Supreme Court of Kentucky

ORDER

IN RE: ORDER APPROVING THE LOCAL RULES OF PRACTICE AND PROCEDURE FOR THE 42nd JUDICIAL CIRCUIT, MARSHALL AND CALLOWAY CIRCUIT COURTS

Upon recommendation of Judge Andrea Moore and Judge Stephanie Perlow of the 42nd Judicial Circuit, Marshall and Calloway Circuit Courts, and being otherwise sufficiently advised,

The Local Rules of Practice and Procedure for the 42nd Judicial Circuit are hereby approved. This order shall be effective as of the date of this Order and shall remain in effect until further orders of this court.

Entered this the 15th day of January 2026.

Debra Hembree Lambert
CHIEF JUSTICE

RULES OF PRACTICE
42ND JUDICIAL CIRCUIT 1ST DIVISION
MARSHALL AND CALLOWAY, KENTUCKY

I. CITATION OF RULES

These Rules may be cited as "RCC" or Rules of the Circuit Court.

II. JUDGES

42ND Judicial Circuit Court 1ST Division shall be presided over by Judge Andrea Moore and her successors in office.

III. JURY TRIAL TERM

A. Jury Trials shall be conducted during the following periods in Marshall Circuit Court:

(1) During the month of March of each year, the term shall commence on the first Thursday and shall continue through the Friday before the first Thursday in May.

(2) During the month of July of each year, the term shall commence on the first Thursday and shall continue through the Friday before the first Thursday in September.

(3) During the month of November of each year, the term shall commence on the first Thursday and shall continue through the Friday before the first Thursday in January.

B. Jury Trials shall be conducted during the following periods in Calloway Circuit Court.

(1) During the month of January of each year, the term shall commence on the first Thursday and shall continue through the Friday before the first Thursday in March.

(2) During the month of May or each year, shall commence on the first Thursday and shall continue through the Friday before the first Thursday in July.

(3) During the month of September of each year, the terms shall commence on the first Thursday and shall continue through the Friday before the first Thursday in November.

C. The Court may, in its discretion, establish additional terms of court and set either civil or criminal matters for jury trials during special terms. The Court may, at its discretion, set trials at times other than during a regular term of court to expedite the disposition of cases.

IV. MOTION DAYS AND MOTION PRACTICE

The following shall apply to all motion in civil or criminal matters, except those which are permitted by the Civil Rules or Statute to be heard ex parte.

A. Motion days for Calloway Circuit Court shall be held on the first and third Mondays of each month commencing at 8:30 a.m. Motion days for the Marshall Circuit Court shall be held on the second and fourth Tuesdays of each month commencing at 8:30 a.m. When Monday is a designated holiday, Rule Day will be

held at the convenience of the court.

B. As a general guideline, the Court's schedule for the motion docket shall be:

Criminal Court: 8:30 a.m.-1:00 p.m.
Civil Court: 2:00 p.m.-4:30 p.m.
Drug Court: (Thursdays) 10:00 a.m.-11:00 a.m.

If the moving party is not present, the court may take the motion at the end of the Docket. If a motion requires a hearing, the Court shall continue it to another time so as not to disrupt the regular motion calendar. On call of the motion docket, the Court may either rule on a motion, take it under advisement, set it for a day to be heard or continue it until the following motion day.

C. There shall be filed with each motion a brief statement of the ground therefore with citations of authorities relied upon, which may be set forth in the body of the motion if the pleader so desires. Photocopies of cases relied upon may be attached as appendices to the Court's copy. Motions shall be filed with the Clerk and served at least eight (8) days prior to the time fixed for the hearing. Responses, if any, shall be filed and served at least three (3) days prior to the time fixed for the hearing. These time limits may be waived or modified by the Court upon a showing of good cause or in the interests of justice. The time of receipt of the motion shall be considered by the Court in ruling on requests for late filing.

D. Attorneys are expected to appear in person at motions properly noticed or subject themselves and their clients to sanctions. Attorneys must appear in person unless they have been given consent to appear virtually by the presiding judge.

E. In case of urgency, a motion upon proper notice may be noticed for hearing at another time. In this event, the attorney for the moving party should consult with the Judge and responding party for a suitable time for the matter to be noticed.

F. In the event that a party is properly noticed for a motion and is absent at the hearing for the motion without cause for such absence, the Court may rule upon the motion even in the absence of the parties, although the Court may consider in lieu of such party's presence, a properly filed memorandum or affidavit.

G. CONTINUED MOTIONS. An attorney who will be unable to be present at the time set for a motion shall immediately contact the moving attorney and attempt to establish a mutually agreeable time for the hearing of the motion. Should this prove unsuccessful, the party desiring the continuance shall immediately file a motion for continuance in writing, stating the reasons for the continuance, and shall send a copy directed to the attention of the judge as well as filing with the Clerk.

H. A movant may bring his or her motion under CR 78(2), which makes provisions for the determination of motions without oral hearings upon brief written statements of reasons in support and opposition. A proposed order shall accompany the motion. The movant shall give notice that the motion is made under CR 78(2) and shall direct the attention of the opposing attorney (or party if there is no attorney) to the fact that under this local rule, the motion maybe granted routinely by the Court ten days after filing unless a response is filed. After checking with the Clerk's Office, the party shall proceed to set the motion

for a Motion Day at a giving time.

I. The Judge will keep available a calendar showing dates and times for the hearing of contested motions. Parties may, by agreement, set the hearing of contested motions with the Judge's Secretary at any available times on the docket, subject to later rescheduling by the Court.

J. Motions for Default Judgment shall be set subject to the following:

1. Foreclosures and actions involving multiple parties. All motions involving foreclosures as well as motions involving multiple parties shall be set on a regular rule day on the Court's regular civil docket. All parties who are represented by counsel shall have counsel present at any such hearing, and counsel appearing shall be required to be counsel of record in the case. It shall not be sufficient for an attorney who is not the attorney of record to simply appear on behalf of other counsel.

2. Collection cases. Motions for default judgment in collection cases and in other default judgment actions may be noticed at the convenience of the Court provided that the moving party provide the following information by sworn affidavit to the Court:

A. The identity of the moving party, as well as any changes in the legal status of the moving party, to the extent that the Court and any non-moving party can identify the original party who has made the claim. This is

particularly applicable in collection cases.

B. The amount of damages claimed, with the amounts being broken down into principal amount, accrued interest and /or finance charges where applicable, and any requests for attorney's fees. Requests for attorney's fees must be accompanied by an affidavit of counsel setting out the basis for the request for attorney's fees. Otherwise, such motions shall be set on a regular motion day and counsel shall be present at the hearing.

V. MASTER COMMISSIONER PRACTICE

(A) References to Master commissioner

1. Referrals of cases shall be made to the Master Commissioner (sometimes the "Commissioner") as provided by the Rules of Civil Procedure, the Kentucky Revised Statutes, the Administrative Procedures of the Court of Justice, Part IV. Master Commissioners of the Circuit Court, these Rules, or by court order in individual cases.

2. An Order Referring Case to Master Commissioner for Judicial Sale (and payment of the Administrative Procedures Part IV, section II (11) administrative Fee to the Circuit Court Clerk) must be entered prior to an Order of Sale being distributed by the Clerk to the Master commissioner and the Master Commissioner undertaking the Order of Sale.

(B) Orders of Sale

1. Orders for sale of property shall contain:

   (a) A complete caption setting forth the names of all parties to be bound by the judicial sale. Abbreviations such as "etc." or "et al" shall not be used.

   (b) A legal description of the property sought to be sold, together with the source of title of the present owner or owners.

   (c) The address and the PVA map number of the property sought to be sold or, if it is true, a recitation of the fact that the property has no address.

   (d) The dollar amount of the judgment as of a day certain, together with he daily amount of accruing interest and contract rate of interest (if the order of sale is for the purpose of enforcing a judgment for money).

   (e) The names and last known addresses of all parties who are in default.

   (f) A Clerk's Certificate with the name and address of each party not in default, or if represented by counsel, the name and address of the counsel and party represented.

   (g) If the order directs the sale of a manufactured home, the order shall include the year, make, and model, and VIN number of the manufactured home, and shall further provide that the party requesting the sale shall provide to the master Commissioner, prior to the date of sale, all documents necessary to transfer title to the Purchaser (property completed except for the Purchaser's name and address).

2. Orders of sale may contain special conditions of sale, for example, such as

Property to be sold on site, specific combinations of property containing Multiple tracts; special advertising in addition to advertising required by statute. Orders of sale may contain a provision that the party who obtained the Judgment may cancel the sale by delivering a written notice to cancel sale to the Master commissioner at least one hour prior to the scheduled sale. A notice to cancel sale shall not be effective unless the Master Commissioner confirms receipt of the notice prior to the sale.

3. Orders of sale shall not contain:

   (a) Specific dates on which the sale is to be conducted.

   (b) Designations of the appraisers to be used by the Master Commissioner, provided, however, if a party knows of any reason that an appraiser should be disqualified to serve in a particular case, such disqualification may be made a part of the order of sale.

   (c) Any requirement that he Master Commissioner take any action of any extraordinary nature unless a specific motion is made seeking such relief. Any such motion shall be made as a separate motion from any motion seeking an order of sale.

   (d) Any provision that the party who obtained the Judgment may cancel the sale verbally or by leaving a message for the Master Commissioner or that the Master Commissioner shall cancel the sale if the judgment holder or its representative is not present at the scheduled sale.

(C) Terms and Conditions of Sale

1. Unless otherwise ordered, all sales shall be conducted by the Commissioner in the Marshall /Calloway County Courthouse, on the following terms and conditions:

   (a) Before conducting a sale, the Master Commissioner shall advertise in a

newspaper, meeting the requirements of KRS 424.120, the time, terms, and place of sale, together with a description of the property to be sold.

(b) Pursuant to KRS 424.130, the advertisement shall be published at least one time but may be published two or more times, provided that one publication occurs not less than 7 nor more than 21 days before the sale.

(c) When more than one sale is set for the same date, all such notices in any newspaper shall be advertised by the insertion of one single item with the general information applicable to each sale appearing only once and the cost of advertising such general information equally apportioned too the cost of advertising such general information equally apportioned too the cost of the sale of the various cases to which applied.

2. The Master Commissioner before making a sale of real property shall have the property appraised by two intelligent, disinterested housekeepers of Marshall/Calloway County who are not related to any parties to the action. Before making appraisals, the appraisers shall be sworn. They shall return their appraisals in writing to the Master Commissioner who shall file the appraisal in the court record prior.

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

(a) At the time of sale, the successful bidder shall either pay cash or make a deposit of 10% of the purchase price with the balance on credit for thirty (30) days. If the purchase price is not paid in full, the successful bidder shall be required to give bond with surety approved by the Master Commissioner for the unpaid purchase price. Pursuant to KRS 426.705, the bond shall bear

interest at the rate the judgment bears from the date of sale until paid.

(b) The purchaser shall be required to assume and pay all taxes or assessments on the property for the current tax year and all subsequent years.

All taxes or assessments on the property for all prior years shall be paid from the sale proceeds if properly claimed in writing and filed of record by the purchaser prior to confirmation.

(c) The property shall otherwise be sold free and clear of any right, title or interest of all parties to the action and all liens and encumbrances thereon, excepting easements and restrictions of record in the Marshall/Calloway County Clerk's Office and such right of redemption as may exist in favor of the United States of America or the defendant(s).

(d) The terms and conditions hereinabove set out may be adopted by reference to this rule in the order or judgment directing the sale, or shall be restated therein.

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

(D) Report of Sale

The Master Commissioner shall file a Report of Sale no later than three business days after date of sale. A copy of the Report of sale shall be served on the purchaser in addition to all parties not in default.

(E) Tax Liens

Within five (5) days after the Master Commissioner files his Report of Sale, all third party tax lien claimants shall file an itemized statement of amount due as of the date of sale for each tax lien including without limitation the taxing authority, tax year, tax bill number, PVA parcel number(s), address stated on the tax bill, date of purchase, purchase price, interest, administrative fee, attorney fees, litigation expenses and costs. If a third-party tax lien claimant fails to timely file a Statement of Amount Due, the claimant shall be deemed to have waived any claim for payment and lien on the property.

(F) Confirmation of Sale

Ten (10) days after filing the Report of Sale, if no objections have been filed thereto, the Master Commissioner shall file a motion to confirm sale to be ruled on at the convenience of the Court without a hearing, and shall tender a proposed order confirming sale. Copies of the motion to confirm sale and the order of confirmation shall be served on the purchaser in addition to all parties not in default.

(G) Fees of the Commissioner

The Commissioner shall be entitled to those fees set forth in Part IV of the Administrative Procedures of the Court of Justice.

(H) Orders of Distribution

Orders requiring distribution of funds held by the Commissioner shall set forth all amounts collected, identify the proper recipient(s) and the specific amounts due each under the judgment or order.

(I) Appraiser's Fees

Appraisal fees shall be set by the Court and may be modified from time to time and in special circumstances by entry of a general or specific Order. Appraisal fees shall be paid from sale proceeds.

VI. WARNING ORDER ATTORNEYS

Upon submitting an affidavit for a Warning Order Attorney, the affiant must pay $150.00 to be applied toward the future services of the Warning Order Attorney. A Warning Order Attorney shall be appointed upon request.

A. Motions for compensation shall be accompanied by a report indicating:

1. The hours of service rendered with a brief description of the services rendered and reasonableness of the fee requested; and
2. That the action or proceeding has been concluded and date of disposition.

B. The Circuit Clerk shall pay any remitted fees to the Warning Order Attorney upon the Order of Approval of a motion requesting compensation.

VII. VIDEOTAPE DEPOSITIONS

Videotape depositions may be taken upon proper notice being given without requiring leave of court.

VIII. ASSIGNMENT OF CIVIL ACTIONS FOR TRIAL

(A) Any civil case in which the pleadings and discovery of parties have been completed, or should have been completed, as to those parties not in default for failure to plead may be assigned for trial on a day certain. Assignment of a case for trial shall be made by the Judge in accordance with CR 40, on

motion of any of the parties, or on the Court's own motion.

(B) Assignment of a case for trial at a pretrial conference which has been convened in accordance with other provisions of these rules shall be deemed to have been made on the Court's own motion, and the parties shall be deemed to have been given proper notice thereof.

(C) The Clerk shall at all times maintain a trial calendar of jury and nonjury cases which have been set for trial. Motions to set such cases for trial and notice of such motions will be governed by the provisions of these Rules pertaining in general to all motions.

IX. MEDIATION - CIVIL CASES

Mediations shall be conducted in accordance with CR 99 and 100.

X. PROCEDURE IN CRIMINAL CASES

(A) A regular grand jury shall be empaneled pursuant to KRS 29A.210 on or before the first Thursday in January, May and September of each year in each County, and at such other times as the Judge may find that the ends of justice or the needs of the county require. A special grand jury may be empaneled by the Judge pursuant to KRS 29A.220 in the manner and for the reasons provided by that section.

(B) The Grand Jury shall meet on the second Thursday of each month in Marshall County and on the third Thursday of each month in Calloway County. The Grand Jury shall return all new indictments to the Court following their meeting, but no later than the second rule day of each month. On the first rule day of the following month, all defendants in criminal cases (except appeals) who have not been previously arraigned shall be required to appear for arraignment, if arraignment is required by law, and for the setting of such cases for a pretrial conference. Criminal matters shall have priority on the Court's docket for trial dates. These dates may be changed with leave of Court.

(C) At the time of arraignment each case shall be assigned a time for a status conference. Prior to the status hearing, a pretrial conference shall be held in accordance with the Court's pretrial order as a matter of course. At arraignment the Court may enter a standard discovery order. Further discovery may be requested in writing as is necessary.

(D) The attorney for the defendant, and the defendant, unless otherwise relieved, shall be in attendance at the pretrial conference and at the status hearing.

(E) At the status hearing, if not resolved, the case shall either be assigned for trial, continued for good cause shown, or referred to mediation. If the case is assigned for trial, the Court will conduct a final status hearing at least two weeks prior to the trial. After the status hearing, the Court will not accept or consider any plea agreement between the defendant and the Commonwealth, or continue any case, except for good cause.

(F) On or before the final status hearing, the attorneys shall advise the Court whether they are ready for trial, and the probable length of trial. When a conflict exists, and two or more trials are scheduled for the same day, the Court will assign priority to the cases scheduled. Any motion for a continuance must be made and heard prior to the designated report date, except for good cause shown.

(G) If it appears after inquiry and examination that a defendant is not financially able to employ an attorney and is otherwise eligible for the appointment of counsel to represent him the Court shall appoint the office of Public Advocacy as his counsel, subject to existing law and regulations of that agency.

(H) In the event a defendant shall insist upon representing himself without counsel, the defendant shall be brought before the Court and be examined by the Court concerning his understanding of the proceedings and possible consequences to him in the proceedings, his right to the assistance of counsel, and all other relevant matters. If the Court is convinced that defendant is aware of his rights and has waived them knowingly,

voluntarily, and intelligently, the Court shall permit him to proceed without counsel and shall by written order relieve any counsel previously appointed.

(I) The Court's standard reciprocal discovery order shall be complied with by all parties.

(J) No additional evidence shall be placed in the Commonwealth file within thirty (30) days of the trial date. If additional evidence is to be placed with the file, the Court shall continue the trial date, unless the Defendant agrees to a trial on the date scheduled.

(K) It shall be defendant's responsibility to obtain discovery from the Commonwealth. The Commonwealth shall, certify in writing the Discoverable items in its file.

(L) Pre-Sentence Investigation Reports shall be provided to defense counsel no later than two working days prior to sentencing of a defendant in any case. Confidentiality of these reports shall be governed by KRS 534.050.

(M) Mediation. Criminal mediations will be held on the fifth Monday of each quarter, when appropriate. The Commonwealth and Defense counsel shall inform the Court of their intentions to mediate prior to mediation and the outcome of the mediation shall be reported to the Court on the Rule Day following mediation.

XI. PRETRIAL CONFERENCES

(A) Pretrial conferences shall be held in accordance with the provisions of CR 16, and shall be scheduled in all cases by the parties, or on the Courts own motion. Dates for pretrial conferences shall be fixed by Court order, copies of which shall be mailed by the Clerk to all counsel of record, and to parties not represented by counsel, at least ten (10) days in advance of the dates of the conference unless the parties agree otherwise.

(B) In the order to be entered pursuant to CR 16, the Court may require the parties to submit in advance of the trial written instructions based upon the issues and the law as then conceived by the parties, without prejudice to

their right to present other instructions at the time of the trial. The Court may also require submission of memoranda of law on any aspects of the case specified in the order.

XII. JURY SELECTION

This Court hereby adopts the procedures set forth in the "Administrative Procedures of the Court of Justice. Part II, Jury Selection and Management, Section 5," to be implemented as follows:

(A) The Jury Management System maintained by the Administrative Office of the Courts shall be used.

(B) At least 45 days prior to the first day of January, May, and September of each year, the Circuit Clerk shall request the Administrative Office of the Courts to furnish to each Circuit Court the names of four hundred (400) prospective jurors. These names shall be used by the Judge at each respective jury session.

(C) The Court may, at its discretion, require the Clerk to request additional names of jurors, should the need arise.

XIII. JURY QUESTIONNAIRE

The contents of juror qualification forms shall be made available to the trial judge and to parties or their attorneys of record unless the Chief Circuit Judge or his designee determines in any instance in the interest of justice that this information shall be kept confidential, or its use limited in whole or in part. See Administrative Procedure of the Court of Justice, Part II, Section 7, Subsection (7). The forms and the information contained therein shall remain confidential and shall not be disclosed to anyone except the parties, the attorneys of record, persons associates with the office of the attorneys of record, persons employed by the attorneys of

record to aid in jury selection, or court officials. The forms may be photocopied at the expense of the requesting party or attorney, but such copies are to be destroyed within a reasonable time following the jury term.

XIV. ENTRY OF ORDERS OF JUDGMENTS AND SERVICE

The original of an Order or Judgment shall have thereon a prepared Certificate of Service for the Clerk's signature and said certificate shall state the names and addresses of all parties to the proceedings, who are not in default for failure to appear, or if the parties are represented by counsel, the name of their respective counsel and their addresses. The Order of Judgment, when signed by the Judge, shall be delivered to the Clerk for entry. Notice of entry of the Order or Judgment shall be made by the Clerk in accordance with CR 77.04.

XV. TRIALS/TRIAL BRIEFS

All trials are to commence at 9:00 a.m. Counsel for the litigants are to be present in the Courtroom at 8:30 a.m. Trial Briefs shall be filed in accordance with the Court pretrial orders. Failure to timely file a trial brief
may subject counsel to appropriate sanctions by the Court.

XVI. INSTRUCTIONS

The parties upon direction of the Judge shall submit those instructions to be offered at trial, additional instructions may be offered at trial upon close of the evidence, and to conform to the proof or in the interest of justice, as provided by CR 51.

XVII. DISMISSAL OF ACTION AND FAILURE TO PROSECUTE

(A) When any action has remained on the Civil Docket for one (1) year without

any step being taken which indicates an intention to prosecute said action, the court, on motion of any party, or on the Court's own motion after notice to the parties, shall upon a hearing dismiss the action for lack of prosecution unless good cause is shown.

(B) In the event an Order of Dismissal is so entered, the Court shall reconsider its order, providing any affected party shall, within thirty (30) days from the entry of said Order of Dismissal, file a motion to reconsider said Order with the Clerk. Any Order of Dismissal shall also be subjected to the provisions of CR 60.02.

XVIII. INTERROGATORIES AND ADMISSIONS

Each party may propound a maximum of thirty (30) interrogatories and thirty (30) requests for admission to each other party. For purposes of this Rule, each subpart of an Interrogatory or request shall be counted as a separate interrogatory or request.

The following shall not be included in the maximum allowed:
Interrogatories requesting (a) the name and address of the person answering; (b) the names and addresses of the witnesses; and (c) whether the person answering is willing to supplement his answers if information subsequently becomes available.

Any party may move the Court for permission to propound either interrogatories or requests for admission in excess of the limit of thirty (30), and such request shall be freely given except for good cause shown otherwise.

When answering interrogatories or requests for admission, or in filing objections thereto, the replying party shall, as a part of his answer or objection and immediately preceding the same, set forth the question or the request made with respect to which such answer or objection is given.

Answer to Interrogatories and Requests for Admissions must be returned within thirty (30) days after service of the Interrogatories for forty-five (45) days after service of Summons of the Defendant.

XIX. COURT FILES

All Circuit Court records shall be retained under the responsibility and control of the Circuit Clerk. The Clerk may allow files to be removed in the same manner provided for by Kentucky Rule of Civil Procedure 75.07.

XX. FAXES

No facsimile pleading or order shall be considered filed of record without an original being tendered within five working days of the facsimile transmission.

XXI. INCORPORATION OF FAMILY COURT RULES

To the extent that it may be applicable and/or necessary, The Rules of Court of the Family Court of the 42nd Judicial Circuit Court are incorporated herein and adopted verbatim.

To the extent that it may be necessary under these Rules, the Circuit Judge of this Court and the Family Court Judge of this Court shall have the authority to act in the absence of the other in any matter before either Circuit Court or Family Court.

XXII. EFFECTIVE DATES

These rules are adopted pursuant to the authority granted by SCR 1.040(3)(a), and they shall apply with full force and effect to all actions pending after the date of their promulgation by order of the Judge of the 42nd Judicial Circuit and approval by the Supreme Court of Kentucky.

All previous rules of this Court are abolished.

Dated this the 23rd day of October, 2024.

HON. ANDREA MOORE
CIRCUIT JUDGE 1ST DIVISION
42nd JUDICIAL CIRCUIT

HON. STEPHANIE PERLOW
CHIEF CIRCUIT JUDGE
42ND JUDICIAL CIRCUIT