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**RULES OF PRACTICE
OF THE
FAYETTE CIRCUIT CRIMINAL AND CIVIL COURTS**

(DRAFT - Revised June 2023)

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RULE 1. CITATION OF RULES

These rules apply to the practice of law in the Fayette Circuit Court and shall be cited as "RFCC" or "Rules of the Fayette Circuit Criminal and Civil Court."

RULE 2. ORGANIZATION OF FAYETTE CIRCUIT CRIMINAL AND CIVIL COURTS

- A. Courts.** The Fayette Circuit Court shall be composed of Criminal and Civil Courts. The Criminal and Civil Courts shall have jurisdiction as provided in KRS 23A.010.
- B. Divisions.** The Fayette Circuit Court is a Court of continuous session, and the Court shall consist of five numbered divisions, namely:

3rd Division	4th Division	7th Division
8th Division	9th Division	

- C. Assignment of Judges.** Cases shall be assigned, as provided by these Rules, to the divisions of the Fayette Circuit Criminal and Civil Courts, to distribute the workload of the Court as equally as possible among the judges. The Judge of one division of the Fayette Circuit Criminal and Civil Courts may preside over and determine any case or question in any other division of the Fayette Circuit Criminal and Civil Courts and sign any order or judgment submitted for entry in any other division of the Fayette Circuit Criminal and Civil Courts when a Judge of that division is sick or absent from the county or is unavailable. If all the Judges of the Fayette Circuit Criminal and Civil Courts are unavailable, a Judge of the Fayette Family Court may preside over and determine any case or question in any division of the Fayette Circuit Criminal and Civil Courts and sign any order or judgment submitted for entry in any division of the Fayette Circuit Criminal and Civil Courts.
- D. Transfer of Cases.** After a case has been assigned to a criminal or civil division, the Judge thereof may for good cause transfer the case by written order from that division when: (1) there has been a recusal, or (2) after a guilty plea, for the purpose of sentencing a defendant with multiple cases to the division with the oldest case; or (3) for judicial economy or other good cause with the receiving Judges' consent. On recusal, the Court Administrator shall make a random assignment of cases that are transferred from one division of Fayette Circuit Criminal and Civil Courts to another division of Fayette Circuit Criminal and Civil Courts. The Court Administrator will give to the Clerk, who shall file the order of transfer in the record and serve a copy upon all parties of record. Upon such transfer being made, the Clerk will make a proper endorsement upon the docket and the record.
- E. Consolidation of Cases.** When two or more cases have been filed that may, as matter of right, or may, in the discretion of the Court, be consolidated and such cases are pending in different divisions of the Fayette Circuit Criminal and Civil Courts, any party to any of the cases, or the Court without motion, may have any of the cases transferred to that division of the Court in which the first of the cases was filed. If it is determined that consolidation is not proper, the Judge of that division may transfer the case back to the original division.

RULE 3. MOTION DAYS

- A. Designation of Days.** Thursday and Friday of each week during the entire calendar year shall be designated as Motion Days. Whenever a Motion Day falls on a state holiday, the Judge of each division may schedule a “make-up” Motion Day at his or her discretion. If court is cancelled on a Motion Day due to inclement weather, all motions scheduled for that Motion Day shall be re-docketed by the parties unless otherwise ordered by the Court.
- B. Designation of Times.** The regular schedule for Civil and Criminal Motion Dockets on Motion Day shall be posted on the Kentucky Court of Justice website, currently at www.kycourts.gov. Search Fayette County.
- C. Changes to Schedule.** Changes may occur in docket times and places at the discretion of the Court. All changes will be posted on the Court's website at www.kycourts.gov. Search Fayette County and the courthouse monitors. The schedule posted on the website and the monitors shall be controlling, and it is the responsibility of a party to check the website and courthouse monitors to determine the appropriate time and place for any docket.

RULE 4. ASSIGNMENT OF CASES

- A. Assignment of Case Number and Division.** Upon the filing of a case, including the return of an indictment, superseding indictment, or the filing of an information, the Clerk shall assign a number to the case and randomly assign the case to a criminal and civil division of the court. Documentation showing the case number and the division assignment shall be attached to the record of the case.
- B. Subsequent Pleadings.** Pleadings, motions, orders, and other papers subsequently filed in the case shall contain in the caption the case number and the criminal or civil division in which they are filed.
- C. Re-filed Cases.** Whenever a case, including an indictment or an information, has been dismissed without prejudice and is re-filed within one year from the date of dismissal, the parties shall, after the action has been assigned to a criminal or civil division, have the case transferred to the criminal or civil division in which it was originally filed.

RULE 5. GRAND JURIES

A grand jury shall be empaneled for each month during the year. Grand juries shall be empaneled in Divisions of the Court during the year in such rotation as the Court shall determine.

RULE 6. MOTIONS IN CRIMINAL CASES

- A. Notice of Motions.** The notice of a motion in a criminal case, other than a motion for probation, shock probation or pre-release probation, shall specify the date, time and place for the

hearing thereof. Motions for probation, shock probation or pre-release probation shall not be noticed for a hearing, but such motions shall be heard at the convenience of the court or the court may rule upon the motion without a hearing. A courtesy copy of all motions shall be tendered to the presiding Judge conventionally or by e-mail.

- B. Filing Deadline.** Criminal motions shall be filed with the Clerk of the Criminal Division before 12:00 P.M. on the Monday preceding the motion day designated in the notice.

RULE 7. REQUESTS FOR FUNDS FOR EXPENSES IN CRIMINAL CASES

- A. Ex Parte Request For Funds.** A defendant in a pending criminal proceeding, who is a needy person as defined by KRS Chapter 31, may apply ex parte to the Court, without notice to the Commonwealth's Attorney, for the payment of investigative, expert, or other services necessary for an adequate defense.
- B. Hearing.** After reviewing the application, the Court may approve the application without a hearing or assign the application for a hearing. No persons other than the defendant, the defendant's attorney and Court personnel shall attend the hearing unless otherwise authorized by the Court.
- C. Sealing of Proceedings.** The Clerk shall seal that portion of the record containing the application and the proceedings thereon including the record of the hearing and any order issued as a result thereof, except as otherwise authorized by the Court. The disclosure of the application or proceedings thereon may be punishable as a contempt of Court.

RULE 8. CRIMINAL ARRAIGNMENTS

- A.** Unless otherwise ordered, all defendants shall be arraigned in open Court. Arraignments by electronic means shall be considered an arraignment in open court.
- B.** The defendant, the defendant's attorney and the attorney for the Commonwealth must be present at the arraignment.

RULE 9. WITHDRAWAL OF ATTORNEYS IN CRIMINAL CASES

- A.** An attorney shall not withdraw from employment in a criminal proceeding without permission of the Court. Within twenty (20) days of trial, an attorney of record shall not be permitted to withdraw from a criminal case in the absence of a compelling reason.
- B.** Retained trial counsel shall secure permission of the Court before withdrawing as counsel for a defendant who seeks to appeal a judgment of conviction. Before permission to withdraw is granted, it shall be the responsibility of retained trial counsel to prepare and file the following:
 1. Notice of appeal pursuant to RCr 12.04;
 2. Motion, affidavit, and order for leave to appeal in forma pauperis, if applicable;
 3. Designation of record on appeal; and

4. Order substituting the Department of Public Advocacy as counsel on appeal, if applicable.

RULE 10. PRETRIAL CONFERENCE AND STATUS HEARING/NEGOTIATED PLEA CONFERENCE, DOCKET PASS, GUILTY PLEAS.

- A. At the time of arraignment, each case shall be assigned for a pretrial conference/ negotiated plea conference and a status hearing or trial. Pretrial conferences shall be held in all criminal cases. The pretrial conference shall be attended by the Commonwealth's Attorney, the defendant and his or her attorney.
- B. At the conclusion of the conference, the parties shall prepare and present to the Court a notice containing the matters agreed upon and the recommendation, if any, by the Commonwealth.
- C. In all criminal cases in which the defendant elects to enter a plea of guilty, the Waiver of Further Proceedings with Petition to Enter Plea of Guilty shall be signed by the defendant and presented to the Court.
- D. In any cases where an out of custody defendant intends to request a continuance of the status hearing, a Docket Pass shall be completed by defense counsel. Counsel may not tender a Docket Pass for a defendant with an active warrant. For any in-custody defendant or interpreter needed, defense counsel shall tender the Docket Pass Form to the Judge conventionally or electronically no later than two (2) business days before the scheduled motion docket, so that the defendant whose case is being passed will not be transported from the detention center for the motion docket.

RULE 11. FELONY MEDIATION

Upon notice of the assignment of mediation with the consent of the Commonwealth and the defendant, the Court may Order the case submitted to Felony Mediation pursuant to KRS 454.011. In such case, counsel shall contact the mediator and the Court Administrator within three (3) business days to schedule the mediation. Counsel shall make arrangements for any necessary transport or interpreter services.

RULE 12. COURT APPEARANCE BY ELECTRONIC MEANS IN CRIMINAL CASES

- A. Whenever a defendant's personal presence is required in court in a criminal proceeding and the defendant is confined or is otherwise unavailable, the defendant, with advanced approval from the Court, may appear by electronic means as follows:
 1. Without the defendant's consent in the following proceedings:
 - a. Arraignment;
 - b. Bond reduction hearing;
 - c. Non-evidentiary hearing;

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- d. Pretrial conference, and
 - e. Preliminary probation revocation hearing.
2. With the consent of the Commonwealth's Attorney and the defendant in the following proceedings:
- a. Guilty plea;
 - b. Sentencing;
 - c. Final probation revocation hearing, and
 - d. Evidentiary hearing, not including trial.
- B. The proceedings shall be open to the public by electronic means and shall be visible and audible to persons present at the proceedings in the Fayette County Courthouse.

RULE 13. PROBATION: ALLOCATION OF INSTALLMENT PAYMENTS

Unless otherwise ordered by the sentencing Judge, the Clerk shall allocate installment payments made by Defendants who are on probation in the following order:

1. Payment of Court costs;
2. Restitution ordered by the Court;
3. Attorney fee to the Department of Public Advocacy;
4. Probation supervision fee.

RULE 14. ASSIGNMENT OF CIVIL JURY CASES

- A. A party desiring assignment of a civil jury trial date shall file a motion for a pre-trial conference.
- B. A pre-trial conference shall be held as a matter of course in all jury actions; upon the motion of either party, in the Court's discretion, or upon the Court's own motion in any other action.
- C. A pre-trial conference to discuss scheduling matters or assignment of the case for trial shall be conducted electronically unless otherwise Ordered by the Court. At the pre-trial conference, the Judge may:
1. Assign or reassign the case for trial or decline to assign the case for trial;
 2. Impose pre-trial deadlines;
 3. Set an additional pre-trial conference or status conference for the consideration of pre-trial motion practice and other substantive matters;
 4. Take such other action as may be appropriate.
- D. Substantive motions shall be conducted in person unless Ordered by the Court.
- E. Cases that have been previously set for trial and continued, shall not be given preference as to trial date except for good cause shown.

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- F. When the case is set for a pretrial conference, the attorneys shall submit an order setting the date, unless an order is entered by the Court.
- G. The attorney attending the pre-trial conference shall be familiar with the case and shall be prepared and authorized to make such arguments, stipulations and decisions as may be required.
- H. A pretrial order shall be entered by the Court incorporating the Court's rulings, agreements or stipulations of the parties and any matter designated by the Court upon the conclusion of the pretrial conference. The Court may require the parties to submit a trial brief consisting of a short memorandum of the facts and law on which they will rely and fix the time for filing such briefs in the pretrial order.

RULE 15. MOTIONS IN CIVIL CASES

A. Form of a Motion

1. All motions to be argued at Motion Hour and notice of the hearing, other than those set forth in (2) below or those that may be heard ex parte, shall be filed with the Clerk by 12:00 Noon eight (8) days prior to the time scheduled for a hearing. Opposing Counsel and the presiding Judge shall receive a copy of the motions a minimum of eight (8) days prior to the scheduled hearing. The notice of the hearing shall specify the date, time, and place for the hearing.

Responses shall be filed no later than 72 hours prior to the noticed motion hour. Replies shall be filed no later than 24 hours prior to the noticed motion hour.

2. Motions to dismiss, motions for summary judgment, motions to strike, and motions under CR12.02 shall be filed and received by opposing party and/or attorney(s) at least ten (10) days prior to motion hour and accompanied by a memorandum of the grounds for the motion with citation of authorities relied upon, but not greater than 25 pages in length, unless permitted by prior order. Failure to file a memorandum with supporting authorities may be grounds for overruling the motion. Any party properly served with a motion accompanied by a memorandum and authorities shall file a response opposing the motion, with citation of supporting authorities, but not greater than 25 pages in length except by leave of Court. Such response shall be filed at least 72 hours prior to the time specified in the notice of hearing of the motion. Failure to file a timely response may be grounds for sustaining the motion, but the time for filing a response may be extended upon oral or written motion for good cause shown, including such factors as the length and complexity of the motion and supporting memorandum and time of service of the motion. Any reply memorandum shall be limited to 5 pages in length, and must be filed 24 hours prior to hearing.
3. Counsel shall provide the presiding Judge with a courtesy copy of all Motions, Responses and Replies pursuant to the same deadlines set forth above. Courtesy copies may be provided conventionally or by email.

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4. If the parties reach an agreement or otherwise intend to continue the hearing on the motion, counsel shall forthwith notify the presiding Judge that the matter will not be heard as scheduled.
5. A motion to compel discovery, for a protective order, or for sanctions may be filed pursuant to CR 26 and/or CR 37 only if counsel are unable to resolve between themselves the discovery dispute. Counsel has the duty to make a good faith effort to resolve any disputes which arise in the course of discovery. The moving party shall attach to the motion a certification of counsel that he or she has attempted to resolve the dispute and that they have been unable to do so. The certification should detail the attempts of counsel to resolve the dispute. Failure to abide by this rule shall be grounds to deny the motion at the discretion of the Judge.
6. The following motions may be filed without scheduling a hearing: Motions for Default Judgment where the party in default has failed to appear in the action, Motions to Dismiss based upon satisfaction of a judgment (filed by Plaintiff), Attorney fees for Warning Order Attorneys, a Motion to Transfer Venue when the defendant has not been served, and Motions to Release Garnishment (filed by Plaintiff), and Motions for Return of Jury Fee. In such cases, an Order shall be tendered with the Motion.

B. Docketing and Appearances

1. The Clerk shall keep a Motion Docket on which he or she will docket all motions assigned for hearing on each Motion Day, either by Court order or by notice duly served. The Clerk will keep separate dockets for each Division. Every motion, except as otherwise provided herein, and other than ones which may be heard exparte, shall appear on the Motion Docket.
2. It is the obligation of attorneys scheduled to appear at a given motion hour to ascertain whether the motion hour has been canceled or rescheduled by the Court.
3. The Judge of each division may permit the parties and/or their counsel to appear at Motion Day via Zoom. Counsel shall inquire of each division whether electronic participation is permitted. The Zoom link for each division shall be posted on the Kentucky Court of Justice website at www.kycourts.net, search Fayette County.

C. Agreed Orders

1. If an agreed order, signed by counsel for all parties affected, relating to a motion appearing on the Motion Docket is submitted to the Clerk prior to the call of the Motion Docket, counsel need not attend the call of the Motion Docket. The agreed order shall set forth the basis for the order.
2. Out-of-Court resolution of discovery disputes may be effectuated, if desired, by submitting to the Court an agreed order signed by counsel for all parties affected by the order. No supporting motion is necessary, and the matter need not be placed on the Motion Docket.

D. Entry of Orders and Judgments

1. Except for Motions not requiring a hearing, pursuant to FRCC 15 (A) 6, **PROPOSED ORDERS SHALL NOT BE FILED OR SUBMITTED WITH THE MOTION**. For all other motions, whenever any ruling is made, an order or judgment in conformity therewith shall be attested by counsel for all parties thereto as being in conformity to the ruling or opinion and shall be presented to the Court.
2. The order shall contain the date of the hearing, i.e., “The Motion of the [Plaintiff/Defendant] having come before the Court for a hearing on January 1, 2023...”
3. If the parties tender an Order which resolves the case in full, and there is a pending event on the Court’s calendar (hearing, pre-trial conference or trial), the Order shall so state the date of the upcoming event and direct the Clerk to remove the date from the Court’s calendar.
4. The attestation required by paragraph 1 above shall not be required where:
 - a. Counsel for the party(s) against whom the order is to be entered refuses to attest the order;
 - b. Counsel for the party(s) against whom the order is to be entered fails to return the order to counsel who prepared it within three business days of receipt of order;
 - c. The party against whom the order is to be entered is not represented by counsel; or
 - d. There was no opposition to the motion at Motion Hour.

Where any of the above apply, preparing counsel shall so attest. Failure to include the attestation shall be ground to deny entry of the Order.

5. Orders shall be e-filed.

RULE 16. DEFAULT JUDGMENTS

A party seeking a judgment by default under CR 55.01 shall file a motion. The motion shall be accompanied (a) by a certificate of the attorney that no papers have been served upon the attorney by the party in default and (b) by an affidavit stating whether the party in default is in the military service.

If the party in default has failed to appear in the action, the motion need not appear on the motion docket and no notice thereof need be given the party against whom judgment by default is sought and the order shall be submitted with the motion.

If the party alleged to be in default has filed any papers in the action, the motion shall appear on the motion docket and the party in default, or if the party is appearing by representative, the party's representative, shall be served with written notice of the motion.

RULE 17. MEDIATION

The Court may refer any civil case to mediation except a habeas corpus case or election contest. Such referral and conduct of mediation shall be governed by CR 99 and 100. If a case is settled

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prior to or during mediation, an attorney for one of the parties shall forthwith notify the Court and thereafter prepare and submit to the Court an Order reflecting the fact of settlement.

RULE 18. TRIAL PRACTICE

- A. Jury Lists.** Counsel may contact the Court Administrator to request the jury list and copies of juror qualification forms. Jury Lists are distributed by 2:00 p.m. the day before the trial date, unless the trial starts on a Monday and the list will be available by 2:00 p.m. the Friday before the Monday trial start date. Alternative distribution dates may be approved by the Court.
- B. Presentation of Witnesses.** If a witness is presented by a recorded deposition, it shall be counsel's responsibility to have the necessary equipment to play the deposition through the courts' system on counsel table. All attorneys are required to test their equipment prior to the start of trial. Counsel shall provide the Clerk with a copy of any deposition presented at trial.
- C. Presentation of Exhibits.** Counsel shall pre-mark exhibits with an original for the witness (to be filed in the record) and copies for opposing counsel and the presiding Judge.
- D. Post-Trial Contact with Jurors.** No party, attorney, or representative of any party or attorney, shall communicate with a member of a jury without leave of Court. Court approval for interviews of or communication with the jurors after trial will be granted only upon proper showing of good cause and subject to such conditions as the Court shall prescribe.
- E. Photography.** Any individual may obtain a copy of the official recording of any Court proceeding from the Clerk of the Fayette Circuit Court. No individual is permitted to photograph, record or livestream proceedings in the Fayette Circuit Court or the Fayette Family Court. This prohibition applies to in-person proceedings whether taking place at the Fayette Circuit Courthouse or the Fayette District Courthouse and to remote proceedings via ZOOM or a similar platform. Violations of this order is punishable as Contempt of Court.

Members of the Media may record court proceedings with advance permission from the presiding Judge. In the event of multiple members of the media wishing to record an in-person proceeding, the presiding Judge may limit the requests to one camera and order the recording entity to share the recording with all interested entities. Members of the Media may contact the Court Administrator's Office to access the Media Room.

RULE 19. PROCEDURE ON RULES FOR CONTEMPT

To procure a show cause order in proceedings for contempt:

- A.** A motion supported by a sufficient affidavit showing that applicant is entitled to the Order must be filed pursuant to Rule 15 A-1.
- B.** The Respondent shall appear on the date noticed for hearing, but may be entitled to a continuance

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if served less than 5 days from the date noticed.

- C. No order shall come on for hearing unless it has been served on the person named in the Order by an officer authorized to serve a summons or by means otherwise authorized by Law. The Order shall contain a short statement of the grounds for its issuance and the following statement:

**IF YOU FAIL TO APPEAR AT THE HEARING,
A WARRANT FOR YOUR ARREST WILL BE ISSUED**

RULE 20. EXHIBIT RETENTION AND DISPOSAL

Pursuant to order of the Supreme Court of Kentucky 2022-23, entered on April 26, 2022, which became effective September 1, 2022 – Retention and Disposition of Exhibits shall be governed by the Amended Retention Schedule Series 203.

RULE 21. RETENTION OF RECORDINGS

Pursuant to order of the Supreme Court of Kentucky 2022-23, entered on April 26, 2022, which became effective September 1, 2022 – Retention and Disposition of Audio/Video Recordings shall be governed by the Amended Retention Schedule Series 824, 4009 and 4010.

RULE 22. FORM OF MOTIONS AND OTHER PAPERS

Except for exhibits, all pleadings, motions, orders and other papers filed with the Court shall be typewritten or printed in black ink, no smaller than 12 point; on one side only on unglazed white paper 8 ½ by 11 inches in dimension; leaving at least a double space between lines, a 1 inch margin on the left side, and shall be clearly readable. These requirements shall not apply to orders, judgments and other papers routinely prepared or utilized by the Court or to pleadings, motions, orders and other papers routinely utilized by attorneys or court related agencies and approved by the Court.

RULE 23. ANSWERING AND FILING INTERROGATORIES OR REQUESTS

Interrogatories propounded under CR 33 and answers thereto, requests for production or inspection under CR 34 and answers thereto, and requests for admission under CR 36 and answers thereto shall not be filed with the Court. A one-page notice of service under CR 33, CR34 and CR36, SHALL be filed in the record to prevent the case being placed on the show cause docket.

RULE 24. FILING OF DEPOSITIONS

Originals of depositions shall not be filed in the Court record. The attorney who noticed the taking of a deposition shall be custodian of the record for the original deposition (and recording, if one is taken), and shall present it when directed by the Court or any party involved in the proceedings. If ordered by the Court, relevant pages of a condensed deposition transcript shall be filed in the record if the deposition is the subject of any motion before the Court.

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RULE 25. DISMISSAL OF ACTION FOR FAILURE TO PROSECUTE

When any action has remained on the Civil Docket for one year without any step being taken indicating an intention to prosecute, the action may be dismissed for want of prosecution on motion of either party or on the Court's own motion.

RULE 26. PRACTICE BEFORE THE MASTER COMMISSIONER

A. HEARINGS

1. An attested copy of the order referring the case to the Master Commissioner shall be delivered to the Master Commissioner's office electronically, by mail or by hand delivery.
2. The Master Commissioner shall then promptly assign a date for a pre-hearing conference and give written notice thereof. The attorney responsible for the case shall be expected to personally attend said hearing. The Master Commissioner may charge and collect a fee in accordance with Part IV of the Administrative Procedures of the Court of Justice.
3. The Master Commissioner's motion hour shall be heard at a time and place designated by the Master Commissioner.
4. An attorney requesting a hearing date before the Master Commissioner may be responsible for providing a Court reporter at all evidentiary hearings.
5. Any money paid into Court pursuant to CR 67.01 shall be paid to the Master Commissioner who is authorized to charge a fee in accordance with Part IV, of the Administrative Procedures of the Court of Justice.

B. JUDICIAL SALES

1. Master Commissioner Approval

In addition to other requirements of these Rules, all judgments or orders directing the sale of property by the Master Commissioner directing the disbursement of monies held by the Master Commissioner (other than sale costs/fees) or directing the delivery of a deed must be submitted electronically via email (in both PDF and Word documents) to the Master Commissioner for certification that it complies with all applicable statutes and rules. The Master Commissioner shall then tender the judgment or order to the Court via the e-file system for approval and entry, with a courtesy copy provided to the Court conventionally or by e-mail. Service of the entered judgment or order to all parties shall be by the Clerk pursuant to these rules.

The Master Commissioner shall sell the property in a reasonable time not to exceed 90 days after the date of the order of referral except that property found to be "vacant and abandoned" shall be sold in accordance with KRS 426.205. Upon good cause shown, the

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Court may extend the 90-day deadline for a period not to exceed 30 days.

2. Deposit for Advertisement and Appraisal

When any order is submitted to the Master Commissioner requiring advertisement or appraisal, the party submitting the order shall deposit with the Master Commissioner an amount sufficient to pay the estimated costs of the proposed advertisement and/or appraisal. The Master Commissioner shall not submit the order to the Court nor cause an advertisement or appraisal to be made until such deposit is made.

When more than one sale is set for the same date, the Master Commissioner may advertise all such sales in one advertisement that includes the required information applicable to each action and sale. The total cost of advertising shall be apportioned among each of the various cases to which the advertisement applies.

3. Orders of Sale and/or Delivery of Deed

Every order or judgment of this Court directing the Master Commissioner to sell property or to execute or deliver a deed shall contain:

- a. The legal description of the property including a street address (or if it has no street address, a brief description of its location and size); and any number(s) assigned to the property/parcel by the Fayette County Property Valuation Administrator for purposes of identification and record keeping such as the parcel or property identification number;
- b. The name(s) of the party or parties whose interests is being sold or conveyed;
- c. The source of that party (or parties) title with deed book, page number and date of deed or recording date of deed;
- d. A blank space for the insertion of the sale date by the Master Commissioner's office;
- e. A signature line for the Master Commissioner indicating certification and compliance;
- f. A prepared by signature line of the attorney submitting order;
- g. A certificate of service by the Circuit Court Clerk;
- h. Appropriate number of copies for all parties including submitting attorney and Master Commissioner of any documents not eligible for e-filing; and
- i. Self- addressed stamped return envelope for the submitting attorney.
- j. All orders shall be submitted to the Master Commissioner prior to Court approval.

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4. Terms and Conditions of Sale

Unless otherwise ordered, all sales shall be conducted by the Commissioner or Deputy Commissioner at 12:00 noon (local time) in the Fayette County Courthouse at a place posted the morning of the sale, upon the following terms and conditions:

- a. Before conducting a sale, the Master Commissioner shall advertise in a newspaper meeting the requirements of KRS 424.120, the time, terms and place of sale, together with a description of the property to be sold. All sales shall be advertised in accordance with KRS 424.130 as follows:
 1. The advertisement shall be published at least once, not less than seven days nor more than 21 days before the date of the sale;
 2. However, the sale may be published two or more times provided that one publication occurs not less than seven days nor more than 21 days before the date of the sale;
- b. If required by order or statute, the Master Commissioner before making a sale of real property shall have the property appraised by two intelligent, disinterested housekeepers;
 1. The individuals shall be Fayette County residents;
 2. The individuals shall not be related to any parties to the action;
 3. Both individuals shall be actively engaged in or have had at least one year of experience in the field of real estate;
 4. Before making appraisals, the individuals shall be sworn by the Master Commissioner and shall return their appraisals in writing to the Master Commissioner, who shall file same as a part of the record.
- c. The property shall be sold to the highest bidder provided:
 1. At the time of sale, the successful bidder shall either pay cash or make a deposit of 10% of the purchase price with the balance on credit for thirty (30) days. If the purchase price is not paid in full, the successful bidder shall be required to give bond with good surety for the unpaid purchase price. The bond shall bear interest at the rate the judgment bears, from the date of sale until paid, and shall have the force and effect of a judgment.
 2. At the time of sale, the purchaser shall be required to assume and pay all taxes or assessments upon the property for the current tax year and all subsequent years. All taxes or assessments upon the property for prior years shall be paid from the sale proceeds if properly claimed, in writing and filed of record, by the purchaser prior to confirmation.
 3. The property shall otherwise be sold free and clear of any right, title or interest of all

parties to the action and all liens and encumbrances thereon, excepting easements and restrictions of record in the Fayette County Clerk's Office and such right of redemption as may exist in favor of the United States of America or the defendant(s).

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

d. A party to the action, who is the successful purchaser of the property, may take credit against any judgment (in the civil action case under which the property is being sold) in that party's favor against the defendant property owner for the required deposit and purchase price to the extent that the sale price is sufficient to pay such judgment considering the priorities and amounts previously adjudicated in the action.

5. Confirmation of Report of Sale

The Master Commissioner, after the sale, shall report his or her actions to the Court no later than three business days after the date of the sale. Ten (10) days after the filing of that report, if no objections have been filed thereto and without motion, the sale shall be deemed confirmed and the Master Commissioner shall enter an Order confirming the sale. A copy of the order of confirmation shall be filed in the record and simultaneously served upon the purchaser and all parties to the action. A courtesy copy of the Order shall be provided to the Court conventionally or electronically.

6. Fees of the Master Commissioner

The Master Commissioner shall be entitled to those fees set forth in Part IV of the Administrative Procedures of the Court of Justice. Notwithstanding the foregoing, if the judicial sale is conducted electronically via an online auction, a fee of 6% of the sale price for each property shall be assessed in addition to the fee calculated in Part IV of the Administrative Procedures of the Court of Justice.

The 6% additional fee for electronic judicial sales shall be paid by the Master Commissioner to the licensed provider of the online auction for each judicial sale as total compensation for all services rendered by the provider of online auction services in connection therewith, including internet advertising, print advertising in compliance with KRS 424.130 and Part IV of the Administrative Procedures of the Court of Justice, as well as signage and other costs associated with electronic judicial sale forum.

7. Orders of Distribution

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

b. If disbursements are to be made to taxing authorities, a copy of the pertinent tax bill(s) must

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be given to the Master Commissioner, allowing the Master Commissioner's Office a minimum of two (2) weeks to pay the bill(s) with the amount(s) listed in the order.

8. Appraiser's Fees

In all sales where an appraisal is required, including but not limited to single family residential, industrial, commercial, farm, or any other type of property, the fee of each appraiser shall be determined by the Master Commissioner, unless otherwise ordered by the Court, but shall be no less than \$200.00.

9. Redemption of Property

- a. Within five (5) business days of the receipt of funds paid by a defendant for redemption of foreclosed property as provided by KRS 426.530, the Fayette Circuit Court Clerk shall pay said funds to the Master Commissioner.
- b. Within five (5) business days of the receipt of funds paid pursuant to (1) above, the Master Commissioner will file a Notice of Redemption stating the defendant and his or her representatives are redeeming the subject property and the purchaser shall have ten (10) business days from the date of the filing of the Notice in which to claim reimbursement for reasonable costs (incurred after the sale for maintenance or repair of the subject property). "Reasonable costs" shall include, but not be limited to utility expenses, insurance, associate fees, taxes, and the costs to conform the property to the minimum standards of the local nuisance code provisions and other local ordinances as authorized in KRS 65.8801 to 65.8839; the reasonableness and amount of reimbursement for same shall be determined in the discretion of the Master Commissioner. The Master Commissioner shall make a recommendation to the Fayette Circuit Court for an Order consistent with the Master Commissioner's determination of the amount of reasonable costs to be reimbursed to the purchaser.
- c. The purchaser's notice of claim for reimbursement to be filed pursuant to (2) above shall include copies of all receipts and invoices establishing the claimed costs incurred and shall be served upon the Master Commissioner and all parties to the court action.

C. WRIT OF POSSESSION AND ATTACHMENT PROCEDURE

1. Pursuant to KRS 425.006, the Master Commissioner and the Deputy Commissioners are appointed judicial officers to perform such duties as may be required of them by Chapter 425 of the Kentucky Revised Statutes.
2. All requests for hearings, or ex parte relief under the provision of that Chapter shall stand automatically referred, without order, to the Master Commissioner's office for further proceedings.
3. When a hearing has been requested or is required, it shall be the responsibility of the

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attorney requesting the hearing to notify the Master Commissioner's office of the request, after which the Master Commissioner shall fix a time and place for the hearing and give written notice thereof to the necessary parties.

4. Requests for ex parte and temporary restraining orders shall be immediately hand delivered to the Master Commissioner, along with the record, by the Clerk of this Court or the attorney requesting relief. The Master Commissioner shall then take the necessary actions to make a timely determination.

RULE 27. REMOVAL OF RECORDS

No record in any civil or criminal action shall be removed from the Office of the Clerk of the Fayette Circuit Court, except pursuant to Rules of Appellate Procedures (RAP) 26 for Appellate Cases.

RULE 28. APPEALS FROM DISTRICT COURT

- A. Upon the filing of a proper notice of appeal in the District Court and the payment of costs as may be required, the Clerk of the District Court shall forward the entire original record as described in RAP 48(E) to the Clerk of the Circuit Court.
- B. Upon receipt of the record from the District Court, the Circuit Clerk shall assign the case to a division in the same manner as with other civil and criminal cases.
- C. If the appeal is not perfected by the filing of a statement of appeal as provided by RAP 48(F) within 30 days after filing of the first notice of appeal, and no motion for extension of time is filed within 10 days after that, and no notice of cross-appeal has been filed as provided by RAP 48(D), the Clerk will prepare an order of dismissal and remand, attach same to the record and place the record and order in the box of the Judge of the division to which the case is assigned.
- D. If the statement of appeal is timely filed and no counter-statement is filed pursuant to RAP 48(F) within 30 days thereafter, and no motion for extension of time is filed within 10 days after that, the Clerk will prepare an order of submission, attach same to the record and place the record and order in the box of the Judge of the division to which the case is assigned.
- E. When a counter statement is filed by an appellee or cross-appellant, whether or not a statement of appeal has been filed, the Clerk will prepare an order of submission, attach same to the record and place the record and order in the box of the Judge of the division to which the case is assigned.
- F. All orders of dismissal, submission and opinions and orders affirming or reversing the District Court will be served upon all parties or their attorneys and the trial Court Judge. All orders which make final disposition of an appeal will provide for the payment of costs. The Clerk will comply with CR 77.04 and if no motion for discretionary review is filed pursuant to CR 76.20 within 30 days thereafter the record will be returned to District Court.
- G. All agreed orders deciding or affecting the issues on appeal must clearly state (a) whether the

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appeal is dismissed in whole or in part; (b) whether the case is remanded to the District Court for specific action or judgment; and (c) whether any specified issues remain to be decided. The parties may not agree that the appeal be stayed pending the happening of some event and such relief may only be obtained upon motion and order of the Court.

RULE 29. EFFECTIVE DATE

These rules are adopted pursuant to the authority granted by Rule 1.040(3) of the Rules of the Kentucky Supreme Court and they shall apply with full force and effect to all actions filed or pending after _____, and their promulgation is by order of the Judges of the Fayette Circuit Court and certification of the Chief Justice of the Kentucky Supreme Court.

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FAYETTE CIRCUIT COURT JUDGES

JUDGE LIBBY G. MESSER	FIRST DIVISION
JUDGE TRACI BRISLIN	SECOND DIVISION
JUDGE LUCY A. VANMETER	THIRD DIVISION
JUDGE JULIE MUTH GOODMAN	FOURTH DIVISION
JUDGE ROSS EWING	FIFTH DIVISION
JUDGE TIFFANY YAHR	SIXTH DIVISION
JUDGE DIANE MINNIFIELD	SEVENTH DIVISION
JUDGE THOMAS TRAVIS	EIGHTH DIVISION
CHIEF JUDGE KIMBERLY N. BUNNELL	NINTH DIVISION