

July 1, 1991

**RULES OF PRACTICE  
OF THE  
COURT OF COMMON PLEAS**

**STATEMENT OF PURPOSE**

Delay in criminal and civil cases in the Courts of Common Pleas throughout the state of Ohio is a serious problem in the administration of justice. Constitutional courts were created to serve the litigants and the interest of the public at large, not for the convenience or benefit of judges and lawyers. Unnecessary delay erodes the public's confidence in the judicial system.

It is the obligation of the judges of the Court of Common Pleas, Franklin County, Ohio, to operate the Court in a manner that is lawful, fair, just, and efficient for the benefit of the citizens of Franklin County and all other litigants that come before it. To that end, the following rules are designed (1) to expedite the disposition of both criminal and civil cases in this Court, while at the same time safeguarding the rights of litigants to the just processing of their cases; (2) to expedite and make consistent the disposition of cases in the general branch of the Court; and (3) to serve the public interest which mandates the prompt disposition of all cases before this Court.

## GENERAL RULES

### **RULE 1 - TERM OF COURT**

**1.01** There shall be one term of Court named the January Term and the Court shall be in continuous operation for the transaction of judicial business. The term shall be divided into three sessions -- Winter, Summer, and Fall. The Winter session will begin in January, the Summer session in May, and the Fall session in September. Each session shall consist of approximately 7 weeks.

### **RULE 3 - HOURS OF SESSION**

**3.01** The sessions of the general division of this Court shall begin at 8:00 a.m. and close at 12:00 noon and shall resume at 1:30 p.m. and close at 5:00 p.m. on Monday through Friday, each week, except on those days designated by law as legal holidays, or as determined by the Administrative Judge.

### **RULE 5 - PRESIDING, ADMINISTRATIVE AND DUTY JUDGES**

**5.01** The judges of all three divisions of this Court shall in joint session elect one of their number Presiding Judge and one of their number as secretary, each to serve one year commencing with the January term of each year, but at the pleasure of the Judges. If the position of Presiding Judge or secretary shall become vacant for any reason whatsoever, the vacancy shall be filled by election in joint session for the unexpired portion of the year.

**5.02** No Judge shall serve more than two consecutive terms of one year as Presiding Judge but this provision shall not limit the number of non-consecutive terms to which a judge may be elected.

**5.03** The Presiding Judge shall preside at all joint meetings of the three divisions of this Court, and shall appoint such standing committees as deemed necessary or as may be agreed upon by the judges of all three divisions in joint meeting. The Presiding Judge shall also perform such duties as may be provided by rule of this Court or as may be prescribed by rule of the Supreme Court pursuant to Section 4, Article IV, Ohio Constitution.

**5.04 (10-20-98)** At the first regular judges' meeting in November, the judges of the general division shall elect one of their number Administrative Judge who will serve one year commencing with the first day of January of each year, but at the pleasure of the judges. If the position of Administrative Judge becomes vacant for any reason whatsoever, the vacancy shall be filled by election by the general division for the unexpired portion of the year.

(6-29-98)The Administrative Judge shall preside at all meetings of the general division of the Court, and shall appoint such standing committees as the administrative judge deems necessary or as may be agreed upon by the Judges of the general division. By agreement of the judges of the general division, the administrative judge may designate special process servers. Such designation shall comply with the provision of CIV. R. 4.1 and CIV. R. 4.3 of the OHIO rules of civil procedure and shall be for a period not to exceed one (1) year. The Administrative Judge shall also perform such duties as may be prescribed by rule of the Supreme Court pursuant to Section 4, Article IV, Ohio Constitution.

**5.06** The Duty Judge shall perform the following functions:

- A. The Administrative Judge's functions when the Administrative Judge is absent and the matter cannot await the Administrative Judge's return.
- B. Ministerial matters of a Trial Judge when the Trial Judge is absent and will not be returning for three Court days. "Ministerial matters" shall not include:
  - 1. default judgments;
  - 2. dismissal entries not agreed to by all parties;
  - 3. continuances, not previously approved by the Trial Judge;
  - 4. appointment of counsel;
  - 5. entries reflecting a ruling of the Trial Judge which has not been approved by all parties (including all ex-parte orders).
- C. Emergency matters for a Trial Judge who is unavailable.
- D. Matters involving cases which are not assigned.
- E. Matters dealing with non-sworn jurors.
- F. Arraignments.

**5.07 (4-27-98)** The responsibilities of the duty judge shall be from 9:00 a.m. on Monday to 9:00 a.m. the following Monday. Regular office hours for the duty judge are 9:00 a.m. to 12:00 noon and 1:30 p.m. to 4:00 p.m. Monday through Friday. The duty judge shall be available for emergency situations from 4:00 p.m. on Friday until 9:00 a.m. on Monday.

**5.08 (5-23-02) Proxy Votes** Whether in electing the presiding or Administrative Judges or in considering the ordinary course of court business, only the judges present at the meeting wherein the aforementioned matters are considered may vote on such matters. Neither oral nor written proxies shall be given or counted.

#### **RULE 7 - FILES**

**7.01** The Clerk shall file together and carefully preserve all papers delivered to the Clerk's office in every case or proceeding.

**7.02** In cases pending where the parties or their counsel deem it necessary to have copies of pleadings, the Clerk shall on request furnish copies, and the expenses of one copy for the opposing party shall be taxed in the bill of costs. Copies of all other papers, except bills of exceptions, belonging to the files of the Court, shall, on demand, be furnished by the Clerk to attorneys or parties interested upon payment of the usual fee.

**7.03** The Clerk shall permit any party to a case or any party's attorney or agent to make a copy of any papers **in the files of the Court, except depositions and bills of exceptions.**

**7.04** Categories of cases filed in the General Branch of this Court, shall be as follows: A - Professional Tort; B - Product Liability; C - Other Torts; D - Workers Compensation; E - Foreclosures; F - Administrative Appeal; G - Complex Litigation; H - Other Civil; CR - Criminal. The initial determination

of the categories of cases being filed shall be made by the party filing the case and shall be indicated on the face of the complaint at the time of filing. Complex Litigation - G shall not be designated at the time of filing. Categories shall also be indicated on all subsequent filings, in all cases filed.

Changes in categories may be made only by the Trial Judge on forms provided by the Court, except for Complex Litigation - G, which must be made by the Administrative Judge. The party requesting and receiving a change of category shall notify all parties in the case and the Court's assignment office of the change by providing a copy of the signed change of category form.

**7.05** Every pleading, document, or other paperwork filed in the Clerk's office shall be on 8-1/2" x 11" size paper.

## **RULE 9 - COSTS**

**9.01 (04-26-00)** Except as provided herein, no civil action or proceedings shall be accepted by the Clerk of Courts for filing unless there is deposited with the clerk of courts, as security for costs, the amount set forth in paragraph 9.08, schedule of security deposits and filing fees.

**9.02 (A)** If the party initiating the civil action is an inmate, he/she must comply with the provisions of R.C. 2969.25. Failure to comply with R.C. 2969.25 shall be grounds for dismissal of the action pursuant to Civ. R. 41(B) (1).

**(B)** If the party initiating the civil action is not an inmate and believes that he/she is unable to pay the costs, an affidavit of indigency listing the parties (a) employment and salary for the past twelve months; (b) public assistance for the past twelve months; (c) total assets, excluding family furnishings; (d) bank balances; and (e) number of dependents. Attached to the affidavit shall be the party's Federal Income Tax return for the year preceding the filing of the complaint.

**(C)** If the affidavit set forth in Rule 9.02 (B) is complete, the Clerk shall accept the complaint for filing without costs. Once the case is assigned, the Trial Judge may make further inquiry into the party's ability to pay costs, or a part thereof. If the Trial Judge determined that the party has the ability to pay costs, or a part thereof, such may be assessed and payment shall be made as directed by the Trial Judge.

**(D)** Failure to pay costs as ordered by the Trial Judge shall be grounds for dismissal of the action pursuant to CIV. R. 41(B) (1).

**(E)** If a party owes costs to the Court from a prior action, all such costs must be paid before the Clerk of Courts may accept for filing any subsequent civil actions.

**9.03 (04-26-00)** When filing a praecipe for an order of sale with the clerk of courts, a security deposit in the amount as set forth in paragraph 9.08 shall be deposited with the clerk of courts. This will ensure payment to all parties incurring costs, regardless of the outcome of the sheriff's sale

**(A)** If the property is sold through a sheriff's sale, the security deposit will be returned to the depositor, to be disbursed upon journalization of a decree of confirmation.

**(B)** If the property is not sold through a sheriff's sale, the security deposit will be used to pay any incurred costs. Any amount of the security deposit not used will be returned to the depositor. Any costs not covered by the security deposit will be billed to the depositor. The security deposit will be

disbursed upon journalization of an entry either terminating or vacating a sheriff's sale.

(C) When filing an entry terminating or vacating a sheriff's sale, the entry should first be presented to the clerk's office to be costed out before presenting it to the judge for signature and journalization.

**9.04 (04-26-00)** Prior to the clerk accepting a case transferred from the Franklin County Municipal Court, in which the demand contained in the counterclaim or cross-claim exceeds the monetary jurisdiction of that court, the counterclaimant or cross-claimant shall post security for costs in the sum equal to the amount required if the case was originally filed in the Common Pleas Court. The clerk shall immediately notify the counterclaimant or cross-claimant of the security for costs. If the counterclaimant or cross-counterclaimant fails to post such security, the case shall be remanded to the Municipal Court.

**9.05 (04-26-00)** The clerk of courts shall not accept a final judgment entry for filing unless the entry specifies exactly how and by whom the remaining costs are to be paid.

**9.06 (04-26-00)** At least once every three months after the filing of a final judgment entry, the clerk of courts shall send a statement to all parties against whom costs have been taxed. If a party fails to pay the costs reflected in the statement after two such notices, the clerk of courts shall issue a certificate of judgment against said party for the amount of the unpaid costs.

**9.07 (04-26-00)** The first party making a jury demand in a civil action before this court, shall deposit \$300 with the clerk of courts no later than the Friday before the trial date reflected in the case schedule. Failure to deposit \$300 within the time allotted shall constitute a waiver of jury.

**9.08** Schedule of security deposits and filing fees.

A. Security Deposits and Filing Fees in Franklin County Common Pleas Court  
General Division

**CIVIL ACTIONS**

|   |          |
|---|----------|
| Civil Complaints-Filing Categories A,B,C,D and H .....                                      | \$225.00 |
| Civil Case Complaint-Filing Category E (Foreclosure).....                                   | \$300.00 |
| Administrative Appeals-Filing Category F .....  | \$100.00 |
| Confession of Judgment (Cognovit) .....   | \$100.00 |
| Third Party Complaint with service upon each new party defendant .....                      | \$25.00  |
| Opening a Miscellaneous case for presentation of a non-adversarial issue to the Court ..... | \$35.00  |

**SERVICE BY PUBLICATION**

|  |          |
|--|----------|
| Publication in the <i>Daily Reporter</i> ..... | \$500.00 |
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**CERTIFICATES OF JUDGMENT**

|   |         |
|---|---------|
| Filing of Certificate of Judgment from a Franklin County Common Pleas Court Judgment.....   | \$38.00 |
| Domesticating a Foreign Judgment (Includes Service).....  | \$38.00 |
| Certificate of Judgment Transferred to Franklin County Common Pleas Court from a U.S. District Court or an Ohio Court of Record ..... | \$33.00 |

Preparation of a Certificate of Judgment for Transfer .....\$7.00  
 Release or Partial Release of Certificate of Judgment .....\$5.00

**EXECUTIONS**

Order in Aid Proceedings (Judgment Debtor Exam).....\$25.00  
 Order in Aid Proceedings (Property other than Personal Earnings)  
 Per Garnishee.....\$25.00  
     Plus \$1.00 per Garnishee  
 Order in Aid Proceeding (Garnishment of Personal Earnings).....\$35.00  
     Plus \$10.00 per Employer  
 Praeceptum for a Writ of Execution .....\$90.00  
 Subsequent or Alias Executions on the Same Case.....\$44.00

**MISCELLANEOUS**

Arbitration-Local Rule 103.04C (\$175.00 Each party) .....\$350.00  
 Appeal *de novo*.....\$150.00  
 Capias Praeceptum.....\$14.00  
 Certificate to Copies (aka Exemplification or Triple Seal) .....\$4.00  
 Lis Pendence Actions.....\$5.00  
 Motion or Petition to Vacate, Revive or Modify Judgment .....\$15.00  
 Praeceptum for Order of Sale, Alias, Pluries and in Partition (per parcel) .....\$600.00  
 Praeceptum for Writ of Partition.....\$14.00  
 Praeceptum for Writ of Possession (Habere Facias).....\$44.00  
 Praeceptum for a Writ of Restitution.....\$44.00  
 Praeceptum for a Writ of Vendi Exponas.....\$600.00  
 Subpoena-Service by a Sheriff.....\$10.00

**NON-JUDICIAL RELATED FUNCTIONS**

Certified Copy.....\$1.00  
 Notary Signature Verification Document.....\$2.00  
 Registration of Notary Commission.....\$5.00  
 Administering Oath.....\$1.00  
 Registration of Optometry License.....\$2.00

**LICENSES**

Deer Permits.....\$20.00  
 Fishing Licenses.....\$15.00  
 Hunting Licenses.....\$15.00  
 Replacement Duplicate of all Licenses.....\$3.00

**RULE 11 - PLEADINGS AND MOTIONS**

**11.01** Every pleading, motion, and memorandum filed shall have typed or printed on it the name, Ohio Supreme Court attorney registration number, address, and telephone number of counsel filing the same, and when the counsel is a firm of attorneys, a particular attorney within the firm having primary responsibility for the case and his or her Ohio Supreme Court attorney registration number shall be indicated thereon.

**11.02** 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 specific designation of "new party plaintiff" or "new party defendant" as is applicable.

**11.03** Counsel shall file with the assignment office written notice of any change of address. The notice shall include the Ohio Supreme Court attorney registration number for each attorney.

**11.04** All motions, briefs and memoranda, pro, contra, and reply shall be filed in duplicate.

**11.05** 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]

**11.06** All pleadings and motions shall be typewritten or printed, double spaced, on 8 ½ by 11 paper, and in at least 12 point type. The caption shall identify the plaintiff(s) and defendant(s) by name and complete address, including zip code. Post office box numbers shall not be used as a complete address. The plaintiff(s) shall file a sufficient number of copies of the complaint to permit the clerk to retain one copy and to serve a copy of the complaint upon each named defendant.

**RULE 12 - PAGE LIMITATIONS – (8/24/01)**

**12.01** A supporting or opposing memorandum or brief including administrative appeals, shall not exceed fifteen (15) pages exclusive of any supporting documents. Any supporting or opposing memorandum or brief which exceeds fifteen (15) pages shall not be accepted for filing without prior leave of the Court.

**12.02** A reply memorandum or brief including administrative appeals shall not exceed seven pages and shall be restricted to matters in rebuttal. Any reply memorandum or brief which exceeds seven pages shall not be accepted for filing without prior leave of the Court.

**12.03** A motion for leave to file a memorandum or brief in excess of the page limitations set forth in 12.01 and 12.02 above shall be made by no later than seven days prior to the time for filing the brief and a time-stamped copy be hand delivered to the judge's chambers. Such motion shall set forth the unusual and extraordinary circumstances which necessitate exceeding the page limitation.

### **RULE 13 - RULE DAY EXTENSIONS**

**13.01** By agreement of counsel any party may be permitted two leaves to move or plead provided the total extension of time does not exceed 28 days. That consent shall be evidenced by a "Consent to Plead" signed by all counsel and filed with the Clerk. The "Consent to Plead" shall not be submitted to the Court for approval.

**13.02** Where an additional extension of time beyond that provided by Loc. R. 13.01 is needed 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 stating facts indicating the practical impossibility of pleading within rule and demonstrating 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. 13.01.

### **RULE 15 - RULE DAYS NOT FIXED BY LAW**

**15.01** In all cases where the time for the filing of pleading or amended pleadings is not fixed by law or other rule, the pleadings or amended pleadings shall be filed on or before the 14th 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 Trial Judge. The opposing party shall move or plead to the pleadings or amended pleadings so filed on or before the 14th day after the pleadings or amended pleadings are filed.

**15.02** 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 17 - OFFICIAL NOTIFICATION OF COUNSEL**

**17.01** The Case Schedule and publication in the Daily Reporter shall be deemed official and complete notification to all counsel of any assignment of any case for any purpose whatever. It shall be the duty of counsel to ascertain from the Case Schedule and the Daily Reporter any official notification pertaining to any case.

**17.02** Where mail notification is provided for by these rules, or is otherwise given, non-delivery of mail notification shall not excuse the non-appearance of counsel where notice has also been given by publication in the Case Schedule or the Daily Reporter as provided by Loc. R. 17.01.

**17.03** Any mail notification shall be sufficient if it specifically directs the attention of counsel to the official notification in the Case Schedule or the Daily Reporter without particularly setting forth any specific case style or number or the exact time of hearing.

**17.04** On or before the 270th day after the filing of a 24-month time track case, and on or before the 90th day after the filing of a 12-month track case, counsel for the plaintiff, or the plaintiff, if not represented, shall file with the assignment office a "Notice of Counsel", on a form provided by that office. The "Notice of Counsel" form shall contain the names and addresses of all trial counsel and the parties they represent, and the names and addresses of all parties not represented.

Notice of any change, addition or deletion of counsel shall be originally filed with the assignment office. Nothing in this Rule shall prevent any party or counsel from timely filing such notice.

**17.05** File copies of computer-generated notices which are produced in duplicate of any event scheduled before this Court shall be filed with the Clerk, microfiched, and docketed with microfiche coordinates.

#### **RULE 18 - WITHDRAWAL OF TRIAL ATTORNEY - [7/21/94]**

**18.01** An attorney desiring to withdraw from representation of a client in civil or criminal cases shall file a motion to withdraw stating the reasons for the withdrawal. The motion shall also include the last current address and phone number of the client and certification by the attorney that the following conditions have been met:

- a. notice has been given to the client advising the client of all orders and all upcoming assignment dates affecting the client;
- b. notice has been given to all counsel, or if unrepresented, notice has been given to the parties.

**18.02** No attorney shall be permitted to withdraw from a case later than 20 days prior to a trial or dispositive hearing except for extraordinary circumstances that require direct permission of the Court.

#### **RULE 19 - CERTIFICATE OF SERVICE**

**19.01** Every pleading, motion, brief, memorandum, or argument in writing filed with the Court or a judge shall be served upon all opposing counsel and upon all parties not represented by counsel. Proof of service in writing shall be shown on or attached to the pleading, motion, brief, memorandum, or argument in writing. No paper delivered to the Court or a judge without a certificate of service shall be considered by any judge of this Court except trial briefs where it has been agreed by counsel that they shall not be exchanged.

#### **RULE 21 - HEARINGS AND SUBMISSION OF MOTIONS**

**21.01** All motions shall be accompanied by a brief stating the grounds and citing the authorities relied upon. The opposing counsel or a party shall serve any answer brief on or before the 14th day after the date of service as set forth on the certificate of service attached to the served copy of the motion. The

moving party shall serve any reply brief on or before the 7th day after the date of service as set forth on the certificate of service attached to the served copy of the answer brief. On the 28th day after the motion is filed, the motion shall be deemed submitted to the Trial Judge. Oral hearings on motions are not permitted except upon leave of the Trial Judge upon written request by a party. The time and length of any oral hearing shall be fixed by the Trial Judge. Except as otherwise provided, this Rule shall apply to all motions.

**21.02** Motions for temporary restraining orders, preliminary injunctions, appointment of receivers, or similar urgent equitable relief shall be submitted to the Trial Judge at a time to be fixed by the Assignment Commissioner with the concurrence of Trial Judge. Notice of the time and place of the hearing shall be served upon the adverse party or his counsel. No matter shall be heard ex parte unless, from affidavits filed with the motion, the Trial Judge determines that extraordinary undue hardship would result to the moving party by any delay in proceeding. Even when the order is issued ex parte as provided herein, a hearing on the continuance of order shall be scheduled and held after notice as provided herein. Evidence upon any hearing shall be in the form of affidavits or depositions which must be filed in advance of the hearing, if possible. No oral testimony shall be permitted upon any motion unless the Trial Judge for good cause directs otherwise.

**21.03** Interrogatories under Civ. R. 33, requests for production or inspection under Civ. R. 34, and requests for admissions under Civ. R. 36 shall be served upon other counsel or parties in accordance with those rules, but shall not be filed with the Court. The party responding shall file with the Court interrogatories and requests together with any responses and objections. If relief is sought under Civ. R. 26 (C) or Civ. R. 37 concerning any interrogatories, requests for production or inspection, and requests for admissions, copies of the portions of the documents which are in dispute shall be filed with the Court contemporaneously with any motion filed under Civ. R. 26 (C) or Civ. R. 37.

#### **RULE 22 - NOTICE OF SETTLEMENT - [7/21/94]**

**22.01** The purpose of this rule is to 1) reduce the Court's expenditure of time on cases that have already settled, but no notice has been given to the Court; and 2) to facilitate the scheduling of other cases remaining on the Court's docket.

**22.02 (1-30-01)** Whenever the parties have reached a settlement agreement prior to the trial date or when an action is voluntarily dismissed, it shall be the duty of counsel for the plaintiff to immediately notify the trial court by telephone or electronic transmission, particularly if there are any pending motions that would involve the Court's time. If the case or any issue in the case has been referred to a magistrate, the magistrate likewise shall be immediately notified of the settlement or voluntary dismissal.

**22.03** If a settlement or dismissal occurs within 24 hours of the scheduled trial date, counsel for the plaintiff shall notify the bailiff as soon as practicable, but no later than 9:00 a.m. on the day of trial.

**22.04** All CR. 41(A) dismissals, whether or not signed by the judge, must be presented to the bailiff for termination before filing.

**22.05** Failure to abide by the rule may subject either counsel to the sanctions under LocR. 39.05(C).

#### **RULE 23 - TRIAL PROCEDURE**

**23.01** Trial procedure shall be in accordance with statute or rules of the Supreme Court of Ohio.

**23.02** Except by permission of the Trial Judge, only one counsel 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 counsel for each adverse party will be permitted to examine the same witness in any trial or proceeding before the Court. A witness, not a party, when examined, cannot be recalled without permission of the Trial Judge.

#### **RULE 25 - ENTRIES**

**25.01** Unless the Trial Judge otherwise directs, counsel for the party in whose favor a decision, order, decree, or judgment is rendered, shall within five days thereafter prepare the proper journal entry and submit it to the counsel for the adverse party, who shall approve or reject the entry within three days after receipt. Name of the counsel and of the Trial Judge shall be typed or printed upon the entry. When the entry is approved by counsel, it shall be signed and presented to the Trial Judge for approval, and if signed by the Trial Judge, shall then be filed with the Clerk. If counsel are unable to agree upon the entry, the dispute shall be submitted to the Trial Judge, who will direct what entry shall be made.

**25.02** If counsel fails to present any entry within 20 days after the decision, order, decree, or judgment is rendered, the Trial Judge shall cause the proper entry to be prepared and filed without submission or notice to counsel or take such other action as may be appropriate under the circumstances.

**25.03** Counsel shall promptly submit an entry of dismissal to the Trial Judge following settlement of any case. If counsel fails to present such an entry to the Trial Judge within 20 days after representation to the Trial Judge that a case has been settled, the Trial Judge may order the case dismissed for want of prosecution.

**25.04** Contents of the Entry (**Amended 5-23-02**) All entries should: (1) state the reason for the entry; or (2) relate the entry to the motion decided and the date of the decision; and (3) indicate whether or not it is a final entry. If the entry does not dispose of all claims, counterclaims and/or cross-claims, it shall specify what claims remain pending.

#### **RULE 27 - JURIES, JURORS - [05/18/94]**

**27.01** Opportunity for Service

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

#### **Ohio Statutes**

O.R.C. 2313.47 Race or color shall not disqualify a juror.

**27.03 Jury Source List**

- A. Pursuant to Court Order, the jury source list shall be obtained from the Board of Elections' list of registered voters.
- B. The jury source list shall be representative and should be as inclusive of the adult population in Franklin County as is feasible.
- C. The court shall on a regular basis review the jury source list for its representativeness and inclusiveness of the adult population in Franklin County as is feasible.
- D. Should the court determine that improvement is needed in the representativeness or inclusiveness of the jury source list, appropriate corrective action shall be taken.
- E. "Ballots" or automated data processing electronic/ magnetic storage devices remaining after the creation of the annual juror tape, on the jury draw automated data processing electronic/magnetic storage device, shall be disposed of by the erasure and/or reuse of this device for any other data processing use, pursuant to section 2313.35 O.R.C.

**Ohio Statutes**

O.R.C. 1901.25 Selection and impaneling of a jury.

O.R.C. 1907.28 Authorizes county courts to adopt local rules regarding jury selection and impaneling.

O.R.C. 2311.42 Authorizes the drawing of a jury from an adjoining county if a party to the case is the board of county commissioners.

O.R.C. 2313.06 Provisions relative to the summoning of jurors using lists of voters and licensed drivers.

O.R.C. 2313.07 Construction of a jury wheel and the use of data processing equipment in drawing jurors.

O.R.C. 2313.08 Contains provisions relative to the annual jury list.

O.R.C. 2313.09 Supplemental jury lists.

O.R.C. 2313.15 Report of names of jurors excused.

O.R.C. 2313.20 Notice of drawing.

O.R.C. 2313.21 Conduct of drawing.

O.R.C. 2313.26 Order for additional number of jurors.

**27.05** Random Selection Procedures

- A. Random selection procedures are to be used in selecting persons to be summoned for jury service, assigning prospective jurors to panels and calling prospective jurors for voir dire.

Departures from the principle of random selection are appropriate only to comply with lawful exceptions.

- B. The prospective juror list shall be created through the use of automated data processing electronic/magnetic storage devices pursuant to 2313.07(C), 2313.08(C) and 2313.21(C) of the Ohio Revised Code and such automated information retrieval systems shall not be activated except by order of this Court.

**Ohio Statutes**

O.R.C. 1901.25 Selection and impaneling of a jury.

O.R.C. 1907.28 Authorizes county courts to adopt local rules regarding jury selection and impaneling.

O.R.C. 2101.30 Drawing of a jury in probate cases.

O.R.C. 2313.07 Construction of a jury wheel and the use of data processing equipment in drawing jurors.

O.R.C. 2313.08 Contains provisions relative to the annual jury list.

O.R.C. 2313.09 Supplemental jury lists.

O.R.C. 2313.15 Report of names of jurors excused.

O.R.C. 2313.21 Conduct of drawing.

**27.07 Eligibility for Jury Service**

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

- Are less than eighteen years of age;
- Are not citizens of the United States;
- Are not residents of the jurisdiction in which they have been summoned to serve; to wit, Franklin County;
- Are not able to communicate in the English language; or
- Have been convicted of a felony and have not had their civil rights restored.

**Ohio Statutes**

O.R.C. 1901.25 Selection and impaneling of a jury.

O.R.C. 1907.28 Authorizes county courts to adopt local rules regarding jury selection and impaneling.

O.R.C. 2961.01 Precludes convicted felons from serving as jurors.

**27.09** Term of and Availability for Jury Service

- A. Unless otherwise provided by law or order of the Court, jurors shall be called to serve a tour of two weeks. The tours of the jurors shall be staggered so that a new panel of jurors is called each week to serve the respective tours. Jurors shall be oriented by the Duty Judge. Jurors may be excused or deferred pursuant to R.C. Sections 2313.16 by a representative of the Court. That representative may be any judge of the Common Pleas Court or the Deputy Jury Commissioner(s) who shall pass on requests by jurors to be excused or deferred from jury duty.
  
- B. "Ballots" or automated data processing electronic/ magnetic storage devices containing the names of jurors who serve as jurors shall be disposed of by erasing those names and reusing the tag device immediately after the service by the juror has terminated unless otherwise ordered by the Court pursuant to section 2313.30 O.R.C.

**27.11 Exemption, Excuse and Deferral**

- A. All automatic excuses or exemptions, with the exception of statutory exemptions from jury service, should be eliminated.
- B. Prospective jurors may be excused for the following reasons: over age 70 and request to be excused; financial hardship; personal or family illness; childcare hardship; school hardship; physician; firefighter; or lawyer. Prospective jurors are rescheduled for the following reasons: vacation; employment hardship; or student.
- C. Deferrals for jury service for reasonably short periods of time may be permitted by a judge or specifically authorized court official.
- D. Requests for excuses and deferrals and their disposition shall be written or otherwise made or recorded. See Exhibit A.

**Ohio Statutes**

- O.R.C. 737.26 Exempts fireman from jury duty.
- O.R.C. 1901.25 Selection and impaneling of a jury.
- O.R.C. 1907.28 Authorizes county courts to adopt local rules regarding jury selection and impaneling.
- O.R.C. 2313.12 Jury exemptions; proof of exemptions.
- O.R.C. 2313.13 Postponement of jury service; temporary excuse or discharge.
- O.R.C. 2313.14 Failure to attend after postponed service.
- O.R.C. 2313.15 Report of names of jurors excused.
- O.R.C. 2313.16 Reasons for which jurors may be excused.
- O.R.C. 2313.27 Evasion of jury service.
- O.R.C. 2313.36 Exemptions from jury service in court of record.
- O.R.C. 5919.20 Exempts certain officers and personnel of the Ohio National Guard from jury service.
- O.R.C. 5920.10 Exempts members of the Ohio Military Reserve from jury duty.
- O.R.C. 5921.09 Exempts members of the Ohio Naval Militia from jury service.

**27.13            Voir Dire**

- A. 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.
- B. To reduce the time required for voir dire, basic background information regarding panel members should be made available to counsel in writing for each party on the day on which jury selection is to begin. See Exhibit B.
- C. The trial judge shall conduct a preliminary voir dire examination. Counsel shall then be permitted to question panel members for a reasonable period of time.
- D. The judge should ensure that the privacy of prospective jurors is reasonably protected, and the questioning is consistent with the purpose of the voir dire process.
- E. In criminal cases, the voir dire process shall be held on the record unless waived. In civil cases, the voir dire process SHALL NOT be held on the record unless requested by the parties.
- F. Rules on Voir Dire
  - The case may not be argued in any way while questioning the jurors.
  - Counsel may not engage in efforts to indoctrinate jurors.
  - Jurors may not be questioned concerning anticipated instructions or theories of law. This does not prevent general questions concerning the validity and philosophy of reasonable doubt or the presumption of innocence.
  - Jurors may not be asked what kind of verdict they might return under any circumstance.
  - Questions are to be asked collectively of the entire panel whenever possible.
- G. All prospective jurors shall complete the "Juror Questionnaire" approved by the Court. If a trial judge approves a supplemental questionnaire, jurors shall complete the supplemental questionnaire.
- H. Subject to the availability of jurors, the Deputy Jury Commissioner shall, at all times, have a panel of jurors available for call to a courtroom. Such panel shall be randomly drawn and shall consist of twenty-four jurors.
- I. When a bailiff requests that a panel of jurors report to a courtroom, the Deputy Jury Commissioner shall provide for the bailiff the prepared panel of jurors, along with three copies of the Questionnaire.
- J. If a lesser or greater number of jurors is needed for the case that is called, the bailiff shall advise the Deputy Jury Commissioner of the number of jurors needed. If available, the

jurors, along with copies of their Questionnaires, shall be made available to the bailiff.

- K. The Questionnaire shall be used by the parties for purposes of voir dire only. No copies of the Questionnaire shall be made by the parties. Upon completion of the voir dire, the copies of the Questionnaire shall be returned to the bailiff who shall return them to the Deputy Jury Commissioner when the juror has completed his or her service in the courtroom. The Questionnaire is not to be marked on.

### **Ohio Statutes**

O.R.C. 1901.25 Selection and impaneling of a jury.

O.R.C. 1907.28 Authorizes county courts to adopt local rules regarding jury selection and impaneling.

### **Court Rules**

Civ. R. 47 Jurors.

Crim.R. 24 Trial jurors.

**27.15 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.

**Ohio Statutes**

- O.R.C. 1901.25 Selection and impaneling of a jury.  
O.R.C. 1907.28 Authorizes county courts to adopt local rules regarding jury selection and impaneling.  
O.R.C. 2313.42 Challenge for cause of persons called as jurors.  
O.R.C. 2313.43 Challenge of petit jurors.  
O.R.C. 2945.25 Causes for challenging jurors.  
O.R.C. 2945.26 Challenge of juror for cause.

**Court Rules**

- Civ. R. 47 Jurors.  
Crim.R. 24 Trial jurors.

**27.17 Peremptory Challenges**

- A. Procedures for exercising peremptory challenges shall be in accordance with the Ohio Civil and Criminal Rules adopted by the Supreme Court of Ohio and applicable statutory authority.

**Ohio Statutes**

- O.R.C. 1901.25 Selection and impaneling of a jury.
- O.R.C. 1907.28 Authorizes county courts to adopt local rules regarding jury selection and impaneling.
- O.R.C. 2938.06 Number of jurors and challenges.
- O.R.C. 2945.21 Peremptory challenges.
- O.R.C. 2945.23 Use of peremptory challenges.

**Court Rules**

- Civ. R. 47 Jurors.

Crim.R. 24 Trial jurors.  
**27.19 Administration of the Jury System**

- A. The responsibility for administration of the jury system shall be vested exclusively in the Franklin County Common Pleas Court.
- 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.

**Ohio Statutes**

- O.R.C. 1901.14 Authorizes the adoption of local rules regarding the summoning of jurors.
- O.R.C. 1907.28 Authorizes county courts to adopt local rules regarding jury selection and impaneling.
- O.R.C. 2313.01 Authorizes the appointment of jury commissioners.
- O.R.C. 2313.02 Compensation and appointment of deputies and clerks in the office of jury commissioners.
- O.R.C. 2313.03 Oath of office for jury commissioners.

O.R.C. 2313.04 Lists cases in which the deputy jury commissioner may act.

**27.21 Notification and Summoning Procedures**

The notice summoning a person to jury service should be:

- A. Phrased so as to be readily understood by an individual unfamiliar with the legal and jury systems.
- B. Delivered by ordinary mail.
- C. The summons should clearly explain how and when the recipient must respond and the consequences of a failure to respond.
- D. Jurors who fail to report for service may be scheduled for a contempt hearing before a referee or judge to inform the hearing officer as to why they did not appear. Sanctions are imposed as warranted.

**Ohio Statutes**

O.R.C. 1905.28 Gives the mayor of a municipal corporation the authority to compel the attendance of jurors.

O.R.C. 1907.29 Cross-references to civil and criminal rules and authorizes the punishment by contempt for summoned jurors who refuse to serve.

O.R.C. 2101.30 Drawing of a jury in probate cases.

O.R.C. 2313.10 Notice to jurors to appear and testify before jury commissioners.

O.R.C. 2313.11 Failure of summoned juror to attend or testify.

O.R.C. 2313.14 Failure to attend after postponed service.

O.R.C. 2313.25 Service and return of venire.

O.R.C. 2313.26 Order for additional number of jurors.

O.R.C. 2313.29 Failure of juror to attend.

O.R.C. 2313.30 Arrest for failure to attend.

**27.23 Monitoring the Jury System**

- A. The Court shall collect and analyze information regarding the performance of the jury system on a regular basis in order to evaluate:
- The representativeness and inclusiveness of the jury source list;
  - The effectiveness of qualification and summoning procedures;
  - The responsiveness of individual citizens to jury duty summonses;
  - The efficient use of jurors; and
  - The cost-effectiveness of the jury management system.

**27.25 Juror Use**

- A. The Court shall determine the minimally sufficient number of jurors needed to accommodate trial activity. This information and appropriate management techniques should be used to adjust both the number of individuals summoned for jury duty and the number assigned to jury panels.
- B. The Court should use the services of prospective jurors so as to achieve optimum results with a minimum of inconvenience to the juror.

Ohio Statutes

O.R.C. 2313.19 Number of jurors drawn.

O.R.C. 2313.24 Number of jurors; exception for smaller counties.

**27.27 Jury Facilities**

- A. The Court shall provide an adequate and suitable environment for jurors.
- B. The entrance and registration area shall be clearly identified and appropriately designed to accommodate the daily flow of prospective jurors to the courthouse.
- C. Jurors shall be accommodated in pleasant waiting facilities furnished with suitable amenities.
- D. Jury deliberation rooms shall include space, furnishings and facilities conducive to reaching a fair verdict. The safety and security of the deliberation rooms shall be ensured.
- E. To the extent feasible, juror facilities should be arranged to minimize contact between jurors, parties, counsel and the public.

**Ohio Statutes**

- O.R.C. 1907.29 Cross-references to civil and criminal rules and authorizes the punishment by contempt for summoned jurors who refuse to serve.
- O.R.C. 2313.05 Office and supplies for the jury commissioners.
- O.R.C. 2315.03 Deliberations of jury.
- O.R.C. 2945.33 Keeping and conduct of the jury after case is submitted to the jury.

**27.29 Juror Compensation**

- A. Persons called for jury service shall receive fees which are set by statute. Petit jurors shall receive \$7.50 per day for the first ten days and \$15.00 per day for each day thereafter. Grand jurors shall receive a fee of \$10.00 per day.
- B. Such fees shall be paid weekly by the Clerk of Courts.
- C. Employers SHALL be prohibited from discharging, laying-off, denying advancement opportunities to, or otherwise penalizing employees who miss work because of jury service.

**Ohio Statutes**

- O.R.C. 1901.25 Selection and impaneling of a jury.
- O.R.C. 1907.28 Authorizes county courts to adopt local rules regarding jury selection and impaneling.
- O.R.C. 2101.16 Cross-references to other sections regarding jury fees.
- O.R.C. 2313.34 Discharge of juror, compensation.

**27.31 Juror Orientation and Instruction**

A. The Court shall have an orientation program:

Designed to increase prospective jurors' understanding of the judicial system and prepare them to serve competently as jurors;

Presented in a uniform and efficient manner using a combination of written, oral and audiovisual material.

B. The Court shall provide orientation or instructions to persons called for jury service.

C. The trial judge should:

Give preliminary instructions to all prospective jurors;

Give instructions directly following empanelment of the jury to explain the jury's role, the trial procedures including notetaking and questioning by jurors, the nature of evidence and its evaluation, the issues to be addressed and the basic relevant legal principles;

Prior to the commencement of deliberation, instruct the jury on the law, on the appropriate procedures to be followed during deliberations and on the appropriate method for reporting the results of its deliberations. Such instructions may be made available to the jurors during deliberations;

Prepare and deliver instructions which are readily understood by individuals unfamiliar with the legal system; and

Provide written instructions when possible.

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

Release the jurors from their duty of confidentiality;

Explain their rights regarding inquiries from counsel or the press;

Either advise them that they are discharged from service or specify where they must report; and

Express appreciation to the jurors for their service, but not express approval or disapproval of the result of the deliberation.

D. All communications between the judge and members of the jury panel from the time of reporting to the courtroom for voir dire until dismissal shall be in writing or on the record in open court. Counsel for each party shall be informed of such communication and given the opportunity to be heard.

**Ohio Statutes**

O.R.C. 2945.10 Order of trial proceedings, including the charge to the jury.

O.R.C. 2945.11 Charge to the jury on questions of law and fact.

O.R.C. 2945.34 Admonition to be administered to jurors if they are separate during trial.

**Court Rules**

Civ. R. 51 Instructions to the jury; objections.

Crim.R. 30 Instructions to the jury.  
27.33 **Jury Size and Unanimity of Verdict**

A. Jury size and unanimity in civil and criminal cases shall conform with existing Ohio law.

### **Ohio Statutes**

O.R.C. 1901.24 Cross-references to civil and criminal rules related to juries.  
O.R.C. 1907.29 Cross-references to civil and criminal rules and authorizes the punishment by  
contempt for summoned jurors who refuse to serve.  
O.R.C. 2938.06 Number of jurors and challenges.

### **Court Rules**

Civ.R. 38 Jury trial of right.  
Civ.R. 48 Juries, majority verdict, stipulation of number of jurors.  
Civ. R. Form 18 Judgment on jury verdicts.  
Crim.R. 23 Trial by jury or by the court.

27.35 Jury Deliberations

- A. Jury deliberations should take place under conditions and pursuant to procedures that are designed to ensure impartiality and to enhance rational decision-making and shall conform with existing Ohio law.
- B. The judge should instruct the jury concerning appropriate procedures to be followed during deliberations.
- C. A jury should not be required to deliberate after the normal closing time of the Court unless the trial judge determines that evening or weekend deliberations would not impose an undue hardship upon the jurors and are required in the interest of justice.
- D. Training should be provided to personnel who escort and assist jurors during deliberation.

**Ohio Statutes**

O.R.C. 2315.03 Deliberation of jury.

O.R.C. 2315.04 Duty of officer in charge of jury.

O.R.C. 2945.32 Contains the oath to be administered to an officer if the jury is sequestered.

O.R.C. 2945.33 Keeping and conduct of the jury after case is submitted to the jury.

**Court Rules**

Civ. R. Form 18 Judgement on jury verdicts.

Crim.R. 30 Instructions to the jury.

**27.37 Sequestration of Jurors**

- A. A jury should be sequestered only for good cause, including but not limited to insulating its members from improper information or influences.
- B. THE JURY SHALL BE SEQUESTERED AFTER A CAPITAL CASE IS SUBMITTED TO THE JURY in conformity with existing Ohio law.
- C. The trial judge shall have the discretion to sequester a jury on the motion of counsel or on the judge's initiative and shall have the responsibility to oversee the conditions of sequestration..
- D. Standard procedures should be promulgated to:
  - Achieve the purpose of sequestration; and
  - Minimize the inconvenience and discomfort of the sequestered jurors.
- E. Training shall be provided to personnel who escort and assist jurors during sequestration.

**Ohio Statutes**

O.R.C. 2315.04 Duty of officer in charge of jury.

O.R.C. 2945.31 Allows, but does not require, sequestering of jurors after a trial has commenced.

O.R.C. 2945.33 Requires sequestration of jurors in capital cases once a case is submitted to the jury.

**Court Rules**

JUROR NAME \_\_\_\_\_ DATE \_\_\_\_\_

**EXCUSE/RESCHEDULE**

NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_ ZIP \_\_\_\_\_

TELEPHONE \_\_\_\_\_

DATE TO SERVE \_\_\_\_\_

CHANGE TO \_\_\_\_\_

REASON:

\_\_\_\_\_ OVER 70 \_\_\_\_\_ NO TRANSPORTATION

\_\_\_\_\_ NOT PAID \_\_\_\_\_ SELF-EMPLOYED

\_\_\_\_\_ DR. CERTIFICATE/ILLNESS \_\_\_\_\_ OUT OF TOWN

\_\_\_\_\_ SMALL CHILDREN \_\_\_\_\_ MOVED FROM COUNTY

\_\_\_\_\_ STUDENT \_\_\_\_\_ ILL RELATIVE

\_\_\_\_\_ OTHER \_\_\_\_\_

SIGNATURE OF JUROR \_\_\_\_\_

OR

INFORMATION RECEIVED BY TELEPHONE BY \_\_\_\_\_

\_\_\_\_\_ EXCUSED \_\_\_\_\_ NOT EXCUSED \_\_\_\_\_ RESCHEDULE

APPROVED BY: \_\_\_\_\_

JUDGE/DEPUTY JURY COMMISSIONER

## **RULE 29 - AGREEMENTS**

**29.01** No oral agreement of counsel with each other, or with a party or an officer of the Court, will be regarded unless made in open court.

## **LOCAL RULE 31. ASSIGNMENT OF CASES**

### **31.01 (5-18-04) GENERAL**

All cases shall be assigned on a single assignment basis. Each case shall be assigned to a specific trial judge when filed and shall remain with that trial judge until reassignment or final disposition. All decisions relating to the case shall be made by the assigned trial judge. However, a civil case may be referred to a visiting judge, by the assigned trial judge, for a trial on the merits.

A. **PROCEDURE FOR RANDOM SELECTION.** The Clerk of Court shall maintain a computer listing of the names of all of the General Division trial judges. The clerk shall cause the computer to randomly assign each case to a trial judge. Assignments shall continue until each trial judge has been assigned a case whereupon the process shall be repeated.

B. **TRANSFER OR RE-ASSIGNMENT OF CASES.** Nothing in this rule shall prevent the transfer of a either a civil or criminal case(s) from one trial judge to another. Such a transfer shall specify the reason(s) for the transfer and shall be approved by the Administrative Judge.

C. **RECUSALS.** If a trial judge determines that a family, social, political or other relationship might influence the trial judge's judicial conduct or judgment in an assigned case, the trial judge shall recuse. The trial judge shall submit a Recusal/Transfer entry to the Administrative Judge. If the Administrative Judge grants the recusal, the assignment office shall randomly assign the case to another trial judge. The trial judge receiving the recused case shall select a similar case from his or her docket and the same shall be transferred to the recusing trial judge as a replacement for the recused case.

### **31.02 CIVIL CASES**

A. **ASSIGNMENT OF CIVIL CASES.** At the time of filing, a civil case shall be assigned randomly to a trial judge.

B. **ASSIGNMENT OF COGNOVIT JUDGMENTS.** Cases filed in which a cognovit judgment is sought will be assigned to the duty judge.

C. **ASSIGNMENT OF TEMPORARY RESTRAINING ORDERS.** Names of all trial judges are listed on a temporary restraining order rotation list. When a case is filed and a temporary restraining order sought, the computer shall assign the case to the judge whose name next appears on the temporary restraining order rotation list.

D. **REFILED CASES.** If a case has been dismissed and is refiled, the refiled complaint shall contain the following designation under the new case number: "THIS IS REFILED CASE #, PREVIOUSLY ASSIGNED TO" [See example] The trial judge to whom the case was previously assigned shall be reassigned to the refiled case. Failure to comply with this rule may subject the attorney or party to sanctions under Loc. R. 39.05© for:

1. Failing to disclose that the case is a refiled case; and
2. Attempting to proceed with a trial judge who was not assigned to the original case.

Example: "THIS IS REFILED CASE #02CVH-02-0000, PREVIOUSLY ASSIGNED TO JUDGE HOLMES."

E. CONSOLIDATION. When cases involving common questions of law or fact are pending before different trial judges, a party may file a motion to consolidate the cases. The motion shall be filed in each case which the movant seeks to consolidate. The motion to consolidate shall be ruled upon by the trial judge assigned to the case and approved by the trial judge having the lowest numbered case. If cases assigned to different judges are consolidated, both cases shall be assigned to the trial judge having the lowest numbered case.

1. CONSOLIDATION ENTRIES. Upon approval of consolidation, an entry shall be prepared in accordance with Loc. R. 25. The entry shall bear the complete case captions of all cases to be consolidated and signature spaces for all assigned trial judges. The entry shall be initially presented to the trial judge having the lowest numbered case. After signature by the trial judge having the lowest numbered case, the movant shall present the entry for signature by each trial judge whose cases are affected by the consolidation.

2. STYLE OF THE PLEADINGS AND SCHEDULE. Although cases have been consolidated, each case shall remain separate and distinct. All subsequent pleadings shall bear the complete captions of all consolidated cases and shall be filed in each case. The case schedule of the lowest numbered case shall control the proceedings in the consolidated cases, unless otherwise ordered by the trial judge.

### 31.03 CRIMINAL CASES

A. ASSIGNMENT. Criminal cases shall be assigned randomly to a trial judge immediately after arraignment. The name of the assigned trial judge shall be placed on the file. The only exception to this random assignment are aggravated murder cases with death penalty specifications. Aggravated murder cases with death penalty specifications shall be evenly distributed among the trial judges.

B. RE-INDICTED CASES. If a case has been terminated by nolle prosequi or other form of dismissal, the re-indicted case shall contain the following designation under the case number: "THIS IS RE-INDICTED CASE.#, PREVIOUSLY ASSIGNED" [See example] Additionally, the original case number shall appear under the above designation. The trial judge to whom the case was previously assigned shall be reassigned to the re-indicated case. If a re-indicted case is not assigned to the previously assigned trial judge, the Assignment Commissioner shall transfer the re-indicted case to the that trial judge.

"THIS IS RE-INDICTED CASE #01CR-0000, PREVIOUSLY ASSIGNED TO JUDGE HOLMES."

C. ASSIGNMENT OF CASES WITH MULTIPLE CO-DEFENDANTS. All co-defendants indicted in a multiple defendant case(s) shall be assigned to the same trial judge. Any subsequent arraignments of other co-defendants shall be assigned to the same trial judge. If a subsequently arraigned co-defendant is not assigned to the same trial judge, and the case(s) involving the co-defendant(s) are still

pending, the Assignment Commissioner shall transfer the case to the originally assigned trial judge. At the time of the arraignment of the subsequent co-defendant, the County Prosecutor shall file a notice which provides:

1. the case numbers of all other co-defendants; and
2. the name of the trial judge to whom the first co-defendant was assigned.

D. ASSIGNMENT OF CASES OF DEFENDANTS WITH ACTIVE PROBATION CASES. If a probationer is indicted on a new case, the new case shall be assigned to the trial judge who placed the defendant on probation or community control.

If the defendant/probationer is not assigned to the trial judge who place the defendant on probation or community control, the Assignment Commissioner shall transfer the new case to the appropriate trial judge.

E. ASSIGNMENT OF CASES WHEN THE DEFENDANT HAS PENDING CASES. If a defendant is arraigned on a new case and the defendant has pending case(s) assigned to a trial judge, the new case shall be assigned to that trial judge. In the event that the defendant is a co-defendant in the new case, the new case shall be assigned to the trial judge previously assigned the case(s) of the other co-defendants.

F. TRANSFERS BY THE ASSIGNMENT COMMISSIONER. When required and without approval of the Administrative Judge, the Assignment Commissioner may transfer a criminal case, except for aggravated murder cases with death penalty specifications, from one trial judge to another. The Assignment Commissioner shall file a "Notice of Criminal Case Transfer" with the Clerk of Courts. The notification shall list the reason(s) for the transfer. The notification shall be signed by either the Assignment Commissioner or Deputy Assignment Commissioner. The Assignment Commissioner shall notify:

1. the trial judge to whom the case has been transferred;
2. the trial judge from whom the case is being transferred.

G. PRIORITY OF ASSIGNMENTS. In the event that a case is subject to more than one assignment category, the following assignment priority applies:

1. Re-indicted cases;
2. Co-Defendant cases;
3. Pending cases; and
4. Active probation cases.

H. REMOVAL OF A TRIAL JUDGE FROM THE RANDOM DRAW. If a transfer is made to a trial judge pursuant to Local Rule 31.02, that trial judge shall be removed from the random draw for new criminal cases for one assignment cycle.

I. ASSIGNMENT OF AGGRAVATED MURDER CASES WITH DEATH PENALTY SPECIFICATIONS.. All aggravated murder cases with death penalty specifications will be assigned as follows. Each judge is assigned a number from 1 through 16. Each number is inscribed on a die. To commence the assignment process, all sixteen dies are placed in a leather bottle; the bottle shaken; and a single number spilled out. The judge assigned to that number will be assigned the first aggravated murder case with death penalty specifications. Once a number has been spilled out, it will not be returned to the leather bottle until all of the remaining numbers have been exhausted. The remaining fifteen numbers will remain in the leather bottle.

With the filing of the next aggravated murder case with death penalty specifications, the remaining dies/numbers in the leather bottle are shaken and a single number spilled out. The judge assigned to that number will be assigned to the next death penalty case. This process repeats with the filing of each new aggravated murder case with death penalty specifications until the leather bottle is empty of numbers. When the last number is spilled out and the sixteenth aggravated murder case with death penalty specifications assigned, all of the numbers are placed back in the leather bottle to repeat the process. This process will be performed in public by the Executive Director, or his designee, in the presence of the Duty Judge and anyone wishing to witness it.

J. THREE JUDGE AGGRAVATED MURDER CASES WITH DEATH PENALTY SPECIFICATIONS. If a defendant in an aggravated murder case with death penalty specifications, seeks to enter a plea of guilty to one or more death penalty specifications (s) or, waives a jury trial in writing and on the record, the case shall be submitted to a three trial judge panel. The assigned trial judge shall serve as the presiding judge over the trial of the case. The two additional trial judges shall be designated, pursuant to R.C. 2945.06, by the Presiding Judge of the Court and selected at random by lot. Specifically, the Executive Director, or his designee, shall place numbered dies, one for each of the remaining General Division trial judges in a leather bottle; shake it; and spill out the name of the second and third judges to serve on the three judge panel with the assigned trial judge. This process shall be performed in the presence of the counsel for the state, counsel for the defendant, the assigned trial judge, and anyone wishing to witness it. An entry reflecting the selection of the second and third judges shall be signed by the Presiding Judge and filed with the clerk. The trial or plea shall proceed as specified in R.C. 2945.06 and/or Crim. R. 11 (C).  
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## **CASE FLOW MANAGEMENT PRACTICE AND PROCEDURE**

### **STATEMENT OF PURPOSE**

When litigation is filed in this Court, we judges believe it is important that the Court supervise the progress of all cases from filing to termination in a process that is fundamentally fair, but not too deliberate or too hasty. Within the bounds of applicable constitutional provisions, statutes, case law, and rules governing the courts of Ohio, the Court shall manage the sequence of events in litigation to insure the timely disposition of all matters by trial, submission for decision on legal arguments, negotiated settlement, arbitration, mediation, or other means of appropriate dispute resolution.

It is therefore incumbent upon the judges to articulate orders in each case for the uniform enforcement of procedural requirements, other rules, and time deadlines applicable in any particular case or type of case. Counsel in each case has a corresponding duty to know these rules and meet these deadlines and to inform the Court of extraordinary circumstances which would cause the standard deadlines to work a substantive injustice to their clients.

### **RULE 33 CASE FLOW MANAGEMENT**

**33.01** 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 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. Cases wherever possible will be resolved on the shortest time track under these rules. The 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.

**33.02** It shall be the goal of the case flow rules and the overall management of the docket by the Common Pleas Court that 90 percent of all civil cases should be settled, tried, or otherwise concluded within 12 months of filing; 98 percent within 18 months of filing; and 100 percent within 24 months of filing, except for individual cases where the Court determines exceptional circumstances exist.

### **RULE 35 - CLASSIFICATION OF CASES, DEADLINES, TIMING**

**35.01** All cases filed after January 1, 1990, shall be classified in the following categories, and the classification shall be reflected in the case number. Cases shall be resolved within the absolute time limits as set by the Ohio Rules of Superintendence for the Courts of Common Pleas. The classifications are:

- Professional Tort (A)
- Product Liability (B)
- Personal Injury (C)
- BWC Appeals (D)
- Foreclosures (E)
- Administrative Appeals (F)
- Complex Litigation (G)
- All other cases (H)

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.

### **RULE 37 GENERAL TIME LIMITS**

#### **37.01 Case Tracks**

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 Trial Judge, shall be placed on the 12-month primary time track or the 24-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.

#### **37.02 Primary Track**

The 12-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 standard operating procedure and used only for out of the ordinary cases within these classifications.

### **37.03 Longer Tracks**

The 24-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 an Case Schedule based on their subject-matter classification. Such 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 12-month and 24-month tracks as models for a proportionately longer track.

### **37.04 Non-Track Cases**

In civil cases filed prior to July 1, 1991, which are not covered by the Case Schedule and are not currently assigned a time track, the Assignment Commissioner shall assign the case for trial with the concurrence of the Trial Judge. All cases shall be assigned a trial date consistent with the standards set forth in the Rules of Superintendence of the Courts of Common Pleas.

## **RULE 39 CASE SCHEDULE**

### **39.01 Case Schedule**

When an initial pleading is filed and a new case file is opened, the Clerk of Court shall prepare and file a paper entitled "Case Schedule" and shall provide one copy to the plaintiff or the plaintiff's agent. The Clerk shall serve a copy of the Case Schedule on the defendant(s) along with copies of the pleading and summons.

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

A party who joins an additional party(s) shall be responsible for serving the additional party(s) with the current Case Schedule.

### **39.03 Form of the Case Schedule**

The Case Schedule will be in the following form:

-----

**CASE SCHEDULE**

**Latest Date  
of  
Occurrence of  
the event**

Case filed

Initial Status Conference

Initial Joint Disclosure of All Witnesses

Supplemental Joint Disclosure of All Witnesses

Trial Confirmation Date

Dispositive Motions

Discovery Cut-off

Decisions on Motions

Final Pre-trial Conference or Pre-trial Order (or both)

Trial Assignment

**NOTICE TO ALL PARTIES**

All attorneys and parties should make themselves familiar with the Court's local rules, including those pertaining to this Case Schedule. In order to comply with the Case Schedule, it will be necessary for attorneys and parties to pursue their cases vigorously from the day the cases are filed. Discovery must be undertaken promptly in order to comply with the dates listed in the right-hand column.

By Order of the Court of Common  
Pleas, Franklin County, Ohio

\_\_\_\_\_

Date

\_\_\_\_\_

Virginia Barney, Clerk

**39.04 Amended Case Schedule. (Amended 5-23-02)**

- A. 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, except that the trial date may be changed only as provided for in Loc. R. 37. A modification may extend or reduce the time for any event or the entire track. If the Case Schedule is modified upon the motion of a party, that party shall prepare an amended case schedule and present it to the Trial Judge for signature. The amended case schedule shall be promptly filed and served on all other parties. If the Case Schedule is modified on the Trial Judge's own motion, the Court shall prepare, file, and promptly serve the "Amended Case Schedule" to all parties.
- B. When a case is stayed, the original case schedule shall be stayed. When the stay is lifted, trial counsel shall submit an amended case schedule extending the deadlines by the length of the stay, designating a trial date convenient to the trial judge.

**39.05. Time Limits.**

A. All civil cases, except Professional Tort and Product Liability, shall be placed on the primary track of 12 months with event and time intervals included in the original "Case Schedule" as follows (measured in weeks from the date of filing):

|   | <u>12-Month Track</u> | Latest date<br>of<br>Occurrence<br><u>(in weeks)</u> |
|---|-----------------------|--|
| Case filed  |                       | 0  |
| Initial Status Conference                               |                       | 10   |
| Initial Joint Disclosure of All Witnesses               |                       | 20   |
| Supplemental Joint Disclosure of All Witnesses          |                       | 28   |
| Trial Confirmation Date                                 |                       | 30   |
| Dispositive Motions                                     |                       | 40   |
| Discovery Cut-off                                       |                       | 42   |
| Decisions on Motions                                    |                       | 48   |
| Final Pre-trial Conference or Pre-trial Order (or both) |                       | 50   |
| Trial Assignment  |                       | 52   |

B. All Professional Tort (A) and Product Liability (B) civil cases shall be placed on the 24-month track with event and time intervals included in the original "Case Schedule" as follows (measured in weeks from date of filing):

| <u>24-Month Track</u>                                   | <u>Latest date<br/>of<br/>Occurrence<br/>(in weeks)</u> |
|---|---|
| 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                                     | 88  |
| Discovery Cut-off                                       | 90  |
| Decisions on all Motions                                | 96  |
| Final Pre-trial Conference or Pre-trial Order (or both) | 100   |
| Trial Assignment  | 104   |

C. Sanctions. For purposes of these local rules, the Trial Judge shall have the power, coextensive with the inherent powers of the Court and the enumerated powers in the Revised Code and the Civil Rules, to impose sanctions on attorneys, parties, or both. Sanctions can be monetary, non-monetary, or a combination of monetary and non-monetary. 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.

i. "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 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.

ii. "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 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.

D. 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 will monitor cases on an ongoing basis to determine compliance with the case schedule and these local rules.

#### **RULE 41 - INITIAL STATUS CONFERENCE AND FINAL PRETRIAL**

41.01. Initial Status Conference. An initial status conference shall be conducted at the date and time appearing in the Case Schedule, unless no date appears or the Trial Judge orders otherwise.

Status conferences shall be required in the following cases, unless no date appears in the Case Schedule or otherwise ordered by the Trial Judge:

1. Personal Injury (C);
2. Other Civil (H);
3. Professional Tort (A);
4. Products Liability (B).

Status conference will not be required in the following cases, unless otherwise ordered by the Trial Judge:

1. Foreclosure (E);
2. Administrative Appeals (F);
3. Workers' Compensation Appeals (D);
4. Cases already resolved by default judgment.

Any party may move, in writing, for a status conference. If the Trial Judge determines that the case warrants a status conference, the conference shall be approved and a date and time shall be set. Additional status conferences, especially in complex litigation, may be scheduled at the Trial Judge's discretion.

**41.02** The status conference may be conducted by a Referee, an attorney/law clerk, or a bailiff at the Trial Judge's option, and may be by telephone conference call if previously approved. Parties and party representatives need not be present for the conference. It shall be the duty of all counsel to attend the status conference fully prepared and authorized to enter into a binding status conference order and to begin negotiation toward settlement of the case. 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. At the status conference, whether held by telephone conference call or in person, the discussion should include, but not be limited to:

1. Joinder of parties;
2. Third-party practice;

3. Amendment of the pleadings;
4. Issues concerning jurisdiction and venue;
5. Service of process;
6. Default judgment;
7. Motions under Civil Rules 12, 19 and 56;
8. Issues concerning the statute of limitations;
9. Proper classification and tracking assignment of the case;
10. The need for alteration of the schedule of events on the track;
11. Use of arbitration, mediation, or other means of dispute resolution; and
12. Settlement.

The Trial Judge or other official at the request of any party shall, prepare or cause to be prepared, a written order reciting the action taken at the status conference, which shall be filed and served on all counsel. The order, subject to Civ. R. 16, shall control the subsequent course of action, unless later modified to prevent manifest injustice. Changes in the Case Schedule shall be accomplished pursuant to Loc. R. 39.04.

#### **41.03 Final Pretrial Procedure**

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.

The Trial Judge, if available, shall conduct the pretrial. 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.

#### **41.04. Pretrial statements**

In all cases, whether or not a final pretrial conference is held, all parties shall prepare and file a joint final pretrial statement. The joint final pretrial statement shall be filed on or before the date and time of the final pretrial conference. If no final pretrial conference is scheduled, the joint statement shall be filed no later than 14 days before trial.

The final statement shall include the following:

1. Identification of the chief trial counsel, who shall be fully authorized to act and negotiate on behalf of the party;
2. The factual and legal issues which the case presents in detail, and the party's position on those issues, including any significant evidentiary questions;
3. A listing of all witnesses expected to testify;
4. A listing of all exhibits expected to be offered into evidence, except exhibits to be used only for impeachment, illustration, or rebuttal;

5. An itemization of all special damages to be claimed;
6. Exchange of hospital records and expert reports, if not previously exchanged or ordered by the Trial Judge;
7. A description of the trial procedure to be requested, including:
  - a. Whether the case is one where the issue of liability should be bifurcated;
  - b. Whether a jury view will be requested;
  - c. Whether a jury trial, if previously demanded, will now be waived;
  - d. The estimated number of days required for trial;
8. A statement of the status of settlement negotiations.

#### **41.05. Final Pretrial Order**

The Trial Judge may, and at the request of any party shall, prepare or cause to be prepared, a final written pretrial order reciting the action taken at the final pretrial conference, which shall be filed and served on all counsel. The final pretrial order may incorporate, modify, or adopt some or all of the language of the joint final pretrial statement. The order, subject to Civil Rule 16, shall control the subsequent course of action, unless modified at trial, to prevent manifest injustice. The pretrial order shall become part of the record of the case embracing all stipulations, admissions, and other matters. The Trial Judge shall determine at the time of the final pretrial conference whether trial briefs and/or proposed jury instructions should be submitted and fix a date for submission.

#### **41.06. 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 43 - DISCLOSURE OF POSSIBLE LAY AND EXPERT WITNESSES**

#### **43.01. (04-26-00) Initial Joint Disclosure of All Witnesses**

Each party shall, not later than the date for disclosure designated in the Case Schedule, serve on all parties and file with the court a written disclosure of all persons with relevant factual or expert knowledge whom the party reserves the option to call as witnesses at trial.

#### **43.02. (04-26-00) Supplemental Joint Disclosure of All Witnesses**

Each party shall, no later than the date for disclosure designated in the Case Schedule, serve on all parties and file with the court a written disclosure of 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.

#### **43.03. Scope of Disclosure**

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

- (a) All witnesses. Name, addresses, and business phone number (or home phone number, if no business number is available).
- (b) Lay witnesses. A brief description of witness' 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.

#### **43.04. 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 such conditions as justice requires.

#### **43.05. Cases Without a Case Schedule**

In any case filed prior to August 1, 1991, 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 pre-trial, or 14 days before trial, whichever is later.

### **RULE 45 - CHANGE OF THE TRIAL ASSIGNMENT DATE**

#### **45.01. Modification**

In any case, any party may file a "Motion to Modify the Trial Assignment Date" with the Clerk of Court and shall provide the Trial Judge with a copy. The motion shall be in writing, signed by both the attorney and the moving party, setting forth good cause for modifying the Trial Assignment Date. A modification may make the track shorter or longer based on the circumstances of a particular case. The motion will not be granted unless it is supported by a showing of good cause. 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.

In all cases, a copy of the "Motion To Modify The Trial Assignment Date" shall be served upon all counsel and any party not represented by counsel. A certificate of service shall be filed with the motion. The Trial Judge, sua sponte, may change the Trial Assignment Date, on reasonable notice to all counsel and parties.

#### **45.02. Notice of Change of Trial Assignment Date**

In all cases, if the Trial Assignment Date is changed by the Trial Judge, the party requesting the change shall within five days file with the Clerk of Court an "Entry Modifying Trial Assignment Date" with copies served upon all counsel, any party not represented by counsel, and the Assignment Commissioner. If the modification of the Trial Assignment Date is initiated by the Trial Judge, the Court shall prepare and file the "Entry Modifying Trial Assignment Date" and mail it within five days to all parties.

#### **45.03. Amended Case Schedule**

When a party files an "Entry Modifying Trial Assignment Date", the moving party shall also prepare and file, if necessary, an "Amended Case Schedule", signed by the Trial Judge, with copies served on all counsel, parties not represented by counsel, and the Assignment Commissioner.

If the Trial Assignment Date is changed on the Trial Judge's own initiative, the Court shall prepare, file, and mail to all parties an "Amended Case Schedule".

## **Rule 47 - DISCOVERY**

### **47.01. 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.

### **47.02. 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.

## **RULE 49 - RESERVED**

## **RULE 51- PRODUCTION OF HOSPITAL RECORDS**

**51.01** Upon motion of any party showing good cause and upon notice to all other parties, the Trial Judge may order any hospital in the county, by any agent competent to act in its behalf, to reproduce by photostating or other recognized method of facsimile reproduction, all or any portion of designated hospital records or x-rays, not privileged, which constitute or contain evidence pertinent to an action pending in this Court. Such order shall direct the hospital to describe by covering letter the portion or portions of the records reproduced and any omissions therefrom and to specify the usual and reasonable charges for copying. The order shall designate the person or persons to whom the reproductions shall be delivered or made available.

**51.02** Objections to the admissibility of reproduced hospital records on the grounds of materiality or competency shall be deemed reserved for ruling at the time of trial without specific reservation in the order to reproduce. Reproductions made pursuant to this procedure may be admitted in evidence without further identification or authentication but subject to rulings on objections impliedly or specifically reserved unless the order expressly provides otherwise.

**51.03** Expenses and other incidental charges for reproductions of its records shall be paid directly to the hospital concerned by the movant or movants.

**51.04** Where original records are produced in Court and reproductions subsequently substituted by agreement of the parties or by order of the Court, the movant or movants shall be responsible for the cost. Unless otherwise ordered by the Trial Judge, all original records shall be returned by the court reporter to the hospital upon entry of judgment in this Court.

### **RULE 53 - DISPOSITIVE MOTIONS**

**53.01.** All motions, including but not limited to summary judgment, judgment on the pleadings, and to dismiss, which seek to determine the merits of any claim or defense as to any or all parties shall be considered a dispositive motion. A voluntary dismissal under Civ. R. 41 is not a dispositive motion. All dispositive motions shall be filed no later than the date specified in the Case Schedule. Pursuant to Civ. R. 56(A), leave is hereby granted in all civil cases to file summary judgment motions between the time of filing and the dispositive motion date, unless the Trial Judge decides otherwise by setting a different date. Counsel shall file their summary judgment motions at the earliest practical date in the course of litigation.

### **RULE 55 - DEFAULT JUDGMENTS**

**55.01.** When a party against whom a judgment for affirmative relief is sought 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 or orally to the Trial Judge within 30 days after the date upon which the defaulting party should have pled or otherwise defended. No judgment by default shall be entered against a minor or an incompetent person unless represented in the action by a guardian or other representative who has appeared. If the party against whom judgment by default is sought has appeared in the action, written notice of the hearing on the motion along with the date and time fixed by the Assignment Commissioner with the concurrence of the Trial Judge shall be served upon that party. In order for the Trial Judge to award damages and enter judgment, to establish the truth of any averment by evidence, or to make an investigation of any other matter, the Trial Judge may conduct hearings or order references as necessary and proper and shall, when applicable, accord a right of trial by jury to the parties.

### **RULE 57- SUMMARY JUDGMENT MOTIONS**

**57.01** (1-8-03) All Motions for summary judgment filed pursuant to Civil Rule 56 shall be deemed submitted to the judge when filed. This rule does not alter the response dates for memorandum contra and replies under Local rule 21.01.

#### **57.02 (1-8-03) FILING OF EVIDENTIARY MATERIALS IN SUPPORT OF MOTION**

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 with the motion or responsive pleading. This section does not extend the time limits for filing a brief in opposition or a reply brief as provided in Loc. R. 21.01.

#### **57.03 (1-8-03) ORAL HEARING ON MOTION**

No motion for summary judgment shall be assigned for oral argument without the consent of the Trial Judge. Assignment of a summary judgment motion for oral argument shall not alter time periods for serving and filing briefs and permitted evidentiary materials unless specifically ordered by the Trial Judge.

#### **57.04 LEAVE REQUIRED**

Without prior leave of the Trial Judge, no motion for summary judgment shall be filed in any case after the dispositive motion date appearing in the Case Schedule. The motion shall be assigned, heard and submitted as set forth in Loc. R. 21.01, unless specifically ordered otherwise by the Trial Judge.

**RULE 59 - ADMINISTRATIVE APPEALS**

59.01 All Administrative Appeals (F) shall be placed on the appeals track, which shall consist of the following sequence of events within these time limits:

| <u>EVENT</u>   | <u>LATEST TIME OF OCCURRENCE</u><br><u>(in weeks)</u> |
|--|---|
| 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  |

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 case or the length of the Record. 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.

**CRIMINAL RULES OF PRACTICE AND PROCEDURE**

**RULE 61 - GENERAL APPLICATION**

**61.01** These rules supplement existing Rules of Court and are an adjunct to the Rules of Criminal Procedure. 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.

**61.02** 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 not already in trial, shall preside. In the Trial Judge's absence, the Duty Judge shall preside. If the Duty Judge is engaged in trial or otherwise unavailable, the Administrative Judge will assign an available judge from the Court at large to preside. Nothing in this rule shall preclude a judge from picking up a case for trial from any other judge.

**61.03** Withdrawal of Counsel. A withdrawal of representation by counsel after a case is set for trial is to be discouraged. In order to withdraw as counsel for record, counsel must present a motion setting forth the reasons for requesting withdrawal. The motion and entry shall be presented to the Trial Judge. The request must be made no later than 15 days before trial. In the event of withdrawal in a case involving an indigent defendant, withdrawing counsel must call to the Trial Judge's attention the need for immediate appointment of substituted counsel.

**RULE 63- GRAND JURY PROCEEDINGS**

**63.01** The Administrative Judge shall handle all grand jury matters including appointment of grand jury foreman.

**63.02** The Official Shorthand Reporter or any other transcriber shall not prepare transcripts of testimony of grand jury proceedings except upon order of the Trial Judge or the Administrative Judge.

**63.03** Indictment - Dismissal. Criminal cases bound over to this Court on which no final action is taken by the Grand Jury within 60 days may be dismissed forthwith and without prejudice. If the witness' testimony or other critical evidence is not available, the case may be continued by the Court for a definite period of time and such continuance noted in the report of the Grand Jury. Continuances must be presented to and approved by the Administrative Judge.

**RULE 65 - BAIL OR SURETY**

**65.01** No attorney or officer of the Court will be received as bail or surety.

**RULE 67 - BAIL FORFEITURE (Amended 8-6-01)**

**67.01** Bail shall be adjudged forfeited upon the nonappearance by a defendant at any scheduled hearing before any judge or at any other time when ordered by said judge. Except as provided herein, appearance, surety, property, and cash bonds, shall be subject to the same procedures.

**B. Forfeiture of Bail; Hearing; Remittance Procedures.**

- 1) In the case of appearance, property, and cash bond, the court may order the entire bond forfeited and shall notify the clerk to proceed to collect the unfunded bond that is due. If the court determines that the defendant's failure to appear was justified, or if good cause is shown to mitigate the forfeiture as provided in sections 7 (a-f) and 8, herein, the court may order a lesser amount to be forfeited.
- 2) In the case of surety bonds, if good cause is not shown at the forfeiture hearing judgment shall be rendered against the surety for the face amount of the bond. Twenty percent (20%) of the amount is to be paid within fifteen (15) days from the date of judgment. If such twenty percent (20%) is not paid within fifteen (15) days of judgment, then execution shall be levied against the surety for one hundred percent (100%) of the amount of the bond.
- 3) Judgment entries referred to in this rule shall be prepared by the clerks office, signed by the Court served by regular mail upon both the defendant at his last known address, and upon the surety and/or other persons responsible on the bond.
- 4) If the defendant is returned to the custody of the Court within three hundred sixty five (365) days from the date of judgment, the Court may, upon application and applying the factors set forth in (C)(7) herein, remit all or any part of the amount paid by the surety or other persons responsible on the bond.
- 5) In the case of surety bonds, if the defendant has not been returned to the custody of the Court within three hundred sixty five (365) days from the date of judgment, the remaining eighty percent (80%) of the amount of the bond shall be paid in the Court. The Court will not be required to, but will attempt to notify the surety of its duty to pay the balance of the bond.
- 6) If after the expiration of three hundred sixty five (365) days and payment of the above, the defendant is returned to the custody of the Court, the surety or parties responsible on the bond may, upon Application, have returned up to ninety percent (90%) of the bond paid.
- 7) Factors the Court shall consider in mitigating the forfeited bond are as follows:
  - a. The circumstances surrounding the subsequent reappearance of the defendant, including the timing and whether reappearance was voluntary;
  - b. The reasons for the defendant's failure to appear;
  - c. The inconvenience, expense, delay and any other prejudice to the Court and/or prosecution;
  - d. Whether the surety was instrumental in securing the appearance of the defendant;
  - e. The costs and inconvenience incurred by the County and Court in gaining custody of the accused and again preparing for trial.
  - f. Any circumstances that the Court determines should mitigate the obligation owed to the Court;
- 8) "Good Cause" as it is used in this rule includes the return of the defendant to the Sheriff and/or the Court on or before the date of the forfeiture hearing and the factors set forth in (C)(7)(a-f).
- 9) If the surety returns the defendant to the Sheriff before the show cause hearing; and if the Court is in receipt of an affidavit from the surety stating that the surety turned the

defendant over to the Sheriff, the Prosecutor can request the Court to relieve the surety of its responsibility before the hearing date.

**B. Custody in another jurisdiction.**

- 1) If the defendant is arrested in another jurisdiction before the hearing date which lead to the forfeiture and continues to be incarcerated outside of Franklin County, judgment shall not be rendered if the surety and/or other persons responsible on the bond agrees in writing to pay for the defendant's return to the custody of this Court.
- 2) If the defendant is arrested in another jurisdiction after the hearing date which lead to the forfeiture, the surety or other person responsible on the bond may seek a remittitur as provided in this rule.
- 3) If the defendant has not been returned to the custody of this Court within three hundred sixty five (365) days from the date of judgment, but the defendant has been located in the custody of another jurisdiction prior to the expiration of three hundred sixty five (365) days, the remaining eighty percent (80%) of the bond owed shall be held in abeyance if the surety agrees in writing to pay for the defendant's return to the custody of this Court. If the defendant is not returned to the Court within three (3) years the eighty percent (80%) shall be due. If the defendant is or is not returned within the three (3) years, after payment of the amount due, the surety or responsible person may make an Application for a remittitur as provided in this rule.

**D. Failure of Surety to Pay Obligation to Court.**

- 1) If, at any time, judgment has been rendered and not paid by a surety within five (5) days of notice to the surety in accordance with this rule, the surety's general power to write bonds before this Court shall be revoked.
- 2) The Court shall notify the surety in writing, by regular mail, within five (5) business days of the revocation, after which the revocation becomes effective. Until payment is made in full, the surety will no longer be permitted to execute bonds before this Court.
- 3) If the surety makes full payment of the amount due plus interest at the rate of ten percent (10%) and demonstrates to the satisfaction of the Court that it was justified in not paying its obligation when due and the Court determines that the surety is safe and solvent, the surety may be reinstated and be permitted to execute bonds in this Court.
- 4) If, within one hundred eighty (180) days of its reinstatement, the surety defaults a second time, the Court shall permanently revoke the surety's permission to execute bonds.
- 5) In the event of permanent revocation, the surety may apply to the Court for reinstatement no sooner than one year after the permanent revocation.
- 6) (04-26-00) The court reserves the right to regulate sureties, their contracts, agents, and procedures as the same shall affect the Franklin County Court of Common Pleas. If adverse action is taken against a surety, its contracts, agents or procedures, the surety has a right to request a timely hearing before the administrative judge to show cause why such action should be stayed or rescinded.

**E. General Provisions**

- 1) No oral hearing shall be held unless requested in writing and granted by the Trial Judge or in the case of an unassigned case, by the Administrative Judge. In a case where the forfeiture resulted from a failure to appear at arraignment, the hearing shall take place

before the Duty Judge assigned to the arraignment Court at the time of the failure to appear. If an oral hearing is held, the judge may request and/or permit witnesses to be called.

- 2) All Applications seeking a remittance or a release from a bond responsibility shall be made on a verified Application setting forth, in detail, the reason for the remittance. A copy of the Application must be filed with the Clerk in the case which gave rise to the Application. All Applications must be served upon the County Prosecutor. The Prosecutor may respond, in writing, to the Application. The Prosecutor shall represent the County at any hearing set on the Application.
- 3) The Clerk shall provide the Prosecutor with copies of the Application and any notices of hearings.
- 4) The Prosecutor is authorized to collect all bonds due under this rules by any method authorized under the Ohio Revised Code. The Prosecutor is also authorized to contract with a collection agent or agents to collect the moneys owed.
- 5) Pursuant to Criminal Rule 46(H) the bond of surety shall continue until a verdict has been returned or a plea has been accepted. If the Court, in its discretion continues the bond until sentencing or other disposition, the Clerk shall notify the surety as soon as practical of the continuance of the bond.

**67.02 (8-6-01) Forfeiture of secured recognizance or face amount recognizance bond.**

For purposes of this rule a “secured recognizance” or “face amount recognizance” bond shall refer to a recognizance bond for which a specific dollar amount has been designated

- A) Face amount to be forfeited. The face amount of a secured recognizance bond shall be adjudged forfeited upon the non-appearance by a defendant at any scheduled hearing before any judge or at any other time when ordered by said judge.
- B) Failure to appear. Should the defendant fail to appear at the time scheduled for arraignment, pre-trial, pre-trial hearing, trial, sentencing, post-sentencing hearing and/or probation or community control hearing, the clerk shall prepare a bond forfeiture and capias for the defendant and mail them by regular mail to the defendants last know address. The court shall notify the defendant that he is to show cause why judgment should not be rendered in the amount of the bond.
- C) Show cause hearing scheduled. The clerk shall set a date for the show cause hearing which shall not be less than twenty (20) nor more than thirty (30) days after the date of the mailing notice. The show cause hearing on a failure to appear at arraignment shall be set before the duty judge who was scheduled to preside over the arraignment.
- D) Non-oral show cause hearing. At the show cause hearing, the court may order the entire amount of the face amount recognizance bond forfeited and, if so, notify the clerk to proceed to collect the face amount of the bond. If the court determines that the defendant’s failure to appear was justified, or if good cause is shown to mitigate the forfeiture. Judgment entries referred to in this rule shall be prepared by the clerk’s office, signed by the court, and served by regular mail upon the defendant at his last known address.
- E) Request for hearing. No oral hearing shall be held unless requested in writing and granted by the trial judge or in the case of an unassigned case, by the administrative judge. In the case where the forfeiture resulted from a failure to appear at arraignment, the hearing shall take place before the duty judge assigned to the arraignment court at the time of the failure to appear. If an oral hearing is held, the judge may request and/or permit witnesses to be

called.

- F) The prosecutor is authorized to collect amounts due under this rule by any method authorized under the Ohio Revised Code. The prosecutor is also authorized to contract with a collection agent(s) to collect the moneys owed.
- G) Bond schedule for secured recognizance bonds. All secured recognizance bonds shall be set in an amount not to exceed the amounts listed in the following schedule:

|                               |                              |
|-------------------------------|------------------------------|
| <b>Murder</b>                 | <b>Judge sets bond</b>       |
| <b>F-1 and aggravated F-1</b> | <b>\$20,000 recognizance</b> |
| <b>F-2 and aggravated F-2</b> | <b>\$10,000 recognizance</b> |
| <b>F-3 and aggravated F-3</b> | <b>\$ 5,000 recognizance</b> |
| <b>F-4</b>                    | <b>\$ 2,000 recognizance</b> |
| <b>F-5</b>                    | <b>\$ 1,000 recognizance</b> |

Notice to the defendant. When a defendant is granted a secured recognizance bond, the clerk's office shall provide to the defendant at the time of signature a copy of the following notice printed in bold faced type:

**Notice**

**Today you have been granted a recognizance bond in a specific dollar amount. If you fail to appear for any court proceeding, a notice for a show cause hearing will be sent to you. If you fail to appear for the show cause hearing to explain why you failed to appear for the court proceeding, the dollar amount of your recognizance bond will become a civil judgment against you. This civil judgment could adversely affect your credit. This civil judgment is not dischargeable in bankruptcy.**

**RULE 69 - INACTIVE CRIMINAL CASES**

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

**RULE 71 (10-18-02) - Criminal Arraignments and Assignments**

**71.01 Arraignments.** Arraignments shall be held three times each week, at 1:30 p.m., on Monday, Wednesday, and Friday, in a courtroom designated by the Administrative Judge. If a holiday falls on Monday, arraignments will be on Tuesday. If a holiday falls on either Friday or Wednesday, arraignments will be on Thursday. The Duty Judge shall preside or, upon his or her direction, a magistrate shall preside. In accordance with Crim. R. 19, the Magistrate may arraign defendants, set bail, appoint counsel, and consider all matters otherwise coming before the Arraignment Court.

**71.02 (6-29-01) Extra-jurisdictional Arraignments.** When a defendant is being held in Franklin County pursuant to a warrant issued by another jurisdiction, the duty judge or a magistrate shall set bail thereon. If no bond is requested by the issuing jurisdiction, the extra-jurisdictional defendant may be release on a recognizance bond unless the following information has been made available to the

duty judge or magistrate from the jurisdiction issuing the warrant.

- (1) The name of the defendant;
- (2) The jurisdiction issuing the warrant; and
- (3) The charge or purpose for which the warrant has been issued.

**71.03 (10-18-02) Responsibility of Prosecutor.** If the information referred to in 71.02 has not been made available by the jurisdiction issuing the warrant, it shall be the responsibility of the prosecutor to contact the issuing jurisdiction, prior to arraignment of the extra-jurisdictional defendant, to secure that information. A reasonable continuance may be granted to the prosecutor for such purpose.

**71.04 (10-18-02) Criminal Assignments.** The Assignment Commissioner shall schedule all criminal cases not more than 120 days after the date of arraignment. If a case is dismissed pursuant to Loc. R. 73.01 and subsequently re-indicted, the re-indicted case shall contain the following designation on the indictment: "This is a re-indicted case." The trial judge to whom the case was previously assigned shall be reassigned to the re-indicted case. Failure to comply with this rule may subject the attorney or party to sanctions under Loc. R. 39.05©.

#### **RULE 73 - NOLLE PROSEQUI PROCEDURE**

**73.01** When the Prosecuting Attorney desires to enter a nolle prosequi in any criminal case pursuant to R.C. Section 2941.22, a written application shall be filed, setting forth sufficient grounds for the requested relief.

#### **RULE 75 - MOTIONS**

**75.01 Motions.** The filing and consideration of motions in a criminal case is governed in general by Crim. R. 12. A party may request a hearing in advance of trial to consider a motion. If this is not done, the motion will be considered on the day of trial. The absence of a witness regarding consideration of a motion will not be cause for continuance of the trial.

**75.02** 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.

**75.03 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 21 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 upon trial.

#### **RULE 77 – (08-08-02) INDIGENT DEFENDANTS**

**77.01** Unless otherwise represented, the Public Defender shall represent alleged indigent defendants in arraignments. Appointment of either the Public Defender or private counsel shall be made by the Arraignment Judge or Magistrate from the Master Appointment List [Local Rule 78] maintained by the Franklin County Court of Common Pleas.

**77.02 Affidavit of Indigence.** Before counsel is appointed, each alleged indigent defendant must file an affidavit of indigence setting forth the facts in support. The alleged indigent defendant shall disclose the amount of payment made to any attorney for legal representation in the matter to date. No

attorney who received compensation or has been promised compensation from any source shall be appointed to represent that indigent defendant.

**77.03 Indigence Unaffected by Status of Family Members.** No applicant shall be denied appointed counsel based on the financial status of a member of the indigent defendant's household when that household member has no legal duty to support the indigent defendant or when that household member refuses to pay for the indigent defendant's legal representation.

**77.04 Change in Indigency Status.** Counsel will be appointed for defendants who become indigent during the course of their case. Payments to appointed counsel under these circumstances will be limited to those costs incurred during the period of indigency.

**77.05 Appointments at or after Arraignment.** At arraignment, the Public Defender shall prepare all requests for appointment of counsel, leaving the name of counsel blank. The arraignment clerk shall note on the master arraignment list those defendants who need counsel appointed. No later than the second working day after arraignment the Arraignment Judge or Magistrate shall appoint either the Public Defender or private counsel for indigent defendants, except defendants indicted for aggravated murder with specifications.

**77.06 Notice of Appointment.** The Public Defender or private counsel shall be notified of an appointment by telephone, personally, or by mailing a copy of the appointment.

**77.07 Appointment filed with the Clerk.** A copy of the appointment shall be filed with the Clerk of the criminal division and with the Assignment Commissioner.

**77.08 Appointments to be Rotated.** The Arraignment Judge or Magistrate shall rotate the appointments between the Public Defender and private counsel on a ratio of two appointments to the Public Defender and one appointment to private counsel. Further, the Arraignment Judge or Magistrate shall rotate appointments from the Master Appointment List. The Arraignment Judge or Magistrate shall not appoint an attorney to whom he or she is related.

**77.09 Payments to Appointed Counsel.** Appointed counsel seeking to be paid for fees and expenses from the Court shall correctly complete the forms prescribed in Section 1 (E) and (F) of the Ohio Public Defender's STANDARDS AND GUIDELINES FOR APPOINTED COUNSEL REIMBURSEMENT, 3rd ed. Revised January 1, 2000.

**77.10 Payments Withheld.** The Court may withhold payment to appointed counsel until all necessary forms pertaining to the case are completed and correctly filed.

a. Signature of the Indigent Defendant. Appointed counsel shall obtain the signature of the indigent defendant on the financial disclosure/affidavit of indigency form required by the State Public Defender.

b. If the indigent defendant is not available to sign the form, appointed counsel shall obtain the signature from the assigned judge, certifying the indigency of the defendant.

**77.11 Representing an Indigent Defendant on Multiple Counts.** If counsel is appointed to represent an indigent defendant on multiple charges or counts arising out of the same incident or series of related incidents, the appointed counsel is entitled to one fee when one complete proceeding or trial is

held in one court (e.g. Municipal, Common Pleas, Juvenile). The attorney shall submit only one motion, entry, and certification form. Time billed on one motion, entry, and certification form cannot be billed on any other form for which payment or reimbursement is being requested. The maximum fee shall be based on the highest degree of offense charged.

**77.12 Representing an Indigent Defendant on Multiple Cases.** Counsel appointed to represent an indigent defendant on separate cases which have been consolidated and are disposed of at the same time, shall submit three different motion, entry, and certification forms, one for each case. Time shall be allocated to each case based on the actual in-court and out-of-court hours spent on each case.

**77.13 Expenses.** Attorneys seeking reimbursement for expenses must provide receipts for all expenses in excess of \$1.00. Court approval is not required for expenses up to \$100. However, attorneys may not fractionalize expenses to circumvent the \$100 cap. Prior approval by the Assigned Judge is required before incurring expenses between \$100 and \$2500. Expenses in excess of \$2500 require prior approval by the Assigned Judge and the Administrative Judge.

a. Non- Reimbursable Expenses. Attorneys will not be reimburse for travel time, mileage and parking. No allowance will be approved for fixed office overhead, daily copies of transcripts, or depositions.

b. Reimbursable Services. With prior approval of the Assigned Judge, services reasonably necessary for the proper representation of an indigent defendant charged with a felony are reimbursable. Services include, but are not limited to:

- (1) Investigators
- (2) Interpreters
- (3) Experts
- (4) Photo copies
- (5) Psychological evaluations
- (6) Polygraph
- (7) Transcripts pursuant to Ohio Public Defender Guidelines, Section I,
- (8) Other expenses reasonably related and necessary to the defense of an indigent defendant.

c. Factors to be Considered by the Assigned Judge or the Administrative Judge:

- (1) the value of the service to the defendant's proper representation at trial;
- (2) the availability of an alternative which would fulfill the same function as the service sought.

**77.15 Unless otherwise provided by law or an order of the Court, fees shall be paid as follows:**

a. Hourly Rate. Payment for appointed counsel shall be at the rate of \$60 per hour for time in Court, and \$50 per hour for out of Court time, up to the following maximum amounts for the following offense classifications and/or other proceedings:

**Aggravated Murder (where the death penalty is requested):**

|                          |                     |
|--------------------------|---------------------|
| For one lawyer           | Maximum of \$25,000 |
| For more than one lawyer | Maximum of \$50,000 |

**Aggravated Murder with Specification:** Hourly rate but not to exceed a total of \$5,000

**All Other Felonies:**

Felonies 1, 2, & 3 Hourly rate but not to exceed a total of \$3,000

Felonies 4 & 5 Hourly rate but not to exceed a total of \$2,500

**Post Conviction Proceedings With or Without Evidentiary Hearing:**

Hourly rate but not to exceed a total of \$500

**Revocation Hearings:** Hourly rate but not to exceed a total of \$500

**Habeas Corpus and All Other Proceedings Not Elsewhere Classified:**

Hourly rate but not to exceed a total of \$150

**Appellate Proceedings:**

The hourly rate for appellate work is \$40 up to the following maximum amounts for the following offense classifications:

|   |         |
|---|---------|
| Aggravated Murder (with specifications) | \$5,000 |
| Aggravated Murder                       | \$1,000 |
| Murder                                  | \$ 750  |
| All other felonies                      | \$ 700  |

**77.16 Extraordinary Fees.** Except for aggravated murder with death penalty specifications, fees in excess of those specified in 77.15 are classified as extraordinary fees and are available in complex case with the consent of the Assigned Judge. The Assigned Judge may authorize fees in an amount not to exceed two times the fee set forth in 77.15. If the case is designated a complex case, the Assigned Judge shall authorize the fee set forth in 77.15 plus additional fees in an amount equal to the number of hours of trial time in excess of that provided in 77.17 at the rate of \$60 per hour.

**77.17 Complex Case Defined.** A complex case is defined as:

- a. a case involving multiple counts dealing with multiple separate incidents which will require an extraordinary amount of trial preparation time;
- b. a case which continues beyond the following periods:
  - (1) Aggravated Murder (with death specifications), 20 days;
  - (2) Aggravated Murder (without death specifications), 13 days;
  - (3) Murder, 8 days;
  - (4) Any other felony, 5 days.

An aggravated murder case with death specifications is not automatically considered a complex case.

**77.18 Request for Reimbursement.** Appointed counsel seeking reimbursement shall complete any and all forms required by the Court. The forms shall include an affidavit attesting to the number of hours expended, the work performed, and actual expenses incurred. Further, the affidavit shall include a statement that no compensation has been received or promised from any source for the same case.

**77.19 Filing Requests for Reimbursement.** Appointed counsel shall file a request for reimbursement with the Executive Director of the Court no later than 30 days after final disposition of the case. Failure to timely file a request for reimbursement will result in reduction of 50% of the fees and expenses requested.

## **RULE 78 – APPOINTED COUNSEL REVIEW BOARD**

**78.01 (10-18-02) Appointed Counsel Review Board.** There is hereby created an Appointed Counsel Review Board. The members of the Appointed Counsel Review Board shall include the Presiding Judge, the Administrative Judge, and the Chairman of the Rules Committee. If the Presiding Judge is not a member of the General Division of the Common Pleas Court, the Senior Judge from the General Division shall serve in lieu of the Presiding Judge. The duties and responsibilities of the Appointed Counsel Review Board shall be:

- A. To set and to publish standards for the appointment of private counsel to represent indigent defendants in criminal cases;
- B. To create a Master Appointment List from which private counsel shall be selected to represent indigent defendants in criminal cases;
- C. To approve an application form and process to be used by private counsel seeking to be listed on the Master Appointment List;
- D. To approve applications from private counsel for listing on the Master Appointment List;
- E. To evaluate the performance of private counsel representing indigent defendants in criminal cases against the standards set forth in paragraph A of this rule;
- F. To remove private counsel from the Master Appointment List;
- G. To require private counsel, when appropriate, to undertake remedial action in order to remain on the Master Appointment List; AND
- H. To require private counsel to undertake appropriate continuing legal education.

**78.02 Adoption or Amendment of Standards.** The adoption of or amendment of the standards for the appointment of private counsel to represent indigent defendants in criminal cases shall be approved by a majority of the judges.

**78.03 Action by Appointed Counsel Review Board.** Any action taken by the Appointed Counsel Review Board to include an attorney or to exclude an attorney from the Master Appointment List shall be approved by a majority of the judges.

**78.04 Adoption of Regulations and Standards.** The Appointed Counsel Review Board adopts and incorporates by reference the Qualification, Regulations and Standards of the Ohio Public Defender's Commission.

**78.05 Inclusion on the Master Appointment List.** Any attorney in good standing with the Ohio Supreme Court may apply to be included on the Master Appointment List. The Master Appointment List is a list of private counsel qualified to represent indigent defendants in criminal cases before the Franklin County Common Pleas Court, General Division. In order to be considered for inclusion on the Master Appointment List, private counsel shall submit four copies of the following documents to the Executive Director for review by the Appointed Counsel Review Board.

- A. a completed application form approved and provided by the Court and signed by the applicant and the applicant's mentor;
- B. a current resume;
- C. verification that the applicant has attended the Common Pleas Court four-hour orientation program for new attorneys;
- D. verification that the applicant has complied with all of the continuing education requirements of the Ohio Supreme Court;
- E. a listing of criminal cases handled in either the Franklin County Municipal Court or the Common Pleas Court including:

- (1) case name and number;
- (2) degree of misdemeanor or felony charged;
- (3) whether the case was disposed of with a plea or by jury trial; and
- (4) the name of the assigned judge.

**78.06 (10-18-02) - Mentors.** Each applicant for inclusion on the Master Appointment List must have a designated mentor. The mentor will co-sign the private counsel's application for inclusion on the Master Appointment List, agreeing to act as an advisor to and resource for the applicant until the applicant has met the experience criteria set by the Appointed Counsel Review Board. In order to serve as a mentor, a criminal practice attorney must submit verification that he/she has met the following experience criteria:

- A. a substantial portion of the attorney's practice for the last five years has been devoted to the criminal practice;
- B. the attorney has tried to conclusion at least 5 felony jury trials, at least one which the defendant was charged with either a felony 1 or felony 2;
- C. at least half of the attorney's continuing education includes courses relevant to criminal defense or trial practice; and
- D. the attorney has no pending disciplinary cases either with the Columbus Bar Association or with the Disciplinary Counsel for the Ohio Supreme Court.

Further, an attorney who qualifies as a mentor may only mentor a maximum of three applicants at any one time. Any criminal attorney, who meets the qualifications to serve as a mentor, but refuses to do so, may be excluded from the master appointment list.

**78.07 Who Should Apply for Inclusion on the Master Appointment List.** Private counsel with three or more years of criminal law experience on July 1, 2002, and who have already been approved for appointments to represent indigent defendants in criminal cases need not submit to the application process. Private counsel with fewer than three years of criminal law experience on July 1, 2002, must complete the application process in order to be included on the Master Appointment List.

**78.08 The Application Process.** The Appointed Counsel Review Board shall meet as frequently as necessary in order to review applications for inclusion on the Master Appointment List. After review of the pending applications, the Board shall recommend those attorneys it deems qualified for inclusion on the Master Appointment List. These recommendations shall be presented at the next monthly meeting of the judges. A majority of the judges shall either approve or disapprove the recommendations of the Board. The names of those attorneys approved by a vote of the judges shall be placed on the Master Appointment List.

**78.09 Orientation Program for New Attorneys.** In May and in November each year, the Court shall conduct a four-hour new attorney orientation program. Educational presentations shall be made by the following categories of court personnel:

- A. Judge
- B. Prosecutor
- C. Public Defender
- D. Bailiff
- E. Court Reporter
- F. Private Defense Counsel
- G. Court Administration
- H. Representative from the Criminal Clerk's Office.

**78.10 Grounds for Removal from the Master Appointment List.** Any private counsel may be removed from the Master Appointment List for the following conduct:

A. Failure to comply with the Code of Professional Responsibility; the Ohio Rules of Criminal Procedure; the State Public Defender Commission's "Attorney Qualifications to Represent an Indigent Client"; the Rules of Practice of the Franklin County Court of Common Pleas.

B. Refusal to accept appointments.

C. Failure to follow the Court's billing procedures such as:

- (1) refusal to complete required request for reimbursement forms;
- (2) inaccurately completing the required request for reimbursement forms;
- (3) failing to file timely request for reimbursement forms;
- (4) excess billing; and
- (5) repeated submissions seeking fees in excess of fee schedule.

D. Unprofessional behavior such as lack of preparation, tardiness, contentiousness, failure to follow through with responsibilities, or failing to treat court personnel with respect.

E. Repeated conflicts with indigent defendants necessitating the appointment of other counsel;

F. Accepting fees for representation of a defendant but only appearing in his behalf at arraignment necessitating the appointment of private counsel for the remainder of the case;

G. Accepting an appointment but sending other counsel to appear in behalf of the indigent defendant;

H. Having a case reversed by the Court of Appeals for ineffective assistance of counsel;

I. Seeking to withdraw, without cause, prior to the completion of the case;

J. Failure to timely file necessary paperwork; and

K. A pending disciplinary action before a local bar association or the Disciplinary Counsel.

**78.11 Procedure for Removing an Attorney from the Master Appointment List.** Anyone can file a complaint against a private attorney who is listed on the Master Appointment List. The following procedure will be used to remove an attorney from the Master Appointment List.

A. File a written complaint with the Executive Director of the Court setting forth the reasons why the subject attorney should be removed from the Master Appointment List.

B. The Appointed Counsel Review Board shall investigate the complaint and recommend that the private attorney:

(1) be removed from the Master Appointment List;

(2) remain on the Master Appointment List; or

(3) be suspended from the Master Appointment List until remedial action is undertaken to correct his conduct.

C. The recommendation of the Appointed Counsel Review Board shall be presented to the judges at their next scheduled monthly meeting. The judges shall vote to adopt the recommendation of the Board or take such other action as a majority of them so determine to be appropriate.

D. Immediately following the vote by the judges, the attorney will be notified in writing of the action taken.

**78.12 Removal from the Master Appointment List.** Any attorney removed from the Master Appointment List may apply for reinstatement after one year providing the attorney completes the application process as set forth in Local Rule 78.04.

**78.13 Remedial Action.** An attorney suspended from the Master Appointment List may seek

reinstatement after completing the remedial action recommended by the judges. Possible remedial action may include:

- A. Attendance at the orientation program for new attorneys;
- B. The assignment of a mentor;
- C. Completion of applicable continuing education courses;
- D. A reduction in the class of felonies for which the attorney can receive appointments;
- E. May be assigned as assistant trial counsel on a non-fee basis in cooperation with regularly retained or assigned counsel in a criminal case; OR
- F. Substance abuse counseling.

#### **RULE 79 - CONTINUANCES**

**79.01** Any motion for continuance of a trial must be in writing unless such is waived by the Trial Judge. Any entry continuing a case shall be signed by the Prosecutor and counsel for defendant, and specific reasons for the continuance shall be set forth in this entry. Upon a continuance being granted, the party requesting the continuance shall cause the entry to be prepared and timely filed. Any order granting a continuance shall contain the date to which trial is continued. If the defendant is incarcerated at the time a continuance is granted, the defendant's signature is to be obtained if there is a waiver of speedy trial rights.

#### **RULE 81 – THE RECORD (8-24-99)**

**81.01** Pursuant to the requirements of Section 2301.20 of the Ohio Revised Code and Ohio Criminal Rule 22, the trial judge shall grant any request made by a party, in either a criminal or a civil case, to memorialize for the record any action taken in such proceeding not otherwise included on the record in the case.

**81.02** If the Court reporter is instructed by the trial judge, over the objection of a party or counsel, not to record any action taken or request made, the court reporter shall bring such instruction to the attention of the administrative judge at a convenient time. In no event shall such court reporter be subject to disciplinary or retaliatory action for compliance with this rule.

**81.03** A court reporter shall fairly and accurately record all actions taken pursuant to a civil or criminal case pending before the trial judge to whom that court reporter is assigned. The court reporter shall record any action taken, in a civil or a criminal case, when asked to do so by any party thereto.

**81.04** Any conflict which may arise, relative to the record in any such criminal or civil case, among the judge, the parties, and the court reporter shall be resolved by the Administrative Judge.

**81.05** In no event shall a Court Reporter be subject to disciplinary or retaliatory action for compliance with this rule.

**81.06** Any court reporter failing to fairly and accurately record any actions taken in either a civil or criminal case, when called upon to do so by either the trial judge or any party, shall be subject to disciplinary action by the Franklin County Common Pleas Court.

**81.07** Daily copies of transcripts to counsel in criminal cases will not be ordered, provided for, or permitted except in such cases where the sound discretion of the Trial Judge would require it in the interest of justice.

**RULE 82 (8-24-99) THE RETENTION AND DISPOSAL OF COURT REPORTER NOTES, DEPOSITIONS, TRANSCRIPTS AND EXHIBITS IN CIVIL CASES**

**82.01** Retention of Court Reporter Notes

(A) Upon the trial of a civil action or other oral proceedings in the Franklin County Court of Common Pleas, General Division, the trial judge shall request that a court reporter take

- (B) accurate notes of the testimony. These notes shall be filed in the office of the Official Court Reporter and shall be carefully preserved for a period of five (5) years.
- (C) Time for retention shall be calculated from the date of final judgement entry. In the event that an appeal transcript has been filed, the notes of such case may be disposed of one (1) year after the filing of such transcript.

**82.02 Disposal of Exhibits and Depositions**

At the conclusion of a civil trial or other proceeding, including times for direct appeal, the Court Reporter may destroy exhibits and depositions if all of the following are met:

- (A) The Court notifies the party, who tendered the exhibits or depositions, in writing that the party may retrieve the exhibits or depositions within sixty (60) days from the date of the written notification.
- (B) The written notification provided in paragraph II (A) of this rule informs the party, who tendered the exhibits or depositions, that these documents will be destroyed if not retrieved within sixty (60) days of the notification.
- (C) The written notification required in paragraph II (A) of this rule informs the party, who tendered the exhibits or depositions, of the location for retrieval of the exhibits or depositions.

**82.03 Compliance with the County Records Commission**

In accordance with ORC Section 149.38, this policy for the retention and disposal of court reporter notes, exhibits, depositions and transcripts, is subject to the approval of the Franklin County Records Commission. Additionally, these documents have been determined to be public records pursuant to ORC 149.43 and therefore, must have the approval of the County Records Commission, the Auditor of State and the Ohio Historical Society prior to their disposal.

**RULE 83 - DISCLOSURE OF PRESENTENCE REPORTS (Amended 2/25/97)**

**83.01** At the time a Judge orders a presentence investigation, a date for sentencing shall be established and noted on the Criminal Case Processing Sheet. Defense counsel will personally convey a copy of the processing sheet and the defendant to the Adult Probation Department Intake Office on the date the investigation is ordered. If the defendant is held in jail, defense counsel will personally convey a copy of the processing sheet to the Adult Probation Department Intake Office on the date the investigation is ordered. The date of the sentencing shall not be less than six weeks nor more than eight weeks after the presentence investigation is ordered. The Probation Department shall have the report completed no later than ten days prior to sentencing. When the report is completed, it shall be sent to the assigned judge and made available, at the probation department, for review by the defendant's attorney (or by the defendant if he is not represented by an attorney) and the prosecutor. No report shall be taken from the probation department without the written approval of the judge assigned to the case.

**83.02** If the report contains information that is not available for review pursuant to R.C. Section 2951.03(B), such information shall be sent to the undersigned judge along with the report. The report made available for review by the attorneys or the defendant shall reflect the fact that information, if any, has been deleted pursuant to R.C. Section 2951.03(B) and the general categories of the deleted information shall also be noted.

Any hearing and/or court findings necessitated as a result of the deleted information shall be held on the date of sentencing or at any other date designated by the assigned judge.

**83.03** The probation officer assigned to the court or the case on the day of sentencing shall be responsible for obtaining all copies of the report immediately after the imposition of the sentence.

#### **RULE 85 - CERTIFICATION OF ASSETS**

**85.01** 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 subsequent to sentencing, and shall be filed with the Prosecuting Attorney's office and maintained by that office until the fine and costs are paid. These records shall be available to the sheriff for his duties in executing any judgment for fine and/or costs. Upon payment in full of the fine and costs, the prosecuting attorney's office shall destroy the certification of assets.

#### **RULE 87 - WORK RELEASE PROGRAM**

##### Statement of Purpose

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 Franklin County upon proper funding and agreement. It shall be formed and known as the Franklin 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.

**87.01** The Courts within Franklin County, Ohio, with the consent of the offender, may sentence individuals to the work release program as a condition of shock probation, a condition of intensive probation, or as standard probation.

**87.02** The work release program is administered and operated by the Franklin County Common Pleas Court, General Division. All staff of the program are appointed employees of the Franklin County Common Pleas Court. The staff shall be comprised of a director, and any staff deemed necessary for operation of the program.

**87.03** 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.

**87.04** The program 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.

**87.05** 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 which the offender must abide by 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.

**87.06** Any resident participating in the work release program is required to pay a per diem as determined by the Court, under R.C. Section 5147.29, for reimbursement to the county for the cost of boarding and the direct cost of administering such program.

**87.07** All funds received by the program from the offender are to be handled in accordance with R.C. Section 5147.29 and generally accepted accounting principles.

**87.08** In the event a resident of the Work Release/Home Incarceration Program or the Community Based Correctional Facility (CBCF) is diagnosed by medical personnel with a contagious/infectious disease or condition (i.e. chicken pox, T.B., hepatitis, ring worm, measles, AIDS, etc.), the Director of the Work Release/Home Incarceration Program or the CBCF shall be given authority by the Court to place the resident on Home Incarceration to prevent contact with those who have not been exposed.

If Home Incarceration is not an option due to lack of residence, lack of phone or unwillingness of family/friend to accept the resident in their home, the resident shall be placed in the Franklin County Corrections Center until they are no longer contagious/ infectious. This authority to place residents with infectious diseases on Home Incarceration shall be given by the Court only when the sentencing judge cannot be reached for immediate authorization. The Directors of Work Release/Home Incarceration and the Community Based Correctional Facility shall contact the sentencing judge as soon as possible to notify him/her that the resident was placed on Home Incarceration.

## **RULE 88 - HOME INCARCERATION PROGRAM - [04-20-94]**

### **Statement of Purpose**

The Home Incarceration Program was established pursuant to O.R.C. Section 2929.23 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 Franklin 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.

**88.01** The Courts within Franklin 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 and as a condition of probation.

**88.02** The House Arrest Program is administered and operated by the Franklin County Common Pleas Court, General Division. All staff of the program are appointed employees of the Franklin County

Common Pleas Court. The staff shall be comprised of a director, and any staff deemed necessary for operation of the program.

**88.03** 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 100 to 150 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.

**88.04** A per diem fee, as provided for by O.R.C. 2929.23(E)(1), 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 89 - POST CONVICTION PETITIONS**

**89.01** 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.

**89.02** 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.

**89.03** The Clerk shall deliver the post conviction petition to the Trial Judge one day after it has been filed.

**89.04(A)** Post Conviction proceedings is a civil action and the petitioner shall comply with R.C. 2969.25(A) in the filing of all post conviction petitions.

**89.04(B)** No costs shall be charged for the first post conviction petition. Subsequent petitions shall be accompanied by a filing fee as set forth in R.C. 2303.20(T). If a petitioner alleges that he/she is unable to pay the filing fee, the procedures set forth in R.C. 2969.25(C) shall apply.

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

##### **RULE 90 - SECURITY - [5/23/95]**

**90.01** Appropriate levels of security must exist in the Court to protect the integrity of Court procedures, protect the rights of persons before it, deter those who would take violent action against such persons or the Court, sustain the proper decorum and dignity of the Court and assure that Court facilities are secure for all those who visit and work there.

**90.02** In order to achieve those appropriate levels of security the Court shall:

- a. Because of the common entry ways to other governmental agencies in the Hall of Justice, County Court House and Municipal Court, coordinate all its efforts with the Franklin County Commissioners and other activities in particular with the Municipal Court;
- b. In coordination with the Municipal Court, establish a Local Security Advisory Committee consisting of the following groups: Judges, the Franklin County Commissioners, the Franklin County Sheriff's Office, the Columbus Police Department, the Columbus Bar Association, the Franklin County Prosecuting Attorney's Office and the Franklin County Clerk of Court. The representatives from the foregoing groups shall, to the degree possible, be the same as those who serve on the Local Security Advisory Committee for the Municipal Court;
- c. Implement a Local Security Policy and Procedure Plan which addresses the Ohio Court Security Standards adopted by the Supreme Court of Ohio on October 17, 1994. Prepare a Local Security Operations Manual, which establishes written directions for the purpose of ensuring security within the Court while maintaining accessibility to it.

#### **RULE 91 - ADMISSION OF OUT-OF-STATE ATTORNEYS**

**91.01** 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 the District of Columbia, may, in the discretion of the Trial Judge, be permitted to represent a party or parties in any litigation pending or to be filed in this county after completion of all of the following conditions:

- A. File a written oath substantially in compliance with Rule I, Section 8A of the Rules for the Government of the Bar;
- B. Certify in writing that he or she has familiarized himself or herself with local Court rules and will familiarize himself or herself with the appropriate Criminal or Civil Rules, the Rules of Evidence and the Code of Professional Responsibility;
- C. Be sponsored in writing by an attorney licensed to practice law in the state of Ohio. The motion made by the licensed attorney shall certify such out-of-state counsel's compliance with this rule and the Rules for the Government of the Bar;
- D. The sponsoring attorney shall submit 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.

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

**RULE 92 – COMPLIANCE (06-03-05)**

1. In order to obtain a dismissal of a pending tax foreclosure, the redeeming party shall file with the court, and serve upon all counsel of record and/or pro se parties, a motion to dismiss which shall include notice of payment in full of taxes and court costs, as well as an affidavit or notarized statement or other documentary evidence of compliance with R.C. 5721.25.
2. In the event the redeeming party fails to comply with the provisions of paragraph (1) above, the prosecuting attorney may file notice with the court of such payment in full of taxes and court costs.
3. The prosecutor shall serve evidence referred to in paragraph (1) above upon the treasurer who shall notify all relevant authorities. The treasurer shall notify all relevant authorities. The treasurer shall notify the prosecutor of any objection to compliance within 10 business days from the treasurer's receipt of the motion to dismiss.
4. If taxes and court costs are paid and no evidence of compliance is filed with the court, the matter will continue to hearing on the regular scheduled trial date.
5. If an objection or memorandum contra the motion to dismiss is filed, the court shall schedule an oral or non-oral hearing to determine the issue of compliance.

**RULE 93 – (5-18-04) RECEIVERSHIPS**

93.01 In all cases where receivers are appointed by this Court, the following shall apply:

93.02 QUALIFICATION TO SERVE AS A RECEIVER. Any receiver appointed must be a resident of the state of Ohio.

93.03 GENERAL DUTIES OF THE RECEIVER. Unless by entry of the Trial Judge specifically authorizing the receiver to continue a business, the receiver shall:

- A. take control of the assets of the defendant debtor;
- B. give notice to all known creditors of the receiver's appointment;
- D. afford the opportunity for creditors to present and prove their claims;
- E. cause the assets of the business to be inventoried and appraised;
- F. determine the validity and priority of the creditors' claims;
- G. take such steps as may be necessary to reduce the assets of the business to cash; and
- H. make distribution of cash between the various classes of creditors.

93.04 REPORTS TO THE TRIAL JUDGE. Within two months of the appointment of the

receiver, the receiver shall prepare and submit to the Executive Director, an inventory and appraisal of the assets of the defendant/debtor and the receipts and disbursements to date. Following approval by the Executive Director, the receiver shall file the report with the Clerk. A copy of the report shall be submitted to the trial judge for consideration. After consideration by the trial judge, the trial judge shall approve or disapprove the report by court entry.

93.05 SEMI-ANNUAL REPORTS. After filing the first report, the receiver shall file semi-annual reports containing the same information and procedure as provided for in 93.04. In addition to the foregoing, the receiver shall file a summary of proposed future action on behalf of the defendant/debtor.

93.06 FAILURE TO FILE A REPORT. Failure to file any report required under this rule could result in:

- A. removal of the receiver and/or the attorney for the receiver and/or
- B. withholding of fees for the receiver and/or the attorney for the receiver.

93.07 AUTHORITY OF THE RECEIVER. A receiver who is appointed to take charge of property and to collect income may expend funds, without approval by the trial judge, to pay insurance premiums, water and utility bills, and make emergency repairs as may be necessary for the proper maintenance of the property. Expenditures not enumerated in this rule require approval of the trial judge.

93.08 SALE OF PROPERTY WITH APPRAISED VALUE IN EXCESS OF \$10,000. Prior to the sale of property with an appraised value in excess of \$10,000, the receiver shall file a report with the trial judge reflecting expenditures incurred or to be incurred prior to the sale.

93.09 PAYMENT OF FEES. The receiver and/or counsel for the receiver shall file a fee application with the clerk, Executive Director, and the trial judge. The receiver and/or counsel for the receiver shall attach to the fee application a billing summary reflecting:

- A. the dates upon which work was performed;
- B. a description of the work performed; and
- C. the name of the individual performing the work.

Charges for receiver's services shall be within the sound discretion of the trial judge, giving due consideration to the complexity of the receiver's responsibilities.

- A. Receiver's fees shall not exceed \$75.00 per hour;
- B. Fees for counsel to a receiver shall not exceed \$150,000;
- C. An attorney acting as a receiver must specify work performed as a receiver and work performed as an attorney and billed as the rate set forth above.

93.10 REPORT TO THE CREDITORS. The receiver shall attached to the fee application a report reflecting:

- A. amount of money collected;

- B. amount of money disbursed;
- C. amount of money on hand;
- D. status of secured and unsecured creditors' claims;
- E. payments made;
- F. balances due; and
- G. an estimate of the time necessary to complete the receivership and make final distribution.

The report to the creditors may be in summary form.

93.11 APPROVAL OF FEES. The trial judge shall approve the combined fees for the receiver and counsel for the receiver if the total is less than \$15,000 for the case. If the combined fees for the receiver and counsel for the receiver exceed \$15,000, for the case, the fee application shall be submitted to a majority of the judges for approval. However, if the receiver is running an ongoing business versus liquidating a business, the trial judge shall have the discretion to approve reasonable fees and expenses regardless of amount.

[5-18-04]

**RULE 95 - ATTORNEY'S FEES IN SUITS FOR PARTITION OF REAL ESTATE**

**95.01** The attorneys for plaintiffs in an action in this Court for the partition of real estate pursuant to R.C. Sections 5307.01 to 5307.25 who have rendered complete services in connection with partition litigation shall be allowed and receive in full compensation for all ordinary services a fee (as "counsel fee") in accordance with the provisions of R.C. Section 5307.25 for the first \$5,000 of the value, as determined in the action, of the real estate, at the rate of 8 percent; all above the sum, and not exceeding \$10,000, at the rate of 6 percent; all above that sum, and not exceeding \$15,000, at the rate of 4 percent; and all above \$15,000 at the rate of 2 percent, with a minimum allowance of \$50.

**95.02** In the event an allowance for actual and necessary expenses, additional compensation, or compensation for extraordinary services, is sought by such attorney, or attorneys, in a partition action, (over and above the "counsel fee" contemplated in Loc. R. 95.01) the request for an allowance must be made in person to the Trial Judge before allowance, be considered and fixed by the Court en banc in an amount the Court considers just and reasonable for actual and necessary expenses, and for extraordinary services.

**RULE 96 - JUDICIAL SALES/TITLE INSURANCE REQUIRED - [6/1/93]**

**96.01** In every action demanding the judicial sale of one to four family residential real estate, the

party or parties seeking such judicial sale shall file, within fourteen (14) days after the filing of the pleadings requesting such relief, a commitment for an owner's policy of title insurance, on the currently revised ALTA owner's policy form prepared by a licensed "title insurance company" as that term is defined in Section 3953.01(c) of the Ohio Revised Code, showing: (i) the name of the owners of the property to be sold; (ii) a reference to the volume and page of the recording by which said owners acquired title to such real estate; (iii) a description of all exceptions to said owner's fee simple title and liens thereon; and (iv) the name and address, as shown on the recorded lien, of the lien holder(s). Such commitment shall have an effective date within fourteen (14) days prior to the filing of the complaint or other pleading requesting judicial sale. Such commitment shall cover each parcel of real estate to be sold, shall be in "the amount of the successful bid at Sheriff's sale", shall show "purchaser at judicial sale" as the proposed insured, and shall not expire until 30 days after recordation of the Sheriff's Deed to such purchaser.

**96.02** No later than thirty (30) days prior to the date set for such judicial sale, the party or parties submitting the same shall cause the original commitment to be updated by the issuer thereof to a date subsequent to the date of judgment, to insure that all necessary parties are properly before the Court in the pending action. Where the evidence of title indicates that necessary party or parties have not been made defendants, the attorney for the party submitting the said Judgment Decree shall proceed without delay to cause such new parties to be added and served a copy of the Complaint in accordance with the Ohio Rules of Civil Procedure.

**96.03** After the Sheriff's return of the order of sale and prior to the confirmation of the sale, the party or parties requesting the order of sale shall cause an invoice for the cost of the title insurance policy, commitment cost related expenses and cancellation fee, if any, to be filed with the Clerk of this Court. The amount of the invoice shall be taxed as costs in the case.

**96.04** The purchaser at the judicial sale may, by paying the premium for such policy, obtain the issuance of title insurance in accordance with the commitment.

**96.05** The party or parties requesting the order of sale shall prepare a distribution entry showing the court costs assessed, which include the invoice for the cost of the title insurance policy, commitment cost related expenses, including cancellation fee, if any, and all other costs and distribution of sale.

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

## **RULE 97 - NOTARIES PUBLIC**

**97.01** For the purpose of assisting this Court in the performance of its duties pursuant to R.C. Chapter 147, the Court hereby establishes a committee of 15 persons to be known as the Notaries Public Committee.

**97.02** In July of each year the Court shall, by journal entry, duly filed with the Clerk, appoint the members of the committee to serve until their successors are appointed. The President of the Columbus Bar Association shall submit recommendations to the Court for appointment. All members of the committee shall serve at the pleasure of the Court.

**97.03** The committee shall investigate the moral character, the qualifications, and ability to discharge the duties of the office of notary public of all applicants for a commission. Applications shall be upon a form prescribed by the committee. Any person applying for the first time for a commission and any person whose commission has expired five years or more prior to the date of his or her application shall be required to take a written examination to be prepared and graded by the committee.

**97.04** The committee shall schedule examinations to be held at regular intervals and the chairman of the committee shall appoint a member to conduct each examination. The member conducting an examination shall be paid the sum of \$30 for each examination conducted by the Columbus Bar Association.

**97.05** The committee shall promptly transmit to the Court the names of the persons who have successfully completed the examination and those whose applications have been approved. No judge of this Court shall consider or act upon the application of any person to become a notary public unless there is first submitted to him or her the report of the committee concerning the applicant.

**97.06** Should any applicant after filing an application for examination fail to appear for the examination within 90 days after the filing of his or her application, the application shall become null and void and the fee paid shall be forfeited.

**97.07** An applicant who fails to pass the examination may not file a new application for re-examination sooner than 30 days from the date of his or her last examination.

**97.08** Attorneys-at-law admitted to the practice of law in this state and those persons who have held a commission as notary public at any time within five years prior to the date of their application shall not be required to take the examination, but their applications shall be on the form prescribed by the committee.

**97.09** Applications shall be accompanied by the following fees: where the applicant is required to take the examination or is an attorney-at-law, the sum of \$45; where the applicant is not required to take the examination, the sum of \$45; where the applicant is seeking a name change only, the sum of \$15; where the applicant is seeking a name change only and is an attorney-at-law admitted to the practice of law in this state, the sum of \$15; where the applicant seeks to replace a lost certificate, the sum of \$4. In addition, the application shall be accompanied by the fee provided by law for the Commission Clerk in the Secretary of State's office, which amount shall be refunded to the applicant in the event that his or her application is not approved. (Amended, July 15, 2002)

**97.10** All fees set forth herein shall be paid to the Columbus Bar Association which shall pay the compensation provided for in Loc. R. 97.04 and retain the balance to cover the expenses of the committee and the costs of the secretarial, clerical, and accounting services rendered to the committee. The Columbus Bar Association shall present to this Court on or before July 31 of each year an accounting of all fees received by virtue of this rule and of all expenditures made by the committee. (Amended February 25, 1997)

**97.11** Whenever it comes to the attention of the committee that any notary public is allegedly improperly exercising his or her office or powers in this county, it shall be the duty of the chairman of the committee to, and in his or her absence or inability, then any member of the committee may, convene a meeting of the committee at the offices of the Columbus Bar Association. The meeting shall determine

whether or not there is cause to file a complaint with this Court setting forth in a brief manner the acts or things allegedly done improperly by the notary public. If the committee feels that the filing of a complaint is warranted, the complaint shall request a time and place to be set for a hearing, and shall order that the notary public be given notice. The Administrative Judge, or a judge designated by him or her, shall, at such time and place as the Administrative Judge or the Trial Judge may determine, after notice has been given to the notary public against whom the complaint has been filed, conduct a hearing on the complaint and make such orders or findings as in his or her discretion are just and proper in the circumstances.

## **RULE 99 - COURT MAGISTRATES**

**99.01** Appointment. Magistrates shall be appointed by the Court and serve as full-time employees of the Court as provided by Civ. R. 53, and shall also serve as Magistrates under Crim. R. 19.

**99.02** Matters Heard. A Magistrate shall hear any trial or hearing which is referred to him or her by the Trial Judge:

(A) on any issue or issues as to which no jury right attaches, or as to which the jury right has been waived,

(B) trials or hearings as to any issues submitted by consent of the parties,

(C) jury trials where the parties have given unanimous written consent under Civ. R. 3(C)(1)(a)(iii).

All hearings for garnishment, attachment, replevin, forfeiture of contraband, and judgment debtor examinations shall be before the Magistrates, unless the Trial Judge orders otherwise, at such times and dates as the Assignment Commissioner designates.

**99.03** Trial Procedure. Trials and hearings before the Magistrate will be conducted in accordance with the standards set out in Loc. R. 23.01 and Loc. R. 23.02.

**99.04** Magistrates Order or Decision. The Magistrate will issue his or her order or decision after the trial or hearing in accordance with Civ. R. 53 but he or she may require that briefs, proposed findings or other memoranda be submitted by counsel prior to the issuance of his or her order or decision. No findings of fact and conclusions of law are required after a jury trial, but the Magistrate shall report in writing the actions of the jury.

**99.05** Objections to Magistrate's Order or Decision. Objections and memoranda in support of objections to the Magistrate's Order or Decision shall be timely filed by any party in accordance with Civ. R. 53. Memoranda contra objections may be filed by any party within 7 days of filing of the objections.

The 14-day time limit established by Civ. R. 53 for the filing of objections to the Magistrate's Decision may be extended by the Trial Judge only upon written application supported by an affidavit stating facts indicating a practical impossibility of compliance. If a transcript of the trial or hearing is necessary to support objections to the Magistrate's Order or Decision, the transcript must be filed with the Trial Judge by the moving party within 30 days after the filing of the objections unless the Trial Judge, in writing, extends the time for inability of the reporter to complete the transcript of the testimony.

The request for a transcript shall be submitted to the proper Court reporter within three days after

the filing of the objections.

**99.06** Entries. Entries or judgments shall be prepared by the prevailing party in accordance with Loc. R. 25 and shall be submitted to the Magistrate for his or her approval and endorsement before being submitted to the Trial Judge.

### **RULE 101 - BROADCASTING, TELEVISION, 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:

#### **101.01 Administration**

A. Requests for permission to broadcast, televise, record, or photograph in the courtroom shall be in writing to the Administrative Director as far in advance as reasonably practical, but in no event later than 1 hour prior to the courtroom session to be broadcast or photographed unless otherwise permitted by the Trial Judge. Request forms may be obtained from the Administrative Director's office. For the purposes of this rule only, the phrase "Trial Judge" includes Magistrates.

The Administrative Director shall immediately inform the Trial Judge of the request. The Trial Judge shall 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.

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

#### **101.03 Equipment and Personnel**

A. Not more than one portable camera (television, video-tape, or movie), operated by not more than one in-court camera person, shall be permitted without authorization of the Trial Judge.

B. Not more than one still photographer, utilizing not more than two still cameras of professional quality with not more than two lenses for each camera, shall be permitted without authorization of the Trial Judge.

C. Not more than one audio system for radio broadcast purposes shall be permitted without authorization of the Trial Judge.

D. If audio arrangements cannot be reasonably made in advance, the Trial Judge may permit one audio tape recorder at the bench which will be activated prior to commencement of the courtroom session.

E. Visible audio tape recorders may not be used by the news media without prior permission of the Trial Judge.

#### **101.04 Light and Sound Criteria**

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

#### **101.05 Location of Equipment and Personnel**

- A. One television camera shall be positioned on a tripod adjacent to the side conference room door in each courtroom, and shall remain fixed in that position. This designated area shall provide reasonable access to coverage. Videotape-recording equipment or other technical equipment which is not a component part of an in-court television or broadcasting unit shall be located in a room adjacent to or outside of the Courtroom.
- B. The television, broadcast, and still-camera operators shall position themselves in a location in the courtroom, either standing or sitting, and shall assume a fixed position within that area. Having established themselves in a shooting position, they shall act so as not to call attention to themselves through further movement. Sudden moves, pans, tilts, or zooms by television or still camera operators are prohibited. Operators shall not be permitted to move about in order to obtain photographs or broadcasts of courtroom sessions, except to leave or enter the courtroom.
- C. Television cameras, microphones, and taping equipment shall not be placed in, moved during, or removed from the courtroom except prior to commencement or after adjournment of the session or during a recess. Neither television-tape magazines, rolls or lenses, still-camera film, nor audio tape cassettes shall be changed within a courtroom except during a recess.

#### **101.06 Miscellaneous**

- A. Proper courtroom decorum shall be maintained by all media pool participants.
- B. All media representatives shall be properly attired, in a manner that reflects positively upon the journalistic profession.

#### **101.07 Limitations**

- A. There shall be no audio pickup or broadcast of conferences conducted in a courtroom between

counsel and clients, co-counsel, or the Trial Judge and counsel.

B. The Trial Judge shall prohibit photographing or televising by any means victims of sexual assaults and undercover police officers. The Trial Judge shall retain discretion to limit or prohibit photographic or televising of any juror, victim, witness, or counsel or his or her work product, upon objection.

**101.08 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 103 - COMPULSORY ARBITRATION - [11/1/93]**

### **103.00 Introduction**

A. Applicability. These rules shall proscribe the procedure to be followed in all Rule 103 Procedures.

B. Court Proceedings. Rule 103 Arbitration's are formal proceedings of the Franklin County Court of Common Pleas and all arbitrators, counsel, parties, witnesses and others shall conduct themselves accordingly.

C. Construction. These rules shall be construed and applied to effect just results by eliminating unfair surprise, unnecessary delay, unnecessary expenditures of time and money and all other impediments to the prompt and inexpensive administration of justice.

D. Purpose. The purpose of these rules is to serve the citizens of Franklin County, Ohio by providing a fair and impartial dispute resolution system that is dignified, faithful to the law and that is less time consuming and less expensive than a trial, and that may be used whenever appropriate.

E. Control by the Court. As indicated below, the Court maintains full supervisory power over all aspects of all Rule 103 proceedings including, but not limited to, the application and the interpretation of these rules. Therefore, the Court, for good cause shown, may modify and amend these rules in appropriate cases in order to do justice and/or avoid injustice.

### **103.01 Cases for Arbitration**

A. Any judge of the general division of the Court of Common Pleas may, at any time, by a general entry, 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 and members of the Columbus Bar Association, and the Bar of Franklin County, Ohio, 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 60 days old; and
- (2) All of the parties must have appeared in the case; and

- (3) The apparent value of the claim or claims of the plaintiff or the plaintiffs shall not exceed Fifty Thousand Dollars (\$50,000.00) exclusive of interest and costs; and
- (4) Generally, the case should not involve any complicated issues of significant fact; and
- (5) The case should not involve any complicated legal issues that are central to the case; and
- (6) 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. **(04-26-00)** Cases in which the apparent value of the claim or claims of the plaintiff or the plaintiffs is less than fifty thousand dollars (\$50,000) shall be referred for arbitration as required by Ohio Rules of Superintendence Rule 15(a)(1).

C. **(04-26-00)** Anytime after all parties have appeared in the case, up to ninety (90) days before trial, any party may file a motion to arbitrate. Regardless of the apparent value of the claim or claims.

D. **(04-26-00)** A party who wishes to oppose arbitration shall file a memorandum contra within 14 days of the service of the Entry to Arbitrate or the motion to arbitrate.

The Court shall then determine whether the action is ready and appropriate for arbitration in accordance with the standards listed in Rule 103.01(A).

#### **103.02 Selection of Arbitrators**

A. **(04-26-00)** When the order of arbitration is made by the judge, the judge shall select the chairperson, and forward the entry to the arbitration clerk who shall select the time and location of the hearing, file the entry and forward a copy of the entry to all parties.

B. The chairperson shall have at least three (3) years of legal experience, and shall be appointed on a rotating basis from a list of volunteers created by the Court of the Columbus Bar Association and maintained by the Arbitration Clerk.

C. **(04-26-00)** Within fifteen (15) days of the filing of the entry, each side shall appoint an arbitrator who can be available for the scheduled date, and shall notify all parties and the Arbitration Clerk in writing. A party's failure to comply with this rule constitutes a waiver of their right to so appoint and the assigned judge shall appoint their arbitrator for them.

D. Where there is more than one plaintiff or more than one defendant, each side shall nominate one arbitrator. If any conflict arises out of the differing interests of the parties, the judge shall make appropriate rulings.

E. By agreement or by waiver, the parties may proceed with the chairman as the sole arbitrator.

F. On the day of the hearing, the chairperson shall obtain the Court file on the case, along with the appropriate forms for the required Report and Award.

No disclosure shall be made to an arbitrator prior to the filing of the report and award of any offers of settlement made by either party, except by agreement of the parties. Prior to the delivery of the court file to the Chairman of the Board of Arbitrators, the Arbitration Clerk shall remove from the file and retain all papers or any notations referring to demands or offers for settlement.

G. No more than one member of a law firm or association of attorneys shall be appointed to the same board, nor shall any attorney be appointed to a board who has a specific interest in the determination of the case or a relationship with the parties or their counsel which would interfere with the fair and impartial consideration of the case.

### **103.03 Compensation of Arbitrators**

A. Each member of a board who has signed an award or files a minority report shall receive as compensation for his or her services in each case a fee of One Hundred Dollars (\$100.00). When more than one case arising out of the same transaction is heard at the same hearing or hearings, it shall be considered as one case insofar as compensation of the arbitrators is concerned.

In cases requiring hearings of unusual duration involving questions of unusual complexity, the assigned judge, on motion of the members of the board and for cause shown, may allow additional compensation. The members of a board shall not be entitled to receive their fees until after filing the Report and Award with the Court. Fees paid to arbitrators shall not be taxed as costs.

B. The chairman shall receive as additional compensation the sum of Fifty Dollars (\$50.00) for each case heard by the board. If the chairperson serves as a sole arbitrator, he or she shall receive compensation of the entire Three Hundred Fifty Dollars (\$350.00) deposited.

C. Each side shall be responsible for paying the fee of one arbitrator and one-half the fee of the chairperson. Payments shall be made to the Clerk of Courts no later than fourteen (14) days before the date set for the arbitration hearing or a show cause hearing may be scheduled anytime after the report and award is filed with the Clerk of Courts. After the show cause hearing, the Court may order the delinquent party to pay the entire cost of the arbitration and at such time order the Clerk of Courts to refund the fees deposited by the non-delinquent party.

In the event that one or more parties is unable due to poverty to make the payment for arbitrators' fees, he may file a motion and affidavit under Rule 103.14(A)(1)(c) herein, and all of the provisions of that rule shall apply.

D. If a case is settled or dismissed more than two (2) days prior to the date scheduled for the hearing, the board members shall not be entitled to any fee except in cases where the arbitrators are not notified of the settlement or dismissal by that date. If a case is settled or dismissed within that two-day period, the board members shall be entitled to receive the fee. The parties are required to notify the chairperson and the Arbitration Clerk immediately of settlement or dismissal.

E. If a case is settled or dismissed more than two (2) days prior to the date scheduled for the hearing, the parties shall file the standard settlement and dismissal entry, shall serve the Arbitration Clerk with a copy, and shall notify all of the arbitrators of the settlement. If the settlement is within two (2) days

or less prior to the arbitration, the settlement and dismissal entry, shall also contain an order for payment of fees to the arbitrators, designating their names, addresses and amount due.

**103.04 Hearing: When and Where Held - Notice**

A. Hearings shall be held at a time scheduled by the Arbitration Clerk at a courtroom or hearing room unless the chairperson, upon agreement by all parties, shall designate another place, such as a law office, a Columbus Bar Association office or room, or another appropriate office. A hearing shall be scheduled not less than forty-five (45) but no more than sixty (60) days after the appointment of the chairperson.

The sixty (60) day period may be extended only by the Court. No hearing shall be fixed for Saturdays, Sundays, legal holidays, or evenings, except upon agreement of counsel for all parties, the board, and the Arbitration Clerk.

B. Since sufficient notice is given to the parties prior to the hearing date, the hearing should proceed at the scheduled time.

**103.05 Duties and Oath of Arbitrators**

A. The Arbitrators shall:

1. Perform their duties fairly, impartially and diligently; and
2. Be patient, dignified and courteous to all who come before them; and
3. Be faithful to the law; and
4. Be unswayed by personal interests or fear of criticism; and
5. Not identify themselves as Plaintiff or Defendant's Arbitrator.

B. The Arbitrator's sole function is to consider the evidence, to apply the facts to the law in a fair and impartial manner and to render a just decision.

C. When all the arbitrators are assembled and before the hearing begins, each arbitrator shall take an oath or affirmation, as follows:

"I solemnly affirm that I will faithfully and fairly hear and examine the matter in controversy and that I will make a just award to the best of my understanding and ability."

This oath shall not be waived. Any arbitrator who fails to take this oath shall not be entitled to any compensation for serving as an arbitrator.

D. There shall be no communications by counsel or the parties with any arbitrator concerning the merits of the controversy prior to the commencement of the arbitration hearing nor following the conclusion of the arbitration hearing until the Report and Award has been filed and served on all parties.

**103.06 Default of a Party**

The arbitration may proceed in the absence of any party who, after due notice, fails to be present, appoint its arbitrator, obtain a continuance, or to present evidence. An award shall not be made solely on the default of a party. The board shall require the other party to submit such evidence as it may require for the making of an award.

#### **103.07 Supervisory Powers of the Court**

The assigned judge, or when he or she is unavailable, the Administrative Judge of the General Division of the Court of Common Pleas, shall have full supervisory powers with regard to any questions that arise in all arbitration proceedings and in the application of these rules.

#### **103.08 Witness Fees, Written Depositions, Videotape Deposition**

Witness fees in any case referred to arbitration shall be in the same amount as now or hereafter provided for witnesses in trials in the Common Pleas Court. Costs of witness fees may be ordered taxed as costs. 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.

#### **103.09 Transcript of Testimony**

The arbitrators shall not be required to make a transcript of the hearing. If any party desires a transcript, that party shall provide a reporter and cause a record to be made. The party requesting the record shall pay the expenses, which shall not be considered costs in the case. Any party desiring a copy of any transcript shall be provided with it by the reporter upon payment of the usual charges for a copy of a deposition, plus the party's proportionate share of the cost of the reporter's attendance.

#### **103.10 Continuance of Hearing, Inability of Hearing to Proceed**

A. The chairperson may continue a hearing date only upon a showing by a party or parties of extraordinary reasons. In such event, it shall be the responsibility of the party requesting the continuance to reschedule the hearing at a date and time not later than forty-five (45) days, mutually agreeable to the Arbitration Clerk, the arbitrators and the parties, and provide written notice of the rescheduled hearing date to the Arbitration Clerk, the arbitrators and the parties. In no event shall a case be continued more than twice without a Continuance Entry and the approval of the trial judge.

B. If one or two members of the arbitration board are unable to attend the hearing, the parties shall obtain a substitute arbitrator, or may agree that the hearing proceed before a board of less than three arbitrators.

In no event shall the hearing proceed in the absence of the assigned chairperson. If the assigned chairperson cannot attend the hearing, the arbitration clerk shall attempt to locate a substitute chairperson whose appointment will not cause any conflict of interest. If no substitute can be located, the hearing shall be continued to a date and time mutually agreeable to the arbitrators, the parties, and the Arbitration Clerk.

C. If the hearing is unable to proceed as a result of the death or long-term illness or disability of a party, or counsel, the chairperson shall return the case file to the Court with notice of such fact. The judge

shall summon the parties or their counsel and make such orders as are just relative to further proceedings in the case.

D. Any motion that has not been ruled on prior to the date of the arbitration shall be disregarded by the board for the purposes of arbitration. Any motion objecting to the referral of the case to arbitration that has not been ruled on prior to the date of the arbitration shall, at the request of any party, cause the hearing to be continued.

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

A. Strict conformity to the Rules of Evidence is not necessary. However, except as indicated below, there shall be substantial compliance with the Ohio Rules of Evidence and inadmissible hearsay shall be kept to a minimum. Evidence received shall be given such weight as the board deems appropriate after consideration of any objections. Rulings upon objections shall be made by the chairperson. All evidence shall be taken in the presence of the arbitrators and all the parties except where any of the parties is absent and consents, or is in default, or has waived the right to be present. The board may receive evidence in the following forms:

- (1) Testimony. Testimony by competent witnesses, whether live or by deposition, signed and dated witness statements or transcripts of the same, or affidavits. The chairperson shall administer oaths or affirmations to all live witnesses;
- (2) Documentary Evidence.
  - (a) In actions involving personal injury and/or damage to property, the following documents may be offered and shall be received into evidence.
  - (b) Medical bills, including the following:

- (i) Health Care Providers. Bills of hospitals, doctors, dentists, nurses, therapists, and all other health care providers, on the proper form or letterhead, when itemized and dated.
  - (ii) Bills for Medicines, etc. Bills for medicines, eye glasses, prosthetic devices, medical appliances, or similar items.
- (c) Property Repair Bills or Estimates. Property repair bills or estimates, when identified and itemized setting forth the charges for labor and material used in the repair of the property, provided that sufficient proof of ownership is offered by the party seeking to introduce such bill or estimate.
- (d) Procedure in Case of Estimate. In the case of an estimate, the party intending to offer the estimate shall forward with his or her notice to the adverse party, together with a copy of the estimate, a statement indicating whether or not the property was repaired, and if it was, whether the estimated repairs were made in full or part, attaching a copy of the receipted bill showing the items or repair made and the amount paid.
- (e) Records and Reports.
  - (i) Police, sheriff and highway patrol reports.
  - (ii) Hospital, medical, therapy, doctor's reports, and x-rays.
  - (iii) Employer's reports on lost wages and economist reports.
- (f) Similar materials. Any reports and/or records and/or other materials that are substantially similar to any of the items specifically set forth in Rule 103.11 may be offered and shall be admitted into evidence.

B. All written or documentary evidence as listed above must be served upon the adverse parties or their counsel at least fourteen (14) days before the hearing, unless counsel otherwise agrees. Failure to give such notice or serve that evidence upon opposing parties can be sufficient

grounds for exclusion of the evidence, at the discretion of the chairperson. The chairperson shall not exclude evidence unless it unfairly surprises the non-offering party or otherwise unfairly prejudices the non-offering party.

C. Counsel shall, upon request, whenever possible, produce a party or witness at the hearing without the necessity of a subpoena. Subpoenas are to be issued as provided in Civil Rule 45 through the Clerk's office as in any other case. Except as indicated above, the parties are not required to appear at the hearing and such absence shall not be held against them.

D. The chairperson may compel the reasonable production of books, papers and documents which may be material to the case.

Should a party or witness fail to produce documents or to testify as to a matter after being ordered to do so by the chairperson, the board may treat that particular matter as not controverted and proceed to make a final award without the necessity of issuing a citation for contempt.

E. Where documentary evidence including, but not limited to, the types of evidence referred to above, will be offered for admission at the hearing, counsel for the party offering the evidence shall provide a copy of each document to each arbitrator.

F. The chairperson, may request that counsel provide the board with brief written or oral arguments of law, together with supporting authorities, if necessary to a just determination of the issues. The board shall decide the case submitted to it in accordance with their duties and oath as specified above in Rule 103.05.

G. The hearings should last not more than three (3) hours total except for good cause shown, and the chairperson shall divide the hearing time fairly among the parties.

#### **103.12 Report and Award (04-26-00)**

Within thirty (30) days after the hearing, the chairperson shall file a Report and Award with the Clerk and the Arbitration Clerk, and on the same day shall mail or otherwise forward copies to all parties or their counsel. An award may exceed \$50,000.00 exclusive of interest. 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 findings and award, the dissenting member shall write the word "Dissents" before his or her signature. A minority report shall not be required unless the dissenting arbitrator elects to submit one. The Clerk of Courts shall note the Report and Award on the docket, and shall provide a copy to the assigned judge.

#### **103.13 Legal Effect of Report and Award: Entry of Judgment**

The Report and Award, unless appealed from, shall be final. If no appeal is taken within the time and in the manner specified, the Court shall enter judgment on such award. After the appeal time runs, the prevailing party shall prepare a judgment entry, which shall be submitted to opposing counsel for approval and to the assigned judge for signature. If no entry has been submitted to the Court as set out in Rule 25.01 of the Local Rules, from the date of the filing of the Report and Award, the Court will file its own entry. The Court shall order the Clerk of Courts to

pay the arbitrators, as soon as practicable, following the filing of an Award by the chairperson, or a settlement or dismissal entry or stipulation entitling the arbitrators to payment under these rules.

#### **103.14 Appeals**

A. Right of Appeal de Novo. Any party may appeal from the action of the board to the Common Pleas Court. No appeal can be withdrawn without the consent of all parties. 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 necessity of each party filing a separate notice of appeal. 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) (a) Notice of Appeal and Costs. An appellant shall file a Notice of Appeal de novo, in the office of the clerk, together with an affidavit indicating that the appeal is not being taken for delay but because the appellant believes an injustice has been done. The appellant shall pay to the Clerk of Courts the sum mentioned in (1)(b) below. The appellant shall serve a copy of the notice of appeal and affidavit upon all parties or their counsel and the Arbitration Clerk.
- (b) (04-26-00) Payment of Appeal Fees. The party filing the appeal shall reimburse the county for all fees paid to the arbitrator or arbitrators in the case. Further, the appellant shall pay to Franklin County, Ohio, by depositing with the Clerk of Courts, One Hundred Fifty Dollars (\$150.00). The sum so paid shall not be taxed as costs in the case and shall not be recoverable by the appellant in any proceeding. Expenditure of these funds shall be at the discretion of the court
- (c) Poverty Affidavit and Notice. A party, desiring to appeal an award, may concurrently with the filing of a Notice of Appeal de Novo file with the assigned judge a written motion and affidavit averring that by reason of poverty the party is unable to make the payments required for an appeal and requesting the Court to allow an appeal de novo without payment of the amount specified above in (1)(b). If after due notice to the opposing parties, the judge is satisfied with the truth of the statement in the affidavit, the judge may order that the appeal of such party be allowed although the amounts are not paid by the appellant. If, however, the plaintiff or party appealing, who has filed a poverty affidavit as described above, receives a settlement, or judgment in the case, the defendant or 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 de novo fees previously waived by an affidavit of poverty.

- (2) Return to Assigned Judge. After perfection of the appeal, the case shall be returned to the assigned judge for trial.

B. Appeal De Novo. All cases which have been duly appealed shall be tried de novo. 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.

C. Testimony of Arbitrators on Appeal. In the event of an appeal from the award or decision of the board, the arbitrators shall not be called as witnesses as to what took place before them in their capacity as arbitrators.

D. Exceptions and Reasons Therefor. Any party may file exceptions with the Clerk of Courts from the decision of the board, within thirty (30) days from the filing of the Report and Award for reasons set out in O.R.C. 2711.10.

Copies of the exceptions shall be served upon each arbitrator within three (3) days after filing and shall be forthwith assigned for hearing before the Administrative Judge or a judge assigned by him or her to conduct a hearing.

If the exceptions are sustained, the report of the board shall be vacated by the Court and the Court shall return the case to the trial docket for trial or assign the case again to arbitration before a new board of arbitrators. The judge vacating the Report and Award may also withhold arbitrator's compensation, or require a refund of compensation, from any one or more of the arbitrators. The filing of exceptions shall toll the running of the thirty (30) day appeal period provided in (A) above until a determination of the exceptions by the Court.

#### **103.15 Misconduct of Arbitrator(s) (04-26-00)**

Exceptions to the decision of the board or single arbitrator based on either misconduct or corruption of the board or single arbitrator may also be filed by any party within thirty (30) days after the filing of the report, and, if sustained, the report shall be vacated.

## **RULE 105 MANDATORY MEDIATION**

### **105.01 Reference to Mediation**

A. The following cases, upon completion of necessary pleadings or motions, may be referred by the Trial Judge to a Court Magistrate for a mandatory 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. 105.01(A)(1) and (3), the Trial Judge and/or the Magistrate 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.

**105.02 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. If the preliminary motion is referred to a Magistrate, the mediation conference need not be set before the same Magistrate to whom the motion has been referred.

**105.03 Settlement of Case.** At the mediation conference the Magistrate shall try to settle the entire case. The Magistrate may schedule, recess, or continue the conference; order monies held in trust by the Clerk; conduct a view of the scene, if applicable; issue orders; and exercise such powers as are necessary and proper for the mediation of cases. The Magistrate may note for the file the results of the mediation without filing a specific order or decision.

**105.04 Statements of Evidence.** Statements made during a mediation conference are subject to Evid. R. 408.

## **RULE 107 MISCELLANEOUS**

**107.01 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:

1. To be consistent with the Ohio and United States Constitutions, and the Ohio Rules of Civil Procedure;
2. To be practical and efficient in their operation;

3. To be taken in context with the other portions of these rules.

Words of the male gender shall include the female gender. Singular words shall include the plural, except for the phrase "Trial Judge", or where context indicates that the singular was intended. Each portion of these rules is regarded as severable.

**107.02 Citation.** These rules shall be known as the "Local Rules of Practice of the Franklin County Common Pleas Court, General Division". These rules may be cited as "Loc. R. ".

**107.03 .** These rules shall be effective on July 1, 1991.

#### RULE 108 FACSIMILE FILING ACCOUNTS

**108.01** For the convenience of persons filing documents with the Clerk of Courts, the Court has established Loc. R. 109, which governs facsimile filing. Persons wishing to take advantage of Loc. R. 109 must establish in advance a facsimile filing account. The procedure for establishing a facsimile account is set forth in Part A of this Local Rule. The procedure to be followed when filing a civil complaint is set forth in Part B.

A. To establish a facsimile filing account, a person must execute and deliver to the Clerk an Authorization Agreement for the Automatic Withdrawal (Debits) an Deposit (Credits) on a form furnished by the Clerk. Upon receipt of the authorization agreement and confirmation from the designated banking authority the clerk shall establish a debit account in the name of the account holder. The Clerk shall debit the account of the account holder for those facsimile transmitted documents received by the clerk for filing. The Clerk shall terminate the account when notified in writing by the account holder.

B. A person with a pre-existing facsimile filing account may file by facsimile a complaint that otherwise complies with Loc. R. 109.01-.09 provided the person complies with Loc. R. 108.01 (A). The Clerk shall debit the facsimile filing account for the fees associated with filing by facsimile, filing the complaint, the fees for making service copies of the complaint and any associated documents and the postage for mailing a return copy to the account holder. Once these provisions have been complied with the complaint will be deemed filed in accordance with Loc. R. 109.06. A complaint is the initial document filed to initiate a civil proceeding. This section does not apply to any criminal proceedings.

## **RULE 109. FACSIMILE FILING**

**109.01** For the convenience of persons filing documents with the Clerk of Courts, the Clerk shall accept for filing any document, other than those listed in Loc. R. 109.02, sent by facsimile transmission to the Clerk, provided that the person making the facsimile filing complies with all the requirements of Loc. R. 109.01-.09 and Loc. R. 108.

**109.02** The following documents may not be sent by facsimile transmission to the Clerk for filing:

- A. any entry or other document that requires the signature of a Judge of this Court;
- B. any document in whole or part under seal;
- C. any will, codicil, bond or similar undertaking; or
- D. any document in excess of ten (10) pages (including supporting materials, but excluding the Cover Sheet).

**109.03** The Clerk shall charge a facsimile filing fee of two dollars (\$2.00) per facsimile filing, plus twenty-five cents (.25) per transmitted page (excluding the Cover Sheet) and a charge of twenty-five cents (.25) per page for the making of service copies. Notwithstanding Loc. R. 109.02, a poverty affidavit may not be used to defer or excuse payment of the facsimile filing fee.

**109.04** A completed Cover Sheet shall accompany each facsimile filing. The Cover Sheet shall be in the form adopted by Loc. R. 109.09. Each document sent by facsimile transmission shall constitute a separate facsimile, shall be transmitted separately, and shall have its own Cover Sheet in the form adopted by Loc. R. 109.09. The Clerk shall not file a pleading or paper sent by facsimile transmission to the Clerk without a fully completed Cover Sheet.

**109.05** When the Clerk accepts as an original filing a document sent by facsimile transmission, the Clerk's Office shall so indicate on the Cover Sheet that accompanied the facsimile filing, and return to the sender confirmation, via fax, of the documents acceptance for filing. The Clerk shall be under no other duty to respond to persons attempting to file a document by facsimile. The Clerk's Office shall not verify receipt of a facsimile transmission by telephone.

**109.06** Facsimile filings received by the Clerk's office before 5:00 P.M. of a regular workday shall be deemed filed as of that day, at the time printed by the Clerk's facsimile machine on the final page of the filing. Filings received after 5:00 P.M. shall be filed as if received at 8:00 A.M. on the next regular workday.

**109.07** The person making the facsimile filing shall keep, for no less than five years, the original document sent by facsimile transmission to the Clerk, together with the copy of the Cover Sheet faxed by the Clerk's Office pursuant to Loc. R. 109.05. If the sender's facsimile machine generates a transmission record or confirmation record at the time the original document is sent by facsimile transmission to the Clerk, the person making the facsimile filing shall keep, for no less than five years, a copy of that transmission or confirmation record.

**109.08** This Local Rule has been instituted solely as an accommodation to persons filing

documents with the Clerk of Courts. The person making the facsimile filing shall bear all risk of transmitting a document by facsimile, including all risk of equipment failure.

**109.09** The following Cover Sheet shall accompany all facsimile filings:

Clerk of the Franklin County Common Pleas Court  
John O'Grady, Clerk  
Hall of Justice  
Third Floor-Civil Division  
369 S. High Street  
Columbus, Ohio 43215  
Civil Division Fax Filing No. (614) 462-2583  
Phone-(614) 462-3621

Cover Sheet for the Facsimile Filing of Documents

Date:

From:

Direct Dial No.:  
Facsimile No.:

Senders Address:

Facsimile Filing Account No.:

Number of pages including this sheet:

(Note: Loc R. 109.02 sets a limit of 10 pages per document excluding cover sheet)

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

(Leave Blank if filing a complaint as defined in Loc. R. 108.01B)

Case Style:

vs.

Document

Description: \_\_\_\_\_

\_\_\_\_\_