Supreme Court of Kentucky

ORDER

IN RE: ORDER APPROVING THE LOCAL RULES OF COURT FOR THE 25TH JUDICIAL CIRCUIT, CLARK AND MADISON COUNTIES

Upon recommendation of the Judges of the 25th Judicial Circuit, Clark and Madison counties, and being otherwise sufficiently advised,

The Local Rules for the 25th Judicial Circuit, Clark and Madison counties, are hereby approved and shall be in effect on and after January 3, 2023. This order shall be effective as of January 3, 2023, and until further orders of this Court.

Entered this the 23rd day of August 2022.

CHIEF JUSTICE JOHN D. MINTON, JR.

25th JUDICIAL CIRCUIT
MADISON AND CLARK COUNTIES
LOCAL RULES

1. INTRODUCTION AND EFFECTIVE DATE:

1.1 These Local Rules shall govern civil and criminal proceedings in Division I, II, and V of the 25th Judicial Circuit, unless they conflict with any law of the United States or the Commonwealth of Kentucky, at any time legally adopted, in which event any such statute, law, rule, or order shall always prevail.

1.2 These rules shall be in effect on and after January 3, 2023, pending approval by the Chief Justice of the Supreme Court of Kentucky. On the same date, all local rules presently in effect for the general jurisdiction divisions of the 25th Judicial Circuit are hereby repealed.

1.3 These rules may be cited "LR25JC."

2. DIVISIONS:

2.1 The 25th Judicial Circuit, consisting of Madison Circuit Court and Clark Circuit Court, shall convene and transact business in five (5) divisions. The general jurisdiction divisions are to be designated as "25th Circuit, Division I," "25th Circuit, Division II," and "25th Circuit, Division V." The procedure in these divisions shall be governed by these Rules. Divisions III and IV of the 25th Circuit are designated as family court divisions pursuant to Section 112(6) of the Kentucky Constitution. Procedure in the family court divisions is governed by separate rules of practice and procedure promulgated by the judges of the family court. When the judges of the family court preside on matters for Divisions I, II, or V, these Rules shall apply.

2.2 The Hon. Brandy Oliver Brown and her successors in office shall preside over Division I of the circuit court.

2.3 The Hon. Cole Adams Maier and her successors in office shall preside over Division II of the circuit court.

2.4 Division V shall be presided over by the judge elected for the regular term commencing on the first Monday in January 2023 and his/her successors.

3. JURY SELECTION AND MANAGEMENT:

3.1 Procedures for the selection of persons to serve on juries shall be governed by the applicable provisions of the Kentucky Revised Statutes and the Administrative Procedures of the Kentucky Court of Justice.

3.2 Madison Circuit Court Petit Jury: A new petit jury will be empaneled on the first Monday of each month. If a state holiday falls on the first Monday of any month, the jury will be empaneled on the Tuesday following the holiday. Once empaneled, a member of the petit jury shall continue to serve in that capacity until a new petit jury is empaneled or until the completion of the last case on which that juror is selected to serve, whichever occurs last.

(a) Division I: The judge of Division I shall preside over the petit jury sessions of the Madison Circuit Court during the months of January, April, July, and October.

(b) Division II: The judge of Division II shall preside over the petit jury sessions of the Madison Circuit Court during the months of February, May, August, and November.

(c) Division V: The judge of Division V shall preside over the petit jury sessions of the Madison Circuit Court during the months of March, June, September, and December.

3.3 Clark Circuit Court Petit Jury: A new petit jury will be empaneled on the first Monday of each month. If a state holiday falls on the first Monday of any month, the jury will be empaneled on the Tuesday following the holiday. Once empaneled, a member of the petit jury shall continue to serve in that capacity until a new petit jury is empaneled or until the completion of the last case on which that juror is selected to serve, whichever occurs last.

(a) Division I: The judge of Division I shall preside over the petit jury sessions of the Clark Circuit Court during the months of February, May, August, and November.

(b) Division II: The judge of Division II shall preside over the petit jury sessions of the Clark Circuit Court during the months of March, June, September, and December.

(c) Division V: The judge of Division V shall preside over the petit jury sessions of the Clark Circuit Court during the months of January, April, July, and October.

3.4 Madison Circuit Court Grand Jury: There shall be empaneled four (4) grand juries each year. The first grand jury shall be empaneled during the January jury sessions and shall serve through the month of March. The second grand jury shall be empaneled during the April jury sessions and shall serve through the month of June. The third grand jury shall be empaneled during the July jury sessions and shall serve through the month of September. The fourth grand jury shall be empaneled during the October jury sessions and shall serve through the month of December.

3.5 Clark Circuit Court Grand Jury: There shall be empaneled four (4) grand juries each year. The first grand jury shall be empaneled during the January jury sessions and shall serve through the month of March. The second grand jury shall be empaneled during the April jury sessions and shall serve through the month of June. The third grand jury shall be empaneled during the July jury sessions and shall serve through the month of September. The fourth grand jury shall be empaneled during the October jury sessions and shall serve through the month of December.

3.6 Grand Jury Session Dates and Return of Indictments: The Grand Jury serving in each county shall meet at least monthly. Indictments shall be returned to the judge presiding over the petit jury session in each county. The Madison County Grand Jury shall return indictments in open court on Wednesdays at 3:30 p.m. or with leave of court. The Clark County Grand Jury shall return indictments in open court on Mondays at 3:00 p.m. or with leave of court.

4. APPEARANCES BY COUNSEL:

4.1 Entry of Appearance: In all cases, upon being retained, counsel shall file a written entry of appearance, unless counsel's entry of appearance is apparent from pleadings filed. On the pleadings and in the entry of appearance, counsel shall set forth counsel's office, address, mailing address, telephone number, fax number, and e-mail address.

4.2 Withdrawal: Once having entered appearance, counsel shall remain of record, unless relieved of responsibilities by the Court upon written motion and notice (with copy of said motion served upon the client), until expiration of the time for filing a notice of appeal after the entry of a final judgment or order. For good cause shown, the Court may permit oral motions to withdraw so long as the interests of the litigant are not adversely affected.

4.3 Scope of Appearance: Unless counsel specifies otherwise on the record, an entry of appearance is a general appearance for all purposes. An entry of appearance for a limited purpose shall specify the limited nature of counsel's representation of the client.

5. CRIMINAL PROCEEDINGS:

5.1 The Kentucky Rules of Criminal Procedure govern procedure and practice in all criminal proceedings in the Kentucky Court of Justice.

5.2 Assignment of Cases: After the initial transfer and reassignment of cases to Division V, the Clerk of each circuit court shall randomly assign cases equally to the criminal divisions of the 25th Circuit.

5.3 Arraignments: Arraignments will be conducted during the regularly scheduled criminal Motion Dockets for Divisions I, II, and V.

5.4 Pre-Trial Conferences: The Commonwealth and the Defendant must represent to the Court that a good faith effort has been made to resolve the matters complained of in the indictment. In advance of the Pre-Trial Conference, counsel should prepare the case, including providing and reviewing discovery, negotiating possible resolutions, filing motions, and conducting investigations, for the purpose of minimizing delay in bringing cases to trial or resolution.

5.5 Jury Trials: Jury trials begin promptly at 9:00 a.m. in Madison and Clark counties. Unless otherwise specified, counsel shall meet in chambers at 8:30 a.m. to discuss preliminary matters, motions, and jury instructions. No motions may be filed the morning of the trial without leave of the Court. Counsel may tender proposed jury instructions any time prior to the commencement of the trial.

5.6 Settlement of Cases:

(a) At any time prior to trial, a defendant who wishes to resolve his/her case by entering a guilty plea may do so by filing a Motion to Enter a Guilty Plea to be heard on the presiding judge's next available criminal docket.

(b) Parties shall notify the Court and the Circuit Clerk prior to 3:30 p.m. on the business day before the case is scheduled for trial if the case is settled. The Court retains discretion to refuse a plea of guilty pursuant to a plea agreement if a jury has reported.

5.7 Court Proceedings: The criminal docket shall be conducted in-person. No party or counsel shall appear by teleconference method without leave of court.

5.8 Regular Motion Dockets: Except for legal holidays, and unless otherwise ordered by the Court, the regular Motion Dockets of the 25th Circuit shall be as follows:

(a) Madison Circuit Courtroom 1 (Hearing Courtroom):

a. 1st Thursday, Division II: 9:00 a.m., Criminal Docket: Arraignments, Probation Revocations, Sentencings, and Motions.
b. 2nd Thursday, Division V: 9:00 a.m., Criminal Docket: Arraignments, Probation Revocations, Sentencings, and Motions.
c. 3rd Thursday, Division I: 9:00 a.m., Criminal Docket: Arraignments, Probation Revocations, Sentencings, and Motions.

(b) Madison Circuit Courtroom 2 (Jury Trial Courtroom):

a. 1st Thursday: Division I
   i. 11:00 a.m., Criminal Docket: Arraignments, Probation Revocations, and Motions; and

ii. 1:30 p.m., Criminal Docket: Pre-Trial Conferences, Status Hearings, and Sentencings.

b. 2nd Thursday: Division II
   i. 11:00 a.m., Criminal Docket: Arraignments, Probation Revocations, and Motions; and
   ii. 1:30 p.m., Criminal Docket: Pre-Trial Conferences, Status Hearings, and Sentencings.

c. 3rd Thursday: Division V
   i. 11:00 a.m., Criminal Docket: Arraignments, Probation Revocations, and Motions; and
   ii. 1:30 p.m., Criminal Docket: Pre-Trial Conferences, Status Hearings, and Sentencings.

(c) Clark Circuit Courtroom:

a. 1st Thursday, Division V: 11:00 a.m., Criminal Docket.
b. 2nd Thursday, Division I: 11:00 a.m., Criminal Docket.
c. 3rd Thursday, Division II: 11:00 a.m., Criminal Docket.

5.9 Special Hearing Days: In addition to the regular Motion Dockets, the Court may, from time to time, set special hearing days to accommodate the state holiday schedule, the schedules of the Court or the parties, the caseload of the circuit, or other relevant considerations.

5.10 Filing Deadline: Unless otherwise directed by the Court, all cases must be placed on the Motion Docket by the close of business on the Friday preceding the regular Motion Docket (unless Friday is a holiday, in which event it shall be close of business on the Thursday preceding the docket). Any motion not accompanied by notice of date for hearing shall be summarily overruled except for good cause shown.

5.11 Inter-Division Transfers: When the judge of any division to which a criminal case has been assigned is disqualified, or when the necessity for an early trial date arises, or when, in the opinion of the judges, other good and sufficient reasons so require, any criminal proceeding may be transferred from one division to another.

5.12 Absence of the Presiding Judge: Regardless of the assignment of a criminal proceeding to a particular division, the judge of any division may, in the absence of the assigned judge, exercise jurisdiction and sign any order or entertain any proceeding when the assigned judge is not readily available or is incapacitated.

6. CIVIL PROCEEDINGS:

6.1 The Kentucky Rules of Civil Procedure govern procedure and practice in all actions of a civil nature in the Kentucky Court of Justice (except for special statutory proceedings).

6.2 Assignment of Cases: After the initial transfer and reassignment of cases to Division V, the Clerk of each circuit court shall randomly assign cases equally to the civil divisions of the 25th Circuit.

6.3 Court Proceedings: The civil docket shall be an in-person/teleconference hybrid docket. Parties and counsel may appear by available teleconference means for motions that have no response or no objection filed and scheduling matters. For other docket appearances, counsel and parties shall appear in-person.

6.4 Regular Motion Dockets: Except for legal holidays, and unless otherwise ordered by the Court, the regular Motion Dockets of the 25th Circuit shall be as follows:

(a) Madison Circuit Courtroom 1 (Hearing Courtroom):

a. 1st Thursday, Division II: 1:30 p.m., Civil Docket.
b. 2nd Thursday, Division V: 1:30 p.m., Civil Docket.
c. 3rd Thursday, Division I: 1:30 p.m., Civil Docket.

(b) Madison Circuit Courtroom 2 (Jury Trial Courtroom):

a. 1st Thursday, Division I: 9:30 a.m., Civil Docket.
b. 2nd Thursday, Division II: 9:30 a.m., Civil Docket.
c. 3rd Thursday, Division V: 9:30 a.m., Civil Docket.

(c) Clark Circuit Courtroom:

a. 1st Thursday, Division V: 9:30 a.m., Civil Docket.
b. 2nd Thursday, Division I: 9:30 a.m., Civil Docket.
c. 3rd Thursday, Division II: 9:30 a.m., Civil Docket.

6.5 Special Hearing Days: In addition to the regular Motion Dockets, the Court may, from time to time, set special hearing days to accommodate the state holiday schedule, the schedules of the Court or the parties, the caseload of the circuit, or other relevant considerations.

6.6 Motions Requiring Additional Time: Except for good cause shown, any motion requiring a hearing of more than fifteen (15) minutes will be assigned for a specific time and date when it is called on the regular Motion Docket.

6.7 Courtesy Copies: Parties may e-mail or fax motions to the Court prior to the hearing date for informational purposes, but e-mailed or faxed motions shall not be

recognized by the Court until the original is received and entered in the record by the appropriate Circuit Clerk. This Rule in no way precludes a party from filing motions in compliance with the e-filing system. Motions filed in compliance with the e-filing protocol shall be deemed properly filed.

6.8 Filing Deadline: Unless otherwise directed by the Court, all cases must be placed on the Motion Docket by the close of business on the Friday preceding the regular Motion Docket (unless Friday is a holiday, in which event it shall be close of business on the Thursday preceding the docket). Any motion not accompanied by notice of date for hearing shall be summarily overruled except for good cause shown.

6.9 Agreed Orders and Default Judgments: Any motion accompanied by an Agreed Order and any motion for a default judgment (if no party is entitled to notice) may be filed with the Clerk and sent directly to the presiding judge for signature.

6.10 Withdrawal, Remand, or Cancellation: Any withdrawal or remand of motions shall be made by the filing party directly to the Court and the Clerk. Any cancellation of hearings must be by agreement of all parties.

6.11 Pre-Trial Conferences:

(a) Matter of Course: Pre-trial Conferences shall be held as a matter of course in all civil jury trial actions and in such civil non-jury actions as deemed necessary by the parties and/or the Court.

(b) Date and Time: Pre-trial Conferences shall be held at a time and date set by the Court upon motion of a party.

(c) Procedures prior to Pre-Trial Conference: Except for good cause shown, or unless otherwise directed by the Court, the parties shall comply with the following prior to a Pre-Trial Conference:

a. Pleadings completed and issues defined;

b. Discovery proceedings completed;

c. At or before the Pre-Trial Conference, submit written instructions incorporating the parties' then understanding of the issues and the law, without prejudice to the right to present further instruction as may be indicated by subsequent proceedings;

d. Be prepared to stipulate to certain facts as to the admissibility of certain documents or other evidence, or withdraw certain allegations or defenses appearing in the pleadings whenever possible, if same can be

done without prejudice to the presentation of the case of either party; and

e. In tort actions involving personal injury, be prepared to exchange such medical reports and copies of medical bills or evidence of special damages as are subject to discovery under the Kentucky Rules of Civil Procedure.

6.11 Assignment of Trial Date: At a Pre-trial Conference, any action may be assigned or reassigned to a definite date for trial. A Pre-Trial Order shall be entered by the Court. In the Pretrial Order, the Court may require each party to submit a trial brief consisting of a short memorandum of the party's view of the fact and law on which it will rely and may fix a time for filing such briefs. Any party making a claim for damages shall submit an itemized statement of damages and amounts claimed in the trial brief.

6.12 Scheduling Orders: Upon motion of either party or on the Court's own initiative, a Scheduling Order may be provided in any civil case. The Scheduling Order may set deadlines for completion of discovery, disclosure of experts, pre-trial motions, and any other matters necessary to prepare the matter for trial. If not previously entered, a Scheduling Order shall be considered at the Pre-Trial Conference.

6.13 Failure to Comply: Except for good cause shown, failure to comply with any trial order may result in sanctions, and deviations will not be allowed to the disadvantage of opposing parties.

6.14 Settlement of Cases:

(a) An Agreed Order of Dismissal, signed by all parties or their counsel, shall be prepared and tendered to the presiding judge for signature upon the settlement of any civil action.

(b) Parties shall notify the Court and the Circuit Clerk prior to 3:30 p.m. on the business day before the case is scheduled for trial if the case is settled.

6.14 Entry of Orders and Judgments:

(a) All orders and judgments of the Court may, at the request of the Court, be prepared by counsel in whose favor the order or judgment is rendered.

(b) A proposed order or judgment shall be tendered with any motion.

(c) If the proposed order or judgment is not satisfactory to opposing counsel, counsel shall immediately make any objections known to the Court and present that party's alternative version of the order or judgment.

7. MEDIATION

7.1 Mediation: Mediation is an informal process in which a neutral third person(s) called a mediator facilitates the resolution of all or part of a dispute between disputing parties. Decision-making authority remains with the parties, not the mediator. The mediator assists the parties in identifying issues, fostering joint problem solving, and exploring settlement alternatives.

7.2 Civil Matters: In all civil matters, the mediation process shall be governed by CR 99 and CR 100.

7.3 Criminal Matters:

(a) All participants must agree to mediate before a request is made, and all referrals are subject to approval of the presiding judge.

(b) A request for a retired judge mediator must originate with the presiding judge. A felony criminal case that is eligible for mediation and approved by the presiding judge should be scheduled with the retired judge mediator.

(c) Criminal mediations are conducted at no additional cost to the participating parties.

(d) Mediation in criminal matters shall be considered plea discussion for the purposes of KRE 410.

8. JUDICIAL SALES

8.1 Referral to the Master Commissioner: Referral of judicial sales to the Master Commissioner shall be as provided by the Administrative Procedures of the Court of Justice Part IV, the Rules of Civil Procedure, the Kentucky Revised statutes, and these Rules, or by court order in individual cases.

8.2 Motion for Judgment and Order of Sale: Every motion for default or summary judgment and order of sale shall be served by facsimile, e-mail, or U.S. Mail on the Master Commissioner at the time of the filing and accompanied by a tendered judgment and order of sale and an order referring the case to the Master Commissioner (AOC-141 form or its equivalent). The order of sale shall specifically indicate the purpose of the referral and the duties to be performed by the Master Commissioner and shall include a Clerk's Certificate indicating a copy of the order of sale is to be served on the Master Commissioner.

8.3 Bids in Advance of Sale: If a party who has obtained a judgment on property on which an order of sale has entered wishes to submit a bid in advance of sale, the party may do so by written, facsimile or email request to the Master Commissioner and the bid shall be recorded upon written, facsimile or email reply by the Master

Commissioner acknowledging the bid. The bid may not exceed the face amount of the party's judgment.

8.4 Cancellation of Sale: If a party who has obtained an order of sale wishes thereafter to cancel the sale, a written, facsimile or email request shall be made to the Master Commissioner and the sale shall be cancelled upon a written, facsimile or email reply from the Master Commissioner acknowledging the cancellation. Any fees for a cancelled sale shall be paid as provided by the Administrative Procedures of the Court of Justice Part IV, the Rules of Civil Procedure, the Kentucky Revised Statutes, and these Rules, or by court order in individual cases.

9. PROFESSIONAL EXPECTATIONS.

9.1 Rules of Professional Conduct: Attorneys are required to strive to make the system of justice work fairly and efficiently. In carrying out that responsibility, attorneys are expected to comply with the letter and spirit of the Kentucky Rules of Professional Conduct.

9.2 Code of Professional Courtesy: The 25th Judicial Circuit hereby adopts the Kentucky Bar Association Code of Professional Courtesy as a guideline for lawyers in their dealings with their clients, opposing parties and their counsel, the courts, and the public.

9.3 Judicial, Staff, and Court Official Courtesy: The Court hereby recognizes the Rules of the Supreme Court in Canon 3.B(4). A judge shall be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers and others with whom the judge deals with in an official capacity, and require similar conduct of lawyers and staff, court officials, and others subject to the judge's discretion and control.

Submitted this 23rd day of August, 2022.

Brandy O. Brown

Hon. Brandy Oliver Brown
Chief Circuit Judge
25th Circuit, Division I

Hon. Cole Adams Maier
Circuit Judge
25th Circuit, Division II