Supreme Court of Kentucky

ORDER

IN RE: ORDER APPROVING THE LOCAL RULES OF PRACTICE AND PROCEDURE FOR THE 43RD JUDICIAL CIRCUIT, DIVISION 1, BARREN AND METCALFE COUNTIES

Upon recommendation of the Judges of the 43rd Judicial Circuit, and being otherwise sufficiently advised,

The Local Rules of Practice and Procedure for the 43rd Judicial Circuit, Division 1, Barren and Metcalfe counties, 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 March 2019.

CHIEF JUSTICE JOHN D. MINTON, JR.

Local Practice and Procedure Rules
Of the Forty-Third Judicial Circuit, Division I

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Rule 1 Introduction and effective date

1.1 These Local Court Practice and Procedure Rules shall govern civil and criminal proceedings in Division I of the 43rd 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 at all times prevail. All local court rules presently in effect in the 43rd Judicial Circuit are hereby repealed.

1.2 These rules shall become effective on May 1, 2019, subject to approval by the Chief Justice of Kentucky prior to that date.

1.3 These rules may be cited "LR 43 Rule _____."

Rule 2 Rule Days; Motions and motion dockets

2.1 Except for legal holidays, and unless otherwise ordered by the Court, the regular Rule Days of the Forty-Third Circuit Court, Division I, shall be as follows:

BARREN CIRCUIT COURT - Every Monday:

9:00 A.M. Civil Motion Hour

10:00 A.M. Criminal Arraignments/Motions/Sentencing Hearings

1:00 P.M. Criminal Pretrial Conferences/Motions

BARREN CIRCUIT COURT - Every Second and Fourth Tuesday:

1:30 P.M. Criminal Revocation Hearings

METCALFE CIRCUIT COURT - Every Second and Fourth Tuesday:

9:00 A.M. Both Civil and Criminal Matters

2.2 In addition to regular Rule Days, 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.

2.3 The Circuit Clerk of each county shall keep a Motion Docket and shall docket in order all motions assigned for hearing.

2.4 All motions, civil and criminal, except those that are permitted to be filed *ex parte*, shall be filed with the Clerk of the appropriate county and served on opposing counsel by

delivery no later than closing time in the Clerk's office one week immediately preceding the Rule Day upon which the motion is to be heard. If service of the motion is by mail, an additional three (3) days' notice shall be required.

2.5 Any withdrawal or remand of motions or cancellation of hearings shall be made by the filing party directly to the Circuit Judge and to the Clerk and must be by agreement of all parties.

2.6 Parties may e-mail or fax motions to the Circuit Judge 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.

2.7 Any party who receives a notice of possible dismissal pursuant to CR 77.02 shall strictly comply with the notice and with the terms of CR 77.02. Failure to do so may result in dismissal of the action without prejudice.

Rule 3 Civil discovery

3.1 No depositions shall be taken on any Saturday, Sunday, or holiday, except upon prior agreement among counsel.

3.2 Without leave of the Court or unless the parties agree to a greater number, each party is limited to a total of 30 (including subparts) interrogatories or requests for admissions.

Rule 4 Appearances by counsel

4.1 Upon being retained, counsel shall forthwith file a written entry of appearance, unless counsel's entry of appearance is apparent from pleadings filed.

4.2 On 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.

4.3 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.

4.4 Unless counsel specifies otherwise on the record, an entry of appearance is considered to be 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.

Rule 5 Entry of orders and judgments

5.1 All orders and judgments of the Court shall, at the request of the Court, be prepared by counsel in whose favor the order or judgment is rendered.

5.2 In civil actions, proposed orders shall be tendered with each motion.

5.3 If such 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.

5.4 In all matters taken under advisement, the Court may direct the parties to submit proposed orders or judgments for consideration. All such proposed orders or judgments shall be submitted via e-mail to the Court in a Word (or compatible) document format, with a hard copy submitted to the Clerk. Counsel shall transmit a courtesy copy to opposing counsel. At such time that the Court becomes able to sign orders electronically, the Court may direct parties to submit proposed orders in that fashion.

Rule 6 Mediation

6.1 On motion of any party in a civil matter, or *sua sponte*, the Court may order the parties to attempt a resolution through mediation. In making this decision, the court shall consider:

(a) the stage of the litigation, including the need for discovery, and the extent to which it has been conducted;

(b) the nature of the issues to be resolved;

(c) the value to the parties of confidentiality, rapid resolution, or the promotion or maintenance of on-going relationships;

(d) the willingness of the parties to mutually resolve their dispute;

(e) other attempts at dispute resolution;

(f) the ability of the parties to participate in the mediation process; and

(g) the cost to the parties.

6.2 The parties shall agree on the time and place of mediation. In civil matters. The parties shall agree upon selection of a mediator and upon its costs. If the parties are unable to agree, the Court shall establish all terms of mediation and payment of costs.

6.3 Mediation in civil matters shall be considered settlement negotiations for the purposes of KRE 408, and in criminal matters shall be considered plea discussions for the purposes of KRE 410.

Rule 7 Jury trials

7.1 Civil and criminal jury trials in the Barren and Metcalfe Circuit Courts shall begin PROMPTLY at 9:00 A.M.

7.2 Unless otherwise specified, counsel shall meet in chambers at 8:00 a.m. to discuss preliminary matters, motions, and jury instructions. No motions may be filed on the morning of trial without leave of the Court.

7.3 Counsel in civil actions shall comply with the terms of any Jury Trial Order or other order regarding pretrial compliance.

7.4 Counsel in criminal actions may tender proposed jury instructions at any time prior to trial.

Rule 8 Assignment of trials in civil matters

8.1 Upon motion to set for trial, the Court shall schedule a trial date if the case is reasonably ready for trial. The Court may also schedule a Pretrial Conference, at which trial counsel shall be present.

8.2 When a jury trial is requested, a Jury Trial Order shall be entered by the Court directing the parties to furnish to the Court and each other at least one week prior to trial a Pretrial Compliance Statement containing the following:

1. A statement of the kind of action and a report on the status of mediation efforts;
2. Stipulations;
3. A statement of disputed issues with citation of authorities;
4. A confirmation that discovery is completed, or if not completed, the probable completion date;
5. A list of expected witnesses and brief summary of their testimony;
6. A separate list of expert witnesses and brief summary of their testimony;
7. A list of marked exhibits;
8. A list of all special damages and supporting documents; and
9. Proposed Jury Instructions.

8.3 The Court reserves the authority to tailor its trial order to fit the requirements of each case. If any such order differs in any material respect from the above, the Jury Trial Order entered by the Court in a given case shall take precedence over these general rules.

8.4 When a bench trial is requested, the Court will enter a Bench Trial Order which may contain provisions similar to the above pretrial compliance rules for jury trials. However, the Court will tailor the terms of any such order to the particulars of the case.

8.5 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.

8.6 All attorneys should examine their files prior to trial to ensure that all interrogatories and requests for admission have been answered and updated. Failure to furnish discovery material required by the civil rules shall result in sanctions.

Rule 9 Settlement of cases

9.1 Parties shall notify the Court and the Circuit Clerk prior to 3:30 P.M. on the day before the case is scheduled for trial if they settle a case, so jurors will not have to be summoned.

9.2 At the request of a party, the Court may schedule a settlement conference.

Rule 10 Assignment of cases in criminal matters

10.1 At arraignment, all cases shall be set for a Pretrial Conference.

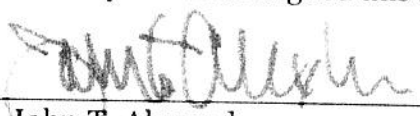
10.2 A Discovery/Reciprocal Discovery Order shall be entered at arraignment unless otherwise requested by the defendant.

10.3 The Commonwealth and the defendant shall work toward a resolution of the case, to be presented at the Pretrial Conference.

10.4 Except for good cause shown or leave given, no guilty plea shall be accepted by the Court after the final Pretrial Conference.

10.5 The Court retains the discretion to refuse a plea of guilty pursuant to a plea agreement if a jury has reported. Any plea of guilty will be an open plea, accepted without recommendation from the Commonwealth.

Submitted by the undersigned this 15th day of March, 2019.



Hon. John T. Alexander
Chief Circuit Judge, 43rd Judicial Circuit, Div. I
Barren and Metcalfe Counties