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Supplementary Rules to Rules of the District Court

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Supplementary Rules to Rules of the District Court

RULES PERTAINING TO THE "MASTER DOCKET" FOR THE
DISTRICT COURT, SECOND JUDICIAL DISTRICT STATE
OF COLORADO, WHEREIN CIVIL ACTIONS ARE TO
BE TRIED BY A JURY

For the information of attorneys in civil actions that are to be tried to a jury, attention is called to Section 108, Chapter 46, Volume 2, 1935 Colorado Statutes Annotated:

108. *Powers of Judges Sitting Separately*

While so sitting separately, the courts held by the several judges, shall each of them be known as the district court of the county wherein and wherefor such court may be held, and shall have the same power to vacate or modify its own judgments, decrees or orders rendered or made while so held, as if the said court were composed of a single judge; provided, that neither of said judges shall have power to vacate or modify a judgment, decree or order rendered or made by another judge of the same court.

RULE I. *En Banc Sessions—Presiding Judge.*

No changes.

RULE II. *Civil and Criminal Divisions—Assignment of Judges and Cases—Transfer of Cases.*

Section 1. No change.

Section 2. The Presiding Judge of the Court as selected in Rule I, shall during the term of his office as such, preside over the Civil Division to which assigned and such Division will be known as the "Assignment Division" of this Court.

Section 3. Same as present Section 2.

Section 4. The Judge of any civil division to which cases have been assigned, shall hear and determine all motions, demurrers and proceedings necessary to make up the issues in such causes, and after the issues therein are made up, and said causes are ready for trial, he shall make settings of all such causes for trial, except cases that are to be tried to a jury; rules governing jury trials are otherwise provided for herein.

Section 5. Same as present Section 3.

Section 6. Same as present Section 4.

RULE III. *Habeas Corpus—Abatement of Nuisance.*

No changes.

RULE IV. *Preparation of Pleadings, Motions and Instructions—Reports of Receivers.*

Section 1. Same as at present, except sub-paragraph (e)-(2) to read as follows:

(2) The number of the division of the Court to which the same has been assigned for completion of the issues.

RULE V. *Summons by Clerk—Praecipe.*

No changes.

RULE VI. *Order of Business—Motions of Course.*

No changes.

RULE VII. *Motions and Demurrers.*

No changes.

RULE VIII. *Setting Hearings on Motions and Demurrers.*

Any party to an action may, upon due notice in writing to the opposite party, or his attorney, apply to the Court, in the division to which the case has been assigned to make up the issues, to have a demurrer or motion therein set for hearing, and all such demurrers and motions will be set for hearing on the first hearing day thereafter, or at the convenience of the Court, in the order in which notices for setting the same are presented and filed in said division.

RULE IX. *Attorneys' Duties—Withdrawal of Appearance—Opening Statements—Arguments—Examination of Witnesses.*

No changes.

RULE X. *Setting Cases for Trial on Notice.*

Section 1. Any party to an action may, at any time after the issues therein are ready for trial, apply to the Court to have the case set for trial as herein provided.

(a) When any case is noticed for trial such notice shall indicate whether the case is to be tried to the Court or jury. The opposing party may endorse a written demand for a jury upon such notice. Should the notice fail to indicate a demand for a jury by either party, a jury shall be deemed to have been waived by both parties.

(b) In all cases where a jury has been waived, application to have the cause set for trial, will be made to the Judge in the Division to which the case was assigned to complete the issues. The Judge of such Division will set the same upon the trial docket of his Division.

(c) Should the application demand a jury, the notice will be presented to the Presiding Judge, who will set the case for trial, upon the "Master Docket," of the Court.

Section 2. (a) Unless otherwise ordered by the Court, should application be made by the plaintiff, and a jury demanded, a jury fee in the sum of five dollars (\$5.00) shall be advanced by said plaintiff before such case is set for trial. Should the defendant cause the case to be set for trial to a jury, the defendant shall pay to the Clerk of the Trial Division, if the cause is to be tried to a jury of six or less, a jury fee in the sum of five dollars (\$5.00), before the said Clerk calls the jury.

(b) Should the party who requested, demanded, or caused, a case to be set for trial to a jury, waive a jury, after the same has been placed upon the "Master Docket," there shall be taxed as costs against such party, the sum of five dollars (\$5.00), and such costs shall not be recoverable by said party should he recover a judgment.

(c) The Court may, in its discretion, order jury fees refunded, in all cases where a jury fee has been advanced, when such cases are settled and dismissed without a trial.

Section 3. When any case has been set for trial to the Court and either party to the action, or the Judge, should demand, or deem a jury necessary, such case will be referred to the Presiding Judge who will cause the same to be set for trial upon the "Master Docket" upon payment of the proper jury fee.

RULE XI. *Jury Cases in Civil Divisions—Waiver of Jury Trial.*

Section 1. (a) Unless otherwise ordered by the Court, jurors shall report to the Presiding Judge of the Civil Divisions on the first and third Tuesdays of February, March, May, October and November.

(b) The Presiding Judge of the Civil Divisions may, in his discretion, direct a sufficient number of jurors to report from time to time, to the Presiding Judge of the Criminal Divisions, for service therein.

Section 2. For the purpose of jury trials in the Civil Divisions, all cases set for trial to a jury, will when set for trial, by the Presiding Judge of the Court, take their position on the "Master Docket," according to the date application is made for setting.

Section 3. Unless otherwise ordered by the Court, all cases will be set on the "Master Docket," for peremptory call, the last Tuesday of January, April and September.

(a) The Presiding Judge shall call the "Master Docket," on the Tuesdays as herein provided for and on each Friday thereafter during the months of February, March, May, October and November.

At the time of the peremptory call, or at any time thereafter when the "Master Docket" is called, parties announcing as "Ready" shall have the right to assignment for trial and the Presiding Judge shall at that time assign as many cases as possible to the Judges of the Civil Divisions for trial.

The Presiding Judge shall have in his possession a box containing cubes with numerals thereon, by number such Divisions as are available for trial. He shall draw or take from the box, without looking at the numerals therein contained, a cube for each case to be assigned by him, and as he draws the cubes, he shall make the assignment for the case announced as "Ready" before him, in accordance with the number on the cube.

After as many assignments as possible have been made, the remaining cases on the "Master Docket" announced as "Ready" shall retain their relative places and shall be subject to twenty (20) hours notice for trial. They shall be assigned by the Presiding Judge as rapidly as possible to the Judges not engaged in trial.

(b) At the time of the peremptory call, or any other day thereafter when the Presiding Judge calls the "Master Docket," cases announced as "Not Ready," or where request is made that said cases "Stand Pending Settlement," shall be continued until the next TERM of Court.

Applications for continuance on account of absent witness, or other causes, must be made in writing, and must be presented at the first opportunity; notice to the opposite side must be served that such application is being made. The matter of continuance will be acted upon, and granted or denied, in advance of the assignment of the case for trial. Motions for a continuance may be heard by the Presiding Judge, or sent direct to another Judge for disposition of the application.

(c) Preferred cases may be set, or advanced on the "Master Docket," by the Presiding Judge, or on formal application or motion.

Cases so set or advanced shall take preference over all other cases.

(d) When any Judge shall have finished the trial of any case, it shall be his duty to immediately notify or cause the Presiding Judge to be notified, that his division is ready for the assignment of another case; Judges of each division shall send a report from time to time during the trial of any cause, when in his opinion, the trial of the case then pending before him will be terminated.

(e) Whenever a mistrial of a jury cause has been granted, such case shall immediately be referred back to the Presiding Judge for re-assignment, taking precedence on the "Master Docket" over all other causes then awaiting assignment for trial. Such case may be then and there assigned to the same division or the next division open for assignment of a cause for trial.

(f) Every jury case in which the trial division shall order a new trial, and from which no appeal is taken from the order granting a new trial, shall be referred back to the Presiding Judge to be placed upon the "Master Docket" for re-assignment.

Every jury case which shall be appealed to the Supreme Court, and by such Court remanded for a new trial, or other proceedings, shall be

so remanded to the assignment division and remain in such division to be re-set upon the "Master Docket," or such other action as the Court may order.

Section 4. The Clerk to the Presiding Judge shall keep a trial calendar and shall enter thereon all causes to be tried to a jury, such calendar shall constitute the "Master Docket."

(a) Settings for trial to a jury shall be made by the Clerk to the Presiding Judge under the supervision of such Judge.

(b) The Clerk to the Presiding Judge shall keep in contact with each division, and the progress therein, and advise and otherwise make all information available to all parties interested.

(c) The Clerk shall also give notice to counsel and others interested of the assignment or approaching assignment, of cases for trial. Such notice shall be by 'phone call.

(d) The Clerk of the Court, shall designate a deputy clerk of his office to assist the Clerk to the Presiding Judge in his duties during the months of February, March, May, October and November and at such other times as may be required.

Section 5. It shall be the duty of all attorneys having cases on the "Master Docket," announced as "Ready" to maintain active contact with the Court and to keep the Clerk to the Presiding Judge advised as to where they may be reached by telephone.

(Adopted April 17, 1940.)

Docket Fee Tax Is About to Expire

The State of Colorado has collected in excess of \$43,000.00 by virtue of the \$1.00 docket fee tax imposed upon all actions filed in the court, according to an announcement made by Joseph G. Hodges, Chairman of the Docket Fee Tax Committee. This committee was appointed at the last meeting of the Board of Governors to investigate the status of that tax which was imposed by the legislature to pay part of the costs of the recent compilation of the Colorado statutes. According to the legislative provisions, a sum not in excess of \$50,000.00 was to be raised by the imposition of a tax of \$1.00 upon each action filed in the courts. The Committee further reported that the State is collecting approximately \$800.00 per month, and that when the total sum of \$43,000.00 has been collected the State Treasurer will advise the clerks of the various courts not to collect the tax any longer.