SUPREME COURT OF KENTUCKY

ORDER APPROVING LOCAL RULES

Pursuant to SCR 1.040 (3) (a), the local rules for the Perry Circuit Court, 33rd Judicial District, attached as the appendix to this order, are approved.

Entered March 3rd, 1989.

Judge, Perry Circuit Court

Chief Justice
Supreme Court of Kentucky

RULES OF PRACTICE
OF THE
PERRY CIRCUIT COURT

RULE 1. CITIATION OF RULES.

These rules apply to the practice of law in the Perry Circuit Court and shall be cited as "RPCC" or "Rules of the Perry Circuit Court."

RULE 2. MOTION DAYS.

A. Excepting legal holdiays, every Thursday during the entire calendar year is designated as Motion Day, unless otherwise ordered by the Court.

B. Motions shall be scheduled by appointment with the office of the Perry Circuit Court Judge.

RULE 3. CRIMINAL ARRAIGNMENTS AND ATTORNEY'S WITHDRAWAL.

A. All defendants shall be arraigned in open court as ordered by the Court following the return of an indictment or information.

B. Both the defendant and his attorney must be present at the arraignment. If the defendant is not represented by an attorney, the Court shall, before his arraignment, appoint counsel to represent him at the arraignment. The attorney

appearing for the defendant at the arraignment shall represent the defendant in all future stages of the proceeding.

C. An attorney shall not withdraw from employment after arraignment in a criminal proceeding without permission of the Court.

D. Post trial withdrawals shall be subject to the following:

1. Retained trial counsel shall secure permission from the Court before withdrawing as counsel for any defendant who is to appeal a judgment of conviction;

2. Before permission to withdraw is granted, it shall be the responsibility of retained trial counsel to prepare and file the following:

(a) Notice of appeal pursuant to RCr 12.04;

(b) Motion, affidavit, and order for leave to appeal in forma pauperis;

(c) Order directing preparation of transcript pursuant to Rule 21 of the Rules of the Perry Circuit Court; and

(d) Order substituting the public defender's office as counsel on appeal.

RULE 4. PRE-TRIAL CONFERENCE-CRIMINAL CASES.

A. At the time of arraignment, each case shall be assigned for a pre-trial conference and trial. Pre-trial conferences shall be held as a matter of course in all criminal cases. Participants in the pre-trial conference

shall be the Commonwealth Attorney, the defendant and his or her attorney.

B. The attorney appearing for the defendant at arraignment shall be in attendance at the pre-trial conference and shall submit such written motions as he shall expect to offer in the case. No additional motions may be offered after pre-trial conference, except by leave of the Court upon a showing of excusable neglect or if it concerns a matter of which he was not aware or which did not come to his attention prior to the time of the pre-trial conference or in the interest of justice.

C. The Court may at any time re-assign the trial of a criminal case to another date.

RULE 5. ASSIGNMENT OF CIVIL JURY CASES.

A. A party desiring assignment of a trial date for a civil jury case shall file a motion requesting that the case be assigned to the jury docket and for pre-trial conference, if there is any issue triable of right by a jury or if the Court in its discretion determines that there should be a trial by jury of any issue.

B. At the pre-trial conference hearing the Judge will assign a trial date. Unless there are exceptional reasons, jury actions shall be assigned at least two weeks in advance of trial.

RULE 6. PRE-TRIAL CONFERENCE IN CIVIL CASES.

A. Pre-trial conferences shall be held as a matter of course in all jury actions and upon the motion of either party or upon the Court's own motion in all other actions.

B. Pre-trial conferences in all jury actions shall be assigned to be held at such times as shall be designated by the Court. The attorney attending the pre-trial conference shall be familiar with the case and shall be prepared and authorized to make such arguments, stipulations and decisions as may be required during the said conference.

C. Except for good cause shown, before a case is heard at the pre-trial conference, the parties shall comply with the following:

1. Pleadings completed and issues made up.

2. Discovery proceedings complete or scheduled.

3. At or before the pre-trial conference submit written instructions incorporating the parties then understanding of the issues and the law.

4. Be prepared to stipulate certain facts as to admissibility of certain documents or other evidence, or withdraw certain allegations or defenses appearing in the pleading whenever possible and if same can be done without prejudice to the presentation of the case by either party.

5. 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 Rules of Civil Procedure.

D. If a pre-trial order is not entered at the time, the attorneys shall be responsible for preparation and submission of a pre-trial order, incorporating the Court's rulings, agreements or stipulations of the parties and any matter designated by the Court not later than ten days following the pre-trial conference. The Court may require each party to submit a trial brief, consisting of a short memorandum of his view of the facts and law on which he will reply and, if so, the Court shall fix the time for filing such briefs in the pre-trial order.

E. At the pre-trial conference, any action may be assigned or re-assigned to a definite date for trial and the Court shall consider the following:

1. If the Court feels after a request for a jury trial that a case is not proceeding to disposition the Court may order an expediting conference and set time limitations.

2. If the parties have not complied with the provisions of these rules, the Court may decline to set the case for trial, refuse to continue the trial of the case, or take such other action as may be deemed appropriate.

3. Cases that have been previously assigned for trial and continued shall not be given preference as to trial date, except in those cases where good cause appears for giving such preference.

RULE 7. MOTIONS.

A. Form of Motion.

1. Written motions, other than those that may be heard ex parte, and notice of the hearing thereof, shall be served by delivery at least three days before the time specified for the hearing unless a different period is fixed by the Rules of Civil Procedure, any applicable statute, or by Court order.

2. All motions going to the merits of the case, including motions to dismiss, motions for summary judgment, motions to strike, and motions under CR 12.02 shall be accompanied by a brief memorandum of the grounds for the motion with citation of authorities relied upon, but not greater then 25 pages in length. Failure to file a memorandum of grounds with supporting authorities may be grounds for overruling the motion. Any party properly served with a motion accompanied by a memorandum of grounds and authorities shall file a response containing a memorandum of grounds for opposing the motion, with citation of supporting authorities, but not greater than 25 pages in length. Such response shall be filed at least 24 hours prior to the time specified in the notice of hearing of the motion. Failure to file a timely response may be grounds for sustaining the motion, but the time for filing a response may be extended upon oral or written motion for good cause shown, including such factors as the length and complexity of the motion and supporting memorandum. Any reply memorandum shall be limited to 5 pages in length.

3. A motion to compel discovery, for a protective order, or for sanctions may be filed pursuant to CR 26 and/or CR 37 only if counsel are unable to resolve between themselves the discovery dispute. Counsel have the duty to make a good faith effort to resolve any disputes which arise in the course of discovery. 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.

RULE 8. DOMESTIC ACTIONS.

A. All domestic proceedings, including dissolutions of marriage, annulments, legal separations, motions for temporary relief, rules and all motions dealing with custody of children, visitation, child support, maintenance, restraining orders, injunctions, modifications and contempt proceedings shall be heard by the Domestic Relations Commissioner, unless the Court otherwise directs.

B. Practice before the Domestic Relations Commissioner shall be governed by the rules attached hereto and made a part hereof and which shall be cited as "RPCC-DR" or "Rules of the Perry Circuit Court - Domestic Relations."

RULE 9. ENTRY OF ORDERS AND JUDGMENTS.

Whenever any ruling is made or opinion rendered, an order or judgment in conformity therewith shall be attested by

counsel for all parties thereto as in conformity to the ruling or opinion, and shall be presented to the Court. If the party against whom the order or judgment is to be entered is not represented by counsel, or be represented by counsel who declines to attest the order or judgment, such fact shall be endorsed thereon.

RULE 10. EFFECTIVE DATE.

These rules are adopted pursuant to the authority granted by Rule 1.040(3) of the rules of the Supreme Court and they shall apply with full force and effect to all actions filed or pending after their approval by order of the Judge of the Perry Circuit Court and certification of the Chief Justice of the Supreme Court.

PERRY CIRCUIT COURT

RULES OF PROCEDURE DOMESTIC RELATIONS

The Perry Circuit Court, pursuant to an Order of the Supreme Court of Kentucky, dated _____, 1989, has appointed a Domestic Relations Commissioner in accordance with CR 53.03, and these Rules shall be applicable to all domestic relations cases and proceedings in this circuit.

RULE 1. All motions and pleadings in domestic relations cases shall be captioned in the following manner:

PERRY CIRCUIT COURT

CIVIL DIVISION - DRC

RULE 2. Motion hours for all domestic relations matters shall be held in the Perry County Courthouse on every Friday during the entire calendar year, unless otherwise ordered, and shall be scheduled at such times as the Court may direct.

RULE 3. (a) For any hearing the commissioner shall receive a fee of $40.00 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 $600.00 shall be assessed in any case regardless of the number and length of hearings except that if a case is reopened, additional fees totaling not more than $200.00 may be assessed. No more than $15.00 shall be assessed in any uncontested divorce.

(b) The Domestic Relations Commissioner shall have authority to apportion fees for a contested trial in his/her proposed findings of fact and conclusions of law.

RULE 4. (a) The Domestic Relations Commissioner shall orally hear all trials and motions, including dissolutions of marriage, annulments, legal separations, motions for temporary relief, rules and all motions dealing with custody of children, visitation, child support, maintenance, restraining orders, injunctions, modifications and contempt proceedings.

(b) Proceedings before the commissioner shall be recorded. In addition, all matters may be reported or recorded by any party who elects to do so. If a party elects to have testimony reported or recorded, he may engage the services of a court reporter, and the party engaging the court reporter shall be responsible for the cost of the court reporter's appearance, but either party may, at his or her own expense, have the transcript prepared by the reporter and pay for same.

RULE 5. Upon the final hearing of a contested trial or motion, the result of which any decree entered or modified or parts thereof terminated, except for motions to modify visitation privileges, the Domestic Relations Commissioner shall prepare and enter and have served upon the parties his/her proposed findings of fact, conclusions of law and opinion within thirty (30) days after the conclusion of the final hearing.

RULE 6. The parties shall have ten (10) days from the date of entry of the proposed findings of fact, conclusions of law and opinion in which to file exceptions with the Domestic Relations Commissioner to said proposed findings of fact, conclusions of law and opinion as entered pursuant to Rule 5.

RULE 7. The exceptions shall be noticed to be heard at the next regular motion hour when the Domestic Relations Commissioner will rule thereon. A final ruling in conformity with the Commissioner's determination may be prepared by counsel but shall be signed by the Commissioner.

RULE 8. The parties shall file exceptions with the Circuit Court within ten (10) days after the entry of the final ruling of the Domestic Relations Commissioner on the exceptions taken to his/her proposed findings of fact, conclusions of law and opinion. At the hearing on the exceptions, the Court may, in

its discretion, affirm, alter or amend the findings of fact, conclusions of law and opinion in any respect, or it may return the same to the Domestic Relations Commissioner for additional proof and/or recommendations. Referral back to the Domestic Relations Commissioner is discouraged and will be done infrequently. In the event the Court determines that a transcript of the testimony is necessary, and one has been prepared, then it will be filed with the Circuit Clerk.

RULE 9. If no exceptions are filed with the Court within the time allowed, then the parties shall prepare an order approving and incorporating the proposed findings of fact, conclusions of law and opinion for execution by the Circuit Court and provide thereon an appropriate opportunity for the Domestic Relations Commissioner to execute his/her approval. If exceptions have been filed subsequent to the ultimate ruling by the Domestic Relations Commissioner, then the orders relevant thereto shall be tendered directly to the Circuit Court.

RULE 10. (a) All decrees, rules and all orders entered upon motions to modify or terminate decrees, restraining orders, injunctions, contempt orders and temporary orders entered upon pendente lite motions shall be signed by the Circuit Judge, but shall contain the following notation along the left-hand margin:

Recommended:

_____
DOMESTIC RELATIONS COMMISSIONER

Rulings on exceptions shall be in accord with Form 1, attached to these Rules.

(b) All routine orders setting contested trial dates, contested hearing dates or affecting purely administrative matters, or rulings entered upon exceptions filed before the Domestic Relations Commissioner, shall be signed by the Domestic Relations Commissioner.

RULE 11. The current "Guidelines for establishing child support payments" of the Perry Circuit Court shall be used as a broad guideline to be followed by the Domestic Relations Commissioner in child support matters. A copy of said guidelines are attached hereto and made a part hereof.

RULE 12. (a) At the trial of an uncontested proceeding for dissolution of marriage, counsel shall tender the decree which he deems appropriate.

(b) The Court will not try any proceeding for dissolution of marriage until all costs have been paid and that fact has been endorsed on the record over the signature of the Clerk.

RULE 13. (a) Every motion to assign an action for dissolution of marriage for contested trial shall be accompanied by verified schedules pursuant to Rule 13(b), which schedules shall include the information set forth hereinafter, for the party filing the motion setting forth separately in the following order:

INCOME AND EXPENSE SCHEDULES

1. Employment status, including income and deductions therefrom as shown by periodic wage statement(s);

2. Any additional sources of income;

3. Adjusted gross income for each of the preceding five (5) years as shown by federal income tax returns, copies of which for the last three (3) years shall be annexed to the schedule;

4. Present monthly expenses as shown by past expenditures and anticipated additional expenses, if any, upon dissolution of marriage.

PROPERTY SCHEDULE

1. Marital real estate, the value thereof, and the unpaid balance of any liens thereon;

2. Marital personal property (DO NOT list household or personal effects individually unless the value of an

individual item is in excess of $100.00), the value thereof, and the unpaid balances of any liens thereon;

3. Marital debts (DO NOT include debts listed above as liens), and the unpaid balance thereof;

4. Non-marital real estate, the values thereof, the unpaid balance of any liens thereon, and the factual and legal basis relied upon in support of such designation;

5. Non-marital personal property, the values thereof, the unpaid balances of any liens thereon and the factual and legal basis relied upon in support of such designation; and

6. Non-marital debts (DO NOT include debts listed above as liens), the unpaid balances thereof and the factual and legal basis relied upon in support of such designation.

(b) Verified schedules in the same form and for the opposing party shall be filed by the opposing party within ten (10) days of the service of the motion for a trial date unless a different period is fixed by order of the Domestic Relations Commissioner.

(c) No trial date shall be assigned if the motion therefore is not accompanied by the required schedules, and in the event the opposing party fails to file schedules within the ten (10) day period, or if either party files an incomplete schedule, the Domestic Relations Commissioner, on his/her initiative, or on the motion of any party, may recommend such

orders in regard to the failure as are just, and among others the following:

1. An order that the matters set forth in the obedient party's schedule be taken as established;

2. An order prohibiting the disobedient party from introducing designated matters in evidence;

3. An order staying further proceedings until the disobedient party has filed the required schedules;

4. An order assessing all court costs, including attorneys fees, against the disobedient party.

COMMONWEALTH OF KENTUCKY
PERRY CIRCUIT COURT
CIVIL BRANCH - DRC
NO. _____

IN RE: THE MARRIAGE OF

JOHN DOE PETITIONER

AND ORDER

JANE DOE RESPONDENT

* * * * * *

The Petitioner/Respondent having filed exceptions to the proposed findings of fact, conclusions of law and opinion of the Domestic Relations Commissioner and the parties having been heard and the Court having considered the testimony and argument of counsel, and being otherwise sufficiently advised;

IT IS HEREBY ORDERED that the exceptions be overruled/ (modified as follows:)

_____

_____

_____

Given under my hand this _____ day of _____, 1989.

_____
JUDGE, PERRY CIRCUIT COURT

FORM #1