the written consent of the parties to the dispute or as provided in paragraph D above.

I. Restitution Authorized in Appropriate Circumstances. Restitution is considered appropriate and permissible in circumstances wherein the complainant and respondent voluntarily agree that restitution is applicable and further agree to the amount and schedule of payment. The hearing officer will be particularly alert to prevent abuse of the restitution option by either participant.

J. Community Service Work Alternative. In circumstances wherein restitution is appropriate and voluntarily agreed upon by both parties but where indigency prevents payment of restitution, community service work is an appropriate alternative to restitution. Community service work may be a part of any mediation agreement when appropriate and voluntarily agreed upon by

both parties.

K. The policies and procedures controlling the Boone County Mediation Program will be formalized through the issuance of these court rules, court rules promulgated by the Supreme Court, and through day to day review of the program by the County Attorney and the Chief District Judge. Procedures will not be adopted or implemented unless submitted by the Chief District Judge and approved by the Chief Justice.

LOCAL CRIMINAL RULES--CAMPBELL DISTRICT COURT

ULCr Rule 61. CAMPBELL DISTRICT COURT LOCAL RULE FOR MEDIATION UPON CRIMINAL COMPLAINT

A. Private citizens who wish to obtain criminal process or otherwise register a complaint within Campbell County against another person (including juveniles) shall be afforded the opportunity to voluntarily select, in lieu of criminal prosecution, the option of submitting the dispute to an informal pretrial conference wherein mediation of the complaint will be attempted. The various options of utilizing an arrest warrant, a summons or an invitation to mediation will be thoroughly explained to the complainant by an intake screening officer, whether the office of County Attorney or the Court Designated Worker. The choice of Court process rather than informal mediation shall be decided by the complainant; however, review of the facts involved in the complaint for probable cause shall remain the prerogative of the Prosecutor and the Court.

B. At the time a citizen requests criminal process be issued or indicates the intent to file a complaint, the mediation intake officer will compile a summarization of the allegations involved and will (a) issue a letter to the respondent establishing time, date and location if a mediation hearing is selected; (b) refer the summary and the complainant to the County Attorney's Office if mediation is

not elected and it appears there is not sufficient grounds to issue process; (c) prepare a criminal summons or arrest warrant if Court prosecution is indicated and submit the process along with the summary to the County Attorney's Office for review and signature.

C. Participation in the mediation hearings is voluntary on the part of the complainant and the respondent, will be informal and shall not be legally binding or enforceable. Records of the hearing procedures and statements made during the hearing shall be privileged and shall not be admissible or discoverable for any purpose. However, the records and accumulated data respecting the mediation program may be utilized for the purpose of monitoring and evaluating the program.

D. The informal and voluntary nature of mediation hearings limits the scope of the Hearing Officer's authority to establishing non-binding agreements between the disputants. The role and function of the Hearing Officer is such that he is not an officer of the Court, is not authorized to issue process and is not acting as or performing the duties of a Judge.

E. If either the complainant or the respondent is dissatisfied with the results of the mediation hearing, or if either party refuses to submit to a voluntary settlement agreement, or if the agreement is subsequently unfulfilled, the Hearing Officer will refer the complainant back to an Intake Officer for consideration of the issuance of process. The Intake Officer will consult with the County Attorney to determine if Court action should initiate on the case.

F. If, after a mediation hearing, either the complainant or the respondent is dissatisfied with the mediation proceedings or results, either party to the dispute may request that the case be referred to the Courts for a formal hearing. The dissatisfied party shall be referred to an Intake Officer who shall accompany the party to the County Attorney's Office for the purpose of probable cause review of the complaint and the issuance of Court process in appropriate cases. Both the

complainant and the respondent shall be advised of the option of requesting Court action at any stage of the mediation process.

G. Any agreement accomplished between the complainant and the respondent is voluntary. Compliance with the agreement is not legally enforceable by either party, the mediation program or the Courts. Relief for non-compliance with the mediation agreement is effected only through initiation of Court process as described in Rule F above.

H. All records of the mediation program shall be privileged and exempt from subpoena and will be deemed confidential except for the program staff and the Chief District Judge for purposes of program review and supervision and will be released to no other person or agency without the written consent of the parties to the dispute or as provided in paragraph C above.

I. **Restitution authorized in appropriate circumstances.** Restitution is considered appropriate and permissible in circumstances wherein the complainant and respondent voluntarily agree that restitution is applicable and further agree to the amount and schedule of payment. The Hearing Officer will be particularly alert to prevent abuse of the restitution option by either participant.

J. **Public Service work alternative.** In circumstances wherein restitution is appropriate and voluntarily agreed upon by both parties but where indigency prevents the accomplishment of a reasonable payment agreement, the alternative of public service work is appropriate for consideration by the parties.

K. The policies and procedures controlling the mediation program will be formalized through the issuance of these court rules, court rules promulgated by the Supreme Court, and through day to day review of the program by the County Attorney and the Chief District Judge. Procedures

will not be adopted or implemented unless submitted by the Chief District Judge and approved by the Chief Justice.

LOCAL RULES OF ELIGIBILITY AND APPOINTMENT OF WARNING ORDER ATTORNEYS AND GUARDIANS AD LITEM AND GUARDIANS AND APPOINTED COUNSEL PURSUANT TO KRS 620.100 - KENTON COUNTY

RULE 66. PURPOSE

The purpose of the following Rules is to establish uniform practices of eligibility for appointment retention of eligibility and a standards for approval of fees of attorneys appointed to practice as Warning Order Attorneys, Guardian Ad Litem and Attorneys pursuant to the provision of CR 4.07 and 17.03 and attorneys appointed as Counsel pursuant to the provision of KRS 620.100.

RULE 67. ELIGIBILITY

All practicing attorneys who are licensed to practice law before the Supreme Court of the Commonwealth of Kentucky, are eligible to apply for and be placed on a rotating list to be maintained by the Kenton District Clerk for appointment as Warning Order Attorneys pursuant to the provisions of CR 4.07.

RULE 68. WARNING ORDER ATTORNEY; FEES

Upon the rendering of the Warning Order Report as required by CR 4.07(2)(5), the Warning Order Attorney shall be entitled to a fee, as authorized by CR 4.07(6), not to be less than $35.00 to be taxed as costs in the proceedings. In addition, persons who are located by a Warning Order Attorney, who are eligible for the appointment of counsel under KRS 620.100 and want that Warning Order Attorney to represent them shall, absent extraordinary circumstances, have that lawyer appointed to act on their behalf in the pending litigation. That lawyer's services shall be compensated

under KRS 620.100.

RULE 69. GUARDIAN AD LITEM PANEL

There is also created by the adoption of these rules, a panel to be designated as "Guardian Ad Litem Panel" pursuant to the rules of Civil Procedure of the Supreme Court of the Commonwealth of Kentucky, as specifically set forth in CR 17.03 and CR 4.07(3) and CR 4.07 (4).

RULE 70. MEMBERSHIP ROSTER OF GUARDIAN AD LITEM

Membership of the roster of Guardians Ad Litem pursuant to the provisions above shall be restricted to those attorneys who meet the criteria for membership in the Roster of Warning Order Attorneys as defined above in Rule 67.

RULE 71. FEES--GUARDIAN AD LITEM

Fees shall be allowed to Guardians Ad Litem pursuant to the provisions of CR 17.03(5) to be taxed as costs in the proceedings. Such request for fees, however, shall be accompanied by a statement of the attorney defining the date, hours spent and a general description of the services performed. Pursuant to the provisions of CR 17.03(5) the Attorney claimant shall be awarded a fee to be affixed by the Judge, to be taxed as costs in the proceedings.

RULE 72. GUARDIAN AD LITEM AND APPOINTED COUNSEL ADVISORY COMMITTEE

There is also created by the adoption of these Rules, a "Guardian Ad Litem and Appointed Counsel Advisory Committee" which shall be created by the Chief District Judge or the Judge's designee, to serve as an advisory panel to the Juvenile Division of the District Court for the selection, retention and training of Guardians and Attorneys appointed pursuant to the provision of KRS 620.100.

RULE 73. ADVISORY PANEL MEMBERSHIP

Membership of the Advisory Panel shall remain as constituted upon the enactment of these Rules by the Kenton District Court and shall expire 12/31/93, but members may be reappointed or removed by the Chief Judge, or the Judge's designee. The term of each successive member following 12/31/93, shall be for a period of (2) two years unless sooner terminated by the Chief Judge or the Judge's designee in which event a successor shall be appointed in accordance with the foregoing.

RULE 74. ROSTER OF ELIGIBLE ATTORNEYS--GUARDIANS AND SEPARATE COUNSEL

There shall also be created by the adoption of these Rules, a roster of eligible attorneys to serve as guardians and separate counsel pursuant to the provisions of KRS 620.100, such roster to be maintained by the Chief Judge of the Kenton District Court or the Judge's designee. Any Attorney so appointed shall serve at the pleasure of the Chief Judge or the Judge's designee and is subject to removal from said roster at the pleasure of the Chief Judge or the Judge's designee.

RULE 75. ELIGIBILITY CRITERIA

Persons eligible for service on the roster as herein above established by the provisions of Rule 74, shall meet the following criteria for eligibility:

A. They must be members of the roster established by Rule 74 above, except that those attorneys who were regularly participating members of the group of attorneys involved in cases for which compensation is authorized under KRS 620.100 during the year 1992, and whose principal office for the practice of law is outside of Kenton County may maintain eligibility and, if they are otherwise eligible under Rule 74, shall be eligible under this Rule.

B. Each must be in actual attendance and available for appointment during the first calls

of new cases as often as the Chief Judge or the Judge's designee, upon due consultation with the Advisory Committee, shall require. Such attendance requirements can be addressed to the roster as a whole or the members as individuals.

C. They must attend educational programs of 3 hours per year prepared or approved by the Advisory Committee. (The Advisory Committee shall attempt to obtain CLE credit for programs it prepares if appropriate and feasible.) The Advisory Committee may allow other programs, if they are certified by CLE credit, to be substituted for a program designated or prepared by the Committee.

RULE 76. MEMBERSHIP ROSTER; VACANCIES

The membership roster of guardians and appointed counsel as authorized by Rule 74 as established above, shall be limited by the Chief Judge of the Kenton District Court, or the Judge's designee, to an adequate number from time to time as may be established by the Chief Judge of the District Court upon due consultation with the Advisory Committee. Membership on said roster shall be subject to approval of the sitting members of the District Court.

When a vacancy on the roster authorized by Rule 75 occurs notice of that fact shall be published through the auspices of the Northern Kentucky Bar Association. The vacancy shall be filled from among those candidates who timely submit a letter to the Chief Judge of the Kenton District Court or the Judge's designee reciting that the candidates meet the minimum requirements of these Rules.

RULE 77. FEES

Persons appointed as Guardians and Attorneys pursuant to the provisions of KRS 620.100, as above, shall be entitled to a fee as authorized by the provisions of KRS 620.100 and CR 17.03(5), which application for a fee, however, shall be supported by the accompanying statement as provided

in Rule 71. Applications for a fee shall not be submitted until the maximum fee as authorized by state law has been earned or until after disposition, whichever occurs first. The duty of counsel to keep records of time and services rendered shall cease once the maximum fee as authorized by the provision of KRS 620.100 has been earned and an appropriate request for a fee has been submitted.

RULE 78. AMENDMENT OF RULES

The provisions of the foregoing Rules are subject to modification, repeal and/or alteration only upon submission by the entire membership of the Kenton District Court and approved by the Chief Justice.

LOCAL CRIMINAL RULES--KENTON DISTRICT COURT

ULCr RULE 11. CRIMINAL PROCEDURE

ULCr RULE 11.00 DOCKETING PROCEDURES

The following procedures shall govern the Docketing and Disposition of Criminal Cases in the **Kenton District Court**. They are subject to the discretion of the Presiding Judge, and any departures are to be made only for good cause.

ULCr RULE 11.01 ARRAIGNMENTS (MISDEMEANORS AND TRAFFIC VIOLATIONS)

A. Prisoner arraignments will commence at 8:30 a.m. Monday through Friday in Courtroom 3A.

B. Following the prisoner arraignments, the docket shall be called in the following order:

1. Referrals to diversion.
2. Privileged matters involving attorneys.
3. Guilty pleas.

4. Not guilty pleas.

C. Cases in which the Defendant pleads "Not Guilty" will be scheduled for a Bench Trial/Pretrial Conference approximately two (2) weeks from arraignment on the police officer's assigned court day, whenever possible.

ULCr RULE 11.02 BENCH TRIALS/PRETRIALS CONFERENCES

A. The Defendant, Counsel for the Defendant, Counsel for the Commonwealth and all necessary witnesses shall be present at the time assigned for the call of the case.

B. Meaningful plea negotiations shall be conducted prior to the call of the docket.

C. The Docket shall be called in the following order:

1. Guilty Pleas.

2. Cases that are to be continued for a Guilty Plea at a future date. (Good cause must be shown for delay of the guilty plea).

3. Cases that are to be continued for a Bench Trial.

4. Cases that are to be continued for a Jury Trial.

5. Bench Trials.

D. All discovery shall be conducted pursuant to the Rules of Criminal Procedure or by agreement of counsel.

E. Jury Trials are scheduled approximately two (2) weeks after Bench Trials/Pretrials Conferences on the Prosecutor's assigned court date, whenever possible.

F. Counsel will not be allowed to withdraw from a case after appearance at the Bench Trial/Pretrial Conference docket except under extraordinary circumstances and upon proper motions and notice.

ULCr RULE 11.03 JURY TRIALS

A. Counsel for the Commonwealth and Counsel for the Defendant are required to report to the Court on the day preceding the scheduled jury trial, whether a jury will be needed for the trial of their case.

B. All requests for continuances shall be in writing, setting forth the grounds and shall be filed with opposing counsel and the court no later than 10:00 a.m. on the day preceding the scheduled trial. Continuances are granted only for good cause, and not by agreement of counsel.

C. Counsel, Defendants and all witnesses are required to appear at 8:30 a.m. on the day the case is scheduled for Jury Trial except when the Defendant is pleading Guilty, or unless excused by the Court.

D. The Docket shall be called in the following order:

1. Guilty Pleas.
2. Cases when a Guilty Plea is to be taken at a later date.
3. Jury Trials.
4. Bench Trials.

E. If there are not Jury Trials, the Court will try all cases where the Defendant has waived a jury. Cases will not be continued for Bench Trials except for good cause.

ULCr RULE 11.04 FELONIES

A. Arraignments and Preliminary Hearings are scheduled Monday through Thursday at 1:30 p.m. and Friday at 11:00 a.m. in Courtroom 3A.

B. Misdemeanor cases returned from the Felony Docket shall be scheduled for arraignment on the arraignment docket of the Judge presiding when the information is returned.

ULCr RULE 11.05 EXTRADITIONS

After service of a Governor's Warrant for extradition of a fugitive from justice, the person so served shall be brought before the District Court as soon as reasonably possible to do so. Such matters shall be docketed on the Felony Docket of the Court. The person shall not be allowed bond.

At the time of appearance the Court shall advise the Defendant of his or her right to file with the Circuit Court a writ of habeas corpus to test the sufficiency of the Governor's Warrant, the persons right to counsel and all other appropriate information.

In the event that no such writ is requested, Kenton County Detention Center shall be authorized to release the Defendant to the proper designated agents as provided for in the Governor's Warrant.

In the event that such a writ is requested, the Defendant shall not be released pending further orders of the appropriate Court.

UNIFORM LOCAL CRIMINAL RULES - DISTRICT COURT

ULCr RULE 80. NON-FELONY DIVERSION PROGRAM

I. ELIGIBILITY REQUIREMENTS

A. All persons charged in District Court with the commission of a misdemeanor or violation shall be eligible for participation in the Diversion Program, as an alternative to criminal prosecution, subject to the following conditions and exceptions:

1. Except as provided in subsection B and C, a prior conviction for a felony offense, misdemeanor offense or violation, shall preclude eligibility.

2. Prior convictions for violations of traffic regulations under KRS Chapters 186 and 189 shall not preclude eligibility. A prior conviction for DUI will preclude eligibility.

3. Except as provided in subsection C, a person charged with a violent/assaultive crime shall not be eligible for participation in the Diversion Program.

4. Except as provided in subsection C, a person charged with violation of the public trust, under KRS Ch. 522 shall not be eligible for participation in the Diversion Program.

5. Except as provided in subsection C, a person charged with violating any traffic regulation under KRS Ch. 186, 189, 189A, shall not be eligible for participation in the Diversion Program.

6. Except as provided in subsection C, a person who has previously participated in the Diversion Program in this County or any other jurisdiction within or without the Commonwealth of Kentucky shall not be eligible for participation in the Diversion Program.

B. Where a person is charged with an offense of public intoxication under KRS 525.100 or alcohol intoxication under KRS 222.202, and that person has one or more prior convictions for alcohol related offenses other than DUI; and where it appears from the person's record and history that his or her criminal activity is related to the disease of alcoholism or drug addiction, that person will be considered eligible for participation in the program notwithstanding his or her prior conviction. A prior conviction for DUI will preclude eligibility.

C. Where reasons of an extraordinary nature are presented which warrant consideration of a person for participation in the Program, notwithstanding his/her lack of eligibility by virtue of one or more of the above set out exclusions, that person may be considered eligible for participation in the Program by the trial judge.

D. A diversion report shall be prepared by the Pre-trial Service office of the court and

such report shall contain basic pretrial information, record of any past offenses and convictions, record of any prior participation in the diversion program or other similar program, employment status, length of residence in the area, and any other information necessary to determine eligibility and appropriateness of approval to participate in the Diversion Program.

Prior to approval for participation in the Diversion Program the diversion report shall be made available to the County Attorney, the Trial Judge, and the Defendant.

E. Nothing in this rule shall be deemed to limit the authority of the County Attorney to withdraw criminal prosection in any given case.

Nothing in this rule shall be deemed to limit the ability of the County Attorney to implement policies and procedures regarding alternatives to criminal prosecution for individuals who are alleged to have violated the law but who have not been brought before the Court.

II. APPROVAL FOR PARTICIPATION

A. Upon the consent of both the County Attorney and the accused, the trial judge shall approve participation in the Diversion Program for any individual who meets the eligibility requirements established in Section I above unless the trial judge is of the opinion that diversion is inappropriate because:

1. There is a substantial risk that the defendant will abscond from the jurisdiction of the court prior to fulfillment of the terms of the Diversion Contract.

2. There is a substantial risk that the defendant will commit another crime prior to fulfillment of the terms of the Diversion Contract.

3. That the defendant is in need of correctional treatment that can be provided most effectively by commitment to the county jail.

4. That participation in the Diversion Program would unduly depreciate the seriousness of the defendant's crime.

B. Consent of the County Attorney to the Person's participation in the Diversion Program shall not be unreasonably withheld. If the County Attorney refuses to consent to the person's participation in the Diversion Program, he/she shall state on the record the reasons therefore.

C. Upon approval for participation in the Diversion Program, the accused must sign a statement waiving his/her right to a speedy trial. Prior to signing such statement the accused shall be given the opportunity to consult with an attorney if he/she so desires.

D. Prior to approval for participation in the Diversion Program, the Pretrial Services Office shall present to the trial judge the comments and opinions, if any, of the arresting officer and/or victim of the alleged crime regarding the nature of the offense, the appropriateness of diversion, and suggested terms of the Diversion Contract. While not binding on the trial judge, such comments and opinions, if any, shall be considered by the trial judge in determining approval for participation in the Diversion Program.

E. Participation by an accused in the Diversion Program shall not constitute an admission or presumption of guilt of the crime charged, shall not be proof of guilt in any subsequent legal action nor shall a Divertee be required to give a confession or admission of guilt. However, nothing contained in this paragraph shall alter or affect the Divertee's obligation to perform all the terms of the Diversion Contract, including restitution, where agreed to.

F. All records of the Diversion Program, and all statements made by the accused to the diversion officer regarding the offense for which the accused was placed on diversion shall be privileged, shall not be admissible or discoverable for any purpose, shall be exempt from subpoena,

and shall be deemed confidential except for the program staff, the trial judge, and the chief district judge, for purposes of program review, monitoring and supervision and shall not be released to any other person or entity without prior written consent of the chief district judge and the accused. However, nothing in this paragraph shall be deemed to prohibit release of information to the victim of a crime regarding an accused's participation in the Diversion Program.

G. Upon approval for participation in the Diversion Program, the county attorney shall present to the trial judge any special terms, if any, which he/she believes should be included in the Diversion Contract, or which the arresting officer and/or victim have requested to be included in the Diversion Contract. While such requests are not binding on the trial judge, they shall be considered by him/her when approving the Diversion Contract.

H. Upon approval for participation in the Diversion Program, the trial judge shall note on the Court docket any special terms which he/she is requiring to be included in the Diversion Contract.

III. THE DIVERSION CONTRACT

A. Upon approval of participation in the Diversion Program, the accused shall meet with a Diversion Officer to establish and agree to a formal contract which will specify the conditions required, the referral services to be used, the length of the contract, and the need, if any, for the accused to make required restitution or perform community service. The contract shall be presented for final approval to the trial judge, and uon its final approval, the terms of diversion shall commence. The Diversion Contract shall contain any special terms required by the trial judge.

B. The normal contract on each accused shall be for a period of not more than 6 months, unless lengthened by the trial judge.

C. The Divertee must comply with all provisions of the diversion contract. Violation of contract provisions will subject the individual to termination of diversion participation, and reinstitution of criminal prosecution.

D. At any time the Divertee may voluntarily choose to be terminated from the Diversion Program by submitting a written statement indicating same. Where the termination is prior to the expiration of the contract period and without the consent of the Diversion officer, the Diversion Officer shall refer the case to the County Attorney for prosecution. If the accused does not comply with conditions of his/her Diversion Contract, the trial judge may enter an order terminating the accused's participation in the program or direct the resumption of the Divertee's participation in the Diversion process and reinstatement of the Diversion contract, with any modifications ordered by the judge.

As with the original Diversion Contract, the accused must agree to the contract modifications, if any, prior to reinstatement.

E. Upn termination for non-compliance, the County Attorney may initiate prosecution of the accused upon the original criminal charge(s).

F. Upon successful completion of the Diversion Contract the formal criminal charge, out of which the Diversion Contract arose, shall be formally and fully dismissed, and all official records of said charge shall bear the notation that said charge was dismissed with prejudice.

ULCr RULE 81. GUIDELINES FOR THE USE OF PRIVATE PROBATION COMPANIES

I. PURPOSE

While the court encourages that probation services be performed by governmental or non-

profit agencies or volunteers, the court recognizes that these services are not always available and thus to provide for the efficient operation of the court, private probation companies may be the only way to provide needed assistance in certain cases.

In employing the use of private probation companies, the court recognizes that guidelines are needed to assure that public resources are managed efficiently and that no unfair advantage is given, and to assure that the private probation company is an independent contractor selected by the court for a limited purpose and is not an agent, servant or employee of the court.

II. SCOPE OF THE RULE

This Rule shall apply to any private, for profit probation company supervising misdemeanor or traffic offenders convicted in District Court and whose sentence includes alternatives to incarceration or fine provided, however, that it does not apply to programs licensed by the Cabinet for Health Services (CHS) as DUI alcohol/drug education/treatment programs.

III. TERMS

A. No judge of the District Court shall refer a misdemeanor or traffic offender to a private probation company for supervision unless that private probation company has been approved to provide services to the court by general order.

B. No private probation company shall be approved to provide services to the court;

1. Unless it first provides and keeps current on an annual basis proof of liability insurance in an amount to be determined sufficient by the Chief Justice of the Kentucky Supreme Court;

2. If any judge of the District Court, spouse of any judge of the District Court or child residing in the household of any judge of the District Court, has an individual

or fiduciary financial interest in such company;

3. If any principal officer, director or trustee or spouse of said officer, director or trustee is related by blood or marriage within the third degree of relationship to any District Judge or the spouse of any District Judge;

4. Unless it first agrees, in writing, to accept pro bono referrals from the Court on a proportional basis with all other private probation companies providing approved services to the District Court;

5. Unless it first provides the Court with a written schedule of fees to be charged, such schedule to include a sliding scale fee schedule for indigent defendants based upon their ability to pay; and,

6. Unless it first agrees in writing, to assess fees in strict conformity with the fee schedule submitted to the Court and approved by the Court.

C. In utilizing the services of private probation companies to supervise misdemeanor or traffic offenders, the District Court shall;

1. Assure that the private probation company shall have no discretion as to the terms or conditions of probation, including, but not limited to the condition of or amount of restitution;

2. Assure that the private probation company shall not collect any fines, fees and court costs for the Court and assure that the private probation company shall not collect restitution provided, however, that the private probation company shall be permitted to assist/monitor and report to the court the status of payment of same;

3. Approve all fees to be charged by the private probation company and assure

that all fees actually charged are in compliance with the approved schedule of fees;

4. Assure that no employees of the private probation company are seated in the Courtrooms of the District Court within the bar;

5. Assure that the terms of probation or conditional discharge are clearly stated on the Court's docket or other forms provided by the Administrative Office of the Courts and not on the forms of the private probation company;

6. Assign pro bono cases proportionately to all private probation companies approved to provide services to the Court; and

7. Require that all private probation companies report to the Court on a monthly basis all pro bono cases referred to such company by the Court and whether such company accepted or rejected such pro bono referral and, if rejected, the reasons for such rejection.

D. Non-compliance with this order by any private probation company shall constitute grounds for denial or rescinding approval for the private probation company to provide serves to the District Court.

GENERAL RULES FOR PROBATE PRACTICE OF BOONE CAMPBELL, GALLATIN AND KENTON COUNTIES

RULE 86. OBTAINING A COURT DATE

An appointment to probate a Will and/or obtaining an appointment of the personal representative shall be obtained from the District Court clerk by phone or in person. [Boone and Campbell Counties - the Petition must be filed with the clerk's office at least one day prior to the appointment date.] The Notice requirements set forth in KRS 395.016 must be complied with.

RULE 87. INITIAL PETITION

An initial Petition for appointment of a fiduciary, probate of a Will or similar initial proceeding shall be filed in the Probate division of the District Clerk's office, assigned a case number and all required fees paid, including a check payable to the County Clerk for recording the Will and Order admitting same to probate if a Will is involved.

There shall be filed with the Petition, where appropriate, a completed fiduciary bond form (with the amount left blank) and qualifications for the proposed personal representative.

RULE 88. INITIAL PETITION AND DOCKETING THE CASE

An initial Petition and docketing of the case for the appointment of a personal representative, probate of a Will or similar initial proceeding shall be filed with the Probate Division of the District Clerk's office on the date of the hearing and all required fees shall be paid.

RULE 89. FORM OF PLEADINGS

Where appropriate, the documents to be presented to the Court at the initial hearing for its review, findings and approval, shall include the following:

1. Waiver of Recording
2. Petition
3. Witness Form
4. Order Probating Will and Appointing Executor
5. Order Appointing Fiduciary
6. Fiduciary Bond
7. Certificate of Qualification

All pleadings and other papers shall be presented to the Court at the scheduled hearing date

and shall be in writing, typewritten in black type no smaller than 12 point pursuant to CR 7.02. The name, address and phone number of both the attorney for the Estate and the personal representative of the estate shall be included on all pleadings submitted for filing. Uniform state-wide forms shall be modified to reflect the Court title as Boone, Campbell, Gallatin or Kenton District Court. Where appropriate, an Order should be presented with a Motion or Petition.

All pleadings shall contain the authorship thereof in accordance with Civil Rule 11 except that a natural person who has an interest in an estate, either as beneficiary or personal representative, may present such papers even though he or she is not an attorney at law, however such person shall sign his pleadings, motions or other paper and state his address, pursuant to CR 11.

RULE 90. WILLS

Wills that are duly proven and admitted to probate in accordance with law together with the Order admitting the Will to probate shall be recorded with the County Clerk's office. The Petitioner or his/her attorney shall be responsible for the recording of the Will and Order and the fees to the County Clerk if a Will is admitted to probate. Wills that are not proven shall not be admitted to probate and these Wills shall be retained in the Court's record for filing purposes only.

RULE 91. BOND AND SURETY

There shall be filed with the Petition, a completed fiduciary bond form (with the amount left blank). In exercising its discretion under KRS 395.130(1), the Probate Division adopts the following guidelines:

A. The bond of the personal representatives will be set in the amount of the probatable estate even though a testamentary instrument excuses bond or surety thereon.

B. Surety may be excused where a testamentary instrument requests that either bond or

surety not be required or for other compelling reasons.

RULE 92. MOTIONS TO INCREASE AND REDUCE BONDS

A motion to increase bond should be made whenever it is learned that the previous bond is inadequate. A motion to reduce the bond of a fiduciary may be made any time after a periodical settlement has been filed showing a reduction in the assets remaining in the hands of a fiduciary.

RULE 93. INVENTORIES

A personal representative shall file an inventory in duplicate with the Probate clerk within two (2) months from the time of qualifying as said personal representative.

RULE 94. SETTLEMENTS

A. All settlements shall include the following:

1. Whether the settlement is periodical or final.
2. A photocopy of the Kentucky Inheritance Tax acceptance shall be filed with all final settlements of decedent's estate.
3. A probate accounting summary shall be filed with each final settlement.

B. All disbursements shall be supported by the original photocopy which may include vouchers, receipts or canceled checks filed with the settlement and in the order as shown on the settlement. As many vouchers, etc. as are possible shall be placed on a single page so that the volume of these items may be kept to a minimum.

C. The Court shall establish one day a month for confirmation day. To be confirmed, a settlement must be filed with the probate clerk at least seven (7) days prior to the confirmation date, to permit the clerk to properly advertise the settlement, if applicable.

D. If no exceptions or objections to the settlement are filed, the settlement shall be

confirmed at the confirmation day.

E. If exceptions or objections are filed, the attorneys involved should arrange with the Probate Court for a date when the matter may be heard.

F. The foregoing subsections of this Rule shall not apply in an estate in which an informal settlement shall be filed in keeping with the provisions of KRS 395.605.

RULES, AMENDMENTS AND CHANGES

RULE 100. GENERAL TERMS OF AMENDMENT AND CHANGES.

A. The Court may have a General Term at which the Judges of the Circuit or District as applicable shall preside and may at this General Term adopt amendments or changes to these Rules subject to the approval of the Chief Justice of the Supreme Court.

B. All Rules adopted and other business transacted by the Judges at the General Term shall be entered by the Clerk in the Order Book of the General Term. Such Order Book of the General Term shall be kept and maintained by the Clerk, in addition to the Order Book and Judgment Book of the several divisions of the Court.

C. These Rules have been adopted in compliance with SCR 1.040(3)(a) and any changes herein shall be made in accordance with said Rule.

D. It Is Hereby Ordered that all previous Rules of Practice and Procedure of these Circuit and District Courts are hereby set aside and repealed.

E. This Order promulgated and entered by the presiding Judges and effective upon approval of these Rules by the Supreme Court on the date set forth on the Order approving, page one of these Rules.