

**Delaware County  
Local Rules of Practice of the Court of Common Pleas  
General Division**

**Effective January 4, 2013**

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## GENERAL PROVISIONS

### **RULE 1 INTRODUCTORY PROVISIONS**

#### **1.01 Term of Court; Hours of Court Session**

(A) The Court shall be in continuous operation for the transaction of judicial business. Each calendar year, beginning in January, shall constitute a separate term of court designated by the calendar year in which the term lies. Each annual term of court shall be divided into three sessions, with each session continuing for a period of four months. The sessions shall be designated as Part I, Part II and Part III. Part I shall commence on the first day of January of each calendar year. Part II shall commence on the first day of May of each calendar year. Part III shall commence on the first day of September of each calendar year. This Rule is adopted pursuant to the provisions of Section 2301.05 of the Ohio Revised Code.

(B) The sessions of the Court generally shall be Monday through Friday from 8:30 a.m. to 4:30 p.m. The Court shall be in session at other times and hours as any judge shall prescribe.

#### **1.02 Scope and Applicability of Rules**

The rules shall apply to the General Division of the Court of Common Pleas of Delaware County, Ohio, except as otherwise provided. Additional Local Rules of the Court may be adopted by the Domestic Relations Court, Probate and Juvenile Division, and other divisions of the Court as may be created, governing practice and procedure in those divisions. The Court of Common Pleas of Delaware County consists of three divisions: the General Division, the Probate Division, and the Juvenile Division. The General Division encompasses the Domestic Relations Court.

#### **1.03 Interpretation**

These Local Rules shall be interpreted to achieve the prompt, efficient, and fair resolution of cases. In the event that any portion of a rule is found to be ambiguous, the rule shall be interpreted as follows:

(A) To be consistent with the Ohio and United States Constitutions, and the Ohio Rules of Civil Procedure;

(B) To be practical and efficient in their operation;

(C) To be taken in context with the other portions of these rules.

#### **1.04 Citation**

These rules shall be known as the "Local Rules of Practice of the Delaware County Common Pleas Court, General Division." These rules may be cited as "Loc.R. \_\_\_."

#### **1.05 Effective Date**

These rules shall be effective on January 4, 2013.

### **RULE 2 JUDGES AND MAGISTRATES**

#### **2.01 Administrative Judge**

The judges of the General Division shall, by a majority vote, select one of their number to act as administrative judge. Pursuant to Rule 3 of the Rules of Superintendence for the Courts of Ohio, the administrative judge shall be selected for an annual term and may be re-elected.

#### **2.02 Magistrates**

Magistrates shall determine all pretrial, trial, and post-trial matters in domestic relations cases not otherwise acted upon by a judge of the General Division, including without limitation, actions for divorce, legal separation, dissolution of marriage, allocation of parental rights and responsibilities, visitation enforcement and

modification, child and spousal enforcement and modification, domestic violence, URESA, and determination of parentage and any other matters as referred by a judge of the General Division. A magistrate, in both domestic and civil matters, shall have all powers set forth in Rule 53 of the Ohio Rules of Civil Procedure.

### **RULE 3 FILES**

**3.01** The Clerk of the Court of Common Pleas of Delaware County, Ohio, shall file and carefully preserve all documents delivered to the Clerk's office in every action or proceeding. The Clerk promptly shall file all documents in chronological order and make the appropriate entry in the docket.

**3.02** Upon request for copies of pleadings or other documents from a case file, the Clerk shall furnish copies upon receipt of the appropriate copying fee.

**3.03** No file, deposition, or transcript shall be removed from the Office of the Clerk of this Court by any person for any reason, except (1) the Clerk of this Court or any employee of the Clerk; (2) the common pleas judges or any members of their staffs, including the Magistrates and Law Clerks.

**3.04** No file shall be taken apart for purposes of copying or for any other reason by any person, except the Clerk of this Court or any employee of the Clerk.

**3.05** No file or any portion thereof shall be copied by any person, except the Clerk of this Court, any employee of the Clerk, or Court staff.

### **RULE 4 DEPOSIT OF SECURITY FOR COSTS**

**4.01** No new or reactivated civil action or proceeding shall be accepted by the Clerk for filing unless the appropriate deposit has been paid. Upon termination of the case, if costs remain unpaid, appropriate orders will be imposed to collect the costs. Except as otherwise provided by law, the deposit shall be in accordance with a schedule of costs, prominently displayed in the Clerk's office.

**4.02** Final judgment entries shall contain a provision for payment of costs as ordered by the Court. The Clerk of Courts shall apply the deposit for costs in the case, regardless of the party against whom the costs are assessed.

**4.03** If the party initiating the action or proceeding is unable to pay, as set forth in Loc.R. 4.01, the party shall file an affidavit, signed before a Deputy Clerk of Court, reflecting the inability to post the required cost deposit.

### **RULE 5 TRIAL PROCEDURE**

**5.01** Trial procedure shall be in accordance with applicable statutes or Rules of the Supreme Court of Ohio.

**5.02** Except with the permission of the trial judge, only one attorney for each adverse party will be permitted to speak on any interlocutory motion or upon any question arising in the trial of a case; and only one attorney for each adverse party will be permitted to examine the same witness in any trial or proceeding before the Court.

### **RULE 6 CERTIFICATE OF SERVICE**

Every pleading, motion, brief, and memorandum filed with the Court shall be served upon all opposing counsel and upon all parties not represented by counsel. Except as provided for by law, proof of service, in writing, shall be attached to the pleading, motion, brief, and memorandum in writing. No document delivered to the Court without a certificate of service shall be considered by any judge or magistrate.

**RULE 7  
PLEADINGS AND MOTIONS**

**7.01 Case Caption** Every pleading, motion and memorandum filed shall be legibly typed or printed on 8.5 inch by 11 inch paper, shall be securely bound, and shall have typed or printed the case name, the case number and the name of the trial judge. If the action is classified pursuant to Rule 22.02 of these Rules as an action for foreclosure or is otherwise an action requesting the sale of real property located in Delaware County, Ohio and the Delaware County Treasurer and/or the Delaware County Auditor is/are a party to the action, each pleading, motion, and memoranda shall list in the case caption beneath the trial judge's name the Delaware County permanent parcel number or each of the Delaware County permanent parcel numbers of the real property or real properties that are the subject of the action.

**7.02** When a new party Plaintiff or Defendant is added to a case after its commencement, the caption of subsequent pleadings shall contain the name and address of the new party, followed by the appropriate designation.

**7.03** Upon filing and where appropriate, complaints shall have attached proof of assignment from the original creditor or original party in interest to the plaintiff establishing standing and jurisdiction of the court. The court may dismiss the complaint without prejudice if the proof of assignment is not attached to the complaint upon filing.

**7.04** All motions, where appropriate, shall be accompanied by a memorandum in support of the motion, which shall set forth the specific grounds for the relief sought, along with citations to controlling authorities relied upon in requesting the relief. Where appropriate, all memoranda (in support of, contra, and in reply) filed regarding a pending motion shall include page and document references to evidentiary material for all factual assertions. In addition, counsel shall attach copies of unreported or federal cases upon which counsel relies in requesting the relief or in opposing the motion.

**7.05** Except as otherwise ordered by the trial judge, all motions (except dispositive motions) shall be accompanied by a proposed entry. Failure to submit a proposed entry may delay consideration of the motion or result in the court denying the motion for failure to comply with this rule.

**7.06** Except as otherwise ordered by the judge or magistrate, all motions are hereby set for a non-oral hearing to occur on the twenty-first day following the filing of the motion.

**7.07** All motions, memoranda contra and replies shall be titled in the following manner:

MOTION: Motion of (Plaintiff/Defendant) (party name) (to/for) (type of motion).

MEMORANDUM CONTRA: Memorandum Contra of (Plaintiff/Defendant) (party name) to (Plaintiff/Defendant) (party name's) Motion (to/for) (type of motion) Filed (date of motion).

REPLY: Reply of (Plaintiff/Defendant) (party name) to (Plaintiff/Defendant) (party name's) Memorandum Contra to Motion Filed (date of motion).

If an oral hearing on the motion is desired, the motion shall contain a request for oral hearing, with the anticipated length of the hearing, in the caption.

**7.08** Once the initial motion has been filed, any memorandum contra to the motion shall be filed and served upon opposing counsel no later than the fourteenth day following the filing of the motion, unless the Court orders otherwise. Failure to file and serve a memorandum contra may result in the Court granting the motion as filed and served. A reply memorandum may be filed and served upon opposing counsel within seven days after the date stated in the certificate of service in the memorandum contra. The dates and time periods set forth under this rule may be extended by the Court upon written application and for good cause shown. A request for an extension

must be filed prior to the date such pleading is due. A late pleading may be stricken by the Court if leave of Court is not sought and granted to file the pleading outside of the time periods set forth in this rule. Where appropriate, the moving party shall submit separately a proposed Judgment Entry to this effect.

**7.09** No motion or memoranda, whether in support of or contra, shall exceed twenty-five pages, exclusive of supporting documents. Any memoranda exceeding twenty-five pages will not be accepted for filing without prior approval of the Court. Reply memoranda shall not exceed twelve pages and shall be restricted to rebuttal. Requests for leave to file memoranda in excess of the page limits shall be made by motion no later than seven days prior to the time for filing the motion, except for good cause shown. Duplicates of pleadings or documents shall not be attached as supporting appendices but shall be incorporated by reference.

**7.10** All motions, briefs, and memoranda (in support of, contra, and reply) shall be filed in duplicate. If the party is filing in person, the party shall hand-deliver the duplicate to the trial judge's office. If the party sends the filing by mail, the party shall mail the duplicate copy to the trial judge's office.

**7.11** This rule does not apply to facsimile or electronic filings. Loc.R. 35 governs these filings.

## **RULE 8 FILING OF DISCOVERY MATERIALS**

**8.01** Pursuant to Rule 5(D) of the Ohio Rules of Civil Procedure, the Clerk shall not accept for filing: depositions upon oral examination, interrogatories, requests for documents, requests for admissions and answers, or responses thereto, unless (1) the Court otherwise orders, (2) they are to be used as evidence, or (3) they relate to a pending motion and are attached in support.

### **8.02 Depositions.**

(A) All filings of depositions shall conform to the Ohio Rules of Civil Procedure. The Clerk shall not accept for filing a sealed deposition envelope containing more than one deposition.

(B) Upon receipt of a sealed deposition, the Clerk shall file-stamp the deposition, place the deposition back into the envelope in which it was delivered, and reseal the envelope. The envelope containing the deposition shall thereafter remain sealed, until any party to the case, counsel for any party to the case, or any member of the public wishes to view the deposition. Before the interested person views the deposition, the Clerk shall unseal the deposition, initial and date the envelope, and record on the envelope the person's name who has requested to view the deposition. The interested person may then view the deposition in the presence of the Clerk. This rule is not intended to limit any person's access to filed depositions, but to preserve the integrity of the depositions and exhibits appended thereto.

(C) Loc.R. 8.02(B) applies unless a protective order is placed on the cover of the deposition or an order sealing the deposition is placed on the cover of the deposition.

## **RULE 9 RULE DAY EXTENSIONS**

**9.01** By agreement of opposing counsel, any party may be permitted two leaves to plead, provided that the total extension of time does not exceed twenty-eight days. The agreement of counsel shall be evidenced by a "Consent to Plead" that has been signed by all parties to the action.

**9.02** Except as otherwise provided by these Local Rules, where a party needs additional time, beyond that provided in Loc.R. 9.01, or where the parties cannot agree upon an extension of time, the party desiring the extension shall file a written motion, supported by an affidavit that states facts which indicate the practical impossibility of pleading within rule and which demonstrate good cause for further extension. The motion and affidavit shall be filed on or before the expiration of the time to move or plead. The motion and affidavit shall be served upon

opposing counsel, and the matter shall be heard at a time to be fixed by the trial judge. The motion and affidavit will be required even though consent of opposing counsel is obtained if the extension is for a period of time beyond that permitted by Loc.R. 9.01. The moving party shall submit separately a proposed judgment entry to this effect.

## **RULE 10**

### **RULE DAYS NOT FIXED BY LAW**

**10.01** In all cases where the time for the filing of pleadings or amended pleadings is not fixed by law or other rule, the pleadings or amended pleadings shall be filed on or before the seventh day after the date of the entry requiring or granting leave for the filing of pleadings or amended pleadings, unless otherwise specified in the entry and approved by the assigned trial judge. The opposing party shall move or plead to the pleadings or amended pleadings so filed on or before the fourteenth day after the pleadings or amended pleadings are filed.

**10.02** No pleading or motion shall be amended by interlineation or obliteration except upon express prior leave of the trial judge. Upon the filing of an amended pleading or motion, the original or any prior amendment shall not be withdrawn from the files.

## **RULE 11**

### **GENERAL PROVISIONS FOR ATTORNEYS AND PRO SE LITIGANTS**

**11.01** All pleadings and motions, served and filed on behalf of any party represented by counsel in a civil, criminal, or domestic action, shall be signed by one attorney in that attorney's individual name as required by Rule 11 of the Ohio Rules of Civil Procedure, as the trial attorney for that party. The attorney shall be the attorney who is to try the case, unless otherwise ordered by the Court, and shall be responsible for the action. Following that attorney's signature, office address, direct line access telephone number, facsimile number, email address, and Supreme Court registration number, there shall be set forth the designation "Attorney for Plaintiff" (or Defendant). Firm names and the names of co-counsel or associate counsel may appear on the pleadings and motions. If filing by fax or electronically, refer to Loc. R. 35.

**11.02** All pleadings and motions, served and filed by a party on behalf of himself or herself, shall be signed by that party and the signature block shall contain the following information, either typed or printed: the party's name, the designation that the party is pro se, the party's address, a telephone number where the party can be reached, and email address (if available).

**11.03** All copies of pleadings or other court filings required by these Rules or Rule 5 of the Ohio Rules of Civil Procedure to be served upon other counsel in a case shall be served upon the trial attorney, as designated in accordance with Loc.R. 11.01.

**11.04** All notices and communications from the Court with respect to a pending case will be sent to the attorney(s) as designated in Loc.R. 11.01.

**11.05** If a party to a case is unrepresented by counsel, all communication regarding a pending case will be sent to the party's address as stated in the pleadings.

**11.06** Compliance with Loc.R. 11.01 shall be sufficient to constitute an entry of appearance.

**11.07** If the trial attorney designated in accordance with Loc.R. 11.01 withdraws from the case, as provided in Loc.R. 13, and a new attorney is substituted in his place, a written notice of substitution of counsel shall be filed.

**11.08 Sanctions.** Pursuant to the Revised Code and the Criminal and Civil Rules, the trial judge shall have the power to impose sanctions on attorneys, parties, or both. Sanctions may be monetary, nonmonetary, or a combination of both. No sanction shall be imposed without the offending party and/or attorney being given an opportunity to be heard, unless the conduct giving rise to the sanction amounts to a direct contempt.

(A) "Monetary sanction" means a monetary cost imposed upon a party and/or an attorney by the trial judge for violation of the local rules and/or a case schedule and/or the Criminal or Civil Rules. "Monetary sanction" includes, but is not limited to, a specific dollar amount payable to another party or parties or to the Court, actual costs of discovery, extra attorney's fees incurred, court costs, or other liquidated sum.

(B) "Non-monetary sanction" means a legal ruling contrary to the interest of a party and/or an attorney imposed by the trial judge for violation of the local rule and/or a case schedule and/or the Criminal or Civil Rules. "Non-monetary sanction" includes, but is not limited to, dismissal with or without prejudice of the case or any claim or counterclaim, or any part of the case or claim, default judgment, exclusion of evidence, issues, or testimony, an order that certain issues or facts be taken as established for the balance of the case, an order striking pleadings or parts of pleadings, and a stay pending compliance with a court order.

**11.09** Failure of any attorney or pro se litigant to comply with these Local Rules or the Civil or Criminal Rules of Procedure regarding the proper filing of pleadings may result in such pleading being rejected by the Clerk of Courts or ordered stricken by the Court from the case record.

## **RULE 12 ADMISSION OF OUT-OF-STATE ATTORNEYS**

**12.01** An attorney not licensed to practice law in the State of Ohio, but who is duly licensed to practice law in any other state or in the District of Columbia, may, at the discretion of the trial judge, be permitted to represent a party or parties in any pending action or in any action to be filed in Delaware County, provided that the out-of-state attorney has done all of the following:

(A) Provided proof that the out-of-state attorney has registered with the Supreme Court Office of Attorney Services in accordance with Gov.Bar R. XII of the Rules for the Government of the Bar;

(B) Certified in writing that he or she has familiarized himself or herself with these local rules of the common pleas court, general division, and will familiarize himself or herself with the appropriate Ohio Rules of Criminal or Civil Procedure, the Ohio Rules of Evidence, and the Ohio Code of Professional Responsibility;

(C) Found an attorney licensed to practice law in Ohio to act as his or her sponsor. The sponsoring attorney shall provide written notice of his or her sponsorship to the Court and shall certify the out-of-state attorney's compliance with this rule and the Rules for the Government of the Bar;

(D) The sponsoring attorney submits with the motion and certification an entry authorizing the approval of the motion;

(E) The sponsoring attorney, or any other attorney licensed to practice law in the state of Ohio, shall be co-counsel with the attorney admitted pro hac vice.

**12.02** The continuance of any scheduled trial or hearing date shall not be permitted solely because of the unavailability of or inconvenience to the out-of-state attorney.

## **RULE 13 WITHDRAWAL OF COUNSEL**

**13.01** It is expected that counsel who has entered an appearance in the case will remain in the case until it is concluded.

**13.02** Counsel for any party may be permitted to withdraw from an action:

(A) upon written motion with the written consent of the client and the entry and appearance of substitute counsel;  
or



(B) upon written motion showing good cause, with the consent of the Court, after notice by certified mail to the client stating the time, date, and place where the motion will be heard.

**13.03** Except in extraordinary circumstances, no attorney shall be permitted to withdraw from a case later than twenty days prior to trial or prior to a dispositive hearing or motion.

## **RULE 14**

### **ASSIGNMENT, TRANSFER, AND CONSOLIDATION OF CASES**

#### **14.01 Assignment System**

(A) Upon filing of a complaint in a civil action, including a domestic relations case, or an indictment or bill of information in a criminal action, in order to ensure a fair, equal, and impartial selection, the Clerk shall, at the time the case is filed, randomly assign the case by computer draw to a specific judge. The Clerk shall place the name of the trial judge to whom the case is assigned on the file. The assigned judge shall retain the case until final or other disposition. All preliminary matters, including requests for continuances, shall be submitted for disposition to the judge to whom the case has been assigned or, if the assigned judge is unavailable, to the administrative judge.

(B) All entries, including dismissal entries, shall be presented to and signed only by the assigned trial judge. Nothing in this rule shall prevent the transfer of a case or cases from one judge to another with the concurrence of the administrative judge and the judges involved.

#### **14.02 Refiled Cases**

If a case, civil or criminal, is dismissed and subsequently refiled, the refiled complaint shall contain the following designation under the case number: "THIS IS A REFILED CASE." The trial judge to whom the case was previously assigned shall be reassigned to the refiled case, either by random assignment, or if needed, by a Judgment Entry.

#### **14.03 Transfer and Consolidation of Cases**

(A) When actions involving common questions of law or fact are pending before different judges, the Court or a party in the highest numbered case may move to transfer the highest numbered case to the Court having the lowest numbered case. If the transfer is approved by the trial judges in both cases, a party in either case may file a motion with the judge who will handle the cases to consolidate the actions, subject to the provisions of Rule 42(A) of the Ohio Rules of Civil Procedure. The motion shall be filed in each case that the movant seeks to consolidate.

(B) Consolidated cases shall be deemed assigned to the trial judge having the lowest numbered case.

(C) The case schedule of the lowest numbered case shall control the proceedings of consolidated cases unless otherwise ordered by the Court.

#### **14.04 Transfer to Municipal Court**

Each judge reserves the right to transfer, to the Municipal Court of Delaware County, appropriate civil cases where the amount in controversy does not exceed \$15,000.

#### **14.05 Criminal Cases**

If any Defendant, has a pending case, or has had a previous case in which he or she was sentenced, and the Defendant is indicted on a new charge, the Prosecuting Attorney, upon filing the Indictment or Bill of Information, shall so inform the Court. The Court shall assign the case by Judgment Entry to the trial judge having control over the pending or original matter. If co-defendants are indicted separately, all of the cases will be transferred to the judge who was assigned the case with the lowest case number.

## **RULE 15**

### **MOTION TO CONTINUE OR MODIFY TRIAL DATE**

**15.01** If a party seeks a continuance of a trial or hearing, the party shall file a written motion and submit a proposed entry. All motions to continue in criminal cases shall include the number of previous continuances and who sought the

continuances, whether opposing counsel consents, if time is waived or not, the try by date, and dates counsel and witnesses are available for trial. The proposed entry shall contain language for both granting and denying the motion, a box to check if the motion is granted or denied, and a place for the new trial date. If the motion is made after the trial confirmation date, the motion will not be granted except under extraordinary circumstances where there is no alternative means of preventing a substantial injustice. The trial judge, sua sponte, may change the trial assignment date on reasonable notice to all counsel and parties.

#### **15.02 Conflicts**

(A) Unless otherwise provided in these Rules, when a continuance is requested for the reason that counsel is scheduled to appear in another case assigned for trial on the same date in the same or another trial court of this state, the case which was first set for trial shall have priority and shall be tried on the date assigned. The court will not consider any motion for continuance due to conflict of a trial assignment date unless a copy of the conflicting assignment is attached to the motion and the motion is filed not less than thirty days prior to trial. When an attorney becomes aware of any assignment that might impose a conflict, the attorney shall advise the Court and opposing counsel as soon as practicable.

(B) Criminal (either Common Pleas or Municipal) cases assigned for trial have priority over civil cases assigned for trial. Appellate proceedings take precedence over trial court proceedings.

**15.03** Any motion to continue or modify a trial date shall be accompanied by a proposed entry that includes a list of available dates agreed upon by all parties. Failure to comply with this rule may result in denial of the motion.

**15.04** If a party seeking affirmative relief, either in person or by counsel, fails to appear for trial, the trial judge may enter an order dismissing the claim for relief for want of prosecution. If a Defendant, either in person or by counsel, fails to appear for trial, and the party seeking affirmative relief does appear, the Court may order the party to proceed with the case and decide and determine all matters ex parte.

**15.05** If a party or counsel appears for trial but shows good cause as to why the party or counsel is not ready for trial, the Court shall make the order or orders as it deems proper. If a party or counsel appears for trial but indicates the party or counsel is not ready for trial without showing good cause, the Court may: 1) enter an order dismissing the claim for want of prosecution if the unprepared party is the party seeking affirmative relief; or 2) order the party seeking relief to proceed with the case, determining all matters.

### **RULE 16**

#### **NOTICE OF SETTLEMENT AND DISMISSAL**

16.01 Settlement. As soon as the parties have reached a settlement agreement prior to the trial date, Plaintiff's counsel shall immediately notify the trial judge by telephone and file written notice of the settlement with the court. Failure to do so may result in sanctions, including jury costs if notice of settlement is not given at least twenty-four hours prior to the trial date. If settlement is reached by mediation, the mediator shall provide written notice to the Court.

16.02 Dismissal.

(A) Notice must be provided to the Court of a partial dismissal. The notice must indicate which parties have settled, which parties remain, and which claims are still pending.

(B) If a settled case is not dismissed within thirty days of notification to the Court, the Court may administratively dismiss the case.

### **RULE 17**

#### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Upon request of a party for findings of fact and conclusions of law, pursuant to Rule 52 of the Ohio Rules of Civil Procedure, the Court may require the parties to submit proposed findings of fact and conclusions of law for the Court's consideration.

**RULE 18  
ENTRIES**

**18.01** Unless the trial judge otherwise directs and except as otherwise provided in these rules, counsel for the party in whose favor a decision, order, decree, or judgment is rendered, within ten days shall submit to the trial judge a proposed entry which has been reviewed by all counsel. If counsel are unable to agree upon the entry, the entry shall be submitted to the trial judge for review.

**18.02** If counsel fails to present any entry within the time prescribed after the decision, order, decree, or judgment is rendered, the trial judge may prepare and file the entry. The trial judge may impose sanctions for failure to comply with this rule.

**RULE 19  
(RESERVED)**

**RULE 20  
JURIES AND JURORS**

**20.01 Opportunity for Service**

(A) 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 or person in Delaware County, Ohio.

(B) Jury service shall be an obligation of all registered voters of Delaware County, Ohio, who are not otherwise entitled to apply for a statutory excuse. (R.C. 2313.12 & 2313.14)

(C) The Ohio Trial Court Jury Use and Management Standards as set forth in Appendix B to the Rules of Superintendence are incorporated by reference.

**20.02 Jury Source List**

(A) Pursuant to Sections 2313.06 of the Ohio Revised Code, the Delaware County Board of Elections shall compile and file with the Commissioners of Jurors no later than March 1, July 1, and November 1, a certified current list containing the names, addresses, and dates of birth of all electors of Delaware County shown on the registration lists as of the date the list is filed or as close to such date as possible.

(B) The computerized jury source list shall be inclusive of all registered voters within Delaware County, Ohio.

(C) The administrative judge of the General Division shall annually review the computerized jury source list as generated by the Delaware County Board of Elections for purposes of inquiry as to its representativeness and inclusiveness of the entire body of registered voters within Delaware County, Ohio.

(D) The Jury Commissioners shall exclude from the annual jury source list the names of jurors permanently excused under R.C. 2313.14 and jurors discharged under R.C. 2313.21. A duplicate of the annual jury source list or supplemental jury source list shall be certified by the commissioners and filed in the Clerk of Courts office.

**20.03 Random Selection Procedures**

(A) As soon as practicable after receipt of an updated computerized elector list from the Delaware County Board of Elections and after entry of the list into the Court's Automated Data Processing Equipment and creation of an annual or supplemental jury source list, appropriate directions shall be entered into the Court's Automated Data Processing Equipment for purposes of randomly creating an annual jury list or supplemental annual jury list as contemplated by Section 2313.09 of the Ohio Revised Code. The method of selection shall be documented.

(B) The annual or supplemental juror lists shall be in conformity with the provisions of R.C. 2313.09, and a duplicate shall be certified and filed in the Clerk of Courts office.

**20.04 Eligibility for Jury Service**

Eligibility for jury service shall be in accordance with Standard 4 of the Ohio Trial Court Jury Use and Management Standards in Appendix B to the Rules of Superintendence and R.C. 2313.17.

#### **20.05 Term of and Availability for Jury Service**

(A) Not less than fourteen days prior to the random selection of prospective jurors for each part of the Annual Term of Court, the administrative judge, by Judgment Entry, shall designate the total number of prospective jurors to be randomly selected for the General Division of the Court of Common Pleas of Delaware County, Ohio, for the Probate-Juvenile Division of the Court of Common Pleas of Delaware County, Ohio, and, for the Delaware Municipal Court.

(B) Not less than fourteen days prior to the random selection of prospective jurors for each part of the Annual Term of Court for service in the General Division of the Court of Common Pleas of Delaware County, Ohio, the administrative judge, by Judgment Entry, shall separate prospective jurors into panels of equal number and assign dates on which the jurors shall first report for jury service.

(C) At least 6 days prior to the random selection of prospective jurors for each part of the Annual Term of Court, the Commissioners of Jurors shall publish in two of the newspapers of general circulation in Delaware County, Ohio, a Notice of Drawing of Jurors.

(D) At least 6 days prior to the random selection of prospective jurors for each part of the Annual Term of Court, Written Notice of the Drawing of Jurors shall be served on the Clerk of the Court of Common Pleas of Delaware County, Ohio, and, the administrative judge of the General Division of the Court of Common Pleas of Delaware County, Ohio unless a signed waiver is executed and filed in the Clerk of Courts office.

(E) The first 100 persons, or such other number as the Court may so designate in a Judgment Entry, whose names are randomly selected from the annual jury list for Part I, Part II, and Part III of each Annual Term of Court shall serve as Grand Jurors in the General Division of the Court of Common Pleas of Delaware County, Ohio.

(F) The next 1,400 persons, or such other number as the Court may so designate in a Judgment Entry, whose names are randomly selected from the annual jury list for Part I, Part II, and Part III of each Annual Term of Court shall serve as Petit Jurors in the General Division of the Court of Common Pleas of Delaware County, Ohio.

(G) The next 100 persons, or such other number as the Court may so designate in a Judgment Entry, whose names are randomly selected from the annual jury list for Part I, Part II, and Part III of each Annual Term of Court shall serve as Petit Jurors in the Probate-Juvenile Division of the Court of Common Pleas of Delaware County, Ohio.

(H) The next 480 persons, or such other number as the Court may so designate in a Judgment Entry, who are randomly selected from the annual jury list for Part I, Part II, and Part III of each Annual Term of Court shall serve as Petit Jurors in the Delaware Municipal Court.

#### **20.06 Notification and Summoning Procedures**

(A) Immediately following the random selection of prospective jurors for each part of the Annual Term of Court, the Jury Office shall mail a Summons to Serve as a Juror with a return service including Juror Questionnaires, Request for Excuse Form, Juror Information Sheets, Report Dates, Maps, Parking Pass, and a stamped self-addressed return envelope to each prospective juror selected for service in the General Division of the Court of Common Pleas of Delaware County, Ohio.

(B) The notice summoning a person to jury service shall be set forth in a single document that is phrased in a manner that is readily understood by an individual unfamiliar with the legal and jury systems. The notice shall be delivered by ordinary mail and shall clearly explain how and when the recipient must respond. The notice shall also explain the consequences of failure to respond.

(C) Jurors who fail to report for service may be scheduled for a contempt hearing before a judge to inform the judge as to why they did not appear. Sanctions are imposed as warranted.

(D) At the discretion of the trial judge's office, jurors may be provided with a "reminder letter" one

week prior to their scheduled jury service. Jurors also shall be provided with a pre-recorded jury service message and a toll-free number, as well as a computerized web page, for purposes of informing them as to whether their jury service is needed on a specific date. The jury service message shall be activated on Friday before a Monday or Tuesday trial and shall be functional throughout the weekend, and shall be activated on any other weekday immediately preceding the day of trial. The time for activating the recorded message shall be at the direction of the trial judge.

#### **20.07 Statutory Excuse**

(A) Except as provided by Section 2313.14 & 2313.15 of the Ohio Revised Code, the Court of Common Pleas or the Commissioners of Jurors shall not excuse a person who is liable to serve as a juror and who is drawn and notified, unless it is shown to the satisfaction of the Judge or Commissioners of Jurors by either the juror or another person acquainted with the facts that one or more of the following applies:

- (1) The interests of the public will be materially injured by the juror's attendance.
- (2) The juror's spouse or a near relative of the juror or the juror's spouse has recently died or is dangerously ill.
- (3) The juror is a cloistered member of a religious organization.
- (4) The prospective juror has a mental or physical condition that causes the prospective juror to be incapable of performing jury service. The court or commissioners may require the prospective juror to provide the court with documentation from a physician licensed to practice medicine verifying that a mental or physical condition renders the prospective juror unfit for jury service for the remainder of the jury year.
- (5) Jury service would otherwise cause undue or extreme physical or financial hardship to the prospective juror or a person under the care or supervision of the prospective juror. A judge of the court for which the prospective juror was called to jury service shall make undue or extreme physical or financial hardship determinations. The judge may delegate the authority to make these determinations to an appropriate court employee appointed by the court.
- (6) The juror is over seventy-five years of age and the juror requests to be excused.
- (7) The prospective juror is an active member of a recognized Amish sect and requests to be excused because of the prospective juror's sincere belief that as a result of that membership the prospective juror cannot pass judgment in a judicial manner.

(B)(1) A prospective juror who requests to be excused from jury service under this section shall take all actions necessary to obtain a ruling on that request by not later than the date on which the prospective juror is scheduled to appear for jury duty.

(2) A prospective juror who requests to be excused as provided in division (A)(6) of this section shall inform the appropriate court employee appointed by the court of the prospective juror's request to be so excused by not later than the date on which the prospective juror is scheduled to appear for jury duty. The prospective juror shall inform that court employee of the request to be so excused by appearing in person before the employee or contacting the employee by telephone, in writing, or by electronic mail.

(C)(1) For purposes of this section, undue or extreme physical or financial hardship is limited to circumstances in which any of the following apply:

(a) The prospective juror would be required to abandon a person under the prospective juror's personal care or supervision due to the impossibility of obtaining an appropriate substitute caregiver during the period of participation in the jury pool or on the jury.

(b) The prospective juror would incur costs that would have a substantial adverse impact on the payment of the prospective juror's necessary daily living expenses or on those for whom the prospective juror provides the principal means of support.

(c) The prospective juror would suffer physical hardship that would result in illness or disease.

(2) Undue or extreme physical or financial hardship does not exist solely based on the fact that a prospective juror will be required to be absent from the prospective juror's place of employment.

(D) A prospective juror who asks a judge to grant an excuse based on undue or extreme physical or financial hardship shall provide the judge with documentation that the judge finds to clearly support the request to be excused. If a prospective juror fails to provide satisfactory documentation, the court may deny the request to be excused.

(E) An excuse, whether permanent or not, approved pursuant to this section shall not extend beyond that jury year. Every approved excuse shall be recorded and filed with the Commissioners of Jurors. A person is excused from jury service permanently only when the deciding judge determines that the underlying grounds for being excused are of a permanent nature.

(F) No person shall be exempted or excused from jury service or be granted a postponement of jury service by reason of any financial contribution to any public or private organization.

(G) The commissioners shall keep a record of all proceedings before them or in their office, of all persons who are granted an excuse or postponement, and of the time of and reasons for each excuse. A juror may request a postponement of the initial appearance for jury duty at least 2 business days before the jury trial date if the juror has not been previously granted a postponement and the jury office and juror agree on a specified date to appear under R.C. 2313.15.

#### **20.08 Juror Questionnaires**

(A) The juror questionnaire shall be phrased and organized so as to facilitate quick and accurate screening and shall request only that information essential for: (1) determining whether a person meets the criteria for eligibility; (2) providing basic background information ordinarily sought during voir dire examination; and (3) efficiently managing the jury system.

(B) A numerical list of prospective jurors and copies of prospective juror's questionnaires shall be provided to counsel, upon request, one week prior to trial.

(C) Questionnaires shall be returned to the Court immediately following trial; no copying of questionnaires is permitted.

#### **20.09 Voir Dire**

(A) At the outset, the trial judge shall conduct a preliminary voir dire examination of the entire prospective jury panel called for jury service. Counsel for the parties shall then be permitted to conduct an appropriate voir dire examination of the entire prospective jury panel or of a more limited panel. Details regarding prior service of the panel will be provided to counsel in writing by the jury office.

(B) 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. The trial judge shall ensure that the privacy of the prospective jurors is reasonably protected and that counsel's questions are consistent with the purpose of the voir dire process.

(C) In both civil and criminal cases, the voir dire process shall be held on the record.

(D) In both civil and criminal cases, the rules governing the voir dire examination shall be as follows, unless the trial judge otherwise orders:

(1) The case may not be argued in any way while questioning the jurors.

(2) Counsel may not engage in efforts to indoctrinate jurors.

(3) Jurors may not be questioned concerning anticipated instructions or theories of law.

(4) Jurors may not be asked what kind of verdict they might return under any circumstance.

(5) Questions are to be asked collectively of the entire panel whenever possible.

#### **20.10 Removal from the Jury Panel for Cause**

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

(B) In civil cases, prospective jurors may be challenged for cause for those reasons specifically set forth in Section 2313.17 of the Ohio Revised Code.

(C) In criminal cases, prospective jurors may be challenged for cause for those reasons specifically set forth in Rule 24(C) of the Ohio Rules of Criminal Procedure and R.C. 2945.25.

#### **20.11 Peremptory Challenges**

Procedures for exercising peremptory challenges shall be in accordance with Rule 47(C) of the Ohio Rules of Civil Procedure and Rule 24(D) & (E) of the Ohio Rules of Criminal Procedure.

#### **20.12 Administration of the Jury System**

(A) The responsibility for administration of the jury system shall be vested exclusively in the judges of the General Division for the Court of Common Pleas of Delaware County, Ohio. If the judges are not able to agree, then the administrative judge shall be responsible.

(B) All procedures concerning jury selection and service should be governed by these rules and other applicable statutes and the Ohio Rules of Criminal Procedure and Civil Procedure.

#### **20.13 Monitoring the Jury System**

The administrative judge shall collect and analyze information regarding the performance of the jury system annually in order to evaluate the factors set forth in Standard 12 of the Ohio Trial Court Jury Use and Management Standards under the Rules of Superintendence.

#### **20.14 Juror Use**

The Court shall determine the minimally sufficient number of jurors needed to accommodate trial activity, taking into consideration the multiple assignment of criminal and civil cases on any given jury day. This information and appropriate management techniques shall be used to adjust both the number of individuals summoned for jury duty and the number assigned to jury panels.

#### **20.15 Jury Facilities**

The Board of County Commissioners of Delaware County shall provide an adequate and suitable environment for jurors in accordance with Standard 14 of the Ohio Trial Court Jury Use and Management Standards under the Rules of Superintendence.

#### **20.16 Juror Compensation**

(A) Persons called for jury service shall receive a reasonable fee for their jury service, as determined by Resolution of the Delaware County Board of Commissioners.

(B) Grand Juror fees shall be paid for their service on a monthly basis.

(C) Prospective jurors will receive \$25.00 for each day they report to the Delaware County Courthouse for Jury Service. However, those actually seated on a trial will receive \$40.00 for each day of service. Jury fees will be paid within sixty days of actual Jury service.

#### **20.17 Juror Orientation and Instruction**

Each trial judge shall provide orientation and instruction to persons called for jury service that is in conformity with Standard 16 of the Ohio Trial Court Jury Use and Management Standards in Appendix B of the Rules of Superintendence.

#### **20.18 Jury Deliberations**

Each trial judge shall provide for deliberations in accordance with Standard 18 of the Ohio Trial Court Jury Use and Management Standards in Appendix B of the Rules of Superintendence.

### **RULE 21**

#### **CASE FLOW MANAGEMENT**

**21.01** These case flow management rules shall apply to all civil cases filed in the General Division of the Common Pleas Court, unless (1) the case by its very nature requires a more rapid adjudication such as in equity matters, habeas corpus, etc.; (2) the case, because of court-imposed stays, interlocutory appeals, removal to federal court, and remand, etc., requires a different schedule; or (3) the trial judge, by written order, places the case on a different schedule for resolution based on good cause shown. Wherever possible, cases will be resolved on the shortest time track under these rules. The suggested deadlines set by the Ohio Rules of Superintendence for the Courts of Common Pleas shall be construed as maximums and shall not preclude the more rapid resolution of cases under these rules.

**21.02** It shall be the goal of the case flow rules and the overall management of the docket by the Common Pleas Court that ninety percent of all civil cases should be settled, tried, or otherwise concluded within twelve months of filing; ninety-eight percent within eighteen months of filing; and one-hundred percent within twenty-four months of filing, except for individual cases where the Court determines exceptional circumstances exist.

### **RULE 22**

#### **CLASSIFICATION OF CASES, DEADLINES, TIMING**

**22.01** The time limits in these case flow management rules shall be calculated from the date of filing of the initial document invoking the jurisdiction of the Common Pleas Court.

**22.02** In conformity with the Supreme Court Rules of Superintendence for Courts of Common Pleas, categories of civil and criminal cases filed in the General Division of the Court of Common Pleas of Delaware County, Ohio shall be as follows:

- A ---- PROFESSIONAL TORT
- B ---- PRODUCT LIABILITY
- C ---- OTHER TORTS
- D ---- WORKER'S COMPENSATION
- E ---- FORECLOSURES
- F ---- ADMINISTRATIVE APPEAL
- G ---- COMPLEX LITIGATION
- H ---- OTHER CIVIL
- I ----- CRIMINAL

**22.03** The initial determination of the category of the case being filed shall be made by the party filing the case at the time of filing and shall be indicated on the face of the complaint in the appropriate designated space in the case number, and shall remain as a part of the case number unless otherwise changed by the assigned trial judge. The category appearing in the case number shall continue in all subsequent filings. The classification form maintained by the Clerk's office shall be fully completed by counsel or the party at the time of filing any new civil case and shall be file-stamped and contained in the Official Court File. (See Form F22.02 appended.) Copies of the classification form shall be made available, without cost, at the Office of the Clerk of this Court.

**22.04** Complex Litigation - G - shall not be designated at the time of filing, and this classification shall only be made by the trial judge at the appropriate time and as suggested by Rule 42 of the Rules of Superintendence.



**22.05** Other changes in categories may only be made by the trial judge, sua sponte, or otherwise upon appropriate motion and judgment entry allowing the same. The party requesting and receiving a change of category shall notify all parties in the case by providing them with a copy of the signed judgment entry allowing the change of category and by also providing a copy of the same to the trial judge.

## **RULE 23**

### **GENERAL TIME LIMITS**

#### **23.01 Case Tracks**

At the discretion of the trial judge, all civil cases, except Administrative Appeals (F), mandamus, habeas corpus, equity matters, or any other case which, by its nature, requires a more rapid adjudication as determined by the assigned trial judge, shall be placed on the twelve month primary time track or the twenty-four month time track. Each time track consists of a planned sequence of events leading from filing to trial, assuming the case is not terminated earlier.

#### **23.02 Primary Track**

The twelve month time track is the primary, standard track for the resolution of nearly all of the cases in the General Division of the Court of Common Pleas. It shall be presumed that the typical Personal Injury (C), Workers' Compensation Appeal (D), Other Civil (H), and Foreclosure (E) cases will be suitable for pleading, discovery, motions practice, and disposition within this time frame. A longer time track will be the exception to this procedure and used only for out of the ordinary cases within these classifications.

#### **23.03 Longer Tracks**

The twenty-four month time track is for the Professional Tort (A) and Products Liability (B) cases. No case shall be designated as Complex Litigation (G) until C.P. Sup. R. 8.01(B) has been complied with. Cases filed which may later be designated as Complex shall be assigned to a track and given a case schedule based on their subject-matter classification. These cases shall have an initial status conference as specified in the case schedule, or upon request of counsel. The trial judge shall order a specific amended case schedule appropriate to that particular case, and may use the twelve month and twenty-four month tracks as models for a proportionately longer track.

## **RULE 24**

### **CASE SCHEDULE**

#### **24.01 Case Schedule**

Upon completion of service, the trial judge may either conduct a case scheduling conference or issue a scheduling entry.

#### **24.02 Scheduling Conference**

(A) If the Trial Judge orders the scheduling conference to be conducted in court, all parties named in the lawsuit and/or person with settlement authority shall be present at the scheduling conference unless their presence is excused, in advance, by the Trial Judge or Magistrate.

(B) It shall be the duty of all counsel to attend the scheduling conference fully prepared and authorized to enter into a binding scheduling conference order and to begin negotiation toward settlement of the case. Counsel shall have their calendars available to set deadlines. Failure to be prepared may result in dismissal of the case for want of prosecution, default judgment, or other sanctions as the trial judge deems appropriate.

#### **24.03 Service on Additional Parties Upon Joinder**

A party who joins an additional party or parties shall be responsible for serving the additional party or parties with the Case Schedule.

#### **24.04 Time Limits**

(A) At the discretion of the trial judge, all civil cases, except Professional Tort and Product Liability, shall be placed on the primary track of twelve months with event and time intervals included in the original case schedule as follows (measured in weeks from the date of filing):

## Twelve Month Track

Latest Date of Occurrence Weeks	
Case filed	0
Initial Status Conference	10
Initial Joint Disclosure of All Witnesses	20
Supplemental Joint Disclosure of All Witnesses	28
Discovery Cutoff	40
Dispositive Motions	42
Decisions on Motions	48
Final Pre-trial Conference or Pre-trial Order (or both)	50
Trial Assignment	52

(B) At the discretion of the trial judge, all Professional Tort (A) and Product Liability (B) civil cases shall be placed on the twenty-four month track with event and time intervals included in the original case schedule as follows (measured in weeks from date of filing):

## Twenty-four Month Track

Latest Date of Occurrence Weeks	
Case filed	0
Initial Status Conference	12
Initial Joint Disclosure of All Witnesses	44
Supplemental Joint Disclosure of All Witnesses	56
Trial Confirmation Date	70
Dispositive Motions	82
Discovery Cutoff	90
Decisions on All Motions	96
Final Pre-trial Conference or Pre-trial Order (or both)	100
Trial Assignment	104

(C) Enforcement and Monitoring. The trial judge, upon motion of a party or sua sponte, may impose sanctions for failure to comply with the local rules and/or a case schedule and/or the Civil Rules. If the trial judge finds that a party or attorney has failed to comply with the local rules and/or a case schedule and/or the Civil Rules without reasonable excuse or legal justification, the trial judge may impose sanctions proportional to the extent or frequency of the violation(s). The trial judge and Bailiff may monitor cases on an ongoing basis to determine compliance with the case schedule and these local rules.

### **24.05 Amended Case Schedule**

The trial judge, either on motion of a party or sua sponte, may modify any date in the case schedule for good cause and on terms as are just. If the case schedule is modified on motion of a party, that party shall prepare and present to the trial judge for signature an "Amended Case Schedule", which shall be promptly filed and served on all other parties.

## **RULE 25**

### **PRETRIAL PROCEDURE**

**25.01** A final pretrial conference shall be held at the date and time specified in the case schedule, unless no date appears or the trial judge orders otherwise. Any party may move, in writing, for a final pretrial. If the trial judge determines that a case warrants a final pretrial, a date and time shall be set. All parties named in the lawsuit shall be present at the pretrial unless their presence is excused, in advance, by the trial judge. In that event, the parties shall be available by telephone.

**25.02** It shall be the duty of counsel to come to the pretrial fully prepared and authorized to negotiate toward settlement of the case. If the real party in interest is an insurance company, common carrier, corporation, or other legal entity, then the representative appearing must have full authority to negotiate the claim or claims to the

full extent of plaintiff's demand. Failure to be prepared may result in dismissal of the case for want of prosecution, a default judgment, or other sanctions as the trial judge deems appropriate.

### **25.03 Pretrial Statements**

The pretrial brief or statement shall be filed in accordance with the court's Scheduling Entry or upon order of the court. This Rule does not apply in criminal cases to the extent that it would require disclosure of matters not mandated by Criminal Rule 16. The pretrial statement shall include the following:

- (A) A concise statement of the claims and defenses of the parties;
- (B) Those facts established by admissions in the pleadings, admissions by discovery, and stipulations of counsel;
- (C) The contested issues of fact;
- (D) The contested issues of law, together with counsel's citations of authority for his/her position;
- (E) The names and addresses of witnesses, together with a brief statement of the subject matter of each witness's testimony and a brief summary of each witness's expected testimony;
- (F) The names, addresses, and qualification of the expert witnesses expected to testify at trial, together with a brief statement of the subject matter of each expert witness's testimony;
- (G) A list of exhibits which counsel intends to offer into evidence;
- (H) Motions in limine not previously filed;
- (I) A list of all special damages being requested;
- (J) Counsel's expectation of the trial time needed to present his/her side of the case;
- (K) The status of settlement negotiations, including specific demands and/or offers;
- (L) A complete set of balanced jury instructions (other than boilerplate) with authority, interrogatories and verdict forms. The instructions shall be presented in a format suitable for submission to the jury.

### **25.04 Jury Deposit**

If a party is seeking a jury trial in a civil case, the party shall submit a \$500 jury deposit to the clerk of courts at least 60 days prior to the scheduled trial date. If the case is resolved after the jury has been assembled, the deposit shall be retained by the Court. Failure to make the jury deposit will be deemed as a waiver of the jury.

### **25.05 Enforcement**

The trial judge shall have the power to impose sanctions for violations of this rule, including the failure of an attorney or party to appear on time without a valid excuse.

## **RULE 26**

### **DISCLOSURE OF POSSIBLE LAY AND EXPERT WITNESSES**

#### **26.01 Initial Joint Disclosure of All Witnesses**

Each party shall, not later than the date for disclosure designated in the case schedule, disclose all persons with relevant factual or expert knowledge whom the party reserves the option to call as witnesses at trial.

#### **26.02 Supplemental Joint Disclosure of All Witnesses**

Each party shall, no later than the date for disclosure in the case schedule, disclose all persons, whose factual or expert knowledge did not appear relevant until the witnesses were initially disclosed, whom the party reserves the option to call as witnesses at trial.

#### **26.03 Scope of Disclosure**

Disclosure of witnesses under this rule shall include the following information:

(A) All Witnesses. Name, address, and business phone number (or home phone number, if no business number is available).

(B) Lay Witnesses. A brief description of witness's relevant knowledge.

(C) Experts. A brief description of the expert's qualifications and summary of the expert's opinions and the basis or theory of that opinion.

**26.04 Exclusion of Testimony**

Any witnesses not disclosed in compliance with this rule may not be called to testify at trial, unless the trial judge orders otherwise for good cause and subject to conditions as justice requires.

**26.05 Cases Without a Case Schedule**

In any case filed prior to the effective date of these Local Rules which does not have a case schedule, parties shall disclose their witnesses as defined in this rule on dates as specified by the trial judge. In the event the trial judge does not specify a date, the parties shall jointly disclose all their witnesses on or before a final pretrial, or fourteen days before trial, whichever is later.

**RULE 27  
(RESERVED)**

**RULE 28  
DISCOVERY**

**28.01 Informal Discovery**

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.

**28.02 Discovery Motions**

Motions for protective orders or to compel discovery shall be accompanied by a statement reciting efforts made to resolve the matter and shall contain a request for oral hearing in the caption, if an oral hearing is desired.

**28.03 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 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 tape or otherwise, may continue after the discovery cutoff in a manner that does not delay any other event on the case schedule.

**28.04 Discovery Documents**

Discovery documents shall not be filed with the court. Only a notice of response to discovery requests shall be filed with the courts.

**RULE 29  
(RESERVED)**

**RULE 30  
DISPOSITIVE MOTIONS**

All motions which seek to determine the merits of any claim or defense as to any or all parties shall be considered a dispositive motion. All dispositive motions shall be filed no later than the date specified in the case schedule or court order. Counsel shall file any dispositive motions at the earliest practical date in the course of litigation.

**RULE 31  
DEFAULT JUDGMENTS**

**31.01** When a party against whom a judgment for affirmative relief is sought who has been served and has failed to plead or otherwise defend as provided by the Civil Rules, the party entitled to a judgment by default shall promptly apply in writing to the trial judge within thirty days after the date upon which the defaulting party should have pled or otherwise defended. Service of the motion upon the defendant(s) is required even if the defendant(s) has not made an appearance in the case. The written motion shall include where appropriate, if not previously submitted to the court, the following documents: proof of assignment from the original creditor or original party in interest to the plaintiff and the last billing statement from the original creditor sent to the defendant(s), or an affidavit explaining why any of the required documents are not available.

**31.02** In order for default judgment to be entered against a party, the moving party shall certify by affidavit that the party against whom judgment is sought is not incompetent, a minor, or currently serving on active duty in the military. The affidavit shall be filed no later than the day of filing the motion for default judgment.

**31.03** The court may deny the motion for default judgment and dismiss the complaint without prejudice for failure to comply with the requirements of this section.

**31.04** Pursuant to Civ.R. 55, if the party against whom judgment by default is sought has appeared in the action, written notice of the hearing on the motion shall be served upon all parties.

**RULE 32  
SUMMARY JUDGMENT MOTIONS**

**32.01** Except as otherwise ordered by the trial judge, all motions for summary judgment filed pursuant to Civil Rule 56 shall be heard at a non-oral hearing to occur on the twenty-first day following the filing of the motion for summary judgment. Motions shall be deemed submitted to the judge on that date. Any party seeking to change response time or the hearing date must do so by written motion and entry.

**32.02** All affidavits, depositions, and other evidentiary material permitted by Civ. R. 56(C) in support of or in opposition to the motion for summary judgment shall be filed no later than the day prior to the non-oral hearing.

**RULE 33  
ADMINISTRATIVE APPEALS**

(A) At the discretion of the trial judge, all Administrative Appeals (F) shall be placed on the appeals track, which shall consist of the following sequence of events within these time limits:

Latest Time of Occurrence Weeks	
Filing Notice of Appeal (and demand for Record, if required)	0
Filing of Record	4
Dispositive Motions	6
Filing of Record, if extension granted	8
Filing of Appellant's Brief	10
Filing of Appellee's Brief	12
Filing of Appellant's Reply Brief and non-oral hearing date	13
Oral Argument, if allowed	14

(B) The trial judge may extend this schedule upon written motion of a party or sua sponte for good cause shown, such as the complexity of the case or the length of the record. Unless the trial judge otherwise orders, the appeal shall be deemed submitted at a non-oral hearing on the date set for the filing of the Reply Brief. The trial judge may set a shorter schedule for expedited appeals.

**RULE 34  
TRIAL PROCEDURE**

**34.01** In all civil actions that are tried to the Court or to a jury, the following matters shall be accomplished prior to trial, at a time that shall be specifically designated in the Court's trial or pretrial order:

(A) All exhibits shall be exchanged by counsel.

(B) All stipulations, except those necessarily arising in the course of the trial, shall be in writing, shall be approved by the parties and counsel, and shall be filed with the Clerk.

(C) If there are objections interposed during stenographic or audio-visual depositions to be offered at trial, the party offering the deposition shall request the Court for a ruling upon each objection to allow its timely editing reflecting the rulings prior to trial. Counsel's objections, if any, shall be indexed, and the grounds for the objections shall be set forth clearly.

(D) Counsel shall file with the Clerk and serve upon opposing counsel a trial brief. The trial brief shall contain at least the following material:

(1) A succinct statement of the kind of action;

(2) A clear statement of the issues involved;

(3) A summary of the factual situation in regard to each claim or defense;

(4) An itemized list of the claimed special damages;

(5) A statement of the principles of law involved in the case supported by the citation of appropriate legal authority;

(E) Counsel shall file with the Clerk and serve upon opposing counsel proposed jury instructions, which shall contain at least the following material:

(1) If applicable, the specific section(s) of Ohio Jury Instructions upon which the party requests the Court to instruct, the complete text of the section(s) together with appropriate legal authority to support the instruction;

(2) The complete text of any special jury instruction, together with appropriate legal authority to support the instruction.

(F) Counsel shall file with the Clerk and serve upon opposing counsel proposed verdict forms, and, if applicable, proposed jury interrogatories.

**34.02** All counsel and all parties shall be present in the courtroom at least one-half hour prior to the time the trial is scheduled to commence.

**34.03 Pre-recorded Depositions**

(A) Any pre-recorded deposition filed with the Clerk of Courts shall be accompanied by a written transcript.

(B) If required by the judge, a deposit shall be made with the Clerk of Courts when filing a pre-recorded deposition.

(C) In the event a party wishes to present at trial a pre-recorded deposition as trial testimony, their counsel shall arrange with the Court to have the Court's audio-visual playback system available for trial.

**34.04** All exhibits shall be marked by the Court Reporter; Plaintiff's exhibits shall be marked numerically and Defendant's exhibits shall be marked alphabetically. The Court Reporter shall be the official custodian of all exhibits offered during the trial of any case, and shall retain the exhibits until otherwise ordered by the Court.

**34.05** After judgment and appeal, or after appeal time has expired without appeal, counsel shall file a motion for the release of exhibits and provide a proposed entry to the judge. The Court Reporter shall provide a receipt for the exhibits upon their release.

## **MISCELLANEOUS RULES OF PRACTICE AND PROCEDURE**

### **RULE 35 ELECTRONIC TRANSMISSIONS**

**35.01** Pursuant to Local Rule 7, a courtesy copy of all motions filed, including those motions filed electronically, shall be submitted to the assigned Judge in person, by mail, by facsimile, or by e-mail. When appropriate, a proposed entry should accompany the courtesy copy of the motion.

#### **35.02 Facsimile Filing**

(A) There shall be maintained in the Office of the Clerk of this Court a private telephone line and facsimile machine for purposes of accepting documents for filing in civil, criminal and domestic relations cases, and as limited by this rule.

(B) Pleadings or other documents subsequent to the original Complaint or other initiating pleading, not more than ten pages in length and not requiring a security deposit as addressed herein in Loc.R. 4, may be tendered to the Clerk for filing by means of facsimile transmission.

(C) A facsimile transmission will be accepted for filing as the original, and the signature contained thereon will be accepted as the original, in conformity with Rule 5(E) of the Ohio Rules of Civil Procedure. Following the acceptance of and filing of a document by means of facsimile transmission, the original "hard copy" shall not be tendered to the Clerk for purposes of filing, and the Clerk shall not accept for filing the original "hard copy."

(D) The Clerk shall immediately notify the attorney if the transmitted document cannot be filed for any reason.

(E) The date/time of filing is not determined by the facsimile machine date/time stamp, but is determined by the Clerk's time stamp clock. Although facsimiles may be transmitted 24 hours per day, seven days per week, regardless of whether or not the Clerk's office is actually open, any facsimile received by the Clerk after 4:30 p.m. on a regular business day or anytime on a weekend or holiday, shall be filed on the next regular business day. For purposes of any filing deadline imposed by these rules or Court order, a pleading shall be deemed filed on the date and time that the Clerk time stamps such document.

(F) All facsimile transmissions tendered to the Court for filing pursuant to this rule shall conform to the requirements of Rules 10 and 11 of the Ohio Rules of Civil Procedure and shall include a cover page which includes the following information:

Name of forwarding attorney;  
Address of forwarding attorney;  
Ohio Supreme Court registration number of attorney;  
Telephone number of attorney;  
Facsimile number of attorney;  
Date and time of facsimile transmission;  
Number of pages of facsimile transmission.

(G) The Clerk of this Court is expressly authorized to charge a fee for this service, both for the transmission itself together with a per page charge, in an amount or amounts as determined by the Clerk. Payment of fees shall be arranged in advance of the sending of the telephonic facsimile transmission. The risk of facsimile filing remains with the sender and the Clerk of this Court shall assume no new responsibilities or liabilities.

### **35.03 Electronic Filing**

#### **(A) Definitions**

- (1) Original Document: the electronic document received by the Court from the filer
- (2) PDF: portable document format
- (3) Source Document: document created and maintained by the filer which is then electronically transmitted to the Court
- (4) Submission: a document or other data sent to a system or sent as a court filing
- (5) Effective Date and Time of Filing: means the date and time the filing has been received, as indicated on the sender's computer screen after the document has been uploaded to the Clerk of Courts, unless rejected and not corrected
- (6) Electronic Filing (i.e. e-filing): The process of transmitting a digitized source document electronically via the Internet to the Clerk's office for the purpose of filing the document and refers, as indicated by the context, to the means of transmission or to a document so transmitted
- (7) Electronic Mail (i.e. e-mail): Messages sent by a user and received by another through an electronic service system utilizing the public Internet

#### **(B) Electronic Filing Policy**

- (1) In conformity with Ohio Revised Code, Ohio Civil Rule 5(E) and Criminal Rule 12(B) and, as approved (provisionally) by the Ohio Supreme Court on Technology and the Courts, pleadings and other papers may be filed with the Clerk of Courts electronically via the Internet, subject to the provisions in this rule.
- (2) Application of Rules and Orders. Unless otherwise modified by approved stipulation or Court order, all Federal Rules of Civil and Criminal Procedure, Ohio Rules of Civil and Criminal Procedure and Local Rules and orders of the Court shall continue to apply to all documents electronically filed.
- (3) Accepted Filings
  - (a) All electronically filed pleadings must be signed by an attorney admitted to practice in the State of Ohio or, by a party not represented by an attorney.
  - (b) Any signature on an electronically transmitted document shall be considered that of the attorney or party it purports to be for all practical purposes.
  - (c) If it is established that the documents were transmitted without authority, upon motion, the court shall order the document stricken.
  - (d) No attorney shall authorize any person to electronically file on that attorney's behalf, other than his or her employee or a service provider retained to assist in electronic filing.
  - (e) The electronic filing of a document by an attorney, or by another under the authorization of the attorney, or by a party not represented by an attorney shall constitute a signature of that attorney or party under Ohio Civil Rule 11.
  - (f) No person shall utilize, or allow another person to utilize, the password of another in connection with electronic filing.
- (4) Filings Not Accepted



(a) Any Entry that requires the signature of a Judge of the Court or, any filing for which a party is obligated to settle final case costs will not be accepted for electronic filing.

(b) Deposition transcripts.

(i) All deposition transcripts must be filed in the hard format with the Clerk of Courts, pursuant to the local rules.

(5) Account Assignment

(a) Upon receipt of a properly executed and signed User Agreement Form and Credit Card Authorization Form, as well as the deposit of funds required, the Clerk of Courts shall set up an electronic filer user account and assign a user-id and initial password to be used for electronically filing documents.

(i) Electronic filers using third party electronic filing providers will not be assigned a user-id or password.

(b) For each electronic document filed, the filer shall complete an online Document Description Form containing the following information:

The title of the case;

The case number, if known;

The assigned judge, if known;

The title of the document being filed;

The date of transmission;

The Name, Ohio Supreme Court number, if applicable, address, telephone number, fax number and email address, if any, of the attorney or party filing the document.

(6) Hours of Operation

(a) The Clerk of Courts shall receive electronic documents 24 hours per day, seven days per week, regardless of whether or not the Clerk's office is actually open. However, for purposes of any filing deadline imposed by these rules or by Court order, a pleading shall be deemed filed on the date that the Clerk time stamps the document.

(b) Time at the Court (Eastern Standard) governs, rather than the time zone from which the filing is made.

(c) All electronically filed documents shall receive a confirmation date and time acknowledgement.

(7) Document Format. Documents must be submitted in PDF format.

(8) Fees

(a) The Clerk of Courts shall assess normal filing fees and, case deposits will be collected via user credit card at the time the filing is processed. Pursuant to Section 301.28(E) and (F) of the Ohio Revised Code, a surcharge for credit card use may be assessed in an amount to be determined by the Clerk of Courts.

(b) No personal checks will be accepted.

(c) The Clerk's Office will document the receipt of fees on the docket with a text-only entry.

(d) The Court will not maintain electronic billing or debit accounts for lawyers or law firms.

(9) Filing Acceptance or Rejection Cycle

(a) A confirmation number will be assigned to each filing when it is received in its entirety by the Clerk of Courts' receiving device.

(b) The confirmation number and the date and time of the filing will be displayed on the screen of the filer's computer upon successful transmission of the filing.

(c) Filers using third-party electronic filing providers will not have the confirmation number and date and time of filing displayed on the screen, but must wait for the confirmation electronic mail message from the Clerk of Courts to obtain the confirmation number and date and time of filing.

(d) Upon successful processing of the filing by the Clerk of Courts, an electronic mail message containing the confirmation number and case number assigned, if any, will be sent to the filer.

(e) Filers will be notified via electronic mail if the filing is rejected for any reason.

(f) A rejected filing may be resubmitted via electronic mail to the Clerk of Courts in order to retain the original date and time of filing.

(g) Rejected filings which are resubmitted via electronic mail must be received by the Clerk of Courts within twenty-four (24) hours of the time that the rejection electronic mail message was sent by the Clerk of Courts in order to retain the original date and time of filing and confirmation number.

(h) A corrective filing may, however, be sent at a later time if the filer elects to do so, but after the twenty-four (24) hour period expires, this filing will be considered a new filing and the prior confirmation number will have expired.

(i) If a document is rejected due to technical errors and the filer wishes to have the corrective filing relate back to the date and time of the rejected filing, the filer must file a motion with the Court seeking relief.

(j) The Clerk of Courts shall retain the rejected documents for a period of one year from the date of transmission.

(k) Any attorney, party or other person who elects to file any document electronically shall be responsible for any delay, disruption, interruption of electronic signals and readability of the document and, accepts the full risk that the document may not be properly filed with the Clerk of Courts as a result.

(10) Electronically Filed Stamp (The clerk's system currently is not capable of this function. However, when this becomes available, the following shall apply:)

(a) Upon successful completion of acceptance processing by the Clerk of Courts, a document filed electronically will be electronically filed stamped.

(b) This stamp will include the date and time that the receiving device of the Clerk of Courts received the entire transmission as well as the confirmation number of the filing.

(c) A document electronically filed that is not successfully processed by the Clerk of Courts will not receive an electronically filed stamp but the filer will receive a rejection email.

(d) After a document is electronically file stamped, the document cannot be altered once it has been accepted into the system.

(11) Disposition and Maintenance of Source Documents

(a) A document electronically filed shall be accepted as the original filing, consistent with Ohio Civil Rule 5(E) and Criminal Rule 12(B) if the person filing electronically complies with all of the requirements set forth in this Local Rule.

(b) The person filing electronically need not file a hard copy with the Clerk of Courts but must maintain in his or her records, and have available for production upon request by the Court, the Clerk of Courts or other counsel, the source document of any document electronically filed.

(c) The filer must maintain this source document until the final disposition of the case and through any Notice of Appeal or, if appealed, appeal period.

(12) Public Method of Access to Electronically Filed Public Documents

(a) Members of the public can obtain copies of or, review electronically filed documents in the same manner as documents filed on paper via the Clerk of Courts website at <http://www.co.delaware.oh.us/clerk/index.asp>.

(b) Public access to electronically filed public documents will be available via the internet web site of the Clerk of Courts as soon as the Clerk has processed the document.

(c) If the internet website is unavailable or is not provided by the Clerk of Courts or, if the Clerk of Courts is prohibited by the Court or by any law from making the document available via the Internet web site, the document will be available for review at the office of the Clerk of Courts, either by computer terminal or, in paper form in the case jacket or on microfilm.

(d) If, however, a document or case record is sealed or expunged, it is unavailable for public disclosure.

(13) Service of Documents

(a) Documents filed electronically with the Clerk of Courts shall be served in accordance with Ohio Civil Rule 5 and Ohio Criminal Rule 49.

(b) Once a party has entered an appearance in the case, the party shall furnish his or her email address, and service thereafter shall be electronically, where possible.

(14) Attachments and Exhibits

(a) Attachments and exhibits are to be filed electronically.

(b) Large attachments or exhibits over 30 megabytes cannot be filed electronically and must be submitted in hard copy and served on all other parties.

(15) Signatures

(a) If an original document requires a signature of a non-attorney, the filing party or the Clerk's Office shall scan the original document and, then electronically file it on the System.

(b) A pleading or other document requiring an attorney's signature shall be signed in the following manner if filed electronically: "s/(attorney name)." The correct format for an attorney signature is as follows:

s/Ohio Attorney  
Ohio Supreme Court Number  
Attorney for (Plaintiff/Defendant)  
Address  
Telephone Number  
Fascimile Number  
Email Address

(c) Any attorney or party challenging the authenticity of an electronically filed document or signature on that document must file an objection to that document within ten (10) days of receiving the notice of electronic filing.

(d) For documents containing multiple signatures, such as stipulations or documents requiring two or more signatures, the following procedure applies:

(i) The filing party or attorney shall initially confirm that the content of the document is acceptable to all persons required to sign the document.

(ii) The filer will indicate the agreement of other counsel or parties at the appropriate place in the document, usually on the signature line.

(e) If the filing party or attorney elects to file the document electronically the signatories shall be indicated as, e.g., “s/Jane Doe,” “s/John Smith,” etc.

(i) A non-filing signatory or party who disputes the authenticity of an electronically filed document containing multiple signatures or the authenticity of the signatures themselves must file an objection to the document within ten days of receiving the notice of electronic filing.

#### (16) Orders

(a) A moving party, at the time of filing a motion, shall submit to the judge, via hard format or the judge’s email address, a proposed order granting the motion and setting forth the requested relief.

(b) Proposed orders shall not be combined with or submitted with the motion.

(i) The motion must be docketed prior to submitting the proposed order to the judge, and the proposed order must refer to the resulting entry number for the motion.

(c) The Clerk shall only accept Orders, in hard format, signed by the presiding judge. Electronic orders shall not be accepted by the Clerk.

#### (17) Privacy

(a) Filing parties shall omit or, where inclusion is necessary, partially redact the following personal data identifiers from all pleadings, documents and exhibits, whether filed electronically or on paper, unless the assigned judge orders otherwise:

Social security numbers;  
Minors’ names;  
Medical records, treatment and diagnosis;  
Employment history;  
Individual financial information; and  
Proprietary or trade secret information.

(b) With leave of the Court, a party may file under seal a document containing the un-redacted personal data identifiers listed above.

(i) The party seeking to file an un-redacted document shall electronically file a motion to file the document under seal.

(ii) In granting the motion or application to seal, the assigned judge may require the party to file a redacted copy for the public record.

(c) The responsibility for redacting personal data identifiers rests solely with counsel and the parties.

(i) The Clerk’s Office will not review the documents for compliance with this rule or redact documents, whether filed electronically or on paper.

#### (18) Technical Failures

(a) The Clerk of Courts' Office may deem the Delaware County Court of Common Pleas System site to be subject to a technical failure on a given day if the site is unable to accept filings continuously or intermittently over the course of any period of time greater than one hour after 10:00 a.m. that day.

(i) Known system outages will be posted on the website, if possible.

(b) A filer who cannot file a document electronically due to problems on the filer's end, must file a hard copy of the document with the Clerk of Courts.

(c) A filing party whose filing is made untimely as a result a technical failure of the Court's system or site, or as a result of the problems on the filer's end, may seek appropriate relief from the Court.

#### (19) Correction of Docket Entries / Documents Filed In Error

(a) Once a document is electronically submitted and becomes part of the case docket, corrections to the docket are made only by the Clerk of Courts' Office.

(b) The System does not permit a filing party to make changes to the document(s) or docket entry once the transaction has been accepted.

(c) If a document has been filed in error, the filing party should not attempt to refile the document.

(d) As soon as possible, after the error has been discovered, the filing party should contact the Clerk of Courts' Office with the case number and document number for which the correction is being requested.

(e) If appropriate, the Court will make an entry indicating that the document was filed in error and the filing party will be advised if the document needs to be refiled.

(f) If a document is filed in error (e.g. a document is filed in the wrong case or the electronic file is corrupt or unreadable), upon motion, the judge may order the document stricken from the record.

(g) The Clerk of Courts shall immediately notify the filer of the error and inform the filer if the document needs to be re-filed.

(h) The Clerk will not delete the relevant docket text, but will annotate the docket to show the deletion, the reason for the deletion and that the filer has been so notified.

#### (20) Exhibits Not In Support Of A Motion

(a) A party may submit hard copies of exhibits, not deposition transcripts, which are not available in electronic form or which are too lengthy to scan.

(i) Lengthy documents submitted to the Clerk's Office in paper form should not be bound.

(ii) The Clerk's Office will note on the docket the receipt of the document(s) or exhibit(s) with a text-only entry.

(b) A filing party should scan a paper exhibit and submit the exhibit as a .pdf file.

(i) The Clerk recommends that filing parties submit .pdf files containing scanned documents of more than two megabytes in separate two mega-byte segments.

(c) All documents should be scanned or transmitted in black and white, not color.

(i) Documents appearing in color in their original form, such as color photographs, may be scanned in color and then uploaded to the System.

(21) Exhibits In Support Of Motion. In general, exhibits in support of motions filed electronically, should also be filed electronically.

## **RULE 36 BROADCASTING, TELEVISIONING, AND RECORDING COURT PROCEEDINGS**

Broadcasting, televising, recording, and photographing by news media during courtroom sessions, including recesses between sessions, shall be permitted under the following conditions:

### **36.01 Administration**

(A) Requests for permission to broadcast, televise, record, or photograph in the courtroom shall be made in writing to the assigned trial judge as far in advance as reasonably practical, but in no event later than one hour prior to the courtroom session to be broadcast, televised, recorded, or photographed unless otherwise permitted by the trial judge. Request forms may be obtained from the trial judge's office. For purposes of this rule only, the phrase "trial judge" includes magistrates.

(B) The trial judge may grant the request in writing consistent with Canon 3(A)(c), Code of Judicial Conduct, Superintendence Rule 11, and this rule. Written permission shall be made a part of the record of the proceeding.

### **36.02 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.

## **RULE 37 RECEIVERSHIPS**

### **37.01 Applicability**

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

### **37.02 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 their experience and expertise relative to the matter at hand, and certify that they are disinterested persons.

(B) Parties seeking appointment must fully advise the court of the *entire* fee arrangement proposed to compensate the receiver, including all expense 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. A hearing on the motion for appointment of a receiver will be set at the court's discretion.

(D) The court will set a bond commensurate with the anticipated size of the estate, having in mind the views of secured creditors and the debtor. Accordingly, counsel must be prepared to present sufficient facts for the court to make an informed judgment on bond.

### **37.03 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) 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 whom 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.

#### **37.04 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 this court.

(C) Upon accepting appointment, each receiver must affirmatively acknowledge in writing in the record that they will:

(1) act in conformity with Ohio law and these local rules;

(2) deposit all funds coming into their hands 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.

#### **37.05 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 creditors' 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.

#### **37.06 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 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 proposed action in a receivership will occur unless fourteen (14) 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.

### **37.07 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.

### **37.08 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 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 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 suspension;

(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 them will be immediately turned over to the receiver or placed in a separate trust account; and that they will not, under any circumstances, directly or indirectly purchase, acquire, or accept any interest in any property they manage, appraise or sell through the receivership.

(D) Applications to employ professionals shall also set forth:

(1) the professional’s usual and customary hourly rate or fee;

(2) the 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 that is not fully and timely disclosed to the court for prior approval.

### **37.09 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. Such requests shall be by motion, with notice given to all appropriate parties. A proposed order approving such request shall be submitted to the Court.

(D) All expenses of the receivership, other than those specifically enumerated above, also require prior approval of the court if, in the aggregate, they exceed \$2,500 per month, or such other threshold as set by order in the specific receivership. Such request shall be by motion, with notice given to all appropriate parties. A proposed order approving such request shall be submitted to the

Court.

### **37.10 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 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. However, if a receiver is appointed in a foreclosure proceeding, the mortgaged property must be sold in accordance with R.C. 2323.07 et al., unless otherwise approved by the Court in accordance with the law.

### **37.11 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, consistent with Local Rule 37.06, 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 other method used to calculate proposed fee(s) and expenses.

(B) Ordinarily, no approval of fees or other proposed action in a receivership will occur unless fourteen (14) 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. A proposed order approving such fees shall be submitted to the Court.

(C) 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.

(D) 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.

### **37.12 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:

- (1) (a) the total amount of money collected during the receivership, (b) the total funds collected since the last interim fee award to the receiver (if any), and (c) the source(s) of funds;
- (2) total funds previously disbursed to creditors;
- (3) the amount of money or any property remaining on hand;
- (4) the status of all known secured and unsecured creditors' claims;
- (5) the approximate number and admitted balances due creditors but remaining unpaid;
- (6) the approximate number and total of creditors' claims that remain open or unresolved;
- (7) proposed final distributions to creditors and the date by which receiver proposes to make them and close out the case;
- (8) the total administrative expense incurred to date, including fees paid to the receiver, attorneys and other professionals;
- (9) the amount of additional administrative expense sought to be paid in the final fee application; and
- (10) 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.

### **37.13 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.

### **37.14 Effective Date**

Local Rule 37 shall take effect on April 4, 2012, 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.

## **RULE 38 JUDICIAL SALES**

### **38.01 Title Insurance**

(A) In every action demanding the judicial sale of residential real estate consisting of one to four single-family units, the party or parties seeking such judicial sale shall file, within fourteen days after the filing of the pleadings requesting such relief, a preliminary judicial report, pursuant to Section 2329.191(B) of the Ohio Revised Code, including: (i) a legal description of each parcel of real estate to be sold at the judicial sale; (ii) the street address of the real estate or, if there is no street address, the name of the street or road upon which the real estate fronts together with the names of the streets or roads immediately to the north and south or east and west of the real estate; (iii) the county treasurer's permanent parcel number or other tax identification number of the real estate; (iv) the name of the owners of record of the real estate to be sold; (v) a reference to the volume and page or instrument number of the recording by which the owners acquired title to the real estate; (vi) a description of the record title to the real estate; however, easements, restrictions, setback lines, declarations, conditions, covenants, reservations, and rights-of-way that were filed for record prior to the lien being foreclosed are not required to be included; and (vii) the name and address of each lienholder and the name and address of each lienholder's attorney, if any, as shown on the recorded lien of the lienholder. The preliminary judicial report shall be effective within thirty days prior to the filing of the complaint or other pleading requesting judicial sale.

(B) Prior to submitting any order or judgment entry to the court that would order the sale of the residential real estate described in section (A), the party or parties submitting the order or judgment entry shall file with the clerk of the court of common pleas a final judicial report that updates the state of the record title to that real estate from the effective date of the preliminary judicial report through the date of lis pendens. Where the evidence of title indicates that necessary party or parties have not been made defendants, the attorney for the party submitting the Judgment Decree shall proceed without delay to cause such new parties to be added and serve a copy of the Complaint in accordance with the Ohio Rules of Civil Procedure.

(C) The costs of the title examination necessary for the preparation of both the preliminary judicial report and the final judicial report together with the premiums for those reports computed as required by the department of insurance, based on the fair market value of the real estate, or in the case of a foreclosure, the principal balance of the mortgage or other lien being foreclosed on or any other additional amount as may be ordered by the court shall be taxed as costs in the case. In the event the requesting party has been required to pay the preliminary judicial report premium in advance, the advancement will be includable as a reimbursement cost upon the filing of a copy of the premium statement and evidence of payment.

(D) In every action demanding the judicial sale of residential real estate consisting of more than four single-family units or of commercial real estate, the party seeking that judicial sale shall file with the clerk of the court of common pleas within fourteen days after filing the pleadings requesting relief either a preliminary judicial report or a commitment for an owner's fee policy of title insurance on the form approved by the department of insurance that is prepared and issued by a duly licensed title insurance agent on behalf of a licensed title insurance company. The commitment shall have an effective date within fourteen days prior to the filing of the complaint or other pleading requesting a judicial sale and shall contain all of the information listed in section (A) for a preliminary judicial report. The commitment shall cover each parcel of real estate to be sold, shall include the amount of the successful bid at the judicial sale, shall show the purchaser at the judicial sale as the proposed insured, and shall not expire until thirty days after the recordation of the deed by the officer who makes the sale to that purchaser. After the officer's return of the order of sale and prior to the confirmation of the sale, the party requesting the order of sale shall cause an invoice for the cost of the title insurance policy, commitment cost related expenses, and cancellation fees, if any, to be filed with the clerk of the court of common pleas. The amount of the invoice shall be taxed as costs in the case. The purchaser at the judicial sale may, by paying the premium for the title insurance policy, obtain the issuance of title insurance in accordance with the commitment.

(E) The party or parties requesting the order of sale shall prepare a distribution entry showing court costs assessed, which includes the invoice for the cost of the title insurance policy and cancellation fees, if any, verified by the Clerk's and Recorder's offices on a "Court Certificate of Release", (see Form F38.05-39.01 appended), and all other costs and distribution of sale.

### **38.02 Statement of Acceptability**

In actions for the marshaling and foreclosure of liens, any other judicial sale of real estate, or any action involving title to real estate, except in cases where the premises involved are registered under the Torrens Law, the attorney for the plaintiff shall secure from the Delaware County Engineer, and file simultaneously with the complaint, a statement reflecting the acceptability, or lack thereof, of the description of the subject real estate, for transfer purposes. In the event that a new survey of the subject real estate is necessary in order to secure a legal description acceptable for transfer purposes, the cost thereof shall be taxed as costs in the proceeding. In the event that the description of the subject real estate is not acceptable for transfer at the time of the filing of the complaint, and as so reflected upon the Delaware County Engineer's Statement, a new description acceptable for transfer purposes shall be secured during the pendency of the case and prior to the issuance of an Order For Sale. The new description shall be submitted to the Delaware County Engineer for a determination of acceptability of transfer and a statement pertaining thereto shall be secured from the Delaware County Engineer, and the same shall not issue unless the description of the real estate is acceptable for transfer by the Delaware County Engineer. (See Form F38.02

appended.)

**38.03 Assignment of Note and Mortgage**

In actions for the marshalling and foreclosure upon liens, any party seeking judgment must file the following documentation:

(A) A copy of the Note and evidence that the Plaintiff is the holder in due course of the Note. If the Note does not reflect that the Plaintiff is the holder, an Assignment of the Note must be filed, proving that the Plaintiff is the holder of the Note.

(B) A copy of the Mortgage and evidence that the Plaintiff is the Mortgagee of the Mortgage. If the Mortgage does not reflect that the Plaintiff is the Mortgagee, an Assignment of the Mortgage must be filed, proving that the Plaintiff is the Mortgagee.

**38.04** Failure to comply with the foregoing provisions of this rule shall be grounds for dismissal of the case.

**38.05** This rule shall not apply to any foreclosure brought by the State of Ohio, Delaware County, or any Municipal Corporation.

**38.06** At the Court's discretion, any case that is inactive for six months after judgment, and not under a bankruptcy stay, will be placed upon the Court's inactive list. At that time, all costs shall be paid. Any party seeking to reactivate an inactive case shall pay a new deposit.

**RULE 39  
SHERIFF'S SALES**

**39.01** On all sales of real estate, the Sheriff shall require the successful bidder as purchaser to present, at the time of the sale, in cash or by certified check or cashier's check payable to the Sheriff, not less than ten-percent of the amount of the appraised value, but in no event less than three hundred dollars.

(A) The unpaid balance of the purchase price shall be due and payable to the Sheriff within thirty days from the date of confirmation. The purchaser shall pay interest on the unpaid balance of the purchase price at the annual rate of interest provided in Section 1343.03 of the Ohio Revised Code from the date of confirmation to the date of payment of the balance unless the balance shall be paid within thirty days from the date of confirmation.

(B) Any interest received shall be distributed by the Sheriff to the parties entitled to distribution of the proceeds of sale in the proper order of priority. The provisions of Loc.R. 39.01(A) and (B) shall not apply when the purchaser is the plaintiff.

(C) Each attorney shall utilize a Court Certificate of Release (see Form F38.05-39.01 appended) to verify the costs prior to the preparation of the confirmation entry.

**39.02** Not later than the first Monday following the date of the sale, the Sheriff shall make the return to the Court. The Plaintiff shall prepare and deliver a proposed entry confirming the sale to the judge for signature and serve copies upon all parties or their attorneys of record by regular mail within seven days after the date of sale. It shall not be necessary to obtain the approval of other parties or their attorneys prior to the filing of this entry. Failure to prepare the confirmation entry and present it to the judge within the time limits may result in sanctions being imposed.

(A) Unless proper written objection to the proposed confirmation entry is presented to the Court by a party or the party's attorney within fourteen days after the date of sale, the proposed entry shall be approved by the Court and filed with the Clerk forthwith. If proper written objection is made, the Court shall determine the validity of the objection and make an order determining the issue.

(B) On the day immediately following the filing of the Court's entry confirming the sale, the Clerk shall instruct the Sheriff to prepare a deed to the purchaser. The Sheriff's deed shall conform to

the requirements of Section 2329.36 of the Ohio Revised Code and shall be delivered to the purchaser upon payment of the full purchase price and interest, if any, unless the purchaser is the Plaintiff.

**39.03** In the event a purchaser fails to pay the balance due on the purchase price and complete the purchase within thirty days after the date of confirmation, the purchaser may be held in contempt of Court and any attorney of record in the case may cause a citation to issue commanding such defaulting purchaser to appear before the judge having charge of the matter and show cause why the purchaser should not be punished. Upon a finding of guilty of contempt, the Court shall proceed in accordance with Section 2329.04 of the Ohio Revised Code.

**39.04** Appraisers shall be provided reasonable and proper fees, as determined by the Sheriff.

## **RULE 40 ARBITRATION**

### **40.01 Arbitration Procedures**

Arbitrations in the Common Pleas Court of Delaware County shall be conducted in accordance with the procedures set forth in this Local Rule, unless otherwise ordered by the Court.

### **40.02 Cases for Submission**

(A) Referral by Court. Any judge of the general division of the Court of Common Pleas may, at any time, order any case assigned to that judge to be heard and decided by a Board of Arbitration, consisting of three (3) members who are licensed attorneys, to be selected as provided in this rule (except cases involving title to real estate, equitable relief and appeals), provided the following conditions are satisfied:

- (1) The case must be at least sixty (60) days old;
- (2) All of the parties must have appeared in the case;
- (3) The apparent value of the claim or claims of the plaintiff or plaintiffs shall not exceed fifty thousand dollars (\$50,000.00) per claimant, exclusive of interest and costs;
- (4) The case should be of the type that is capable of being arbitrated pursuant to these rules, including, but not limited to, the rules regarding evidence and time limitations.

(B) Stipulation. Without limitation as to amount, counsel in any civil action may stipulate in writing that the case may be submitted to mandatory arbitration in accordance with this rule.

(C) Motion. Counsel in any civil action which is at least sixty (60) days old, but not less than ninety (90) days prior to trial, may file a motion accompanied by a pretrial statement, requesting that the case be submitted to mandatory arbitration in accordance with this rule. A party who wishes to oppose the motion for arbitration shall file a memorandum contra within fourteen (14) days of service of the motion. Any party may submit suggestions for appointment of arbitrators.

(D) Order for Arbitration. Whether by stipulation of parties or by motion, the Court shall determine whether the action is ready and appropriate for arbitration in accordance with the standards listed in 40.02(A). When the order of arbitration is made by the judge, the judge shall select the Arbitration Panel and designate a Chairperson. A copy of the entry shall be sent to the Arbitrators and all parties. Within fourteen (14) days of the date of the order, each party shall deposit two hundred dollars (\$200.00) with the Clerk of Courts as security for the payment of the Arbitrator fees, unless otherwise ordered by the Court.

### **40.03 Arbitrators**

(A) Selection. In all cases subject to arbitration, the members of the Board of Arbitration shall be appointed by the assigned trial judge from a list of members of consenting attorneys who have been admitted to the practice of law for more than one year, and who have consented to act as arbitrators, and who have indicated to each judge their consent to so act. Attorneys subsequently desiring to be eliminated from the list may notify the respective trial judge

by letter. The list of arbitrators shall be kept on file with each judge.

(C) Manner of Appointment. The trial judge in each case submitted to arbitration shall appoint three lawyers from the list to act as an Arbitration Board. One of the lawyers so appointed shall be designated as Chairperson of the Board by the judge. The parties may, by agreement, stipulate that the case be submitted to a single arbitrator rather than a panel of arbitrators.

(D) Single Arbitrator. By agreement or by waiver, the parties may proceed with the Chairperson as the sole arbitrator. A sole arbitrator shall receive the Chairperson's fee of one hundred fifty (\$150.00) dollars per case as additional compensation for acting as an arbitrator in those cases, in accordance with 40.04(B). Additionally, the parties may stipulate to compensate a sole arbitrator more than the amount of compensation provided in this rule.

(E) Composition of Board; Disqualification. Not more than one member of a law partnership or an association of attorneys shall be appointed to the same board, nor shall an attorney be appointed to a board who is related by blood or marriage to any party in the case or to any attorney of record in the case, or who has an interest in the determination of the case which would interfere with an impartial consideration of the case.

#### **40.04 Compensation of Arbitrators**

(A) Members of the Board. Each member of a Board of Arbitration who has signed an award or files a minority report shall receive as compensation for his/her services in each case a fee of two hundred fifty dollars (\$250.00) per half day. When more than one case arising out of the same transaction is heard at the same hearing(s), it shall be considered as one case in determining compensation of arbitrators. In cases requiring hearings of unusual complexity, the assigned trial judge, on motion of the members of the Board and for cause shown, may allow additional compensation. Additionally, the parties may stipulate to compensate the arbitrators more than two hundred fifty dollars (\$250.00) per half day. The members of the Board shall not be entitled to receive their fee until after filing the Report and Award with the assigned trial judge.

(B) Chairperson. In addition to the compensation in Rule 40.04(A), the Chairperson shall receive further compensation of one hundred fifty dollars (\$150.00) per case heard by the Board.

(C) Source of Funds. All compensation for arbitrators shall be first paid, pursuant to court order, from the required advance of funds on deposit with the Clerk of Court's office. The remainder of arbitration fees shall be paid equally among the parties. If there is an excess on deposit after the payment of arbitration fees, the excess shall be refunded equally among the parties.

(D) Settlement/Dismissal of Claim. In the event that a case is settled or dismissed more than two days prior to the date scheduled for the hearing, the Board members shall not be entitled to the fees. In the event that a case has been settled or dismissed within the two day period, Board members shall be entitled to compensation of one hundred dollars (\$100.00). The two day period shall include Saturdays, Sundays, and holidays.

(E) Counsel for the parties are required to notify the trial judge and the Chairperson immediately of any settlement or dismissal so that the arbitrators can be notified.

#### **40.05 Hearings**

All arbitration hearings must be held within ninety days from the date of referral.

(A) Time and Place. Hearings shall be held at the place designated by the Chairperson of the panel.

(B) Time Parameters. All arbitrations conducted under these rules will be governed by the following time parameters:

(1) All Plaintiffs to the action shall have a total of 1.5 hours to present their case(s) in chief, case(s) in rebuttal, or in defense of any and all claims. This 1.5 hours includes time for opening statements and closing arguments. The 1.5 hours may be allocated between all Plaintiffs as all Plaintiffs may agree.

(2) All Defendants to the action shall have a total of 1.5 hours to present their case(s) in chief, counterclaim(s) and

case(s) in rebuttal or in defense of any and all claims. These 1.5 hours includes time for opening statements and closing arguments. The 1.5 hours may be allocated between all Defendants as all Defendants may agree.

(3) For good cause shown, including, but not limited to, cases involving third-party practice, the time parameters set forth in Section 40.05(B) may be altered, but only by the trial judge. In those cases, the Chairperson and arbitrators shall be compensated in half-day increments as provided under Loc.R. 40.04 for additional time spent.

(C) Non-disclosure of Offers of Settlement. No disclosure shall be made to the arbitrators prior to the filing of the Report and Award of any offers to settle made by either party. Prior to the delivery of the Court file to the Chairperson of the Board of Arbitration, the assigned trial judge shall remove from the file and retain all papers or any notations referring to demands or offers for settlement, including demands or offers for settlement contained in the pretrial statement.

(D) Settlement. Since sufficient time is available to the parties prior to the hearing date to settle or compromise their disputes, once a hearing date is set, the hearing shall proceed forthwith at the scheduled time. There shall be no unilateral communications by counsel or the parties with the arbitrators concerning the merits of the controversy at any time prior to the filing of the Report and Award of the Board.

#### **40.06 Inability of Party to Proceed**

(A) Continuance. In the event that counsel for any party is unable to proceed on the date assigned, unless otherwise ordered by the assigned trial judge, the Chairperson may mark the case “continued” and reset it for hearing within ninety days from the date of referral.

(B) Pending Motions. Any motion that inadvertently has not been ruled on prior to the referral of the action to arbitration, or that has been filed subsequently to the referral, shall be disregarded by the panel and, for the purposes of arbitration, treated as a nullity.

#### **40.07 Case Continued Twice-Certified to Court**

Whenever any arbitration hearing has been continued two times after assignment to a panel, the case shall be certified by the Chairperson to the trial judge, who shall summon the parties or their counsel. The trial judge shall have the power to make an appropriate order, including an order of dismissal for want of prosecution or an order that the case be again assigned to the Board of Arbitration and be heard and an award made, whether or not a party appears.

#### **40.08 Oath of Arbitrators**

When the arbitration panel has been assembled, they shall be sworn or affirmed in the presence of the litigants substantially as follows: “I solemnly swear or affirm that I will faithfully and fairly hear and examine the matters in controversy, and that I will make a just award to the best of my understanding.” The oath or affirmation may be administered by a counsel for a party who is a Notary Public or by one of the panel.

#### **40.09 Default of a Party**

The arbitration may proceed in the absence of any party who, after due notice, fails to be present or fails to obtain an adjournment. An award shall not be made solely on the default of a party. The Board of Arbitration shall require the other party to submit any evidence as they may require for the making of an award. The failure of a party to appear, either in person or by counsel, and participate in an arbitration proceeding, shall be considered a waiver of that party’s right to file an Appeal De Novo and a consent to the entry by the Court of judgment on the Report and Award of the panel. The Court to whom the case is assigned may, upon motion filed within 30 days of filing of the Report and Award, and for good cause shown, grant leave to a party who has failed to appear and participate in a hearing, to file an Appeal De Novo.

#### **40.10 Conduct of Hearing/General Powers**

A majority of the members of the Board, unless the parties agree upon a single arbitrator, shall be the judge of the relevancy and materiality of the evidence offered. Conformity to the Rules of Evidence shall not be necessary. All evidence shall be taken in the presence of the arbitrators and all of the parties except where any of the parties is absent, in default, or has waived the right to be present. The Board may receive the evidence of witnesses by sworn testimony, affidavit or written report, and shall give it such weight to which they deem it is entitled after consideration of any objections made to its admission. Counsel shall, upon request, whenever possible, produce a



party or witness at the hearing without the necessity of a subpoena.

#### **40.11 Specific Powers**

The Board of Arbitration, by a majority, shall have the general powers of a Court, including, but not limited to, the following:

(A) Subpoenas. Subpoenas may be issued as provided in Rule 45 of the Ohio Rules of Civil Procedure, through the Office of the Clerk of Courts as in any other case filed in the Common Pleas Court. The subpoena forms should be altered to show the correct place of hearing.

(B) Production of Documents. The Board of Arbitration shall have the power to compel the production of all books, papers, and documents they deem material to the case. Should a party or witness fail to produce documents or to testify regarding a matter after being ordered to do so by a panel, the panel shall consider that particular matter uncontested and may proceed to make a final award without the necessity of issuing a citation for contempt.

(C) Administering Oath; Admissibility. The Board of Arbitration shall have the power 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 them.

(D) Medical Expenses; Property Damage. In actions involving personal injury and/or damage to property, bills or estimates may be offered and received in evidence without further proof for the purpose of proving the value and reasonableness of charges for services, labor and materials, and where applicable, the necessity for expenses, on condition that one week's written notice has been given to the adverse party, accompanied by copies of the bills to be offered in evidence.

(1) Hospital Bills. Bills for hospital services must be on the official letterhead or billhead of the hospital and must be dated and itemized;

(2) Doctor/Dentist Bills. Bills for services rendered by doctors and dentists must be on the official letterhead or billhead of the doctor or dentist, and must state the dates of each visit and an itemization of the charges for each visit;

(3) Bills for Nurses, etc. Bills for services rendered by registered nurses, licensed practical nurses or physical therapists must be dated and must contain an itemization of the days and hours of services and the corresponding charges for such services;

(4) Bills for Medications, etc. Bills and receipts for medications, eye glasses, prosthetic devices, medical belts or similar items must clearly show date and place of purchase and amount of each purchase.

(5) Property Repair Bills or Estimates. Bills or estimates for property repair must clearly identify and set forth the charges for labor and materials necessary for repair of the property. In the case of an estimate, the party intending to offer the estimate into evidence shall, at least one week prior to the arbitration, forward to the adverse party notice of such intention, together with a copy of the estimate and a statement indicating whether or not the property was repaired in full or in part. If repairs were made, the notice shall include a copy of the receipt or bill showing the items of repair made and the amount paid for labor and materials.

#### **40.12 Supervisory Powers of Judge.**

The trial judge or a judge designated to serve in his/her absence, shall have full supervisory power with regard to any questions that arise in all arbitration proceedings and in the application of these rules.

#### **40.13 Witness Fees**

Witness fees in any case referred to arbitration shall be in the same amount as now or hereafter provided for trial witnesses in the Common Pleas Court of Delaware County and may be ordered taxed as costs in the case. 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 in the Common Pleas Court of Delaware County, Ohio.

#### **40.14 Transcript of Testimony**

Arbitrators shall not be required to make a transcript of the proceedings before them. Any party desiring a transcript shall provide a Court Reporter and cause a record to be made. The party requesting a transcript shall pay the costs of preparation, which shall not be considered costs in the case. Any party desiring a copy of a transcript shall be provided with it by the Reporter upon payment, based upon the usual charges made for a copy of a transcript plus one-half of the cost of the Court Reporter's services at the hearing.

#### **40.15 Report and Award--Not a Judgment**

Within thirty (30) days after the hearing, the Chairperson of the Board of Arbitration shall prepare and file a Report and Award with the Clerk of Courts and, on the same day, shall mail or otherwise forward copies to all parties or their counsel. An award may not exceed fifty thousand dollars (\$50,000.00) PER CLAIMANT, exclusive of interest and costs. The Report and Award shall be signed by all of the members of the Board. In the event all three members do not agree on the finding and award, the dissenting member shall write the word "dissents" before his/her signature. A minority report shall not be required unless the dissenting arbitrator elects to prepare one due to unusual circumstances. The Chairperson shall also submit a copy of the Report and Award to the trial judge.

#### **40.16 Legal Effect of Report and Award**

The Report and Award, unless appealed, shall be final and shall have the attributes and legal effect of a verdict. If no appeal is taken within the time and in the manner specified, the Court shall enter a judgment in accordance with the decision of the Board. After judgment is entered, execution process may be issued as in the case of other judgments.

#### **40.17 Appeals**

(A) Right of Appeal De Novo and Filing Requirements. Any party may appeal an award of the Board of Arbitration to the Common Pleas Court of Delaware County. The filing of a single appeal shall be sufficient to require a de novo trial of the entire case on all issues and as to all parties without the necessity of each party filing a separate notice of appeal. No appeal can be withdrawn without the consent of all parties. The right of appeal shall be subject to the following conditions, all of which shall be complied with within thirty (30) days after the filing of the award with the Clerk of Courts.

(1) An appellant shall file a Notice of Appeal with the Clerk of Courts and serve a copy on the adverse party or parties and the trial judge accompanied by an affidavit that the appeal is not being taken for delay. The affidavit accompanying the Notice of Appeal shall be signed by the appealing party or counsel for the appealing party.

(2) The appellant's Notice of Appeal shall be accompanied by an appeal fee of one hundred dollars (\$100.00), payable to the Clerk of Courts. This sum shall not be recoverable by the appellant in any proceeding. Expenditure of these funds shall be at the discretion of the Court.

(3) An appellant shall submit payment to the Clerk of Courts for any outstanding arbitration fees.

(B) If the party appealing is indigent, then upon proper motion or affidavit of indigency, the trial judge may allow the appeal to proceed without the fees. If, however, the party appealing who has filed a poverty affidavit receives a settlement, or judgment in the case, the party who agrees to or is ordered to pay the judgment shall pay first to the Clerk of Courts out of the settlement or judgment before making payment to anyone else, an amount equal to all arbitration compensation fees and appeal fees previously waived by the Court.

(C) All appeals shall be de novo proceedings at which members of the deciding Board of Arbitration or single arbitrator are barred as witnesses. In addition, no mention of the arbitration or its result shall be made at the time of trial. However, this section shall not be construed to prohibit a party from employing the transcript of testimony of a witness or party made at the arbitration hearing for the purpose of impeachment, or for any other purpose allowed by law, or the Ohio Rules of Civil or Criminal Procedure, or the Ohio Rules of Evidence.

#### **40.18 Exceptions**

(A) Reasons for Exceptions. Any party may file exceptions with the Clerk of Courts of Delaware County, Ohio from

the decision of the Board of Arbitration within thirty days from the filing of the Report and Award for the reasons set forth in R.C. 2711.10.

(B) Procedure. Copies of exceptions shall be served upon each arbitrator within forty-eight hours after filing, and the matter shall forthwith be set for hearing before the trial judge. If exceptions are sustained, the report of the Board shall be vacated by the Court and the case shall be set for trial. The filing of exceptions shall toll the running of the thirty day period for appeal as provided in Rule 40.17(A), until a ruling on the exceptions has been made by the Court.

## **RULE 41 MEDIATION**

### **41.01 Reference to Mediation**

(A) The following cases, upon completion of necessary pleadings or motions, may be referred by the trial judge to a magistrate, volunteer attorney, or appointed designee for a mediation conference:

- (1) All cases, regardless of the amount in controversy, in which the chances of settlement would be improved with mediation;
- (2) All cases involving replevin, attachment before judgment, garnishment before judgment, forcible entry and detainer, and motions for relief from judgment after cognovit and default judgments;
- (3) All cases in which all parties consent to mediation;
- (4) All cases as to which a continuance of the trial date becomes necessary due to the unavailability of the trial judge.

(B) In all cases under Loc. R. 41.01(A)(1) and (3), the trial judge and/or the mediator shall set the mediation conference at the earliest practical date in light of the pleadings, appearances by counsel for all parties, and other facts and circumstances.

(C) The costs of the mediation shall be borne equally by the parties, with payment to be arranged in advance by the mediator.

### **41.02 Notification of Conference**

A reference to mediation shall be by "Notice of Conference" which shall set the time and place of the conference. A mediation conference may be set immediately prior to a scheduled hearing on a preliminary motion.

### **41.03 No Stay of Proceedings**

All remaining court orders shall remain in effect. No order is stayed or suspended during the mediation process.

### **41.04 Attendance at Mediation**

Trial counsel, all parties and, if applicable, the principle insurance adjuster(s), all with authority to settle, shall personally attend all mediation sessions prepared to discuss all relevant issues, including settlement terms. A party other than a natural person must be represented by a person other than counsel.

### **41.05 Settlement of Case**

(A) Duties of Mediator. At the mediation conference the mediator shall try to settle the entire case. The mediator may schedule, recess, or continue the conference; order monies held in trust by the Clerk; conduct a view of the scene, if applicable; recommend orders to the trial judge for approval; and exercise powers as are necessary and proper for the mediation of cases. The mediator shall only be required to file a report under Civ. R. 53 when orders are recommended for the trial judge's approval. The mediator shall file a written report to inform the Court whether the mediation has been successful or unsuccessful.

(B) Duties of Parties. If the parties fail to dismiss a settled case within thirty days of notifying the Court of settlement, then the Court may administratively dismiss the case.

**41.06 Statements of Evidence**

Statements made during a mediation conference are subject to Evid.R. 408 and Sections 2710.03 – 2710.05 of the Ohio Revised Code.

**41.07 Sanctions**

If any individuals required to attend mediation fail to attend mediation without good cause, the Court may impose sanctions, including the award of attorney's fees and other costs, contempt or other appropriate sanctions.

**41.08 Foreclosure Mediation Fund**

Pursuant to R.C. 2303.201(E)(1), the Court determines that for the efficient operation of the Court, additional funds are necessary to acquire and pay for a foreclosure mediation program. An additional \$100 fee will be assessed to all foreclosure case filings and deposited in the Foreclosure Mediation Fund.

**RULE 42  
SUBPOENAS**

Except for good cause shown, neither the Clerk nor the Sheriff shall be required to issue subpoenas, unless requests are filed with the Clerk at least two days prior to the trial date. The form of subpoena shall be in accordance with Civil Rule 45(A) and service of the subpoena shall be in accordance with Civil Rule 45(B). The issuers of the subpoena shall comply with Civil Rule 45 (C) and be responsible for attaching to each subpoena the text of Civil Rule 45(C) and (D).

**CRIMINAL RULES  
OF PRACTICE AND PROCEDURE**

**RULE 43  
GENERAL APPLICATION**

**43.01** These rules supplement existing Rules Governing the Courts of Ohio. In any case where the Criminal Rules of Procedure or Local Rules do not resolve the issue before the Court, the Rules of Civil Procedure are to be consulted.

**43.02 Speedy Trial**

Upon the determination that a case must proceed to trial without delay due to compliance with speedy trial statutes and rules, the assigned trial judge, if already in trial, shall request the administrative judge to preside or appoint another judge to preside.

**43.03 Withdrawal of Counsel**

A withdrawal of representation by counsel after a case is set for trial is discouraged. In order to withdraw as counsel of record, counsel must present a motion setting forth the reasons for requesting withdrawal and certifying that a copy was served on the client. The motion and proposed entry shall be presented to the trial judge. The request must be made no later than fifteen days before trial. An oral hearing shall be scheduled, with an order directing the client to be present.

**RULE 44  
GRAND JURY PROCEEDINGS**

**44.01** The grand jury shall be presided over on an alternating basis of four-month sessions by the judges of the General Division of the Delaware County Court of Common Pleas.

**44.02** The Court Reporter or any other transcriber shall not prepare transcripts of testimony of grand jury proceedings except upon order of the trial judge, prosecuting attorney, or Attorney General.

**44.03 Indictment - Dismissal**

Criminal cases bound over to this Court on which no final action is taken by the Grand Jury within sixty days may be dismissed forthwith and without prejudice. If the witness's testimony or other critical evidence is not available, the case may be continued by the Court on motion of the prosecuting attorney for a definite period of time and the continuance noted in the report of the Grand Jury. Continuances must be presented to and approved by the judge who is responsible for the grand jury for that term of court.

**RULE 45  
ARRAIGNMENTS**

**45.01** In all cases in which the prosecuting attorney has requested service of process to be accomplished by means of a summons, the Sheriff of Delaware County, Ohio, shall serve a copy of the judgment entry scheduling the arraignment and the notice of the right to appointed counsel upon the defendant at the time of the service of the indictment and summons.

**45.02** In all cases in which the prosecuting attorney has requested the service of process to be accomplished by means of a warrant, an arraignment shall be immediately scheduled, following the Sheriff's return of the warrant to the Clerk's office and the defendant's acquisition of counsel. The Sheriff's Department shall immediately notify the trial judge's office of the arrest.

**45.03** Subject to Crim.R. 10(B), all Defendants are required to personally appear at the arraignment and are required to be accompanied by and represented by an attorney.

**RULE 46  
(RESERVED)**

**RULE 47**  
**BAIL FORFEITURE**

Notice of bail forfeiture shall be sent by the Clerk to the Defendant and to the surety in a form as may be approved by the Court. The Defendant and surety, on or before the date set forth, shall show good cause why judgment should not be entered against them. The Clerk shall promptly present the affidavit to the trial judge. No oral hearing shall be held unless requested in writing and granted by the trial judge. After judgment is entered against the Defendant and surety, no surety shall be released nor shall any penalty be released or remitted, except upon the filing of a written verified application, setting forth in detail the reasons why a release or reduction should be granted. The Clerk shall bring the application to the attention of the trial judge.

**RULE 48**  
**INACTIVE CRIMINAL CASES**

Criminal cases in which further proceedings are not presently possible shall be placed in an inactive file by the Clerk and considered closed for statistical purposes either upon motion of the Prosecuting Attorney or the Court's own motion and may 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 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 inactive list until any bail has been forfeited and judgment entered. The Clerk of Court's office shall present an annual list containing the inactive files to the administrative judge and the County Prosecutor. The Prosecutor shall file a report with the administrative judge on the status of the inactive cases or shall dismiss those cases.

**RULE 49**  
**NOLLE PROSEQUI PROCEDURE**

When the Prosecuting Attorney desires to enter a nolle prosequi in any criminal case pursuant to Crim.R. 48(A), a motion shall be filed, setting forth sufficient grounds for the requested relief, and a proposed judgment entry submitted with opposing counsel's signature; otherwise, an oral hearing will be scheduled.

**RULE 50**  
**MOTIONS**

**50.01 Motions**

(A) The filing and consideration of motions in a criminal case is governed in general by Crim.R. 12 and Loc.R. 7. A party may request a hearing in advance of trial to consider a motion. Unless good cause is shown, no motions will be considered on the day of trial. The absence of a witness regarding the consideration of a motion will not be cause for continuance of the trial.

(B) All motions and other written requests filed in criminal cases shall be submitted to the trial judge. All motions, briefs and memoranda, pro and contra shall be filed in duplicate, as provided in Loc.R. 7.09.

**50.02 Discovery**

Pursuant to Crim.R. 16, discovery is to be conducted in a manner that will eliminate delay and unnecessary expense. Upon demand for discovery, it shall be the duty of a party to promptly respond to the request. In any event, discovery should be provided in fourteen days from the date of receipt of the demand, except in capital cases. The failure of a party to timely and fully respond may lead to the exclusion of evidence at trial.

**RULE 51**  
**INDIGENT DEFENDANTS**

**51.01** The Delaware County Public Defenders Office will appointment a Public Defender from among the list of attorneys that is on file with the Public Defenders Office as approved by the respective judges of the county.

(A) Not more than one attorney per indigent Defendant will be appointed, unless the trial judge otherwise orders.

(B) Immediately upon assignment of a Public Defender, the Public Defenders Office shall notify the trial judge of the suggested appointment, and the trial judge will file the appropriate Appointment Entry.

**51.02** Before counsel is appointed, a Defendant must file a completed affidavit of indigency. No attorney who received compensation or has been promised compensation from any source shall be appointed to represent that indigent defendant.

**51.03** Any attorney appointed to provide legal representation for indigent Defendants shall be compensated according to a schedule approved by the County Commissioners. An attorney shall be reimbursed for expenses incurred not to exceed two hundred fifty dollars without prior approval of the trial judge. Expenses which are requested in excess of two hundred fifty dollars must be submitted to the trial judge, prior to their incurrence, for approval. All expenses must be documented with receipts.

(A) Services include, but are not limited to, investigators or experts that are reasonably necessary for the proper representation of an indigent Defendant charged with a felony. The factors to be considered by the trial judge are:

(1) the value of the service to the Defendant's proper representation at trial;

(2) the availability of alternative devices that would fulfill the same functions as the service sought. No allowance will be approved for fixed office overhead, daily copies of transcripts, or depositions, except as provided by law.

(B) Upon motion and for good cause, the trial judge may order that the Judgment Entry authorizing the service be sealed and maintained by the Clerk, along with all other original papers in the criminal case.

#### **51.04 Extraordinary Fees**

(A) Attorney's fees in excess of those set forth in 51.03 may be granted by the trial judge in Complex Cases or in other extraordinary circumstances.

(B) "Complex Case" is a case designated by the trial judge as a Complex Case because it involves multiple counts dealing with multiple separate incidents and the case involves an extraordinary amount of trial preparation time, or trial time.

**51.05** An affidavit setting out the number of hours expended with an itemized log of work performed, shall be made by each appointed attorney on forms to be supplied by the State Public Defender. The affidavit shall include a statement that no compensation has been received, or none promised from any source, and an itemization of actual expenses incurred.

## **RULE 52**

### **SPECIALIZED DOCKETS**

#### **52.01 Creation of Specialized Mental Health Docket.**

Recognizing that the mentally ill offender poses special challenges to the criminal justice system, the Court has created the Mental Health Docket with the intent of protecting the community by reducing the recidivism of offenders with mental health disorders by improving and expediting the delivery of services to mentally ill criminal defendants through intense supervision and treatment.

#### **52.02 Eligibility for Admission to Mental Health Docket.**

The Mental Health Docket is a voluntary program for individuals charged with felony offenses who have been diagnosed with certain mental disorders that are amenable to treatment. Individuals must meet the following criteria to be admitted to the docket:

1. The offender is charged with a non-violent fourth or fifth degree felony
2. The offender is competent and understands and appreciates the consequences of the legal proceedings
3. The offender does not have current sex offender status
4. The offender must demonstrate a pattern of severe and persistent mental illness  
These symptoms must meet the criteria for an Axis I diagnosis of the DSM-IVTR, DSM-V or any successor manual
5. The Defendant's mental health disorder was a factor in the behavior that resulted in the pending charge(s) and, unless treated, the defendant's disorder is likely to contribute to future criminal behavior
6. The offender is appropriate for care available in the community and is receptive to behavioral health treatment
7. The offender does not pose a risk of harm to the community, the staff of the Court, the providers, or other agencies working with the Mental Health Docket.

**52.03** The victim notification provision of Revised Code Chapter 2930 shall be followed where applicable.

**52.04 Referral to Mental Health Docket.**

Any judicial officer, defense counsel, prosecuting attorney, treatment or other community provider, law enforcement personnel, probation officer, jail personnel, or medical provider may make a referral in any form to the Mental Health Docket Coordinator.

**52.05 Screening and Assessment Process for Mental Health Docket.**

After a plea or finding of guilt is made, the Court will refer the case to the Docket Coordinator who will screen defendants for eligibility. Defendants will also be required to complete a mental health assessment and pre-sentence investigation as part of this process. Defendants must complete and sign releases of information to facilitate inter-agency communication on behalf of the defendant and Mental Health Docket Team.

Upon completion of the eligibility screening and consideration of all applicable criteria and circumstances, the Mental Health Docket Coordinator will provide a written recommendation to the Court.

Based upon the recommendation of the Docket Coordinator, and review of the mental health assessment and pre-sentence investigation report and all applicable criteria and circumstances, the Judge shall determine whether the defendant enters the Mental Health Docket as a condition of community control or intervention in lieu.

**52.06 Docket Assignment for Mental Health Docket.**

Cases shall remain on the regular docket of the originally assigned Judge until the Docket Coordinator has screened the defendant and determined that the defendant is eligible for admission. If the defendant is deemed eligible, following sentencing or disposition, the case shall be transferred to the Mental Health Judge by filing a Motion For Transfer To and Admission To Mental Health Docket. If the defendant is not accepted into the Mental Health Docket, then the case shall remain with the originally assigned Judge.

**52.07 Admission to the Mental Health Docket.**

Admission to the program is made only as a condition of community control or intervention in lieu. The defendant will be required to sign an acknowledgement of understanding of the requirements of the Mental Health Docket prior to entering the docket.

**52.08 Docket Case Management**

The defendant will be referred to local agencies based on their needs for treatment. The services to the defendants will be expedited pursuant to an agreement of understanding with the treatment agencies. The defendant will be provided the participant manual and copies of the signed participant acknowledgement. The treatment team will continue to monitor the defendant's behavior through treatment team meetings and holding the defendant accountable to the participation acknowledgement.

**52.09 Mental Health Docket Review Hearings.**



The court will schedule regular docket hearings to monitor compliance with the original orders, including treatment, in accordance with the client program phases. The Mental Health Docket team is responsible for obtaining and presenting information at the docket hearings regarding defendant's progress.

It is the responsibility of the Mental Health Docket team to monitor compliance through periodic communication with the designated treatment providers, and through direct monitoring and meeting with the defendant.

The Mental Health Docket team is comprised of a Judge, Mental Health Docket Coordinator and Probation Officer, and treatment providers.

#### **52.10 Unsuccessful Terminations**

Common behaviors that can lead to unsuccessful termination include but are not limited to the following:

- A. On-going noncompliance with treatment;
- B. Resistance to treatment;
- C. New serious criminal conviction;
- D. A serious Mental Health Docket violation or series of violations;
- E. A serious Community Control violation or a series of violations.

The negative consequences of an unsuccessful termination include:

- A. Loss of future eligibility for the Mental Health Docket;
- B. Further legal action including revocation of Community Control;
- C. Depending on the circumstance, the defendant may be subject to prison, jail, or other penalties.

#### **52.11 Neutral Termination**

The following is a list of events or actions that lead to a neutral discharge from the Mental Health Docket:

- A. A serious medical condition
- B. A serious mental health condition
- C. Death
- D. Other factor that may keep the participant from meeting the requirements for successful completion.

Upon neutral discharge it will be determined by the Mental Health Docket Team and ultimately by the Mental Health Docket Judge as to whether the participant continues on regular Community Control or is terminated from Community Control all together.

#### **52.12 Creation of Specialized Recovery Docket.**

Recognizing that the drug and alcohol dependent offender poses special challenges to the criminal justice system, the Court has created the Recovery Docket with the intent of protecting the community by reducing the recidivism of drug and alcohol dependent offenders by improving and expediting the delivery of services to the addicted criminal defendants through intense supervision and treatment.

#### **52.13 Eligibility for Admission to Recovery Docket.**

The Recovery Docket is a program for individuals who have entered guilty pleas to felony offenses who have been determined to be drug or alcohol dependent and who are amenable to treatment. Individuals must meet the following criteria to be admitted to the docket:

##### **1. Clinical Eligibility Criteria**

- A) Diagnosed as substance dependent. The participant must have completed a drug/alcohol assessment by a certified licensed provider.
- B) Must be able to understand and comply with program requirements.

## 2. Other Eligibility Criteria

- A) No physical health issues which might hinder participation in the program (will be reviewed on a case by case basis).
- B) Score 15 or Higher on the Ohio Risk Assessment System as a result of the Presentence Investigation.
- C) Must be a resident of Delaware County.
- D) The defendant is receptive to receiving treatment.
- E) Judge has the sole discretion in the admissibility to Recovery Docket.
- F) Must be a case assigned or transferred to Judge Krueger.

## 3. Legal Criteria

- A) Intervention in Lieu of Conviction, or
- B) Charged with a pending felony offense less serious than a felony of the second degree. Must not be a drug trafficking offense (F-1, F-2, F-3, or F-4), sex offense, felony OMVI and/or a sentence in which prison is mandatory, or
- C) The defendant is on Community Control with a Motion/Notice to Revoke the Community Control pending, or on agreement of the defendant, or on recommendation of the Probation Officer.
- D) Sentenced to Recovery Docket as part of Community Control placement and/or through Judicial Release.

**52.14** The victim notification provision of Revised Code Chapter 2930 shall be followed where applicable.

### **52.15 Referral to Recovery Docket.**

The judge, defense counsel, prosecuting attorney, or probation officer, may make a referral to the Recovery Docket.

### **52.16 Screening and Assessment Process for Recovery Docket.**

Upon motion filed by the defendant (See Form 52.15a appended), a case may be referred to the Recovery Docket Probation Officer who will screen defendants for eligibility. The Referral Form (See Form 52.15b appended) may be completed prior to the filing of Form 52.15a. Defendants must complete and sign releases of information to facilitate inter-agency communication on behalf of the defendant and Recovery Docket Team. Upon completion of the eligibility screening and consideration of all applicable criteria and circumstances, the Recovery Docket Probation Officer will provide a written recommendation to the Court. Based upon the recommendation of the Recovery Docket Probation Officer and all applicable criteria and circumstances, the Judge shall determine whether the defendant enters the Recovery Docket as a condition of community control or intervention in lieu of conviction. Form 52.15c will be completed at the hearing on Intervention in Lieu of Conviction or upon sentencing to Community Control, or a Motion/Notice to Revoke Community Control.

### **52.17 Docket Assignment for Recovery Docket.**

Cases shall remain on the regular docket of the originally assigned Judge until the Recovery Docket Probation Officer has screened the defendant and determined that the defendant is eligible for admission to the Recovery Docket (See Form 52.15a appended). If the defendant is eligible, following sentencing or disposition, the case shall be transferred to the Recovery Docket by Judgment Entry (See Form 52.15d appended). If the defendant is not accepted into the Recovery Docket, then the case shall remain with the originally assigned Judge. If the defendant is accepted into the Recovery Docket, then a Judgment Entry Granting Transfer of the Case will be filed (See Form 52.15e).

### **52.18 Admission to the Recovery Docket.**

Admission to the program is made only as a condition of community control or intervention in lieu of condition. The defendant will be required to sign an acknowledgement of understanding of the requirements of the Recovery Docket prior to entering the docket. (See Form 52.15c appended.)

### **52.19 Docket Case Management**

The defendant will be referred to local agencies based on his needs for treatment. The services to the defendant will be expedited pursuant to an agreement of understanding with the treatment agencies. The defendant will be provided the participant manual and copies of the signed participant agreement. The treatment team will continue to monitor

the defendant's behavior through treatment team meetings and holding the defendant accountable to the participation agreement.

#### **52.20 Recovery Docket Review Hearings.**

The court will schedule regular review hearings to monitor compliance with the original orders, including treatment, in accordance with the client program phases. The Recovery Docket team is responsible for obtaining and presenting information at the docket hearings regarding defendant's progress. It is the responsibility of the Recovery Docket team to monitor compliance through communication with the designated treatment providers, and through direct monitoring and meeting with the defendant. The Recovery Docket team is comprised of the Judge, Recovery Docket Probation Officers and treatment agencies.

#### **52.21 Unsuccessful Terminations**

Common behaviors that can lead to unsuccessful termination include, but are not limited to, the following:

- (A) On-going noncompliance with treatment;
- (B) Resistance to treatment;
- (C) New serious criminal conviction;
- (D) A serious Recovery Docket violation or series of violations;
- (E) A serious Community Control or Intervention in Lieu violation or a series of Community Control violations or Intervention in Lieu violations.

The negative consequences of a termination include:

- (A) Loss of future eligibility for the Recovery Docket;
- (B) Further legal action including revocation of Intervention In Lieu of Conviction, Notice/Motion to Revoke Community Control;
- (C) Depending on the circumstances, the defendant may be subject to prison, jail or other penalties.

### **RULE 53 CONTINUANCES**

Any motion for continuance of a trial must be in writing and filed with the Clerk of Courts. A copy of the motion shall be presented to the judge's office with a proposed judgment entry containing language granting or denying the continuance. The motion shall set forth: the reason(s) for the continuance, the number of previous continuances, whether opposing counsel consents to the continuance, the Defendant's try-by date, and the dates counsel are available for trial. Any order granting a continuance shall contain the date to which trial is continued.

### **RULE 54 NEGOTIATIONS**

**54.01** For the purpose of adhering to the provisions of Rule 11(F) of the Ohio Rules of Criminal Procedure, a complete text of negotiations shall be: (1) reduced to writing; and (2) signed and dated by the Assistant Prosecuting Attorney in charge of the case, counsel for the Defendant, and the Defendant.

**54.02** Failure to comply with Loc.R. 54.01 may result in the Court's refusal to proceed with any Guilty Plea Hearing.

### **RULE 55 DAILY COPIES OF TRANSCRIPTS**

Daily copies of transcripts to counsel in criminal cases will not be ordered, provided for, or permitted except in those cases where the sound discretion of the trial judge would require it in the interest of justice.

### **RULE 56 DISCLOSURE OF PRE-SENTENCE REPORTS**

#### **56.01 Presentence Investigation Reports**

(A) All judges shall allow the Probation Department a minimum of thirty days between acceptance of a plea and the date set for sentencing to prepare a Pre-sentence Investigation Report.

(B) The Probation Officer who prepares the report shall have it completed no later than two court days prior to sentencing. When the report is completed, it shall be sent to the trial judge and made available for review by the Defendant's attorney (or by the Defendant if he is not represented by an attorney) and the Prosecutor.

**56.02** The sentencing judge shall be responsible for sending a copy of the report to the institution. An additional copy shall be provided by the Probation Department.

## **RULE 57**

### **CERTIFICATION OF ASSETS**

**57.01** Any Defendant found guilty of a criminal offense in this Court shall, on a form provided by this Court, disclose assets of every kind for the purpose of assisting the trial judge, the Adult Probation Department, and the Sheriff, in the collection of the fine and cost in that case. The form shall be completed prior to sentencing, as part of the Pre-sentence Investigation Report. (See Asset Disclosure Form F57.01 appended.)

## **RULE 58**

### **WORK RELEASE PROGRAM**

The Work Release Program is established to afford the courts a community based and community oriented rehabilitative alternative to incarceration for those convicted criminal offenders who pose no substantial threat to the community but who need minimum custody in order for treatment efforts to be effected. This program is available to all courts within Delaware County upon proper funding and agreement. It shall be formed and known as the Delaware County Work Release program. The Work Release Program is a residential community center for rehabilitation for those offenders who have been granted the privilege of work release. The program center operates in a similar fashion as a traditional jail, but rather than housing offenders in the jail itself, the offenders are housed in a community setting.

**58.01** The courts within Delaware County, Ohio may sentence individuals to the work release program as a condition of standard community control.

**58.02** The Work Release Program is administered and operated by the Delaware County Sheriff.

**58.03** The Director of the Work Release Program shall direct the day-to-day operations of the program. The Director is to prepare and utilize regulations deemed necessary for the operation of the program that are not inconsistent with this rule. All regulations must be approved by the judges of this Court. The work release program Director shall prepare and submit regulations for approval by the Court whenever new or modified regulations are required.

**58.04** The Director may order, with the consent of the trial judge or administrative judge, removal of any resident from the program for infractions of the work release rules and regulations.

**58.05** Before admittance to the Work Release Program, the offender shall agree to and sign a Participation Agreement. The Agreement shall detail the rules, regulations and procedures by which the offender must abide while in the program. Any resident who is removed from the program shall be returned to jail, or authorized correction agency, to serve the balance of their sentence.

**58.06** Any resident participating in the Work Release Program is required to pay a per diem as determined by the Court, under Section 5147.29 of the Ohio Revised Code, for reimbursement to the county for the cost of boarding and the direct cost of administering the program.

**58.07** All funds received by the program from the offender are to be handled in accordance with Section 5147.29 of the Ohio Revised Code and generally accepted accounting principles.

**RULE 59**  
**HOME INCARCERATION PROGRAM**

The Home Incarceration Program was established pursuant to Section 2929.23 of the Ohio Revised Code to give the court an alternative to incarceration. The primary purpose of home incarceration is the protection of the public with the lowest possible expenditure of tax money. Other benefits include relieving crowded conditions at the Delaware County Jail, getting offenders out of jail into a less restrictive environment and facilitating rehabilitation of offenders by encouraging them to behave in a responsible manner in a non-institutional setting.

**59.01** The courts within Delaware County, Ohio, may utilize the House Arrest Program as an alternative to incarceration for convicted criminal offenders who pose no substantial threat to the community but who need minimum custody in order for treatment efforts to be effected. For example, house arrest may be utilized for revocation, pending pre-trial investigation, as a condition of bond, as a condition of probation or community control.

**59.02** The House Arrest Program is administered and operated by the Delaware County Intensive Supervision Office. All staff of the program are appointed employees of the Delaware County Common Pleas Court. The staff shall be comprised of a Director, and any staff deemed necessary for operation of the program.

**59.03** The House Arrest Program utilizes an "active" system whereby an offender wears a transmitter which sends a signal to a central computer that has been specifically coded to reflect that offender's sentence. The offender's movement is limited by how far the transmitter can operate, usually one hundred to one hundred-fifty feet. Should the offender exceed that distance, or leave home without authorization, a signal is sent to the computer and a violation is recorded. An unauthorized absence may result in a return to traditional jail incarceration. Case Managers make random home visits to monitor the progress of the offender, and may also make random drug and alcohol tests to control substance abuse.

**59.04** A per diem fee, as provided for by Section 2929.23(E)(1) of the Ohio Revised Code, is paid by each eligible offender sentenced to electronically monitored house arrest. The fee includes the actual costs of providing house arrest and an additional amount necessary to enable the court to provide electronically monitored house arrest to indigent eligible offenders. The fee adopted shall be in addition to any fine, specifically authorized by any other section of the Revised Code for an eligible offender upon whom electronically monitored house arrest is imposed as a sentencing alternative.

**RULE 60**  
**POST CONVICTION PETITIONS**

**60.01** Post conviction petitions for a determination of a prisoner's Constitutional rights shall be filed and docketed by the Clerk in the original case in which the defendant was sentenced. Upon the filing of a petition the Clerk shall issue written notice to the Prosecuting Attorney.

**60.02** When a waiver or the return of the notice is filed, the Clerk shall deliver all the papers in the case to the trial judge who originally handled the case. If the trial judge who originally handled the case is no longer a member of the Court, the case shall be assigned to a judge by the administrative judge.

**60.03** The Clerk shall deliver the post conviction petition to the trial judge one day after it has been filed.

**COURT RECORDS**  
**MANAGEMENT AND RETENTION**

**RULE 61**  
**GENERAL GUIDELINES**

**61.01 Applicability**

(A) This rule and Loc. R. 62 to 63 are intended to provide minimum standards for the production, maintenance,

preservation, and destruction of records within the court and to authorize alternative electronic methods and techniques. Implementation of this rule and Loc.R. 62 to 63 is a judicial governmental function.

(B) This rule and Loc.R. 62 to 63 shall be interpreted to allow for technological enhancements that improve the efficiency of the court and simplify the production, maintenance, preservation, and destruction of court records.

#### **61.02 Definitions**

As used in this rule and in Loc.R. 62 to 63:

(A) “Administrative record” means a record not related to cases of a court that documents the administrative, fiscal, personnel, or management functions of the court.

(B) “Case file” means the compendium of original documents filed in an action or proceeding in a court, including the pleadings, motions, orders, and judgments of the court on a case by case basis.

(C) “Index” means a reference record used to locate journal, docket, and case file records.

(D) “Journal” means a verbatim record of every order or judgment of a court.

(E) “OHS” means the Ohio Historical Society, State Archives Division.

(F) “Record” means any document, device, or item, regardless of physical form or characteristic, created or received by or coming under the jurisdiction of a court that serves to document the organization, functions, policies, decisions, operations, or other activities of the court.

#### **61.03 Combined records**

Notwithstanding any other provisions of the law, a court may combine indexes, dockets, journals, and case files provided that the combination contains the component of indexes, dockets, journals, and case files as defined in this rule and Loc.R. 62 to 63. A court may replace any paper bound books with an electronic medium or microfilm in accordance with this rule.

#### **61.04 Allowable record media**

(A) A court may create, maintain, receive, record, copy, or preserve a record on traditional paper media, electronic media, including tax or digital images, or microfilm, including computer output to microfilm.

(B) A court may create, maintain, receive, record, copy, or preserve a record using any nationally accepted records and information management process, including photography, microfilm, and electronic data processing, as an alternative to paper. The process may be used in regard to the original or a copy of a record if the process produces an accurate record or copy and the process complies with the American National Standards Institute (ANSI) standards and guideline, or, in the event that ANSI standards cease to exist, other nationally accepted records and information management process standards.

(1) If the court creates, maintains, receives, records, copies, or preserves a record using a records and information management process in accordance with 61.04(2) of this rule and the record is required to be retained in accordance with the schedules set forth in Loc. R. 62 to 63, the court shall cause a back-up copy of the record to be made at periodic and reasonable times to insure the security and continued availability of the information. If Loc.R. 62 to 63 requires the record to be retained permanently, the back-up copy shall be stored in a different building than the record it secures.

(2) Records shall be maintained in conveniently accessible and secure facilities, and provisions shall be made for inspecting and copying any public records in accordance with applicable statutes and rules. Machines and equipment necessary to allow inspection and copying of public records, including public records that are created, maintained, received, recorded, copied, or preserved by an alternative records and information management process in accordance with division 61.04(2) of this rule shall be provided.

(3) In accordance with applicable law and purchasing requirements, a court may acquire equipment, computer software, and related supplies and services for records and information management processes authorized by division 61.04(2) of this rule.

(4) Paper media may be destroyed after it is converted to other approved media in accordance with this rule.

#### **61.05 Destruction of records**

(A) Subject to the notification and transfer requirements of divisions 61.05(2) and (3) of this rule, a record and any back-up copy of a record produced in accordance with division 61.04(2) of this rule may be destroyed after the record and its back-up copy have been retained for the applicable retention period set forth in Loc.R. 62 to 63.

(B) If Loc. R. 62 to 63 set forth a retention period greater than ten years for a record, or if a record was created prior to 1960, the court shall notify the OHS in writing of the court's intention to destroy the record at least sixty days prior to the destruction of the record.

(C) After submitting a written notice in accordance with division 61.05(2) of this rule, the court shall, upon request of the OHS, cause the record described in the notice to be transferred to the OHS, or to an institution or agency that meets the criteria of the OHS, in the media and format designated by the OHS.

#### **61.06 Exhibits, depositions, and transcripts**

At the conclusion of litigation, including time for direct appeal, a court or custodian of exhibits, depositions, or transcripts may destroy exhibits, depositions, and transcripts if all of the following conditions are satisfied:

(A) The court notifies the party that tendered exhibits, depositions, or transcripts within sixty days from the date of the written notification;

(B) The written notification required in division 61.06(1) of this rule informs the party that tendered the exhibits, depositions, or transcripts that the exhibits, depositions, or transcripts will be destroyed if not retrieved within sixty days of the notification;

(C) The written notification required in division 61.06(1) of this rule informs the party that tendered the exhibits, depositions, or transcripts of the location for retrieval of the exhibits, depositions, or transcripts;

(D) The party that tendered the exhibits, depositions, or transcripts does not retrieve the exhibits, depositions, or transcripts within sixty days from the date of the written notification required in division 61.06(1) of this rule.

#### **61.07 Extension of retention period for individual case files**

A court may order the retention period for an individual case file extended beyond the period specified in Loc.R. 62 to 63.

### **RULE 62**

#### **RETENTION SCHEDULE FOR ADMINISTRATIVE RECORDS**

The following retention schedule shall apply for the administrative records of the courts:

##### **62.01 Administrative journal**

Administrative journals that consist of court entries, or a record of court entries, regarding policies and issues not related to cases shall be retained permanently.

##### **62.02 Annual reports**

Two copies of each annual report shall be retained permanently.

##### **62.03 Bank records**

Bank transaction records, whether paper or electronic, shall be retained for three years or until the issuance of an audit report by the Auditor of State, whichever is later.

**62.04 Cash books**

Cash books, including expense and receipt ledgers, shall be retained for three years or until the issuance of an audit report by the Auditor of State, whichever is later.

**62.05 Communication record**

Communication records, including routine telephone messages on any medium where official action will be recorded elsewhere, may be destroyed in the normal course of business as soon as they are considered to be of no value by the person holding the records.

**62.06 Correspondence and general office records**

Correspondence and general office records, including all sent and received correspondence, in any medium, may be destroyed in the normal course of business as soon as they are considered to be of no value by the person holding the records.

**62.07 Drafts and informal notes**

Drafts and informal notes consisting of transitory information used to prepare the official record in any other form may be destroyed in the normal course of business as soon as they are considered to be of no value by the person holding the records.

**62.08 Employment applications**

Employment applications for posted or advertised positions shall be retained for two years.

**62.09 Employee benefit and leave records**

Employee benefits and leave records, including court office copies of life and medical insurance records, shall be retained by the appropriate fiscal officer for three years or until the issuance of an audit report by the Auditor of State, whichever is later.

**62.10 Employee history and discipline records**

Records concerning the hiring, promotion, evaluation, attendance, medical issues, discipline, termination, and retirement of court employees shall be retained for ten years after termination of employment.

**62.11 Fiscal records**

Fiscal records, including copies of transactional budgeting and purchasing documents maintained by another office or agency, shall be retained for three years or until the issuance of an audit report by the Auditor of State, whichever is later.

**62.12 Grant records**

Records of grants made or received by a court shall be retained for three years after expiration of the grant.

**62.13 Payroll records**

Payroll records of personnel time and copies of payroll records maintained by another office or agency shall be retained for three years or until the issuance of an audit report by the Auditor of State, whichever is later.

**62.14 Publications received**

Publications received by a court may be destroyed in the normal course of business as soon as they are considered of no value by the person holding the publications.

**62.15 Receipt records**

Receipt and balancing records shall be retained for three years or until the issuance of an audit report by the Auditor of State, whichever is later.

**62.16 Requests for proposals, bids, and resulting contracts**

Requests for proposals, bids received in response to a request for proposal, and contracts resulting from a request for proposal shall be retained for three years after the expiration of the contract that is awarded pursuant to the request for proposal.



## **RULE 63**

### **RETENTION SCHEDULE FOR THE JUDICIAL RECORDS OF THE COURT**

#### **63.01 Definitions**

(A) As used in sections 63.02 to 63.06, "division" means the General Division of the Court of Common Pleas of Delaware County, Ohio.

(B) As used in sections 63.02 to 63.06, "docket" means the record where the clerk of the division enters all of the information historically included in the appearance docket, the trial docket, the journal, and the execution docket.

#### **63.02 Required records**

(A) The division shall maintain an index, docket, journal, and case files in accordance with Loc.R. 61.02, 63.01, and this section of Loc.R. 63.

(B) Upon the filing of any paper or electronic entry permitted by the division, a stamp or entry shall be placed on the paper or electronic entry to indicate the day, month, and year of filing.

#### **63.03 Content of docket**

The docket of the division shall be programmed to allow retrieval of orders and judgments of the division in a chronological as well as a case specific manner. Entries in the docket shall be made as events occur, shall index directly and in reverse the names of all parties to cases in the division, and shall include:

(A) Names and addresses of the parties in full;

(B) Names, addresses, and Supreme Court attorney registration numbers of all counsel;

(C) The issuance of documents for service upon a party and the return of service or lack of return;

(D) A brief description of all records and orders filed in the proceeding, the time and date failed, and a cross reference to other records as appropriate;

(E) A schedule for court proceedings for the division and its officers to use for case management;

(F) All actions taken by the division to enforce orders or judgments; and

(G) Any information necessary to document the activity of the clerk of the division regarding the case.

#### **63.04 Retention schedule for the index, docket, and journal**

The index, docket, and journal of the division shall be retained permanently.

#### **63.05 Judge, magistrate, and clerk notes, drafts, and research**

Judge, magistrate, and clerk notes, drafts, and research prepared for the purpose of compiling a report, opinion, or other document or memorandum may be kept separate from the case file, retained in the case file, or destroyed at the discretion of the preparer.

#### **63.06 Retention schedule for case files**

(A) Death penalty case files shall be retained permanently.

(B) Cases of matters that resulted in a final judgment determining title or interest in real estate shall be retained permanently.

(C) Search warrant records shall be indexed and the warrant and returns retained in their original form for five years after the date of service or last service attempt.

(D) Case files of matters that are voluntarily dismissed shall be retained for three years after the date of dismissal.

(E) Any case file not listed in this section of Loc.R. 63 shall be retained for twelve years after the final order of the General Division. Documents within a case file admissible as evidence of a prior conviction in a criminal proceeding shall be retained for fifty years after the final order of the general division.

APPENDIX FORMS

**APPENDIX FORMS**  
**IN THE COURT OF COMMON PLEAS OF DELAWARE COUNTY, OHIO**  
**CLASSIFICATION FORM**

CASE NO. \_\_\_\_\_

PLEASE INDICATE CLASSIFICATION INTO WHICH THIS CASE FALLS:

**CIVIL**

- ( ) Professional Tort-----A
- ( ) Product Liability-----B
- ( ) Other Torts-----C
- ( ) Workers Compensation---D
- ( ) Foreclosure-----E
- ( ) Administrative Appeal--F
- ( ) Complex Litigation-----G
- ( ) Other Civil-----H

**DOMESTIC RELATIONS**

- ( ) Termination of Marriage, with children--A
- ( ) Termination of Marriage, no children---B
- ( ) Dissolution of Marriage, with children--C
- ( ) Dissolution of Marriage, no children---D
- ( ) Change of Custody-----E
- ( ) Visitation Enforcement/Modification----F
- ( ) Support Enforcement/Modification-----G
- ( ) Domestic Violence-----H
- ( ) U.I.F.S.A.-----I
- ( ) All Others-----K

PLEASE PRINT OR TYPE THE INFORMATION REQUESTED BELOW

DATE: \_\_\_\_\_

TRIAL ATTORNEY: \_\_\_\_\_

Ohio Supreme Court

Registration No.: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Fax Number: \_\_\_\_\_

IN THE COURT OF COMMON PLEAS,  
DELAWARE COUNTY, OHIO

COURT CERTIFICATE OF RELEASE

\_\_\_\_\_

To: \_\_\_\_\_  
(Recorder or Clerk of Courts)

Case No.: \_\_\_\_\_

The below lien is released \_\_\_\_\_ satisfaction by proceedings \_\_\_\_\_ the Common Pleas Court  
of Delaware County, \_\_\_\_\_ (with or without) \_\_\_\_\_  
Ohio, in the case of: \_\_\_\_\_

This section for official business o

Plaintiff -Vs.- Defendant

Type of Release:

_____ Mortgage release	_____ Assignment	_____ Bureau of Employment
_____ Mechanic's lien	_____ Lease	_____ Certificate of Judgment
_____ Vendor's lien	_____ Federal tax lien	_____ Other (specify below)

Other:

Lien filed by:

Name: \_\_\_\_\_ Date: \_\_\_\_\_ Vol. \_\_\_\_\_ Pg. \_\_\_\_\_

Lien assigned to: (if applicable)

Name: \_\_\_\_\_ Date: \_\_\_\_\_ Vol. \_\_\_\_\_ Pg. \_\_\_\_\_

Lien filed against:

Release of Property (Attach complete description if partial release; no description needed if full release.)  
(Full or Partial) \_\_\_\_\_

Other comments:

Approved for recording by: \_\_\_\_\_ on \_\_\_\_\_ Date \_\_\_\_\_ Fee: \$ \_\_\_\_\_  
(Recorder's Office or Clerk's Office)

Issued to: \_\_\_\_\_ on \_\_\_\_\_ Date \_\_\_\_\_ Fee: \$ \_\_\_\_\_  
(Recorder or Clerk)

JAN ANTONOPLOS, CLERK OF COURTS,  
DELAWARE COUNTY, OHIO

By: \_\_\_\_\_  
Deputy Clerk

INSTRUCTIONS:

1. Complete one form for each release.
2. Send to Delaware County Recorder's Office for approval and fee information on each Recorder's Release, **and/or** Send to Delaware County Clerk of Court's Office for approval and fee information on each lien filed in the Clerk's Office.
3. File each original Court Certificate of Release at the time of filing the Confirmation Entry.
4. File each original plus one copy if you would like a file-stamped copy returned to you.

Appendix Form Number F38.05-39.01

ALL RELEASE INFORMATION MUST MATCH THE CONFIRMATION ENTRY

OFFICE OF THE DELAWARE COUNTY ENGINEER

To: The Court of Common Pleas of Delaware County, Ohio

STATEMENT OF  
(ACCEPTABILITY) (NONACCEPTABILITY)  
OF LEGAL  
DESCRIPTION FOR TRANSFER PURPOSES

I hereby certify that the description of the premises hereinafter set forth  
and listed in the Delaware County Engineer's  
Office as standing in the name(s) of:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

is (acceptable) (non-acceptable) to this office for the purposes of transfer.

[SET OUT DESCRIPTION]

DATED: \_\_\_\_\_

\_\_\_\_\_  
Delaware County Engineer

By: \_\_\_\_\_

**THE COMMON PLEAS COURT OF DELAWARE COUNTY, OHIO**

**STATE OF OHIO**

**CASE NO. \_\_\_\_\_**

**Plaintiff**

**-vs-**

---

**Defendant**

**MOTION FOR REFERRAL AND FOR ADMITTANCE TO  
RECOVERY DOCKET FOR  
EVALUATION FOR PROGRAM ELIGIBILITY**

The defendant hereby moves the Court for admittance into the Recovery Docket Program. I hereby give my consent to be interviewed by Court staff who operate the Delaware County Common Pleas Court’s Recovery Docket Program,( hereinafter “Recovery Docket)” for the purpose of determining if I am eligible for admission into the Recovery Docket. I will need to be diagnosed as dependent by a licensed treatment provider and cooperate in the completion of a presentence investigation.

I understand that if I am accepted into the Recovery Docket, I will be required to participate in a Court-ordered substance abuse treatment program, for a minimum of 18 months in duration, with conditions of supervision that are established to further my successful recovery from substance dependence.

I hereby give my consent to be evaluated for eligibility and admission into the Recovery Docket. I agree to give truthful and accurate answers to the questions I am asked in being evaluated for eligibility and admission into the Recovery Docket. I understand that unless I otherwise authorize, only my attorney and the Delaware County Common Pleas Court and Court staff may receive the information I provide in the process of being evaluated for admission into the Recovery Docket and that my attorney is bound by the confidentiality requirements established by the attorney-client privilege in receiving such information. I further understand

that the information I give in being evaluated for admission into the Recovery Docket Program will not be provided to the State of Ohio and/or counsel for the State of Ohio and is not subject to discovery by the State of Ohio under the Rules of Criminal procedure or any other law or rule.

I also understand that as part of the eligibility determination process I will be asked to sign a separate Authorization for Release of Information, which authorizes reciprocal communication and release of information from the Delaware County Common Pleas Court and Court staff by and between the current treatment agency, and other substance abuse and mental health treatment providers and community service agencies.

I know of no serious physical health conditions which would keep me from completing the Recovery Docket requirements. I know of no pending charges or detainers from any other jurisdiction that would prevent me from entering or completing the Recovery Docket. I understand that, if I am eligible and accepted into the Recovery Docket Program I will be supervised by the Recovery Docket Judge, Judge Krueger, as to my compliance with the programming and rules of the Recovery Docket Program. I further understand that if I am unsuccessfully terminated from the Recovery Docket for any reason after being admitted into the program, my case will returned to the trial docket and scheduled for sentencing or disposition before Judge Krueger.

I have been informed and understand that evaluation for admission does not guarantee my eligibility or admission into the Recovery Docket Program. I further understand that if I am determined not to be eligible for the program or I am not admitted into the Recovery Docket, my case shall remain on the regular docket for final resolution. I will complete referral form 52.15 (b).



SIGNED:

\_\_\_\_\_  
Defendant

\_\_\_\_\_  
Date

APPROVED:

\_\_\_\_\_  
Counsel for Defendant

\_\_\_\_\_  
Date

\_\_\_\_\_  
Prosecutor

\_\_\_\_\_  
Date

Certificate of Service

This motion was served on the Delaware County Prosecuting Attorney and the Recovery Docket Officer on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by \_\_\_\_\_.

\_\_\_\_\_

Counsel for Defendant

Cc: Delaware County Prosecuting Attorney  
Counsel for Defendant  
Defendant  
Recovery Docket Coordinator

Form 52.15(a)  
Revised 11/12/14

# Recovery Docket

## Referral Form

### QUALIFYING FACTORS

#### 1. Clinical Eligibility Criteria

- C) Diagnosed as substance dependent. The participant must have completed a drug/alcohol assessment by a certified licensed provider.
- D) Must be able to understand and comply with program requirements.

#### 2. Other Eligibility Criteria

- G) No physical health issues, which might hinder participation in the program. (will be reviewed on a case by case basis)
- H) Score 15 or Higher on the Ohio Risk Assessment System as a result of the pre-sentence investigation.
- I) Must be a resident of Delaware County.
- J) The defendant is receptive to receiving treatment.
- K) Judge has the sole discretion in the admissibility to Recovery Docket.
- L) Must be a case assigned or transferred to Judge Krueger.

#### 3. Legal Criteria

- E) Intervention in Lieu of Conviction; or,
- F) Charged with a pending felony offense less serious than a felony of the second degree. Must not be a drug trafficking offense (F-1, F-2, F-3, or F-4), sex offense, felony OMVI and/or a sentence in which prison is mandatory; or,
- G) The defendant is on Community Control with a Motion/Notice to Revoke the Community Control pending; or, on agreement of the defendant or on recommendation of Probation officer,
- H) Sentenced to Recovery Docket as part of Community Control placement and/or through Judicial Release.

Referred by:

Phone Number and Address:

### Background Information

#### Personal Information (please print)

Name (Last, First, and Middle Initial):	DOB:	Age:
Street Address:	City:	Zip Code:
Home Phone:	Work Phone:	Race:
Social Security No:	Aliases:	Gender: M <input type="checkbox"/> F <input type="checkbox"/>

#### Court Information

Incarcerated: Y <input type="checkbox"/> N <input type="checkbox"/>	Where:
--	--------

CC: Judge Krueger's Probation File, Referral Source  
 Appendix Form No. 52.15b  
 Revised 11/12/14

IN THE COURT OF COMMON PLEAS OF DELAWARE COUNTY, OHIO  
RECOVERY DOCKET

STATE OF OHIO,

CASE NO. \_\_\_\_\_

Plaintiff

JUDGE KRUEGER

-vs-

\_\_\_\_\_  
Defendant

**ACKNOWLEDGMENT OF REQUIREMENTS OF THE RECOVERY DOCKET AND JOURNAL ENTRY**  
**ACCEPTING THE DEFENDANT INTO RECOVERY DOCKET**

I wish to be placed in the Adult Post Conviction/or ILC Recovery Docket and I am willing to participate in the Recovery Docket and comply with all the program terms and expectations set forth in the participant handbook that has been reviewed with me.

1. I understand that by entering in to the Recovery Docket I will be waiving some of my rights, (A) such as the Right to Due Process, (B) Right to an Attorney, (C) Right To Remain Silent and Right Against Self Incrimination, (D) Right To Freely Associate, (D) and Right Against Unlawful Search and Seizure. I also understand that I have the ability to rescind these rights' waivers at any time and the consequence for rescinding the waivers may include unsuccessful termination from the Recovery Docket.
2. I understand that I will be given a Court Services Plan and a Treatment Plan and I will have to comply with those plans. I further understand that the Court Services Plan and Treatment Plan will be amended as I progress through the Recovery Docket phases. The minimum length of the program is 18 months and will have 4 phases, the first phase will last approximately 2 weeks, and the remaining phases can last up to 6 months for each phase. I will be responsible for paying Court Costs, Restitution and Supervision fees. I may also have to complete community service.
3. I am expected to and willing to immediately attend all individual and group counseling sessions, educational sessions, and activities or assessments as required by my counselor. I will also sign all necessary releases of information. I understand I will be placed in appropriate treatment programs as soon as possible and am required to attend. I understand that I will keep confidential all the participants and information heard in the review hearings or group sessions. I will cooperate with all treatment services outlined in my treatment plan and in any later or amended treatment plans from my treatment provider including any additional assessments. I further understand that I may also have to attend community support meetings.
4. I understand that I am being placed on reporting Community Control/Supervision in order to monitor compliance. I will be expected to report to my Recovery Docket Officer, provide urine samples, and pay Court Costs, Supervision Fees and Restitution. The first phase will last approximately 2 weeks, and the remaining phases can last up to 6 months for each phase. I understand that my probation officer will discuss my case and overall performance with the treatment team in bi weekly meetings and in ongoing communication with my treatment provider.
  - A. I understand that progress through the phases of Recovery Docket are based on how well I am doing with my treatment plan and complying with the requirements of the Recovery Docket. There are no pre-set timelines for completing each phase.
  - B. I understand that repeated non-compliance with the requirements of my Court Services Plan or Treatment Plan may result in my dismissal from the Recovery Docket and could result in further community control sanctions. Sanctions may be graduated and may include jail time before a hearing is required. Furthermore, I understand that by complying with my treatment plan and the Recovery Docket I will be rewarded for my compliance.

- C. I agree to attend all Status Review hearings as a part of the important judicial interaction between the Judge and myself. I understand at a minimum I will attend 2 review hearings monthly during the initial phase.
  - D. I understand that I will be placed on a call- in color code system for drug tests. I understand that all drug tests will be direct observation collections using a same sex collector.
  - E. I am expected to remain free from alcohol and all other illegal mood altering substances up to and including designer drugs unless otherwise prescribed by a physician. Documentation of prescribed medications shall be provided to the Recovery Docket Probation Officer and the treatment facility and/or my counselor. I understand that if I continue to use that sanctions may be given, treatment plans may be amended to include a more appropriate level of care and a return to the initial phase.
  - F. I understand that if I am late for a test or miss a test, it will be considered a positive test for drugs/alcohol and that I will be sanctioned. If I refuse to submit a urine sample, it will be reported as a refusal to test. I understand I must provide a urine sample which is negative for all drugs or I will be immediately sanctioned. Urine samples will also be analyzed for temperature, specific gravity, Creatinine and other chemical markers to ensure a valid urine specimen. I understand that if I fail to produce a urine specimen or if the sample provided is not of sufficient quantity, it will be considered as a positive test for drugs/alcohol and I will be sanctioned. I have been informed that drinking excessive amounts of fluids can result in a diluted urine sample and I understand that my urine sample will be tested to ensure the urine sample is not diluted. I will be allowed to provide only one (1) urine sample for analysis. I understand that if I produce a dilute urine sample it will be considered as a positive test for drugs/alcohol and I will be sanctioned. I understand that substituting or adulterating my specimen for the purposes of changing the drug testing results will be considered as a positive test for drugs/alcohol and will result in immediate sanctioning and may be grounds for revocation from the Recovery Docket. My entire test results will be reviewed at the Status Review Hearings. Furthermore, I understand that the Judge will be notified immediately of any violations of the above.
  - G. I understand that any noncompliance on my part will be governed by immediate and graduated sanctions and up to sixty (60) days jail time will be given before a hearing is imposed.
- 5. I understand that in order to successfully complete and graduate from the Recovery Docket I must complete all the phases, remain abstinent for 12 months, have complied with Community Control and/or Intervention In Lieu, pay all costs, supervision fees, and restitution if ordered.
  - 6. I understand that I may be terminated from the Recovery Docket for continued noncompliance with treatment, treatment resistance, new serious criminal conviction, a serious Recovery Docket violation or continued series of violations, a serious Community Control Violation or series of violations. I further understand the consequences of termination from the Docket could be loss of future eligibility for the Recovery Docket; further legal action including revocation of Intervention In Lieu of Conviction, Notice/Motion to Revoke Community Control; depending on the circumstances, I may be subject to prison, jail or other penalties.
  - 7. I understand that it is my responsibility to inform all treating physicians of my recovery from drugs/alcohol before I am given an addictive medication and that I am subject to drug testing. If a doctor believes that it is necessary to prescribe the medication such as narcotic pain medication or any other medication that will yield a positive urine screen, the physician must submit a letter to the Recovery Docket Probation Officer stating that he/she is aware of my status as a recovering addict/alcoholic and the need for this medication outweighs the risks. I must have a letter prior to taking any medication that will cause a positive screen. If I test positive and do not have a letter from your doctor, I will be sanctioned immediately. I further understand there may be over the counter medications that I may not take as well. In cases of emergency room care, I understand that all emergency room orders and discharge information will be made available to the Recovery Docket Probation Officer no more than 7 days upon release from the hospital and all prescription will have to be cleared by a primary care physician to continue taking the medications without sanctions. A pattern of visits to the emergency room for ailments that require opiate treatment may be brought back before the Court at the discretion of the Recovery Docket Team. Furthermore, I understand that I must bring all of my prescriptions in the original bottle to my probation appointment as directed.

7. I understand that all status review hearings will be recorded.

I have read this Acknowledgement and understand this agreement, and I freely and voluntarily relinquish the rights discussed and agree to abide by all rules and conditions of the Recovery Docket. After consultation with my attorney, I hereby sign the Agreement to participate in the Recovery Docket.

\_\_\_\_\_  
Participant

\_\_\_\_\_  
Date

\_\_\_\_\_  
Attorney for Participant

\_\_\_\_\_  
Date

\_\_\_\_\_  
Prosecutor

\_\_\_\_\_  
Date

Having reviewed the Recovery Docket Admissions Assessment and eligibility requirements the Court hereby accepts this case and the defendant into the Recovery Docket.

It is so ordered.

\_\_\_\_\_  
Judge Everett H. Krueger

\_\_\_\_\_  
Date

Cc: Delaware County Prosecuting Attorney  
Counsel for Defendant  
Defendant  
Adult Court Services Laurie Winbigler

Appendix Form No. 52.15c

IN THE COURT OF COMMON PLEAS OF DELAWARE COUNTY, OHIO

THE STATE OF OHIO, :  
 :  
 Plaintiff, :  
 :  
 -vs- : Case No.  
 :  
 :  
 Defendant :

**JUDGMENT ENTRY GRANTING MOTION FOR REFERRAL OF DEFENDANT TO RECOVERY DOCKET**

The Motion for screening for the Recovery Docket is hereby GRANTED.

Dated: \_\_\_\_\_

\_\_\_\_\_  
JUDGE

The Clerk of this Court is hereby **ORDERED** to serve a copy of this Judgment Entry upon all parties or counsel by  Regular U.S. Mail  attorney mailbox at the Delaware County Court House  Facsimile transmission

CC: Assistant Prosecuting Attorney  
Attorney for Defendant  
Recovery Docket Coordinator

Appendix Form 52.15(d)  
Revised 11/12/14

IN THE COURT OF COMMON PLEAS OF DELAWARE COUNTY, OHIO

THE STATE OF OHIO, :  
 :  
 Plaintiff, :  
 :  
 -vs- : Case No.  
 :  
 :  
 \_\_\_\_\_ :  
 Defendant :

**JUDGMENT ENTRY TRANSFERRING CASE TO RECOVERY DOCKET**

The Defendant having been screened for the Recovery Docket and approved by the Recovery Docket Coordinator; this case is hereby transferred to the Recovery Docket Judge, subject to approval of the Judge.

\_\_\_\_\_  
Judge

The Clerk of this Court is hereby **ORDERED** to serve a copy of this Judgment Entry upon all parties or counsel  
 by Regular U.S. Mail  attorney mailbox at the Delaware County Court  House Facsimile transmission

CC: Assistant Prosecuting Attorney  
Attorney for Defendant  
Recovery Docket Coordinator

Appendix Form 52.15(e)  
Revised 11/12/14

IN THE COURT OF COMMON PLEAS OF DELAWARE COUNTY, OHIO

THE STATE OF OHIO, :  
 :  
 Plaintiff, :  
 :  
 -vs- : Case No.  
 :  
 :  
 Defendant :

**JUDGMENT ENTRY DENYING MOTION  
FOR ADMITTANCE TO RECOVERY DOCKET**

The Motion for Admittance to the Recovery Docket is hereby DENIED.

Dated: \_\_\_\_\_

\_\_\_\_\_  
JUDGE

The Clerk of this Court is hereby **ORDERED** to serve a copy of this Judgment Entry upon all parties or counsel by  Regular U.S. Mail  attorney mailbox at the Delaware County Court House  Facsimile transmission

CC: Assistant Prosecuting Attorney  
Attorney for Defendant  
Recovery Docket Coordinator

Form 52.15(f)  
Revised 11/12/14



**IN THE COURT OF COMMON PLEAS  
DELAWARE COUNTY, OHIO  
GENERAL DIVISION**

STATE OF OHIO :  
 :  
 :  
 **Plaintiff,** : **CASE NO.** \_\_\_\_\_  
 :  
 :  
 **vs.** :  
 :  
 \_\_\_\_\_ :  
 :  
 **Defendant.** :

---

**AFFIDAVIT OF INDIGENCY**

---

Comes now, \_\_\_\_\_, Defendant, and hereby provides the following statements for the purpose of determining indigency and a right to receive court-appointed counsel. Defendant attests to the truth and accuracy of the following information under oath and penalty of perjury.

**CERTIFICATION OF ASSETS**

**1. REAL PROPERTY**

a. Own Private Home: Y N Rent: Y N

Address: \_\_\_\_\_

Total Monthly Mortgage Payments: \$ \_\_\_\_\_

Name of Lender(s): \_\_\_\_\_

Total Appraised Value: \$ \_\_\_\_\_ Total Equity: \$ \_\_\_\_\_

c. Other Real Property Owned: Y N (If yes, then execute Addendum A.)

**2. MOTOR VEHICLE(S)**

a. Own Car, Truck, Etc.: Y N

Make/Model/Year: \_\_\_\_\_

Value: \$ \_\_\_\_\_ Monthly Payment Amount: \$ \_\_\_\_\_

Principal Balance Currently Owed: \$ \_\_\_\_\_ Delinquent: Y N

b. Other Vehicle(s): Y N

Make/Model/Year: \_\_\_\_\_

Value: \$\_\_\_\_\_ Monthly Payment Amount: \$\_\_\_\_\_

Principal Balance Currently Owed: \_\_\_\_\_ Delinquent: Y N

c. Additional Vehicles Owned: Y N (If yes, then execute Addendum A)

### 3. OTHER ASSETS/DEBTS

#### Assets

a. Bank Account(s): Y N Total Number of Bank Accounts: \_\_\_\_\_

Total Combined Value: \$\_\_\_\_\_

b. Stocks, Bonds, Insurance: Y N Total Number of Accounts: \_\_\_\_\_

Total Combined Value: \$\_\_\_\_\_

c. Other assets:

Description: \_\_\_\_\_ Total Value: \$\_\_\_\_\_

#### Debts

e. Money Owed By You Y N

*(Do not restate mortgage and/or auto loans if disclosed previously in this affidavit.)*

Child Support: \$\_\_\_\_\_

Personal Loans: \$\_\_\_\_\_

Judgments/Recovery: \$\_\_\_\_\_

Other: \$\_\_\_\_\_ Description: \_\_\_\_\_

### 4. SOURCES OF INCOME

Money Owed to You: Y N

a. Child Support: \$\_\_\_\_\_ per \_\_\_\_\_

b. Personal Loans: \$\_\_\_\_\_ per \_\_\_\_\_

c. Unpaid Wages/Compensation: \$\_\_\_\_\_ per \_\_\_\_\_

d. Judgments/Recovery: \$\_\_\_\_\_ per \_\_\_\_\_

e. Workers Compensation: \$\_\_\_\_\_ per \_\_\_\_\_

f. Social Security/Disability: \$\_\_\_\_\_ per \_\_\_\_\_

g. Unemployment: \$\_\_\_\_\_ per \_\_\_\_\_

h. Other Sources of Income \$\_\_\_\_\_ per \_\_\_\_\_

### 4. ON BAIL: Y N

Bondsman: \_\_\_\_\_ Amt: \$ \_\_\_\_\_ Premium: \$ \_\_\_\_\_ Pd By: \_\_\_\_\_

**5. FAMILY INFORMATION**

a. Marital Status: S M WID DIV SEP Court Decree: Y N

b. Spouse's Name: \_\_\_\_\_ Address: \_\_\_\_\_

Spouse Employed: Y N Employer Name: \_\_\_\_\_

Spouse's Monthly Net Pay \$ \_\_\_\_\_

Spouse's Additional Income Source: \_\_\_\_\_ Amt: \$ \_\_\_\_\_/month

c. Children: Y N Number: \_\_\_\_\_ Ages: \_\_\_\_\_

d. Support Owed Y N

Paying Spousal Support: Y N Monthly Amount: \$ \_\_\_\_\_

Receiving Spousal Support: Y N Monthly Amount: \$ \_\_\_\_\_

Paying Child Support: Y N Monthly Amount: \$ \_\_\_\_\_

Receiving Child Support: Y N Monthly Amount: \$ \_\_\_\_\_

e. Parents' Names: \_\_\_\_\_

Phone(s): \_\_\_\_\_ Address(es): \_\_\_\_\_

Live With Parents: Y N Parents Own Home: Y N

Mother Employed: Y N Father Employed: Y N

Monthly Wage: \$ \_\_\_\_\_ Monthly Wage: \$ \_\_\_\_\_

Parents Own Car(s): Y N Estimated Value: \_\_\_\_\_

Do your parents provide additional support? Y N

Describe: \_\_\_\_\_ Amount: \$ \_\_\_\_\_

**6. EMPLOYMENT**

a. Currently Employed: Y N

b. Name of Employer: \_\_\_\_\_ Title: \_\_\_\_\_

c. Average Monthly Net Pay: \$ \_\_\_\_\_

b. Length of Employment: \_\_\_\_\_ Type Work: \_\_\_\_\_

e. If Unemployed, Date Last Worked: \_\_\_\_\_

f. Disabled: Y N

Receiving Unemployment, Disability, Social Security Pay: Y N

Type: \_\_\_\_\_ Amt: \$ \_\_\_\_\_ Mthly Weekly Bi-Weekly

Type: \_\_\_\_\_ Amt: \$ \_\_\_\_\_ Mthly Weekly Bi-Weekly

Type: \_\_\_\_\_ Amt: \$ \_\_\_\_\_ Mthly Weekly Bi-Weekly

g. Welfare Asst: Y N Case Worker: \_\_\_\_\_

Case Worker Phone Number: ( \_\_\_\_\_ ) \_\_\_\_\_

h. Student: Y N Name of School: \_\_\_\_\_

Highest Grade Completed: 7 8 9 10 11 12 12+

i. Additional Employers: Y N (If yes, attach Addendum A)

**7. CERTIFICATION**

I declare that (a) I have read this certification statement (b) this certification statement has been read to me (strike out inapplicable statement) concerning my assets and my financial condition and that the statements contained therein are true.

\_\_\_\_\_  
Signature-Defendant

\_\_\_\_\_  
Date

STATE OF \_\_\_\_\_ )

COUNTY OF \_\_\_\_\_ )

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

Seal

Printed Name: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

**ADDENDUM A to F57.01**

**Additional Real Estate Owned:**

Address: \_\_\_\_\_ Appraised Value: \$ \_\_\_\_\_

Monthly Mortgage Payment: \$ \_\_\_\_\_ Total Equity: \$ \_\_\_\_\_

Address: \_\_\_\_\_ Appraised Value: \$ \_\_\_\_\_

Monthly Mortgage Payment: \$ \_\_\_\_\_ Total Equity: \$ \_\_\_\_\_

**Additional Vehicles Owned:**

Make/Model/Year: \_\_\_\_\_ Value: \$ \_\_\_\_\_

Monthly Payment Amount: \$ \_\_\_\_\_ Total Amount Owed: \$ \_\_\_\_\_

Delinquent: Y N

Make/Model/Year: \_\_\_\_\_ Value: \$ \_\_\_\_\_

Monthly Payment Amount: \$ \_\_\_\_\_ Total Amount Owed: \$ \_\_\_\_\_

Delinquent: Y N

**Additional Employers/Income Sources:**

Employer/Source of Income Name: \_\_\_\_\_

Description: \_\_\_\_\_

Average Monthly Net Income: \$ \_\_\_\_\_

Employer/Source of Income Name: \_\_\_\_\_

Description: \_\_\_\_\_

Average Monthly Net Income: \$ \_\_\_\_\_

Addendum A to Appendix Form Number F57.01