

Supreme Court of Kentucky

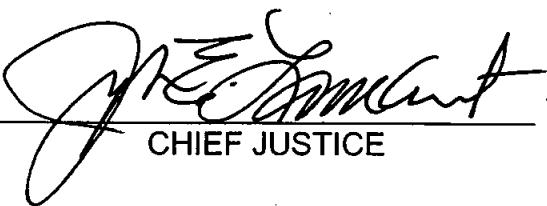
ORDER

IN RE: ORDER APPROVING AMENDMENTS TO THE LOCAL RULES OF PRACTICE FOR THE 15TH JUDICIAL DISTRICT, CARROLL, GRANT AND OWEN DISTRICT COURTS

Upon recommendation of the Judge of the 15TH Judicial District, Carroll, Grant and Owen District Courts, and being otherwise sufficiently advised,

The amendments to the Local Rules of practice for Carroll, Grant and Owen District Courts are hereby approved. This order shall be effective as of the date of this Order, and shall remain in effect until further orders of this court.

Entered this the 8 day of November, 2007.


CHIEF JUSTICE

REVISED LOCAL RULES OF THE FIFTEENTH JUDICIAL DISTRICT COURT

CARROLL GRANT and OWEN COUNTIES

COMMONWEALTH OF KENTUCKY
15TH JUDICIAL DISTRICT

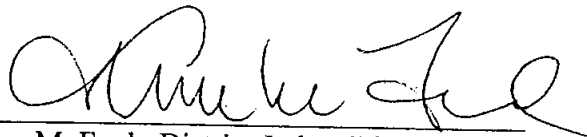
ORDER SETTING RULES OF COURT PRACTICE AND PROCEDURE

IT IS HEREBY ORDERED:

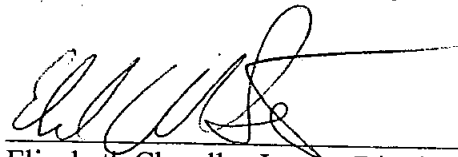
EFFECTIVE DATE OF RULES

These Rules of Court Practice and Procedure of the 15th Judicial District are adopted pursuant to SCR 1.040(3)(a), RCr 13.02, and other applicable law and shall apply after November 1, 2007 to all criminal and civil matters filed or pending, subsequent to certification to the Honorable Chief Justice of the Commonwealth of Kentucky as required by law. All former rules, orders and memoranda of this court in conflict herewith are repealed effective November 1, 2007. Additional Rules of Practice may be adopted as needed from time to time in the discretion of this court and the foregoing Rules may be amended, deleted or added to as decreed.

This 25 day of September, 2007.



Thomas M. Funk, District Judge, Div. II



Elizabeth Chandler-Lester, District Judge, Div I

NORMAL COURT TIMES

GRANT COUNTY

MONDAY

8:30 a.m. - 9:00 a.m. Jail
8:30 a.m. - 9:00 a.m. Pre-Trial Conferences
9:00 a.m. - 12:00 p.m. Arraignments
1:00 p.m. Criminal Bench Trials
Motions in Criminal Proceedings

TUESDAY

8:30 a.m. - 9:00 a.m. Jail
9:00 a.m. - 12:00 p.m. Juvenile Proceedings
1:00 p.m. Probate Matters
Evictions
Civil Matters
Small Claims
Domestic Violence Matters

CARROLL COUNTY

WEDNESDAY

9:00 a.m. - 9:30 a.m. Probate Matters
Evictions
Civil Matters
Small Claims
Domestic Violence
9:00 a.m. - 11:00 a.m. Jail and Juvenile Matters

THURSDAY

9:00 a.m. - 10:00 a.m. Arraignments
10:00 a.m. - 12:00 p.m. All other criminal cases and jail

OWEN COUNTY

FRIDAY

All matters begin at 9:00 a.m. as scheduled by the docket prepared by the District Court Clerk.

GENERAL RULES OF PROCEDURE

STYLE OF PLEADINGS:

1. All civil complaints and subsequent pleadings that add additional parties shall contain the name and address of all parties first named to the action.

2. All pleadings and legal papers, except the complaint, shall set forth the case number of the action the pleading or legal paper is being filed in. If any legal paper is filed in more than one action, it shall contain all the case numbers it is to be filed in at the time it is filed with the Clerk's Office and a copy shall be furnished for each case.

MOTIONS:

1. Motions shall be heard on the days and at the times set forth on the Court calendars which shall be promulgated from time to time and in accordance with the normal court schedules. Motions submitted and filed without a set time and date for hearing shall not be considered.

2. Motions involving an emergency, which may cause irreparable harm or injury to persons or property by delay in waiting until the next scheduled motion date, may be heard when the Court's schedule permits and with prior oral approval of the Court. In such instances the Court will make a decision as to whether or not the issue constitutes an emergency.

3. To facilitate the preparation of the motion docket, all motions shall be filed and served not later than 72 hours prior to the scheduled hearing on the motion, excluding Saturdays, Sundays and holidays, if service is made in person. If copies to opposing counsel are served by mail, said motion must be filed not later than seven (7) days prior to the day of said hearing on the motion. Copies of motions shall be served on the Court,

except for matters which will not be contested. (For example, if the Motion is simply to set a matter for trial, there is no need to serve a copy on the Court).

4. All motions shall be separately paragraphed and separately numbered.

5. Each motion shall set forth the basis for the motion specified in either the body of the motion or by an attached affidavit.

EX PARTE COMMUNICATION:

There shall be no ex-parte communications with the Court except as is expressly permitted by the published rules of the Court of Justice of the Commonwealth of Kentucky.

APPEARANCES, SUSTITUTIONS, STIPULATIONS:

Whenever a party has appeared by attorney he or she may not thereafter appear or act on his own behalf in the action, or take any step therein, unless an order of substitution shall first have been made by the court after reasonable notice to the attorney by such party, and to any opposite party; provided that the court may in its discretion hear a party in open court, notwithstanding the fact that he has appeared or is represented by an attorney.

CONTINUANCES:

All cases set for trial or pre-trial conference shall be heard at the time and on the date set unless by direction or order of the Court, on good cause shown, same are properly continued pursuant to the Kentucky Rules of Civil or Criminal Procedure. In order for any party to obtain a continuance, good cause must be shown by affidavit of the party or parties or by the statements of counsel, supported by additional affidavits, if deemed necessary by the court.

ATTORNEYS

1. All pleadings and papers requiring the signature of an attorney shall set forth on the last page thereof the typed name and complete address of counsel, including telephone number, fax number and e-mail address, if any.

2. All attorneys appearing in Court shall appear in proper attire. Any attorney appearing in inappropriate attire will be so advised, individually, and in private. All litigants and witnesses shall abide by the 15th Judicial Circuit dress code for court.

ARRAIGNMENTS AND PRE-TRIAL CONFERENCES:

A Defendant, or any attorney on behalf of a Defendant, shall appear in Court for the Defendant's arraignment. Once an appearance is made by either the Defendant, or the Defendant's attorney, it shall be the responsibility of the Defendant to remain apprised of all future court dates. Pre-Trial Conferences shall be assigned for a date approximately fourteen (14) days following the Defendant's arraignment, unless good cause is shown to expedite the matter. In the event the Defendant or Defendant's attorney fails to appear at a subsequent court date, a trial in absence may be held to resolve the case.

DUI SENTENCING

Whenever a Defendant wishes to enter a plea of guilty to a charge of DUI, the Defendant and his attorney, if applicable, shall be responsible for bringing the appropriate Plea Agreement and DUI rights statement to the bench when the Defendant intends to enter the plea. These forms are available from the District Court Clerk. Defendants who are pleading guilty to a second or third offense DUI shall bring the license plates off all

of their motor vehicles to the sentencing, proof that they have transferred the vehicle out of their name, or made an application for hardship exemption, whichever is applicable.

TRIALS AND JUDGMENTS

DEFAULT JUDGMENTS AND AGREED ORDERS

1. A party seeking a judgment by default shall first file a written notice for such a judgment. All such motions shall be heard ex-parte and shall not be scheduled on Motion Day dockets. The motions shall be accompanied by an affidavit in full compliance with 50 USCA, App. Sec. 520, and the certificate required by CR 55.01. The Judgment per se, when presented to the Court must also contain a statement by the attorney for the party seeking such a judgment conforming with the certificate required by CR 55.01.
2. Agreed Orders and judgments shall be submitted to the Court at any time at the convenience of the Court and shall not be placed on any Motion Day docket.
3. No orders or judgments tendered to the court shall contain the letterhead or other printed identification of counsel submitting the same.
4. All criminal and civil jury trials shall start promptly at 9:00 a.m. or at such other time as may be established by order of the Court. All motions capable of determination without trial of the general issue shall be noticed and heard no later than the report date, which will be established by the Court in each instance where trial by jury is demanded. Jury instructions shall be tendered to the Court and served upon opposing counsel, by the defendant or defendant's attorney on the report date. Jury instructions sought by the prosecution shall be filed and served upon opposing counsel no later than four (4) days prior to the jury trial date. Failure of defendant or defendant's counsel to comply with

this rule shall not operate as a bar to defendant's or counsel's right to object to instructions tendered by the prosecution, but shall operate to bar any proffer of instructions by the defense. Absent good cause, no plea agreements will be accepted by the Court after the report date has passed. The Court reserves the right to, among other options, impose upon the defendant a "jury fee" in an amount calculated to reimburse the Commonwealth for the cost of the jury having been summoned to hear the case.

5. In jury trial cases where Defendants have been sentenced to a term of imprisonment, sentencing shall take place immediately following the completion of the trial. Defendants shall immediately begin serving their sentences unless a Notice of Appeal and the appropriate appeal bond are immediately posted.

PROBATE MATTERS

1. All probate, name changes and appointment of Guardians shall be heard on the days and at the times set forth on the Court calendars which shall be promulgated from time to time. In those estates where it is appropriate, the Court will waive surety on a Fiduciary's bond upon proper compliance with the provisions of KRS 395.131(1).

2. Informal Settlements of decedent's estates are encouraged by the Court. See KRS 395.605.

SUBPOENAS

All subpoenas to be served by the Sheriff shall be delivered to his office at least five (5) days prior to the trial date, except in cases in which the order setting them for trial is less than two (2) weeks prior to the trial date, in which event the subpoenas shall be delivered not later than 48 hours after the order setting the case for trial. No continuances

will be granted due solely to the failure to have a witness subpoenaed unless it is certified that there was compliance with this rule.

DISABILITY MATTERS

In all disability actions, the Petitioner shall be responsible for producing all medical and psychiatric reports required pursuant to the appropriate statute. The District Court Clerk in the county where the action is pending shall notify the affected social worker of the need to secure the reports required. All disability matters shall be set for jury trial within 90 days of filing. Petitioner shall have all required reports filed and served at least ten (10) days prior to the trial date. The guardian ad litem appointed for the alleged disabled person shall file and serve a written report at least ten (10) days prior to the trial date. Failure to file the reports required to adjudicate the issues framed by the appropriate statute may result in dismissal of the action and/or sanctions being imposed upon the petitioner or the guardian ad litem by the court.

JURY INSTRUCTIONS

1. In all criminal proceedings set for a Jury Trial, Jury Instructions are required.
 - a. The Commonwealth shall produce Jury Instructions for the trial. These instructions shall be given to the Defendant or his attorney at least three (3) days prior to trial.
 - b. The Jury Instructions shall be in the following form:
 - 1) Each instruction shall be on a separate page.
 - 2) Every criminal charge in the jury instruction shall have a separate verdict form. Each verdict form shall be on a separate page.

c. The Defendant may produce Jury Instructions for the trial. In the event the Defendant wishes to produce Jury Instructions the Defendant shall give a copy of the Jury Instructions to the Commonwealth at least three (3) days prior to trial.

If the Defendant does not produce Jury Instructions for the charges alleged to have been committed by the Defendant, or any lesser included defenses, or special instructions, then the Defendant shall be precluded from objecting to the Jury Instructions submitted by the Commonwealth.

d. The Court reserves the right to allow Jury Instructions to be altered or changed at trial when special circumstances exist.

2. In all civil proceedings set for a jury trial, Jury Instructions are required. No case shall go to trial unless Jury Instructions are submitted to the Court fourteen (14) days before the trial.

In the event only one party submits Jury Instructions in the time allotted, the party who failed to submit instructions shall be precluded from objecting to the Jury Instructions submitted.

a. The Court reserves the right to allow Jury Instructions to be altered or changed at trial when special circumstances exist.

3. In mental health jury trials, Jury Instructions shall be produced by the Plaintiff. The Plaintiff may produce the Jury Instructions at trial.

NOTIFICATION OF SETTLEMENT:

All parties shall notify the affected Judge and the District Court Clerk of the settlement of any case set for Jury Trial at least twenty-four (24) hours prior to the time set for said trial to commence.

PROTECTIVE ORDER:

TO ALL PETITIONERS:

a) All petitioners shall be present for the hearing on the petition. The date for the hearing will be on the Emergency Protective Order. Should the Petitioner fail to appear for the hearing there may be a Bench Warrant for the Petitioner's arrest for Contempt of Court.

b) In the event an Emergency Protective Order (EPO) or a Domestic Violence Order (DVO) is issued against a Respondent, the Petitioner shall not take any action to cause the Respondent to violate any terms of the above EPO/DVO (example: the Petitioner causes contact with the Respondent where that is prohibited, etc...)

In the event the Petitioner commits a violation of the above, the Petitioner shall be subject to the Contempt powers of this Court.

c) In the event the EPO/DVO is issued, it shall not be dropped unless done so by the Court. Unless and until the EPO/DVO is dismissed, the terms of the Order shall be strictly enforced. Subsection (b) above shall apply until the above Order is dismissed.

d) No EPO or DVO will be dismissed by the Court until the Petitioner appears in the office of the Circuit Clerk and fills out the appropriate forms to have this done. The Clerk shall assign a hearing date on the next available Tuesday, personally advise the Petitioner and send a Court Notice to the Respondent putting him/her on notice of the request to dismiss.

Thereafter, the Court will determine if the EPO/DVO shall be dismissed. ALL Orders and the terms of this Order shall apply until the EPO/DVO is dismissed by this Court.

e) The Clerk shall provide a copy of this Order to all Petitioners when application is made for an EPO or DVO.