**COMMONWEALTH OF KENTUCKY**
**FOURTH JUDICIAL CIRCUIT**
**HOPKINS CIRCUIT COURT, DIVISION ONE**
**MADISONVILLE, KENTUCKY 42431**

**ORDER STAYING IMPLEMENTATION OF**
**THE DECEMBER 2019 REVISIONS TO LOCAL RULES 1, 2A, and 7B**

After consultation with the office of the Chief Justice of the Kentucky Supreme Court, the December 2019 revisions and amendments to local rules of practice 1, 2A, and 7B in Division One of the Hopkins Circuit Court are **stayed until further order**. At such time as the current vacancy on this bench is filled, these revisions and amendments may be reevaluated.

This order is effective immediately and is certified to the Chief Justice of the Supreme Court of Kentucky pursuant to *Kentucky Rule of Civil Procedure 83*.

**So entered, this the 3rd day of January 2020.**

**Hon. Susan Wesley McClure,**
**Chief Circuit Judge, Hopkins Circuit Court**

**HAVE SEEN AND APPROVED:**

**CHIEF JUSTICE JOHN D. MINTON, JR.,**
**SUPREME COURT OF KENTUCKY**

SEE ORDER STAYING IMPLEMENTATION
DATED JANUARY 3, 2020

# Supreme Court of Kentucky

**ORDER**

**IN RE: ORDER APPROVING AMENDMENT TO RULES 1, 2 A., AND 7 B. OF THE LOCAL RULES OF PRACTICE AND PROCEDURE FOR THE 4TH JUDICIAL CIRCUIT, HOPKINS CIRCUIT COURT**

Upon recommendation of the Judges of the 4th Judicial Circuit, Hopkins Circuit Court, and being otherwise sufficiently advised,

The amendment to Rules 1, 2 A., and 7 B. of Local Rules of Practice and Procedure for the Hopkins Circuit Court 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 18th day of December 2019.

CHIEF JUSTICE JOHN D. MINTON, JR.

COMMONWEALTH OF KENTUCKY

FOURTH JUDICIAL CIRCUIT

HOPKINS CIRCUIT COURT

MADISONVILLE, KY 42431

# REVISIONS OF THE RULES OF PRACTICE OF THE HOPKINS CIRCUIT COURT

The Rules of Practice of the Hopkins Circuit Court, Fourth Judicial Circuit are hereby amended as follows:

## Rule 1. Jury Terms

There shall be three (3) jury terms in each calendar year. The first jury term shall begin the first week of January and run through the last week of April each year. The second jury term shall begin the first week of May and run through the last week of August each year. The third jury term shall begin the first week of September and run through the last week of December each year.

A Grand Jury shall be empaneled on the first day of each term and shall continue in session through said term.

## Rule 2. Motion Practice

A. Motion Days

Each Monday of the month shall be designated as Motion Day. Civil Motions shall begin at 9 am. Criminal Motions shall begin at 9:30 am or as soon thereafter at the conclusion of civil motions. If any Motion Day falls on a legal holiday, then there will be no motions that week and any motions to be scheduled will need to be heard on the following Monday.

## Rule 7. Pre-trial Practice

B. Criminal Cases

Criminal Cases will be assigned a pretrial conference date at 8:30 am on the Court's designated Motion days or on an alternate date convenient to the Court, the Commonwealth and the Attorney for the Defendant.

## EFFECTIVE DATE

These rules shall be effective January 1, 2020 unless otherwise noted. They are adopted pursuant to the authority granted by Rule 83 of the Kentucky Rules of Civil Procedure, and shall be certified to the Chief Justice of the Supreme Court as provided therein.

Adopted this the 12 day of December, 2019.

James C. Brantley

Hon. James Brantley
Judge, Hopkins Circuit Court

12-18-2019 Amendment to Rules:
1. Jury Terms; 2A. Motion Practice;
and 7B. Criminal Cases

# Supreme Court of Kentucky

**ORDER**

**IN RE: ORDER APPROVING THE LOCAL RULES OF PRACTICE AND PROCEDURE FOR THE 4TH JUDICIAL CIRCUIT, HOPKINS CIRCUIT COURT**

Upon recommendation of the Judges of the 4th Judicial Circuit, Hopkins Circuit Court, and being otherwise sufficiently advised,

The Local Rules of Practice and Procedure for the Hopkins Circuit Court 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 1st day of March 2013.

CHIEF JUSTICE JOHN D. MINTON, JR.

# RULES OF PRACTICE
# OF THE
# HOPKINS CIRCUIT COURT

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## RULE 1. JURY TERMS

**A. Terms.**
January Term: Beginning on the first week in January and running for three (3) months.
April Term: Beginning on the fist week in April and running for three (3) months.
July Term: Beginning on the first week in July and running for three (3) months.
October Term: Beginning on the first week in October and running for three (3) months.

**B.** A Grand Jury shall be empanelled for each jury term during the year.

## RULE 2. MOTION PRACTICE

**A. Designation of Motion Days.**
The first Monday and third Monday of each month are designated as Motion Days. Whenever a Motion Day falls on a state holiday, Motion Day shall be the next day which is not a Saturday, Sunday or state holiday, unless otherwise ordered by the Court. If court is cancelled on Motion Day due to inclement weather, all motions scheduled for that Motion Day shall be re-docketed for the following Motion Day without the necessity of re-noticing the motions, unless otherwise ordered by the Court.

**B. Designation of Times.**
The Court will convene its civil and criminal motion dockets on Motion Days as follows:

| | |
|---|---|
| Civil Motions: | 9:00 A.M. |
| Criminal Sentencing: | 10:30 A.M. |
| Criminal Motions: | 1:30 P.M. |

Changes may occur in docket times at the discretion of the Court.

**C. Motions and Motion Docket.**

**1. Filing Deadline.**
Written motions, other than those that may be heard ex parte, and notice of the hearing thereof, shall be served and filed with the Clerk of the Criminal or Civil Division before 4:00 P.M. the Wednesday preceding the Motion Day designated in the notice.

**2. Motion Docket.**
The Clerk shall keep a Motion Docket on which he or she will docket all motions assigned for hearing on each Motion Day, either by Court order or by notice duly served. However, no motion or action shall be heard on Motion day unless the motion is filed with the Clerk before 4:00 P.M. on Wednesday preceding the Motion Day designated on the notice, except by leave of Court.

Every motion, other than those which may be heard ex parte, shall appear upon the motion docket. At the time notice of the motion is served on the adverse party, a copy of the notice and motion shall also be furnished to the Judge of the Court

at his/her office at Madisonville, Kentucky, and failure to so furnish such a copy shall be cause for the Court to delay hearing of said motion until the next motion day, if the Court so desires.

An Order continuing the hearing of a motion to a later date shall be prepared, where appropriate, by the movant and filed with the Clerk after execution by the Judge, so that the motion may be docketed for the date to which continued.

The Court, in its discretion, may hear and determine any motion or other matter before it at any time in accordance with the Rules of Civil Procedure.

**3. Notice of Motions.**
All motions, except those included in the Answer, and all exceptions or objections taken to any commissioner's report or opinion, when served on the adverse party, shall be accompanied by a notice setting a certain date on which said motion shall be heard. Any such motion or exception or objection not accompanied by a notice of the date for the hearing of said motion may be treated as if no motion had been filed.

**4. Motions Under CR 78 (2).**
A movant at his or her option may bring his/her motion under the provisions of CR 78(2) which, it will be recalled, makes provisions for determination of motions without oral hearings upon brief written statements of reasons in support and opposition.

The movant in his or her certificate of service or elsewhere in the motion shall state that the motion is made under CR 78(2) and shall direct the opposing attorney's attention to the fact that under this local rule the motion may be granted routinely by the Court ten days after filing unless an objection is received or a response is filed.

Should the party opposing the motion under Rule CR 78(2) wish to have an oral hearing on the question he or she may file in his or her response so state, and shall proceed to have the motion set on the motion docket pursuant to Rule C(2).

(Comment: It is believed that this Rule will simplify things for attorneys who are making fairly routine motions, such as to amend a complaint or to bring in a third party defendant, which motions are usually routinely granted. If the opposing party has any statement to make in opposition to the motion he or she has the choice of simply filing a written response, and the court will then decide the question under Rule 78(2), or the attorney opposing the motion may file a response and set an oral hearing, all as provided earlier in these rules.)

## RULE 3. FORM AND ENTRY OF ORDERS AND JUDGMENTS

**A.** In all civil cases, whenever any ruling is made or verdict, decree or judgment rendered, an order, decree or judgment in conformity therewith shall be promptly prepared by counsel for the successful party as a separate instrument, shall be endorsed "have seen" by counsel for all parties thereto as being in conformity with the ruling, decree or judgment, and shall be presented to the Court. If the party against whom the order or judgment is endorsed is not represented by counsel, that fact shall be endorsed thereon.

**B.** All such orders, decrees and judgments, as well as all pleading and motions, shall bear a heading as follows:

**COMMONWEALTH OF KENTUCKY**
**HOPKINS CIRCUIT COURT, DIV. 1**
**MADISONVILLE, KENTUCKY 42431**
**CIVIL ACTION NO. _____**

**C.** Once signed by the Judge, the order or judgment shall be delivered to the Clerk for entry. It is suggested that to facilitate matters, counsel preparing the order or judgment may want also to deliver to the Clerk a sufficient number of copies thereof, together with properly addressed stamped envelopes, to assist the Clerk to complete service thereof when required by CR 77.04. Counsel may waive in writing service of any order or judgment and notice of entry.

## RULE 4. GUARDIANS *AD LITEM* AND WARNING ORDER ATTORNEYS

**A.** The Circuit Court Clerk shall maintain a roster of the names of attorneys from the Hopkins County Bar willing and qualified to serve as Guardians *ad Litem* and/or warning order attorney. Attorneys shall be appointed to serve on a rotating basis. Should an attorney wish to be placed or deleted from the roster to serve he or she shall make written request to the Clerk. The Clerk may make additions or deletions to the roster, provided that attorneys requesting to be added are qualified. All Guardians *ad Litem* shall participate in and complete the training provided by the Administrative Office of the Courts. Whether an attorney is to be included or deleted from the list shall be routinely determined by the Clerk upon written application by the attorney unless the Clerk questions whether that attorney is in good standing with the Hopkins County Bar, which issue shall be submitted to the Chief Circuit Judge.

## RULE 5. ANSWERS TO WRITTEN INTERROGATORIES

**A.** In answering written interrogatories served on a party, each interrogatory shall be restated, followed by the answer.

## RULE 6. RESERVED FOR FUTURE RULES

## RULE 7. PRE-TRIAL PRACTICE

**A. Civil Cases.**

**1.** The Court, upon the motion of any party or upon its own motion, may enter a scheduling order at any time during the pendency of any action.

**2.** At the pretrial conference counsel shall deliver to the Court and to opposing counsel proposed jury instructions in jury cases; shall disclose the identity of all trial witnesses; and, shall be prepared to bring to the attention of the Court, significant evidentiary or procedural issues which are likely to arise during the trial. At the conclusion of all discovery either party may move the Court to schedule a final pretrial conference.

**3.** The order scheduling a final pretrial conference will require the parties to file trial briefs containing at least: 1) a succinct statement of the kind of action 2) a clear statement of the issues involved 3) a summary of the factual situation in regard to each claim or defense 4) an itemized list of the claimed special damages 5) a list of all exhibits and charts which may be used at trial 6) a list of names and addresses of all witnesses who may testify and a brief summary of their testimony; a list of all exhibits, documents, charts, etc., intended to be introduced as evidence at trial; and a list of all stipulations attorneys believe can be agreed upon prior to trial 7) a statement of the principles of law involved in the case, supported by the citation of the appropriate authority and 8) requests for instructions subject to right of counsel to supplement such as may be required during trial, in the event the case is to be tried by a jury.

**B. Criminal Cases.**

Criminal cases may be assigned for pretrial conference on the motion of the Commonwealth or of the Defendant or on the Court's own motion.

**C. All Cases.**

The Attorney who has the responsibility for the trial of a case, or some attorney designated by him or her and fully acquainted with the case and authorized completely to act in his or her absence, is expected to attend the pretrial conference.

## RULE 8. PRE-SENTENCE, PROBATION REVOCATION AND "SHOCK" PROBATION HEARINGS

**A.** It is the practice in the Hopkins Circuit Court that a hearing will be held in open court in every criminal case wherein the punishment that has been fixed includes any term of imprisonment. Likewise, a hearing will be held in every case in which the Commonwealth has filed a Motion for the Court to revoke probation of a Defendant. At either such hearing, the Defendant may testify and may call witnesses.

**B.** On a Motion by a Defendant for the Court to suspend further execution of a sentence of imprisonment, or for the Court to grant work release, or on a motion by the

Commonwealth to revoke a work release program, the Court, in its discretion, may hold a hearing in open Court. At any such hearing, the Defendant may testify and may call witnesses. The Commonwealth may likewise call witnesses.

## RULE 9. CITATION OF RULES

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

## RULE 10. ASSIGNMENT OF CASES

**A. Assignment of Case Number.** Upon filing of a case, including the return of an indictment or the filing of an information, the Clerk shall assign a number to the case. Documentation showing the case number shall be attached to the record of the case.

**B. Subsequent Pleadings.** Pleadings, motions, orders and other papers subsequently filed in the case shall contain in the caption the case number and the criminal or civil division in which they are filed.

## RULE 11. EXHIBIT RETENTION AND DISPOSAL

The Court hereby adopts by reference Supreme Court Administrative Order 2012-07, Kentucky Court of Justice Records Retention Schedule.

## RULE 12. EFFECT ON PRIOR LOCAL RULES

Prior local rules heretofore adopted by the Court are deemed superseded by these rules.

## RULE 13. APPLICABILITY OF RULES OF CIVIL PROCEDURE

In cases not covered by these rules consult the Kentucky Rules of Civil Procedure.

Revised this 25 day of February, 2013.

James C. Brantley

JUDGE JAMES C. BRANTLEY
HOPKINS CIRCUIT COURT
DIVISION 1