

**RULES OF COURT**

**ALLEN COUNTY COURT OF COMMON PLEAS**

**PREAMBLE**

In accordance with Article IV, Section V(B) of the Ohio Constitution, Civil Rule 83, and Criminal Rule 57, the following Rules of Court for practice and procedure in the General Trial Division, Criminal Division, Domestic Relations Division, and where applicable, the Juvenile Division and Probate Division of this Court, are hereby adopted, effective February 1, 2024.

These rules of Court shall be designated Local Rules (Loc. R.) when cited.

## **TABLE OF CONTENTS**

### **RULE 1 - COURT SESSIONS**

- 1.01 - Case Management Plans
- 1.02 - Jury Management Plan
- 1.03 - Broadcasting, Televising, and Recording  
Court Proceedings

### **RULE 2 - GENERAL PROCEDURES**

- 2.01 - Security for Costs and Fees
- 2.02 - Inability to Secure Costs
- 2.03 - Discretion of the Clerk
- 2.04 - File Stamping
- 2.05 - Designation of Assigned Judge
- 2.06 - Notice of Default Judgment Hearing
- 2.07 - Companion Cases
- 2.08 - Pleading Signatures
- 2.09 - Bankruptcy Adjudications
- 2.10 - Publication by Posting
- 2.11 - Special Projects Fund
- 2.12 - Copying Fees
- 2.13 - Court Costs upon Disposition
- 2.14 - Attorneys (Duties and Pro Hac Vice)
- 2.15 - Filing and Removal of Papers from Custody of Clerk
- 2.16 - Duties of Clerk
- 2.17 - Documents Requiring Service or Notice
- 2.18 - Depositions
- 2.19 - Standing Special Process Server
- 2.20 - Electronic Return Receipts

### **RULE 3 - CIVIL ACTIONS: PLEADINGS; MOTIONS; HEARINGS**

- 3.01 - Documents
- 3.02 - Rule Day Extensions
- 3.03 - Hearing on Motions other than Summary Judgment
- 3.04 - Hearing on Summary Judgment Motions
- 3.05 - Discovery Papers
- 3.06 - Jury Costs
- 3.07 - Foreclosure Actions
- 3.08 - Video Recorded Testimony and Evidence
- 3.09 - Facsimile Copy Filing with Clerk
- 3.10 - Pretrial and Trial Procedure
- 3.11 - Citations Made in Legal Memoranda
- 3.12 - Attorney Fees in Contempt Proceedings

## **RULE 4 - ENTRIES**

- 4.01 - On Decree
- 4.02 - On Settlement
- 4.03 - Final Orders Involving Titled Property

## **RULE 5 - ADMINISTRATIVE APPEALS**

- 5.01 - Statutory Time Limits
- 5.02 - Time Limits
- 5.03 - Revised Code Chapters 2506 and 119 - Applicability
- 5.04 - Briefs

## **RULE 6 - MEDIATION {Other than Domestic Relations}**

- 6.01 - Case for Mediation
- 6.02 - Referral to Mediation
- 6.03 - Mediation Conferences
- 6.04 - Mediation Fees
- 6.05 - Confidentiality
- 6.06 - Reporting to Court

## **RULE 7 - ARBITRATION**

- 7.01 - Establishment of Mandatory Arbitration
- 7.02 - Cases for Arbitration
- 7.03 - Selection of Arbitrators
- 7.04 - Assignment of Cases for Arbitration
- 7.05 - Hearings; When and Where Held - Notice
- 7.06 - Oath of Arbitrators
- 7.07 - Inability of Party to Proceed
- 7.08 - Conduct of Hearing - General Powers
- 7.09 - Specific Powers
- 7.10 - Default of Party
- 7.11 - Supervisory Powers of Court
- 7.12 - Witness Fees
- 7.13 - Transcript of Testimony
- 7.14 - Report and Award
- 7.15 - Judgment
- 7.16 - Compensation of Arbitrators
- 7.17 - Exceptions and Reasons Therefore
- 7.18 - Court Costs Deposit
- 7.19 - Return to Active Trial Calendar - Hearing De Novo
- 7.20 - Testimony of Arbitrators Prohibited

**RULE 8 - EXHIBIT RELEASE RULES**

- 8.01 - Scope of Rules
- 8.02 - Service of Notice
- 8.03 - Processing Orders Releasing Exhibits, Depositions, and Transcripts
- 8.04 - Disposal of Exhibits, Depositions, and Transcripts
- 8.05 - Forms
- 8.06 - Extension
- 8.07 - Court Records Management and Retention

**RULE 9 - TRANSCRIPTS OF RECORD**

- 9.01 - Written Transcripts of Appeal
- 9.02 - Written Transcripts Other than on Appeal
- 9.03 - Delivery of Transcripts
- 9.04 - Transcript Fees for Court Reporters

**RULE 10 - CRIMINAL ACTIONS**

- 10.01 - Grand Jury Assignments
- 10.02 - Bond and Arraignment
- 10.03 - Companion Cases
- 10.04 - Absence of Judges
- 10.05 - Indictment Reports
- 10.06 - Apprehension on Warrants
- 10.07 - Sealing of Criminal Record [aka Expungement]
- 10.08 - Bail and Bond Conditions, Revocation, and Forfeiture; Obligations of Sureties
- 10.09 - Restitution
- 10.10 - Probation Service Fee - Intensive Probation Supervision
- 10.11 - Capital Cases
- 10.12 - Inactive Criminal Cases
- 10.13 - Certificate of Qualification for Employment

**RULE 11 - DISCOVERY IN CRIMINAL CASES**

- 11.01 - Prosecutor's Duties
- 11.02 - Defense Counsel's Duties
- 11.03 - Continuing Duty
- 11.04 - "Counsel Only" Designation or Non-Disclosure by Prosecutor
- 11.05 - Time Extensions

**RULE 12 - CRIMINAL PRE-TRIALS**

- 12.01 - Attendance
- 12.02 - Pre-trial Motions
- 12.03 - Facsimile Copy Filing with the Clerk

**RULE 13 - COUNSEL FOR INDIGENT DEFENDANTS**

- 13.01 - Financial Disclosure Form [fka Affidavit of Indigency]
- 13.02 - Fee Statements
- 13.03 - Assignment and Compensation of Counsel to Defend
- 13.04 - Fees for Court-Appointed Attorneys

**RULE 14 - PRE-SENTENCE INVESTIGATION**

**RULE 15 - WRITTEN NOT GUILTY PLEA**

**RULE 16 - INTERVENTION IN LIEU OF CONVICTION**

**RULE 17 - DIVERSION**

- 17.01 - Application
- 17.02 - Motion by Prosecution
- 17.03 - Hearing
- 17.04 - Restitution
- 17.04 - Successful Completion
- 17.05 - Unsuccessful Termination

**RULE 18 - SPECIALIZED CRIMINAL DOCKET(S)**

- 18.01 - Creation of Specialized Criminal Docket(s)
- 18.02 - Placement on a Specialized Criminal Docket(s)
- 18.03 - Case Management for Specialized Criminal Docket(s)
- 18.04 - Removal of Case from Specialized Criminal Docket(s)

**RULE 19 - E-FILING PROCEDURES**

- 19.01 - Terms and Definitions
- 19.02 - Official Court Record
- 19.03 - Registered E-filers
- 19.04 - Electronic Submission of Documents
- 19.05 - Electronic Signatures
- 19.06 - Initiation of a Civil Case
- 19.07 - Service of Documents in All Types of E-filing Cases
- 19.08 - Proposed Judgment Entries
- 19.09 - Fees

- 19.10 - Exceptions to E-filing
- 19.11 - Sealed Records, Expunged Records, “Counsel Only” Discovery, Court-ordered Sealed Documents

**RULE 20 - DOMESTIC RELATIONS CASES**

- 20.01 - Filing
- 20.02 - Dissolution of Marriage
- 20.03 - Divorce Actions
- 20.04 - Temporary Orders
- 20.05 - Attorney Fees
- 20.06 - Guardian Ad Litem
- 20.07 - Child Health Care Information Form
- 20.08 - Final Judgment Entries
- 20.09 - Modification of Child Support
- 20.10 - Post-Judgment Modification of Parental Rights and Responsibilities
- 20.11 - Reasonable and Ordinary Uninsured Medical Expenses
- 20.12 - Child Relocation
- 20.13 - Post-Judgment Relief Accompanied by Citation for Contempt
- 20.14 - Extra Curricular

**RULE 21 - HOME STUDY INVESTIGATION**

**RULE 22 - TEMPORARY STANDING ORDERS**

- 22.01 - Temporary Orders

**RULE 23 - PARENTING TIME ALLOCATION**

- 23.01 - Parenting Time

**RULE 24 - DOMESTIC RELATIONS MEDIATION**

- 24.01 - Mediation

**RULE 25 - PARENTING COORDINATION**

- 25.01 - Definitions
- 25.02 - Purpose
- 25.03 - Scope
- 25.04 - Appointment
- 25.05 - Education and Training
- 25.06 - Parenting Coordinator Appointment Order
- 25.07 - Selection of Parenting Coordinator for Appointment

- 25.08 - Termination or Modification of Parenting Coordinator Appointment
- 25.09 - Parenting Coordinator Responsibilities
- 25.10 - Parenting Coordinator Procedures in Cases of Domestic Abuse or Domestic Violence
- 25.11 - Attendance and Participation
- 25.12 - Referrals to Support Services
- 25.13 - Parenting Coordination Agreements, Reports, and Decisions
- 25.14 - Parenting Coordinator Evaluations and Complaints
- 25.15 - Fees
- 25.16 - Stay of Proceedings
- 25.17 - Confidentiality and Privilege
- 25.18 - Public Access

RULE 26 - **[Reserved for future use.]**

RULE 27 - **[Reserved for future use.]**

RULE 28 - **[Reserved for future use.]**

RULE 29 - **[Reserved for future use.]**

RULE 30 - **COURT SECURITY**

RULE 31 - **RECEIVERSHIPS**

- 31.01 - Applicability
- 31.02 - Motions for Appointment of a Receiver
- 31.03 - Hearings and Requests for Procedural Orders
- 31.04 - Qualifications to Serve as a Receiver
- 31.05 - Oath and Bond of Receiver
- 31.06 - General Duties of the Receiver
- 31.07 - Receivership Plan and Progress Reports
- 31.08 - Failure to Act Timely
- 31.09 - Applications to Employ Counsel or Professionals
- 31.10 - Expenditure Authority of the Receiver
- 31.11 - Disposition of Property
- 31.12 - Payment of Receiver and Professional Fees
- 31.13 - Final Report to the Court and Creditors
- 31.14 - Trade Secret or Privileged Information
- 31.15 - Effective Date

## APPENDIX AND FORMS

### APPENDIX A

#### RULE 2-

Loc. R. 2.02 - Financial Disclosure Form

#### RULE 3-

Loc R. 3.05(D) - Sample Plaintiff's Initial Disclosures

Loc.R. 3.05(E) - Case Conference Report and Discovery Plan Form

#### RULE 10-

Loc. R. 10.07(a) - Application to Seal Felony Record (prior to April 12, 2021)

Loc. R. 10.07(b) - Judgment Entry Sealing Felony (prior to April 12, 2021)

Loc. R. 10.07(c) - Application to Seal Felony Record (on/after April 12, 2021)

Loc. R. 10.07(d) - Judgment Entry Sealing Felony (on/after April 12, 2021)

Loc. R. 10.13(A) - Petition for Certificate of Qualification for Employment

Loc. R. 10.13(B) - Affidavit of Indigency to file CQE

Loc. R. 10.13(C) - Notice to Court of Petition for Qualification for Employment

Loc. R. 10.13(D) - Notice to Prosecutor of Petition for Qualification for  
Employment

Loc. R. 10.13(E) - Response to Request for Information Re: Petition for  
Certificate of Qualification for Employment

Loc. R. 10.13 (F) - Order for Investigation Re: Petition for Certificate of  
Qualification for Employment

Loc. R. 10.13(G) - Order for Additional Information

Loc. R. 10.13(H) - Judgment Entry Granting Petition for Certificate of  
Qualification for Employment

Loc. R. 10.13(I) - Judgment Entry Denying Petition for Certificate of  
Qualification for Employment

#### RULE 13-

Loc. R. 13.02 - Motion, Entry & Certification for Appointed Counsel Fees

#### RULE 15-

Loc. R. 15.01 - Written Plea of Not Guilty

#### RULE 18-

Loc. R. 18.03 - Chart of Treatment Courts

#### RULE 19-

Loc. R. 19.03 - eFiling User's Guide



## **LOCAL RULE 1**

### **COURT SESSIONS**

In accordance with R.C. 2301.05, the annual term of court is divided into three sessions of court beginning January 1, May 1, and September 1 of each year.

## **LOCAL RULE 1.01**

### **CASE MANAGEMENT PLANS**

#### **1.01 Purpose of Case Management Plan**

Cases do not automatically flow steadily and smoothly from filing to termination. In terms of court involvement, the life of a case may be characterized as a series of events separated by times during which there is no Court activity. The goal of case management is to make the sequence of timing of these events more predictable and timely.

Three fundamental elements of a case management system are (1) clear rules consistently applied; (2) trial date certainty; and (3) assurance of timely disposition.

Case management by the Court and adherence to the Rules of Court by attorneys will enhance the quality of justice by imparting rationality and predictability to the process and minimize delay in disposition.

Continuance of scheduled trials should be limited to unforeseen and exceptional circumstances that require an adjournment. The Court must maintain control over both the process and date to which a case is continued. An atmosphere must be fostered in which timely, high-quality attorney preparation minimizes the need for a continuance.

#### **(A) Civil Division Case Management Plan**

- (1) Each original civil action, except administrative appeals as provided for in Local Rule 1.01(D), shall be reviewed by the assigned judge within sixty (60) days of its filing.
  - (a) If service of process is not complete, the assigned judge shall forward responsible counsel a notice pursuant to Superintendence Rule 40 for the appropriate remedial action.
  - (b) If service of process is complete, the assignment commissioner for the assigned judge shall assign the matter

for a scheduling and pretrial conference to be held within 120 days of the status review required herein.

- (2) Further case management action on the matter shall be by pretrial order pursuant to Civil Rule 16 and Local Rules 2 through 9.

(B) Criminal Division Case Management Plan

- (1) At arraignment, the arraigning judge shall notify the defendant and his/her counsel of whom the assigned judge for the case will be and shall establish a scheduling and pretrial hearing date before said assigned judge within 21 days of the arraignment. At or before arraignment, the defendant's bond shall be set, and the requirement that the defendant submit to urinalysis testing pursuant to Local Rule 10.02 shall take effect immediately upon the signing of the bond or filing of a Written Plea of Not Guilty.
- (2) All further case management action on the matter shall be by pretrial order pursuant to Criminal Rule 17.1 and Local Rules 10 through 19.
- (3) The assigned judge shall be primarily responsible for the determination of every issue and proceeding in the case(s) assigned to him/her until the termination of the case, except, an individual assignment of a case can be modified by redistribution of the case to one of the specialized criminal dockets of the court in accordance with Loc. R. 18. If the case is modified by redistribution in this manner, the judge who presides over the specialized docket shall be responsible for the determination of every issue and proceeding in that case while the case remains on the specialized docket. If the case is removed from the specialized docket and returned to the regular docket, the judge originally assigned to the case resumes responsibility for said case.

(C) Domestic Relations Division Case Management Plan

- (1) Each original domestic relations action shall be reviewed by the assigned judge or a designated magistrate within sixty (60) days of its filing.
  - (a) If service of process is not complete, the assigned judge shall forward responsible counsel a notice pursuant to Sup. R. 40 for the appropriate remedial action.

- (b) If service of process is complete, the assignment commissioner shall assign the matter for appropriate action pursuant to Local Rule 20 as follows:
  - (1) Dissolution – Loc. R. 20.02
  - (2) Contested action – Loc. R. 20.03
  - (3) Uncontested action – Loc. R. 20.03
- (2) All further case management action on the matter shall be by pretrial order pursuant to Civ. R. 16 and Loc. R. 20 through 29.
- (D) Administrative Appeal Case Management Plan
  - (1) Each administrative appeal filed pursuant to Revised Code Chapters 119 or 2506 shall be reviewed by the assigned judge within thirty (30) days of its filing.
  - (2) All further case management action on the matter shall be by pretrial order pursuant to Loc. R. 5.

## **LOCAL RULE 1.02**

### **JURY MANAGEMENT PLAN**

#### **1.02 Purpose of Jury Management Plan**

Pursuant to Sup. R. 5(D)(2) for the Courts of Common Pleas, the Court hereby adopts a jury management plan for implementation of the jury standards adopted by the Ohio Supreme Court on August 16, 1993.

- (A) Opportunity for Service
  - (1) The opportunity for jury service shall not be denied or limited on the basis of race, national origin, gender, age, religious belief, income, occupation, disability, or any other factor that discriminates against a cognizable group in the jurisdiction.
  - (2) Jury service is an obligation of all qualified citizens.

(B) Jury Source List

- (1) The names of potential jurors shall be drawn from a jury source list compiled from one or more regularly maintained lists of persons residing in the court's jurisdiction.
- (2) The jury source list shall be representative and should be as inclusive of the adult population as is feasible.
- (3) The court shall periodically review the jury source list for its representativeness and inclusiveness of the adult population in the jurisdiction as is feasible.
- (4) In the event the court determines that improvement is needed in the representativeness and inclusiveness of the jury source list, appropriate corrective action should be taken.

(C) Random Selection Procedures

- (1) Random selection procedures shall be used throughout the juror selection process. Any method may be used, manual or automated, that provides each eligible and available person with an equal probability of selection. These methods shall be documented.
- (2) Random selection procedures shall be employed in:
  - (a) selecting persons to be summoned for jury service;
  - (b) assigning prospective jurors to panels; and
  - (c) calling prospective jurors for voir dire.
- (3) Departures from the principle of random selection are appropriate:
  - (a) to exclude persons ineligible for service in accordance with Loc. R. 1.02(D);
  - (b) to excuse or defer prospective jurors in accordance with Loc. R. 1.02(F);
  - (c) to remove prospective jurors for cause if challenged peremptorily in accordance with Loc. R. 1.02(H) and (I); and
  - (d) to provide all prospective jurors with an opportunity to be called for jury service and to be assigned to a panel in accordance with Loc. R. 1.02(K).

(D) Eligibility for Jury Service

All persons shall be eligible for jury service except those who:

- (1) are less than eighteen year of age;
- (2) are not citizens of the United States;
- (3) are not residents of the jurisdiction in which they have been summoned to serve;
- (4) are not able to communicate in the English language; or
- (5) have been convicted of a felony.

(E) Term of and Availabilty for Jury Service

- (1) The time that persons are called upon to perform jury service and to be available should be the shortest period consistent with the needs of justice.
- (2) A term of service of one day or the completion of one trial, whichever is longer, is recommended. However, a term of one week or the completion of one trial, whichever is longer, is acceptable.
- (3) Persons should not be required to maintain a status of availability for jury service for longer than two weeks except in jurisdictions where it may be appropriate for persons to be available for service over a longer period of time.

(F) Exemption, Excuse, and Deferral

- (1) All automatic excuses or exemptions, with the exception of statutory exemptions, from jury service shall be eliminated.
- (2) Eligible persons who are summoned may be excused from jury service only if:
  - (a) his/her ability to receive and/or evaluate information is so impaired that he/she is excused for this reason by a judge;
  - (b) he/she requests to be excused because his/her service would be a continuing hardship to him/her or to members of the public,

and he/she is excused by a judge or specifically authorized court official.

- (3) Deferrals for jury service for reasonably short periods of time may be permitted by a judge or specifically authorized court official upon completion and filing of an affidavit.
- (4) Requests for excuses and deferrals and their disposition should be written or otherwise made or recorded.

(G) Voir Dire Examination

- (1) Voir dire examination shall be limited to matters relevant to determining whether to remove a juror for cause and to determine the juror's fairness and impartiality.
- (2) To reduce the time required for voir dire, basic background information regarding panel members shall be made available to counsel in writing for each party prior to the day on which jury selection is to begin. At the discretion of the Court, voir dire may be limited in time. See Civ. R. 47 and Crim. R. 24.
- (3) The trial judge shall conduct a preliminary voir dire examination. Counsel shall then be permitted to question panel members for a reasonable period of time as determined by the trial judge.
- (4) The judge should ensure that the privacy of prospective jurors is reasonably protected and the questioning is consistent with the purpose of the voir dire process.
- (5) In criminal cases, the voir dire process shall be held on the record. In civil cases, the voir dire process shall be held on the record unless waived by the parties.

(H) Removal from the Jury Panel for Cause

If the judge determines during the voir dire process that an individual is unable or unwilling to hear the particular case at issue fairly and impartially, that individual should be removed from the panel. Such a determination may be made on motion of counsel or by the judge.

(I) Peremptory Challenges

Peremptory challenges shall be exercised in accordance with the applicable Civil Rules, Criminal Rules, and/or statutes.

(J) Administration of the Jury System

- (1) The responsibility for administration of the jury system shall be vested exclusively in the judges of the Court.
- (2) All procedures concerning jury selection and service shall be governed by Ohio Rules of Court.
- (3) Responsibility for administering the jury system shall be vested in a single administrator acting under the supervision of the administrative judge of the court.

(K) Notification for Service

- (1) The notice summoning a person to jury service and the questionnaire eliciting essential information regarding that person shall be:
  - (a) contained in a single document;
  - (b) phrased to be readily understood by an individual unfamiliar with the legal and jury systems; and
  - (c) delivered by ordinary mail unless otherwise ordered.
- (2) A summons shall clearly explain how and when the recipient must respond and the consequences of a failure to respond.
- (3) The questionnaire should be phrased and organized so as to facilitate quick and accurate screening and should request only that information essential for:
  - (a) determining whether a person meets the criteria for eligibility;
  - (c) providing basic background information ordinarily sought during voir dire examination; and
  - (d) efficiently managing the jury system.
- (4) Policies and procedures shall be established for monitoring failures to respond to a summons and for enforcing a summons to report for jury service.

(L) Monitoring of the Jury System

The courts shall collect and analyze information regarding the performance of the jury system on a regular basis in order to evaluate:

- (1) the representatives and inclusiveness of the jury source list;
- (2) the effectiveness of qualification and summoning procedures;
- (3) the responsiveness of individual citizens to jury duty summonses;
- (4) the efficient use of jurors; and
- (5) the cost-effectiveness of the jury management system.

(M) Juror Service

- (1) The court shall employ the services of prospective jurors so as to achieve optimum use with a minimum of inconvenience to jurors.
- (2) The court shall determine the minimally sufficient number of jurors needed to accommodate trial activity. This information and appropriate management techniques should be used to adjust both the number of individuals summoned for jury duty and the number assigned to jury panels.
- (3) The court shall coordinate jury management and calendar management to make effective use of jurors.

(N) Jury Facilities

- (1) The court shall provide an adequate and suitable environment for jurors.
- (2) The entrance area shall be clearly identified and appropriately designed to accommodate the daily flow of prospective jurors to the facility.
- (3) Jurors shall be accommodated in pleasant waiting facilities furnished with suitable amenities.
- (4) Jury deliberation rooms shall include space, furnishings, and facilities conducive to reaching a fair verdict. The safety and security of the deliberation rooms should be ensured.



- (5) To the extent feasible, juror facilities should be arranged to minimize contact between jurors, parties, counsel and the public.

(O) Jury Compensation

- (1) Persons called for jury service shall receive a reasonable fee for their service and expenses.
- (2) Such fees shall be paid promptly.
- (3) Employers shall be prohibited from discharging, laying off, denying advancement opportunities to, or otherwise penalizing employees who miss work because of jury service.

(P) Juror Orientation

- (1) Orientation programs shall be:
  - (a) designed to increase prospective jurors' understanding of the judicial system and prepare them to serve competently as jurors; and
  - (b) presented in a uniform and efficient manner using a combination of written, oral, and/or audiovisual materials.
- (2) The courts shall provide orientation or instructions to persons called for jury service:
  - (a) upon initial contact prior to service;
  - (b) upon first appearance at the court; and
  - (c) upon reporting to a courtroom for voir dire.
- (3) The trial judge shall:
  - (a) give preliminary instructions to all prospective jurors;
  - (b) give instructions directly following empanelment of the jury to explain the jury's role, the trial procedures, including note taking and questioning by jurors, the nature of evidence and its evaluation, the issues to be addressed, and the basic relevant legal principles;

- (c) prior to the commencement of deliberations, instruct the jury on the law, on appropriate procedures to be followed during deliberations, and on the appropriate method for reporting the results of its deliberations;
  - (d) prepare and deliver instructions which are readily understood by individuals unfamiliar with the legal system; jury instructions should be made available to the jurors during deliberations; and
  - (e) recognize utilization of written instructions is preferable.
- (4) All communications between the judge and members of the jury panel from the time of reporting to the courtroom for voir dire until dismissal shall be in writing or on the record in open court. Counsel for each party shall be informed of such communication and given the opportunity to be heard.

(Q) Jury Deliberations

- (1) Jury deliberations shall take place under conditions and pursuant to procedures that are designed to ensure impartiality and to enhance rational decision making.
- (2) The judge shall instruct the jury concerning appropriate procedures to be followed during deliberations.
- (3) The jury shall not be sequestered except under the circumstances and procedures set forth in Loc. R. 1.02(R).
- (4) A jury shall not be required to deliberate after a reasonable hour unless the trial judge determines that evening or weekend deliberations would not impose an undue hardship upon the jurors and are required in the interest of justice.
- (5) Training should be provided to personnel who escort and assist jurors during deliberation.

(R) Jury Sequestration

- (1) A jury shall be sequestered only for good cause, including but not limited to, insulating its members from improper information or influences.
- (2) During deliberations in the guilt phase and penalty phase, the jury shall be sequestered in a capital case.

- (3) The trial judge shall have the discretion to sequester a jury on the motion of counsel or on the judge's initiative and shall have the responsibility to oversee the conditions of sequestration.
- (4) Standard procedures shall be promulgated to:
  - (a) achieve the purpose of sequestration;
  - (b) minimize the inconvenience and discomfort of the sequestered jurors; and
  - (c) provide for the jury's security.
- (5) Training shall be provided to personnel who escort and assist jurors during sequestration.

(S) Jury Dismissal

Before dismissing a jury at the conclusion of a case, the judge shall:

- (1) release the jurors from their duty of confidentiality;
- (2) explain their rights regarding inquiries from counsel or the press;
- (3) either advise them that they are discharged from service or specify where they must report; and
- (4) express appreciation to the jurors for their service, but not express approval or disapproval of the result of the deliberation.

## LOCAL RULE 1.03

### BROADCASTING, TELEVISIONING, AND RECORDING COURT PROCEEDINGS

#### 1.03 Broadcasting, Televising, and Recording Court Proceedings

(A) Electronic or Photographic Equipment

Use in the Courtroom:

In compliance with Sup. R. 11 and 12, the Court shall permit the broadcasting, recording, and taking of photographs in Court proceedings. Requests for permission to use such electronic recording or photographic equipment shall be in writing. Application forms shall be available in the office of the Court Receptionist.

(B) Pooling

Arrangements shall be made between or among media for “pooling” equipment and personnel authorized by this rule to cover the court sessions. Such arrangements are to be made outside the courtroom and without imposing on the trial judge or court personnel to mediate any dispute as to the appropriate media “pool” representative or equipment authorized to cover a particular session.

(C) Equipment and Personnel

- (1) Not more than one portable camera (television, video, or movie), operated by not more than one in-court camera person, shall be permitted without authorization of the trial judge.
- (2) Not more than one still photographer, utilizing not more than two still cameras of professional quality with not more than two lenses for each camera, shall be permitted without authorization of the trial judge.
- (3) Not more than one audio system for radio broadcast purposes shall be permitted without authorization of the trial judge.
- (4) If audio arrangements cannot be reasonably made in advance, the trial judge may permit one audio recorder at the bench, which will be activated prior to commencement of the courtroom session.
- (5) Visible audio recorders may not be used by the news media without prior permission of the trial judge.

(D) Light and Sound Criteria

- (1) Only professional quality television, photographic, and audio equipment, which does not produce distracting sound or light, shall be employed to cover courtroom sessions. No motordrive still cameras shall be permitted.
- (2) No artificial lighting device other than that normally used in the courtroom shall be employed. However, if the normal lighting in the courtroom can be improved without becoming obtrusive, the trial judge may permit modification.
- (3) Audio pickup by microphone for all media purposes shall be accomplished from existing audio systems present in the courtroom. Microphones shall be located only at the trial judge's bench, witness stand, and jury rail. Microphones shall be visible and secured but unobtrusive. If no technically suitable audio system exists in the courtroom, microphones and related wiring essential for all media purposes shall be permitted, but shall be unobtrusive and located in places designated by this rule or the trial judge in advance of any session.

(E) Location of Equipment and Personnel

- (1) The television, broadcast, and still-camera operators, shall position themselves in a location in the courtroom, either standing or sitting, and shall assume a fixed position within that area. Having established themselves in a shooting position, they shall act so as not to call attention to themselves through further movement. Sudden moves, pans, tilts, or zooms by television or still camera operators are prohibited. Operators shall not be permitted to move about in order to obtain photographs or broadcasts of courtroom sessions, except to leave or enter the courtroom.
- (2) Television cameras, microphones, and recording equipment shall not be placed in, moved during, or removed from the courtroom except prior to commencement or after adjournment of the session or during a recess. Neither television-tape magazines, rolls, or lenses, still-camera film, nor audio cassettes shall be changed within a courtroom except during a recess.

(F) Miscellaneous

- (1) Proper courtroom decorum shall be maintained by all media pool participants.

(2) All media representatives shall be properly attired, in a manner that reflects positively upon the journalistic profession.

(G) Limitations

(1) There shall be no audio pickup or broadcast of conferences conducted in a courtroom between counsel and clients, co-counsel, or the trial judge and counsel.

(2) The trial judge shall prohibit photographing or video recording by any means victims of sexual assaults and undercover police officers. The trial judge shall retain discretion to limit or prohibit photographing or video recording of any juror, victim, witness, or counsel or counsel's work product upon objection.

(H) Revocation of Permission

Upon the failure of any media representative to comply with the conditions prescribed by the trial judge, the Rules of Superintendence of the Supreme Court, or this rule, the trial judge may revoke the permission to broadcast, photograph, or record the trial or hearing.

## LOCAL RULE 2

### GENERAL PROCEDURES

#### 2.01 Security for Costs and Fees

(A) No civil action or proceeding shall be accepted by the Clerk for filing unless the party or parties offering the same for filing shall have first deposited a sum to secure the payment of the costs that may accrue in such action or proceeding and established fees except as otherwise provided by law. Such advance deposit and fees shall be in accordance with the schedule as adopted by this Court and as may be amended and as contained in **Appendix A**.

(B) PUBLICATION RULE: On cases of "Service by Publication", the party desiring such service shall file a praecipe and legal notice with any newspaper of general circulation and the cost of such service shall be paid directly to the publisher by counsel. Counsel shall provide a copy of the legal notice to the Clerk of Courts for filing. A proof of publication shall be forwarded to the Clerk upon completion of publication for filing in the appropriate case.

## **2.02 Inability to Secure Costs**

If a party claims inability to either prepay or give security for costs, pursuant to Loc. R. 2.01(A), the party shall complete the Financial Disclosure Form required by R.C. 2323.30 and R.C. 2323.31 in the form approved by the Court and adopted as Local Rule Form 2.02 stating the reasons for the inability to prepay or give security for costs. Such affidavit shall be completed in its entirety and filed with the pleadings as a public record, treated as other papers in the case, and be subject to review by the Court at any state of the proceedings.

The Clerk shall accept the filing of a Financial Disclosure Form and submit it to the Court for review in accordance with R.C. 2323.31.

The waiver of a security deposit in no manner affects the responsibility of a party to pay costs if so charged. The ability to waive costs shall be subject to review by the Court at any stage of the proceedings.

## **2.03 Discretion of the Clerk**

The Clerk of this Court is granted the following power in his/her discretion:

- (A) If the costs are not paid at the termination of the litigation, any deposit for costs may be applied by the Clerk to the unpaid costs.
- (B) The Clerk may make periodic or partial distribution of monies deposited for the purpose of restitution, pursuant to court order, unless otherwise ordered by the Court in a particular case.

## **2.04 File Stamping**

The top right hand corner of the initial sheet of every pleading, motion, brief, or other paper filed for record shall have an area approximately 3" x 3" left blank for the Clerk of this Court to file stamp the date and time of filing. The Clerk is authorized to refuse to accept any document not conforming to such requirement.

## **2.05 Designation of Assigned Judge**

As soon as it is determined to which judge a case has been assigned, whether civil or criminal, the name of such judge shall be set forth in the style of each pleading or other paper filed for record.

## **2.06 Notice of Default Judgment Hearing**

In any action in which a default judgment hearing is required, the Clerk shall file stamp and retain a copy of the notice of hearing as a permanent record in such actions.

#### **2.07 Companion Cases**

Where companion cases have been assigned to different judges, the cause of action with the later case number, when requested, shall be reassigned to whichever judge has been assigned the cause of action with the earlier case number, unless the Administrative Judge specifically orders otherwise.

#### **2.08 Pleading Signatures**

The Clerk of this Court shall refuse to accept for filing any pleading or other document which is unsigned, rubber stamped, or signed by an unidentified third party not an attorney or party acting in a pro se capacity. **All pleadings shall be signed in BLUE ink. Electronic signatures may be accepted for facsimile filings, email filings, and/or at the Clerk's discretion.**

#### **2.09 Bankruptcy Adjudication**

Whenever any party to an action pending in this Court files bankruptcy, the attorney of record or the party, if acting in a pro se capacity, within 15 days after the bankruptcy adjudication, shall file written notice of bankruptcy with the Clerk of this Court. Such notice shall include a copy of the order of bankruptcy or other appropriate documentation confirming and giving the date of such adjudication.

Such attorney or party shall likewise serve such notice on other counsel or pro se parties of record in such pending litigation in conformity with Civil Rule 5.

#### **2.10 Publication by Posting**

- (A) Pursuant to the requirements of Civ. R. 4.4, this Court designates two (2) additional public places in the County, in addition to the Courthouse, where publication of service of process by “posting” shall be had, to-wit:
  - (1) the Clerk of Courts-Title Office, 419 North Elizabeth Street, Lima, Ohio, or any other location to which it might relocate; or
  - (2) the Municipal Hall of Justice, 109 North Union Street, Lima, Ohio, or any other location to which it might relocate.
- (B) The Clerk of this Court shall cause the requisite notice to be posted in a conspicuous place and manner in the above denominated places for the requisite six (6) consecutive weeks. Upon completion of posting for six (6) consecutive weeks, the Clerk shall remove the notice, complete the return of service, file the same, and notify counsel as provided by law.



- (C) In addition to the requirements of Civ. R. 4.4(A)(2), this Court requires the filing of a Motion for Service by Posting which shall include an affidavit of a party or party's counsel as outlined in said rule.

## **2.11 Special Projects Fund**

- (A) Pursuant to R.C. 2303.201(A), the Court authorizes and directs the Clerk of the Common Pleas Court to charge one additional fee of Six Dollars (\$6.00) on the filing of each cause of action or appeal. Such fees collected shall be paid to the Allen County Treasurer, who shall place said fees in a separate fund to be disbursed, upon Order of this Court, in an amount not greater than the actual cost to the Court of procuring and maintaining computerization of the Court, computerized legal research services, or both.

If the Court determines that there are sufficient finds to satisfy the actual costs of the above, the Court may declare a surplus fund for other appropriate technological expenses of the Court.

- (B) Pursuant to the authority of R.C. 2303.201(B), it is determined that, for the efficient operation of the Civil, Criminal, and Domestic Relations Divisions of this Court, additional funds are required to computerize the office of the Clerk of the Common Pleas Court. The Clerk of this Court is directed and hereby authorized to charge an additional fee of Twenty Dollars (\$20.00) upon the filing of each cause of action, appeal, certificate of judgment, or the docketing and indexing of each aid in execution or petition to vacate, revive, or modify a judgment under R.C. 2303.20(A), (P), (Q), (T), and (U).

The Court hereby determines that the efficient operation of the Court requires that additional funds be provided to make technological advances in or to maintain computer systems for the office of the Clerk of the Common Pleas Court. Pursuant to Ohio Revised Code 2303.201(B)(1), the Clerk of the Common Pleas Court is authorized to charge an additional fee not to exceed One Dollar (\$1) each for the services described in R.C. 2303.20 (B),(C),(D),(F),(H), and (L).

All Funds collected pursuant to this rule shall be paid to the County Treasurer and maintained by the County Auditor in a separate account, to be disbursed, upon an order of the Court of Common Pleas and subject to appropriation by the Board of County Commissioners, in an amount no greater than the usual cost to the Court of procuring and maintaining computer systems for the office of the Clerk of the Common Pleas Court.

- (C) Pursuant to the authority of R.C. 2303.201(E)(1), it is determined that for the efficient operation of the Court, the fee of One Hundred Dollars (\$100.00) shall be charged at the commencement and re-opening of all civil, domestic relations, and criminal cases, effective May 1, 2020. This Rule shall not apply to Certificate of Qualification of Employment filings or Motions for Relief from Disability pursuant to R.C. 2923.14.

## **2.12 Copying Fees**

The Clerk is authorized to charge a fee for the copying of any records or documents requested by parties or public at large that are maintained in the office of the Clerk of Courts.

Said fees shall be calculated at the cost for each page copied.

Said fees shall be paid in advance, as much as practicable, and shall not be charged as costs in any action. Said fees shall be paid into the Treasury of Allen County as provided by law for such miscellaneous collections.

Pursuant to the authority of R.C. 2303.20(Z), the fees for certified copies shall be One Dollar (\$1.00) per page.

Pursuant to the authority of R.C. 2303.20(Y), the fees for emailing copies shall be Two Dollars (\$2.00) per transmission and One Dollar (\$1.00) per page.

For facsimile copies, see Loc. R. 3.09(G).

Requests for copies shall be submitted via fax, phone, mail, or in person.

## **2.13 Court Costs Upon Disposition**

Upon the disposition of a case, the Court shall order which party or parties are responsible for payment of costs. If the Court is silent, the costs will be assessed against the non-prevailing party(ies). If there are insufficient fees on deposit to cover the costs, the responsible party(ies) will be billed. If the costs remain unpaid at the conclusion of one billing and four statements (150) days, the Clerk may file a certificate of judgment for the amounts due on the party(ies) responsible, **or may refer the matter of collection to a third party collections company.**

The Clerk may not refer the matter of collection to a third party collections company if the party owing has continuously made a minimum payment of at least Ten Dollars (\$10.00) per month for the preceding six (6) months unless otherwise ordered by the Court. [Amended: 2/1/19]

## 2.14 Attorneys (Duties and Pro Hac Vice)

### (A) Attorney Withdrawal

- (1) No attorney who enters an appearance in any civil or criminal action shall withdraw appearance, or have it stricken from the record, except by an entry of the Court.
- (2) An attorney who appears or enters an appearance for a defendant in a criminal case shall not be permitted to withdraw except in open court in the presence of the defendant and upon written entry approved by the Court.

### (B) Conduct

Attorneys shall at all times conduct themselves with dignity and propriety.

### (C) Communication with Jury

When permission is granted for the jury to visit the scene, the bailiff or acting bailiff shall point out places or objects agreed to by counsel or ordered by the Court. No other person shall communicate with the jury.

### (D) Engaged Counsel

- (1) If a designated trial attorney has such a number of cases assigned for trial in courts of this state so as to cause delay in the disposition of such cases, the Administrative Judge may require the trial attorney to provide a substitute trial attorney.
- (2) If the trial attorney fails to provide a substitute trial attorney, the Administrative Judge shall remove the trial attorney as counsel in the case. If the attorney was appointed by the Court, the Court shall appoint a substitute trial attorney.
- (3) All counsel are directed to familiarize themselves with and conform to Rule 41 of the Rules of Superintendence for the Courts of Ohio.

### (E) Admission of Out-of-State Attorneys

An attorney must be admitted to practice in the State of Ohio in order to practice in the Court of Common Pleas. The assigned judge to the particular case has the discretion to admit out-of-state counsel upon

written motion for admission pro hac vice and require local counsel. **Pro Hac Vice admission to practice shall be governed by Gov. Bar R. XII.**

**2.15 Filing and Removal of Papers from Custody of Clerk**

(A) Filing

(1) Duties of Clerk

The Clerk of Courts shall file and maintain all documents delivered to the Clerk's office. No judgment Entry or Order shall be accepted or docketed by the Clerk until it is approved by the appropriate judge.

(2) Size of documents, pagination, and heading requirement

All pleadings, motions, briefs and other similar documents that are filed with the Clerk shall be typewritten or printed, double spaced on 8 ½" x 11" paper, in at least a 12 point regular type font, one-sided, and paginated sequentially. In all filings, a blank space for endorsement thereon and shall have appropriate top, bottom, and side margins of not less than one inch each.

(3) Hours of Operation and Acceptance of Documents for Filing

With the exception of legal holidays and other closures mandated/authorized by the Court or the Allen County Commissioners, the normal business hours of the Clerk of Courts are Monday-Friday, 8:00 a.m.-4:30 p.m. The Clerk shall not accept any document from a party for filing outside of the normal business hours of the Clerk of Courts, absent extraordinary circumstances as determined by the Court. [Amended: 2/1/19]

(B) Documents Requiring Service of Notice

(1) All documents requiring service or notice upon filing shall:

(a) Include the address of the plaintiffs and defendants in the caption of the document; or

(b) Indicate that the addresses of the plaintiffs and defendants are unknown if such addresses are in fact unknown.

(2) The Clerk shall not accept for filing any document that must be served upon counsel or parties that does not designate their names and addresses. Unless specifically requested by praecipe, service

will be perfected by certified mail. No letters for service will be accepted as service requests must be made by praecipe.

- (3) All service shall be issued in accordance with the Rules of Civil Procedure, except the Clerk, at his/her discretion, may serve any agency of Allen County, Ohio, to which service is required, by electronic means or hand-delivery, provided all signature requirements are satisfied. Any request for priority or overnight mail shall be accompanied by appropriate packaging and adequate postage. [Amended: 2/1/19]

(C) Attorney Registration Number

All attorneys shall include his/her attorney registration number issued by the Supreme Court of Ohio on all documents filed with the Court.

(D) Removal

(1) Original Documents

(a) Removal

No person, except a judge of the Court, magistrate, or representative thereof, shall remove any documents or case files from the custody of the Clerk of Courts.

(b) Examination

Upon request, the Clerk of Courts shall allow any person to examine, but not remove, any original documents or case file that is maintained by its office. Examination shall be allowed during regular business hours.

(c) Duplication

Upon request and the payment of a photocopy fee, the Clerk shall provide copies of any original documents maintained by its office. Copies shall be provided during regular business hours within a reasonable period of time as determined by the Clerk of Courts. A reasonable period of time shall be based upon the extent of the request with efforts toward a 24-hour response time.

(2) Transcripts of Testimony

The inspection, examination, and duplication of transcripts of testimony shall be governed by Loc. R. 2.12.

## **2.16 Duties of Clerk**

No Judgment Entry or Order shall be accepted or docketed by the Clerk of Courts until it is approved by the assigned judge and/or other judge acting in the assigned judge's absence.

## **2.17 Documents Requiring Service or Notice**

If a praecipe is not included with a new case filing, then the Clerk of Courts shall proceed with service by certified mail [see Loc.R. 2.15(B)(3) for service to Allen County agencies]. The Clerk shall not attempt service on an "unknown party" at an "unknown address", even if presented with a praecipe.

## **2.18 Depositions**

### **(A) General (See Civ. R. 26, 27, 28, 29, 30, 31, 32, 37 and 45(D))**

- (1) Witnesses, parties, and counsel shall conduct themselves at depositions in a temperate, dignified and responsible manner.
- (2) Counsel are expected to make a timely and good faith efforts to confer and agree to schedules for the taking of depositions. Unless otherwise stipulated or ordered by the Court, a deposition is limited to 1 day of 7 hours. Except for good cause, counsel for the deponent shall not cancel a deposition or limit the length of a deposition to less than 1 day of 7 hours without stipulation of the examining counsel or order of the Court.

### **(B) Deposition Conduct**

The following rules for the taking of depositions emphasize the expectations of the Court as to certain issues; they are intended to supplement Civ. R. 26, 30, 32, and 37:

- (1) *Decorum.* Opposing counsel and the deponent shall be treated with civility and respect, and the questioner shall not engage in repetitive, harassing, or badgering questioning. Ordinarily, the deponent shall be permitted to complete an answer without interruption by counsel.
- (2) *Objections.* Objections shall be limited to:

- (a) those which would be waived if not made pursuant to Civ. R. 32(D);
  - (b) those necessary to assert a privilege;
  - (c) those necessary to enforce a limitation on evidence directed by the Court;
  - (d) those necessary to present a motion under Civ. R. 30 (D);
  - (e) those necessary to preserve a proper evidentiary objection should the deposition be used as evidence or for impeachment; and
  - (f) those necessary to assert that the questioning is repetitive, harassing or badgering.
  - (g) No other objections shall be raised during the course of the deposition.
- (3) *Speaking Objections.* Counsel may interpose an objection by stating “objection” and the legal grounds for the objection. Speaking objections that refer to the facts of the case or suggest an answer to the deponent are improper and shall not be made in the presence of the deponent. Counsel shall not argue the reasons for the objection on the record.
- (4) *Instructions Not to Answer.* Counsel may instruct a deponent not to answer a question only when necessary to preserve a privilege, enforce a limitation on evidence directed by a court, present a motion under Civ. R. 30(D), or terminate repetitive, harassing or badgering questioning. In the event privilege is claimed, examining counsel may make appropriate inquiry about the basis for asserting the privilege.
- (5) *Irrelevant and Embarrassing Questions.* If an attorney objects to a particular line of questioning on the ground that the questioning is being conducted in bad faith or in such a manner as unreasonably to annoy, embarrass or degrade the deponent, the questioning attorney should move on to other areas of inquiry, reserving the right to pursue the objected-to questions at a later time or date if the objecting attorney agrees to withdraw the objection or if, as a result of a conference call by the attorneys to the appropriate court, a motion to compel, or a motion filed under Civ. R. 30(D), a court determines that the objected-to questions are proper.

- (6) *Conferring During Questioning.* While a question is pending, counsel for the deponent and the deponent shall not confer, except for the purpose of deciding whether to assert a privilege.
  - (7) *Documents.* During the deposition, examining counsel shall provide opposing counsel and counsel for the deponent with copies of all documents shown to the deponent.
- (C) Where a witness, party or counsel violates any of these rules at a deposition, the Court may order sanctions or other remedies, including those sanctions available under Civ. R. 26(C) or 37, as well as attorney’s fees.
- (D) The Allen County Common Pleas Court recognizes the Ohio Supreme Court’s Commission on Professionalism has issued its publication “Deposition Do’s and Don’ts.” The Allen County Court of Common Pleas expects all attorneys practicing before the Court to adhere to the best practices contained in this document incorporated therein.
- (E) Depositions may be electronically filed in the same manner as other permitted e-filings. However, depositions that are necessary for the Court to review in order to rule upon a motion must be printed, bound, and filed with the Clerk of Courts rather than or, in addition to, e-filing.

## **2.19 Standing Special Process Server**

A person may apply to be designated as a “Standing Special Process Server” for cases filed in this Court, in accordance with Civ.R. 4.1, by filing an application supported by an affidavit setting forth the following information:

- (1) the name, address, and telephone number of applicant;
- (2) that the applicant is eighteen years of age or older;
- (3) that the applicant agrees not to accept service of process in any case which the applicant is a party or counsel for a party;
- (4) that the applicant agrees to follow the requirements of Civ. R. 4 through 4.6, and any applicable local rules, and specific instructions for service of process as ordered by the Court in individual cases.

This designation **shall last for one year from the date of the order** of the Court approving the designation of a person as a “Standing Special Process Server.” The person so designated must file a new application with supporting affidavit annually in order to be designated a “Standing Special Process Server” for each one-year time period.

## **2.20 Electronic Return Receipts**



The Clerk of Courts is authorized to use electronic return receipts from the United States Postal service for certified mail service. Electronic proof of service for certified or express mail sent by the Court shall be deemed in compliance with the service requirements of the Rules of Civil Procedure. The use of electronic return receipts is not mandatory.

### **LOCAL RULE 3**

#### **CIVIL ACTIONS: PLEADINGS, MOTIONS, HEARINGS**

##### **3.01 Documents**

All pleadings, motions, and other litigation documents shall be typewritten or legibly printed on paper that is securely bound at the top (unless filed electronically).

The caption in every complaint shall state the name and address, if known, of each party.

Each civil complaint or petition shall state in the caption the nature of the action in one of the following categories: (1) Professional Torts; (2) Product Liability; (3) Other Torts; (4) Worker's Compensation; (5) Administrative Appeal; (6) Foreclosure; (7) Complex Litigation; or (8) Other Civil.

Each domestic relations complaint, petition, or motion that initiates or re-initiates the jurisdiction of the Court shall state in the caption the nature of the action in one of the following categories: (1) Divorce with Children; (2) Divorce without Children; (3) Dissolution with Children; (4) Dissolution without Children; (5) Modification of Parental Rights and Responsibilities; (6) Modification of Enforcement of Parenting Time, Companionship, or Visitation Rights; (7) Support Modification or Enforcement; (8) Domestic Violence; (9) U.R.E.S.A.; or (10) Miscellaneous Enforcement.

Subsequent pleadings, motions, briefs, or other litigation documents shall set forth the case number, the name of the judge to which the case has been assigned, the name of the first party plaintiff, and the first party defendant.

Every Amended Complaint or other pleading which adds [an] additional party(ies) shall be accompanied by a praecipe directing the Clerk to serve the additional party(ies) with a copy of the Amended Complaint or pleading in accordance with the Ohio Rules of Civil Procedure.

The Clerk shall not accept for filing any document that does not comply with this rule.

**Motions for Leave to File Amended Complaint/Answer/etc. shall be accompanied by an unattached proposed signed original pleading. Any pleading attached to the Motion or marked as an exhibit will not be filed separately as the original should the motion be granted. The Clerk of Courts has no duty to follow-up with counsel to request the submission of an original pleading.**

### **3.02 Rule Day Extensions**

Civil Rule 12 prescribing Rule Day for Pleadings will be strictly enforced. Extensions of time will be granted only by written order of the Court.

### **3.03 Hearings on Motions Other than Summary Judgment [effective 2/1/2020]**

Motions Prior to Hearing or Trial. Unless a different period is fixed under these rules or by order of the court, a written motion for purposes of a hearing that is not a trial shall be served no later than fourteen days prior to the hearing, and a written motion for purposes of a trial shall be served no later than twenty-eight days prior to the start of trial. Responses to a written motion, other than motions for summary judgment, may be served within fourteen days after service of the motion. Thereafter, the motion shall be deemed submitted to the judge to whom the case is assigned. A movant's reply to the response is not permitted.

All motions and responses shall be accompanied by a brief stating the grounds therefore and citing the authorities relied upon.

Unless ordered by the Court, oral argument will not be allowed except on leave of the trial judge upon written request by a party prior to a submission and the time of hearing and length of such argument shall be fixed by said judge.

This Rule shall apply to all motions, including motions for new trial, motions for judgment notwithstanding the verdict, and motions for reconsideration except as otherwise provided herein.

Modification for Good Cause upon Motion. Upon motion of a party in an action, and for good cause, the court may reduce or enlarge the periods of time provided in this Rule.

### **3.04 Hearing on Summary Judgment Motions [effective 2/1/2020]**

Responses to motions for summary judgment may be served within twenty-eight days after service of the motion. A movant's reply to a response to any written motion

may be served within seven days after service of the response to the motion. Unless otherwise ordered by the Court, motions for summary judgment shall be heard on briefs and other materials authorized by Civ. R. 56(C), without oral arguments, thirty days after service of the motion for summary judgment.

No motions shall be filed in any case after it has been set for pre-trial without leave of the trial judge first obtained, who may establish the times for filing of briefs and submission of the motion.

Modification for Good Cause upon Motion. Upon motion of a party in an action, and for good cause, the court may reduce or enlarge the periods of time provided in this Rule.

### **3.05 Discovery**

(A) In accordance with Civ. R. 5(D), all documents, after the complaint, required to be served upon a party shall be filed with the Court within three (3) days after service, but depositions upon oral examination, interrogatories, requests for documents, requests for admission, and answers and responses thereto shall not be filed unless on order of the Court, for use as evidence, or for consideration of a motion in the proceeding. The Clerk of Court shall not accept for filing the transcript of a deposition unless it is accompanied by a certification by counsel that the deposition is being filed on order of the court, for use as evidence, or for consideration of a motion in a proceeding.

(B) Effect of Rule: Discovery Disputes-Motions to Compel, for Protective Orders, Objections to Discovery, or Motions for Sanctions

(1) No motion to compel discovery, for a protective order, objections to any form of discovery, motions for sanctions, or the like shall be filed until the impasse that provoked it has been discussed with opposing counsel and a diligent effort has been made to solve the problem informally.

(2) Pursuant to Civ. R. 37, before filing a motion authorized by this Rule, the party shall make a reasonable effort to resolve the matter through discussion with the attorney, unrepresented party, or person from whom discovery is sought.

In addition, prior to making a motion for an order compelling discovery, protective order, objection to a discovery request, or for a discovery violation sanction, the lawyer or party seeking the Court's involvement shall initiate a conference (either live or by telephone) with the assigned judge and the attorney, unrepresented party, or person from whom discovery is sought, so that the parties

and the Court can discuss the discovery dispute and seek informal resolution before an order compelling discovery or discovery sanction order is issued by the Court.

The motion shall be accompanied by a statement reciting the efforts made to resolve the matter in accordance with this section.

- (3) The presentation of any insufficient or unwarranted application, objection, or motion and any unwarranted opposition to discovery, formal or informal, will subject the offender to sanctions under Rule 37 of the Rules of Civil Procedure and this Local Rule, including the imposition of costs, expenses and reasonable counsel fees.

(C) Policy of Local Rule

- (1) It is the declared policy of this Local Rule to encourage professional, informal discovery wherever practicable in preference to formal discovery. The policy of the General Division Judges is to involve themselves in the discovery process as soon and as early as practicable to avoid discovery problems and disputes. Counsel shall make every effort to comply with this policy.
- (2) This policy is not intended to discourage the use of depositions to discover and to record evidence as provided in the Rules of Civil Procedure.

(D) Initial Disclosures

Unless exempted by Civ.R. 26(B)(3), in all civil cases, counsel must comply with all requirements for initial discovery as provided in Civ.R. 26(B)(3).

(E) Case Conference, Report & Discovery Plan

Pursuant to Civ.R. 26(F), unless the Court orders otherwise, the attorneys and unrepresented parties shall confer as soon as practicable - and in any event no later than 21 days before a scheduling conference is to be held.

The parties are to file a written conference report with the Court outlining their proposed discovery plan within 14 days before a scheduling conference is held.

(F) Discovery Cutoff

The discovery cutoff date specified in the case schedule shall be the last date for any party to seek the involvement of the trial judge in the discovery process by way of conference, motion seeking a ruling, an order, sanctions, or other Court action, absent extraordinary circumstances. Voluntary, mutually agreed-upon discovery, including perpetuation of trial testimony by video or otherwise, may continue after the discovery cut-off in a manner that does not delay any other event on the case schedule.

**3.06 Jury Costs**

Pursuant to R.C. 2335.28, the Clerk shall assess as costs all those expenses which are directly associated with the calling and serving of jurors in all cases unless otherwise ordered by the Court. Said expenses shall include, but not limited to, jury view expenses, meals, lodging, and attendance fees. A party who has requested a jury trial, shall deposit the sum of \$500.00 with the Clerk of Court not less than twenty-one (21) days prior to the day upon which the trial is scheduled to commence. In the event a panel of jurors appears for service and the trial is continued or postponed due to the failure of a party or his counsel to appear and/or prepare, such party shall be assessed the per-diem cost of the panel unless such failure to appear/prepare is the result of extreme emergency or conditions beyond the control of the party or counsel as the same may be determined by the Court.

**3.07 Foreclosure Actions**

- (A) A case will be reported as terminated to the Ohio Supreme Court upon filing of a foreclosure entry. Whether the case proceeds to the sale of the property has no influence on the termination of the case for reporting purposes.
- (B) Within twenty-one (21) days after filing of any judgment of foreclosure, if a praecipe for sale has not been issued, the Clerk shall compute costs and pay same from the deposit made.
- (C) If a party wishes to proceed with sale of property after a case has been closed and deposit returned, it shall file a praecipe for Order of Sale and deposit sufficient monies to cover costs as set forth in Loc. R. 2.01.
- (D) Once an Order of Sale has been issued by the Clerk to the Sheriff, there shall not be a cancellation of said sale without (1) direction from the attorney ordering the sale and payment or sufficient monies on deposit to pay all costs, (2) satisfaction of judgment, or (3) a bankruptcy stay order.

(E) Judicial Sale of Real Estate:

CERTIFICATION

In every action hereinafter filed in any division of the Common Pleas Court of Allen County, Ohio wherein a judicial sale of real estate is contemplated by the Complaint or subsequent pleadings, the party praying for said sale or the attorney for the party praying for said sale shall endorse thereon the following Certification:

“The undersigned hereby certifies that an examination of the public records of Allen County, Ohio, has been made to determine the ownership of subject real estate and all parties who may claim an interest therein, and that, in the opinion of the undersigned, all parties have been named as parties to this action”, stating as exceptions any interested party not so named.

(F) Sheriff Procedures for Judicial Sales of Real Estate

(1) Property Description Approval Form

The Allen County Engineer Tax Map Office, by means of the Allen County Property Description Approval Form, must first approve all descriptions of properties in foreclosure.

- (a) The Property Description Approval Form must be filled out completely prior to submission.
- (b) The Tax Map Office will review all legal descriptions submitted for approval and affix a red stamp of approval on each approved description. All descriptions not meeting the Allen County Tax Map Office Standards Governing Conveyances will be returned for corrections.
- (c) Original “red stamped” legal descriptions and the Property Description Approval Form, are required to be submitted, and attached to the documents filed with the Clerk of Courts, for the following steps in the foreclosure process:
  - (i) Original Complaint (red stamp required);
  - (ii) Praecipe for Order for Sale (no red stamp required);
  - (iii) All “Alias” filings of Praecipes for Order of Sale (no red stamp required)

- (d) For the Judgment Entry Ordering Sale, the Entry Confirming Sale, and the Sheriff's Deed, a copy of the legal description and Property Description Approval Form attached to the documents must be included.
  - (e) Any of the above documents filed with the Court of Common Pleas or the Allen County Sheriff's Office that do not have the appropriate and legible Property Description Approval Form and approved legal description, as described above, will be returned unprocessed.
- (2) Bid and Deposit
- (a) Sheriff sales of real property are now being conducted online. All bidders must be registered online with the Allen County Sheriff's Office to participate. Bidders must register for a Username and a Password and fill in the appropriate fields that will be transmitted to the Ohio Real Estate Judicial Sale Purchaser Information Form. This web address is: <https://allen.sheriffsaleauction.ohio.gov/>.
  - (b) In every judicial sale of real estate, the Sheriff shall require from the bidder a deposit, which shall be no less than \$2,000.00 or more than \$10,000.00, in accordance with R.C. 2329.211. All bidders must submit a deposit through the Sheriff's website based on the total deposit requirement for each property they wish to bid by the predefined deadlines.
  - (c) The Sheriff may accept a deposit in the form of Wire transfer or ACH Debit Transfer as indicated on the Sheriff's website. Cash deposits and/or international funds are not accepted. In person payments are not accepted for deposits.
  - (d) Deadlines for deposit submittal (legal holidays apply):  
  
Wire transfers must be received by 5:00 PM (EST), two (2) business days before the auction; and  
  
ACH Debit transfers must be initiated by 4:00 PM (EST), five (5) business days before the auction.

- (e) A bidder will not be able to participate in an auction until funds have been verified and added to the bidder's available balance.
  - (f) The lienholder shall not be required to pay a deposit.
  - (g) The winning bid total must be paid directly to the Allen County Sheriff's Office, in person. Cash or other certified funds are the approved forms of payment for in person payments. This must be paid within thirty (30) days from the date the confirmation of sale is filed with the Allen County Common Pleas Clerk of Courts.
  - (h) The deposit will be used for the costs associated with the Sheriff recording the deed on behalf of the purchaser. The balance of the deposit not required for recording purposes will be applied to the purchase price, or in the case of a lienholder purchase, to the costs and taxes of the case refunded.
- (3) Purchaser Information Form
- (a) All bidders are required to present a completed Purchaser Information Form prior to bidding on a property. Once the sale is complete, the successful bidder's information will be submitted in the Purchaser Information Form to the Sheriff's Office.
  - (b) The Purchaser Information Form will be made part of the court record upon the Sheriff's return of the Order of Sale and cannot be changed without a Court Order.
- (4) Confirmation of Sale
- Counsel shall prepare and submit to the Court an Entry Confirming Sale no later than thirty (30) days from the date of the sale.
- (a) Prior to filing the Entry Confirming Sale, the plaintiff will contact the Allen County Treasurer's Office to obtain the prorated amount of real estate taxes.
  - (b) The required Plaintiff deposit will be referenced in the Entry Confirming Sale as to the payment of recording fees, transfer tax and conveyance fees, the Sheriff's associated deed recording costs of \$75.00 and whether the balance is



to be applied to the court costs and taxes or refunded to the plaintiff's attorney.

- (c) If a third party purchased the property, no reference to that party's deposit need be made, as the balance of the deposit, after recording costs have been deducted, will be applied to the purchase price.

(5) Deed

- (a) Within seven (7) days of filing the Entry Confirming Sale, the attorney shall prepare and present a Sheriff's deed to the Sheriff for approval along with a check for the balance of any money remaining due.
- (b) To save costs, a short form deed is acceptable, provided it complies with R.C. 2329.36.
- (c) The deed must include a copy of the approved legal description and a completed Conveyance Form or Exemption Conveyance Form, per Loc. R. 3.07(F)(1).
- (d) The Sheriff, after proofing the deed, shall sign the same. If errors are found, the deed will be returned for correction.
- (e) The attorney will include a self-addressed and stamped envelope for return of the deed after recording.
- (f) The Sheriff will record the deed within fourteen (14) business days after receiving full payment of all money due.

(G) Private Selling Officer

Pursuant to R.C. 2329.152, a judgment creditor may request that a specified private selling officer be authorized to sell the property at a public auction upon the deposit of Two Hundred Fifty Dollars (\$250.00) with the Clerk of Courts. If the judgment creditor elects to have the property sold by the private selling officer authorized by the Court, the judgment creditor shall file with the Clerk a praecipe requesting the issuance of an order of appraisal to the sheriff and an order of sale to the private selling officer authorized by the court. The private selling officer shall comply with all portions of division (F) of this Rule, including the recording of the deed within fourteen (14) business days after receiving full payment of all money due. Prior to the filing of the deed, the private

selling officer must pay all monies due to the Clerk of Courts and/or County Treasurer.

Should a writ of possession be necessary to effectuate the delivery of the property sold by a private selling officer, the attorney for the judgment creditor shall make a request to the Court for such writ. If the Court deems such writ appropriate, it shall direct the Sheriff to execute the writ of possession. In the event that the Sheriff executes a writ of possession when a private selling officer is utilized, the deposit of \$250.00 shall be paid by the Clerk, less the Clerk's costs associated with processing of the writ of possession, to the Sheriff's Office.

### **3.08 Video Recorded Testimony and Evidence**

In addition to the requirements of Sup. R. 13, a written transcript of the deposition shall be filed when the video recording is filed. It is the responsibility of the party intending to use any video recording testimony at trial to:

- (A) File the video recording and written transcript with the Clerk of Courts seven (7) days prior to trial;
- (B) Notify the appropriate bailiff of the intended use seven (7) days prior to trial;
- (C) Ensure the necessary equipment will be available; and
- (D) Provide other equipment or personnel, if necessary.

### **3.09 Facsimile Copy Filing with the Clerk**

- (A) Original Filing
  - (1) Pursuant to the authority extended to the Court by Civ. R. 5(E), the General and Domestic Relations Divisions of the Court adopt the following procedures for the Clerk of Courts' acceptance of facsimile copies, subsequent to the original complaint, of pleadings and other papers not longer than twenty (20) pages in length. No documents longer than twenty (20) pages in length shall be filed in this manner, unless pre-approved by the Court.
  - (2) The Clerk of Courts shall maintain an independent private telephone line, publish the number of the same, and maintain a facsimile machine for utilization by members of the bar authorized to practice law in Ohio in filing documents with the Court and its Clerk as provided herein. Pleadings and other papers may be filed with the Clerk of Courts by transmission to 419-222-8427 or by

the following email address – [clerkfax@allencountyohio.com](mailto:clerkfax@allencountyohio.com) subject to the following conditions.

- (3) The filing of pleadings or other papers, subsequent to the original complaint and not requiring a security deposit pursuant to Loc. R. 2.01, may be filed with the Clerk by facsimile copy. A document filed by fax shall be accepted as the effective original filing. The person making a fax filing need not file any source document at the Clerk of Courts but must maintain it in his or her records and have available for production on request by the Court the source document filed by fax, with original signatures as otherwise required under the applicable rules, together with the source copy of the facsimile cover sheet used for the subject filing.
- (4) The source document filed by fax shall be maintained by the person making the filing until the case is closed and all opportunities for post judgment relief are exhausted.
- (5) Proposed Judgment Entries and Orders submitted for the Court's review and signature of either judge or magistrate shall become the original copy for the purposes of filing with the Clerk of Courts. There is no need to send the original source document.
- (6) Fax filings may NOT be sent directly to the Court for filing but shall only be transmitted directly through the facsimile equipment operated by the Clerk of Courts.

(B) Cover Page

The person filing a document by fax shall also provide therewith a cover page containing the following information:

- (1) The name of the Court;
- (2) The title of the case;
- (3) The case number;
- (4) The assigned judge;
- (5) The title of the document being filed; (i.e. Defendant Jones' Answer to Amended Complaint)
- (6) The date of transmission;
- (7) The transmitting fax number;

- (8) The number of pages included in the transmission, including the cover page;
  - (9) The name, address, telephone number, fax number and Supreme Court registration number, if applicable.
- (C) The Clerk of Courts is not required to send any form of notice to the sending party of a failed fax filing. However, if practicable, the Clerk of Courts may inform the sending party of a failed fax filing.
- (D) The risks of transmitting a document by fax to the Clerk of Courts shall be borne entirely by the sending party. Anyone using facsimile filing that does not obtain transmission verification from their facsimile transmission device may verify receipt of such filing with the Clerk of Courts.
- (E) The Clerk of Courts is not required to file any unsigned fax transmitted documents.
- (F) Time of Filing
- (1) Subject to the provisions of these rules, all documents sent by fax and accepted by the Clerk of Courts shall be considered filed with the Clerk of Courts as of the date and time the Clerk receives the document.
  - (2) The office of the Clerk of Courts will be deemed open to receive facsimile transmission of documents on the same days and at the same time the Court is regularly open for business. In the event any facsimile copy is received by the Clerk of Courts after 4:30 p.m. on a regular business day or anytime on a weekend or holiday, the facsimile copy shall be considered filed on the next ensuing regular business day for the Clerk.

(G) Fees and Costs

Costs to be charged for both incoming and outgoing fax transmissions shall be Two Dollars (\$2.00) per transmission plus One Dollar (\$1.00) per page. Unless otherwise arranged for in advance, the costs shall be charged to the case in which the documents are to be filed.

**3.10 Pretrial and Trial Procedure**

- (A) A pretrial conference shall be held in every civil case filed, unless:

- (1) the assigned judge enters an order dispensing with said conference;  
or
- (2) the assigned judge permits an agreed statement of counsel in lieu of said pretrial conference. Upon entry of such order or agreed statement dispensing with the pretrial conference, provision shall be made for scheduling the case for trial.

(B) Appearance of Counsel; Continuance

Counsel who will actually handle the trial of a case shall attend all pretrial conferences unless excused by the judge. Continuances may be granted only by the judge scheduled to preside at the pretrial conference. No trial continuance will be granted on the grounds that counsel is not prepared to go forward if such counsel has failed to attend the pretrial conference.

(C) Parties to be Present

All parties must be present at the pretrial conference unless excused by the judge. If a claim for relief by any party is covered in whole or in part by insurance, a representative of the insurance company or carrier authorized to handle the claim(s) for relief in controversy must be present at the pretrial conference, unless otherwise authorized by the judge. If a claim for relief against any party is fully covered by insurance, that party's presence at the pretrial conference is not required unless otherwise ordered by the Court.

(D) Attorney Preparation

At the pretrial conference, if not previously provided in accordance with Civ.R. 26(B), attorneys for all parties should be prepared to:

- (1) discuss factual and legal theories of the case;
- (2) discuss the necessity or desirability of amendments to any pleadings or the filing of additional pleadings;
- (3) discuss simplification of issues;
- (4) make admissions as to facts and genuineness of documents and other exhibits not in dispute;
- (5) eliminate parties unnecessary to the case;
- (6) give names of witnesses whom they intend to call at trial, together with a statement of the general nature of the testimony

of each witness; if the Court so orders, counsel shall not be permitted to call additional witnesses at trial, except rebuttal witnesses, unless the names and addresses of such witnesses and the general nature of their testimony are furnished, in writing, to opposing counsel of record within a reasonable time prior to trial;

- (7) give names, addresses, and area(s) of expertise of any anticipated expert witness(es);
- (8) exchange reports of any expert witness(es) expected to be called upon to testify at trial;
- (9) discuss limitations on the number of expert witnesses;
- (10) provide a list of exhibits to be introduced at trial, and, if required by the judge, produce the exhibits for examination by the judge or parties;
- (11) furnish an itemized list of special damages and expenses and a full description of the nature of any injuries for which compensation is claimed;
- (12) exchange medical reports and hospital records;
- (13) produce information relative to insurance agreements;
- (14) discuss the necessity of supplementing interrogatory answers or other previous discovery;
- (15) discuss procedures and time limitations for completion of any additional discovery;
- (16) discuss whether a view of the premises is appropriate or necessary;
- (17) discuss the possibility of consolidation of cases for trial;
- (18) consider the possibility of separation of issues, if any, for determination by or to the judge or the jury, and a separate determination of the issues of liability and damages;
- (19) submit and consider authorities on unique or controverted issues or guarantee their submittal at least two (2) working days prior to trial;
- (20) fully explore and be authorized to conclude settlement; and,

(21) discuss any other matters that may expedite the trial or disposition of the case.

(E) Motions

The judge may decide or take under consideration for decision, any motions pending in the case at the time of the pretrial conference.

(F) Deadline for Pretrial Motions

All pretrial motions, including but not limited to motions in limine, shall be filed no later than seven (7) days before trial, unless leave is requested and granted to file after said deadline.

(G) Failure to Appear

Failure of any attorney or party to appear at a pretrial conference, failure of any attorney to be prepared, and/or failure of any party to cooperate in good faith in the conduct of the pretrial conference shall render said attorney or party subject to sanctions as provided by Civ.R. 37 at the judge's discretion. Such sanctions may include an award of expenses and/or attorney fees to any party prejudiced by said failure and any other appropriate sanctions ordered by the Court.

**3.11 Citations Made in Legal Memoranda**

Legal memoranda and briefs submitted to the Court shall include, as an attachment, all opinions previously referred to as "unpublished" that are not posted on the Ohio Supreme Court website under Rule 3 of the Supreme Court Rules for Reporting of Opinions.

**3.12 Attorney Fees in Contempt Proceedings [Amended: 2/1/19]**

The amount of \$500.00 shall be deemed to be a reasonable, necessary and appropriate amount for attorney fees for representation in cases upon which a finding of contempt has been made or a motion to impose jail sentence from a previous finding in contempt is heard. Any request for attorney fees in excess of \$500.00 shall require a presentation of evidence as to the reasonableness and necessity of presentation of evidence with the law of Ohio. Except for those matters in which attorney fees are statutorily mandated, it is in the discretion of the Court whether to award attorney fees in any action. This is not applicable to fees for Court-appointed counsel, which shall be paid upon proper application to the Court made within ninety (90) days of the last day necessary attorney services were provided.

## LOCAL RULE 4

### ENTRIES

#### **4.01 On Decree**

Unless the trial judge otherwise directs, counsel for the party in whose favor an order, decree, or judgment is rendered, shall within five (5) work days thereafter prepare the proper judgment entry and submit it to opposing counsel, who shall approve or reject the same within five (5) work days after receiving it. Approved judgment entries shall be immediately forwarded to the Judge. If counsel are unable to agree upon the entry, it shall be submitted to the trial judge who will direct what entry shall be made. If counsel fail to present an entry within twenty (20) calendar days after the order is decreed or the judgment is rendered, the trial judge may cause the proper entry to be prepared and filed without submission or notice to counsel or take such other action as may be appropriate under the circumstances.

#### **4.02 On Settlement**

Counsel shall promptly submit an entry of dismissal to the trial judge following settlement of any case. If counsel fail to present such an entry to the trial judge within twenty (20) days after representation to the court that a case has been settled, the trial judge may order the case dismissed for want of prosecution. In addition, if a case has been assigned for trial and it is settled, counsel shall forthwith notify the court. Failure to do so may be considered as a contempt of court by the trial judge, who may take such action as is appropriate under the circumstances.

#### **4.03 Final Orders Involving Titled Property**

To facilitate disposition and avoid rejection at the Title Department and/or Auditor's Office, it is recommended that all Final Orders that involve the disposition of a titled vehicle, watercraft, or manufactured home include the YEAR, MAKE, and SERIAL NUMBER of said vehicle, watercraft, or manufactured home.

As to real estate, said Order should include a legal description or permanent parcel number.



## **LOCAL RULE 5**

### **ADMINISTRATIVE APPEALS**

#### **5.01 Statutory Time Limits**

Where the time for filing bills of exceptions, assignments of error, and briefs is fixed by statute or rule of the Ohio Supreme Court, they shall be filed within such time or extension thereof as may be granted in writing by the judge to whom the case is assigned after notice to opposing counsel or party. Upon the expiration of such time as extended, the case will be considered as submitted on the briefs unless oral argument is requested in writing and granted by said judge. When granted, such oral argument shall not exceed fifteen (15) minutes per side unless extended by the judge.

#### **5.02 Time Limits**

Where the time for filing is not fixed by statute or rule of the Ohio Supreme Court, the appellant shall file a brief within twenty (20) days after the filing of the transcript of the record; the appellee shall file his brief within ten (10) days after the filing of the brief of the appellant; and any reply brief shall be filed within five (5) days after the filing of the appellee's brief. Extensions of time may be granted by entry by the judge to whom the case is assigned.

In all cases in which demand or request to the agency by the appellant is a prerequisite to the preparation of filing of the transcript of the record by the agency, such demand or request shall be filed by the appellant with the agency at the time of filing the notice of appeal, unless otherwise provided by law or rule of the Ohio Supreme Court.

Upon the expiration of the time for filing of the last brief, the case will be considered as submitted upon the briefs unless oral argument is requested in writing and granted by the judge to whom the case is assigned or is required by law. Such argument shall not exceed fifteen (15) minutes per side unless extended by the judge.

#### **5.03 Revised Code Chapters 2506 and 119 - Applicability**

The applicable procedures of paragraphs 5.01 and 5.02 above shall apply to all appeals including those under Chapter 2506 and Chapter 119 of the Revised Code. Under those chapters or any provision of law, including appeals from the Industrial Commission, if the offering of additional evidence or a trial de novo is granted or required by law, the case shall be deemed ready for trial at the discretion of the trial judge.

#### **5.04 Briefs**

Failure of appellant to file a bill of exceptions, assignments of error, brief, or demand for a transcript of the record within the time required shall be cause for dismissal of the appeal for want of prosecution or other disposition of the case at the discretion of the judge to whom the case is assigned.

### **LOCAL RULE 6**

#### **MEDIATION (OTHER THAN DOMESTIC RELATIONS)**

##### **6.01 Cases for Mediation; Ohio Uniform Mediation Act applies**

Any civil case filed in the Court of Common Pleas, except as prohibited by Loc. R. 6.07, may be referred to Mediation.

##### **6.02 Referral to Mediation**

- (A) The judge may, by appropriate entry, refer a case to mediation.
- (B) Any party may request, in writing to the Judge, that the case be considered for referral to mediation.
- (C) Referral of a case to mediation shall not operate as a stay of discovery proceedings unless otherwise ordered by the Court.

##### **6.03 Mediation Conferences**

- (A) The mediator may direct the parties and their attorneys to attend a mediation conference in person. Such a conference shall be conducted by the mediator to consider the possibility of settlement, the simplification of the issues, and any other matters that the mediator and the parties determine may aid in the handling or the disposition of the proceedings.
- (B) Mediation shall continue until the parties have reached a settlement, until they are not willing to proceed further, or until the mediator determines that further mediation efforts should cease. The mediator may schedule such sessions as may be necessary to complete the process.
- (C) The mediator may request that the parties bring documents and witnesses, including expert witnesses, to the sessions but has no authority to order

such production.

**6.04 Mediation Fees**

- (A) No fees shall be charged for civil cases referred to the Allen County Court of Common Pleas when a sitting judge of that Court acts as the mediator.
- (B) If the case is referred to a mediator other than a Judge of the Common Pleas Court, the parties shall share the cost of the mediation in such proportions as they may agree.

**6.05 Confidentiality**

- (A) In all mediations, the provisions of the “Ohio Uniform Mediation Act” under R.C. Chapter 2710 apply and those provisions are incorporated by reference in this local rule.
- (B) All communications and information, not otherwise discoverable, presented during mediation are confidential.
- (C) The mediator shall not disclose to the Court or to any Judge of the Court the contents of mediation discussions unless agreed to by all of the parties.
- (D) No party to mediation shall call the mediator as a witness for any purpose.
- (E) Each party shall submit a mediation statement not to exceed three (3) pages to the Court Mediator and all parties not later than ten (10) business days prior to the mediation conference. These statements are not to be filed with the Clerk of Courts and will be maintained separate and apart from the case file.

**6.06 Reporting to the Court**

- (A) The mediator shall notify the Court promptly when a case is not accepted for mediation. At the conclusion of cases accepted for mediation, the mediator will also report the fact that the mediation process has ended.
- (B) If a case is settled during mediation, the attorney for one of the parties shall prepare and submit to the Court an entry reflecting the fact of settlement as in any other case.
- (C) If some but not all of the issues in the case are settled during mediation or if agreements are reached to limit discovery or on any other matter, the parties shall submit a joint statement to the Court enumerating the issues that have been resolved and the issues that remain for trial. This statement shall be submitted within thirty (30) days of the termination of mediation.

**6.07 When mediation prohibited**

Mediation shall be prohibited as an alternative to the prosecution or adjudication of domestic violence; in determining whether to grant, modify or terminate a protection order; in determining the terms and conditions of a protection order; and in determining the penalty for violation of a protection order.

**LOCAL RULE 7**

**ARBITRATION**

**7.01 Establishment of Mandatory Arbitration**

Pursuant to Sup. R. 15, the Court of Common Pleas of Allen County, General Division, does hereby adopt this plan for the mandatory arbitration of civil cases.

**7.02 Cases for Arbitration**

A Judge of this Court may by general order cause any case to be heard and decided by a Panel of Arbitration, which panel shall consist of three (3) members of the Bar of this Court, except as limited hereinafter:

- (A) Before submitting a case to arbitration, a pretrial conference must first be held by the assigned trial judge.
- (B) Actions involving title to real estate, equitable relief, and appeals shall be excluded.
- (C) Counsel in any civil action that is at issue may stipulate, in writing, before or after pretrial, that the case be submitted for arbitration in accordance with these rules.

**7.03 Selection of Arbitrators**

In all cases subject to arbitration, the Court shall appoint three (3) arbitrators by random selection from a Court approved list. The Court shall select a Chairman of the panel.

Not more than one (1) member of a law partnership or an association of attorneys shall be appointed to a particular panel. No member of a panel shall be related by blood or marriage to any party in the case or to any attorney of record in the case.

#### **7.04 Assignment of Cases for Arbitration**

The Chairman shall be responsible for setting the matter for arbitration and notifying the parties of the time and place of arbitration.

- (A) Arbitration may proceed in the absence of any party, who, after due notice, fails to be present or fails to obtain an adjournment.
- (B) No case shall be assigned to the panel within thirty (30) days from the time such case is ordered into arbitration unless the assigned trial judge directs that the case be set specifically within the thirty (30) day period.
- (C) No disclosure shall be made to the arbitrators of any offers of settlements made by either party prior to the filing of the arbitrators' report and award, except by agreement of the parties. An arbitrator who has knowledge of settlement demands or offers shall be disqualified prior to the delivering of the Court file to the panel.

#### **7.05 Hearings: When and Where Held - Notice**

Arbitration hearings shall be held at a place provided by the Court.

Unless Counsel for all parties and the panel agree otherwise, that place shall be in the Allen County Courthouse. The Chairman shall fix a time and date of the hearing and shall notify the other arbitrators, the parties, and their respective attorney(s).

- (A) The time set for hearing shall not be less than thirty (30) days nor more than sixty (60) days after appointment, unless otherwise ordered by the assigned trial judge.
- (B) The hearing shall proceed forthwith at the scheduled time. There shall be no communications by counsel or the parties with the arbitrators concerning the merits of the controversy prior to the commencement of the hearing.

#### **7.06 Oath of Arbitrators**

Each arbitrator shall solemnly swear that he or she will support the Constitution of the United States and of the State of Ohio, and that he or she will administer justice without respect to persons, and faithfully and impartially discharge and perform all duties incumbent upon him or her as Arbitrator, according to the best of his or her ability and understanding.

### **7.07 Inability of Party to Proceed**

Whenever an arbitration hearing in a case has been continued twice, said case shall be certified by the Chairman to the assigned trial judge, who shall summon the parties and their counsel. The trial judge shall have the power to make an appropriate order, including an order of dismissal for want of prosecution. The trial judge may make an order that the case be again assigned for arbitration and an award made whether or not the defendant appears and defends.

### **7.08 Conduct of Hearing - General Powers**

The three (3) members of the arbitrations panel, unless the parties agree upon a lesser number, shall be the judges of the relevancy and materiality of the evidence. Conformity to the Rules of Evidence shall not be necessary.

All evidence shall be taken in the presence of all arbitrators and of all the parties, except where any of the parties is in default or any of the parties has waived his right to be present.

The panel may receive the evidence of witnesses by affidavit or written report and shall give it such weight as they deem it is entitled after consideration of any objections that may be made to it.

### **7.09 Specific Powers**

The arbitrations panel shall have the general powers of a court including, but not limited to, the following:

- (A) Subpoenas: To cause the issuance of subpoenas to witnesses to appear before the Panel and to request the issuance of an attachment according to the practice of the Court for failure to comply therewith, pursuant to Civil Rule 45;
- (B) Production of Documents: To compel the production of all books, papers, and documents that it shall deem material to the case. Should a party or witness fail to produce documents or to testify as to a matter after being ordered to do so by a Panel, that matter shall be treated as uncontroverted and a final award may be made without the necessity of issuing a contempt citation.
- (C) Oaths and Admissibility of Evidence: To administer oaths or affirmations to witnesses, to determine the admissibility of evidence, to permit testimony to be offered by depositions, and to decide the law and the facts of the case submitted to the Panel;

- (D) Property Damage Bills or Estimates: To accept as evidence in actions involving personal injury and/or damage to property, bills or an estimate with accompanying date, which may be offered and received as evidence without further proof for the purpose of providing the value and reasonableness of the charges for service, labor, and material or items contained therein, and, where applicable, the necessity for furnishing the same, on the condition that one week's written notice has been given to the adverse party or otherwise agreed upon by and between the parties, accompanied by a copy of the bills to be offered in evidence;
- (E) Hospital Bills: To accept as evidence, bills on the official letterhead or billhead of the hospital, when dated and itemized;
- (F) Bills of Doctors and Dentists: To accept as evidence, bills of doctors and dentists, when dated and containing a statement showing the date of each visit and the charge therefore;
- (G) Bills of Nurses, etc.: To accept as evidence bills of registered nurses, licensed practical nurses, or physical therapists, when dated and containing an itemized statement of the days and hours of service and the charges therefore.
- (H) Bills for Medicines, etc.: To accept as evidence bills for medicine, eyeglasses, prosthetic devices, medical belts, or similar items.
- (I) Procedure in Case of Estimate: In the case of an estimate, the party intending to offer the estimate shall forward with his notice to the adverse party, together with the copy of the estimate, a statement indicating whether the property was repaired, and if it was, attaching a copy of the receipted bill showing the items of repair and the amount paid.

#### **7.10 Default of Party**

The arbitrations may proceed in the absence of any party who, after due notice, fails to be present or fails to obtain a continuance. An award shall not be made solely on the default of a party. The arbitrators shall require the other party to submit such evidence as they may require before the making of an award.

#### **7.11 Supervisory Powers of Court**

The assigned trial judge shall have full supervisory powers with regard to any question that may arise in an arbitration proceeding, as well as to the application of these rules.

### **7.12 Witness Fees**

Witness fees in any case referred to a panel for arbitration shall be the same amount as now or hereafter provided for witnesses in trial in the Common Pleas Court. These fees may be ordered taxed as costs in the case, and the costs in any case shall be paid by the same party or parties by whom they would have been paid had the case been tried by the Common Pleas Court.

### **7.13 Transcript of Testimony**

The arbitrators shall not be required to make a record of the proceedings before them. If any party desires a transcript, he shall provide a reporter and cause a record to be made. The party requesting the same shall pay the costs thereof which shall not be considered costs in the case. Any party desiring a copy of any transcript shall be provided it by the reporter upon payment therefore, based upon the customary charges.

### **7.14 Report and Award**

Within thirty (30) days after the hearing, the Chairman shall file a Report and Award with the Court and on the same day shall forward copies thereof to all parties or their counsel.

The Report and Award shall be signed by all the members of the Panel. In the event all three (3) members do not agree on the Report and Award, the dissenting member shall write the word “dissents” before his or her signature. A minority report shall not be required unless the arbitrator elects to submit the same due to unusual circumstances.

### **7.15 Judgment**

Unless exceptions to the arbitration are raised by written motion, pursuant to Loc. R. 7.17, filed within thirty (30) days from the date of the Report and Award is docketed by the Clerk, the trial judge shall deem the award final and acceptable and enter judgment according to the award. The responsibility for preparation of its Judgment Entry and submission to the assigned trial judge rests with the prevailing party.

### **7.16 Compensation of Arbitrators**

Each member of a panel, who has signed an award or filed a minority report, shall receive as compensation for his or her service in each case a fee as approved and ordered by the Court.

- (A) In cases requiring a hearing of unusual duration, involving questions of unusual complexity, the assigned trial judge on motion and for good cause shown, may allow additional compensation. The members of the Panel



shall not be entitled to receive their fees until after filing the Report and Award with the Clerk.

- (B) Fees paid to arbitrators shall be taxed as costs.
- (C) All compensation for arbitrators shall be paid upon proper warrant and shall be taken from the costs advanced through the Office of the Clerk of Courts.
- (D) In the event that a case shall be settled or dismissed sooner than two (2) days prior to the date scheduled for the hearing, the arbitrators shall not be entitled to the aforesaid fee. In the event that a case has been settled or dismissed within said two (2) work day period, the arbitrators shall be entitled to receive said fee.

#### **7.17 Exceptions and Reasons Therefore**

Any party may file with the Clerk written exceptions from the Report and Award of the arbitration panel within thirty (30) days from the filing of said Report and Award.

- (A) An affidavit that the exception is not being taken for delay must be filed and accompany the exceptions.
- (B) Copies of any motion, affidavit, and exception shall be served upon the opposing parties according to law.
- (C) Exceptions to the decision of the Panel or single arbitrator may also be filed by any party within thirty (30) days after filing of the report, and, if sustained, the report shall be vacated.

#### **7.18 Court Costs Deposit**

To guarantee the arbitrators' fees, the parties shall deposit with the Clerk of Courts the sum ordered by the Court within fourteen (14) days of said order. If there are multiple defendants and they cannot agree as to their proportionate share of the deposit, upon proper motion, the judge to whom the case is assigned shall order the apportionment. When it appears proper, the Court may order additional deposits.

#### **7.19 Return to Active Trial Calendar - Hearing De Novo**

Within a reasonable time after the exceptions provided for pursuant to Loc. R. 7.17 are filed, the assigned trial judge shall order the return of the case to the trial calendar. In the event a jury demand has been timely filed in the pleadings, the case shall be assigned for jury trial, and if there has not been a timely jury demand in the pleadings, the case shall be heard by the Court.

Either the jury trial or court trial shall be a trial de novo and not limited to a review of the transcript of the Arbitration hearing.

**7.20 Testimony of Arbitrators Prohibited**

The arbitrators shall not be called as witnesses.

**LOCAL RULE 8**

**EXHIBIT/DEPOSITION/TRANSCRIPT RELEASE RULES/RECORDS  
RETENTION**

**8.01 Scope of Rules**

These Rules shall be applicable only for those actions wherein an appeal from the trial court is not pending, and the exhibits/depositions/transcripts of the case remain filed with the Common Pleas Court after the conclusion of litigation, including times for direct appeals.

**8.02 Service of Notice**

All notices required by these Rules to be served upon a party in an action shall be sent to the party's attorney-of-record at **the address last specified on the pleadings**.

Service shall be deemed complete for purposes of these Rules upon the **sending** of the notice.

**8.03 Processing Orders Releasing Exhibits, Depositions, and Transcripts**

- (A) The court reporter or Clerk of Courts will notify the party that tendered the exhibits, depositions, or transcripts in writing that the party may retrieve the exhibits, depositions, or transcripts within sixty days from the date of the written notification.
- (B) The written notification required in this rule will inform the party that tendered the exhibits, depositions or transcripts that the exhibits, depositions or transcripts will be destroyed if not retrieved within sixty (60) days of the notification.

- (C) The written notification required in this Rule will inform the party that tendered the exhibits, depositions, and/or transcripts of the location for retrieval of the exhibits, depositions, and/or transcripts.
- (D) If the party that tendered the exhibits, depositions, and/or transcripts does not retrieve the exhibits, depositions or transcripts within sixty days from the date of the written notification, the exhibits, depositions, and/or transcripts shall be disposed of as provided for by Loc. R. 8.04.
- (E) If the exhibits, depositions and/or transcripts are disposed of pursuant to these Rules, the Reporter/Clerk of Courts shall file a Notice of Disposal with the Clerk of the Common Pleas Court approved by a Judge of the Common Pleas Court.

#### **8.04 Disposal of Exhibits, Depositions, and Transcripts**

When disposal of unclaimed exhibits, depositions, and/or transcripts is required pursuant to these Rules, such disposal shall be performed by the Reporter and/or Clerk of Courts in the manner provided for in the order of the Common Pleas Court releasing the exhibits in the action and pursuant to the Ohio Supreme Court's Superintendence Rule 26.

#### **8.05 Forms**

The Reporter and/or Clerk of Courts of the Common Pleas Court shall use the forms required by these Rules for the release of exhibits, depositions, and/or transcripts.

#### **8.06 Extension**

Extension of the within retention period for case files may be made on an individual basis. This Rule is in compliance with Sup. R. 26.

#### **8.07 Court Records Management and Retention**

The Allen County Common Pleas Court, General and Domestic Relations Divisions, does hereby adopt the standards for the maintenance, preservation, and destruction of records as provided in the Ohio Supreme Court's Superintendence Rules 26 through 26.03 as its records retention schedule.

**LOCAL RULE 9**

**TRANSCRIPTS OF RECORD**

**9.01 Written Transcripts for Appeal**

Any attorney-of-record who desires a written transcript of proceedings for appellate purposes shall file his request in writing with the Court Reporter responsible for said preparation.

Said request shall state whether it shall be a complete transcript or a partial transcript, and if a partial transcript, specifically describe what part of the proceedings are to be included.

**9.02 Written Transcripts Other than on Appeal**

Any attorney-of-record who desires a written transcript of proceedings other than for appellate purposes shall follow all procedures enumerated in Loc. R. 9.01. In addition to those requirements of Loc. R. 9.01, the requesting party shall deposit with the Clerk of this Court the sum of \$150.00 pursuant to Loc. R. 2.01(A) as security for costs for said Reporter's fees. Upon the completion of the transcript, the Reporter shall provide the requesting attorney a statement for services, and in the event the monies on deposit are insufficient to satisfy the same, the requesting attorney shall forthwith deposit sufficient funds as security. If excess funds are on deposit, the unused portions shall be refunded.

**9.03 Delivery of Transcripts**

No written transcript shall be delivered to any person other than the requesting attorney or the Clerk of the Courts.

No written transcript shall be delivered to any attorney, a party, or filed with the Clerk of the Court of Appeals unless security for fees has been satisfactorily accomplished as provided by these Rules, the Local Rule of the Third Appellate District, or otherwise provided by law.

**9.04 Transcript Fees for Court Reporters**

Transcript fees are as follows:

Original	\$6.00 per page
Copy	\$1.00 per page
Electronic Copy	NO CHARGE

If an electronic copy is requested to be put on an electronic medium, the party requesting the electronic copy shall provide the appropriate medium at his/her own cost.

An electronic copy may not be substituted for a transcript of the record unless specifically authorized pursuant to the applicable Rules of Procedure and approved by the appropriate Court.

## **LOCAL RULE 10**

### **CRIMINAL ACTIONS**

#### **10.01 Grand Jury Assignments**

The two general division judges of this Court shall alternately call, instruct, and handle the grand jury each four month session of the court term beginning January 1, May 1, and September 1, of each year. During this period the assigned judge will:

- (A) accept the grand jury report;
- (B) set bonds up to and including arraignment;
- (C) preside at arraignments;
- (D) assign pre-trial dates;
- (E) the judge who is not assigned to handle grand jury will hear cases proceeding upon bill of information during that term.
- (F) upon arraignment, immediately assign cases by lot;
- (G) remand misdemeanor cases to the Lima Municipal Court.

#### **10.02 Bond and Arraignment**

(A) General

The Court shall set bonds pursuant to Art. I, section 9 of the Ohio Constitution and Crim. R. 46 and amend existing bond/bail pursuant to Crim. R. 46(E), but this Court shall not, except as provided in paragraph (B)(1) of this Rule, establish or recognize a bond with a 10% privilege or as an Unsecured Appearance Bond.

Conditions of bond shall include the requirement that defendant submit to urinalysis testing unless otherwise ordered. Counsel shall advise defendant accordingly.

(B) Bond Setting

- (1) In the event that a criminal defendant is bound over to, and subsequently indicted by, the Grand Jury, this Rule automatically recognizes the bond as set in Municipal Court, and establishes said bond for the purposes of proceedings in this Court. The Clerk of Courts is authorized to accept bail on the specific charge or charges without further proceedings or journalization, unless a new bond is requested and until the matter is brought to the attention of a Common Pleas Judge orally at arraignment or by written motion of a party.
- (2) In the event that a criminal defendant has not been bound over to the Grand Jury by the Municipal Court but is secretly indicted by the Grand Jury, the judge assigned to Grand Jury (“Grand Jury Judge”) for that session (see Loc. R. 10.01) shall establish the bond.

(C) Bond Modification

This Rule shall not affect the inherent power of the Court at any time to revoke, increase, or decrease a bond previously fixed by it or any other Court upon good cause shown, as provided in R.C. 2937.28 and Crim. R. 46. If the Grand Jury returns additional counts to that originally charged in a Municipal Court, the Grand Jury Judge shall fix the bail for each of the additional charges upon the request of the defendant, prosecuting attorney, or at arraignment, whichever is earlier. Subsequent to arraignment, said motion shall be entertained by the assigned judge.

(D) Delayed Service or Unavailability of Defendant

In cases of delayed service or unavailability of defendant indicted during a particular four month Grand Jury session, the assigned judge will continue to fix bond, arraign, and assign pre-trial dates for such defendants when served or available.

**10.03 Companion Cases**

Companion criminal cases shall be assigned to the same judge. Likewise, cases in which a party is charged with a subsequent criminal offense shall be assigned to the trial judge handling the EARLIER original charge.

**10.04 Absence of Judge**

In the absence or disability of the assigned judge, the functions set forth in Loc. R. 10.01 above may be carried out by any other available and qualified judge.

### **10.05 Indictment Reports**

Concurrent with the return of the grand jury report, the prosecuting attorney shall submit to both judges of the general division completed reports regarding each person indicted on a form approved by the Court disclosing pertinent information as requested by the Court.

### **10.06 Apprehension on Warrants**

Whenever a person is apprehended by the Sheriff of Allen County, Ohio, or his designee upon a bench warrant or upon warrants belatedly served after arraignments from a particular grand jury return have taken place, both the Sheriff and the Clerk of this Court shall immediately notify the judge assigned to the particular case (or if the case has not been assigned, to the judge handling grand jury that term) of such apprehension in writing.

### **10.07 Sealing or Expungement of Criminal Record**

If the Court grants the sealing or expungement of a criminal record pursuant to R.C. 2953.32(C), upon the payment of the application and court fees required under this rule, the Clerk of this Court shall forward certified copies of the order granting sealing to the Bureau of Criminal Investigation in London, Ohio, the Sheriff of Allen County, Ohio, the Lima Police Department, Lima Municipal Court, the Adult Parole Authority office in Lima, Ohio, the Criminal Justice Investigation Services, 1000 Custer Hollow Road, West Virginia, 26306, and to counsel for the applicant.

Pursuant to R.C. 2953.32(D)(3), upon the filing of an application to seal or expunge a record, the applicant, unless the applicant presents a poverty affidavit showing that the applicant is indigent, shall pay an application fee of fifty dollars (\$50.00) and shall pay a local court fee of fifty dollars (\$50.00), for a total fee of one hundred dollars (\$100.00) regardless of the number of records the application requests to have sealed or expunged.

Unless so ordered, the Clerk of Courts shall only be responsible for sending the Sealing or Expungement of Criminal Record Order to the above agencies.

Applicants for sealing or expungement of a record should use an application similar to the form provided in the Appendix hereto.

The Journal Entry Sealing or Expunging Felony Record shall be prepared by Attorney for Applicant, if any, and shall follow and include all matters set forth in the Form as provided in the Appendix section herein.

All journal entries granting sealing or expungement of a felony record shall contain the defendant's date of birth, social security number, and date of offense upon which the conviction to be sealed is based.

**10.08 Bail and Bond Conditions, Revocation, and Forfeiture; Obligation of Sureties**

- (A) The Court, pursuant to Criminal Rule 46(E), may add additional terms and conditions to a defendant's bond, including the condition that the defendant submit to random urinalysis and be subject to bond revocation if a positive urine test is taken.

Unless otherwise specifically ordered by the Court, all monies for bail shall be deposited in the name of the defendant only unless otherwise noted.

If the Court determines that the defendant has violated conditions of bond, whether the conditions be expressed or implied, the defendant is subject to sanctions, including revocation of bail.

(B) Failure of Surety to Pay Obligation to Court

- (1) If, at any time, judgment has been rendered and not paid by a surety within five (5) days of notice to the surety in accordance with this Rule, said surety's general power to write bonds before this Court shall be revoked.
- (2) The Court shall notify the surety in writing, by regular mail, within five (5) business days of the revocation, after which the revocation becomes effective. Until payment is made in full, the surety will no longer be permitted to execute bonds before this Court.
- (3) If the surety makes full payments of the amount due plus interest at the rate of ten percent (10%) per annum, demonstrates to the satisfaction of the Court that it was justified in not paying its obligation when due, and the Court determines that the surety is safe and solvent, the surety may be reinstated and be permitted to execute bonds in this Court.
- (4) If, within 180 days of its reinstatement, the surety defaults a second time, the Court shall permanently revoke said surety's permission to execute bonds.
- (5) In the event of permanent revocation, the surety may apply to the Court for reinstatement no sooner than one year after the permanent revocation.

- (C) The Court reserves the right to regulate sureties, their contracts, agents, and procedures as the same shall affect the Allen County Court of Common Pleas. If adverse action is taken against a surety, its contracts, agents, or procedures, the surety has the right to request a timely hearing



before the administrative judge to show cause why such action should be stayed or rescinded.

#### **10.09 Restitution**

- (A) If restitution is ordered, monies deposited shall be applied by the Clerk first to the costs, second to supervision fees, third to restitution, and fourth to fines, with the balance, if any, refunded to the defendant unless otherwise ordered by the Court.
- (B) In cases where restitution is ordered to be paid before court costs, if after the lapse of at least six months, the Clerk of Courts cannot, after reasonable efforts, locate the victim, the Clerk of Courts shall apply monies on deposit to court costs until such time as the victim can be located.

#### **10.10 Probation Service Fee - Intensive Probation Supervision**

If a criminal defendant is convicted and sentenced to community control or placed on probation with the Allen County Adult Probation Department--Intensive Probation Supervision ("I.P.S."), there shall be a county probation service fee of \$20.00 per month, plus poundage, charged to the defendant.

Said fee shall commence when ordered by the sentencing court and shall be paid to the Clerk of Courts directly or through the Allen County Adult Probation Office.

#### **10.11 Capital Cases**

In all cases where a capital crime is involved, parties shall submit to the Clerk of Courts the original plus one copy of ALL pleadings, transcripts, and documents. All exhibits shall be photographed and submitted in duplicate. Unless otherwise mandated by law, e-filing is not permitted in capital cases.

#### **10.12 Inactive Criminal Cases**

Criminal cases in which further proceedings are not presently possible shall be placed in a suspended file by the Clerk and considered closed for statistical purposes either upon motion of the prosecuting attorney or the Trial Court's own motion and shall not be subject to dismissal for want of prosecution. A case shall be removed from that list when the defendant is available and proceedings resume or when the case is dismissed. Cases to which this Rule is applicable shall include those in which the defendant is not competent to stand trial, is confined in a penal institution in another state, has not been served, or cannot be found. No case shall be placed on the suspended list until any bail has been forfeited and judgment entered.

### **10.13 Certificate of Qualification for Employment**

The purpose of this Local Rule is to define the specific local court requirements and processes that support a Petitioner's application for a Certificate of Qualification for Employment (CQE) as set forth in R. C. 2953.25 and related rules established by the Ohio Department of Rehabilitation and Corrections (DRC).

- (A) In order to request a CQE, the Petition for Certificate of Qualification for Employment (R.C. 2953.25) [Form A] shall be filed with the Clerk of Courts by the petitioner, after completing the petition process online through the DRC ([www.drccqe.com](http://www.drccqe.com)). For security purposes, the Clerk and the Court do not avail computers to the public for internet access.
  - (1) The Petitioner shall provide the DRC Electronic Petition Number and attach a printed receipt of electronic Petition.
  - (2) All Petitions shall be accompanied by the Department of Rehabilitation and Corrections CQE Summary (CQE Summary).
- (B) Before any action is required to be taken on the Petition, the Petitioner must pay a deposit in the amount of \$150.00. The Petitioner may submit a Financial Disclosure Form or other relevant information for the Court's consideration if requesting a reduction in the filing fees. Said Financial Disclosure Form shall be submitted to the Court for approval prior to the filing of petition.
- (C) All social security numbers and other information that must be excluded from public record shall be redacted in accordance with the rules of this court and the Rules of Superintendence. Records or information received by a court to assist the court with making its decision under R.C. 2953.25, including information included on a petition, shall retain their character as public or non-public records, as otherwise provided in law.
- (D) Upon receipt of a Notice of Petition and the required deposit, the Clerk of Courts shall assign the Petition a miscellaneous civil case number and randomly assign the matter to a trial judge.
- (E) The Court shall obtain a criminal history for the Petitioner, either through the investigation ordered in support of the Petition (see Order for Investigation) [Form F] or otherwise.
- (F) The Court shall attempt to determine all other courts in the state in which the Petitioner has been convicted of or plead guilty to an offense through a review of the Petitioner's criminal history or other investigation. The Court or investigating officer shall submit a list of these courts to the Clerk of Court for purposes of notification and request for information.

- (G) The Clerk of Courts shall send a Notice to Court Regarding Petition for Certificate of Qualification for Employment [Form C] and Submission of Information Regarding Petition for Certificate of Qualification for Employment [Form E] to each court so identified. Such Notice shall be sent via ordinary US mail.
- (H) The Clerk of Courts shall also send a Notice to Prosecutor Regarding Petition for Certificate of Qualification for Employment [Form D] and Submission of Information Regarding Petition for Certificate of Qualification for Employment [Form E] to the Prosecuting Attorney of the county in which the Petition was filed.
- (I) The Judge or Magistrate shall review the Petition, criminal history, all filings submitted by the prosecutor or victim in accordance with the rules adopted by the division of parole and community services, and all other relevant evidence.

The Judge or Magistrate may order any report, investigation, or disclosure by the Petitioner that it believes is necessary to reach a decision (see Order for Investigation) [Form F] and Order for Additional Information [Form G].

- (J) Once all information requested has been received, a judge shall decide whether to Grant [Form H] or Deny [Form I] the Petition within sixty days, unless Petitioner requests and is granted an extension of time.

The decision to grant or deny a Petition may be referred to a Magistrate and then sent to the Judge for a final Judgment Entry and Order. All notice and objection periods regarding a magistrate's decision apply as set forth in the Rules of Civil Procedure.

- (K) The Clerk shall provide a written notice to the Petitioner of the Court's Decision and Judgment Entry.
  - (1) If denied, the notice shall include conditions, if any, placed on subsequent filings and language that it is a final appealable order.
  - (2) The Clerk shall also notify the DRC of the disposition of the petition, and if granted, order the DRC to issue the CQE to Petitioner, pursuant to the Ohio Administrative Code.

## LOCAL RULE 11

### DISCOVERY IN CRIMINAL CASES

#### **11.01 Prosecutor's Duties**

No later than seven (7) days after the demand for discovery is made by the defendant, except as provided in Crim. R. 16 (C), (D), (E), (F), or (J), the Prosecutor shall deliver to defense counsel a discovery package to include the following:

- (A) Any written or recorded statement by the defendant or a co-defendant, including police summaries of such statements, and including grand jury testimony by either the defendant or co-defendant;
- (B) Criminal records of the defendant, a co-defendant, and the record of prior convictions that could be admissible under Evid. R. 609 of a witness in the state's case-in-chief or who it reasonably anticipates calling as a witness in rebuttal;
- (C) Subject to Crim. R. 16(D)(4) and (E), all laboratory or hospital reports, books, papers, documents, photographs, tangible objects, buildings, or places;
- (D) Subject to Crim. R. 16(D)(4) and (E), results of physical or mental examinations, experiments, or scientific tests;
- (E) Any evidence favorable to the defendant and material to guilt or punishment;
- (F) All reports from peace officers, the Ohio State Highway Patrol, and federal law enforcement agents, provided however, that a document prepared by a person other than the witness testifying will not be considered to be the witness' prior statement for purposes of the cross-examination of that particular witness under the Rules of Evidence unless explicitly adopted by the witness;
- (G) Any written or recorded statement by a witness in the state's case-in-chief, or that it reasonably anticipates calling as a witness in rebuttal.

#### **11.02 Defense Counsel's Duties**

- (A) Within twenty-one days after arraignment or seven days before the date of trial, whichever is earlier, or at such reasonable time later as the court may permit, the defense attorney shall file a written demand for discovery and serve a copy of the written demand upon the Prosecutor.

- (B) After the defendant serves a written demand for discovery or any other pleading seeking disclosure of evidence on the prosecuting attorney, a reciprocal duty of disclosure by the defendant arises without further demand by the state.
- (C) The defendant shall provide copies or photographs, or permit the prosecuting attorney to copy or photograph, the following items, except as provided in Crim. R. 16(J):
  - (1) All laboratory or hospital reports, books, papers, documents, photographs, tangible objects, buildings, or places;
  - (2) Results of physical or mental examinations, experiments or scientific tests;
  - (3) Any evidence that tends to negate the guilt of the defendant is material to punishment, or tends to support an alibi. However, nothing in this rule shall be construed to require the defendant to disclose information that would tend to incriminate that defendant;
  - (4) All investigative reports, except as provided in Crim. R. 16(J);
  - (5) Any written or recorded statement by a witness in the defendant's case-in-chief or any witness that it reasonably anticipates calling as a witness in rebuttal.

### **11.03 Continuing Duty**

Once discovery is initiated by demand of the defendant, all parties have a continuing duty to supplement their disclosures.

### **11.04 "Counsel Only" Designation or Non-disclosure by Prosecutor**

- (A) The Prosecutor's "Counsel Only" designation, provided for by Crim. R. 16(C) or certification of nondisclosure, provided for by Crim. R. 16(D) shall be filed with the Court no later than seven (7) days after the demand for discovery is made by the defendant. A certification of non-disclosure shall identify the non-disclosed material.
- (B) Motion of the defendant to review the prosecuting attorney's certification of nondisclosure or designation of "counsel only" material shall be made by defendant no later than seven (7) days prior to trial, or three days after the Prosecutor files the Certification of Non-disclosure or after the Prosecutor designates material "Counsel Only", whichever is later.

- (C) The Court shall hold an in camera hearing regarding nondisclosure or “counsel only” designation at least seven (7) days prior to trial, with counsel participating.

**11.05 Time Extensions**

All discovery time limits under Loc. R. 11 shall be extended or reduced only by written Order of the Court.

**LOCAL RULE 12**

**CRIMINAL PRETRIALS**

**12.01 Attendance**

- (A) Attendance by prosecuting attorney, defense counsel, and defendant at pre-trials is mandatory.
- (B) Counsel for defendant shall meet with defendant prior to the first pre-trial.

**12.02 Pre-trial Motions**

Unless an oral hearing is specifically requested and good cause shown that an oral hearing is necessary and warranted, or unless the Court, on its own motion, orders an oral hearing, all pre-trial motions in criminal cases shall be submitted and determined without oral hearing upon brief written statement of reasons in support and opposition. (See Crim. R. 47)

**12.03 Facsimile Copy Filing with the Clerk [Amended: 2/1/19]**

- (A) Original Filing
  - (1) Pursuant to the authority extended to the Court by Crim. R. 49, the General Division of the Court adopts the following procedures for the Clerk of Courts’ acceptance of facsimile copies, subsequent to the indictment, of motions and other papers not longer than twenty (20) pages in length. No documents longer than twenty (20) pages in length shall be filed in this manner, unless approved by the Court prior to transmitting the facsimile. Said twenty (20) pages shall include the first page, containing the case caption, through the proof of service and any attachments/appendices thereto. The

required cover page shall not be counted as one of the twenty (20) pages.

- (2) The Clerk of Courts shall maintain an independent private telephone line, publish the number of the same, and maintain a facsimile machine for utilization by members of the bar authorized to practice law in Ohio in filing documents with the Court and its Clerk as provided herein. Pleadings and other papers may be filed with the Clerk of Courts by transmission to 419-222-8427 subject to the following conditions:
  - (a) The filing of documents or other papers, subsequent to the indictment and not requiring a security deposit pursuant to Loc. R. 2.01(A), may be filed with the Clerk by facsimile copy. A document filed by fax shall be accepted as the effective original filing. The person making a fax filing need not file any source document at the Clerk of Courts but must maintain in his or her records and have available for production on request by the Court the source document filed by fax, with original signatures as otherwise required under the applicable rules, together with the source copy of the facsimile cover sheet used for the subject filing.
  - (b) The source document filed by fax shall be maintained by the person making the filing until the case is closed and all opportunities for post judgment relief are exhausted.
  - (c) Proposed Judgment Entries and Orders submitted for the Court's review and signature of either judge or magistrate shall become the original copy for the purposes of filing with the Clerk of Courts. There is no need to send the original source document.
- (3) Fax filings may NOT be sent directly to the Court for filing but shall only be transmitted directly through the facsimile equipment operated by the Clerk of Courts.

(B) Cover Page

- (1) The person filing a document by fax shall also provide therewith a cover page containing the following information:
  - (a) the name of the Court;
  - (b) the title of the case;

- (c) the case number;
  - (d) the assigned judge;
  - (e) the title of the document being filed (i.e. Defendant Jones' Motion to Suppress);
  - (f) the date of transmission;
  - (g) the transmitting fax number;
  - (h) the number of pages included in the transmission, including the cover page;
  - (i) the name, address, telephone number, fax number and Supreme Court registration number, if applicable.
- (2) The Clerk of Courts is not required to send any form of notice to the sending party of a failed fax filing. However, if practicable, the Clerk of Courts may inform the sending party of a failed fax filing.
- (3) The risks of transmitting a document by fax to the Clerk of Courts shall be borne entirely by the sending party. Anyone using facsimile filing that does not obtain transmission verification from his/her facsimile transmission device may verify receipt of such filing with the Clerk of Courts.
- (4) The Clerk of Courts is not required to file any unsigned fax transmitted documents.

(C) Time of Filing

- (1) Subject to the provisions of these Rules, all documents sent by fax and accepted by the Clerk of Courts shall be considered filed with the Clerk of Courts as of the date and time the Clerk receives the document.
- (2) The office of the Clerk of Courts will be deemed open to receive facsimile transmission of documents on the same days and at the same time the Court is regularly open for business. In the event any facsimile copy is received by the Clerk of Courts after 4:30 p.m. on a regular business day or anytime on a weekend or holiday, the facsimile copy shall be considered filed on the next ensuing regular business day for the Clerk.



(D) Fees and Costs

Costs to be charged for both incoming and outgoing fax transmissions shall be Two Dollars (\$2.00) per transmission plus One Dollar (\$1.00) per page. Unless otherwise arranged for in advance, the costs shall be charged to the case in which the documents are to be filed.

**LOCAL RULE 13**

**COUNSEL FOR INDIGENT DEFENDANTS**

**13.01 Financial Disclosure Forms**

Pursuant to Revised Code Chapter 120, it is mandatory that a Financial Disclosure Form be filed by each indigent defendant in order for the court-appointed attorney to be compensated. This affidavit shall be filed with the Clerk's office prior to the first assigned pre-trial, preferably at arraignment. Failure to file such affidavit shall result in non-payment of any court-appointed attorney fees submitted. The filing of a Financial Disclosure Form in no manner affects the responsibility of a defendant to pay costs if so ordered. The form to be utilized is adopted as Form 13.02 and no other form will be accepted.

**13.02 Fee Statements**

Court-appointed counsel shall, upon making application for compensation, itemize hours spent and clearly designate which hours were "in court" and which hours were "out of court" time.

**A current Financial Disclosure Form shall be attached to the application for Compensation.** The form to be utilized is adopted as Form 13.02.

**13.03 Assignment and Compensation of Counsel to Defend**

- (A) Any criminal defendant seeking publicly funded assistance of counsel will first be screened by the Allen County Public Defender's Office to determine whether he/she is qualified for publicly funded counsel and whether he/she will be represented by the Allen County Public Defender's Office. Should a defendant be found to be indigent, the Allen County Public Defender's Office shall serve as counsel for that defendant unless the Allen County Public Defender determines that his/her office is unable to provide representation to the defendant. If the Allen County Public Defender's Office is unable to provide representation to an indigent defendant, said office is to notify the Court, and the Court shall appoint

counsel to represent the defendant. Counsel assignments will be made by the Court from names appearing on the applicable list of approved trial counsel. Attorneys seeking to be placed on the Court-appointed list for adult criminal defendants must provide a letter of application to the judges of the Common Pleas Court and certify to the Court that he/she has met the training and experience standards established by the State Public Defender's Office, as codified in the Ohio Administrative Code. [Amended: 2/1/19]

- (B) The approved trial counsel list shall be created by lot by drawing and listing in order drawn.

**13.04 Fees for Court-Appointed Attorneys [amended 8/1/2019]**

- (A) The fee schedule for court-appointed attorneys is fixed by the County Commissioners at \$75.00 per hour for both out-of-court and in-court services in non-capital cases and \$125.00 per hour for both out-of-court and in-court services in capital cases.

- (1) The maximum fees permitted by degree of offense is fixed by the County Commissioners and is as shown on the following Schedule for Maximum Fees for Court-Appointed Attorneys:

SCHEDULE FOR MAXIMUM FEES  
FOR COURT-APPOINTED  
ATTORNEYS

AGGRAVATED MURDER (w/specs) As per R.C. 2929.04(A) and 2941.14(B)	No fee maximum.
AGGRAVATED MURDER (w/o specs)	\$15,000.00/1 atty. \$20,000.00/2 attys.
MURDER	\$10,000.00
FELONY w/possible life sentence/ RVO/MDO	\$10,000.00
FELONIES (Level 1-2)	\$8,000.00
FELONIES (Level 3)	\$5,000.00
FELONIES (Level 4-5)	\$3,500.00

MISDEMEANOR OVI	\$2,500.00
MISDEMEANOR (Level 1-4)	\$2,000.00

**Reimbursement for expenses that exceed the above stated maximums will be made only with prior approval of the Court.**

(2) Reimbursement for appellate level proceedings not involving the imposition of a death sentence shall be made on the basis of \$75.00 per hour of representation for both out-of-court and in-court services and \$125.00 per hour for both out-of-court and in-court services for cases where a death sentence is imposed. Reimbursement shall be made when submitted with the appropriate certificate [OPD-E-204], approved by the Appellate Court, and within the prescribed fees as permitted by the following maximum amounts for these offense classifications:

AGGRAVATED MURDER (Death sentence imposed)	No maximum fee.
CUMULATIVE MINIMUM SENTENCE EXCEEDS 25 YEARS	\$8,000.00
FELONY TRIAL (Level 1-2)	\$5,000.00
FELONY TRIAL (Level 3)	\$3,500.00
FELONY TRIAL (Level 4-5)	\$2,500.00
FELONY PLEA	\$1,500.00
MISDEMEANOR PLEA	\$1,000.00
26(B) MURNAHAN FELONY TRIAL (Level 1-2)	\$3,000.00
26(B) MURNAHAN FELONY TRIAL (Level 3)	\$2,000.00
26(B) MURNAHAN FELONY TRIAL (Level 4-5)	\$1,000.00
OSC JURISDICTION MEMORANDUM	\$1,500.00

- (3) Payment for post-conviction and state habeas corpus proceedings where a death sentence was not imposed shall be made on the basis of \$75.00 per hour of representation for both out-of-court and in-court services and \$125.00 per hour for both out-of-court and in-court services for cases where a death sentence is imposed up to following maximum amounts:

AGGRAVATED MURDER (Death sentence imposed)	No maximum fee.
FELONY (Level 1-2) (Post-conviction Petition/New Trial Mtn.)	\$4,000.00
FELONY (Level 3) (Post-conviction Petition/New Trial Mtn.)	\$2,500.00
FELONY (Level 4-5) (Post-conviction Petition/New Trial Mtn.)	\$1,750.00
STATE HABEAS	\$1,500.00
<u>OTHER PROCEEDINGS</u>	
VIOLATION OF COMMUNITY CONTROL/ REVOCATION OF JUDICIAL RELEASE	\$750.00
JUDICIAL RELEASE	\$500.00
RESENTENCING	\$500.00
JAIL TIME CREDIT	\$300.00
EXPUNGEMENT	\$300.00
DRIVING PRIVILEGES	\$150.00
WITHDRAWAL OF GUILTY PLEA	\$1,000.00

**Reimbursement for representation that exceeds the above stated maximums will be made only with prior approval of Court.**

- (B) Reimbursement for expenses associated with providing representation shall be made when submitted with the attorney's fee certificate (OPD-E-202) and approved by the Trial Judge. Allowable expenses include, but are not limited to, such items as expert witness fees, polygraph examination costs, and investigation costs. These expenses will only be reimbursed *if pre-approved, in writing*, by the assigned judge and only to the extent approved by the assigned judge. Parking and meal expenses, long distance calls, copying and postage will be reimbursed without prior approval of the Court.
- (C) Payment and/or reimbursement for expenses associated with providing representation shall be made upon submission of the attorney's fee certificate OPD-1026 and Financial Disclosure Form which has been approved by the trial judge.
- (D) No fees will be paid if the request for payment is submitted to the assigned judge more than 30 days after the termination of said case, except upon approval of the Administrative Judge.
- (E) Any additional compensation for felony or misdemeanor case in excess of the maximum, as indicated, will only be made by Court approval in extraordinary cases. The additional fees paid may not exceed fifty percent (50%) of the maximum scheduled fees and are subject to the hourly rates of set forth above.

## **LOCAL RULE 14**

### **PRE-SENTENCE INVESTIGATION**

Every defendant shall report to the office of the Adult Probation Department - IPS, 330 North Elizabeth Street, Lima, Ohio, immediately after any hearing in which the court orders a pre-sentence investigation, or if by reason of the lateness of the day, such is impracticable, the defendant will report the following workday morning. If defendant is incarcerated and following such a hearing is not interviewed by the Adult Probation Department while defendant is incarcerated, then the defendant shall report to the said office. Attorneys representing such defendants will advise their clients of this Rule and take all reasonable steps to see that this Rule is strictly enforced.

## **LOCAL RULE 15**

### **WRITTEN PLEA OF NOT GUILTY**

Pursuant to Crim. R. 10(B), the defendant may be absent from the assigned arraignment date if the following conditions are met prior to that time:

- (A) the defendant is represented by private counsel, or if indigent, has obtained counsel from the Public Defender's Office or court-appointed counsel; and
- (B) the defendant, his attorney, and the prosecuting attorney have executed and filed a Written Not Guilty plea on the form approved by the Court and adopted herein as Form 15.01.

## **LOCAL RULE 16**

### **INTERVENTION IN LIEU OF CONVICTION**

Any defendant who wishes to avail him or herself of the remedies provided in R.C. 2951.041 shall appear in person and file the request in writing with the Court prior to the entry of a guilty plea. The request shall comply with R.C. 2951.041 and include a waiver of the defendant's right to a speedy trial.

**THE COURT MAY REJECT AN OFFENDER'S REQUEST WITHOUT HEARING.**

In order for the Court to make a determination that it has "reason to believe" that drug or alcohol usage by the offender was a factor leading to the offender's criminal behavior, there shall be a "prima facie" hearing, the defendant shall present sufficient evidence by direct testimony and/or reports to establish a basis in fact for the defendant's eligibility under R.C. 2951.041(B)(6) prior to any Court-ordered medical and/or psychiatric examination. There shall also be a showing of the defendant's ability to satisfactorily fund and complete the program if granted subsequently by the Court.

Any evaluation conducted shall be at defendant's expense and paid directly to the service provider.

**LOCAL RULE 17 [effective 2/1/2020]**

**DIVERSION**

**17.01 Application**

Any person who wishes to avail him or herself of diversion shall first make inquiry of and apply with the Allen County Prosecutor's office to determine whether he or she is eligible. The Prosecutor's office determines initial eligibility for diversion and determines the fees for supervision while on diversion. The application shall be made in the manner and on the form[s] as determined by the Prosecuting Attorney.

**17.02 Motion by Prosecution**

Upon the determination that a defendant is eligible for diversion and has been screened for acceptance, the State of Ohio shall move the Court to accept the defendant into the prosecutor's diversion program.

**17.03 Hearing**

Upon receipt of a motion to accept a defendant into diversion, the judge assigned will schedule a hearing on the motion. The defendant must personally appear for the hearing. At the hearing and in order to be placed on diversion, the defendant shall:

- Enter a guilty plea;
- Sign a written waiver of his/her right to a speedy trial;
- Sign a written agreement to toll the applicable statutory period of limitations;
- Sign a written agreement to pay the applicable supervision fee for diversion.

**17.04 Restitution**

An order of restitution shall be included in all orders of diversion when restitution is due to the victim[s] of the offense for which the defendant is being placed on diversion.

**17.05 Successful Completion**

Upon defendant's successful completion of diversion, the State of Ohio shall move to dismiss the case.

**17.06 Unsuccessful Termination**

Upon defendant's unsuccessful termination from diversion, the Court shall hold a hearing to determine whether the conviction shall be entered on the plea and, if so, what the appropriate sentence shall be.

## LOCAL RULE 18

### SPECIALIZED CRIMINAL DOCKET(S)

#### **18.01 Creation of Specialized Criminal Docket(s)**

In order to coordinate and integrate treatment, education, housing, employment and other services with intensive monitoring and supervision in the context of intervention in lieu of conviction, community control, and judicial release, the court has created the following specialized dockets:

- (A) Allen County Treatment Court: provides substance abuse and mental health treatment, education, housing, employment, and other services along with intensive monitoring and supervision in the context of intervention in lieu of conviction or community control supervision and includes Drug Court and Mental Health Court.
- (B) Allen County Re-Entry Court: provides substance abuse and mental health treatment, education, housing, employment and other services, along with intensive monitoring and supervision in the context of judicial release or other post-release supervision.
- (C) Allen County Mental Health Court: provides mental health and substance abuse treatment, education, housing, employment and other services, along with intensive monitoring and supervision in the context of intervention in lieu of conviction or community control supervision for those with specific mental health diagnoses.

#### **18.02 Placement on a Specialized Criminal Docket**

- (A) Application for placement in the Allen County Treatment Court and/or Mental Health Court shall be subject to approval by the judge assigned to the criminal case and the Allen County Treatment Court Team or Mental Health Court Team, whichever is appropriate, according to the criteria adopted by the respective Treatment Court.
- (B) Before being considered for placement in the Allen County Treatment Court a criminal defendant must be assessed by a licensed, credentialed professional who shall assess the applicant's substance abuse/mental health problem and the applicant's amenability to treatment. The assessment shall be presented to the judge assigned to the criminal case BEFORE a referral is made to the Allen County Treatment Court.
- (C) In order to have his/her criminal case placed on the specialized docket of the Allen County Treatment Court, a criminal defendant shall either:



- (1) File for intervention in lieu of conviction pursuant to R.C. 2951.041 and Loc. R. 16 and request that placement in the Allen County Treatment Court be a condition of the intervention plan; or
  - (2) Request, by either oral or written motion, that placement in the Allen County Treatment Court be a condition of community control.
- (D) Application for placement in the Allen County Re-Entry Court shall be subject to approval by the judge assigned to the criminal case and the Allen County Re-Entry Court Team according to the criteria adopted by the Allen County Re-Entry Court.
- (E) Before being considered for placement in the Allen County Re-Entry Court a criminal defendant must be assessed by Community Connection for Ohio Offenders, Inc. The assessment shall be presented to the judge assigned to the criminal case BEFORE a referral is made to the Allen County Re-Entry Court.
- (F) In order to have his/her criminal case placed on the specialized docket of the Allen County Re-Entry Court, a criminal defendant must be referred to Re-Entry Court by the judge assigned to the criminal case.

### **18.03 Case Management for Specialized Criminal Docket(s)**

All case management action for cases on a specialized criminal docket shall be according to the specific procedures set forth by the specialized court with case management services coordinated by Community Connection for Ohio Offenders, Inc. (see flow chart attached as Exhibit 18.03). However, the judge presiding over the specialized docket shall have the primary responsibility for case management.

### **18.04 Removal of Case from Specialized Criminal Docket**

If an individual is unsuccessfully terminated from a specialized docket court for any reason, then his/her case shall be returned to the regular docket, pursuant to Loc.R. 1.01(B)(3).

## LOCAL RULE 19

### E-FILING PROCEDURES

#### 19.01 Terms and Definitions

- (A) “Accepted” means an electronically filed document has been reviewed by the Clerk of Courts and docketed.
- (B) “Clerk review” means an inspection of electronically filed documents by the Clerk of Court for compliance with court rules, policies, procedures, and practices made before creating a docket entry.
- (C) “Confidential electronic identifier” is the unique electronic credential assigned to registered users which allows transmission, receipt, and retrieval of e-filed documents.
- (D) “Document management system” (“DMS”) is the system for receipting, indexing, storing, and retrieving electronic and scanned case documents. The Allen County Common Pleas Court’s DMS is titled: OnBase.
- (E) “Effective date and time of filing of a document” is shown by the time stamp on the submitted document. Because all electronically filed documents are subject to the Clerk of Courts’ review, the effective date and time may differ from the submitted date and time.
- (F) “E-Filer” is a person registered with the court and authorized to file and receive documents electronically.
- (G) “Electronic filing” (“e-filing”) is the electronic transmission of documents to and from the court for the purpose of creating a public record of requests and actions in a case. E-filing is complete when the document is docketed. Documents transmitted by facsimile are not e-filed documents.
- (H) “Electronic filing system” is the software, hardware, mechanisms, procedures, and rules allowing electronic filing. The Allen County Common Pleas Court’s e-filing system is titled: JusticeFiling, a product of equivalent.
- (I) “Electronic receipt” acknowledges transmission of a document to the e-filing system.
- (J) “Electronic service” (“e-service”) is the electronic transmission of a document to a party, attorney, or representative. Electronic service does not include facsimile or e-mail.

- (K) “Notification of filing” is the notice sent by the e-filing system to registered e-filers. This notification does not constitute service to other parties as required by the applicable Rules of Procedure.
- (L) “Notice of receipt” is the notice sent after a document has been submitted to the court. Notice of receipt does not mean the document has been or will be accepted and docketed.
- (M) “Pending Documents” are e-filed documents that are awaiting acceptance and docketing by the Clerk of Courts.
- (N) “Personal and private information” includes the first five digits of a social security number, driver’s license numbers, bank and other financial account numbers, medical records, information protected by law from public disclosure, and any information ordered sealed, private, or non-public by the Court.
- (O) “Rejected documents” are e-filed documents that are not accepted and docketed by the clerk upon review by the Clerk of Courts.

**19.02 Official Court Record**

- (A) Except as otherwise provided, pleadings, motions, and orders of the Court may be filed electronically with the Allen County Clerk of Courts’ authorized electronic filing system. Documents filed in accordance with this Rule shall be deemed filed and shall become the Court’s official record once accepted by the Clerk of Courts.
- (B) Revised Code section 2303.12 requires the Clerk of Courts for the Common Pleas Court to keep an appearance docket, trial docket, journal, and execution docket. Additionally, R.C. 2303.12 indicates that a record can be kept in either book form or by alternative electronic means. Rule 26 of the Rules of Superintendence expresses a clear intention that Rules 26.01 through 26.05 “shall be interpreted to allow for technological advances that improve the efficiency of the courts and simplify the maintenance, preservation . . . of court records.” See Sup. R. 26(A)(2).

In furtherance of this interpretation, Sup. R. 26(D) allows this Court to preserve records in various forms of alternative media, including but not limited to electronic media and electronic data processing. In accordance with the expressed interpretation of Sup. R. 26, and in the interest of improving the efficiency of the Court, the Clerk of Courts shall preserve all records in an appropriate electronic media.

- (C) The Court's electronically filed hearing notices, schedules, orders, decisions, judgments, and other documents are the official court record. The digital signature of a judge or magistrate, when expressly authorized by that judge or magistrate, has the same force and effect as a handwritten signature on a paper document.

### **19.03 Registered E-filers**

Persons filing documents electronically with the Clerk of Courts must become registered e-filers. Registered e-filers will receive a confidential and unique electronic identifier. The e-filer is required to create an account with an on-line payment agent determined by the *Clerk of Courts*. An eFiling User's Guide is located in Appendix A, Loc. R. 19.

The court may revoke e-filing registration at its sole discretion.

By registering as an e-filer, the attorney or party agrees to file documents electronically and consents to electronic service of all documents permitted to be e-filed. Unless otherwise permitted and/or mandated by law, the Clerk of Courts is not responsible for the service of documents filed by a party to the case. Each party filing a document electronically is responsible for serving all other parties in accordance with the applicable Rules of Procedure. Such service may be conducted via electronic means if an attorney or party has registered as an e-filer with the Clerk of Courts.

Certain documents may not be e-filed.

### **19.04 Electronic Submission of Documents**

For the case types designated as e-filing cases, registered e-filers must e-file all documents except: (1) those designated as paper filing only; and (2) those which cannot be effectively electronically presented.

#### (A) Format

- (1) All electronically filed documents should be formatted according to the rules governing formatting of paper pleadings, motions, and documents. The filer is solely responsible for removing all metadata and non-public data from documents submitted for e-filing.
- (2) Redaction of personal, confidential, or private information is solely the responsibility of the party filing the document.

(B) Document Requirements

All e-filed documents must meet the following requirements:

- be in a searchable portable document format (“.pdf”);
- not exceed twenty megabytes (“20MB”) (larger submissions must be broken into additional .pdf’s of 20MB or less);
- have an image resolution of at least 300 dots per inch (“DPI”);
- not contain links to other material;
- be electronically signed; and
- include a certificate of service.

(C) Time of Filing

- (1) All e-filed documents shall be considered filed with the Clerk of Courts as of the date and time the Clerk of Courts accepts the document, which shall be noted by the date and time stamp on the first page of the e-filed document. Because all electronically filed documents are subject to clerk review to determine whether said document is accepted, the effective date and time may differ from the submitted date and time. **Electronic filing does not alter or extend applicable statutes of limitation.**
- (2) The office of the Clerk of Courts will be deemed open to receive e-filed documents on the same days and times the Clerk of Courts is regularly open for business, despite the date and time an e-filer submits a document. In the event an e-filing is made after 4:30 p.m. on a regular business day or anytime on a weekend or legal holiday, the e-filing shall be considered filed only upon acceptance by the Clerk of Courts as provided in Loc.R. 19.03(C)(1).

**19.05 Electronic Signatures**

Every electronically filed pleading, motion, order, judgment, or other type of document is deemed signed by the judge, clerk, attorney, party, or person who submitted it for e-filing. Electronic signatures shall be in this format:

- Attorney name (typed or printed) or party name if submitted by a self-represented litigant
- Attorney registration number or designation of “pro se” if submitted by a self-represented litigant
- Firm name, if any
- Identity of the party represented unless submitted “pro se”
- Mailing Address
- Telephone number
- Facsimile number, if any

- E-mail address

Documents bearing a required original signature shall be e-filed in portable document format (“pdf”). The filing party shall keep the original document until the case is closed and the time for appeal has expired, all appeals, if filed, have been determined, and all opportunities for post judgment relief have been exhausted.

#### **19.06 Initiation of a Civil Case**

- (A) Initial complaints, re-filed complaints, third party complaints, other documents initiating a case or adding a new party may be electronically filed but will not be served electronically.
- (B) Summons and service cannot be issued or completed electronically and must be accomplished as required by the applicable rule or statute. The Clerk of Courts shall issue a summons and serve the pleading in accordance with the applicable rule or statute. The cost of printing the necessary paperwork shall be charged as costs by the Clerk of Court.
- (C) When e-filing a complaint or other document initiating a case or adding a party, the e-filer must:
  - electronically file a fully and accurately completed case designation sheet;
  - electronically file separate instructions for service, including the names and addresses of those to be served;
  - electronically file the complaint, third party complaint, or other initiating document; and
  - electronically file a current copy of the order appointing an individual process server if the document is to be served by a process server.

#### **19.07 Service of Documents in All Types of E-filing Cases**

- (A) The electronic service of a subsequent pleading, filing, or other documents in all types of e-filed cases shall be considered as valid and effective service on all parties so designated in the certificate of service and shall have the same legal effect as an original paper document served pursuant to the applicable Rules of Procedure. Pro se parties or attorneys who have not registered with the Court’s electronic filing system shall be served a paper copy by the filing party, not the Court or Clerk of Courts, in accordance with the applicable Rules of Procedure.
- (B) A certificate of service for all parties is required when a party files a document electronically.

### **19.08 Proposed Judgment Entries**

All e-filed motions, other than dispositive motions in civil actions, motions to suppress, and other motions necessitating a hearing, must be accompanied by a proposed order, decision, or judgment entry submitted as a Microsoft Word document. The e-filing system will transfer the proposal to the assigned judge. The Clerk of Courts shall charge a fee of \$0.10 per page for the printing of a proposed order to the party filing the motion.

### **19.09 Fees**

Registered e-filers must establish an appropriate account for electronic payment of filing and other fees. Registered e-filers may be subject to an additional fee for credit card service charges.

### **19.10 Exceptions to E-filing**

- (A) Exhibits, attachments, or other documents that may not be comprehensibly viewed in a .pdf shall be filed in their physical form with the Clerk of Courts and will be maintained by the Clerk of Courts in a physical file. Any party filing the physical form of an exhibit, attachment, or other document must e-file a “Notice of Filing”, denoting what particular item is being physically filed rather than e-filed.
- (B) All documents related to Civil Protection Order cases and Domestic Violence/Dating Violence Order cases are not permitted to be e-filed. All such documents shall be filed in paper form with the Clerk of Courts.
- (C) Criminal indictments and bills of information shall be filed in paper form with the Clerk of Courts until further notice. All documents in criminal cases not otherwise prohibited by local rule shall be e-filed if the party is a registered e-filer.
- (D) Any cases receiving a “Miscellaneous” case designation shall not be permitted to be filed by e-filing until further notice.
- (E) Depositions may be e-filed. If a party relies upon or intends to rely upon the contents of a deposition in a dispositive motion or to use a deposition in a hearing and/or trial, a bound paper copy of the deposition(s) must be provided to the assigned Judge.

### **19.11 Sealed Records, Expunged Records, “Counsel Only” Discovery, Court-ordered Sealed Documents**

If the Court orders a record to be sealed or expunged pursuant to R.C. 2953.32 or 2953.521, otherwise orders a record or document(s) within a case to be filed “under seal”, or if discovery in a criminal case is designated “counsel only” pursuant to Crim. R. 16,

the record or document(s) shall not be included in and/or shall be removed from the electronic version of the official court record.

Any document(s) ordered within a case to be filed “under seal” shall be filed in its physical form with the Clerk of Courts, who will maintain said documents in a manner consistent with the designation of “under seal.”

Inspection of a sealed record, “counsel only” discovery, or a filing or document(s) otherwise court-ordered to be sealed shall be inspected only as the pertinent statute, rule, or order provides.

Except as provided in the pertinent Revised Code section, Rule, or Court order, all index references to the case that pertain to records ordered sealed or expunged by the Court shall be deleted from the DMS and the electronic filing system.

**DOMESTIC RELATIONS CASES**  
**and**  
**ORC 3111 PARENTAGE CASES**  
**[Local Rules 20 through 24]**

**LOCAL RULE 20**

**20.01 Filing**

- (A) Upon the initial filing of any case or upon the re-opening of a closed file, the caption of each case shall contain the name, address, and year of birth of the parties and shall identify in the caption all requests for temporary orders contained in the pleading or motion. Social Security Numbers and the month and day of birth shall not be included on any pleading or affidavit filed in the general case file. Accounts will be identified by the name of the institution, the type of account (e.g. checking, savings, credit card, etc) and the last three numbers of the account. All filings shall comply with the Rules of Superintendence for the Courts of Ohio particularly including, but not limited to, Rules 44 through 47 regarding Court Records and filings to be placed in the confidential family file.
- (B) Each domestic relations complaint, petition or motion which invokes the jurisdiction of the Court shall state in the caption the nature of the action in one of the following categories: (1) Divorce with Children; (2) Divorce without Children; (3) Dissolution with Children; (4) Dissolution without Children; (5) Modification of Parental Rights and Responsibilities; (6) Modification or Enforcement of Parenting Time, Companionship or



Visitation Rights; (7) Support Modification or Enforcement; (8) Domestic Violence; (9) UIFSA; (10) Miscellaneous Enforcement; or (11) Parentage.

- (C) With all requests for child support and/or spousal support orders in either original cases or post decree filings, including ORC 3111 Parentage actions, the parties shall provide a IV-D Application for child support services to the Domestic Relations Division of Common Pleas Court which will then forward the application to the Child Support Enforcement Agency.

**NO SUPPORT ORDERS WILL BE ISSUED WITHOUT A COMPLETED AND SIGNED IV-D APPLICATION FOR CHILD SUPPORT SERVICES.**

- (D) The Clerk of Courts shall forward a copy of all Judgment Entries and Orders regarding support along with any Separation Agreements, Parenting Plans and Child Support Worksheets to the Child Support Enforcement Agency upon filing.
- (E) In all original domestic relations and ORC 3111 Parentage cases each party must file a completed Uniform Affidavit of Income and Expenses and Affidavit of Property. In re-opened domestic relations and ORC 3111 Parentage cases each party shall file a Uniform Affidavit of Income and Expenses. In any case where a waiver of deposit of court costs is requested, the requesting party must file both affidavits.
- (F) In all original and post decree domestic relations actions and ORC 3111 Parentage cases involving parental rights and responsibilities each party shall file a Parenting Proceeding Affidavit in compliance with R.C. §3127.23(A) and a Health Insurance Affidavit.
- (G) All divorce complaints, complaints for legal separation and complaints for annulment shall be signed by the plaintiff and shall include a statement in said pleading that the plaintiff has received a copy of the Court's standing orders, Local Rule 22.
- (H) All litigants in original divorce, dissolution, legal separation, annulment and ORC 3111 Parentage cases as well as post decree motions regarding determination and enforcement of parental rights and responsibilities shall attend this Court's required parenting program prior to final hearing unless specifically exempted by the Court.
  - (1) After filing of any original pleading in a divorce, dissolution, legal separation or annulment case with children, and ORC 3111

Parentage cases, post decree motions regarding determination or enforcement of parental rights and responsibilities, or responsive pleadings thereto, the parties will register for and appropriately complete the parenting program required by the Court.

- (2) Upon the completion of each parenting program session, the party completing the program will file a Notice of Completion in each case.
- (3) Each counsel filing pleadings shall advise their client of the program and provide them a copy of this Local Rule prior to filing.
- (4) The Clerk of Courts shall serve a copy of this Local Rule upon the opposing party with the original pleadings in each case. If the filing party is filing pro se, the Clerk shall personally provide the filing party with a copy of this Rule.

(I) Family File

- (1) In all domestic relations cases, including but not limited to divorce, dissolution, legal separation, annulment, actions for custody and support, ORC 3111 Parentage actions and any requests for relief post decree, the Common Pleas Clerk of Courts shall create a family file in addition to the case file.
- (2) The family file shall be considered confidential and shall only be accessible to Clerk and Court staff, parties, their legal counsel and as may be otherwise specifically ordered by the Court.
- (3) The family file will include but is not limited to the following:
  - (a) Health care documents, including but not limited to physical health, psychological health, psychiatric health, mental health and counseling documents;
  - (b) Drug and alcohol use assessments and predisposition treatment facility reports;
  - (c) Guardian ad Litem reports, including collateral source documents attached to or filed with the reports;
  - (d) Home investigation reports, including collateral source documents attached to or filed with the reports;

- (e) Child custody evaluations and reports, including collateral source documents attached to or filed with the reports;
  - (f) Domestic violence risk assessments;
  - (g) Supervised parenting time or companionship or visitation records and reports, including exchange records and reports;
  - (h) Financial disclosure statements regarding property, debt, taxes, income and expenses including collateral source documents attached to or filed with records and statements;
  - (i) Asset appraisal and evaluation;
  - (j) Other documents containing information the Court specifically finds should not be subject to public disclosure.
- (J) Any person, by written motion to the Court, may request access to a document or information in a confidential family file. The Court will give notice of the motion to all parties in the case, and may schedule a hearing on the motion. The Court may permit public access to a document or information in a confidential family file if it finds by clear and convincing evidence that the presumption of maintaining confidentiality is outweighed by a higher interest.
- (K) All filings including those contained in the family file, shall be properly reflected upon the docket.

## **20.02 Dissolution of Marriage**

- (A) A Waiver of Magistrate's Decision shall be signed by the parties and counsel and submitted with the judgment entry in all dissolution of marriage cases where the matter is heard by a Magistrate.
- (B) In all dissolution of marriage actions where only one party is represented by counsel, a signed Waiver of Counsel must be filed with the Clerk of Courts affirmatively stating in writing that the unrepresented party waives representation by counsel and is proceeding without advice of counsel. An unrepresented party may also waive counsel at hearing upon the record.

- (C) A Uniform Affidavit of Income and Expenses and a Uniform Affidavit of Property on behalf of each party shall be filed with the Clerk of Courts with any Petition for Dissolution of Marriage.
- (D) Upon receiving all necessary filings the Court will set the matter for hearing.

**20.03 Divorce Actions**

- (A) Upon service of the complaint upon the defendant, the assignment commissioner shall assign all divorce actions for uncontested divorce/pretrial hearing after the lapse of forty-two (42) days.
  - (1) In all cases where the divorce is uncontested the matter may proceed to final hearing at that time. An uncontested case is one where after proper service, no response has been filed and the responding party has not appeared.
  - (2) In all cases where a responsive pleading or answer has been filed, the matter shall proceed to pretrial.
- (B) All parties shall attend pretrials unless excused by the Court for good cause. All counsel shall attend pretrials with their respective assignment calendars and a final hearing date shall be confirmed at pretrial. All parties shall provide the Court and opposing parties or counsel with a fully completed Uniform Affidavit of Property and Debts, at the pretrial if not previously filed.
- (C) Discovery
  - (1) In accordance with Ohio Civil Rule 5(D), all documents, after the complaint, required to be served upon a party shall be filed with the Court within three days after service, but depositions upon oral examination, interrogatories, requests for documents, requests for admission, and answers and responses thereto shall not be filed unless on order of the Court, or for use pursuant to Ohio Rule of Civil Procedure 32, or as evidence, or for consideration of a motion in the proceeding.

The Clerk of Court shall not accept for filing the transcript of a deposition unless it is accompanied by a certification by counsel that the deposition is being filed on order of the Court, or for use pursuant to ORCP 32, or as evidence, or for consideration of a motion in a proceeding.

- (2) Counsel will participate in discovery conferences with opposing counsel and shall freely exchange discoverable information and documents upon informal request. Counsel shall make every effort to resolve discovery disputes by agreement prior to filing motions with the Court.
- (3) In addition, prior to filing a motion for an order compelling discovery, protective order, objection to a discovery request, or for a discovery violation sanction, the lawyer or party seeking the Court's involvement shall initiate a conference (either live or by telephone) with the assigned judge and the attorney, unrepresented party, or person from whom discovery is sought, so the parties and the Court can discuss the discovery dispute and seek informal resolution before an order compelling discovery or discovery sanction order is issued by the Court.
  - (a) The motion shall be accompanied by a statement reciting the efforts made to resolve the matter in accordance with this section.
  - (b) Any motion to compel discovery or requesting discovery sanctions shall be accompanied by a statement reciting the efforts made to resolve the matter in accordance with the Ohio Rules of Civil Procedure and these Local Rules.
- (4) The presentation of any insufficient or unwarranted application, objection or motion and any unwarranted opposition to discovery, formal or informal, will subject the offender to sanctions under Rule 37 of the Ohio Rules of Civil Procedure and this Local Rule, including the imposition of costs, expenses and reasonable counsel fees.
- (5) It is the declared policy of this Local Rule to encourage professional informal discovery wherever practicable in preference to formal discovery. The policy of the Court is to become involved in the discovery process as soon and as early as practicable to avoid discovery problems and disputes. Counsel shall make every effort to comply with this policy.
- (6) This policy is not intended to discourage the use of depositions to discover and to record evidence as provided in the Ohio Rules of Civil Procedure.

#### **20.04 Temporary Orders**

- (A) In all cases where child support is in issue, a Uniform Affidavit of Income and Expenses and a child support computation worksheet shall be filed with the motion requesting child support or with any responsive pleading to the same.
- (B) A completed and signed IV-D Application for Child Support shall be submitted with all motions and requests for temporary support orders. Temporary support orders will not be issued without a completed and signed IV-D Application for Child Support Services.
- (C) Except for emergency orders, a party shall have fourteen (14) days after service to respond to a request for temporary orders and upon the expiration of twenty-one (21) days or the filing of a responsive pleading, whichever is earlier, the matter shall be deemed submitted to the Court.
- (D) When any motion or request for temporary spousal support is filed the party requesting support shall file a Uniform Affidavit of Income and Expenses with the Clerk of Courts and serve a copy upon the opposing party or counsel pursuant to Ohio Rules of Civil Procedure.
- (E) After any temporary spousal support or child support order is journalized according to Civ. R. 75(N), any written request for oral hearing to modify such temporary order pursuant to Civ. R. 75(N) (2) must be filed with the Clerk of Court within fourteen (14) days after filing of the order and specifically state the subject matter for which the hearing is being requested. Pursuant to Civ. R. 6, an additional three (3) days shall be added to this time period for a total of seventeen (17) days after filing of the order. A request for oral hearing shall not suspend or delay the payment of temporary support previously ordered. The hearing shall be set within twenty-eight (28) days of the request before Judge or Magistrate.
- (F) Pursuant to the Ohio Rules of Civil Procedure, motions for restraining orders relating to domestic relations and ORC 3111 Parentage cases shall be accompanied by sworn affidavits setting forth the specific basis of the requested relief.
  - (1) If considered meritorious by the Judge or Magistrate, these restraining orders may be granted ex-parte. After journalization the Clerk shall serve a certified copy of the order on the affected party at the address in the complaint, counsel of record for the affected party, if any, and any other individual or institution affected by the order. All service shall be by certified U.S. Mail unless otherwise requested.

- (2) Any party affected by an ex-parte restraining order may file a written response and/or request for oral hearing thereon within fourteen (14) days following service. If the response is accompanied by a sworn affidavit by the affected party, the Court may modify the previous order ex-parte. Upon request for oral hearing by either party filed within fourteen (14) days following service of a restraining order, the Court may set the matter for hearing to be held within twenty-eight (28) days of the request.

#### **20.05 Attorney Fees**

The amount of \$500.00 shall be deemed to be a reasonable, necessary and appropriate amount for attorney fees for representation in cases upon which a finding of contempt has been made or a motion to impose jail sentence from a previous finding in contempt is heard. Any request for attorney fees in excess of \$500.00 shall require a presentation of evidence as to the reasonableness and necessity of said fees in accordance with the law of Ohio. Except for those matters in which attorney fees are statutorily mandated, it is in the discretion of the Court whether to award attorney fees in any action. This is not applicable to fees for Court appointed counsel, which shall be paid upon proper application to the Court made within thirty (30) days of the last day necessary attorney services were provided, except upon approval of the Court.

#### **20.06 Guardian Ad Litem**

- (A) All applicants for Guardian Ad Litem appointments will complete an application form available at the Domestic Relations Division of the Common Pleas Court.
- (B) All Guardians Ad Litem shall comply with Rule 48 of the Rules of Superintendence for the Courts of Ohio, including, but not limited to, Guardian Ad Litem conduct, responsibilities, pre-service training and yearly documentation of continuing education.
- (C) All individuals on the Guardian Ad Litem appointment list will certify by January 15 of each year that they are either unaware of any circumstances that would disqualify them from serving as a Guardian Ad Litem or advise the Court of such circumstances.
- (D) Upon the motion of either party or at the discretion of the Court, the Court may order a Guardian Ad Litem and/or attorney appointed at any time the Court deems necessary and essential to protect the interest of the minor child(ren) of the parties or to represent an incompetent person. No motion for appointment of Guardian Ad Litem shall be granted except by leave of Court once the matter has been set for trial.

- (E) The Guardian Ad Litem shall be selected and appointed solely by the Court. Appointment of a Guardian Ad Litem from the list of qualified candidates will not be on a rotating basis. In making appointments the Court will consider the complexity of the issues, the parties, counsel and children involved as well as the experience and demeanor of qualified candidates.
- (F) The Court will set forth the amount of initial deposit and the deadline for payment of the deposit in the Order Appointing Guardian Ad Litem. Failure to timely pay the deposit may result in the release of the Guardian Ad Litem and in such instance, the case will proceed without a Guardian Ad Litem.
- (G) All parties and counsel will contact the Guardian Ad Litem within ten (10) days of the filing of the Order Appointing Guardian Ad Litem to provide information and releases required by the Guardian Ad Litem.
- (H) Unless otherwise directed by the Court, the Guardian Ad Litem shall prepare a report and shall email, fax or hand deliver the report to the Court and counsel, or any party unrepresented by counsel, not less than seven (7) days in advance of the hearing date. While the Guardian Ad Litem Report will be made available to parties and counsel, the report shall be considered confidential and in the best interest of the minor child(ren) shall not be filed with the Clerk of Courts. No party shall permit the child(ren) to obtain, view, or read the Guardian Ad Litem's Report. No party shall discuss the contents of the Guardian Ad Litem's Report with the child(ren) or within the child(ren)'s presence and/or hearing. No party shall permit another person to discuss the Guardian Ad Litem's Report with the parties' child(ren) or within the child(ren)'s presence and or hearing. Any violation of this order may subject the violating party to appropriate contempt proceedings and sanction. The Court shall consider the recommendation of the Guardian Ad Litem in determining the best interest of the child when the report or a portion of the report has been admitted as an exhibit.
- (I) The final Judgment Entry shall contain a provision for the discharge of the Guardian Ad Litem at the conclusion of the matter for which the Guardian Ad Litem was appointed unless otherwise directed by the Court.
- (J) The Court will, in its discretion, apportion the final payment of fees between the parties and may order the payment of fees by income withholding.



- (K) The parties and counsel participating in any case where a Guardian Ad Litem has been appointed may present comments or complaints regarding the performance of the Guardian Ad Litem as follows:
- (1) Any comments or complaints regarding the performance of Guardian's Ad Litem shall be in writing and submitted directly to the Common Pleas Court, Domestic Relations Division.
  - (2) Within five (5) days of receipt, the Court will provide a copy of the comments or complaints and a Court notice of the response date to the Guardian Ad Litem who is the subject of the comments or complaint.
  - (3) The Guardian Ad Litem may respond in writing to the comments or complaints in conformance with the Court notice accompanying the comments or complaints. A copy of any response will be provided to the commenting or complaining party by the Court.
  - (4) After receipt of all appropriate information, including any supplements or amendments requested by the Court, the Court will issue a disposition within thirty (30) days and notify the person making the comment or complaint and the Guardian Ad Litem of the disposition.
  - (5) The nature of the comments or complaints and the disposition shall be maintained with the Guardian Ad Litem file in the Domestic Relations Division of Common Pleas Court.

#### **20.07 Child Healthcare Information Form**

A separate Child Healthcare Information Form shall accompany all Judgment Entries in all cases where the Court exercises jurisdiction with respect to children, including post decree actions regarding parental rights and/or child support. See prescribed form in appendix. The Child Healthcare Information Form will be forwarded to the Allen County Child Support Agency but will not be filed in the Clerk of Courts case file because of the private nature of the information on the Order.

#### **20.08 Final Judgment Entries**

- (A) All Judgment Entries shall have a signed copy of any Separation Agreement and/or Parenting Plan incorporated into the entry, as well as a child support calculation worksheet attached to the Judgment Entry in all cases where child support is addressed, even if no support is ordered.

- (B) All Judgment Entries addressing costs shall state that any costs deposited shall be applied to costs of the case. The entry shall then apportion unpaid costs between the parties and may require reimbursement.
- (C) All counsel shall provide a certified copy of the Judgment Entry to their respective client upon the filing of the same.
- (D) If a deviation from the child support guidelines is ordered, the Judgment Entry shall state why the deviation is in the best interest of the minor child(ren) and shall support the statement with findings of fact and shall be accompanied by a child support calculation worksheet reflecting the deviation.
- (E) All Judgment Entries shall state that child support shall be paid through the Ohio Child Support Payment Central, along with the appropriate processing fees.
- (F) All Judgment Entries shall contain statutorily required language for wage withholding and notice requirements.
- (G) When the Court orders counsel to prepare an entry, counsel and, if ordered by the Court, the parties shall be summoned to appear before the Court to present the entry and all associated paperwork. Failure to appear may result in sanction by the Court unless the Court excuses the appearance of parties or counsel. A separate date may be set for other documents, including but not limited to QDROs, DOPOs, and Letters of Understanding required for account transfers.
- (H) All Judgment Entries ordering child support shall include child support, stated in a monthly amount per child, and shall be accompanied by a signed and completed IV-D Application for Child Support Services and a child support calculation worksheet.
- (I) To facilitate disposition and avoid rejection at the Title Department, Auditor's Office, and/or Recorder's Office, it is recommended that all orders that involve the disposition of a titled vehicle, watercraft or manufactured home include the year, make, model and vehicle identification number or serial number.
- (J) Any orders as to real estate should include the legal description, property address and permanent parcel number.

#### **20.09 Modification of Child Support**

- (A) Any party with standing in a child support case, and/or the Allen County Child Support Enforcement Agency (hereinafter “CSEA”) may file a motion for modification of child support. All original motions requesting a modification of child support shall be filed with the Clerk of Courts of Allen County, Ohio, and shall state why the amount of child support previously ordered should be modified. This section does not limit, modify, or otherwise supersede the ability of a party to request an administrative modification through the CSEA.
- (B) The filing of any motions requesting a modification of child support or responses to such motion shall be accompanied by a completed Uniform Affidavit of Income and Expenses of the filing party.

#### **20.10 Post-Judgment Modification of Parental Rights and Responsibilities**

In addition to the Affidavit of Income and Expenses and Parenting Proceeding Affidavit (RC 3127.23(A)) any post-judgment motions filed requesting modifications of parental rights and responsibilities (including companionship time) shall be accompanied by affidavits specifically stating support therefore.

#### **20.11 Reasonable and Ordinary Uninsured Health Related Expenses**

- (A) The total annual cash medical support obligation owed by both parents shall be deemed reasonable and ordinary health related expenses of a minor child.
- (B) Health related expenses exceeding the total cash medical support obligation owed by both parents shall be deemed extraordinary and shall be allocated between the parties on a case by case basis based upon the income shares established and any other factors that the Court deems to be relevant.
- (C) Health related expenses shall be defined as hospital, doctor visits, dental, orthodontic, laboratory testing, optical, optometric, pharmaceutical, psychiatric and psychological expenses pre-approved by both parents, ordered by the Court, or reasonable and necessary under the circumstances. Health related expenses do not include those for purely cosmetic reasons or nonprescription items.

#### **20.12 Child Relocation**

- (A) Prior to the relocation of either parent to a residence other than that specified in the parenting order or decree of the Court, the relocating parent must serve a notice of intent to relocate upon the other parent by

certified mail. Included in said notice shall be the last known address of all parties, a new residential address of the parent, and the telephone number and the name and address of the school in the district in which the child(ren) shall attend, if applicable. The residential parent must comply with the Ohio Revised Code requiring filing of this notice with the Clerk of Court.

- (B) Upon receipt of said notice the other parent may petition this Court for hearing on visitation and companionship rights. If no such pleading is filed within fourteen (14) days from service of the notice the relocation shall proceed as set forth in the notice.

### **20.13 Post-Judgment Relief Accompanied by Citation for Contempt**

- (A) Any motion requesting a citation in contempt shall state the basis for the contempt citation with particularity and be accompanied by affidavit specifically setting forth the facts supporting the motion.
- (B) A show cause order shall contain notice of hearing and shall accompany any motion filed requesting citation in contempt. The same shall be submitted to the Assignment Commissioner with the filing of the motion. The notice of hearing/show cause order shall be served with the motion and citation pursuant to the Civil Rules.
- (C) Any Motion for Citation in Contempt for nonpayment of medical bills and any responsive pleading thereto shall be accompanied by an Explanation of Medical Bills form as set forth in the appendix to these rules.
- (D) It is mandatory that a Financial Disclosure Form be filed by each indigent alleged contemnor in order for the court appointed attorney to be compensated. This affidavit shall be filed with the Clerk's Office prior to the first assigned Court appearance. Failure to file such affidavit shall result in non-payment of any Court appointed attorney fees submitted. The filing of a Financial Disclosure Form in no manner affects the responsibility of a defendant to pay costs if so ordered. The form to be utilized shall be the Financial Disclosure form adopted by the Ohio Public Defender (Form OPD-206R). No other form will be accepted for determining court appointed counsel.
- (E) Court appointed counsel shall, upon making application for compensation, itemize hours spent and clearly designate which hours were "in court" and which hours were "out of court" time.
- (F) A current Financial Disclosure Form shall be attached to the application for compensation. The form to be utilized shall be the Financial Disclosure form adopted by the Ohio Public Defender (Form OPD-206R).

- (G) Counsel assignments will be made from names appearing on the applicable list of approval trial counsel.
- (H) The fee schedule for Court appointed attorneys is fixed by the County Commissioners and is current at \$500.00 maximum for contempt of Court on the basis of \$75.00 per hour both for “in court” and “out of court” representation.

Reimbursement for expenses that exceed the above stated maximums will be made only with approval of the Court after appropriate motion.

- (I) Payment and/or reimbursement for expenses associated with providing representation shall be made upon submission of the attorney’s fee certificate OPD-1026 and Financial Disclosure Form which has been approved by the trial judge.
- (J) No fees will be paid if the request for payment is submitted to the assigned Judge more than thirty (30) days after the case is finally disposed of by the Court termination, except upon approval of the Court.

#### **20.14 Extra-Curricular**

- (A) In the absence of orders to the contrary, extra-curricular activities and the costs of those activities will be governed by this section.
- (B) Regardless of where the child is living, his/her continued participation in extra-curricular activities, school related or otherwise, shall continue uninterrupted. It shall be the responsibility of the parent providing the physical care and supervision of the child at the time of the activity to provide the physical and economic cost of transportation to these activities. Both parents shall provide each other with notice of all extra-curricular activities, school related or otherwise, in which the child participates, schedules of all extra-curricular (handwritten if no formal schedule is provided by the activity) and the name of the activity leader (including address and telephone number if reasonably available).
- (C) The parents shall notify each other about any and all expenses arising from the child’s extra-curricular activities.
- (D) Extra-curricular expenses shall include but are not limited to all sports activities, fees to play, necessary equipment, uniform and spirit wear, necessary specialized footwear such as cleats, theatre, dance, music and performance groups, teams or individual involvement, 4-H, FFA and school projects not required in the curriculum of any offered class. Extra-

curricular fees do not include individual lessons, books, fees and required costs associated with school classes.

- (E) The child support recipient shall pay the first \$100.00 per season per school sponsored activity. Thereafter, extra-curricular or unusual activities shall be paid according to the percentages of the parent's income. Any fees in excess of \$100.00 for extra-curricular activities or for specialized involvement or enhancement of said activities such as camps, club teams, competitive groups or field trips shall be discussed by the parents before the child is enrolled. If the parties agree, the parent incurring the expense will advance payment and forward a copy of the bill or invoice immediately to the parent, who will in turn reimburse the first parent the appropriate sum upon presentation of the bill or invoice, but in no event later than thirty (30) days from receiving the bill or invoice.

If the parties do not agree, the parent desiring to enroll the child shall pay the fees subject to filing a motion with the Court to determine if it is the child's best interest to participate in said extra-curricular activity and whether parenting time should be adjusted due to the participation. If found to be in the child's best interest to participate, the cost in excess of the \$100.00 shall be paid according to the percentages of parent's income as calculated on the child support worksheet effective at the time of the activity.

- (F) The parents shall give careful consideration of the child's best interests and the child's wishes in scheduling activities, and neither parent will unreasonably withhold agreement to any particular activity. The parents shall be reasonable with respect to this provision and take into consideration the needs and interest of the child at all times. The scheduling of events, appointments and activities shall not be done in a manner to cause undue inconvenience or harassment to another parent; however, both parents must understand that the child needs to be able to participate in regular activities without interference and with the support of both parents.

## **20.15 Magistrates**

This Local Rule is solely for the purpose of exemplifying specific provisions of Ohio Rule of Civil Procedure 53.

Magistrates may be appointed pursuant to Ohio Rule of Civil Procedure 53 and shall exercise authority in accordance with that rule.

(A) Magistrate's Order

- (1) A magistrate may enter orders without judicial approval if necessary to regulate proceedings and if not dispositive of a claim or defense of a party.
- (2) Any party may file a motion with the Court to set aside a Magistrate's Order not later than ten (10) days after the filing of the order.

(B) Magistrate's Decision

- (1) A Magistrate's decision shall be filed with the Clerk and served by the Clerk upon all parties or their attorneys within three (3) days of filing.
- (2) Objections may be filed by any party within fourteen (14) days of the filing of the decision.
- (3) If any party timely files objections any other party may also file objections not later than ten (10) days after the first objections are filed.
- (4) Objections must specifically state all grounds for objections.
- (5) Objections to factual findings shall be supported by a transcript of all evidence submitted, or an affidavit of that evidence if a transcript is not available, filed with the court within thirty (30) days of the filing of the objections. It is the responsibility of the filing party to request and obtain this transcript. The thirty (30) days for filing of the transcript may be extended upon motion.
- (6) If a party timely files objections prior to the preparation of a transcript, the filing party may request leave of court to supplement timely filed objections upon completion of the transcript.

- (C) A party shall not assign as error on appeal the court's adoption of any factual finding or legal conclusion contained in a Magistrate's decision unless the party timely and specifically objects to that factual finding or legal conclusion as required by Civil Rule 53.

## **LOCAL RULE 21**

### **HOME STUDY INVESTIGATION**

If, pursuant to Civil Rule 75, either party desires an investigation where allocation of parental rights and responsibilities of children is an issue, such party shall request such investigation by separate motion. The Court will set a fee deposit after the filing of the motion. Failure to timely deposit the fee will result in denial of the request. If the request is granted, a written report shall be prepared and filed with the Court by the Court appointed investigator to be considered by the Court and made available to both parties upon written request not less than ten (10) days prior to the scheduled hearing. Either party may call the investigator as a witness as on cross-examination, and such testimony shall be received into evidence for consideration by the Court.

Once an investigation is ordered, but cancelled prior to its completion, the Court will determine the amount to be paid to the investigator based on the time involved and the progress of the report. A minimum compensation for a cancelled child custody investigator shall be \$100.00.

## **LOCAL RULE 22**

### **TEMPORARY STANDING ORDERS**

#### **22.01 Temporary Orders**

- (A) All parties to original divorce, legal separation, annulment and ORC 3111 Parentage actions in the Allen County Common Pleas Court are subject to the following temporary orders from the date an action is filed until the case is concluded. This order shall be strictly complied with under penalty of contempt of Court.
  - (1) Each party is hereby enjoined and restrained from causing or permitting the minor child of the parties to be removed from the State of Ohio except by a signed written agreement of the parties or authorization by this Court. The minor child(ren) shall continue to be enrolled in the same school they have historically attended previous to the filing of a pleading to terminate the marriage or legal separation unless the parties agree otherwise in writing or the Court authorizes a change of the school district.



- (2) Each party is hereby enjoined and restrained from injuring, maltreating, vilifying, molesting, or harassing the adverse party or any child(ren) of the parties or attempting or threatening the same.
- (3) Each party is enjoined and restrained from disposing, selling, transferring, encumbering, damaging, or allowing waste to occur with respect to any property in which either party has a legal or equitable interest unless otherwise authorized by the Court.
- (4) Neither party shall incur additional debts except in the ordinary course of business or regular household expenses unless otherwise authorized by the Court.
- (5) Both parties are restrained from entering safety deposit boxes until further order of the Court.
- (6) Each party is hereby enjoined and restrained from canceling, modifying, altering, or otherwise interfering with health, medical, prescription, dental, or vision insurance covering the parties or their children.
- (7) The attorney representing the plaintiff in any divorce action hereinafter filed in this Court shall furnish the client a copy of this Rule, and that client, upon the filing of the complaint, shall be bound by the terms of this Rule.
- (8) The Clerk of this Court shall attach a copy of this Rule to the summons so that both documents shall be served simultaneously and the Sheriff or other officer serving the summons shall note the service of a copy of this rule together with a copy of the complaint in the return.

In every other action hereinafter filed, the parties shall be bound by the terms of these standing orders upon service of the same.

- (9) Any party may file a motion and supporting affidavit to modify this standing order for good cause shown.

## LOCAL RULE 23

### PARENTING TIME ALLOCATION

#### **23.01 Parenting Time**

It is the philosophy of this Court for the children to be in the care of each of the parents as much as possible so long as it is in the best interests of the children to do so. The facts and circumstances of each case shall be considered in the allocation of parenting time.

- (A) The parenting time set forth in this rule is to provide at least a minimum contact between children and a nonresidential parent. Parenting plans exceeding alternate weekends, up to and including equal parenting time, are commonly ordered so long as it is properly requested and the Court determines the parenting time to be in the best interests of the children. The parties are encouraged to exercise consideration and recognition of the best interest of the children in addressing parenting time. The parties are encouraged to reach agreement and accommodation regarding parenting time outside of Court intervention, however, only those parenting time agreements adopted by the Court and made an order of the Court can be enforced by contempt proceedings.
- (B) The non-residential parent shall have parenting time on alternate weekends from Friday at 6:00 p.m. to Sunday evening at 6:00 p.m.
- (C) The non-residential parent shall have weekly parenting time from 5:30 p.m. to 8:30 p.m. (one evening per week). The beginning and ending times may be varied by agreement to accommodate the work schedules of the parties, the schedule of the children and the appropriate bedtime for children during the school year. If the parties are unable to agree upon the date of the week for this time, Wednesday will be used unless otherwise ordered by the Court.
- (D) The parent receiving the children on weekend parenting time shall be responsible for transportation unless otherwise ordered by the Court. The parent exercising the weekday parenting time shall provide transportation for both pickup and drop off.
- (E) Each Judgment Entry shall designate Parent 1 and Parent 2 by name and the parents will exercise holiday parenting time as follows:

## EVEN YEARS

### Parent 1

**Martin Luther King Day** - Friday evening to Monday evening

**Memorial Day** - Friday evening to Monday evening

**Labor Day** - Friday evening to Monday evening

**Juneteenth** - If June 19<sup>th</sup> falls on Tuesday, Wednesday or Thursday the time shall commence at 6:00 p.m. on June 18<sup>th</sup> until 9:00 a.m. on June 20<sup>th</sup>. If June 19 falls on Sunday or Monday the time shall commence on Friday night at 6:00 p.m. and conclude June 20 at 9:00 a.m.

If June 19 falls on Friday or Saturday, parenting time shall commence at 6:00 p.m. on June 18 and conclude Sunday at 6:00 p.m.

Should Father's Day fall during the Juneteenth Holiday time as set forth in this holiday schedule, the father shall be entitled to exercise Father's Day 6:00 p.m. on Sunday commencing at 9:00 a.m. until 6:00 p.m. on Father's Day. Father's Day will pre-empt Juneteenth holiday time.

**Christmas Eve** commencing at 6:00 p.m. on December 24<sup>th</sup> through Christmas Day until 9:00 a.m. December 26<sup>th</sup>.

### Parent 2

**President's Day** - Friday evening to Monday evening

**Easter** - Thursday evening to Sunday evening

**July 4<sup>th</sup>** - If the 4<sup>th</sup> falls on Tuesday, Wednesday or Thursday the time shall commence at 6:00 p.m. on July 3 until 9:00 a.m. on July 5. If the 4<sup>th</sup> falls on Sunday or Monday the time shall commence on Friday night at 6:00 p.m. and conclude July 5 at 9:00 a.m.

If the 4<sup>th</sup> falls on Friday or Saturday, parenting time shall commence at 6:00 p.m. on July 3<sup>rd</sup> and conclude Sunday at

**Thanksgiving Day** – Wednesday evening to Sunday evening.

**Christmas** - 9:00 a.m. December 26<sup>th</sup> for the remainder of the Christmas Holiday until 6:00 p.m. on January 1<sup>st</sup>. If January 1<sup>st</sup> falls on a Friday or Saturday the parenting time shall continue until the Sunday immediately following that date at 6:00 p.m.

During the **ODD YEARS** this schedule shall be reversed.

The holiday schedule may be modified by agreement of the parties or by Court order upon proper motion.

The child shall spend Mother's Day in the companionship of the mother commencing at 6:00 p.m. the Friday before Mother's Day and concluding at 6:00 p.m. on Mother's Day.

The child shall spend Father's Day in the companionship of the father commencing at 6:00 p.m. the Friday before Father's Day and concluding at 6:00 p.m. on Father's Day unless Father's Day falls on June 19<sup>th</sup> when the other party is entitled to the Juneteenth holiday. In such case, Father's Day time shall commence at 9:00 a.m. on the June 19 Father's Day and conclude at 6:00 p.m. on the June 19 Father's Day.

In the event of same sex parents, the designated Parent 1 shall exercise parenting time on Mother's Day weekend and Parent 2 on Father's Day weekend in even years and the parents will reverse those weekends in odd years.

Unless otherwise specified, evening holiday parenting time shall be deemed to begin or conclude at 6:00 p.m. and morning holiday parenting time shall be deemed to begin or conclude at 9:00 a.m.

- (F) The child's birthday shall be celebrated in the home of the parent exercising parenting time in accordance with the orders of the Court without regard to that party being designated as residential or non-residential parent.
- (G) Each parent shall be entitled to two (2) weeks of extended parenting time each year to be exercised in blocks of time consisting of fourteen (14) or seven (7) consecutive days per time period.
  - (1) Unless otherwise ordered, the extended parenting time may be exercised any time during the year; however, this extended parenting time shall not interfere with the child's school and school activities.
  - (2) If exercised in a seven (7) day period, the period will include one regular weekend parenting time of the requesting party.
  - (3) Written notification to the other parent not less than thirty (30) days prior to the exercise of any extended parenting time is required unless otherwise agreed by the parties or granted by the Court.

- (4) The parent first to notify the other parent in writing of the intent to exercise extended parenting time will be entitled to that time in event of a conflict.
- (5) Unless otherwise ordered, holiday parenting time shall take precedence over weekend parenting time and extended parenting time. Extended parenting time, after notice, shall take precedence over weekend parenting time. **The exercise of holiday parenting time will not alter an alternate weekend parenting schedule unless otherwise set forth in court orders.** This may result in one party having multiple weekends of parenting time in a row when the holiday time is between two regular parenting time weekends, however alternating holiday parenting time from year to year is designed to compensate for such inequities.
- (H) Each parent shall provide their address and phone numbers at all times to the other parent unless otherwise restricted by Court order. Non-residential parents shall be entitled to exercise reasonable telephone communications not less than twice weekly with each conversation lasting not longer than thirty (30) minutes per conversation.
- (I) Pursuant to the Ohio Revised Code, each parent is entitled to access to any school record related to their child under the same terms and conditions unless otherwise limited by Court order. Each parent shall be responsible to contact the school the child is attending to make appropriate arrangements to receive access to school activity schedules and performance records of their child.
- (J) Each parent shall provide food, including formula and diapers to be used for infants, during the time the child(ren) are in their respective homes.
- (K) Adequate clothing shall be provided by the residential parent for parenting times and the same shall be returned at the end of said parenting time.
- (L) A copy of this rule shall be affixed to all parenting time orders adopting Rule 23.
- (M) The party exercising parenting time and/or physical custody of the child(ren) shall be responsible to transport the child(ren) to all scheduled activities, appointments and events of the child(ren) during the time the party is exercising parenting time and/or physical custody of the child(ren) and shall further make sure the child(ren) have the appropriate equipment or dress to participate in the activities or events. This does not impose a duty to purchase such items unless required by other orders.

- (1) Scheduled activities include, but are not limited to, regular meetings and events associated with school and extra-curricular activities such as band, chorus, sporting events, swim and gymnastic lessons, 4-H and scouting. It would also include health related appointments.
- (2) Scheduled activities would not include a regular Sunday church service, but would include baptism or any ceremony for admission to a church, including meetings and education prerequisites for admission.
- (3) The scheduling of the events, appointments, and activities shall not be done in a manner to cause undue inconvenience or harassment to another parent; however, both parents must understand that the children need to be able to participate in regular activities without interference and with the support of both parents.

## **LOCAL RULE 24**

### **DOMESTIC RELATIONS MEDIATION**

#### **24.01 Mediation**

(A) **Uniform Medication Act and Definitions**

Ohio Revised Code Chapter 2710 “Uniform Mediation Act” (UMA), including all definitions found in R.C. 2710.01, are incorporated by reference and adopted by this Court through this Local Rule. Frequently-used definitions include:

- (1) “Mediation” means any process in which a mediator facilitates communication and negotiation between the parties to assist them in reaching a voluntary agreement regarding their dispute.
- (2) “Mediator” means an individual who conducts a mediation.
- (3) “Mediation Communication” means a statement, whether oral, in a record, verbal or non-verbal, that occurs during a mediation or is made for purposes of considering, conducting, participating in, initiating, continuing, or reconvening a mediation or retaining a mediator.

- (4) “Non-party participant: means a person other than a party or mediator that participates in a mediation.

(B) Cases Eligible for Mediation

- (1) General. The Court has discretion to encourage parties to use mediation in any civil action filed in this Court. A case may be submitted to mediation as provided in this Rule. The Court may issue an order on its own motion, upon the motion of counsel, upon the request of a party, or upon referral by the mediator.
- (2) Exceptions. Mediation is prohibited in the following:
- (i) As an alternative to the prosecution or adjudication of domestic violence;
  - (ii) In determining whether to grant, modify, or terminate a protection order;
  - (iii) In determining the terms and conditions of a protection order;
  - (iv) In determining the penalty for violation of a protection order.
- (3) Nothing in this division shall prohibit the use of mediation in a subsequent divorce or custody case, even though that case may result in the termination of the provisions of a protection order; or in a juvenile court delinquency case, even though the case involved juvenile-perpetrated domestic violence.

(C) Confidentiality

Except as provided in sections 121.22 and 149.43 of the Revised Code, mediation communications are confidential to the extent agreed by the parties or provided by other sections of the Revised Code or rules adopted under any section of the Revised Code. Parties desiring confidentiality of mediation communications shall advise the mediator as soon as practical and all mediation participants shall execute any confidentiality agreement prior to the start of mediation.

By participating in mediation, a non-party participant, as defined by R.C. 2710.01(D), submits to the Court’s jurisdiction to the extent necessary for enforcement of this Rule. Any non-party participant shall have the rights and duties under this Rule as are attributed to parties, except that no evidence privilege shall be expanded.

(D) Referral to Resources

The Court shall maintain resources for mediation parties, including victims and suspected victims of domestic violence, encouraging appropriate referrals to legal counsel and other support services such as Children Services, domestic violence prevention, counseling, substance abuse and mental health services.

(E) Mediator Training and Education

A mediator shall meet the qualifications of and comply with all training requirements of Sup.R. 16.23 and adopted pursuant to Sup.R. 16.22 governing mediators and mediation.

(F) Mediator Selection and Assignment

The following methods may be used to determine the mediator for the case:

- (1) The Court may assign a Court mediator to mediate;
- (2) The Court may randomly assign a mediator to the case from the Court's roster of approved mediators;
- (3) Specific appointments may be made by the Court taking into consideration the qualifications, skills, expertise, and caseload of the mediator in addition to the type, complexity and requirements of the case;
- (4) Parties may select a mediator from the Court roster, if any;
- (5) Parties may request leave to select a mediator without guidance from the Court. The Court shall not be responsible for the quality of a mediator selected by the parties without guidance from the Court and who does not meet the qualifications, education and training requirements set forth in section (E) above.

(G) Procedures

In accordance with all applicable provisions of this Rule, if a case is deemed appropriate by the Court for mediation, mediation may be scheduled.

A mediator may meet with the parties individually prior to bringing the parties together for any reason including, but not limited to, further screening. A mediator may schedule multiple mediation sessions, if necessary and mutually acceptable for the resolution of the issues in part or in their entirety.



A party opposed to either the referral or the appointed mediator must file a written objection with the Court within seven (7) days of receiving notice of the referral or provider and explain the reasons for any opposition.

(H) Party/Non-Party Participation

Parties who are ordered into mediation in formal cases shall attend scheduled mediation sessions. The Court may order parties to return to mediation at any time in formal cases.

If counsel of any party to the mediation becomes aware of the identity of a person or entity whose consent is required to resolve the dispute, but has not yet been joined as a party in the pleadings, they shall promptly inform the mediator as well as the assigned judge or magistrate.

If the opposing parties to any case are 1) related by blood, adoption, or marriage; 2) have resided in a common residence, or 3) have known or alleged domestic violence at any time prior to or during the mediation, then the parties and their counsel have a duty to disclose such information to the mediator and have duty to participate in any screening required by the Court.

By participating in mediation a non-party participant, as defined by R.C. 2710.01(D), agrees to be bound by this Rule and submits to the Court's jurisdiction to the extent necessary for enforcement of this Rule. Any non-party participant shall have the rights and duties under this Rule attributed to parties except as provided by R.C. 2710.03(B) (3) and 2710.04(A) (2).

(I) Termination

If the mediator determines that further mediation efforts would be of no benefit to the parties, he or she shall inform all interested parties and the Court that the mediation is terminated using the procedure required by this Court.

(J) Stay of Proceedings

All remaining Court orders shall continue in effect. No order is stayed or suspended during mediation except by written Court order. Mediation shall not stay discovery unless otherwise ordered by the Court.

(K) Continuances

It is the policy of this Court to determine matters in a timely way. Continuances of scheduled mediations shall be granted only for good

cause shown after a mutually acceptable future date has been determined. The mediation may be continued by the mediator or the judge or magistrate who referred the case. Except as authorized by the Court, the existence of pending motions shall not be good cause for a continuance and no continuance will be granted unless the mediation can be scheduled prior to the final hearing.

(L) Fees and Costs

The Court may impose upon the parties fees and costs for mediation. If there is a fee for mediation, unless otherwise agreed by the parties, the mediation fees shall be shared equally. Mediation shall not be ordered where a party is indigent unless the mediation is available at no costs to the party.

(M) Attendance; Sanctions

If any individual ordered by the Court to attend mediation fails to attend mediation without good cause, the Court may impose sanctions which may include, but are not limited to, the award of attorney's fees and other costs, contempt or other appropriate sanctions at the discretion of the assigned judge or magistrate.

(N) Evaluation, Comments and Complaints

It is the policy of the Court to use mediation to benefit the parties, to assist in reaching a resolution, and provide a process that is timely and flexible that maintains the trust and confidence of the people. Any mediation participant may submit written comments, complaints or feedback regarding the performance of mediators receiving referrals from, the Court.

## Local Rule 25

### PARENTING COORDINATION

#### 25.01 Definitions

As used in this rule:

(A) Domestic abuse

“Domestic abuse” means aggressive behaviors directed toward a current or former intimate partner that are physical, sexual, economic, spiritual, or coercively controlling. “Domestic abuse” may occur as a single aggressive behavior or a combination of aggressive behaviors and may vary from family to family in terms of frequency, recency, severity, intention, circumstance and consequence.

(B) Domestic violence

“Domestic violence” has the same meaning as in R.C. 3113.31(A)(1).

(C) Parenting coordination

“Parenting coordination” means a child-focused dispute resolution process ordered by the Court to assist parties in implementing a parental rights and responsibilities or companionship time order using assessment, education, case management, conflict management, coaching, or decision-making. “Parenting coordination” is not mediation subject to R.C. Chapter 2710, or Sup.R. 16.20 through 16.25.

(D) Parenting coordinator

“Parenting coordinator” means an individual appointed by the Court to conduct parenting coordination.

#### 25.02 Purpose

This rule allows for the earliest possible resolution of disputes related to parental rights and responsibilities or companionship time orders.

#### 25.03 Scope

At any point after an interim or final parental rights and responsibilities or companionship time order is filed, the Court may order parenting coordination except to determine the following:

- (A) Whether to grant, modify, or terminate a protection order;
- (B) The terms and conditions of a protection order;
- (C) The penalty for violation of a protection order;
- (D) Changes in the designation of the residential parent or legal custodian;
- (E) Changes in the primary placement of a child;
- (F) Substantive changes in parenting time;
- (G) Modification of child support, allocation of tax benefits or division of uncovered medical expenses.

#### **25.04 Appointment**

The Court may order parenting coordination, sua sponte or upon written or oral motion by one or both parties, when one or more of the following factors are present:

- (A) The parties have disagreements about the implementation of a parental rights and responsibilities or companionship time order and need assistance;
- (B) There is a history of parental conflict that has been unresolved by previous litigation or other interventions and from which a child of the parties is adversely affected;
- (C) The parties have a child whose parenting time schedule requires frequent adjustments, specified in an order of the Court, to maintain age-appropriate contact with both parties, and the parties have been previously unable to reach agreements on their parenting time schedule without intervention by the Court;
- (D) The parties have a child with a medical or psychological condition or disability that requires frequent decisions regarding treatment or frequent adjustments in the parenting time schedule, specified in an order of the Court, and the parties have been previously unable to reach agreements on their parenting time schedule without intervention by the Court;
- (E) One or both parties suffer from a medical or psychological condition or disability that results in an inability to reach agreements on or make adjustments in their parenting time schedule without assistance, even when minor in nature;

(F) Any other factor as determined by the Court.

## **25.05 Education and Training**

### **(A) General Parenting Coordinator Education and Training**

- (1) Prior to accepting appointment of a Court or division to serve as a parenting coordinator, an individual shall meet all of the following qualifications:
  - (a) Be an independently licensed mental health profession, be licensed to practice law in Ohio, or otherwise have education and experience satisfactory to the appointing court or division;
  - (b) Possess extensive practical and professional experience with situations involving children. This experience may include counseling, casework, or legal representation in complex family law matters; serving as a guardian ad litem or mediator; or other equivalent experience satisfactory to the court or division;
  - (c) Complete “Fundamentals of Mediation Training” approved by the Supreme Court Dispute Resolution Section in accordance with standards established by the Commission on Dispute Resolution.
  - (d) Complete “Specialized Family or Divorce Mediation Training” approved by the Supreme Court Dispute Resolution Section in accordance with standards established by the Commission on Dispute Resolution.
  - (e) Complete “Specialized Domestic Abuse Issues in Mediation Training” approved by the Supreme Court Dispute Resolution Section in accordance with standards established by the Commission on Dispute Resolution.
  - (f) Complete “Parenting Coordination Training” approved by the Supreme Court Dispute Resolution Section in accordance with standards established by the Commission on Dispute Resolution.

- (2) Prior to accepting appointment of a court or division to serve as a parenting coordinator in an abuse, neglect, or dependency case, an individual shall meet both of the following qualifications:
  - (a) Complete the requirements of division (A)(1) of this rule;
  - (b) Complete “Specialized Child Protection Mediation” that has been approved by the Supreme Court Dispute Resolution Section in accordance with standards established by the Commission on Dispute Resolution.

(B) Continuing Parenting Coordinator Education and Training

- (1) A parenting coordinator shall complete at least six hours per calendar year of continuing education relating to children, mediation, or diversity. The diversity training may include awareness and responsiveness; cultural and racial diversity; and the effects of a parenting coordinator’s personal biases, values, and styles on the parenting coordination process. The continuing education may include continuing education for lawyers, social workers, psychologists, or other licensed mental health professions and professional development events that are acceptable to the Court or division appointing the parenting coordinator.
- (2) A parenting coordinator will promptly notify the Court of any grounds for disqualification or any issues affecting their ability to serve.
- (3) If a parenting coordinator fails to comply with the continuing education requirement of division (1) of this rule, the parenting coordinator shall not be eligible to serve as a parenting coordinator until the requirement is satisfied.
- (4) Upon request, a parenting coordinator will provide the Court with documentation indicating compliance with all training and education requirements.

**25.06 Parenting Coordinator Appointment Order**

The Court’s appointment order shall set forth all of the following:

- (A) The name of the parenting coordinator and any contact information the Court may choose to include;
- (B) The specific scope of authority of the parenting coordinator;

- (C) The term of the appointment;
- (D) The scope of confidentiality;
- (E) The parties' responsibility for fees and expenses for services rendered by the parenting coordinator;
- (F) Parenting coordination terms and conditions;
- (G) Procedures for decision making of the parenting coordination;
- (H) Procedures for objectives to the parenting coordinator decisions;
- (I) Orders regarding contact with the parenting coordinator;
- (J) Any other provisions the Court deems necessary and appropriate.

**25.07 Selection of Parenting Coordinator for Appointment**

The parenting coordinator who meets the qualifications in this rule shall be selected at the discretion of the Court based on the type of case and the qualifications, caseload and experience of the parenting coordinator;

**25.08 Termination or Modification of Parenting Coordinator Appointment**

Upon motion of a party, for good cause shown, or sua sponte, the Court may terminate or modify the parenting coordinator appointment.

**25.09 Parenting Coordinator Responsibilities**

(A) Ability to perform duties

A parenting coordinator shall report to the Court any activity, criminal or otherwise, that would adversely affect the parenting coordinator's ability to perform the functions of a parenting coordinator.

(B) Compliance with appointment order and Ohio Rules of Superintendence

A parenting coordinator shall comply with the requirements of and act in accordance with the appointment order issued by the Court and with the Ohio Rules of Superintendence. In the event of a perceived conflict, the order of appointment shall control.

(C) Independence, objectivity, and impartiality

A parenting coordinator shall maintain independence, objectivity, and impartiality, including avoiding the appearance of partiality, in dealings with parties and professionals, both in and out of the courtroom.

(D) Conflicts of Interest

- (1) A parenting coordinator shall avoid any clear conflicts of interest arising from any relationship activity, including but not limited to those of employment or business or from professional or personal contacts with parties or others involved in the case. A parenting coordinator shall avoid self-dealing or associations from which the parenting coordinator may benefit, directly or indirectly except from services as a parenting coordinator.
- (2) Upon becoming aware of a clear conflict of interest, a parenting coordinator shall advise the Court and the parties of the action taken to resolve the conflict, and if unable to do so, seek the direction of the Court.
- (3) A parenting coordinator shall avoid serving in multiple roles with the same family even with the consent of the parties.

(E) Ex-parte Communications

A parenting coordinator shall not have ex-parte communications with the Court regarding substantive matters or issues on the merits of the case.

(F) Legal Advice

A parenting coordinator shall not offer legal advice.

**25.10 Parenting Coordination Procedures in cases of Domestic Abuse or Domestic Violence**

- (A) All cases shall be screened for domestic abuse and domestic violence by the parenting coordinator before the commencement of the parenting coordination process and by the parenting coordinator during the parenting coordination process.
- (B) All parties and counsel shall immediately advise the parenting coordinator of any domestic violence convictions and/or allegations known to them or which become known to them during the parenting coordination process.
- (C) When domestic abuse or domestic violence is alleged, suspected, or present, before proceeding, parenting coordination will not proceed unless all of the following conditions are satisfied:



- (1) The parenting coordinator possesses the qualifications, education and training to serve as a parenting coordinator in cases of domestic abuse or domestic violence;
  - (2) The person who is or may be the victim of domestic abuse or domestic violence is fully informed about the parenting coordination process; the right to decline participation the parenting coordination process; and, at the discretion of the parenting coordinator, the right to have any other individuals attend and participate in parenting coordination sessions;
  - (3) The parties have the capacity to participate in the parenting coordination process without fear of coercion or control;
  - (4) The Court has taken reasonable precautions to create a safe parenting coordination environment for the parties and all other persons involved in the parenting coordination process;
  - (5) Procedures are in place for the parenting coordinator to terminate a parenting coordination session if there is a threat of domestic abuse, domestic violence, or coercion between the parties.
- (D) Disclosure of abuse, neglect and harm

A parenting coordinator shall inform the parties that the parenting coordinator shall report any suspected child abuse or neglect and any apparent serious risk of harm to a family member's self, another family member, or a third party to child protective services, law enforcement, or other appropriate authority. A parenting coordinator shall report child abuse or neglect pursuant to the procedures set forth in R.C. 2151.421.

#### **25.11 Attendance and Participation**

- (A) Parties shall attend parenting coordination sessions. Requests to reschedule parenting coordination sessions shall be approved by the parenting coordinator.
- (B) A parenting coordinator shall allow attendance and participation of the parties and, if the parties wish, their attorneys and any other individuals designated by the parties.

#### **25.12 Referrals to Support Services**

A parenting coordinator shall provide information regarding appropriate referrals to resources including legal counsel, counseling, parenting courses or education, and

other support services for all parties, including, but not limited to, victims and suspected victims of domestic abuse and domestic violence.

### **25.13 Parenting Coordination Agreements, Reports, and Decisions**

- (A) Parties shall sign and abide by agreements reached during a parenting coordination session, which shall be maintained in the parenting coordination file. The parenting coordinator shall provide a copy to each party and their attorneys, if any.
- (B) Upon request by the Court, the parenting coordinator shall prepare a written report including, but not limited to, all of the following:
  - (1) Date of parenting coordination session(s);
  - (2) Whether the parenting coordination session(s) occurred or was terminated;
  - (3) Requests to reschedule a parenting coordination session(s), including the name of the requestor and whether the request was approved;
  - (4) Whether an agreement was reached on some, all, or none of the issues;
  - (5) Who was in attendance at each session(s);
  - (6) The date and time of a future parenting coordination session(s);
  - (7) Whether any decisions were written and if so, the date(s).
- (C) The parenting coordinator shall first attempt to assist the parties in reaching an agreement that resolves the dispute. If the parties are unable to reach an agreement, the parenting coordinator shall issue a written decision that is effective immediately. The parenting coordinator shall provide copies to the parties and their attorneys, if any. The decision shall be immediately filed with the Court and include all of the following:
  - (1) Case caption, including the case number;
  - (2) Date of the decision;
  - (3) The decision of the parenting coordinator;
  - (4) Facts of the dispute and facts upon which the decision is based;

- (5) Reasons supporting the decision;
  - (6) The manner in which the decision as provided to the parties;
  - (7) Any other necessary information.
- (D) A party may file written objections to a parenting coordinator's decision with the Court and serve all other parties to the action within fourteen days of the filing date of the decision. If any party timely files objections, any other party may also file objections with the Court and serve all other parties to the action, not later than ten days after the first objections are filed. The Court may rule upon written objections or a hearing may be scheduled at the discretion of the Court. A judge or magistrate shall issue a ruling on the objections within thirty days from the date of the last objection filed.

#### **25.14 Parenting Coordinator Evaluations and Complaints**

- (A) A parenting coordinator shall provide participants with the Parenting Coordinator Evaluation form, provided by the Court, prior to the first parenting coordination session and at the end of the term of the appointment.
- (B) The Court shall complete a review of the parenting coordinators on the Court's roster in January of each year.
- (C) A party to a case appointed to parenting coordination may file a complaint regarding the parenting coordinator within thirty days from the act or acts giving rise to the complaint. The complaint shall be submitted to the Court Administrator, and include all of the following:
  - (1) The case caption and case number;
  - (2) The name of the parenting coordinator;
  - (3) The name and contact information for the person making the complaint;
  - (4) The nature of any alleged misconduct or violation;
  - (5) The date the alleged misconduct or violation occurred.
- (D) A copy of the complaint shall be provided to the parenting coordinator.
- (E) The parenting coordinator has fourteen days from the date of the receipt of the complaint to respond in writing to Court Administrator.

- (F) The Court Administrator shall conduct an investigation into the allegations and shall issue a response within thirty days from the date the compliant was received.

#### **25.15 Fees**

All fees shall be determined by the Court and included in the appointment order. A parenting coordinator shall maintain records necessary to document charges for services and expenses. A parenting coordinator shall issue invoices for services and expenses to the parties no less than once per month.

#### **25.16 Stay of Proceedings**

Unless otherwise provided by court order, referral of a case to parenting coordination stays a case until further notice. The Clerk of Court shall not accept for filing any documents while a case is in parenting coordination with the following exceptions:

- (A) An objection to a parenting coordinator's decision;
- (B) A motion to lift the stay;
- (C) A response to a motion to lift the stay;
- (D) An application to dismiss the case;
- (E) A notice related to counsel
- (F) A motion for changes in the designation of the primary residential parent or legal guardian;
- (G) A motion for changes in the primary placement of a child;

#### **25.17 Confidentiality and Privilege**

Except as provided by law, communications made as part of parenting coordination, including communications between the parties and their children and the parenting coordinator, communications between the parenting coordinator and other relevant parties and communications with the Court, shall not be confidential. Except as provided by law, parenting coordination shall not be privileged.

## **25.18 Public Access**

The files maintained by a parenting coordinator but not filed with the Clerk of Court or submitted to the Court shall not be available for public access pursuant to Rules 44 through 47 of the Rules of Superintendence for the Courts of Ohio

### **LOCAL RULE 26**

**[Reserved for future use.]**

### **LOCAL RULE 27**

**[Reserved for future use.]**

### **LOCAL RULE 28**

**[Reserved for future use.]**

### **LOCAL RULE 29**

**[Reserved for future use.]**

### **LOCAL RULE 30**

#### **COURT SECURITY**

The Ohio Supreme Court adopted Security Standards on October 17, 1994. Thereafter, the Local Court Security Advisory Committee was appointed to establish written directives for the purpose of ensuring security within all Court facilities while maintaining accessibility to the community. On September 11, 1997, the Court Security Manual was adopted.

## LOCAL RULE 31

### RECEIVERSHIPS

#### **31.01 Applicability**

Unless otherwise ordered by the court in a specific case, this Local Rule governs the practice and procedure in all receivership matters.

#### **31.02 Motions for Appointment of a Receiver**

- (A) The court has no closed-panel or “approved” list of receivers. Any party may suggest candidates, but must be prepared to document his/her experience and expertise relative to the matter at hand and certify that he/she is a disinterested person.
- (B) Parties seeking appointment must fully advise the Court of the entire fee arrangement proposed to compensate the receiver, including all expenses reimbursements and any commission contemplated for leasing or selling property. In addition, the Court must be advised of the approximate value of the business or property likely to be managed in the receivership (if granted), and of the scope of work likely to be required of the receiver.
- (C) Absent an emergency in which irreparable harm is likely to occur, the Court will not grant a receivership on an ex parte basis. The party (or parties) seeking a receivership should ordinarily consult all known secured creditors, the debtor, and other parties expected to have a significant interest in being heard in order to schedule the receivership hearing in a timely manner.
- (D) The court will set a bond commensurate with the anticipated size of the estate, having in mind the views of a secured creditors and the debtor. Accordingly, counsel must be prepared to present sufficient facts for the Court to make an informed judgment on bond.

#### **31.03 Hearings and Requests for Procedural Orders**

- (A) Motions for a receivership, fee applications, hearing requests, or other procedural matters relative to a receivership must be submitted in writing, with an approval entry tendered to chambers.
- (B) Unless it is clear that service has already been made by the Court using the e-filing system, the party who submitted or approved a proposed order entered by the court is responsible for serving it upon the receiver or

receiver's counsel and upon all parties who have appeared, or for who service of process remains underway. Proof of service must be filed by the party making service.

- (C) For good cause, the receiver or any party that has appeared may request an emergency hearing by contacting the Court.
- (D) An evidentiary hearing at which the receiver or other witnesses are called to testify may be required by the court at any time.

#### **31.04 Qualifications to Serve as a Receiver**

- (A) Every receiver appointed must be an individual who is a resident of the State of Ohio, unless good cause is shown for an out-of-state receiver and such an appointment is permitted by R.C. 2735.02. An individual appointed as receiver may, with express Court approval, work for an out-of-state business.
- (B) Every out-of-state business involved in a receivership must be represented by counsel having an office within this County or having familiarity with receivership practice in the Court.
- (C) Upon accepting appointment, each receiver must affirmatively acknowledge in writing in the record that he/she will:
  - (1) act in conformity with Ohio law and these local rules;
  - (2) deposit all funds coming into his/her control into a separate trust account for the estate, with full contemporaneous record-keeping for all funds;
  - (3) avoid any conflict of interest;
  - (4) not directly or indirectly pay or accept anything of value that has not been fully and timely disclosed and formally approved by the Court;
  - (5) not directly or indirectly purchase, acquire, or accept any interest in property managed, appraised, or sold through the receivership; and;
  - (6) otherwise act in the best interests of the estate.

### **31.05 Oath and Bond of Receiver**

Before a receiver enters upon his or her duties, he or she must give an oath, pursuant to R.C. 2735.03, and execute a bond in an amount directed by the Court.

### **31.06 General Duties of the Receiver**

Unless the court specifically authorizes a receiver to continue a business, the receiver shall:

- (A) take control of the assets of the defendant debtor that are subject to the receivership;
- (B) give notice to all known creditors of the receiver's appointment;
- (C) afford reasonable opportunity for creditors to present and prove their claims, and, if deemed appropriate by the receiver or the Court, publish in a newspaper of general circulation within the County a deadline or bar date for submitting claims;
- (D) cause the assets of the business to be preserved, inventoried, and, where appropriate, appraised;
- (E) determine the validity and priority of creditor's claims;
- (F) take such other appropriate steps as may be timely, reasonable and necessary to reduce the assets of the business to cash on terms that maximize recovery for the benefit of creditors, including selling property free-and-clear of all liens provided the liens attach to the proceeds of sale and;
- (G) make recommendations for appropriate distributions of cash or property between the various classes of creditors according to their priority, after such notice as the Court deems appropriate.

### **31.07 Receivership Plan and Progress Reports**

- (A) At the outset of the receivership, or as soon thereafter as information becomes reasonably available, the Court shall be provided with a written plan for the receivership. The plan shall, thereafter, be updated as significant developments warrant or as part of ongoing periodic reporting to the court.
- (B) The initial receivership plan shall identify:



- (1) the nature of the debtor's business, and a concise statement of the circumstances leading to the receivership;
  - (2) whether the present goal is to preserve and operate a business, collect rental on property, liquidate assets, or take other action;
  - (3) the significant assets of the receivership, including real estate, tangible or intangible property, inventory, cash on hand, accounts receivable, and claims against insurers or other third parties;
  - (4) anticipated transactional costs predictably to be incurred, including upcoming financing or mortgage payments, government fees or taxes, receiver fees, accounting, appraisal or auction costs, and legal fees inherent in the plan (as best as they can be estimated);
  - (5) the anticipated duration of the receivership;
  - (6) if an active business is to be operated, the minimum number of employees needed to do so, and the estimated aggregate payroll (including benefits) per month;
  - (7) if property is to be liquidated, the estimated date by which appraisal and sale by the receiver can occur, and whether public or private sale is contemplated;
  - (8) if litigation or administrative proceedings are underway or anticipated, the nature and expected cost of each such proceeding.
- (C) The first plan (and report of activity to date) must be submitted no later than two months after appointment of the receiver.
- (D) Copies of each receiver's plan and report shall be filed with the Clerk, with service upon all parties who have made an appearance or for whom service remains pending. A duplicate copy shall be submitted to chambers, together with a proposed entry approving the plan and report.
- (E) Ordinarily, no approval of fees or other proposes of action in a receivership will occur unless seven (7) days have elapsed following service of an updated plan or report, in order to allow interested parties to comment or object. However, for good cause the court may alter this notice period.
- (F) After consideration, the court shall approve or disapprove the plan and report by court entry.

- (G) After filing the first plan and report, the receiver shall file updated plans and reports no less often than semi-annually. Each shall include: a summary of action taken to date, measured against the previous plan for the receivership; shall set forth proposed future action; and shall update previous estimates of costs, expenses, and the timetable needed to complete the receivership.

**31.08 Failure to Act Timely**

Failure to timely prosecute a receivership, including delay in filing any plan or report required under this local rule, may result in:

- (A) Removal of the receiver and/or attorney for the receiver; and/or
- (B) Withholding of fees for the receiver and/or counsel.

**31.09 Applications to Employ Counsel or Professionals**

- (A) A receiver (or other party) requesting approval to retain an attorney or other professional (including appraisers, auctioneers, brokers, or real estate agents), whose compensation will be claimed against the estate or from proceeds of sale of estate property shall apply to the Court. All such professionals must be disinterested persons with no business relationship with the Receiver, unless otherwise expressly disclosed and approved in advance by the Court. Unless the Court addresses the application during the initial hearing on whether to grant a receivership, written notice of all such applications during the initial hearing on whether to grant a receivership, shall be given to the debtor, all parties that have appeared, and all those for whom service of process remains pending.
- (B) The retention agreement between a receiver and every professional shall be in writing. Every professional whose retention is approved by the Court is, and shall remain, subject to the jurisdiction of this Court relative to the approval of all professional fees and reimbursable expenses.
- (C) Applications for authority to retain professionals to assist a receiver shall summarize the experience, current professional licensure, and other qualifications for every person sought to be retained. The application must affirmatively verify that:
  - (1) all necessary licenses are in good standing and not under supervision;
  - (2) appropriate “conflict” checks have been made by the professional;

- (3) as to lawyers, professional liability insurance in an amount equal to the minimum coverage required by the Rule 1.4 of Ohio Rules of Professional Conduct is in force; and
  - (4) the contract retaining the professional will affirmatively state that the professional will avoid any conflict of interest in connection with work on the receivership; that gross proceeds of any sale or other transaction conducted by him/her will be immediately turned over to the receiver or placed in a separate trust account; and that he/she will not, under any circumstances, directly or indirectly purchase, acquire, or accept any interest in any property he/she manages, appraises, or sells through the receivership.
- (D) Applications to employ professionals shall also set forth:
- (1) the professionals usual and customary hourly rate or fee;
  - (2) his/her proposed fee, hourly rate, or other alternative method or formula for determining compensation in the receivership;
  - (3) whether any fees were paid to the professional during the one (1) year period preceding the filing of the application from, or involving, (a) the debtor in receivership, (b) a person or party closely related to the debtor, or (c) a person or party known to be adverse to the debtor and to have a material claim in the receivership; and
  - (4) the amount, date paid, and source of any retainer or other compensation already received by the professional for preparatory work relative to the receivership.
- (E) No fee, commission, expense reimbursement, or other direct or indirect compensation of any nature may be accepted by any court-appointed professional who is not fully and timely disclosed to the Court for prior approval.

### **31.10 Expenditure Authority of the Receiver**

- (A) A receiver appointed to take charge of property may expend funds without prior approval by the Court to pay ongoing insurance premiums, fire safety and other security services, and utility bills. The receiver may also make emergency repairs essential to the safety and proper maintenance of the property and to preserve its value.

- (B) A receiver taking charge of an operating business shall have authority to pay reasonable wages to employees and all reasonable and customary business related expenses, subject to periodic accounting to the Court.
- (C) All fees, compensation, or expense reimbursements to the receiver, counsel, or professionals require prior approval from the Court.
- (D) All expenses of the receivership of the Court, if, in the aggregate, they exceed \$2,500.00 per month, or such other threshold as set by order in the specific receivership, require prior approval from the Court.

### **31.11 Disposition of Property**

- (A) With court approval after such notice as the Court deems appropriate, a receiver may use, sell, or lease property other than in the ordinary course of business.
  - (1) Unless otherwise ordered, a receiver shall serve notice of the receiver's intent to sell or lease receivership property and the terms of such proposed sale or lease for all property. Notice shall be given to all parties in the action and all persons known to have an interest in the property to be sold or leased.
  - (2) If any party or person having an interest in the property to be sold or leased files an objection within fourteen (14) days of service of the notice, the Court may set the receiver's request for hearing or may rule based on the material of record.
  - (3) The receiver shall have the burden of proving the commercial reasonableness of a proposed disposition of property.
  - (4) If the court determines that a proposed disposition of property is commercially reasonable, the receiver will be authorized to proceed upon such terms and conditions as set by the court.
  - (5) The Court may order that disposition of receivership property be effected free and clear of all liens and all rights of redemption, regardless of whether the expected proceeds will be sufficient to satisfy all claims secured by the property. Upon any such disposition of receivership property free and clear of liens and rights of redemption, all mortgages, security interests, or other liens encumbering the property shall attach to the proceeds of disposition (net of the reasonable expenses incurred in sale of the property) in the same order, priority, and validity as the liens had with respect to that receivership property immediately before sale.

- (B) Unless otherwise provided by law, valuation and sale of real property by a receiver need not occur using ordinary foreclosure procedures.

### **31.12 Payment of Receiver and Professional Fees**

- (A) Fee applications shall be made in writing, with notice to all parties that have appeared. The receiver or counsel for the receiver shall attach to each fee application a brief, updated plan and progress report, together with a billing summary concisely reflecting:
  - (1) the dates on which work was performed;
  - (2) a description of work performed;
  - (3) the name of each individual performing the work; and
  - (4) the hourly rate(s) sought to be charged, or to other method used to calculate proposed fee(s) and expenses.
- (B) Fees allowed for services by a receiver, counsel, and professionals employed by a receiver shall be within the sound discretion of the trial judge, giving due consideration to the complexity of the receiver's or professional's responsibilities, results achieved for creditors, and other relevant facts.
- (C) An attorney acting as a receiver must clearly differentiate between fees sought for work performed as a receiver and for work separately performed as an attorney.

### **31.13 Final Report to the Court and Creditors**

When the final fee application is submitted, it shall be accompanied by a Receiver's Final Report that includes all of the following information:

- (A) the total amount of money collected during the receivership, the total funds collected since the last interim fee award to the receiver, if any, and the source(s) of funds;
- (B) total funds previously disbursed to creditors;
- (C) the amount of money or any property remaining on hand;
- (D) the status of all known secured and unsecured creditor's claims;

- (E) the approximate number and admitted balances due creditors but remaining unpaid;
- (F) the approximate number and total of creditor's claims that remain open or unresolved;
- (G) proposed final distributions to creditors and the date by which receiver proposes to make them and close out the case;
- (H) the total administrative expense incurred to date, including fees paid to the receiver, attorneys, and other professionals;
- (I) the amount of additional administrative expense sought to be paid in the final fee application; and
- (J) any known objections or other positions taken by those having an interest in the receivership with respect to the receiver's final plan to wind up the case.

#### **31.14 Trade Secret or Privileged Information**

If a receiver's report, motion, fee application, or other filing refers to trade secrets (such as a plan for operating an ongoing business, proposed sale prices, customer information, personnel matters, or other non-public information) or would necessarily reference attorney-client or work-product communications, then redacted documents may be filed in the public record and served upon all parties that have appeared. When that occurs, a complete un-redacted document shall be submitted to the Court for in camera review. Upon application by the receiver or any party, the Court will re-examine the document and determine whether previously redacted information should be disclosed in the public case file or for attorney-eyes only.

#### **31.15 Effective Date**

Local Rule 31 shall take effect on January 1, 2013, and governs further proceedings in receiverships then pending, except to the extent that its application in a particular case would not be feasible or would work injustice.