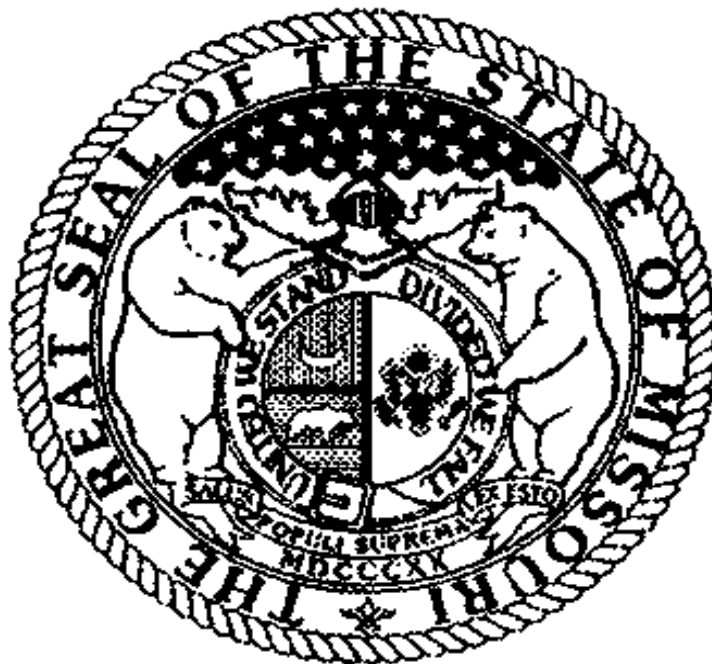


LOCAL COURT RULES
of the
FIFTH JUDICIAL CIRCUIT
OF MISSOURI



Comprising Andrew and Buchanan Counties

Andrew County Courthouse
P. O. Box 208
Savannah, Missouri 64485

Buchanan County Courthouse
411 Jules Street
St. Joseph, Missouri 64501

CIRCUIT JUDGES

Kate Schaefer
Presiding Judge
Division 1
(816) 271-1447

David L. Bolander
Division 2 and Probate
(816) 271-1441

Patrick K. Robb
Division 3
(816) 271-1444

Daniel F. Kellogg
Division 4
(816) 271-1509

ASSOCIATE CIRCUIT JUDGES

Chad Gaddie
Buchanan County
Division 5
(816) 271-1454

Rebecca L. Spencer
Buchanan County
Division 6
(816) 271-1448

Emily Bauman
Andrew County
Division 7, Probate and Domestic Division
(816) 324-3921

CIRCUIT CLERKS

Ashley Thrasher
Buchanan County
(816) 271-1462
FAX: 271-1538

Christy Porter
Andrew County
(816) 324-3921
FAX: 324-3191

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RULE 1 DIVISIONS OF COURT

In Andrew County there shall be six divisions of court which shall be divided as follows:

Division One:	Circuit
Division Two:	Circuit
Division Three:	Circuit
Division Four:	Circuit
Domestic Division:	Circuit
Division 7:	Associate and Probate Division

In Buchanan County there shall be six divisions of court which shall be divided as follows:

Division One:	Circuit
Division Two:	Circuit and Probate Division
Division Three:	Circuit
Division Four:	Circuit
Division Five:	Associate
Division Six:	Associate

RULE 2 HOURS AND TERMS OF COURT

2.1 HOURS OF COURT

The clerks' offices are deemed always open. In Andrew County and Buchanan County, the courts are open five days a week, Monday through Friday, from 8:00 a.m. to 4:30 p.m., for the purpose of filing papers in the clerks' offices. The courts will observe all State legal holidays.

2.2 TERMS OF COURT

The terms of Court for Andrew County shall begin on the fourth Monday of January, the fourth Monday of April, the fourth Monday of July, and the fourth Monday of October each year.

The terms of Court for Buchanan County shall begin on the first Monday of January, the first Monday of May and the first Monday of October each year.

In case any of these days fall on a holiday, court will be held on the day following.

2.3 LAW DAYS

The law day for civil cases for Andrew County will be held on the fourth Monday of every month, or such other day designated by order of the assigned judge.

The law day for criminal cases for Andrew County will be held on the third Monday of every month, or such other day designated by order of the assigned judge.

In case any of these days fall on a holiday, court will be held on the day following.

2.4 PARTICULAR MATTERS ON PARTICULAR DAYS

(No local rule.)

2.5 AVAILABILITY OF JUDGES TO ISSUE WARRANTS AND SET CONDITIONS OF RELEASE

In order to assure the availability of a judge for the purpose of receiving the filing of criminal charges, issuing search warrants and warrants for arrest and setting conditions of release, the associate circuit judges of Andrew County and Buchanan County shall be primarily responsible to be available on an on-call basis to the prosecutor of their respective counties on evenings, weekends and holidays.

Andrew County — In Andrew County the associate circuit judge shall provide his contact information to the prosecutor in order for him to be available for the filing of criminal charges and the issuing of search warrants on evenings, weekends and holidays. In the event the associate circuit judge will be unavailable, it will be his responsibility to find a substitute judge and notify the prosecutor of the change.

Buchanan County — In Buchanan County the associate circuit judges shall rotate weekly being on-call for evenings, weekends and holidays. The on-call rotation shall run from Monday at 4:30 p.m. until the courthouse opens the following Monday morning. In the event Monday is a holiday, the on-call assignment shall continue for that judge until the next working day. In the event the scheduled on-call judge will be unavailable for his on-call rotation, it will be his responsibility to find a substitute judge and notify the presiding judge's secretary of the change.

Procedures for evening, weekend and holiday filing of charges in Andrew and Buchanan Counties:

(a) The on-call prosecutor will notify the on-call judge that charging documents are ready to be emailed or are available to be filed with the court.

(b) The prosecutor will email of the charge(s) to the on-call judge for review and signature.

(c) The on-call judge will email a copy of the charge, probable cause statement and signed warrant for arrest to the Sheriff's Department, prosecutor and Circuit Clerk's office.

(e) The next working day, the Circuit Clerk's office will prepare the case file.

2.6 FILINGS WITH ON-CALL JUDGES BY EMAIL

Pursuant to Missouri Supreme Court Rule 20.04(h), search warrants and complaints and affidavits in support thereof; arrest warrants and affidavits, complaints and indictments in support thereof; and such other motions, applications, orders, warrants, pleadings and the like as may be deemed acceptable by the on-call judge, if not otherwise prohibited by law, may be filed by email on weekends, holidays, after 4:30 p.m. on weekdays and at other times when a judge is unavailable.

Any such pleadings or other paper so filed shall have the same effect as the filing of an original document, even though it may be required to be verified or submitted by affidavit. An email signature shall have the same effect as an original signature. The person filing such pleading or other paper by email shall file the original with the court.

RULE 3 PLEADINGS

3.1 CAPTION

The following caption on petitions is required:

**IN THE CIRCUIT COURT OF (ANDREW) (BUCHANAN) COUNTY, MISSOURI
DIVISION NO. _____**

(Name))

(Address))

(City and State))

(xxx-xx-1234)**)
(last four digits of Social Security Number))
Plaintiff(s)/)
Petitioner(s),)
vs.)

(Name)***)

(Address)***)

(City and State))

(xxx-xx-1234)**)
(last four digits of Social Security Number))
Defendant(s)/)
Respondent(s).)

Case No. _____

CAUSE*

Signed (Attorney of Record or Party)

(Address)

(Telephone Number)

(Missouri Bar Number)

- *State the nature of the action.
- **Include the last four digits of the Social Security Number on domestic relations cases only.
- ***If a corporate defendant, also list officer or registered agent in charge with address and telephone number on the petition. If a foreign corporation, also give address of local office and name of officer in charge on the petition.
- ****If defendant has a rural route, give directions or a P.O. Box number on the petition.

3.2 STYLE

All pleadings, motions, requests for extension of time to plead, and papers, except for exhibits, intended for filing in any court of this circuit shall be legibly written in ink, typewritten or printed on paper of a size of 8 1/2 x 11 inches, except as hereinafter provided, with a top and left-hand margin of at least one inch, and shall be signed by at least one attorney of record in his individual name, whose address and telephone number, together with bar identification number, shall be stated. A party who is not represented by an attorney shall sign his name to his pleadings and give his telephone number, if any, and his address.

If the pleading be a petition, the nature of the suit shall be stated immediately after the caption thereof. All other pleadings, motions and papers shall contain the name of the first party on each side with an appropriate indication of other parties with the case docket number. All pleadings and papers filed shall be signed in ink and securely fastened and the paragraphs and pages regularly numbered.

3.3 CONFIDENTIAL CASE FILING INFORMATION SHEET – NON-DOMESTIC DOMESTIC RELATIONS CASES

Every plaintiff or petitioner who files a civil, probate, or small claims action and any party filing a responsive pleading to these actions shall file a “Confidential Case Filing Information Sheet – Non-Domestic Relations” at the time they file their cause of action or responsive pleading. The Confidential Case Filing Information Sheet shall not be subject to public inspection. (See **Appendix Form J**)

3.4 CONFIDENTIAL CASE FILING INFORMATION SHEET – DOMESTIC RELATIONS CASES

Every petitioner or movant who files a petition for dissolution of marriage, legal separation, motion for modification, action to establish paternity, petition or motion for support or custody of a minor child and anyone filing a responsive pleading to these actions shall file a “Confidential Case Filing Information Sheet – Domestic Relations Cases” at the time they file their cause of action or responsive pleading. The Confidential

Case Filing Information sheet shall not be subject to public inspection. (See Appendix Form K)

RULE 4 FILING OF CASES

4.1 ELECTRONIC FILING

Supreme Court Rule 103 and Court Operating Rule 27 govern all matters subject to electronic filing.

4.1.1 ELECTRONIC FILING IN PDF FORMAT REQUIRED

In all cases attorneys are required to electronically file all written documents in PDF format. Unrepresented parties or litigants may be permitted to file hard copies of any documents which shall then be scanned by the Circuit Clerk.

Attorneys and parties are advised to retain original hard copies of all documents, particularly in cases such as WILL CONTESTS or other such matters where original documents or exhibits may be required by law.

In the event the electronic network provided by the Office of State Courts Administrator fails for whatever period of time, which is the network the courts operate under, all parties are advised to have a back-up copy of all documents, exhibits, and evidence available for the courts and parties to use when such network is unavailable.

4.2 CRIMINAL CASES

(1) All felony complaints, misdemeanor informations, infractions and grand jury indictments will be permitted to be filed as written documents in the office of the Circuit Clerk. All subsequent filings in a criminal case shall be filed electronically in PDF format in the Office of the Circuit Clerk. The Prosecuting Attorney shall provide the appropriate Missouri Charge Code Number (as defined in RSMo § 43.500(7) which includes the required NCIC modifier) for each count or alternate count alleged in the charging document.

(2) Offense Cycle Number (OCN)

a. If the defendant is in custody or has been arrested on the alleged offense, the Prosecuting Attorney shall provide the OCN from the state criminal fingerprint card, as defined in RSMo § 43.500(8) on the complaint, information, or indictment.

b. If the defendant has not been arrested or is not in custody at the time the pleading is filed, the law enforcement agency rendering the arrest shall indicate the OCN on the return of the warrant.

4.2.1 TRAFFIC CASES

All traffic cases shall be filed with the Circuit Clerk. The Prosecuting Attorney shall provide the appropriate Missouri Charge Code Number (as defined in RSMo § 43.500(7) which includes the required NCIC modifier) for all cases filed by a Uniform Citation. Traffic cases are not required to be filed electronically in PDF format and may instead be filed as written documents for scanning into PDF format, at the discretion of the Circuit Clerk and Court.

4.2.2 SEARCH WARRANTS

In Buchanan County, applications for search warrants shall be assigned to Division 5 or 6 of the Circuit Court. In Andrew County, such applications shall be assigned to Division 7 of the Circuit Court.

4.3 CIVIL CASES

(1) Civil cases filed by attorneys shall be filed electronically in PDF format in the Office of the Circuit Clerk. Civil cases filed electronically are not required to include a Filing Information sheet.

(2) For each civil case filed by a pro se litigant, including domestic relations, the filing party shall provide a Filing Information Sheet as required in Missouri Supreme Court Operation Rule 4.07, and it shall accompany the initial filing, pleading or motion. The Filing Information Sheet, as found on the web site: www.courts.mo.gov under Court Forms shall reflect the appropriate case type and contain the following information for each party occupying the position of or on the same side as the plaintiff or defendant in the case:

1. Party type;
2. Party name;
3. Date of Birth, if the party is a person; and
4. Social Security Number if the party is a person.

(3) The Filing Information Sheets are confidential records. The clerk shall file the form in case number sequence and store it separately from the case file or shall destroy the form upon entry of the information.

4.3.1 ASSIGNMENT OF CIVIL CASES TO TRACKS

1. General Procedure. In order to comply with Supreme Court Administrative Rule 17 and to achieve the most expeditious and efficient disposition of civil cases, all civil cases filed in the circuit divisions of this circuit, except probate and juvenile cases, shall be assigned to the expedited, standard, or complex track as provided in this rule. The track designation shall govern the scheduling order requirements under Local Rule 32.1 and trial and hearing settings under Local Rule 36.

2. Original Track Designation - Track Information Statement. In any civil action to which this rule applies, except: (1) domestic relations cases, including adult abuse and child protection cases; (2) trials *de novo*; and, (3) post conviction relief motions; the party filing the action shall attach a Track Information Statement (TIS), Form 4.2.1.2 (See Appendix, Form A), which is incorporated herein and made a part of this rule, identifying each cause of action and designating the appropriate track designation as provided in this rule.

3. Change of Track Designation – Case Information Statement. A track designation may not be changed without Court approval. Any party desiring to change a track designation must file a completed Case Information Statement (CIS), Form 4.2.1.3 (See Appendix, Form B), which is incorporated herein and made a part of this rule. If all parties agree and the Court approves, the change shall be allowed without a hearing. Otherwise, notice and a hearing will be required. The Court on its own motion may change the track designation in a case as it deems necessary.

4. Expedited Track. Cases assigned to the expedited track are expected to be concluded within 120 days of filing with minimal judicial involvement. The following categories of cases shall be assigned to the expedited track:

- (a) all domestic relations cases, including adult abuse and child protection cases;
- (b) trials *de novo*;
- (c) motions for post conviction relief;
- (d) petitions for temporary restraining orders and other extraordinary writs;
- (e) petitions to restrain the Director of Revenue from revoking or suspending a driver's license;
- (f) petitions for judicial review of a record made before an administrative agency; and,

(g) any other case which the court designates to be placed on the expedited track.

5. Standard Track. Cases assigned to the standard track are expected to be concluded within 12 months of filing. Scheduling orders will be entered by the Court pursuant to Local Rule 32 to insure proper case management. Any case not designated for assignment to the expedited or complex track shall be assigned to the standard track.

6. Complex Track. Cases assigned to the complex track are expected to be concluded within 24 months of filing. Scheduling orders will be entered by the Court pursuant to Local Rule 32 with extensive judicial involvement anticipated. A case shall be assigned to the complex track only when the action filed falls within one or more of the following categories:

- (a) medical malpractice;
- (b) products liability;
- (c) wrongful death;
- (d) class action; and,

(e) any case initially assigned to the standard track which upon motion to change track designation the court finds contains a claim or claims involving complex matters requiring highly technical evidence and/or expert testimony which will require a disproportionate expenditure of court and litigant resources in the preparation for trial and a trial date within 365 days from the date of the filing of the initial pleading is not reasonable.

4.4 PROBATE CASES

(1) Probate cases filed by attorneys shall be filed electronically in PDF format in the Office of the Circuit Clerk. Probate cases filed electronically are not required to include a Filing Information Sheet.

(2) All cases and matters pertaining to the probate court shall be assigned to Division 2 of the Circuit Court in Buchanan County and Division 7 of the Circuit Court in Andrew County.

(3) For probate cases filed by a pro se litigant, the filing party shall provide a Filing Information Sheet as required in Missouri Supreme Court Operating Rule 4.07 and it shall accompany the initial filing, pleading or motion. The Filing Information Sheet, as found on the web site, www.courts.mo.gov under Court Form shall reflect the appropriate case type and contain the following information for each party occupying the position of or

on the same side at the plaintiff or defendant; each decedent; or each ward/protectee in the case:

1. Party type;
2. Party name;
3. Date of Birth, if the party is a person; and
4. Social Security Number if the party is a person.

For probate applications, the Filing Information Sheets shall also list all available information on the heirs and their attorneys, if any.

(4) The Filing Information Sheets are confidential records. The clerk shall file the form in case number sequence and store it separately from the case file or shall destroy the form upon entry of the information.

(5) Cancelled checks and bank statements for settlement shall be filed with the probate court as written documents and not as electronic documents.

4.5 SMALL CLAIMS CASES

(1) Small Claims cases shall be filed in the Office of the Circuit Clerk as written documents, and shall then be scanned and converted into electronically filed PDF format by the Circuit Clerk.

(2) For each Small Claims case, the filing party shall provide a Filing Information Sheet as required in Missouri Supreme Court Operation Rule 4.07, and it shall accompany the initial filing, pleading or motion, The Filing Information Sheet, as found on the web site: www.courts.mo.gov under Court Forms shall reflect the appropriate case type and contain the following information for each party occupying the position of or on the same side as the plaintiff or defendant in the case:

1. Party type;
2. Party name;
3. Date of Birth, if the party is a person; and
4. Social Security Number if the party is a person.

(3) The Filing Information Sheets are confidential records. The clerk shall file the form in case number sequence and store it separately from the case file or shall destroy the form upon entry of the information.

4.6 JUVENILE CASES

Juvenile cases shall be filed in the office of the Circuit Clerk of the appropriate county.

4.7 MUNICIPAL CASES

(No local rule.)

4.8 SPECIAL PROCESS SERVERS

A special process server may be appointed in a civil case upon the filing of a written request therefore demonstrating the person's qualifications as specified by Missouri Supreme Court Rule 54.13(a), all in accordance with Missouri Supreme Court Rule 54.01. The request may be granted by the Circuit Clerk or her deputy, and the appointment shall be valid only for the case in which such person is specially appointed. All returns on service of summons shall be filed as an electronic document with the Circuit Clerk by the registered user no later than three (3) days prior to the date of the trial or status review hearing.

4.9 SERVICE BY SHERIFF OR OTHER QUALIFIED PERSON

All returns on service of summons by the sheriff or other person qualified to make service shall be filed with the Circuit Clerk no later than three (3) days prior to the date of the trial or status review hearing. All returns on service of summons except those returned by the sheriff shall be filed by the registered user as an electronic document with the Circuit Clerk.

RULE 5 FEES AND COSTS

5.1 FILING FEE AND COST DEPOSIT

In all cases filed in this Circuit, excepting cases filed by the State of Missouri, Circuit Juvenile Officer, appeals or transcripts from any Federal or State Commission, or transfers within the circuit, there shall be deposited with the appropriate clerk, for which said clerk shall give receipt, the following sums:

Andrew County Associate Division 7

Associate Civil Original Petition	48.50
Landlord/Tenant cases (possession matters) personal service AND posting upon filing	48.50
Small Claims - \$100 & over	35.50
Small Claims - Under \$100	35.50

Andrew County Circuit Division

Civil Action	98.50
Adoption (child less than 18 yrs of age)	163.50
Each additional child	15.00
Adult Adoption	113.50
Application for Missouri Vital Record – Birth Certificate	15.00

If the adoptee was born somewhere other than the State of Missouri, please contact the Circuit Clerk's office for filing fees.

Paternity	100.50
Dissolution/Legal Separation	100.50
Minor Settlement Approval	98.50
Name Change	98.50
Motion to Quash Execution	98.50
Contempt (Add \$2.00 if domestic relations case)	98.50
Motion to Modify	100.50

Buchanan County Associate Divisions

Associate Civil Original Petition	43.50
Landlord/Tenant cases (possession matters) personal service AND posting upon filing	43.50

Small Claims – \$100 & over	30.50
Small Claims - Under \$100	30.50

Buchanan County Circuit Divisions

Civil Action	93.50
Adoption (child less than 18 yrs of age)	158.50
Each additional child	15.00
Adult Adoption	108.50
Application for Missouri Vital Record – Birth Certificate	15.00

If the adoptee was born somewhere other than the State of Missouri, please contact the Circuit Clerk’s office for filing fees.

Paternity	95.50
Dissolution/Legal Separation	97.50
Minor Settlement Approval	93.50
Name Change	93.50
Motion to Quash Execution	93.50
Contempt (Add \$2.00 if domestic relations case)	93.50
Motion to Modify	95.50

Costs of service are not taxed as court costs. You must contact the Sheriff of the county where service will be obtained to get information on the service fee. This fee is required in advance. Two checks may be submitted to the Circuit Court Clerk’s Office, one made payable to the Circuit Clerk for the appropriate fee and one made payable to the service agency if a party is proceeding as a pro se litigant.

5.2 COSTS
(No local rule.)

5.3 WITNESS FEE
(No local rule.)

5.4 WAIVER OF FEES

(No local rule.)

5.5 MOTION FOR SECURITY

(No local rule.)

RULE 6 ASSIGNMENT OF JUDGES, CASES, AND TRANSFER OF CASES

6.1 ASSIGNMENT TO ASSOCIATE CIRCUIT JUDGES

All cases which are assigned to the associate court divisions in Buchanan County shall be assigned equally to Divisions 5 and 6.

6.1.1 BY LOCAL COURT RULE OR ORDER

(a) Cases of the kinds enumerated in 517.011(1), (2) and (3) RSMo., and in Andrew County such cases as provided for in 517.011 (4) RSMo.;

(b) All cases of misdemeanors, infractions and felony complaints except where otherwise provided by law; and

(c) In Buchanan County felony cases charging a defendant with a Class E felony of non-support and are not joined with another felony count that is other than a Class E felony of non-support.

(d) In Andrew County felony cases charging a defendant with either a Class D or E felony, except for cases that include a count charging a defendant with the Class D or Class E felony of driving while intoxicated or the Class D felony of possession of a controlled substance, those cases will be assigned to a circuit court judge as provided by Local Court Rule.

6.1.2 SPECIAL ASSIGNMENT

The Presiding Judge of the Circuit shall have the authority to assign associate circuit judges to hear such cases as the Presiding Judge may determine, and to assign judges to divisions except as otherwise provided by law.

6.1.3 ASSIGNMENT WHEN CIRCUIT JUDGE NOT AVAILABLE

In Buchanan and Andrew Counties, at any time when there is no circuit judge readily available to hear petitions for the granting of an ex parte order of protection under

the "Adult Abuse Act" or the "Child Protection Orders Act" or a motion for a hearing on a violation of an order of protection under such acts or an administrative modification of a judicial order, an associate circuit judge of the appropriate county may hear such matters. All papers in connection with the filing of any petition; the granting of any ex parte order of protection; or motion for hearing on violation of an order of protection, under these acts, shall be certified by such judge or the clerk by the next regular business day to the circuit court division having jurisdiction to hear the petition. The associate circuit judge of Andrew County shall hear and determine all matters filed in that county pursuant to the "Adult Abuse Act" and the "Child Protection Orders Act" (Chapter 455, RSMo.) without further assignment unless another judge grants the ex parte order of protection and elects to retain such matter.

6.2 ASSIGNMENT TO CIRCUIT JUDGES AND ASSOCIATE CIRCUIT JUDGE

6.2.1 ANDREW COUNTY

CIVIL CASES - The judges of Divisions 1 and 2 are assigned to hear all civil cases filed in the circuit division. Each judge shall be assigned all civil cases filed for a one year period and alternate every year with the other judge. The judge of Division 2 shall begin the rotation July 1, 2016.

CRIMINAL CASES - The judges of Divisions 3 and 4 are assigned to hear all criminal cases filed in the circuit division except for Class D and Class E felonies that are assigned to Division 7 as provided in LCR 6.1.1. Each judge shall be assigned all criminal cases filed for a one year period and alternate every year with the other judge. The judge of Division 4 shall begin the rotation July 1, 2016.

JUVENILE CASES - The judges of Divisions 3 and 4 are assigned to hear all juvenile division cases. Each judge shall be assigned all juvenile cases filed for a one year period and alternate every year with the other judge. The judge of Division 4 shall begin the rotation July 1, 2016.

TRUST PROCEEDINGS - All cases concerning trustees and trust administrations shall be assigned to the Associate Circuit Judge of Andrew County to be heard in the Probate Division. At the effective date of this rule, all cases now pending in the Circuit Court under retained jurisdiction to receive annual trustees' reports shall be transferred to the Associate Circuit Court.

DOMESTIC RELATIONS - All dissolutions of marriage, motions to modify, uniform reciprocal enforcement of support, petitions for paternity, actions filed under the "Adult Abuse Act" and "Child Protection Orders Act" shall be assigned to the Domestic Division in Andrew County and be heard by the Associate Circuit Judge of Andrew County.

APPLICATIONS FOR INVESTIGATORY SUBPOENAS UNDER RSMO. SECTION 56.085 AND APPLICATION FOR WITNESS IMMUNITY UNDER RSMO. 491.205 - All such applications shall be filed with the circuit clerk and heard by the associate circuit judge of Andrew County.

ALL CASES - If the assigned circuit judge is unavailable and there is no other circuit judge who is readily available and both the assigned circuit judge and the associate circuit judge of Andrew County consent, the case shall be heard by the associate circuit judge of Andrew County.

6.2.2 BUCHANAN COUNTY

All cases filed in Buchanan County shall be assigned originally by the circuit clerk as follows:

(a) Domestic relations, Uniform Reciprocal Enforcement of Support, applications for investigatory subpoenas under RSMo. Section 56.085, and applications for witness immunity under RSMo. 491.205 equally to Division 1 and 2.

(b) Actions at law for damages and all other civil actions equally to Division 1 and 4.

(c) All criminal felony cases equally to Divisions 3 and 4 except for a charge of a Class E felony of non-support.

(d) All criminal felony non-support cases which are not joined with another felony count that is other than a Class E felony of non-support shall be assigned as follows:

(i) When the defendant waives the right to a preliminary hearing, that case shall be assigned to the judge who certified the case.

(ii) When the defendant is certified for trial after a preliminary hearing, that case shall be assigned to the other associate circuit judge.

(e) All civil trial *de novo* cases to Divisions 5 or 6. The case shall be assigned to the division that did not hear the original trial.

(f) Adult Abuse Act petitions, equally to Division 1 and 2 except that if, on one day or on the next succeeding business day, a Petitioner files more than one such petition, or if Petitioner has filed such a petition and the Respondent in the pending

case files another such petition in which the prior Petitioner is designated as Respondent, then all such petitions shall be set for hearing on the same date and time, and all shall be assigned by the Circuit Clerk to the Division selected to hear the first such petition filed.

If a Petitioner files such a petition and the Clerk is advised that there is already such a petition pending which was filed earlier than two business days before, and in which the current Petitioner has been named as a party, the Clerk may refer the case to the Presiding Judge. The Presiding Judge may reassign the latter case to the same Division selected to hear the earlier petition, for hearing at the same date and time.

2. (g) Municipal Court trial *de novo* cases equally to Divisions 1 and

(h) All Juvenile Court filings equally to Divisions 3 and 4 except all petitions filed by the juvenile office alleging abuse and neglect and petitions to terminate parental rights shall be assigned to Division 3.

(i) All cases concerning trustees and trust administrations shall be assigned to Division 2. Cases which are pending under retained jurisdiction to receive annual trust reports at the effective date of this rule shall be transferred to Division 2.

6.2.3 BUCHANAN COUNTY – CIRCUIT AND ASSOCIATE DIVISIONS ASSIGNMENT PROCEDURES

(a) Packets of cards sealed on three sides shall be furnished to the clerk of the circuit court for use in the initial assignment of actions at law for damages and all other civil actions filed in the Circuit divisions of Buchanan County.

(b) Each card in the assignment packets shall have space on the top side for listing of the case number and style. The division to which the case is to be assigned shall be on the reverse side. The division numbers shall be mixed in such percentages as provided in Rule 6.2.2(b).

(c) When an action at law for damages or other civil case is presented to the clerk for filing, a case number shall be assigned, the number and style of the case written on the top card in the appropriate packet, the card removed from the packet and the case assigned to the division listed on the reverse side. No variation of this procedure shall be permitted.

(d) All assignment cards shall be attached to the file.

(e) At any time when a judge of the associate divisions of Buchanan County shall be absent, his cases shall be heard by the other judge of the associate division if he is available unless he has been previously disqualified.

(f) **Voluntary transfer of case:** The judge in whose division a case is docketed may transfer the case to another judge in the circuit, provided the transferor judge and transferee judge consent. Such transfer may be made to relieve docket congestion, or to balance the workloads of the divisions or to accommodate the schedules of parties and their attorneys, or for any other reason which would promote the efficient administration of justice. The case records shall be transferred to the division of the court receiving such transferred case.

Temporary assignment of judge: The judge in whose division a case is docketed may temporarily assign the case to the judge of another division in the circuit for the hearing of a particular matter therein, (including the making of a decision on the merits therein) provided the assignor judge and assignee judge consent. When the assigned judge has ruled upon the matter referred, the assigned judge shall return the case to the docket of the assignor judge for any further disposition required. The case records remain in the original division of the court during any temporary assignment of judge.

Permissive and voluntary nature of rule: The above provisions are voluntary and permissive not mandatory. By their terms these provisions cannot be applied to deny any party the right to a change of judge given by the Missouri Rules of Civil Procedure. The above provisions supplement and do not supersede the authority of the presiding judge of the circuit to make assignments and transfers to promote the administration of justice. The division clerks shall advise attorneys that these procedures are available.

(g) **Voluntary transfers and temporary assignments in Andrew County:** The circuit judge assigned to sit in Andrew County or the associate circuit judge for that division may make a voluntary transfer of a case to any other division of the circuit court provided the transferor judge and transferee judge agree. Such a judge may temporarily assign the case to the judge of any other division in the circuit for the hearing of a particular matter therein (including the making of a decision on the merits therein), provided the assignor judge and the assignee judge consent. When the assignee judge has ruled upon the matter transferred, the assignee judge shall return the case to the docket of the assignor judge for any further disposition required. The case records shall pass to the transferee division in any voluntary transfer and shall remain with the original division in any temporary assignment.

(h) Whenever there are two or more cases arising out of the same transaction, or the same act or acts of negligence, or relating to the same property, the judge of the division to which the lowest numbered case has been assigned may order the higher numbered case or cases transferred to such division in order that said judge may dispose of all preliminary motions and try, hear and determine all issues presented in said cases. Except in the event one case is a felony pending in a circuit division, then the case in the associate division shall be transferred to the circuit division for disposition.

6.2.5 ST. JOSEPH MUNICIPAL COURT – ASSIGNMENT PROCEDURES

When the municipal judge is disqualified either by change of judge motion or the judge disqualifying himself, the case shall be assigned to the duly appointed substitute municipal judge, and if thereafter that judge becomes disqualified for any reason to hear the case, that judge shall then certify the case to the presiding judge of the circuit for assignment for trial.

6.3 CERTIFICATION TO CIRCUIT DIVISION (No local rule.)

6.4 TRIAL DE NOVO

In Buchanan County, upon the filing in accordance with Section 512.190 RSMo. of an application for trial *de novo* the division clerk shall forward the case to the division clerk to which it is assigned. The courtroom clerk of such division shall immediately set a time and date for the trial *de novo* on a date no sooner than 15 days hence. The clerk of the division from which the case is appealed shall endorse on the application for trial *de novo* the time and date of the trial *de novo* and mail a copy of such application for trial *de novo* to all parties. The mailing of the application for trial *de novo* shall constitute sufficient notice to the parties of the time and date of the trial *de novo*.

6.5 DISQUALIFICATION OF JUDGE

Whenever a judge is disqualified whether sua sponte or upon motion of a party, unless otherwise provided by specific order:

(1) If the judge disqualified is a circuit judge, that judge shall certify the case to the presiding judge for reassignment.

(2) If the judge disqualified is an associate circuit judge, that judge shall certify the case to the presiding judge for reassignment. However, in Buchanan County, if the case is a Class E felony assigned to a judge of an associate division and that judge is disqualified, then that judge shall transfer the case to the other associate circuit judge, unless the other judge has previously been disqualified or has presided over a preliminary hearing

in the case. In that event, the judge shall certify the case to the presiding judge for reassignment.

(3) When a change of judge has been ordered, the trial setting will be maintained, if possible. If a change of judge is ordered 30 days or more before the date of trial, the parties will be notified within 10 days if the setting date will be maintained.

If a change of judge is ordered less than 30 days before the date of trial, the clerk will notify the parties forthwith if the setting date will be maintained.

(4) If the judge disqualified is the presiding judge, that judge shall certify the case to the circuit judge, not previously disqualified, having the greatest seniority on the bench for reassignment.

(5) Whenever the judge of the Probate Division (Division 2) of Buchanan County is disqualified or disqualifies himself in a case involving a decedent's estate or guardianship, rather than the case being transferred to another division, the judge of the division listed on the transfer shall be assigned to the probate division and the case file shall remain in the probate division.

(6) If either Division 3 or Division 4 is disqualified on a juvenile case, the case shall be transferred to the other division. If both Judges of Division No. 3 and Division No. 4 are disqualified on a juvenile case, the case will be certified to the presiding judge for reassignment.

6.6 ABSENCE OF JUDGE

In the absence of the circuit judge of any division on account of sickness or otherwise, any other circuit judge or associate circuit judge may sit as the judge of the division in which the judge is absent and perform all the duties of said absent judge. Likewise, in the absence of the associate circuit judge of any division on account of sickness or otherwise, any other associate circuit judge or circuit judge may sit as the judge of the division in which the judge is absent and perform all the duties of said absent judge.

6.7 ABSENCE OF PRESIDING JUDGE

In the event the presiding judge is absent, the circuit judge available with the greatest seniority will have authority to act as presiding judge.

6.8 APPLICATIONS FOR DETENTION - JUVENILES

The judges of the divisions of the Fifth Judicial Circuit, i.e., Divisions 1 through 6 in Buchanan County and Divisions 1 through 4 and Division 7 in Andrew County, are hereby authorized to hear and determine Applications for Detention of juveniles, throughout the Circuit, pursuant to Supreme Court Rule 111.07 or 111.08.

RULE 7 WITHDRAWALS OF PAPERS FROM CLERKS' OFFICES

7.1 WHEN ALLOWED

No file may be removed from any of the Clerks' offices by anyone other than court personnel.

7.2 DUPLICATING POLICY

Requests for certified and/or photocopies of court records shall be directed to the clerk having custody of such records. Charges for such copies shall be as follows:

Photocopies - \$2.50 for the first 10 pages; \$.10 per page thereafter.

Certified copies - \$2.50 per certification (up to two pages per document); regular copy charges to apply to third and subsequent pages of document.

If a party to a matter not required to be heard on the record before an associate circuit judge requests that such proceedings be recorded, and the Court grants such request, there shall be a fee of \$10.00 per tape therefor paid in advance by such party. This fee shall entitle the party to copy the tape under supervision of the court clerk onto his own tape and recording device, but it shall not entitle him to the original tape. Additional copies of such tape shall be available to any other party upon payment of \$10.00 per tape therefore paid in advance, which shall entitle said party to copy the tape under supervision of the court clerk onto his own tape and recording device.

Duplicate tapes of any proceedings heard on the record before associate circuit judges shall be made available at a cost of \$10.00 per tape, to be paid by the party requesting such tape. This fee shall entitle the party to copy the tape under supervision of the court clerk onto his own tape and recording device.

A charge of \$10.00 per tape will be made for listening to any taped proceeding, payable in advance.

All fees collected for duplicate tapes or for listening to any taped proceedings shall be paid over monthly to the County Treasurer for credit to the General Revenue Fund of the county.

RULE 8 PUBLICATION OF DOCKETS

(No local rule.)

8.1 TRIAL DOCKET

(See Rules 36.3.1 and 36.3.2.)

8.2 DISMISSAL DOCKET

(No local rule - See Rule 37.1.)

RULE 9 COURTROOMS

9.1 ASSIGNMENT OF COURTROOM

In Buchanan County the location of the various divisions of the circuit court on the third floor of the County Courthouse shall be as follows:

Division No. 1 - Northeast corner of the East wing.

Division No. 2 – North wing.

Division No. 3 - South wing.

Division No. 4 - Southeast corner of the East wing.

Division No. 5 - Southwest corner of the West wing.

Division No. 6 - Northwest corner of the West wing.

9.2 PLACE OF HEARING

(No local rule.)

9.3 USE OF COUNSEL TABLE

(No local rule.)

9.4 COURTROOM DECORUM AND DRESS

Attorneys should insist on proper dress of their clients at all court proceedings and encourage their witnesses to wear appropriate dress.

9.5 WHO IS PERMITTED WITHIN BAR

(No local rule.)

RULE 10 COURT REPORTERS AND COMPENSATION FOR SAME

10.1 TRANSCRIPTS FOR INDIGENT DEFENDANTS

In order that indigent defendants will be able to comply with Missouri Supreme Court Rule 30.04(f), all court reporters will provide an original and three copies of the transcript for indigents in criminal case appeals.

RULE 11 RECORDING OF JUDICIAL PROCEEDINGS

(No local rule.)

RULE 12 MONIES PAID INTO COURT

The Circuit Clerk of Buchanan County and division clerk of the associate circuit judge of Andrew County shall collect and account for all the fines, penalties, forfeitures and any other sums of money, by whatever name designated, accruing to the state or any county by virtue of any order, judgment or decree issued from the applicable division of the Circuit Court in the Fifth Judicial Circuit.

12.1 BOND IN CIVIL CASES

(No local rule.)

RULE 13 COMMUNICATIONS WITH COURT

(No local rule.)

13.1 ORAL COMMUNICATIONS WITH THE COURT

(No local rule.)

13.2 WRITTEN COMMUNICATIONS WITH THE COURT

(No local rule.)

GENERAL RULES

RULE 21 ATTORNEYS

21.1 RESOLUTION OF CONFLICTING TRIAL SETTINGS

In the event the same attorney is scheduled to appear for a trial or hearing in different courts at the same time, whether within this circuit or outside this circuit, the trial or hearing of the case first set for that specific time and date shall have precedence if the attorney files a motion for continuance in the court not having precedence within 5 days of receipt of the conflicting setting and notices the motion for hearing pursuant to Supreme Court Rule.

This rule shall apply only if the actual and necessary participation of the same attorney is required in both courts. The judge ruling on the motion for continuance shall always have the authority to determine if good cause is shown for continuing the case.

21.2 ENTRIES OF APPEARANCE

(No local rule.)

21.3 CONDUCT OF ATTORNEY

21.3.1 TRIAL CONDUCT

Only one attorney shall examine a witness in chief, and one cross examine for the other side, unless the defendant shall answer separately, and this rule shall also apply where cases are consolidated for trial.

21.3.2 WHERE TO STAND

Subject to being directed otherwise by the Court, while addressing the Court or examining a witness, counsel shall stand at the counsel table or lectern and shall not approach the bench or witness without permission of the Court.

21.3.3 ATTORNEYS - CONVERSATION WITH JURORS

Attorneys shall not converse with jurors about court procedure, jury service, verdicts or cases which may be set for trial, during their term of service. This rule shall be called to the attention of jurors on their first day of service.

21.4 WITHDRAWAL OF ATTORNEY

1. Subject to the other requirements of this Rule 21.4, an attorney may withdraw from a civil or criminal case without leave of Court in a case that is not set for trial or hearing:

(a) by filing a pleading entitled “Memorandum of Withdrawal” establishing that the client is represented by other counsel of record;

(b) when the case is completed, upon filing a pleading entitled “Memorandum of Withdrawal” stating that there are no pending claims or issues in the matter; or

(c) in a civil or domestic case, upon the filing of a pleading entitled “Termination of Limited Appearance” by an attorney who has previously filed an entry of limited appearance. The “Termination of Limited Appearance” shall state that the attorney has completed the duties set out in the entry of limited appearance.

Any “Memorandum of Withdrawal” and “Termination of Limited Appearance” shall include the full address of the client and shall be served on the client in addition to all others required to be served.

In all other instances, withdrawal of an attorney may only be allowed with leave of Court, and upon a showing of compliance with Supreme Court Rule 4-1.16 and this rule.

2. Any attorney seeking leave to withdraw in a case that is set for trial or hearing shall file a written motion for leave to withdraw containing the full address of the client. The motion shall set out the basis for the request for leave to withdraw. If the motion does not contain the written consent of the client and counsel for the other party, it must be served on the client and opposing counsel along with a notice of hearing on the motion and the date, time and place of the hearing. No attorney will be permitted to withdraw unless the client has been given written notification of the motion to withdraw and has been granted reasonable time to retain or have another attorney appointed.

3. When an attorney seeks leave to withdraw after the trial of a criminal case, such leave shall not be granted until the attorney handling the trial has filed the motion for new trial (or other appropriate post-trial motion), and has filed the notice of appeal (accompanied by the appropriate filing fee or *forma pauperis* order). When the notice of appeal has been filed, the Court may grant leave to withdraw and may allow such substitution of counsel, including appointment of counsel in indigent cases, as the Court deems appropriate.

21.5 FAILURE OF ATTORNEY TO ANSWER DOCKET CALL

When any case or matter pending is called for hearing and either or both parties fail to appear, the same shall be dismissed for want of prosecution, or judgment entered, or other appropriate order made in the discretion of the judge having jurisdiction. The Clerk shall forthwith give written notice of such order to the parties or their attorneys of record.

21.6 APPOINTMENT OF ATTORNEYS (No local rule.)

21.7 AGREEMENT OF ATTORNEYS

No stipulation or agreement of parties or attorneys in a pending cause will be recognized unless made in writing or made in open court.

21.8 ADVICE TO CLIENTS AND WITNESSES OF COURTROOM PROCEDURES

(See Rule 9.4.)

RULE 23 TRANSCRIPTS

(No local rule.)

RULE 24 EXHIBITS

(No local rule.)

RULE 25 ALTERNATIVE DISPUTE RESOLUTION PROGRAM

25.1 AUTHORITY AND PURPOSE FOR RULE

By adoption of this rule, there is established in the Fifth Circuit an Alternative Dispute Resolution (hereinafter referred to as “ADR”) Program as provided in Missouri Supreme Court Rule 17.

The purpose of adopting this rule is to establish a program which will foster early, economical, fair and voluntary settlements of lawsuits without delaying or interfering with the parties' rights to resolve lawsuits by trial.

25.2 APPLICATION OF RULE

Unless otherwise ordered by the Court, the Program established by this rule shall apply to all cases which require entering of a scheduling order pursuant to Local Court Rule 32.1.

In all such cases, the parties shall certify within the proposed scheduling order filed pursuant to Local Rule 32.1 that they have conferred regarding ADR. The proposed scheduling order shall recite the position of all parties concerning ADR and shall recite any agreement reached between the parties for ADR (e.g., the method, timing, and procedure for the selection of a neutral.) If any of the parties take(s) the position that ADR is not appropriate in that case, that party shall recite the reasons therefore. If ADR is ordered by the court pursuant to agreement of the parties, on the motion of any party, or on the court's own motion, the parties shall submit to ADR pursuant to the court order and Supreme Court Rule 17.

25.3 FORM AND MANNER OF PROVIDING NOTICE

The Notice of Alternative Dispute Resolution Program Services required by Missouri Supreme Court Rule 17.02(a) shall be in the form of Form 25.1. (See **Appendix, Form C**)

The Notice shall be provided in all actions to which this rule applies as follows:

(a) The Circuit Clerk shall provide a copy of the Notice to the party initiating the action at the time the action is filed. If the action is filed by mail or fax, the Circuit Clerk shall mail, fax or otherwise provide a copy of the Notice to the initiating party as soon as possible. If the initiating party is represented by an attorney of record, the Circuit Clerk may provide the Notice to the attorney of record. Upon receipt of the Notice, the attorney shall forthwith provide a copy to each party represented.

(b) The Circuit Clerk shall provide a copy of the Notice to non-initiating parties by attaching a copy of the Notice to the summons issued in the action. If service of process is accepted by an attorney of record on behalf of a party, the attorney shall promptly provide a copy of the Notice to each party represented. In the event no service of process is issued, the Circuit Clerk shall provide the Notice to the non-initiating party or that parties' attorney of record by mail or by hand delivery.

25.4 LIST OF QUALIFIED SERVICE PROVIDERS

The Circuit Clerks of Andrew and Buchanan Counties shall maintain a list of individuals and organizations who provide alternative dispute resolution program services in the Fifth Circuit and have met the qualification requirements established by Missouri Supreme Court Rule 17.04 and 88.05. The list shall include the name, address, telephone number, services provided and the fee of the providers. The list shall be approved by the Court en banc and updated as needed.

PRETRIAL MATTERS

RULE 32 DISCOVERY

32.1 CIVIL CASES IN CIRCUIT DIVISIONS

1. **Application of Rule.** In order to comply with Supreme Court Administrative Rule 17 and to achieve the most expeditious and efficient disposition of civil cases, discovery in all civil cases filed in the circuit divisions of this circuit, except discovery in juvenile, probate, and cases exempted by Rule 32.1.2 infra, shall be governed by this rule.

2. **Actions Exempt from Filing of Scheduling Order.** Unless otherwise directed by the Court, the following categories of cases are exempt from compliance with the procedures set forth in this rule regarding the filing of scheduling orders:

(a) All cases assigned to the expedited track pursuant to Local Rule 4.3.1.4; and,

(b) any case in which a trial setting is obtained by agreement of all parties within 3 months of the date of the filing of the original pleading and all parties have filed a written stipulation that no discovery is required or that all discovery has been completed. In such cases, no discovery shall again commence, unless by agreement of the parties upon order of the Court.

3. **Filing of Proposed Scheduling Order.** In every case to which this rule applies, a proposed scheduling order shall be filed by the party filing the action within 90 days of the filing of the initial pleading. A copy of the proposed order shall be sent by the filing party to all parties. No extension of this time limit will be allowed except by court order. Any party desiring an extension of the time limit to file a proposed scheduling order shall file a written motion requesting an extension stating a factual basis as to why the time limit is unreasonable. If all parties agree and the Court approves, the extension shall be allowed without a hearing on the motion. Otherwise, notice and a hearing will be required.

4. **Preparation of Proposed Scheduling Order.** After consultation with all parties, the party filing the action shall be responsible for preparing a draft of the proposed scheduling order contemplated by this rule. The draft shall be presented to all parties for modifications. The parties shall fully and openly communicate with each other so that a joint proposed scheduling order is submitted. If all parties do not agree on a proposed scheduling order, each party shall file a separate proposed scheduling order. Disagreements concerning a proposed scheduling order, if unresolved through the good faith efforts of the parties, shall be resolved by the Court with or without a hearing.

5. **Content of Proposed Scheduling Order.** The proposed scheduling order filed with the Court shall contain the following:

(a) a date limiting joinder of parties;

(b) a date limiting amendments to the pleadings. It is suggested that counsel consider in most cases a date approximately 6 months after the filing of the initial pleading;

(c) a date limiting the filing and hearing of motions. It is suggested that counsel in most cases consider proposing that (1) all discovery motions be filed on or before the date proposed for the completion of discovery; and, (2) all dispositive motions be filed not later than 30 days after the date proposed for the completion of discovery;

(d) a plan and date for the completion of all pretrial discovery, including the dates by which all parties' experts must be disclosed and produced for depositions. In no event shall the date for completion of all discovery extend beyond 10 months from the date of the filing of the initial pleading for cases assigned to the standard track and 12 months from said date for cases placed on the complex track unless included in the plan is a detailed statement of (1) the facts as they relate to the issues in dispute; (2) the status of all pretrial discovery to date; and, (3) a description of all pretrial discovery each party intends to initiate prior to the close of discovery. (See Local Court Rule 4.2.1 concerning track assignments); and,

(e) a certification by the parties in all cases subject to this rule that the parties have conferred regarding alternative dispute resolution (ADR) (see Missouri Supreme Court Rule 17 and Fifth Judicial Circuit Court Rule 25). The proposed scheduling order should report any agreement between the parties as to ADR (e.g., the method and timing of ADR and procedure for selecting a neutral, or that the parties agree that ADR is inappropriate), or if there exists no such agreement, an indication of the parties' respective positions regarding ADR.

(f) a proposed trial date following the completion of discovery and for the hearing of all motions with an estimated length of the trial. In no event shall the proposed trial date be later than 12 months from the date of the filing of the initial pleading for cases assigned to the standard track and 18 months from said time for cases assigned to the complex track.

6. Scheduling Order Entered. In every case to which this rule applies, a scheduling order shall be entered by the Court within 120 days of the filing of the initial pleading, unless otherwise ordered by the Court.

7. Extension of Time Limits Fixed in Scheduling Order. A time limit established by a scheduling order shall be extended only upon a written motion and a good cause finding by the Court. A motion to extend any time limit in a scheduling order must demonstrate a specific need for the requested extension and should be accompanied by a detailed proposed amendment to the previously entered scheduling order. The extension shall be allowed without a hearing on the motion only if all parties agree and the Court approves. Otherwise, notice and hearing will be required. A time limit for completion of discovery will be extended only if the remaining discovery is specifically described and scheduled, e.g., the names of each remaining deponent and the date, time, and place of each remaining deposition.

8. Filing of a Motion Does Not Automatically Stay Discovery. Unless otherwise ordered by the Court, the filing of a motion, including a discovery motion; a

motion to extend the time limits of a scheduling order; a motion for summary judgment; or, a motion to dismiss, does not excuse a party from complying with this rule and any scheduling order entered in the case.

9. **Failure to Comply with Scheduling Order.** All discovery should commence at the earliest time permitted by the Supreme Court Rules of Civil Procedure. A party who fails to timely investigate his or her case; participate in good faith in the preparation of the proposed scheduling order; or, to comply with the terms of a scheduling order entered in the case shall be deemed to have waived the right to engage in any discovery. In addition, such failure may result in the imposition of sanctions as provided under Supreme Court Rule 61.01.

10. **Golden Rule as to Discovery Motions.** Unless otherwise ordered, the Court will not be required to entertain any discovery motion unless the moving party has conferred or has made a reasonable effort to confer with all opposing parties concerning the matter prior to the filing of the motion. The moving party shall certify in writing compliance with this rule in any discovery motion.

32.2 INTERROGATORIES

(No local rule.)

32.3 DEPOSITIONS

(No local rule.)

32.4 MOTIONS FOR SANCTIONS

(No local rule.)

32.5 CRIMINAL DISCOVERY

(No local rule.)

RULE 33 PRETRIAL MOTIONS

33.1 HEARING DATES

All pleadings, motions or other matters requiring action of the court thereon, and which cannot be heard ex parte, can be heard after at least five (5) days' notice calling up such pleading or motion for hearing shall be served, after the court clerk has fixed a time for such hearing on the court's docket. If any motion, except a motion for a new trial, is not called up and presented to the court for its action within thirty days after it is filed, it shall be deemed abandoned, and dismissed for want of prosecution, or other appropriate order made in the discretion of the court.

33.2 BRIEFS IN SUPPORT OF MOTIONS, WHEN REQUIRED

(No local rule.)

33.3 ORAL ARGUMENTS - WHEN DESIRED AND HOW REQUESTED

(No local rule.)

33.4 MOTIONS IN LIMINE

(No local rule.)

33.5 SERVICE OF MOTIONS

All pleadings, motions and other documents subsequent to the original petition shall be served as provided by Supreme Court Rules 43.01 and 103.08 on the day of filing, or as soon thereafter as service can be made. All such pleadings subsequent to the original petition, motions, notices, orders and other documents, not required by statute, rule or order to be served by an officer, shall be served on registered users through the electronic filing system and to all other individuals as provided in Supreme Court Rule 43.01(c).

33.6 ENLARGEMENT OF TIME

The time specified in this Rule 33 may be limited or enlarged in any particular case when, in the discretion of the judge having jurisdiction over said case, the circumstances may require.

RULE 34 CONTINUANCES

34.1 CIVIL CASES

(No local rule.)

34.2 CRIMINAL CASES

(No local rule.)

RULE 35 PRETRIAL CONFERENCES

35.1 PRETRIAL CONFERENCES

Upon motion of any party or sua sponte, the Court may order a pretrial conference as authorized by Supreme Court Rule. The purpose of the pretrial conference shall be to discuss settlement if desired by the parties, to review the instructions, to hear and determine all pretrial motions in limine and objections to deposition testimony that a party intends to offer at trial, and to take up any other pretrial matters that could avoid unnecessary delays during the trial. All parties shall file deposition designations intended to be offered at trial at least seven days prior to the pretrial conference hearing, with notice to every other party. Motions in limine and objections to deposition testimony must be filed prior to the pretrial conference hearing with notice for that hearing as required by Supreme

Court Rule. The instructions intended to be offered by the parties shall be filed at the hearing with copies furnished to all parties.

RULE 36 SETTING CASES FOR TRIAL

36.1 DOMESTIC RELATIONS CASES

1. **Automatic Setting of Status Review Hearing.** Upon the filing of a domestic relations action, the filing clerk shall immediately set the case for a status review hearing on the first available date following 60 days from the date of the filing of the action. The clerk shall inform the petitioner of said date by placing it on the cost deposit slip. If petitioner is allowed to file in forma pauperis, the clerk shall mail notice of the hearing date to petitioner or if represented, to petitioner's counsel. If petitioner is represented by counsel at the time of filing, petitioner's counsel shall mail timely written notice of said hearing to all parties and any guardians ad litem. If petitioner is not represented by counsel at the time of filing, the clerk shall mail written notice of said hearing to all parties and any guardians ad litem.

If petitioner is not represented by counsel at the time of filing, and respondent has filed an answer to the petition concurrently, the clerk shall immediately set the case for a status review on the first available date following 30 days from the date of filing of the action and mail written notice of said hearing to all parties and any guardians ad litem.

2. **Status Review Hearing.** All parties, attorneys of record, and guardians ad litem shall attend the status review hearing. At the hearing, the Court shall conduct a pre-trial conference. In addition, the Court may dispose of the case by agreement of the parties; set the case for trial; or, take any other appropriate action to resolve the case in a timely fashion.

3. **Trial Setting.** A domestic relations action not already set for trial may be set for trial as provided for in Rule 36.4 infra. However, unless approved by the Court, no contested domestic relations action can be set for a trial date which is prior to the date set for the status review hearing pursuant to this rule.

36.2 CASES ON EXPEDITED TRACK

1. **Automatic Trial Setting.** Upon the filing of a civil action, other than a domestic relations action, which is placed on the expedited track pursuant to Rule 4.3.1, the filing clerk shall immediately set the case for trial after obtaining a trial date from the division clerk giving due regard to the time required for service of process and the filing of any required responsive pleading. Notice of trial setting shall be provided according to the procedure set forth in Rule 36.1.1 supra.

36.3 CASES ON STANDARD AND COMPLEX TRACK

1. **Automatic Setting of Status Review Hearing.** Upon the filing of a civil action which is placed on the standard or complex track pursuant to Rule 4.3.1, the filing clerk shall immediately set the case for a status review hearing on the first available date following 90 days from the date of the filing of the action. Notice of the status review hearing pursuant to this rule shall be provided according to the procedure set forth in Rule 36.1.1 supra.

2. **Status Review Hearing.** All pro se parties and attorneys of record shall attend the status review hearing. At the hearing, the Court shall conduct a pre-trial conference; review the scheduling order entered pursuant to Rule 4.3.1; and, take any other appropriate action to resolve the case in a timely fashion.

3. **Trial Setting.** A civil action which is placed on the standard or complex track pursuant to Rule 4.3.1 and not already set for trial may be set for trial as provided for in Rule 36.4 infra.

36.4 REQUEST FOR TRIAL SETTING

1. **Filing Request.** Any party to a civil case pending in any division of this circuit and not already set for trial may place that case on the trial docket for a trial on the merits by filing with the clerk of the division a written request in the form of Form 36.4.1 (See Appendix, Form D) which is incorporated herein and made a part of this rule. Prior to filing a request for trial setting, the party requesting a trial setting shall contact the clerk of the division for available dates and all parties in a good faith attempt to agree upon a trial setting.

2. **Provisional Trial Setting.** Upon the filing of the request for trial setting, the division clerk shall place the case on the Court's trial docket for the trial setting specified, if available. If the trial setting specified is unavailable at the time the request is filed, the clerk shall notify the requesting party to obtain a different trial setting. This trial setting shall be provisional only and subject to objection pursuant to this rule.

3. **Notice of Trial Setting.** Once a provisional trial setting has been obtained pursuant to this rule, the party requesting the trial setting shall immediately give written notice of the trial setting to all parties in the form of Form 36.4.3 (See Appendix, Form E) which is incorporated herein and made a part of this rule. A copy of the Notice of Trial Setting shall be filed with the division clerk. If all parties agree as to an available trial setting, no notice pursuant to this rule is required to be sent or filed.

4. **Objection to Trial Setting.** Any party objecting to a trial setting shall file within 10 days of the Notice of Trial Setting being served as required by this rule, a

written objection stating the basis thereof accompanied by a notice for hearing the objection. The Court in its discretion may rule upon any objection to trial setting with or without a hearing. If the Court overrules the objection, the provisional trial setting becomes a firm trial setting. If the Court sustains the objection, the Court shall remove the case from the trial docket or in its discretion may continue it to a date certain as the Court deems appropriate. If no timely objection to trial setting is filed, the provisional trial setting becomes a firm trial setting.

36.5 TRIAL SETTING ON COURT'S OWN MOTION

Nothing in this rule shall prohibit the Court, at anytime in any case, from giving notice of hearing to all parties for the purpose of setting the case for trial. At the hearing, the Court may set the case for trial, unless a party shows good cause why the case should not be placed on the trial docket.

36.6 CONTINUANCES

Once a case has been set for hearing or trial pursuant to this rule, no continuances shall be granted unless ordered by the Court.

RULE 37 DISMISSALS

37.1 DISMISSAL DOCKET (Circuit Civil Cases)

In any circuit civil case wherein there has been no action taken by the parties of court record during the twelve (12) months immediately past, the Court shall cause a 30-day notice to be mailed by the Circuit Clerk to the attorneys of record and any parties for whom no attorney of record is listed that such case will be dismissed by the Court with prejudice for want of prosecution, unless on or before the date of dismissal set forth in the notice, a verified written application is made to the Court by a party in the case and good cause shown why the case should be continued as a pending case.

Once an application is filed, the Court will have 14 days within which to sustain the application without hearing. Thereafter, if the application is not sustained without hearing, the applicant may notice up and cause the application to be heard. Any application not ruled upon within 60 days after filing will be deemed overruled and the Court shall dismiss the case with prejudice for want of prosecution. During the pendency of an application, no dismissal shall occur pursuant to this rule.

37.1.1 DISMISSAL DOCKET (Associate Circuit Civil and Small Claims Cases)

In any associate circuit civil or small claims case where there has been no action taken by the parties of court record during the four (4) months immediately past, the Court shall cause a 30-day notice to be mailed by the Circuit Clerk to the attorneys of record and any parties for whom no attorney of record is listed that such case will be dismissed by the Court without prejudice for failure to prosecute, unless on or before the date of dismissal set forth in the notice, a verified written application is made to the Court by a party in the case and good cause shown why the case should be continued as a pending case.

When an application is filed, the Court will rule on it without a hearing, unless a hearing is requested. If the application is not sustained the Court shall dismiss the case without prejudice for failure to prosecute.

37.2 REINSTATEMENT OF CAUSE
(No local rule.)

RULE 38 SUMMARY JUDGMENTS

38.1 NOTICE OF HEARING

All motions for summary judgment shall be set for hearing and oral argument before being considered under submission for ruling unless said hearing is waived by the Court.

SETTLEMENT AND DEFAULT

RULE 41 SETTLEMENT
(No local rule.)

41.1 NOTICE OF SETTLEMENT
(No local rule.)

RULE 42 DEFAULT
(No local rule.)

TRIALS

RULE 51 COURT-TRIED CASES
(No local rule.)

51.1 DEFAULT AND UNCONTESTED MATTERS

(No local rule.)

51.2 CONTESTED MATTERS

(No local rule.)

51.3 PREPARATION OF FINDINGS OF FACT AND CONCLUSIONS OF LAW

In all cases where findings of fact and conclusions of law are required by Supreme Court Rule or statute or when deemed necessary by the Court for the proper administration of justice, the attorneys representing the parties shall submit proposed findings of fact and conclusions of law to the Court as and when ordered. Any proposed findings of fact and conclusions of law shall be submitted as a Word document to the judge's clerk at the clerk's e-mail address or as otherwise directed by the Court. The proposed judgment shall not be filed by a party as an electronic document in the case file.

51.4 CLOSING ARGUMENTS

(See Rule 53.2.)

RULE 52 SELECTION OF JURY

(No local rule.)

52.1 JURY QUESTIONNAIRES

(No local rule.)

52.2 JURY ADMINISTRATION

It shall be the responsibility of the jury administrator in Buchanan County and the Circuit Clerk in Andrew County to assemble prospective jurors each month in numbers as deemed necessary by the Court en banc and pursuant to the procedure required by statute and, inter alia, cause the venirepersons to view the jury orientation film as approved by the Court; complete the jury questionnaire as approved by the Court; randomly designate individual panels to hear specific trials scheduled in each division; and, at the end of the term, arrange for compensation of jurors at the rate set by statute and the County Commission.

COMMUNICATIONS AUTHORIZED: No judge or court personnel, other than the jury administrator, shall communicate with or address venirepersons as a group during their term of service, except for: 1. The Presiding Judge or his designee to qualify the venire as petit jurors in Buchanan County; 2. A judge to explain to an individual panel called for a specific trial in his division why that trial was not proceeding as scheduled; 3.

A judge to address a panel as part of the trial proceedings, or 4. A judge at the conclusion of the trial in his division to answer questions of jurors.

RULE 53 JURY TRIALS

53.1 INSTRUCTIONS

Each instruction submitted in a cause shall be type-written on one side of a sheet of 8 1/2 by 11 inch paper, and without marginal ruling. Copies thereof shall be furnished to counsel for each adverse party. The attorneys must have their instructions ready to be passed to the Court at the beginning of the trial upon all issues in the case that should be reasonably anticipated. The parties requesting any instruction may, at the close of the case, withdraw or modify same before any such instruction is given or refused. At the close of all of the evidence the Court shall permit all parties to examine the instructions of the other parties. After the close of the evidence each party shall have a reasonable time within which to examine the instructions of the other parties and to make objections out of the hearing of the jury. Instructions given or refused shall, at the conclusion of the case, be delivered to the Clerk and retained in the files of said case under the direction of the Court. The Clerk shall not permit any instruction to be taken from the files except upon order of the Court.

53.2 CLOSING ARGUMENTS

In cases tried before a jury the plaintiff, except as otherwise provided herein, shall have the privilege of opening and closing the argument. Before the argument begins the Court shall, outside the hearing of the jury, announce the time for argument, each side being allowed the same length of time. The plaintiff may apportion the time allotted to him between the opening and closing argument as he may choose, provided he shall not consume more than one-half of his time in his closing argument. In those cases in which the Court decides that the defendant has the affirmative issue, he shall have the opening and closing of the argument in like manner and under the same restrictions as laid down for the plaintiff. The Court may in its discretion change the order of argument as above prescribed in a particular case where the circumstances in the opinion of the Court require it, and where it is so ordered before the argument begins. The Court may in its discretion allow the argument in a particular case to extend beyond the allotted time if the circumstances, in the opinion of the Court, make it proper.

RULE 54 SUBMISSION OF PROPOSED ORDERS, JUDGMENTS AND DECREES

54.1 CONTESTED TRIALS AND MOTIONS

Unless otherwise ordered by the judge, in all cases heard by a circuit judge, following any contested motion or trial in which the prevailing party is represented by an

attorney, it shall be the duty of the party in whose favor an order, judgment, or decree is rendered to prepare the document in accordance with the judge's findings and submit it as a Word document in a format that can be edited to the judge's clerk at the clerk's e-mail address within the time designated by the judge.

If the prevailing party is pro se, it shall be the duty of that party in whose favor an order, judgment, or decree is rendered to prepare it in accordance with the judge's findings and file a hard copy of the proposed order, judgment, or decree with the judge's clerk together with one copy thereof for issuance to each party affected thereby within the time designated by the judge.

The proposed order, judgment, or decree shall not be filed as an electronic document in the case file unless the judge authorizes the party to do so.

Failure to comply with this rule may result in the impositions of sanctions including the dismissal of the motion or case.

54.2 DEFAULT OR UNCONTESTED CASES

In default or uncontested motions or hearings, a hard copy of the proposed order, judgment, or decree, together with one copy thereof for issuance to each party affected thereby, shall be submitted to the judge at the time the case or motion is heard unless additional time is granted by the judge. If additional time is granted to file the proposed order, judgment, or decree, the same procedure shall be followed as set forth in Rule 54.1, supra, depending on whether the prevailing party is represented by an attorney or acting pro se. The proposed judgment shall not be filed by a party as an electronic document in the case file unless the judge authorizes the party to do so.

Failure to comply with this rule may result in the impositions of sanctions including the dismissal of the motion or case.

RULES RELATING TO PARTICULAR ACTIONS

RULE 61 ADOPTION (No local rule.)

61.1 FILING REQUIREMENTS (No local rule.)

61.2 HOME STUDY

(No local rule.)

RULE 62 DRIVERS' CASES

62.1 APPLICATIONS FOR LIMITED DRIVING PRIVILEGES

These cases are assigned to associate circuit judges pursuant to Rule 6.1.1 of these rules except for individuals who are applying for Limited Driving Privileges pursuant to Section 302.309.3(9), as a graduate of an alternative treatment court established pursuant to Section 478.007. In those cases the petition for limited driving privilege shall be assigned and heard by the judge of the division from which the applicant successfully graduated from the alternative treatment court.

62.2 PETITIONS FOR REVIEW

(No local rule.)

62.3 BREATHALYZER TEST

(No local rule.)

RULE 63 ASSOCIATE DIVISION CASES

(No local rule.)

**RULE 64 CASES ARISING UNDER CHAPTERS 207 AND 208, RSMo. 1978
(commonly known as Title IV-D and H.B. 601 Actions)**

(No local rule.)

RULE 65 CIVIL COMMITMENT

All cases and matters pertaining to civil commitment of an individual and papers relating thereto shall be filed with the Clerk of the Probate Division of the appropriate county.

RULE 66 CONDEMNATION

(No local rule.)

RULE 67 CRIMINAL CASES

67.1 PRETRIAL RELEASE

(No local rule.)

67.1.1 MOTION TO SET BOND AND FOR BOND REDUCTION

(No local rule.)

67.1.2 DEPOSIT OF OPERATOR'S LICENSE

Officers of the Missouri State Highway Patrol, the Sheriff and Deputies of Andrew and Buchanan Counties, the duly commissioned Police Officers of the various municipalities within the Fifth Judicial Circuit are authorized by this Rule of Court, in their discretion, to accept the Commercial Driver's License or Operator's License issued by the State of Missouri from any person arrested and charged with violation of a traffic law of the State of Missouri, in lieu of any other security for his or her appearance in court to answer any such charge. Provided, however, the license shall not be accepted in lieu of other security for appearance to answer charges in the following instances: (a) Driving While Intoxicated; (b) Driving Under the Influence of Intoxicating Liquor or Drugs; (c) Leaving the Scene of an Accident; (d) Driving While License is Suspended or Revoked; and (e) Any charge made because of a motor vehicle accident in which a death has occurred.

Municipal Judges of the Municipal Courts within the Fifth Judicial Circuit are authorized, in their discretion, to enact a rule under and subject to Section 544.045 RSMo. 1994, providing for the acceptance of the Commercial Driver's License or Operator's License issued by the State of Missouri from any person arrested and charged with violation of a traffic ordinance of and within their respective municipalities, in lieu of any other security for his or her appearance in Court to answer to such charge.

67.2 PRELIMINARY HEARING

(No local rule.)

67.3 GRAND JURY

(No local rule.)

67.4 ATTORNEYS

(No local rule.)

67.5 ARRAIGNMENTS

(No local rule.)

67.6 DISCOVERY

(No local rule.)

67.7 MOTIONS

(No local rule.)

67.8 PLEA BARGAINING

(No local rule.)

67.9 GUILTY PLEA

(No local rule.)

67.9.1 WHERE ENTERED

(No local rule.)

67.9.2 PETITION TO ENTER A PLEA OF GUILTY

(No local rule.)

67.10 PROBATION AND PAROLE

67.10.1 COMMUNITY SERVICE WORK PROGRAM – ANDREW COUNTY

In order to facilitate the effective use of the provision of Section 559.021.2(2), 211.181(7) and 479.190.2(2) authorizing a requirement of the performance of a designated amount of free work for public or charitable purposes as a condition of probation, there is established for Andrew County a community service work program. The program shall be under the direct administration of the Andrew County Associate Circuit Judge, who, with the advice and consent of the Presiding Judge, shall establish such procedures and enlist the assistance of such volunteers, including a program coordinator, as may be deemed appropriate. Expenses incurred for such program shall be budgeted for and paid from Andrew County Associate and Probate Division budget funds allocated for such purpose.

RULE 68 DOMESTIC RELATIONS

68.1 FILING REQUIREMENTS

68.1.1 VITAL STATISTICS FORM

The Vital Statistics Certificate, required by law, shall be filed with the petition for dissolution of marriage or legal separation.

68.1.2 CONFIDENTIAL CASE FILING INFORMATION SHEET

Every petitioner or movant who files a petition for dissolution of marriage, legal separation, motion for modification, action to establish paternity, petition or motion for support or custody of a minor child and anyone filing a responsive pleading to these actions shall file a “Confidential Case Filing Information Sheet – Domestic Relations Cases” at the time they file their cause of action or responsive pleading. The Confidential Case Filing Information Sheet shall not be subject to public inspection. (See Appendix Form K)

68.1.3 CHILD SUPPORT/MAINTENANCE INFORMATION SHEET

When a party is requesting a judgment, including a modification of an existing judgment, decree or order, for an award of child support and/or maintenance, at the time of the hearing the party receiving or requesting child support and/or maintenance shall file with the court a “child support/maintenance information sheet”. (See Appendix – Form L)

68.2 SEPARATION AGREEMENT

In all cases where separation agreements are made under the provision of Section 452.325 RSMo., a copy of such agreement shall be submitted to the court for approval prior to the time set for hearing.

68.3 FORMS OF JUDGMENT OR DECREE

68.3.1 SUBMISSION OF PROPOSED ORDERS, JUDGMENTS AND DECREES

All proposed orders, judgments, and decrees shall be submitted to the judge in accordance with Local Court Rules 54.1 and 54.2. In all cases where separation agreements between the parties have been approved, the judgment or decree shall include therein those terms of the separation agreement required by Section 452.325 RSMo.

Pro se parties shall comply with this rule and shall use the proposed judgments approved by the Supreme Court of Missouri.

68.3.3 MAINTENANCE AND CHILD SUPPORT PAYMENTS

Unless otherwise ordered by the Court all maintenance and child support payments shall be made to the Family Support Payment Center as trustee for the person entitled to receive the payments. Any judgment, including any judgment of modification of an existing judgment, decree or order, in which there is contained an award of child support shall specify therein the full name, date of birth and social security number of each minor child for whom is entered such an award.

At the time a hearing is held when a party is requesting a judgment, including any judgment of modification of an existing judgment, decree or order, for an award of child support, the party receiving or requesting child support shall file with the court a “child support/maintenance information sheet.” (See Appendix, Form K)

68.3.4 QUALIFIED DOMESTIC RELATIONS ORDERS (Q.D.R.O.s)

Should a proposed QUALIFIED DOMESTIC RELATIONS ORDER not be submitted to the Court at the time of Hearing, the same shall be approved as to form and content in writing by both parties to the action affected thereby or a Motion seeking the approval thereof shall be set for a Hearing with notice to the parties.

68.4 FILING OF FINANCIAL STATEMENTS

a. In all contested actions for Dissolution of Marriage or Legal Separation, a Statement of Marital and Non-Marital Property and Liabilities, Form 68.4A, (**See Appendix, Form F**) shall be completed by each party; executed under oath; filed with the Court; and, supplied to the opposing party, no later than five (5) business days prior to the date of the hearing or at such time prior thereto as may be ordered by the Court.

b. In all contested actions for dissolution of marriage, legal separation, paternity, or modifications of child support, a Statement of Income and Expenses, Form 68.4B, (**See Appendix, Form G**) shall be completed by each party; executed under oath; filed with the Court and supplied to the opposing party, no later than five (5) business days prior to the date of hearing or such time prior thereto as may be ordered by the Court.

c. In all contested actions for dissolution of marriage or legal separation, a Summary of Marital and Non-Marital Property and Liabilities, Form 68.4C, (**See Appendix, Form H**) shall be prepared by the Petitioner in even-numbered cases and by the Respondent, in odd-numbered cases, filed with the Court and supplied to the opposing party, no later than two (2) business days prior to the date of hearing or at such time prior thereto as may be ordered by the Court. The non-filing party shall make objections concerning all errors or omissions in the Form 68.4C prior to the hearing.

d. The information provided in Forms 68.4A, 68.4B and 68.4C shall be updated immediately if any changes therein occur prior to the date of hearing.

e. The failure to file the forms herein required shall authorize the Court to take one or more of the following actions: continuing the hearing until the required filing has been made, prohibiting the party failing to file the same from presenting affirmative evidence as to the parties' marital and non-marital property and liabilities and income and expenses, the striking of pleadings, the dismissal of the action or the entry by the Court of other appropriate orders.

f. The provisions of this rule may not be waived by stipulation and agreement of the parties unless with the approval of the Court for good cause shown.

68.5 MODIFICATION OF DECREE

(No local rule.)

68.6 HEARING - PRESENCE OF PARTIES REQUIRED

(No local rule - Repealed 1/29/86.)

68.7 CUSTODY EDUCATIONAL SESSIONS - REQUIRED ATTENDANCE

1. Any party in a dissolution of marriage, paternity, or modification proceeding seeking custody or visitation of at least one child under the age of eighteen shall be required to attend an approved Custody Educational Session (“Session”).

2. The Circuit Clerk shall send notice (**Appendix, Form I**) to each party, or his or her attorney, upon the filing of service of process or waiver of service. Each attorney receiving notice shall immediately provide the notice to his or her client. In addition, the Circuit Clerk shall provide notice to any party who files such action pro se at the time of filing. Each attorney shall inform his or her client of the requirement to attend the Session. Failure of a party to receive the Notice required by this rule shall not excuse that party from compliance with this Rule.

3. Each party shall file proof of completion with the Circuit Clerk immediately upon completion of the Session.

4. No case shall proceed to final hearing until proof of completion of the Session is filed with the Court unless, for good cause shown, attendance is waived by the Court or extended to a time certain after the final hearing by the Court.

5. Failure to comply with this rule may result in a party being held in contempt of court and subject to fines or arrest. In addition, a party may be prohibited from filing any additional action in the case.

68.8 APPOINTMENT OF GUARDIAN AD LITEM

An Order requiring a party to furnish adequate security for the anticipated costs of a Guardian ad Litem may be made by the Court upon the appointment thereof. The failure of the party to furnish security as ordered may result in the Court’s entry of an order of dismissal or the granting of other appropriate relief as provided by Missouri Supreme Court Rule 77.02.

68.9 SUBMISSION OF DOMESTIC RELATIONS CASES BY AFFIDAVIT

Any Dissolution of Marriage, Paternity/Custody matter, or Motion to Modify, may be submitted to the Court for final disposition by Affidavit as follows:

a. A submission may be made by a signed Affidavit using the sample affidavit forms provided in this rule, or a substantially similar form. (**See Appendix, Forms M and N**)

b. The Affidavit must be signed by all parties before a Notary or by his or her attorney.

c. The Affidavit must be accompanied by a Marital Separation Agreement (for a divorce) or a Stipulation (for a Paternity/Custody matter or a Motion to Modify) with all documents e-filed with the Court.

d. A proposed Judgment in Word format, approved by all parties, *including the Guardian Ad Litem*, shall be emailed to Division Clerk.

e. In all custody cases, the parties must also submit a Joint Parenting Plan, Form 14, proof of attendance at the Custody Educational Session (CES) by each party (or date each will attend) unless waived by the Court for good cause, and a completed Child Support/Maintenance Information Sheet.

f. All Guardian Ad Litem fee advances must be made as ordered unless the fee requested is less than the advanced payments ordered or otherwise permitted by the Court.

g. Guardian Ad Litem must sign the stipulation or submit a separate statement approving the agreement.

h. The Affidavit must be submitted to the Court within 3 days of any hearing set in this matter; otherwise, attendance at the hearing will be required unless special permission is received from the Court.

68.10 VICTIM TESTIMONY BY VIDEO CONFERENCE ALLOWED - CIVIL CASES ONLY

1. A person may testify by video conference at a civil trial involving an offense under sections 565.072 to 565.076 if the person testifying is the victim of the offense;

2. The rules and instructions in this subsection shall be posted on the circuit court's internet website;

3. To testify by video conferencing, the person shall file a written notice of intent, supported by affidavit, setting forth their name, case number, email address, contact number, and the basis for the request;

4. The written notice and affidavit shall be filed no less than 30 days prior to the trial, except in cases seeking an order of protection.

5. In cases seeking an order of protection, only a written notice of intent is required. If the person seeking to testify by video conference is the Petitioner, the written notice may be requested at the time the Petition is filed with the Court. If the written notice of intent is not filed at the time of the initial Petition, the written notice shall be filed no less than five (5) days prior to the hearing or trial;

6. Each court in the circuit shall post a telephone number for the public to call for assistance regarding appearances by video conference;

7. Each court shall post a written notice of these rules, instructions, and phone number, in the public area of the Circuit Clerk's office;
8. The rules and instructions for a victim to testify shall be posted as follows:

NOTICE TO THE PUBLIC

A person may testify by video conference at a civil trial involving an offense under sections 565.072 to 565.076 if the person testifying is the victim of the offense.

For those who desire to testify by video conferencing, you must comply with the following instructions PRIOR TO the hearing. Failure to comply with these instructions could result in your testimony not being received and/or your case being dismissed:

1. If you qualify to testify by video conferencing, and wish to appear in a particular hearing, you must file a written notice of your intent to testify by video conferencing, supported by an affidavit, with the Court Clerk (**See Appendix, Form O and Form P**);
2. The written notice and affidavit shall be filed with the Court no less than thirty (30) days prior to trial, except in cases seeking an order of protection. In cases seeking an order of protection, only a written notice of intent is required. If the person seeking to testify by video conference is the Petitioner, the written notice may be requested at the time the Petition is filed with the Court. Otherwise, the written notice shall be filed no less than five (5) days prior to the hearing or trial.
3. Your written notice shall include the following information:
 - a. Your name;
 - b. Case Number;
 - c. Email address; and
 - d. Contact number.
4. The affidavit in support of your written notice shall set forth the reasons why you believe you qualify to testify by video conferencing under this Rule.
5. Participation in video conferencing requires a device that supports the application ("app") or software Webex®. Supported devices include computers, tablets, and smart phones, running the latest Apple iOS or Android operating systems. In order to use Webex®, your device must have a camera, microphone and speaker in good working order.
6. You are strongly encouraged to download the Webex® app on your device as soon possible to best ensure your testimony can be received by the Court;
7. You are encouraged to use a separate headset with microphone to reduce feedback and improve audio quality. However, it is not required that you use a headset. You may reduce feedback and improve audio quality by muting the microphone on your device until you wish to speak or are asked a question by the Court, or other person;

8. Once your written notice of intent to testify by video conferencing is processed and approved, you will receive a message consisting of a URL (internet address), a meeting ID, and a password. You will use this information to connect to the Webex® court hearing through an internet browser or Webex® app;

9. You should join your Webex® video hearing at least 10 minutes prior to the scheduled hearing time to ensure your equipment and connect are operational;

10. After entering the meeting ID, you may be given the option to “Test Computer Audio.” If this option appears, click on the “Test Computer Audio” button to test your audio. Upon confirmation that the audio is working properly, click the button to join the meeting to complete your connection to the hearing;

11. You must activate your video camera and audio options so the Court can see and hear you. Failure to do so will exclude your testimony at the hearing;

12. The person testifying must be located in a quiet place with no other individuals in the room. The person testifying cannot read from any notes, messages, reports, or other recordings while they are testifying, unless they receive express permission from the Court;

13. The person testifying must identify themselves by saying their full name before they begin speaking. This is essential to making a good court record;

14. **NO PERSON MAY RECORD OR PHOTOGRAPH THE PROCEEDINGS WITHOUT EXPRESS AUTHORITY GIVEN BY THE COURT. A VIOLATION OF THIS RULE MAY BE PUNISHABLE AS AN ACT OF CONTEMPT.** The only recording of the hearing will be through the court system.

FOR ASSISTANCE ON APPEARANCES BY VIDEO CONFERENCING, PLEASE CALL THE ANDREW COUNTY CIRCUIT CLERK’S OFFICE AT (816) 324-3921 OR THE BUCHANAN COUNTY CIRCUIT CLERK’S OFFICE AT (816) 271-1462, Monday through Friday, 8:30 A.M. to 4:30 P.M. If there is no answer, please call again until a clerk can assist you.

RULE 69 OPERATION OF MUNICIPAL DIVISIONS

PURPOSE OF RULE

Supreme Court Rule 37.04 was enacted on September 20, 2016 and adopted as a part of that rule were “Minimum Operating Standards for Missouri Courts: Municipal Divisions.” This Rule organizes these “Minimum Operating Standards” into five separate parts. This Rule is intended to organize, and outline the “Minimum Operating Standards” and “Code of Conduct for Municipal Division Personnel” including applicable statutes governing municipal courts. If there are conflicts between this Rule and the “Minimum Operating Standards” or the “Code of Conduct for Municipal Division Personnel,” the Minimum Standards and the Code of Conduct shall control. If any provision of this rule conflicts with Missouri Supreme Court Rules or Missouri statutes the Supreme Court Rule or statute shall control.

PART I. COURTROOM, CLERK’S OFFICE, RECORDS, SEPARATION OF POWERS

A. Courtroom – Physical Requirements

1. All courtrooms shall be suitable and meet due process requirements for all court attendees. Section 479.060.1.

2. All courtrooms shall be open to the public of all ages and large enough to reasonably accommodate the public, parties, and attorneys, unless the court orders otherwise in a particular circumstance for good cause shown.

3. The court facility’s exterior and interior signage, design, functionality and other factors shall convey an appearance to the public that it is a separate and independent branch of government.

4. The violation bureau schedule of fines and costs shall be prominently posted at the place where fines are to be paid. Rule 37.49(d).

5. The courtroom facility shall be sufficient for the purpose of a courtroom. The facility chosen for court shall take into consideration the safety and comfort of the public, parties, and lawyers. The facility chosen shall uphold the integrity and independence of the judiciary as a separate branch of government.

6. Members of the public and the news media have access to open municipal division records in accordance with Court Operating Rules (COR) 2 and 4 and other applicable law.

B. Clerk’s Office – General

1. The court division shall have a functional clerk’s office that organizes and preserves the judicial records of the court in an organized manner and in compliance with applicable laws and Supreme Court rules.

2. The court shall have a municipal clerk available at least 30 hours per week during regular business hours and court sessions to whom the person can pay fines and from whom the person can obtain information about charges, payments and court operations, pursuant to Missouri Supreme Court Rule 37.04 Minimum Operating Standard #8. The clerk should be available in person during these hours in an office open and accessible to the public and may perform other functions for the municipality that do not constitute an actual or apparent conflict with the impartial performance of judicial duties. In the event the court does not have sufficient staff to have a clerk available for all of the 30 hours in person, the clerk may instead be made available for up to 15 of the 30

hours to provide information about charges, payments and court operations through live communication by telephone, email, or other means of electronic communication.

C. Open Records, Recordkeeping. Each municipal court shall:

1. Maintain complete and accurate records of court proceedings, including warrants outstanding, bonds posted, case files and dispositions.

2. Ensure proper disposition of all cases is documented on the court dockets or backer sheets and that all court dockets or backer sheets are signed by the municipal judge, if required by law.

3. Ensure that information signed by the prosecuting attorney is filed for each ordinance violation to be prosecuted. In addition, the court shall ensure that the prosecuting attorney signs all tickets and reviews and approves all amended and dismissed tickets. Rule 37.49(d).

4. Document proper disposition of cases in manual and electronic records and ensure that sufficient documentation is maintained to support all case actions.

5. Maintain procedures to generate monthly reports of court activity. The court shall submit these reports timely to OSCA and to the city in accordance with state law, COR 4.28 and 4.29, and section 479.080.3, RSMo.

6. Maintain regular computer data backup procedures and ensure such data is stored in a secure off-site location and also test its recovery on a regular, predefined basis.

7. Ensure unique user identifications and passwords are required for each employee. Ensure passwords are confidential and periodically changed. Ensure user access is periodically reviewed and unnecessary access, including that of terminated users, is timely removed. Review user access to data and other information resources to ensure access rights are commensurate with current user job responsibilities.

8. Segregate accounting duties to the extent possible. If not possible to segregate duties, the court shall ensure that documented periodic independent or supervisory reviews of court records are performed.

9. Maintain accurate records to account for all payments received and deposited, that receipts are posted accurately and timely, and that the method for payment is indicated on all receipts. All checks and money orders are endorsed immediately upon receipt. If manual receipts are in use, the court shall ensure that manual receipt slips are timely entered in the computerized system and the numerical sequence of manual receipt

slips is accounted for properly. The court shall ensure that voided transactions are properly documented and approved.

10. Perform reconciliation of the composition of receipts to the composition of deposits, and deposit all monies intact and timely.

11. Perform monthly bank reconciliations, resolve reconciling items, and make appropriate, documented adjustments to accounting records timely.

12. Prepare monthly lists of liabilities and reconcile the lists to the bank account and/or city fund balance, and promptly investigate and resolve differences. The court shall establish procedures to review the status of liabilities to determine the appropriate disposition of funds held.

13. Develop procedures to ensure the monthly distributions are properly calculated and disbursed timely.

14. Establish procedures to routinely generate and review the accrued costs list for accuracy and properly follow up on all amounts due.

15. Obtain signed payment plans from all defendants granted such plans. Ensure that payment plans are incorporated in the case management system in accordance with court operating rules where applicable.

16. Notify the circuit clerk of its court's existence. Section 479.030.1.

17. Provide sufficient nonjudicial personnel to ensure proper functioning of the court. Section 479.060.1.

18. Ensure all fines and costs collected shall be paid into the municipality's treasury at least monthly. Section 479.080.1.

19. Provide a monthly list of cases with required detail within 10 days of the end of each month to the municipality. Section 479.080.1.

20. Adopt a written policy for reporting intoxication-related traffic offenses to the central repository and provide same to OSCA and the highway patrol. Section 479.172.1 and 479.172.2. Court Operating Rule #4 shall suffice for this purpose.

21. Provide a semiannual disposition report of intoxication-related traffic offenses to the circuit court *en banc*. Section 479.172.3.

22. Maintain adequate documentation to support all adjustment transactions and ensure an independent review and approval of these transactions is performed and documented.

23. Maintain a change fund at an established amount and periodically count and reconcile the monies on hand to the authorized balance.

24. Maintain bond coverage for all personnel with access to municipal division monies.

25. Ensure all bond receipts are recorded and deposited timely and intact.

26. Develop procedures and maintain records to identify applicable violations and the associated fines and court cost revenues for purposes of the revenue calculations required by Section 479.359 RSMo et seq., and provide this information to the city.

D. Separation of Powers. Each court shall comply with the following requirements:

1. Administrators and clerks of court and other nonjudicial personnel, when performing court-related functions, shall work solely under the direction and supervision of the municipal judge, the circuit clerk, or another officer of the judicial branch as to the work to be performed and the manner in which it is to be done.

2. Clerks of court and other nonjudicial personnel shall not perform any functions that could constitute an actual or apparent conflict of interest with the impartial performance of their judicial duties.

3. Judges, clerks of court, and other nonjudicial personnel shall not be subject to informal pressure, formal discipline, firing, or threats of non-retention or non-reappointment at the conclusion of a term of office by officers and administrators of the municipal government resulting from the performance of judicial duties in a manner that upholds the independence of the judiciary.

4. Judges, clerks of court, and other nonjudicial personnel shall not be subject to informal pressure, formal discipline, firing, or threats of non-retention or non-reappointment at the conclusion of a term of office by officers and administrators of the municipal government that are designed to encourage or require the court to operate in such a way as to maximize the municipal revenues derived from municipal division operations or to meet specified revenue targets without regard to whether such goals or targets are communicated formally or informally to court personnel.

PART II. GENERAL COURTROOM PROCEDURES

A. Rights of Defendants. Each court shall comply with the following requirements:

1. Establish standardized procedures to assure that defendants are given advice of rights pursuant to Rules 37.47, 37.48, 37.50, and 37.58.

2. Provide a “Notice of Rights,” in a form approved by or substantially similar to that approved by the Supreme Court, to all defendants. This notice of rights shall be displayed prominently wherever the clerk of the court transacts business with the public and in the facility where court proceedings are held. This notice of rights shall be made available as a handout for those appearing before the court and is displayed on each public information website operated by the court or on behalf of the court.

3. Utilize a written “Waiver of Counsel” substantially in the form of Form 37.C. Rule 37.58(d).

B. Other General Rules. Each court shall comply with the following requirements:

1. Ensure reasonable steps are taken so that, where applicable, the Violation Bureau schedule of fines and costs is provided to an accused at the same time as a violation notice. Rule 37.33(b).

2. Ensure any Violation Bureau established by the court processes only those violations authorized by Rule 37.49(c).

3. Ensure no additional charges shall be issued for failure to appear for a minor traffic offense.

PART III. ARRAIGNMENT, PLEAS, FINANCIAL CONDITION INQUIRIES, INDIGENCY, PAYMENT PLAN, ON-LINE

A. Fines, Costs, Surcharges, Indigency. Each court shall comply with the following requirements:

1. Fines and costs assessed on “minor traffic violations”, as defined in Section 479.353(1)(a), shall not exceed \$225.00.

2. Fines and costs assessed on “municipal ordinance violations” as defined at Section 479.350(4) shall not exceed the mandatory maximum schedule of section 479.353(1)(b).

3. Fines assessed on other ordinance violations shall not exceed the maximum amount authorized by state law and the city code.

4. Only court costs (fees, miscellaneous charges, and surcharges as defined at section 488.010) authorized by state statute shall be assessed. The OSCA bench card on municipal court costs shall be used as a reference. Sections 479.260.1, 479.360(5), and 488.012, RSMo; COR 21.01.

5. “Dismissal on Payment of Costs” [DPC] shall not be permitted. Section 479.353(5), RSMo; COR 21.01(c).

6. Court costs shall not be assessed against indigent defendants. Section 479.353 (4)(5).

7. No fee shall be assessed to the defendant for the use of community service, in compliance with the requirements of Section 479.360.1, RSMo.

B. Defendant’s Rights to Present Evidence of Inability to Pay. Each court shall comply with the following requirements:

1. Procedures shall be established for the judge to inquire of defendants and allow them to present evidence about their financial condition to assess their ability to pay and establishing payment requirements. The court shall ensure the indigency form provided by the Missouri Supreme Court is used in the determination of indigency. See Missouri Supreme Court Model Local Rule 69.01, Statement of Financial Condition attached.

2. Ensure procedures are in place whereby defendants may pay fines and costs within a specified period of time or make installment payments. Rule 37.65(a)(1)(2).

C. Alternative Payment, Community Service, Probation, Payment Plans. Each court shall comply with the following requirements:

1. Alternative payment plans shall be available for utilization. Rule 37.65(a)(1)(2).

2. The granting of probation shall not be conditioned upon the payment of anything other than authorized fees. Probation shall not be denied because of the inability of the defendant to pay authorized probation fees and surcharges.

3. Any probation fees assessed shall be in compliance with Sections 549.525.2, 559.604, and 559.607, RSMo, including consideration of factors exempting a probationer from part or all of the standard monthly probation fee of \$30 to \$50 per

month. The court shall advise offenders of the right to request individualized consideration of exemption from paying probation fees and surcharges under these statutes.

D. Payment On-Line. Each court shall comply with the following requirements:

Ensure procedures exist to allow payments online. The court shall make available to the defendant for free online access to information about his or her pending cases, outstanding warrants, and scheduled court dockets.

OR

Actively pursue court automation to achieve compliance with allowing payments online and making available to the defendant for free online access to information about his or her pending cases, outstanding warrants, and scheduled court dockets.

E. Trial De Novo, Jury Trial, Change of Judge. Each court shall comply with the following requirements:

1. The judge shall follow rules cutting off or limiting his or her authority to act in a case once a motion to disqualify, motion for jury trial, or motion for trial *de novo* is filed.

2. All notices of application for trial *de novo* shall be filed in writing with the municipal division within ten (10) days after the date of judgment. If no application for trial *de novo* is filed with the municipal division within ten (10) days of the judgment, the right for trial *de novo* shall be deemed waived and the municipal division shall execute the judgment and sentence.

3. If a defendant files an application for trial *de novo*, the fee for trial *de novo* shall be \$30.00 and shall be deposited with the municipal division. When an application for trial *de novo* is made without the deposit of the trial *de novo* fee, the defendant shall also complete and file a Statement of Financial Condition in the form provided by the Missouri Supreme Court under Model Local Rule 69.01 and the Statement of Financial Condition shall become part of the file certified to the circuit court. The judge assigned to hear the trial *de novo* shall be bound by the procedures established in Rule 69.01, Part III, A, B and C.

4. When a trial *de novo* request has been filed, the court shall certify the file to the circuit court within 15 days. The court shall ensure that when a case record is certified to the circuit court upon filing of a request for trial *de novo*, all funds received in connection with the case, any bonds, and the record, shall be transferred within 15 days.

5. If the defendant requests a jury trial, the cause shall be transferred to the circuit court. See Supreme Court Rule 37.61.

6. Once a case has been certified or transferred to circuit court, the court shall not act on that case unless and until the case is remanded to that court.

7. Upon successful change of judge requests and recusals, the procedural requirements of Rule 37.53(d) and Section 479.230, RSMo shall be followed.

PART IV. DEFENDANTS IN CUSTODY, BONDS, WARRANTS AND SENTENCING

A. Defendants in Custody. Each court shall comply with the following requirements:

1. Procedures shall exist to prevent defendants from being held longer than 48 hours on minor traffic violations and 72 hours on other violations without being heard by a judge in person, by telephone, or via video-conferencing.

2. The court shall make reasonable efforts to communicate to local law enforcement the 24-hour rule: “Defendants in municipal custody shall not be held more than twenty-four hours without a warrant after arrest.” Section 544.170.1, RSMo.

3. Confinement may, after compliance with Rule 37.65, be utilized if the defendant is found in contempt of court for nonpayment of fines and costs.

4. There shall be a duty judge available at all times to rule promptly upon warrants, bail and conditions of pretrial release, and other matters, without undue delay.

B. Bond Schedules. The municipal division shall ensure bond schedules be utilized only for persons arrested without a warrant and held no longer than 24 hours pursuant to sections 479.360.1(2) and 544.170.1, RSMo. Rule 37.17.

C. Warrants.

1. Warrants shall be issued only upon a finding that reasonable grounds exist to believe that the defendant will not appear upon a summons or that the accused poses a danger to a crime victim, the community, or any other person. Rule 37.43(b).

2. All warrants shall be signed only by judges unless the exception of a specific warrant ordered by a judge to be signed by a clerk is applicable. Rule 37.45(b)(6).

3. When a case is dismissed by the prosecuting attorney or otherwise finally resolved, or when the circumstances that justified issuance of a warrant no longer exist, the judge shall recall and cancel any outstanding warrants in that case as soon as practicable.

4. The recall and cancellation of outstanding warrants shall be communicated to law enforcement by the clerk without delay.

5. Due process procedures of Rule 37.65 shall be strictly followed before confining defendants for failure to pay fines and costs. Section 479.353(3).

D. Sentencing. No person shall be sentenced to confinement on “minor traffic violations” or “municipal ordinance violations” with the exception of violations: involving alcohol or controlled substances; endangering the health or welfare of others; or involving eluding or giving false information to a law enforcement officer. Section 479.353(2).

PART V. JUDGES’ QUALIFICATIONS, REGULATIONS and DUTIES

A. Qualifications.

1. All judge(s) serving in a court municipality - full-time, part-time, substitute, and provisional - shall be selected pursuant to municipality’s ordinance or charter before serving. Section 479.020.1.

2. A judge may serve as a judge in no more than five municipalities. Section 479.020.9.

3. A judge shall not have attained age of 75 years. Section 479.020.7.

4. All lawyer judges shall obtain the following required training and continuing education, and provide documentation thereof to the presiding circuit judge:

- a. Orientation course completed within 12 months after beginning service. Rule 18.05(d).
- b. Five hours of judicial CLE completed annually. Rule 18.05(a).
- c. Two hours of judicial ethics CLE completed annually. Rule 18.05(b).
- d. CLE compliance form is submitted to the circuit court presiding judge.
- e. If substitute/provisional judges preside, names and CLE compliance forms have been provided to the circuit court presiding judge.
- f. Instruction on laws related to intoxicated-related traffic offenses. Section 479.172.1.

B. Compliance with Minimum Standards. By January 1 and July 1 of each year, each judge of a court shall certify to the presiding judge of his/her compliance with Minimum Operating Standards by completing and submitting the the “Minimum Operating Standards Form” to the Presiding Judge.

69.01 DETERMINATION OF INDIGENT STATUS

(a) A person seeking permission to proceed as an indigent in a municipal division case shall submit to the court the following “Statement of Financial Condition.”

STATEMENT OF FINANCIAL CONDITION

Name: _____ Case Number: _____

Address: _____

Your Age and Date of Birth: _____

Phone Number: _____ (Is it OK to text you at this number? Yes/No)

1) If you plead guilty or are found guilty, can you pay your fines and costs today? Yes/No

If you answered “No,” why not? _____

If you answered “No” to Question #1, or if you want the court to consider your financial situation, please answer the following questions and provide the following information:

2) Are you currently in the custody of the Children’s Division or DYS? Yes/No

3) Have you spent a night in jail during the past year because you were unable to post a bond? Yes/No

If “Yes,” how much was your bond? \$ _____

4) Are you receiving public assistance? Yes/No If “Yes,” please tell us what type of public assistance you are receiving (for example, food stamps, TANF, Medicaid, housing assistance, other types of public assistance): _____

5) Please list the following income from the previous month for your entire household:

Take home pay for the month including overtime and bonuses: _____

Social security income (including social security disability): _____

Workers' compensation income: _____

Unemployment income: _____

Retirement income: _____

All other income: _____

Total: _____

6) How many people live in your household? _____

7) Do you have cash, bank accounts, or any other assets, including vehicles or real estate free of debt, that totals more than \$5,000? Yes/No

If "Yes," what type? _____

If you are facing the possibility of jail time and cannot afford to hire a lawyer, you are entitled to have a lawyer appointed by the court to represent you.

Do you want a lawyer to represent you in this case? Yes/No

Can you afford to hire a lawyer to represent you in this case? Yes/No

Are you asking the court to give you some more time to hire a lawyer? Yes/No

Are you asking the court to appoint a lawyer for you today? Yes/No

The above information is true and correct to the best of my knowledge under penalty of law.

Applicant

(b) A person is presumed indigent if the person:

(1) Is in the custody of the Children's Division or the Division of Youth Services;
or

(2)(A) Has unencumbered assets totaling under \$5,000, and

(B) Has total household monthly income below 125% of Federal Poverty Guidelines, which currently are:

- 1 household person: \$1,237
- 2 household persons: \$1,668
- 3 household persons: \$2,100
- 4 household persons: \$2,531
- 5 household persons: \$2,962
- 6 household persons: \$2,715
- 7 household persons: \$3,393
- 8 household persons: \$4,258

[Add \$433 for each additional person]

69.02 ASSIGNMENT OF MUNICIPAL COURT CASES

The municipal division of the Circuit Court shall hear and determine municipal ordinance violations as provided in Section 479.040.1. Any violations of municipal ordinances filed in the Circuit Court of Buchanan County shall be assigned and heard by the judges in Division 5 and 6.

RULE 70 PARTITION
(No local rule.)

RULE 71 ADMINISTRATIVE REVIEWS
(No local rule.)

RULE 72 PROBATE

72.01 COMPENSATION IN PROBATE MATTERS

The Andrew County and Buchanan County Probate Courts hereby adopt the following rules for compensation in all probate matters.

(1) Compensation – Guardians and Conservators

Fee Standard (Mo. Rev. Stat. § 475.265)

All compensation allowable to attorneys, guardians and conservators shall be based upon a reasonable hourly fee standard as determined by the Court. Attorney fee applications will be considered in light of Rule 4-1.5 of the Code of Professional Responsibility. A "reasonable fee standard" for attorneys' compensation only applies to legal services. Attorneys will not be compensated at normal hourly professional rates for administrative services.

Fee Applications

Each application for compensation shall be in writing and be signed by the conservator. If the conservator's signature cannot be obtained, then the matter shall be set for hearing with notice to the conservator. The attorney shall also sign applications for attorney's compensation.

Fee applications for both attorneys and guardians/conservators must be prepared in written form and contain a reasonably detailed description of the nature of the services performed, the date performed, the amount of time expended in connection with the service, the total hours expended, and the hourly rate charged.

Where attorney services and paralegal services are shown in the same application, it is necessary to distinguish which services and time were spent by the attorney and which by the paralegal, differentiating total hours and hourly rates charged.

Fee applications shall contain a statement of the value of the estate.

In Guardianship/Conservatorship estates, the previous usage of percentages and compensation for each line entry on a settlement is abolished.

(2) Compensation - Supervised Administration

Fee Standard (Mo. Rev. Stat. § 473.153)

The criteria for determining hourly compensation to attorneys, personal representatives and paralegals is a "reasonable fee standard." Attorney fee applications will be considered in light of Rule 4-1.5 of the Code of Professional Responsibility. A "reasonable fee standard" for attorneys' compensation only applies to legal services. Attorneys cannot be compensated at normal hourly professional rates for administrative services.

Fee Signatures

Each application for compensation shall be in writing and shall be signed by all personal representatives. If the personal representative refuses to sign the application, the application must be set for hearing with notice to the personal representative. The attorney shall also sign applications for the attorney's compensation.

Statutory Fee

The statutory fee as calculated by Mo. Rev. Stat. § 473.153.1 is presumed to be the minimum reasonable fee for both the personal representative and the attorney. The statutory fee shall be computed based on:

- (1) The value of all personal property listed on the inventory,
- (2) Income received during administration, and

(3) The net proceeds of all real property sold under order of the Probate Division.

Hourly Compensation

When hourly compensation in excess of the statutory fee is sought in a decedent's estate, the application must be prepared in writing and contain a reasonably detailed description of the nature of all services performed, the date performed, the amount of time expended in connection with the service, the total hours expended, and the hourly rate charged. Where attorney services and paralegal services are shown in the same application, it is necessary to distinguish which services and time were spent by the attorney and which by the paralegal, differentiating total hours and hourly rates charged. Fee applications shall contain a statement of the value of the estate.

(3) Compensation – Independent Administration

Statutory Compensation Mo. Rev. Stat. §§ 473.153, 473.823

The independent personal representative and his attorney are entitled to reasonable compensation. The statutory fee prescribed by Mo. Rev. Stat. § 473.153, is prima facie evidence of a reasonable fee. Generally, no orders will be entered for statutory fees or for a lesser amount. The statutory fees of the independent personal representative and his attorney shall be shown on the final accounting as credit entries.

Compensation in Excess of the Statutory Fee

The independent personal representative and his attorney may not take compensation in excess of the statutory fee prescribed by Mo. Rev. Stat. § 473.153, without a court order.

The independent personal representative and his attorney shall file an application and order for fees signed by both parties with consents of all interested persons. If consents are not obtained, the application will be set for hearing with notice to interested persons.

The application must be prepared in writing and contain a reasonably detailed description of the nature of all services performed, the date performed, the amount of time expended in connection with the service, the total hours expended, and the hourly rate charged. Where attorney services and paralegal services are shown in the same application, it is necessary to distinguish which services and time were spent by the attorney and which by the paralegal, differentiating total hours and hourly rates charged. Fee applications shall contain a statement of the value of the estate.

(4) RECOMMENDED HOURLY RATES:

Attorneys and attorney's staff may bill for their time at a reasonable rate as agreed to by the attorney and the appointed fiduciary subject to Court approval.

Guardian, Conservator, and Personal Representative may charge a reasonable rate for service not to exceed \$25 per hour without approval by the Court.

RULE 72 PROBATE

72.02 PUBLIC ACCESS TO PROBATE CASE RECORDS

1. Public Access to probate matters shall be in accordance with Supreme Court Operating Rule 2.

2. **Confidential Information to be Redacted.** Pursuant to Court Operating Rule 2, the filer of a document shall redact all confidential information ("Confidential Information"). Court personnel will not review each case document to ensure compliance and will not refuse to accept a document on that basis.

a. Confidential Information contained within public probate case documents shall include:

 i. social security numbers; driver's license numbers; state identification numbers; taxpayer identification numbers;

 ii. account numbers; credit or debit card numbers; personal identification numbers; passwords;

 iii. case numbers of confidential, expunged, or sealed records; and

 iv. any other information that is required to be redacted pursuant to state statute or court rule.

For purposes of probate matters in which the minor is a proposed ward/protectee, ward/protectee, an heir/devisee, or other interested party, the minor's name is not considered confidential information and is not required to be redacted.

b. The filer of a document is not required to redact Confidential Information from confidential case records or confidential documents identified below in Rule 72.02.3 – 72.02.4 because said documents are not available for public access.

3. **Confidential Records.** Confidential Records, as set forth in Supreme Court Operating Rule 4.24, shall remain inaccessible to the general public.

4. **Confidential Documents.** Confidential Documents, as set forth by the State Judicial Records Committee and designated below in subparagraphs (i)-(vi), shall remain inaccessible to the general public. Confidential Documents in probate cases shall include:

- i. Inventories, annual and final settlements, statements of account, account statements, vouchers, verifications, and agreements of depositories;
- ii. Any “Exhibit A” document from local court forms containing account numbers that is filed in conservatorship action, refusal, small estate or petition for determination of heirship action;
- iii. Medical records, medical letters, medical affidavits, medical interrogatories or other correspondence from a physician or healthcare provider that contains a person’s medical information; treatment plans; mental status evaluations; and guardianship and conservatorship personal status reports.
- iv. Copies of personal income tax documentation that may have been requested in order to establish a standard of living for the purpose of a spousal refusal or spousal allowance;
- v. Motions to Proceed in Forma Pauperis and any accompanying documentation; and
- vi. Copies of documents from other confidential, expunged, or sealed records.

5. **Court Order.** Confidential Records and Confidential Documents, as set forth above, shall not be produced to individuals other than parties or counsel of record without a court order.

RULE 73 **SMALL CLAIMS**
(No local rule.)

RULE 74 **TRUST ESTATES**
(No local rule.)

74.1 **INVENTORY**
(No local rule.)

74.2 **REPORTS**
(No local rule.)

74.3 **RECORD**
(No local rule.)

74.4 AUDIT
(No local rule.)

RULE 75 JUVENILE

75.1 JUVENILE DETENTION FACILITY

Pursuant to Supreme Court Rule 111.03 the juvenile detention facility of the Buchanan County Law Enforcement Center is hereby designated as a detention facility to be used when a child is taken into judicial custody in Buchanan or Andrew Counties.

POSTTRIAL

RULE 81 EXECUTION

Except as otherwise provided by law, the Circuit Clerk shall issue execution only upon the written request of the party entitled thereto or the attorney representing said party. Forms therefore shall be furnished by the Clerk.

RULE 82 GARNISHMENT
(No local rule.)

RULE 83 JUDICIAL SALES
(No local rule.)

INTERNAL ORGANIZATION

RULE 100

100.1 PRESIDING JUDGE

100.1.1 ELECTION

A circuit judge shall be elected presiding judge by a majority vote of the associate and circuit judges. The election shall be for a period of two years and shall be held during the first week in January each two years.

100.1.2 DUTIES OF PRESIDING JUDGE

100.1.2.1 APPOINTMENTS

The appointments made by the presiding judge as provided by Section 485.010 RSMo. shall be subject to the approval by a majority vote of the associate and circuit judges. The presiding judge shall have one vote. Persons so appointed and approved

shall continue in their position under a new presiding judge, unless discharged by a majority vote of all of the associate and circuit judges.

100.1.2.2 POWERS

The presiding judge shall have those powers set forth in Section 478.240 RSMo., et seq. subject to the limitations set forth in said section and further subject to the following:

(1) The presiding judge shall not assign a class of cases to one judge without the consent of such judge; and

(2) The presiding judge shall not assign the court reporter, division clerk or bailiff of a judge without the consent of such judge, except that in the absence of a judge the presiding judge may temporarily assign members of such judge's staff to work in other courtrooms.

100.1.3 DISPUTE RESOLUTION - PROCEDURE

(No local rule.)

100.1.4 REMOVAL OR DISABILITY

A presiding judge may be removed from said position by a three-fourths vote of the other circuit and associate circuit judges. In the event of the disability of the presiding judge or if he is to be out of town and unavailable, he may appoint another circuit judge to act. If the disability or unavailability shall continue for thirty days, an election shall be had for the purpose of electing a presiding judge for the unexpired term of the disabled judge, or the election of a presiding judge to act until the disabled or unavailable judge can resume his duties.

100.1.5 ORDERS OF PRESIDING JUDGE

Any order issued by the presiding judge shall be in writing and filed in the Office of the Circuit Clerk, unless otherwise directed by the circuit judges.

100.1.6 INCONSISTENCY OF RULE

Should any portion of this rule be inconsistent with a Supreme Court Rule, the inconsistent part of this rule shall be deemed stricken.

100.2 LOCAL COURT RULES

100.2.1 FORMULATION

The local court rules for the Fifth Judicial Circuit shall be promulgated by the Court en banc, and may be amended or changed from time to time by majority vote of the Court en banc.

100.2.2 PUBLICATION

These rules shall be published and distributed according to the provisions of Supreme Court Administrative Rules 6.02 and 6.03.

100.3 LIBRARY FUND

Beginning June 1, 2000, in each civil case filed in Buchanan County, the Circuit Clerk shall require a deposit of \$10.00 for the Law Library Fund. In Andrew County, the Circuit Clerk shall require in each civil case a deposit of \$15.00 for the Law Library Fund.

RECORDS AND FILES

100.4 STORAGE OF RECORDS

(No local rule.)

100.4.1 REPRODUCTION, PRESERVATION, ARCHIVAL AND DISPOSAL OF ORIGINAL CIRCUIT COURT FILES (AND THEIR CONTENTS)

(No local rule.)

100.4.2 REPRODUCTION AND PRESERVATION OF COURT RECORDS OTHER THAN FILES (AND THEIR CONTENTS)

(No local rule.)

100.4.3 RESPONSIBILITY FOR INDEXING AND PRESERVING COURT REPORTER NOTES

(No local rule.)

100.4.4 IDENTIFICATION OF REPORTER'S NOTES

(No local rule.)

100.4.5 INDEX

(No local rule.)

100.4.6 STORAGE OF NOTES

(No local rule.)

- 100.4.7** **NOTES OF SUBSTITUTE REPORTERS**
(No local rule.)
- 100.4.8** **STORAGE OF NOTES UPON RETIREMENT,
TERMINATION OR DEATH OF COURT REPORTER**
(No local rule.)
- 100.4.9** **BOXING AND STORING OF OLD NOTES**
(No local rule.)
- 100.4.10** **RESPONSIBILITY FOR FURNISHING MATERIALS AND
SPACE FOR STORAGE OF COURT REPORTERS NOTES**
(No local rule.)
- 100.4.11** **PROCEDURE FOR EXAMINATION OF CRIMINAL
RECORDS**
(No local rule.)
- 100.4.12** **PROCEDURE FOR EXPUNGING AND CLOSING
CRIMINAL RECORDS**
(No local rule.)
- 100.5** **CLERK'S DUTIES**
- 100.5.1.1** **MONIES PAID INTO COURT**
(No local rule.)
- 100.6** **SELECTION OF VENIREMEN**
(No local rule.)
- 100.7** **COURT EN BANC**
- 100.7.1.1** **REGULAR MEETING**

The Circuit Court of the Fifth Judicial Circuit shall meet en banc every month in the Circuit Court, Division 3 Jury Room. Notice of scheduled time of the meeting will be posted 24 hours prior to the meeting in the Circuit Clerk's office. The meeting shall be open to the public, except that meetings relating to personnel matters and the hearing of any complaints against officials under the superintending control of the court shall be closed meetings.

- 100.7.2** **AGENDA**

For each meeting there shall be an agenda which should include any old business carried over from the previous meeting and any new business which has been placed on the agenda at least 24 hours in advance of the meeting. No matter may be brought up for discussion or vote which has not been placed on the agenda. Any meeting which has no business on the agenda shall be canceled by the presiding judge. With the consent of all the judges, the meeting may be canceled or postponed.

100.7.3 SPECIAL MEETING

The presiding judge may call a special meeting on 24 hours' notice to take care of any emergency situation. A majority of the judges eligible to vote on any question shall constitute a quorum for consideration of the question.

100.7.4 ELIGIBILITY TO VOTE

All circuit judges and associate circuit judges shall be eligible to vote on all matters which may come before the Court en Banc, including but not limited to election of the Presiding Judge and adoption of local court rules.

APPENDIX

Form A.....	Track Information Statement
Form B.....	Case Information Statement
Form C.....	Notice of Dispute Resolution Services
Form D.....	Request for Trial Setting
Form E	Notice of Trial Setting
Form F	Statement of Marital and Non-Marital Property
Form G.....	Income and Expense Statement
Form H.....	Statement of Marital and Non-Marital Property
Form I.....	Notice of Custody Educational Session Attendance Requirement
Form J.....	Confidential Case Filing Info. Sheet-- Non-Domestic
Form K	Confidential Case Filing Info. Sheet— Domestic
Form L.....	Child Support/Maintenance Information Sheet
Form M.....	Affidavit for Judgment – Domestic
Form N.....	Affidavit for Judgment – Paternity/Custody
Form O.....	Request To Appear By Video Conference
Form P.....	Domestic Assault Affidavit