



**BUTLER COUNTY COURT OF COMMON PLEAS**

**GENERAL DIVISION**

**LOCAL RULES OF COURT**

**IN THE MATTER OF:**

**RULES OF COURT**

**GENERAL DIVISION**

**COMMON PLEAS COURT**

**BUTLER COUNTY, OHIO**

The following rules are adopted, effective on and after February 7, 2020, to govern the practice and procedure in the General Division of the Court of Common Pleas of Butler County, Ohio, subject to such rules as may be adopted or promulgated by the Supreme Court of Ohio.

**The Honorable Daniel E. Haughey**

**The Honorable J. Gregory Howard**

**The Honorable Jennifer Muench-McElfresh**

**The Honorable Michael A. Oster, Jr.**

**The Honorable Noah E. Powers II**

**The Honorable Keith M. Spaeth**

**The Honorable Gregory S. Stephens**

**PLEASE NOTE**

***In 2018 and 2019, all Local Rules were reviewed and updated.  
Local Rules were most recently updated in December, 2021***

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## **CHAPTER 1: ADMINISTRATION**

### **1.01 EFFECTIVE DATE - REPEAL - AMENDMENTS**

(A) These rules, as amended and reprinted herein, are effective immediately, and shall be filed with the Supreme Court of Ohio in accordance with Civil Rule 83. These rules govern all proceedings in actions brought after the effective date of the adoption of these rules and also all further proceedings in actions then pending, except (1) to the extent that in the opinion of the Court the application of the rules in a particular action pending upon the effective date, would not be feasible or would work injustice, or (2) to the extent the rules are inconsistent with the Rules of Superintendence or the Rules of Civil or Criminal Procedure.

(B) All former rules of this Court are superseded as of the effective date of the adoption of these rules.

(C) Amendments and additions to these rules may be made from time to time upon the majority vote of all of the judges in office of the General Division of this Court. The Court shall afford reasonable notice and opportunity for comment. A new local rule, or any substantive change to an existing rule, shall be effective immediately and shall be immediately filed with the Clerk of the Supreme Court of Ohio, pursuant to Civil Rules.

### **1.02 ADMINISTRATIVE JUDGE**

(A) The Administrative Judge of the Court shall have the general superintendence of the business of the Court in accordance with the Rules of Superintendence and the Ohio Revised Code (“ORC”).

### **1.03 COURT HOURS**

(A) The Court operates from 8:00 AM until 4:30 PM, Monday through Friday, unless otherwise ordered.

(B) The Court shall be closed on national and state holidays, unless otherwise ordered.

### **1.04 APPLICATION OF RULES TO UNREPRESENTED PARTIES**

These rules shall apply equally to all parties, whether represented by counsel or *pro se* (unrepresented parties). Parties without counsel are expected to know and follow these rules. Exceptions to these rules will not be made because a party is not represented. Wherever these rules refer to “attorney(s)” or “counsel,” they shall also apply to *pro se* parties, whether or not specifically stated as such.

### **1.05 REFERENCES TO REVISED LEGAL AUTHORITY**

These rules contain references to statutes and to rules of court which, from time to time, may be amended or renumbered. If a reference is made in these rules to legal authority that is revised after the effective date of these rules, the revised legal authority shall be observed thereafter by all parties using these rules.



**CHAPTER 2: GENERAL – RECORDS AND FILINGS**

## **2.01 APPEARANCE DOCKETS**

The Clerk shall indicate on the appearance docket the name of the judge to whom each case is assigned and the nature or purpose of each filing, as indicated in the caption. An entry terminating a case shall be indicated on the docket and in the case management system with the appropriate disposition and termination code as a judgment or dismissal entry.

## **2.02 ORIGINAL RECORDS**

(A) The Clerk shall file and preserve in the Clerk's office all papers delivered to the Clerk for that purpose.

(B) Original papers, transcripts or depositions shall not be taken from the Clerk's office except by an officer of the Court.

(C) The Clerk shall, upon request, furnish extra copies of pleadings or other papers upon the payment of the usual fee or other cost, if no fee is fixed by law.

(D) Except as provided for in the ORC, the Rules of Superintendence, any Local Rules as approved, and the retention schedule of the Records Commission, no records of any kind may be destroyed by the Clerk without prior and proper notification as provided for in the Rules of Superintendence. Notification shall be provided to the trial judge who heard the case.

(E) Following proper notification, according to the Rules of Superintendence and Section D of this rule, the Clerk will cause the destruction of records. The proper form of destruction shall be approved, *via* entry, by the trial judge or Administrative Judge. The Clerk shall not deliver any records to the trial judge or the court administration office for destruction.

## **2.03 PLEADINGS AND OTHER FILINGS**

(A) Assignment of a case shall be made at the time the case is initiated in this Court. All matters pertaining to an action shall be heard by the judge to whom the case is assigned.

(B) In conformity with Civil Rules and Criminal Rules, all pleadings, motions, briefs, and other papers filed with the Clerk shall be legibly typewritten or printed on a single side of white bond paper of letter size, suitable for a flat filing system, securely bound and unfolded, and without backing or cover.

(C) Criminal dockets in felony cases bound over to the Grand Jury by the municipal courts and county courts shall be prepared and filed with the Clerk on a uniform transcript form, as prescribed by the prosecutor's office, which shall include the Incident Tracking Number (ITN) assigned to the fingerprint card taken in connection with the case as required by the ORC. A separate transcript shall be filed for each criminal complaint or charge bound over and, upon concurrent receipt on the same day of multiple transcripts as to the same individual defendant, the Common Pleas Court Clerk shall assign an individual case number as to each transcript.

## **2.04 PROTECTION OF PERSONAL AND PRIVATE INFORMATION IN RECORDS OF COURT**

(A) The following information is deemed personal and private and may not be included in a public record:

- (1) Social Security number.
- (2) Full financial account number (the last 4 digits of an account number may be listed, e.g., “XXXX- XX-1234”).
- (3) Any other information deemed personal and private by any other federal or state statute, regulation, executive order, or court ruling.

(B) It is the responsibility of the filing party and counsel to remove personal and private information from a document filed with the Clerk of Court’s office. The responsibility of the filing party and counsel to remove personal and private information extends to, and includes, exhibits and addenda attached to filings, such as preliminary and final judicial reports, which itemize state tax liens that use social security numbers as case number; medical records; and personal information, such as may be found under R.C. 2907, “Sex Offenses.”

(C) The Clerk of Courts and Deputy Clerks have no responsibility for the removal of any personal and private information filed in a public document in the Butler County Clerk of Courts office.

(D) Any personal and private information contained in documents filed prior to the implementation of this rule is considered public. Any personal and private information in records or transcripts transmitted to this Court from another court is considered public. A party or an attorney in a case, or any other person whose personal and private information is contained in the public record of this Court may petition the Court for the removal of personal and private information and, if the request is granted, the personal and private information will be redacted.

(E) All public documents filed with the Clerk of Court’s office are subject to imaging and may be placed on the Clerk of Court’s website for viewing.

## **2.05 FILING UNDER SEAL**

(A) Counsel requesting the sealing of a document or documents or case file shall file a motion and shall submit a proposed entry and provide a courtesy copy of the motion to the trial judge. The motion shall contain:

- (1) the specific case number and caption of the document or documents or case file that is the subject of the request to be sealed; and,

- (2) a statement of the specific reason for the request.

(B) If the motion is granted by the trial judge, the filing of the documents will be exempt from e-Filing. The party filing under seal shall provide the Clerk of Courts the document(s) to be filed, along with a copy of the entry permitting the document(s) to be filed under seal and the Clerk shall then do all of the following:

- (1) seal the document or documents or case file in a white envelope (or envelopes), with tape, covered by an embossed seal;
- (2) attach a copy of the entry sealing the document or documents or case file to the outside of the envelope;
- (3) return the sealed document or documents to the case file, or the case file to the appropriate shelf;
- (4) cause the document or documents or case file to be removed from view on the Clerk of Courts website;
- (5) and, shall not permit any viewing of the document or documents or case file without further order of the Court.

(C) A sealed document or documents or case file may only be viewed:

- (1) by the trial judge who ordered the sealing of the document or documents or case file;
- (2) by an appellate judge who is reviewing the case on appeal; or,
- (3) by filing a motion and proposed entry with the judge who sealed the document or documents or case file. If the judge grants the motion, the signed entry must be filed in the Clerk of Courts office. The Clerk will then break the seal and make the document or documents or case file available for viewing, and restore the view of the document or documents or case file to the website.

(D) When a motion and entry are filed to allow a party to view a sealed document or documents or case file, and the same entry orders the Clerk of Courts to reseal the document or documents or case file immediately after viewing, the Clerk shall follow the same procedure as (C)(3) above, except that the Clerk shall not make the document or documents or case file available for view on the website.

The person granted temporary access to the document or documents or case filed shall not divulge the contents to others.

## 2.06 ELECTRONIC SIGNATURE

(A) For purposes of this rule, “electronic signature” means an electronic symbol or process attached to or logically associated with a record and executed or adopted by a person with intent to sign the record.

(B) The Court may authorize and utilize platforms which permit judges, acting judges and/or magistrates to execute document via an assigned token coded to affix a unique electronic signature authorized by the signor. The Court may also authorize and utilize various platforms which permit judges, acting judges and/or magistrates, as well as clerks, probation officers, and other court employees and parties, including litigants, counsel, witnesses and jurors physically present at the Court or actually appearing before a judge, acting judge and/or magistrate, to execute documents via a signature pad, whereas an electronic signature is created by the signor directly.

(C) A document containing an electronic signature pursuant to this rule shall be effective for all purposes under the Rules of Civil Procedure, Rules of Criminal Procedure, Rules of Appellate Procedure, Rules of Superintendence, and the Ohio Revised Code.

## **CHAPTER 3: GENERAL**

### 3.01 SPECIAL PROJECTS FEES

Under the authority of the ORC, the Court finds that, for its efficient operation, additional funds are necessary to acquire and pay for special projects.

The special projects fee, in addition to all other court costs, shall be collected on the filing of each criminal cause or civil action in the General Division of Common Pleas Court. Special projects fees shall be used for purposes, including, but not limited to, the hiring and training of court staff, staff attorneys/magistrates, facility renovations, and the acquisition of equipment for the Court and its departments.

Fees collected by the Clerk of Courts under this Rule shall be paid to the County Treasurer for deposit into a General Division Special Projects Fund established through the County Auditor. Disbursements from this fund shall be upon an order of the Administrative Judge of the General Division in an amount no greater than the actual cost of the project.

### 3.02 ANNUAL DRAW OF PROSPECTIVE JURORS

(A) Prospective jurors shall be selected from the randomized names contained in the voter registration master file, maintained by the Butler County Board of Elections in the Butler County computer system. The voter registration master file is the current list of all registered voters in Butler County.

(B) Selection of prospective jurors shall be made by a key number system in accord with the ORC as follows:

(1) There is a *random* selection of a predetermined number of registered voters from the voter registration master file. A juror identification number shall be assigned to each prospective juror as selected. Those prospective jurors shall comprise the master qualified jury list for the jury year.

(2) A *random* selection of prospective jurors from the master qualified jury list then occurs. Those selected shall comprise the annual jury list for the jury year.

(3) The selected key number is a computer-generated random number between 0.000000 and 0.999999, multiplied by the last assigned voter identification number (assigned by the Board of Elections at the time of registration and maintained in the voter registration master file), plus 1. This formula is repeated for each prospective juror until the desired number of prospective jurors has been selected. A juror identification number shall be assigned, consecutively, to each prospective juror upon selection.

(C) The jury commissioners or their designated representatives shall supervise the actual selection of prospective jurors in accord with this rule and the ORC.

### 3.03 ELECTRONIC RETURN RECEIPT OF CERTIFIED U.S. MAIL

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

### 3.04 STANDING SPECIAL PROCESS SERVER

(A) An individual, or agent of a legal organization, may make application to be designated as a standing special process server. The applicant shall submit an affidavit and order for signature by the Administrative Judge of the General Division of the Common Pleas Court. (See [Appendix A.](#))

(B) **Contents of Affidavit and Order.** The Affidavit and Order shall set forth the name, address and telephone number of the person to be appointed as a standing special process server and an affirmation that the person:

- (1) is 18 years of age or older;
- (2) is not a party to any action for which the person shall serve process;
- (3) has no familial relationship to any party in an action for which the special process server shall serve process;
- (4) has no felony criminal record;
- (5) shall carry out his or her duties in accordance with all applicable Local Rules and all applicable Ohio Rules of Procedure.

(C) **Granting of Order.** After the Administrative Judge has signed the order, the individual or agent of the legal organization shall file the Affidavit and Order with the Clerk of Courts. The Clerk of Courts shall record the affidavit and order on the “In Re – Miscellaneous” docket. Thereafter, the Clerk of Courts shall accept a time-stamped copy of the Affidavit and Order as proper designation of process server until the order expires or is vacated by the Court.

(D) **Expiration of Order.** All affidavits and orders appointing standing special process servers shall expire 2 years from the date of filing.

(E) A legal organization whose agent is a standing special process server shall not represent or advertise that it is the Court’s official process server.

(F) The fee for filing the affidavit and order shall be set by order of the Court.



### 3.05 TRANSCRIPTS

(A) **Transcripts of Proceedings.** The following procedure shall be followed in the preparation of official transcripts of proceedings in the General Division of the Common Pleas Court. The Court will not recognize any transcript prepared except as set forth in accordance with this Rule.

(1) Pursuant to the Rules of Superintendence of the Supreme Court of Ohio, the General Division of the Court of Common Pleas shall have proceedings recorded by stenographic means, phonographic means, photographic means, audio electronic recording devices, or video recording systems. The Administrative Judge may order the use of any method of recording authorized by this rule. Hearings covered by court reporters shall be in accordance with priorities established by the judges, as identified in the Butler County Court Reporters/Transcripts Policies and Procedure Manual. Audio electronic recording devices will be used for all court proceedings.

(2) **Definitions**

(a) “Transcription” is the process of converting stenographic or audio electronic recordings into a printed format.

(b) “Transcript” is the product of the transcription.

(c) The “Official Reporter” and “Assistant Reporter” are individuals employed by the Court and appointed by the Administrative Judge of the General Division of the Common Pleas Court, by journal entry pursuant to the ORC. The “Official Reporter” and “Assistant Reporter” shall take an oath to discharge faithfully and impartially the duties of such position.

(d) “Identified Agency” is the agency with which the Butler County Court of Common Pleas has a written agreement for transcripts to be completed through audio electronic recording.

(3) The Manager of Court Administration (“Manager”) shall maintain custody of the original audio electronic recordings of proceedings, and shall have access to the server on which the recording is backed up on a daily basis.

(4) The Court may permit a party to hear the audio transcript of proceedings in the possession of the Court. Any person may request access to an audio file of the record of proceedings, or a portion thereof, by submitting a request to the Manager. Access to the audio file shall be provided unless the Court determines that it is not a public record pursuant to public records law, or cannot be released for other good cause. Costs for such requests shall be pursuant to Ohio public records law.

(5) A transcript is ordered by submitting a written request on the court-approved form entitled, “Transcript Request,” or a request that contains all the required information to the Manager, who will assign the Identified Agency, or an Assistant Reporter to prepare the transcript. No transcript will be prepared without the submission of such request.

(6) The Court may engage or allow the services of an Ad Hoc certified court reporter who is not an Assistant Reporter to perform court reporting services for a particular case. The judge, to whom the case is assigned, shall appoint and issue the oath to the Ad Hoc certified court reporter.

(7) The Identified Agency or Assistant Reporter who prepares the transcript will bill the party and/or persons ordering the transcript in accordance with the fee schedule on file with the Clerk of Courts. In the case of transcripts for indigent parties, the Identified Agency or Assistant Reporter shall prepare and submit the appropriate documentation for compensation.

(8) Transcripts for appellate purposes shall be prepared in accordance with Appellate Rules and the scheduling order issued by the Twelfth District Court of Appeals.

(9) With the exception of capital murder cases – absent a specific request -- transcripts shall not include video depositions previously transcribed by the videographer's court reporter, scheduling conferences, or probable cause hearings.

(10) The originals of all transcripts shall be filed with the Clerk of Courts and stored on a limited access server.

(B) **Transcripts of Depositions.** To the extent that a party to any case seeks to file an original, paper or "hard copy" transcript of a deposition for use in motion proceedings or at trial, rather than e-File an electronic copy of the transcript, the Clerk of Courts may accept the original in lieu of e-Filing.

### **3.06 COMMUNICATIONS AND CONFERENCES WITH COURT**

Neither counsel nor parties shall initiate or institute any discussion on a pending case with the trial judge unless all counsel and unrepresented parties are present, or have been notified of the discussion to take place and given an opportunity to participate.

### **3.07 PROCEDURE FOR WITHDRAWAL OR SUBSTITUTION OF COUNSEL**

(A) An attorney desiring to withdraw from a case pending in this Court must do so by the following procedure:

(1) Obtain a hearing date from the judge's office or the court administration office.

(2) File a motion to withdraw setting forth the reasons for withdrawal, attaching any necessary documentation and indicating the time and date of the hearing on the motion.

(3) The motion must be served on all counsel of record and the party represented by the counsel requesting permission to withdraw.

(4) Counsel requesting permission to withdraw shall notify his or her client in writing that the client must be present at the hearing and that if the client fails to appear at the hearing, the Court may order appropriate sanctions, including a default judgment, an order of dismissal of the suit or such other order as may be just and proper under the circumstances.

(B) Substitution may be accomplished by the submission of an entry signed by both the withdrawing counsel and the substituting counsel.

### **3.08 ELECTRONIC TRANSMISSION FILING (E-FILING)**

#### **(A) Implementation**

(1) The Court's goal is to make e-Filing available and required in all cases and case types, with limited exceptions. However, to assure a smooth transition between e-Filing and paper filing, e-Filing will be available and required in some case types prior to others. The Clerk shall maintain on the Clerk's website a list of all case types that are required to be e-Filed. Counsel and persons representing themselves pro se shall consult the Clerk's website before initiating a case to determine whether e-Filing is required. If required, all documents to be filed are subject to the requirements, exceptions and limitations set forth in these rules.

(2) Once e-Filing is implemented for a particular case type, all pleadings, motions, briefs, memoranda of law, deposition transcripts, transcripts of proceedings, orders and other documents submitted in a mandatory e-File case type shall be submitted electronically through the e-Filing Portal. Subject to applicable exceptions, the Clerk shall not accept for filing or file any document in paper form in mandatory e-Filing case types.

(3) Fax filings will not be accepted for cases for which e-Filing has been implemented. Any documents for such cases submitted by fax will be discarded and not filed, without notice to the submitting party.

#### **(B) Users/Registration**

(1) All persons filing documents in the case types designated as mandatory e-File cases shall be registered as users in the e-Filing Portal.

(a) All licensed attorneys are expected to use the e-Filing Portal. Any documents received in person, by mail, or fax from a licensed attorney will be returned to the attorney, unfiled, with instructions on how to register as a user of the E-Filing Portal and how to submit documents electronically. No such documents shall be considered filed until they are submitted through the e-Filing Portal.

(b) Pro Se Parties

(i) Pro se parties filing in person who are not already registered users shall be directed to a computer station in the Clerk of Courts' office to allow them to register as a user of the e-Filing Portal. The Clerk's office will provide assistance to the filer during the registration process, if needed, but the Clerk shall not be designated as the filer of any of the documents. Once the filer becomes a registered user, his/her documents shall be submitted through the e-Filing Portal.

(ii) If the Clerk receives documents via US mail to be filed from a pro se party, who is not a registered user, the Clerk's office will register the party as a user in the e-Filing Portal. Pro se parties providing an email address with their filings shall be registered to receive subsequent electronic notification.

a. Provided all required deposits and filing fees have been paid, the Clerk will scan the pro se party's documents and e-File them, listing the pro se party as the filer.

b. The Clerk will notify the pro se party that all subsequent filings must be e-Filed, and, if applicable, that the party must provide an email address if they wish to receive electronic notifications.

c. All subsequent filings not submitted through the e-Filing Portal will be returned to the pro se party, unfiled, and no such documents shall be considered filed until they are submitted through the e-Filing Portal.

(2) At the Court's discretion, any attorney or pro se party may be excused from mandatory e-Filing. Leave to file other than through the e-Filing Portal may be granted only by the filing of a motion with the judge assigned to the case, specifically stating the reasons the attorney/party cannot comply with e-Filing procedures. The Court's expectation, however, is that leave will be granted rarely, and except under exceptional circumstances.

**(C) Format of Documents Electronically Filed**

(1) Document Types.

(a) All documents submitted for filing, with the exception of proposed orders and entries (or other documents requiring a judge's signature) shall be filed in Portable Document Format (PDF). Such documents may either be signed by hand and scanned-in or they may be signed electronically as set forth in this Rule.

(b) Proposed Orders/Entries.

(i) Proposed orders and entries (or other documents requiring a judge's signature) shall reference the specific motion to which they apply, and shall be filed in Microsoft Word document format, and shall not contain any mail merge fields or macros embedded in the documents.

(i) Submitters who have need to file attachments to proposed entries, and are unable to incorporate those attachments into a Word document, will have the ability to submit PDF attachments in a separate document within the same filing. This document shall be entitled "Notice of Filing of Attachments to [Name of Entry]" and shall be filed concurrently with the motion and proposed order/entry. The first page of this document shall be a cover page with caption identifying the case. Any proposed order/entry requiring attachments shall include language that incorporates the attachments into the order/entry by reference.

(iii) The Clerk, through the e-Filing Portal, will electronically forward the proposed orders/entries and notices of attachments to the assigned judge or magistrate, who will either accept, reject or modify the proposed order/entry.

(2) Signatures.

(a) **Attorney's/Submitter's Signature.** Any document submitted electronically with the Clerk that requires an attorney's or a submitter's signature (other than hand-signed documents scanned in PDF format) shall be signed with a conformed signature of "/s/ (name)." The correct format for an attorney's signature is as follows:

/s/Attorney Name

Attorney Name, Registration Number.

The conformed signature on an electronically-submitted document, is deemed to constitute a legal signature on the document.

(b) **Multiple Signatures.** When a stipulation or other document requires two or more signatures:

(i) The submitting party or attorney shall sign the stipulation or document himself or herself as follows: "/s/ John Smith."

(ii) The submitting party or attorney shall then include an affirmation that the contents of the document are acceptable to all persons required to sign the document. The submitter shall indicate the agreement of all other counsel and/or parties at the appropriate place in the document, usually on the signature line.

(iii) The submitting party or attorney shall then submit the document electronically, identifying all of the other signatories as follows: “/s/ Jane Doe, per written authorization, by John Smith,” etc.

(c) **Third-Party Signatures.** A document containing the signature of a third party, who is not a party to the action (i.e., affidavit signed by a doctor, military affidavit signed by a staff member or company representative, etc.), shall be electronically submitted only as a hand-signed, scanned-in PDF document.

(D) Availability of e-Filing – Acceptance of Documents

(1) **Definitions.** As used in this section:

(a) “Submission” of a document means the act of transmitting a document electronically from a filing party to the Clerk of Courts through the e-Filing Portal for the purpose of causing it to be filed.

(b) “Filed” means the acceptance of a document into the record of a case.

(c) “Deficiencies” refer to errors or omissions of a party failing to comply with the procedural aspects of these Local Rules, technical requirements of the e-Filing Portal, or clerical errors while submitting a document for filing.

(d) “Rejected Document” refers to a document containing deficiencies which has been submitted but not filed pending correction of any deficiencies.

(2) Documents may be submitted to the Clerk for e-Filing 24 hours per day, 7 days per week.

(3) **Effective Date of Filing.** Documents shall be considered filed upon submission, regardless of the date ultimately stamped on the document by the e-Filing system.

(4) Notice of Deficiencies in Submissions.

(a) The Clerk shall notify a submitting party of any deficiencies.

(i) A rejected document will be considered filed upon submission, consistent with Section D(3) of this Rule, provided any deficiencies are corrected in a timely manner.

(ii) By way of examples, notification of deficiencies may be given for reasons including, but not limited to, incorrect case docketing codes; the use of incorrect electronic file format; failure to pay correct filing fees, including those for a requested jury demand; submitting multiple documents in one uploaded file; incomplete or inaccurate party information; and incorrect case number.

(b) Upon receipt of a notice of deficiencies, the submitting party shall cure or correct any deficiencies within 2 business days. Should the submitting party fail to do so, the Clerk shall notify the assigned judge, who shall take any action deemed appropriate, which may include, but not be limited to, striking documents, dismissing the action, or issuing a corrective order.

(c) **Corrective Orders.**

(i) Upon motion of a party, or upon its own initiative, the Court shall have discretion to issue orders necessary to correct and cure any deficiencies and to make modifications to its records consistent with this Rule.

(ii) The Court may deny a motion requesting a corrective order to any party who acts in bad faith or otherwise manipulates the e-Filing system to gain unfair advantage or circumvent legal deadlines.

(E) **Filing of Initial Pleadings.** When any complaint or third-party complaint is submitted for electronic filing, the filing party shall file a case designation sheet. Consistent with the Ohio Rules of Civil Procedure, the filing party shall also file instructions for service and the Clerk shall issue a summons and serve the complaint or third-party complaint according to such instructions. The Clerk shall produce paper copies of these initial pleadings and charge a fee, as stated in the Clerk's fee schedule, for production of service copies, which shall be assessed as costs.

(F) **Effect of Technical Error.** If a submission is not received by the Clerk due to an error caused by the hardware or software of either the Clerk or the submitting party, upon satisfactory proof and for good cause shown, the Court may enter an order permitting the document to be filed nunc pro tunc to the date the submitter intended the document to be filed. Ultimately, it shall be the submitting party's responsibility to ensure all documents are properly received, docketed, and served.

(G) The availability and utilization of electronic filing shall not serve to eliminate any requirements to serve opposing counsel or parties with filing pursuant to the Rules of Civil Procedure, nor shall it eliminate the requirement to provide courtesy copies to the trial judge as provided elsewhere in these rules.

### 3.09 FACSIMILE TRANSMISSION FILINGS

Pleadings and other papers not subject to e-Filing may be filed with the Clerk of Courts by facsimile transmission ("fax filed"), subject to the following provisions:

(A) A fax-filed document shall be accepted as the effective original document. The sender shall retain possession of the source document until the case is closed and all opportunities for post-judgment relief have been exhausted. The sender shall retain the document in his or her possession and shall make the source document available upon the Court's request.

(B) Documents shall be filed with a signature or notation “/s/” followed by the name of the person signing the source document.

(C) The sender shall transmit the source document to the Clerk of Courts’ facsimile machine, 513-887-3966, accompanied by a cover page, which shall include the following:

- (1) the name of the Court;
- (2) the caption of the case;
- (3) the case number;
- (4) the assigned judge (if a judge or case number has not been assigned, state that fact on the cover page);
- (5) the name, address, telephone number, fax number, e-mail address and, Supreme Court registration number of the attorney submitting the fax filing;
- (6) a description of the document being filed;
- (7) the date of transmission;
- (8) the transmitting fax number; and
- (9) the number of pages transmitted, including the cover page.

(D) Subject to (F) and (G) below, documents transmitted by facsimile will be accepted 24 hours per day, 7 days per week. The date and time of receipt shall be that imprinted by the Clerk’s fax machine will be the effective date and time of filing. Fax filings received outside normal business hours shall be date-stamped with the date of receipt imprinted by the receiving fax machine by the Clerk of Courts on the business day next following receipt of the fax filing.

(E) Fax filings shall be in conformity with Loc. R. 2.03(B) and shall not exceed 15 pages in length, without prior leave of court. Filings which cannot be transmitted accurately by fax shall be filed in person or by mail.

The total length of one or more exhibits shall not exceed 15 pages; the total length of fax filings, including exhibits shall not exceed 30 pages. Exhibits which exceed 15 pages in length or which cannot be transmitted accurately may be replaced by an insert page describing the exhibit. The original exhibit(s) shall be filed, either in person or by mail, on or before the close of business on the 5th business day following the transmission.

(F) The sender shall forward to the Clerk of Courts applicable security for cost deposit, along with the appropriate number of copies for service of summons (“service”), on or before the close of business on the 5th business day after the date of transmission. Failure to forward the applicable security for costs shall result in the document being stricken without motion; the document shall be deemed not filed. If the sender fails to send the appropriate number of copies for service within 5 days, the Clerks shall make the appropriate copies for service and charge the cost of \$2.50 per page to the sender.

(G) All risks of transmission shall be borne by the sender. The Clerk of Courts assumes no additional responsibilities or liabilities by virtue of this local rule.



(H) The availability and utilization of facsimile filing or electronic filing shall not serve to eliminate any requirements to provide courtesy copies pursuant to this rule.

## **CHAPTER 4: TRIAL**

#### 4.01 CONDUCT AT TRIAL

- (A) Except when making objections, counsel shall rise when addressing the Court or jury, unless otherwise permitted by the trial judge. All statements and communication by counsel shall be made from counsel table or the lectern, if provided. While the Court is in session, counsel shall not approach the bench unless upon request, permitted to do so by the judge. Arguments of counsel shall be addressed to the Court and at the proper time, to the jury. Arguments between counsel are not permitted.
- (B) All counsel shall be properly attired, and male counsel shall wear a coat and tie.
- (C) Arguments on rulings or objections shall be at the discretion of the trial judge.
- (D) If any party has more than one counsel, only one counsel per party may examine or cross examine a witness. Although any counsel of record for a party may make objections at trial, only one counsel may argue any single objection.
- (E) Counsel and parties will be at their places in the courtroom at the time designated. Counsel shall have witnesses available during trial so that the case runs smoothly and without delay. Any anticipated delay in the appearance of a witness or the calling of any witness out of turn will be discussed in advance with the trial judge and opposing counsel.
- (F) Counsel must obtain permission from the trial judge to approach any witness on the stand during trial.
- (G) Counsel shall be available while the jury is deliberating and shall notify the judge or bailiff where counsel can be reached.

#### 4.02 CONTINUANCES

No continuances shall be granted except for good cause shown.

#### 4.03 CUSTODY, RETENTION, AND DISPOSAL OF EXHIBITS

- (A) **Definition:** For purposes of this Local Rule, “Exhibit” means any document or tangible item submitted at any hearing or trial before a judge, magistrate or hearing officer of the General Division of the Court of Common Pleas.
- (B) Exhibits offered as evidence shall be taken into the custody of the bailiff. All exhibits shall be marked with an appropriate exhibit, using numbers for plaintiffs and letters for defendants.
- (1) The bailiff shall complete an Itemized Evidence Inventory (“Inventory”), which shall contain the following information:
- (a) caption;

- (b) case number;
- (c) judge, magistrate or hearing officer;
- (d) bailiff;
- (e) counsel;
- (f) each exhibit number or letter;
- (g) whether each exhibit was identified;
- (h) whether each exhibit was admitted;
- (i) a brief description of each exhibit; and,
- (j) an annotation indicating whether the exhibit was photographed and returned.

(2) Each party's exhibits shall be enumerated on separate Inventory lists.

(3) Exhibits identified, but not admitted, shall remain in the custody of the bailiff and placed in a separate envelope.

(4) Exhibits withdrawn will be returned to the proffering counsel.

(C) The bailiff shall place all exhibits and Inventory lists, unsealed, in a court evidence envelope and shall submit the exhibits to the Evidence Custodian. The Evidence Custodian shall retain physical custody of exhibits in all cases, with the following exception of bulky or oversized exhibits, which shall be handled as set forth in Section D of this Rule.

**(D) Bulky or Oversized Exhibits**

(1) Exhibits which are bulky or oversized shall be photographed by the bailiff and returned to the attorney who proffered the exhibit and/or arresting agency. All photographed exhibits must clearly show the exhibit number. The attorney proffering and/or agency retaining custody of exhibits that have been photographed and returned shall be responsible for retention and/or destruction as provided by these Rules, the Rules of Superintendence and by the ORC.

(2) Oversized, demonstrative exhibits shall not be retained by the Evidence Custodian. Counsel introducing such exhibits, shall provide an exact 8½" x 11" duplicate, clearly marked by the exhibit number or letter.

(E) Upon receipt of exhibits from the bailiff, the Evidence Custodian shall verify that the exhibits received correspond to the Inventory list. If a discrepancy exists, the Evidence Custodian will immediately notify the bailiff. If the bailiff does not correct the discrepancies, the Evidence Custodian will then enter the exhibits, noting the discrepancies, into the evidence database. Exhibits shall be assigned a designation indicating placement in the evidence room, and this designation shall be entered into the evidence database. The Evidence Custodian shall print out the information entered into the evidence database from each case and shall retain a copy of the print-out. The Evidence Custodian shall seal the exhibits and copy of the Inventory in the evidence envelope and place it in the evidence room according to the indicated designation.

(F) Exhibits shall be removed from the evidence room only by the Evidence Custodian. Persons requesting exhibits from the evidence room must file a motion and present an order signed by a judge to the Evidence Custodian. The Evidence Custodian shall make the evidence available within a reasonable period of time. The Evidence Custodian will note the date and time of compliance with the order.

#### **4.04 VIEWS OF THE SCENE**

(A) All requests for views of the scene by either party shall be in writing and filed with the Court 10 business days prior to the trial, with notice to the adverse party. The failure to file such notice can, within the discretion of the Court, result in a denial of such request. The person requesting the view shall be responsible for obtaining the transportation which must be deemed adequate by the trial judge.

(B) When permission is granted for the jury to visit the scene, only the bailiff may point out the places or objects as agreed to by counsel or ordered by the Court.

#### **4.05 BRIEFS**

(A) Pretrial or trial briefs, and requests for special instructions, which are submitted to the trial judge shall be exchanged with all counsel of record.

(B) In cases submitted to the Court, briefs shall be filed as ordered by the trial judge.

(C) Failure to file a brief within the time required shall be considered a waiver, unless leave of court is granted.

(D) Briefs shall be limited to 15 pages, except by leave of court.

## **CHAPTER 5: CIVIL**

## 5.01 COSTS

(A) No civil action or proceeding shall be accepted for filing by the Clerk unless there is deposited as security for costs, the amount required, which can be obtained in person, by website, or via telephone.

In the event of claimed indigency, the indigent person shall file an application to proceed *in forma pauperis*, accompanied by a supporting affidavit. The application to proceed *in forma pauperis* is subject to court approval. See [Appendix B](#) for forms.

(B) Expenses incurred by counsel for the stenography and transcription of depositions cannot be charged as costs, except as required for viewing at trial. Other expenses incurred, such as viewing, hearing, or transcription of depositions shall be borne by the requesting party and shall not be taxed as costs.

(C) When a case is transferred to the Common Pleas Court in which the demand of the counterclaim or the cross-claim exceeds the monetary jurisdiction of any other jurisdiction, the counterclaimant or cross-claimant shall, within 10 days of docketing the case, post security for costs in a sum equal to the amount required, as if the action were originally filed in this Court. Failure to comply may result in case dismissal.

## 5.02 INITIAL FILINGS – DESIGNATION OF SPECIAL CIRCUMSTANCES

If either of the following circumstances is present, a complaint shall be accompanied by a filed Docket Statement, [Appendix C](#), and shall be further subject to the provisions of this Rule:

### (A) **Refiled Cases**

(1) Cases that have been previously dismissed and refiled (“refiled case”) shall be transferred to the judge assigned to the prior case (“original case”) that was dismissed if the refiled case was not automatically assigned to that judge upon filing.

(2) In order to facilitate such transfer, a refiled case shall state in the caption of the complaint that it is a refiling of a prior case and include both the prior case number and assigned judge. (See Appendix C.) Counsel shall then deliver a copy of the complaint and a proposed entry transferring the case to the judge to whom the original case was assigned.

(3) Upon receipt of the proposed entry, the judge shall sign and forward the entry to the Administrative Judge to process the transfer.

(4) Failure to indicate that a matter is refiled case may cause significant delays of the matter proceeding in a timely fashion.

## **(B) Complex Litigation**

- (1) Cases shall not be classified by parties upon filing as “complex litigation.”
- (2) Counsel shall, within 60 days of filing of the complaint or any third party complaint, file a separate “Suggestion of Complex Litigation,” to bring to the Court’s attention, in a timely fashion, the potentially complex nature of the litigation.
- (3) The Court upon receipt shall review the “Suggestion of Complex Litigation” to determine if the case meets the criteria for complex litigation as defined in the Rules of Superintendence.

### **5.03 NOTICE OF APPEARANCE**

(A) Counsel in all cases shall file a Notice of Appearance form, [Appendix D](#), which shall contain the following:

- (1) attorney's name and signature;
- (2) Supreme Court registration number;
- (3) business address;
- (4) telephone number;
- (5) fax number;
- (6) e-mail address;
- (7) party or parties attorney represents; and,
- (8) limitations on appearance, if any.

Documents subsequently submitted to the Clerk for filing shall contain the same information as set forth above.

(B) Information set forth in the initial Notice of Appearance which is subsequently changed, such as attorney or address, shall be reported immediately by the filing of a new Notice of Appearance.

(C) In cases where a party is represented by more than one attorney, a separate Notice of Appearance form shall be submitted for each attorney of record.

### **5.04 CERTIFICATE OF SERVICE**

(A) The certificate of service on all filings shall state the date and manner of service designating whether it was sent by certified mail, ordinary mail, facsimile transmission, e-mail or by hand delivery. In addition, the certificate shall state the name, business address, and fax number or e-mail address (if used) for service of each attorney or party to whom the filing is directed and shall be signed in accordance with Civil Rules.



(B) The availability and utilization of facsimile filing or electronic filing shall not serve to eliminate any requirements to serve opposing counsel or parties with filing pursuant to the Rules of Civil Procedure.

#### **5.05 CAPTIONS ON MOTIONS, JUDGMENTS AND ORDERS**

The Clerk of Courts enters all filed documents in the database as docket entries. These docket entries shall accurately reflect the nature of each document. Therefore, the caption on all motions, judgments and orders shall be such that the Clerk is informed as to the information to enter into the database. The Clerk should be able to obtain that information from the caption, without reading the entire document.

Therefore, the caption of a motion, judgment or order shall specifically state the parties affected and the requested action.

#### **5.06 SERVICE BY PUBLICATION**

If service is to be perfected by publication pursuant to the Ohio Rules of Civil Procedure, the requesting party shall file with the Clerk of Courts an affidavit together with a legal notice. The affidavit shall aver that service of summons cannot be made because the residence of the party to be served is unknown to the affiant, all of the efforts made on behalf of the party to ascertain the residence of the party to be served, and that the residence of the party to be served cannot be ascertained with reasonable diligence. The Clerk of Courts will cause publication by returning the legal notice to the requesting party for transmittal to a newspaper of general circulation.

It shall be the responsibility of the requesting party to insure that the publication is accomplished, including the selection of the means of publication and administration of the publication. The requesting party shall be responsible for all publication costs directly with the publisher. After the last date of publication, the requesting party shall file with the Clerk of Courts an affidavit showing the fact of publication, together with a copy of the notice of publication and proof that publication costs were paid.

#### **5.07 LEAVE TO FILE**

Leave of court may be granted *ex parte* for an additional 30 days for filing of an answer or reply within the discretion of the Court.

#### **5.08 DEFAULTS**

All motions for default judgment and all proposed orders granting default judgment shall include the date of service of summons upon each party against whom judgment is being sought or granted.

Unless otherwise indicated in the entry granting default judgment, all court costs shall be borne and paid by the prevailing party in the judgment.

## **5.09 ADMINISTRATIVE APPEALS TO COURT OF COMMON PLEAS**

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

(B) Immediately upon the filing of the transcript, the Clerk shall notify counsel for the appellant, and all other counsel of record. In any case, where a party claims a right to supplement the record or present additional evidence, a motion for an evidentiary hearing, with supporting memorandum, shall be filed within 10 days of the filing of the transcript. Time limitations as set forth in [Local Rule 5.12](#) shall be followed as to additional memoranda relative to such a motion. The time periods for filing of briefs on the merits of the appeal shall begin to run from the date of the Court's decision on such motion if a hearing is denied, or if an evidentiary hearing is held, the close of the hearing.

(C) Unless otherwise set by statute or rule of the Supreme Court, the appellant shall file a brief within 21 days after the filing of the transcript of the record; the appellee shall file his or her brief within 14 days after the filing of the brief of the appellant and any reply brief shall be filed within 7 days after the filing of the appellee's brief. Extensions of time may be granted by entry of the judge to whom the case is assigned, for good cause shown, after notice to all parties. No brief shall exceed 15 pages in length without leave of court.

(D) Upon expiration of the time for filing of the last brief, the case will be considered as submitted upon the briefs unless oral argument is either required by law, or requested in writing, prior to expiration of such time, and is granted by the trial judge to whom the case is assigned.

(E) Failure of any party to comply with any of the provisions of this rule shall be cause for the Court to dispose of the case in any manner warranted by the state of the record, including, but not limited to, dismissal for want of prosecution pursuant to Civil Rules.

## **5.10 ASSIGNMENT FOR INITIAL CASE MANAGEMENT CONFERENCE**

(A) The assigned judge shall schedule the case for initial Case Management Conference no later than 180 days after the filing of the complaint. Only counsel of record need be present at this hearing. The Court expects all initial discovery disclosures, as required by the Rules of Civil Procedure, to be made prior to the Case Management Conference. All counsel must orally represent at the Case Management Conference that they have reviewed their file and have generally discussed the case with opposing counsel prior to the hearing, and that they are prepared to discuss all matters set out in (B) below.

(B) At the initial Case Management Conference, the attorneys for the parties shall advise the judge the nature of the case, the time needed for purposes of discovery, the estimated time for trial, and the status of settlement negotiations. The parties shall file their discovery plan no later than 21 days prior to the Case Management Conference. The Court will determine whether any amendments to the discovery plan are required, and may order further discovery conferences be held. The judge, in

coordination with counsel, may order a cut-off date for discovery, an exchange of medical or expert reports, and/or other orders as may be appropriate to reduce or clarify the issues and to insure the readiness for trial. If necessary, a future scheduling conference will be set.

(C) Motions will neither be argued nor considered at the initial Case Management Conference, unless the Court specifically orders it.

(D) At the initial Case Management Conference, the Court may issue appropriate pre-trial orders and set additional hearings, included, but not limited to further status reports, pretrial and trial dates.

### **5.11 CONSOLIDATED CASES**

(A) Motions to consolidate pursuant to common issues of law or fact, shall be filed in each of the cases the movant wishes to consolidate. A courtesy copy of the motion shall be delivered to each judge. A proposed entry with signature lines for each judge, and the Administrative Judge, shall be delivered to the judge with the lowest case number.

(1) Following consultation with, and agreement of all the judges in the cases involved, the judge with the lowest case number shall grant or deny the motion with or without a hearing. If the judge grants the motion, he shall sign the proposed entry and forward the entry for signature to the other judges.

(2) If the motion is granted, all cases shall be consolidated into the lowest case number.

(B) The Clerk of Courts shall docket the transfer, indicating that, all future filings will appear in the lowest case number.

(C) Deposits and court costs shall also be consolidated and assessed to the lowest case number.

(D) All entries transferring cases under this rule must be signed by the Administrative Judge.

### **5.12 MOTIONS**

(A) A motion shall be supported by memorandum that is incorporated into or annexed to the motion. In addition, counsel shall be responsible for delivering a copy to the trial judge. The availability and utilization of facsimile filing or electronic filing shall not serve to eliminate any requirements to provide courtesy copies pursuant to this rule. All motions shall contain within their captions the name of the judge to whom said case has been assigned.

(B) Any affidavit, deposition, or portion of a deposition, exhibit, photograph or other document relied upon or referred to in a motion or memorandum shall be clearly marked as an exhibit with identifying letter or number and shall be filed with the Clerk of Courts contemporaneously with the motion and/or memorandum, except as otherwise ordered by the Court. A copy of any affidavit, deposition, exhibit, photograph or other document shall be attached to the copy delivered

to the trial judge. Motions or Memoranda with exhibits attached shall set forth the following or similar language: “Exhibits filed in support,” and shall include a log sheet describing each of those exhibits.

(C) If an attorney desires oral argument on a motion, that attorney shall designate “Oral Argument Requested” in the caption to the motion or to the memorandum in opposition to the motion. The Court may order oral argument, even when none is requested. Likewise, even when requested, the Court may decline to entertain oral argument.

(D) Unless an extension of time is otherwise ordered, any memorandum in opposition to a motion (other than a motion for summary judgment), or a memorandum of a co-party in support of the motion, shall be filed within 14 days of the service of the motion and the movant shall file any reply memorandum in support of the motion within 7 days of the service of the last memorandum in opposition. A responsive memorandum to a motion for summary judgment shall be filed within 28 days of service of the motion, and any reply memorandum to a summary judgment motion shall be filed within 7 days of service of the last memorandum in opposition. No memorandum shall exceed 15 pages in length without leave of court. Unless oral argument is requested or ordered by the Court, a motion shall be considered submitted to the court for decision upon the expiration of said time period.

(E) Extensions of time for the filing of motions or memoranda may be obtained by permission of court for a period not to exceed 30 days when no such prior extension has been granted. All extensions exceeding 30 days, and all subsequent extensions, shall be granted by the trial judge only upon written approval of opposing counsel or upon motion filed in compliance with part (A) of this Rule.

### **5.13 AMENDMENTS TO PLEADINGS AND MOTIONS**

Pleadings and motions may be amended in accord with the Civil Rules. No motion or pleading may be amended by interlineation or obliteration without leave of court.

### **5.14 JUDGMENTS, ORDERS, ENTRIES, OR DECREES**

(A) As used in this section, the term “judgment order” shall refer to any judgment, order, entry or decree.

(B) Any judgment order that is endorsed by all counsel, and not required to be e-Filed, may be left with the judge’s personal judicial assistant or the court administration office. If appropriate, it will be signed by the judge or magistrate and delivered to the Clerk of Courts for filing.

(C) Every proposed judgment order not prepared by the court shall be submitted by the prevailing party to all opposing parties not in default or their counsel, who shall approve and return the same for filing to the prevailing party or counsel within 14 days after mailing, unless the party

or counsel within that time requests a hearing by the court to resolve any differences in the phrasing.

If a proposed judgment order is not returned to the prevailing party or counsel within 14 days after mailing and a hearing has not been requested, the prevailing party or counsel shall submit a duplicate original judgment order to the court. The court shall endorse it for filing, if appropriate, upon proof of service of the original. A certificate of service; a copy of a letter or email to the non-prevailing party or counsel requesting approval; or a notation on the signature line for the non-prevailing party or counsel indicating “submitted, no response,” with the date of submission shall be *prima facie* evidence of its receipt.

(D) All final appealable judgment orders shall state in the caption “Final Appealable Order.” This will enable the Clerk of Courts to identify final appealable judgments or orders and send notice of their filing as directed by the Civil Rules. Unless alternative instructions are provided, the Clerk of Courts shall give notice of final appealable order to all counsel and unrepresented parties who have appeared in the case at the address listed for them on the docket.

(E) If the Clerk of Courts is requested to serve any judgment order upon any party, the judgment order must state within the caption “Service by Clerk Endorsed Herein” and must contain a praecipe for service stating the parties upon whom service is to be made, their addresses, and the method of service. If not submitted through e-Filing, a sufficient number of copies for service must be provided. Any party that fails to comply with this rule bears responsibility for service of the judgment order.

## 5.15 DISCOVERY

(A) When interrogatories and/or requests for admissions are filed simultaneously with the original complaint, answer, counterclaim, cross-claim, or third party complaint, they shall not be annexed to the original pleading unless the pleading in its caption indicates that the interrogatories and/or requests for admissions are attached. The filing party or counsel shall provide sufficient copies for service by the Clerk of Courts or, in the event of a pleading after the original complaint, shall certify the mailing of a copy to all parties or counsel of record.

(B) Civil Rules 26 through 37 shall, in general, apply to the use of discovery. The trial judge to whom a case is assigned for trial may establish a cut-off date for discovery. If a cut-off date is established, no subsequent discovery will be permitted, except upon order of the Court, upon motion, or as provided in Local Rules.

(C) No objections, motions, applications or requests related to discovery shall be filed under the provisions of Civil Rules 26 through 37 unless counsel have, in good faith, exhausted among themselves all extrajudicial means for the resolution of differences. If any such objection, motion, application or request is filed, a certificate of counsel setting forth a brief statement of the extrajudicial means employed to resolve the dispute shall be attached thereto. Failure to comply with this rule may result in appropriate sanctions against counsel filing the objection, motion, application or request.

(D) The total of all requests for admissions served upon any party to a pending action shall not exceed 20 requests, without leave of court. Each request requiring a response shall be considered one admission for purposes of this section.

### **5.16 VIDEO DEPOSITIONS**

At least 5 days prior to trial, counsel shall file a typed transcript of any video deposition, and counsel will send notice of filing to all counsel of record. The video deposition may be transcribed by someone other than a court reporter as long as it is accompanied by a certification from counsel as to its accuracy.

The filing of a transcript of a video deposition may be waived by the judge if there are no substantial evidentiary objections which require a ruling.

Failure to comply with this rule may result in the exclusion of the video deposition from evidence.

### **5.17 PRETRIALS**

(A) Unless otherwise directed by the trial judge, all matters shall be pretried. The purpose of a pretrial conference shall be to clarify and reduce the issues, to control procedures, to insure readiness, to assign or confirm a date for trial, and if possible to dispose of the case. It shall be the responsibility of trial counsel to cooperate in such procedures.

(B) Trial counsel for each party must appear, in person, at the final pretrial. Failure of trial counsel to appear in person may result in the Court requiring the matter to be tried by the attorney who appeared. Additionally, each party must also be present, in person, for the final pretrial. However, with leave of court: (1) a corporate party may appear by an officer or an employee having knowledge of the subject matter of the case; (2) a party who is insured concerning the claim may appear by a claim representative from his or her liability carrier; (3) in those instances when trial counsel can assure the Court that a representative of an insurance carrier is available for immediate contact by phone, only trial counsel for an insured party must appear in person for the party and the carrier.

(C) At least 7 days prior to the pretrial conference, unless otherwise ordered by the trial judge, trial counsel for each of the parties shall file a pretrial statement. Unless otherwise ordered by a pretrial order from the trial judge, each pretrial statement shall contain a statement from trial counsel covering those of the following items as are appropriate to the pending litigation:

- (1) the status of discovery;
- (2) the status of settlement negotiations;
- (3) the names of those who will be testifying as experts, and a copy of each expert's written report or a summary of the expert's reports, where no written report is available to counsel, shall be furnished to opposing counsel prior the pretrial as set forth in the trial judge's pretrial order;

- (4) a listing of special damages and claims for lost wages;
- (5) other matters which trial counsel feel may aid in, or affect the trial of the cause, including, but is not limited to, a request for a view of the scene, any anticipated delays due to the scheduling of witnesses, stipulations.

**(D) Exchange of Exhibits**

Unless otherwise ordered by the trial judge:

- (1) At the time of the final pretrial counsel shall prepare and present all exhibits in existence which counsel expects to introduce during the trial of the case. Trial counsel shall list all those exhibits not in counsel's possession which counsel expects to introduce at trial.
- (2) Each trial counsel should mark their anticipated exhibits. Plaintiffs shall use numbers and defendants shall use letters.
- (3) Counsel should present their anticipated exhibits to opposing counsel as early as possible so as to avoid duplicative exhibits or delay of trial for arguments related to admissibility. All exhibits to be used are to be exchanged no later than 2 days prior to the commencement of trial at the latest.
- (4) Each party's counsel shall prepare a set of exhibits for the Court, for use with witnesses, and for the counsel of the other parties involved in the trial.

### **5.18 SETTLEMENT**

If the Court is notified that a case has been settled, the Court may file an order of dismissal with the Clerk of Courts, which will be effective immediately to dismiss the case with prejudice. Any party may, upon good cause shown, and within 60 days, re-open the action if settlement is not consummated.

### **5.19 RECEIVERSHIP**

The following rule shall apply to receiverships, except those in foreclosure actions.

- (A) A receiver may be appointed by a judge of the Court of Common Pleas as provided in the ORC. No party, attorney, or person interested in an action shall be appointed receiver, except by consent of the parties. When a receiver is appointed, the Court shall also appoint an attorney for the receiver.

(B) A defendant consenting to the appointment of a receiver shall present to the Court a complete statement of assets and liabilities as of the nearest date obtainable. This statement shall be verified by an officer, if a corporation, or one of the partners, if a partnership.

(C) Upon appointment, a receiver shall immediately execute a bond in the amount required by the Court. The Clerk shall notify the Court that the bond has been executed. In the event the receiver fails to execute the bond after appointment, such appointment shall be voidable by the Court.

(D) Appraisers designated by the Court shall promptly make an inventory and appraisal of the property, including accounts receivable, coming into the receiver's hands, which the receiver shall file within 2 weeks after appointment, unless the time is extended by the Court for good cause shown.

(E) A vacancy in a receivership shall be called to the attention of the Court by the receiver's counsel and the parties as soon as a vacancy occurs.

(F) Receivers shall, within 60 days after appointment, make application to reject all unprofitable contracts.

(G) A receiver who, upon application is permitted to operate a business as a going concern, shall at the expiration of each 30 day period following appointment, or at such other interval as the Court may upon motion order, file a statement of operation, showing a balance sheet for the period, and operating statement of income and expenditures, etc., or a list of cash receipts and disbursements with the necessary accruals to make a comprehensive statement of profit and loss for the period, with an inventory or estimated inventory. In the same report, receiver shall set forth any unusual or peculiar conditions existing in the business then or during receiver's operation, together with a list of expenses of operation, current interest accrued on loans during the period, depreciation on buildings, machinery and equipment during the same time.

(H) The receiver shall do all of the following, within 30 after being appointed:

(1) File a list of all known creditors and their last known addresses, including sending appropriate notification to any government agency having claims against the receivership.

(2) Send notice by mail (or as otherwise specified by the Court) to the creditors to submit their claims within 20 days, indicating that a later submission will not be accepted without leave of court.

(3) Cause publication of the receiver's appointment, setting forth the case number; the full name of the party placed into receivership, including all names under which the party has done business within the previous 2 years; and, indicating that creditors must submit their claims within 20 days; and, further indicating that a later submission will not be accepted without leave of court.



(I) Claims arising out of judgments shall be accompanied by a certified copy of the final entry. Claims based upon an instrument for the unconditional payment of money or upon a written contract must be accompanied by a copy of such instrument or contract. Where priority is claimed, attention should be specifically directed to the grounds of priority.

Any creditor whose claim fails to comply with any provision of this subdivision, shall be given notice of said noncompliance and of the provision and creditor shall be given a reasonable time, not to exceed 14 days, to comply therewith.

(J) If there is any objection to a claim filed it must be made by the party interested before an order of distribution is signed and filed by the Court.

(K) No compensation shall be allowed either to a receiver or receiver's counsel, or both, except upon written application. The application shall state all amounts previously received, the current amount requested and the services rendered.

(L) All receivers shall file a final report within 30 days from the time at which their trust and their duties may be regarded as performed and completed.

(M) Exceptions to the accounts of receivers or any allowances made to them by the Court must be filed within 20 days after the accounts are filed or allowances made.

## **5.20 CERTIFICATE OF QUALIFICATION FOR EMPLOYMENT**

(A) The purpose of this Local Rule is to define the specific local court requirements and procedures relating to a Petitioner's request for a Certificate of Qualification for Employment ("CQE") as set forth in the ORC and in related rules established by the Department of Rehabilitation and Corrections ("DRC"), found in the Ohio Administrative Code.

(B) In order to request a CQE, the DRC Electronic Petition for Certificate of Qualification for Employment shall be filed with the Clerk of Courts by the Petitioner, as instructed by the DRC. The form shall contain the DRC Electronic Petition Number.

(C) All electronic Petitions submitted through the DRC shall be accompanied by the Department of Rehabilitation and Corrections CQE Summary (CQE Summary).

(D) Before the Petition will be accepted for filing, the Petitioner must pay all appropriate court costs. Of the appropriate court costs, 2/3 shall be paid into and applied to the General Division Special Projects fund and 1/3 shall be paid into the general fund on behalf of the Clerk of Courts Legal Division.

(E) CQE petitions shall not be viewable on the Clerk of Court's website.

(F) Upon receipt of a Petition and the required court costs, the Clerk of Courts shall assign the Petition a miscellaneous civil case number and randomly assign the matter to a trial judge.

(G) The Clerk of Courts shall send a Notice to Prosecutor Regarding Petition for Certificate of Qualification for Employment and Response to Request for Information Regarding Petition for Certificate of Qualification for Employment to the Butler County Prosecuting Attorney.

(H) The Court shall order and obtain a criminal history of the Petitioner, through an investigation conducted by the Probation Department. Through the Probation Department's investigation, the Court shall attempt to determine all other courts in the state in which the Petitioner has been convicted of, or pled guilty to, an offense. The Probation Department will send a Notice to Court Regarding Petition for Certificate of Qualification for Employment and Response to Request for Information Regarding Petition for Certificate of Qualification for Employment to each court so identified. Such Notice shall be sent via ordinary US mail.

(I) The Court shall review the Petition, criminal history, all filings submitted by the prosecutor or victim in accordance with the rules adopted by the division of parole and community services, and all other relevant evidence.

(J) The Court may order any report, investigation or disclosure by the Petitioner that is believed to be necessary to reach a decision, through an Order for Investigation-and/or an Order for Additional Information.

(K) Once all information requested has been received, the Court shall decide whether to grant or deny the Petition within 60 days, unless Petitioner requests, and is granted, an extension of time.

(L) The Clerk shall send to Petitioner a copy of the Judgment Entry either granting or denying the Petition. If denied, the Judgment Entry shall include conditions, if any, placed on subsequent filings and language that the Judgment Entry is a final appealable order. The Clerk shall also notify the DRC of the disposition of the Petition as required under the Administrative Rules; and, if granted, the Clerk shall notify the DRC of the order to issue the CQE to Petitioner.

## **5.21 PROCEDURE FOR PETITIONING FOR COURT-ORDERED TITLE**

If evidence of ownership of a vehicle has been submitted to both the Clerk of Courts ("Clerk") and the Bureau of Motor Vehicles ("BMV"), and neither is able to issue a certificate of title, then, under certain circumstances, a judge of the Common Pleas Court may order the Clerk's Auto Title Division to issue a motor vehicle certificate of title, to the extent permitted by the ORC Chapter 4505.

(A) These circumstances include:

(1) when the original certificate of title issued by the State of Ohio or any other state has been lost, destroyed or stolen, and a duplicate of that certificate is not available from the Clerk or BMV, due to a lack of historical title records.

(2) when the previous owner of a vehicle has failed, refused or otherwise been unable to furnish the current owner with a properly assigned certificate of title.

(3) when the owner or agent of a repair garage or place of storage is in possession of a vehicle valued at more than \$3,500.00, after deduction of repair and storage fees, and the vehicle has remained unclaimed by the owner for more than 15 days after the notice to reclaim the vehicle; and/or

(4) when a towing service or storage facility is in possession of a vehicle valued at more than \$3500.00 that was towed from a private tow-away zone and has remained unclaimed by the owner for more than 60 days.

(B) The procedure for obtaining a court-ordered title is as follows:

(1) The petitioner must first request the most recent address of the previous owner from the BMV (BMV Form 1173, "Copy of the Title Record" and "Vehicle Registration Record"). For a boat or boat motor title, contact the Ohio Division of Natural Resources for a records search.

(2) If the BMV supplies information as to the last-known titleholder, the Petitioner must attempt to contact the last-recorded titleholder in an effort to obtain a title from that previous owner.

(3) If, after steps (B)(1) and (2) above have both been completed, and the Petitioner was unable to receive title from the last-known titleholder, Petitioner must then submit an affidavit to the Clerk of Courts setting forth:

- (a) that petitioner was unable to secure title from the last-recorded titleholder;
- (b) all efforts made by petitioner to locate the previous titleholder and/or lienholder; and
- (c) any/all accompanying documentation in support of the efforts to contact the previous titleholder.

(4) If after completion of steps (B) (1) through (3) above, the Clerk of Courts is unable to issue a title to the Petitioner, the Petitioner must then:

- (a) Go to the Bureau of Motor Vehicles ("BMV") to pay a fee for a Highway Patrol Inspection, and obtain a receipt from the BMV for said inspection.
- (b) Schedule an inspection with the Ohio Highway Patrol.
- (c) Take the receipt from the BMV to the Ohio Highway Patrol at the appointed date, time and location for the inspection.
- (d) If insufficient documentation is available to allow Petitioner to obtain title necessary for inspection, Petitioner may obtain certification from the Clerk of Courts that a court proceeding is likely to be filed so that inspection can proceed in absence of a title.

(5) Once Petitioner has completed steps (B)(1) through (4) above, Petitioner may then file a petition for a court-ordered title with the Clerk of Courts Legal Division. The petition must be accompanied by:

- (a) The required filing fee;
- (b) A copy of the affidavit described in (B)(3) above;
- (c) A copy of the Ohio Highway Patrol Inspection Certificate;
- (d) A copy of the receipt for the Ohio Highway Patrol Inspection; and
- (e) A proposed judgment entry to be signed by a judge ordering the Clerk to issue a new Certificate of Title.

(6) Once a petition for a court-ordered title has been filed, the Clerk of Courts shall:

- (a) File a Title Division Affidavit (See [Appendix E](#)); and
- (b) Issue summons to any last-recorded titleholder and/or lienholder by certified mail, return receipt requested.

(C) The Clerk of this Court shall issue summons to any last-recorded titleholder and/or lienholder by certified mail, return receipt requested.

(See Appendix E for sample forms.)

MOBILE HOME TITLES: This rule applies to mobile home titles, generally. There are occasions, however, in which the obtaining of title for a mobile home requires additional steps which are not set forth in this rule. Anyone seeking this kind of title is encouraged to seek legal advice from an attorney.

Neither the employees of the Clerk of Courts nor of the Common Pleas Court are permitted to give legal advice.

## 5.22 RULES FOR MEDIATION

(A) **Ohio Uniform Mediation Act.** The Ohio Uniform Mediation Act (“UMA”), R.C. 2710, including all definitions, is incorporated by reference into these local rules.

(B) **Cases for Mediation**

(1) At any time, any judge of the General Division of the Court of Common Pleas may order any case to mediation in accordance with these rules. Other than as set forth below, there is no limitation either as to type or the amount in dispute of any case referred to mediation.

- (2) Mediation is prohibited in the following cases:
- (a) As an alternative to the prosecution or adjudication of domestic violence;
  - (b) In determining whether to grant, modify, or terminate a protection order;
  - (c) In determining the terms and conditions of a protection order;
  - (d) In determining the penalty for violation of a protection order.

(C) **Order for Mediation.** When a case is ordered to mediation, the Court shall enter an “Order for Mediation”.

(1) All counsel shall have their clients present for mediation. Insurance company representatives, who have decision-making authority, must also be present. In such case, the insured’s presence is not required unless his or her consent is necessary for settlement. The failure to have all necessary parties present for mediation will result in the cost of the mediation being assessed against the appropriate party. In the event mediation must be canceled due to the absence of necessary parties, additional costs may be assessed by the Court.

(2) No mediation shall be continued beyond the deadline for completion set forth in the Order for Mediation without approval of the Court.

(D) **Confidentiality of Communications**

(1) All mediation communications related to or made during the mediation process are subject to and governed by the UM A. Mediation communications are confidential, and no one shall disclose any of these communications unless all parties and the mediator consent to disclosure. This court may impose penalties for any improper disclosures made in violation of this rule. Disputes regarding confidentiality should first be addressed with the mediator or mediation department where possible.

(2) By participating in mediation, a nonparty participant, as defined by the UMA, submits to the Court’s jurisdiction to the extent necessary for enforcement of this rule. Any nonparty participant shall have the rights and duties under this rule as are attributed to parties, except that no evidence privilege shall be expanded.

(3) In the event that a case does not settle at mediation, the mediator shall not be called as a witness. Any discussion which occurs between a mediator and a party is considered protected information and is not discoverable through deposition or any other discovery procedure.

(4) **Exceptions to Confidentiality**

- (a) Parties may share all mediation communications with their attorneys;
- (b) Certain threats of abuse or neglect of a child or an adult;
- (c) Statements made during the mediation process to plan or hide an ongoing crime;
- (d) Statements made during the mediation process that reveal a felony.

(E) **Settlement.** If the case is settled or dismissed more than 2 days prior to the date scheduled for the mediation, the mediator shall not be entitled to any fees. If a case is settled or dismissed within the said 2-day period, the mediator is entitled to receive a fee of \$50.00.

If a case is settled after it has been set for mediation, but prior to the date of the mediation, the court administration office and the mediator must be notified of the settlement. Failure to comply with this notice requirement will result in the cost of mediation being assessed as a cost of the action. In the event a case settles after the close of court business hours on the day prior to the scheduled mediation, or if the case settles on the day of mediation, the mediator shall be entitled to full compensation as set forth in this rule.

If the Court is notified that a case has been settled, the Court shall file an order of dismissal in accordance with these Rules.

(F) **Selection of Mediators.** In all cases ordered to mediation, the mediator shall be appointed by the court administration office by agreement of trial judge and trial counsel or from a rotating list of approved mediators.

An attorney who wishes to be added to the list of approved mediators must have the following qualifications:

- (1) At least 5 years' experience in the practice of law with some trial or judicial experience and be a current member in good standing of the Butler County Bar Association;
- (2) Specialized training in Mediation in courses approved by ADR Committee of Butler County Bar Association. The course(s) must be a minimum of 20 hours training designed for mediators in civil litigation;
- (3) Participation in 3 mediations as mediator or counsel for a party, or observation of 2 mediations by a qualified Butler court mediator;
- (4) Significant, demonstrated experience in preparation, presentation and resolution of disputes on behalf of others either through litigation, negotiation or mediation;

- (5) Once approved, each Mediator must maintain membership in Butler County Bar Association and comply with Ohio CLE requirements with at least 3 hours devoted to mediation-related training;
- (6) Must maintain malpractice insurance covering services as a mediator;
- (7) Must complete mediator qualification questionnaire (Appendix F).

Questionnaires will be reviewed by the Butler County Bar Association Alternative Dispute Resolution Committee, which shall make recommendations within 60 days, to the General Division Judges. At the expiration of the 60 days, the applicant will be considered for approval by the General Division Judges. The General Division Judges shall set forth additional criteria for approval of mediators, as they deem necessary.

(G) **Compensation of Mediators.** Each mediator shall receive a lump sum compensation in the amount of \$500.00 per case. Mediators shall not receive additional compensation for subsequent sessions.

All mediators shall complete an order to pay mediator fees upon completion of the mediation. Compensation for a mediator shall be paid, upon proper authorization, from the funds of Butler County, Ohio, which have been allocated for the operation of the Common Pleas Court of Butler County, Ohio. If the mediation is unsuccessful, the cost of the mediation shall be taxed as costs through the Clerk of Courts. The Clerk shall then reimburse the appropriate General Division account with the refunded costs.

(H) **Referral to Resources.** The court administration office shall maintain resources for mediation parties, including victims and suspected victims of domestic violence, encouraging appropriate referrals to legal counsel and other support services such as Children Services, domestic violence prevention, counseling, substance abuse and mental health services.

### 5.23 DISPUTE RESOLUTION FEES

Pursuant to R.C. §2303.201(E)(1), a fee of \$30, in addition to the fees and costs authorized under R.C. §2303.20, will be charged and collected by the Clerk of Courts on the filing of each civil or criminal action or proceeding filed in the General Division. This fee shall be used to implement the procedures set forth in these Rules. All fees collected under this Rule shall be paid to the Clerk of Courts for deposit with the County Treasurer who will place the funds in the General Division's Dispute Resolution Fees Account.

If the Court determines that the amount in the General Division's Dispute Resolution Fees Account is more than the amount sufficient to satisfy the purpose for the additional fee described in this

section, the Court may declare a surplus in the fund, and expend the surplus for appropriate expenses of the Court.

At any time after a lawsuit is filed, the Common Pleas Court General Division Administrative Judge, in the exercise of the Administrative Judge's discretion, may order a Plaintiff, Counter-Claimant, Cross Claimant and/or Third-Party Plaintiff to deposit money, up to \$1000 per party, in addition to the usual filing fees, for any case that may require extraordinary expenditures to implement the Alternative Dispute Resolution processes. The additional fees shall be paid to, and collected by, the Clerk.

## **5.24 JUDICIAL SALE OF REAL ESTATE**

### **(A) Mandatory Filings**

#### **(1) Preliminary and Final Judicial Reports**

(a) In every action demanding a judicial sale of real estate, the party requesting the sale shall, not later than 14 days after the filing the complaint (or other pleading requesting the sale), file either a preliminary judicial report or a commitment for an owner's fee policy of title insurance.

(b) Prior to submitting any order or judgment that orders the judicial sale of real estate, a party who filed a preliminary judicial report shall also file a final judicial report.

#### **(2) Legal Description of Real Estate**

(a) Every legal description of real estate subject to judicial sale shall include the parcel number and indicate that the Butler County Engineer has approved the legal description as being sufficient for conveyance purposes.

(b) A party requesting judicial sale of real estate shall include an engineer-approved description in every complaint, preliminary judicial report or title commitment, and judgment entry, including confirmation of sale and distribution orders.

### **(B) Treasurer and Auditor as Parties**

(1) Because the ORC provides that the lien of the state for real estate taxes is the first lien on the subject property and continues until paid, neither the Butler County Treasurer nor the Butler County Auditor shall be joined as a party to any such action unless the party requesting the judicial sale intends to contest either the amount of, or the priority of the state's lien for, the charges against each of the subject real estate parcels as shown on the general tax list prepared and certified by the Butler County Auditor. Any such claim shall be pled as a separate claim for relief and shall join only the Butler County Treasurer as the party responsible for collection of taxes.

(2) If either the Butler County Treasurer or the Butler County Auditor, is joined as a party in violation of this rule, neither shall be required to file an Answer, or otherwise plead, in the action, and the Court shall proceed to adjudicate the matter as though neither the Treasurer nor the Auditor had been joined.



(C) **Default or Summary Judgment.** Where a junior lienholder seeks default or summary judgment on its claim, all lienholders who claim an interest senior to that of the party seeking judgment shall file an affidavit of account attesting to the outstanding balance due and owing. This requirement shall not apply if the Court has previously awarded a decree of foreclosure to the lienholder claiming the senior interest.

(D) **Requirements for All Judgment Entries Relating to the Judicial Sale of Real Estate**

(1) All entries requiring a judge's signature, including but not limited to decrees of foreclosure and orders confirming sale and distribution, must be submitted to the trial judge through the e-Filing portal. If file-stamped copies are desired, the submitting party shall provide extra copies of the entry and a self-addressed, stamped return envelope.

(2) All entries shall contain a signature line for each counsel of record and each party who filed an answer to the complaint.

(a) Signature authority may be obtained by counsel electronically or by telephone. If signature is requested, but not signed or authorized within 14 days, signature may be waived by indication on the signature line the date the entry was submitted for approval and that the party failed to respond.

(b) Signature lines shall not be required in tax foreclosure cases. Instead, the Prosecuting Attorney shall certify that a copy of the proposed judgment entry has been submitted by U.S. Mail, facsimile transmission or electronic mail to each counsel of record and each party who filed an answer to the complaint, with a statement that the Court may approve and file the judgment entry unless the counsel or party files written objections to the proposed judgment entry within 14 days of the submission of the proposed judgment entry to counsel and parties.

(E) **Decree of Foreclosure**

(1) The party requesting judicial sale of real estate, or its counsel shall, upon making motion for judgment, submit a proposed decree of foreclosure containing the following:

(a) Notation in the caption that the decree is a "Final Appealable Order";

(b) If a homeowner's personal liability has been discharged in bankruptcy, or there is otherwise no personal judgment to be rendered against any party, this should be explicitly stated in the decree of foreclosure, and the case caption should contain the phrase "Judgment in Rem";

(c) Date and method of service upon every defendant in grid format; and

(d) Priority of liens language (not required in tax foreclosure cases).

(2) Every decree of foreclosure shall also be accompanied by the following documents:

(a) Military affidavit as to each party who signed the mortgage note, or in the case of tax foreclosure cases, as to the owner of the property as reflected in the real property records of Butler County, Ohio;

(b) Affidavit as to the remaining balance due on the mortgage (not required in tax foreclosure cases); and

(c) Where the foreclosure is based upon the default of a mortgage note that is no longer held by the original mortgagee, all assignments of mortgage, including the assignment to the current mortgagee.

**(F) Notice of Sale**

(1) The party requesting the sale, or its counsel, shall promptly mail notice of the time, date and location of the sale to the record owner(s) of the subject real estate and to all other interested parties not in default for failure to appear, or their counsel of record, at their respective last known addresses.

(2) The record owner(s) of the real estate shall be noticed by mail in all cases whether or not in default for failure to appear, except when said owners were originally served with summons solely by publication.

(3) No other parties to the proceeding in default of answer need be served with notice of sale except by publication as otherwise provided in the ORC.

(4) Failure to provide timely notice to interested parties shall constitute grounds for denying confirmation of the sale and may be considered by the Court on a motion by a party not receiving notice to set the sale aside.

**(5) Certificate of Service**

(a) Not less than 14 days prior to the scheduled sale date, the party requesting the sale, or its counsel, shall file with the Clerk of Courts a certificate of service of notice of sale date, specifying the date and manner of service and the names and addresses of all interested parties who received notice.

(b) For sales conducted on-line by private selling officers, the certificate of service shall be filed not less than 14 days prior to the first date on-line bids will be accepted.

(c) Failure to timely file the certificate of service required by this rule shall constitute grounds for denial of the confirmation of sale.

**(G) Confirmation of Sale**

(1) Within 14 calendar days after the Sheriff's return of an order of sale or writ of execution, or a private selling officer's report on order of sale, the party requesting the sale, or its counsel, shall submit to the Court a proposed Order confirming the sale. Failure to timely submit the proposed confirmation entry may result in a citation for contempt.

**(2) Preparation of Deed**

(a) When property is sold at Sheriff's sale, the confirmation entry shall order that the party requesting the sale, or its counsel, shall prepare, and deliver to the Sheriff, within 7 calendar days after filing of the confirmation entry, a deed conveying title to the purchaser.

(b) When property is sold by a private selling officer, the confirmation entry shall order the private selling officer convey the property to the purchaser by deed within 7 calendar days after filing the confirmation entry.

(3) Within 30 days after the return of sale, the Court shall either approve the order confirming the sale or notify the party submitting the proposed order of changes required before the proposed Order may be approved for filing.

(a) Revised orders, including any required changes, shall be returned to the Court within 7 calendar days.

(b) A purchaser may waive all or any part of the 30 day period by signing the confirmation entry, but no confirmation entry not approved by the purchaser shall be filed until said period has expired.

(4) No sale shall be confirmed, nor any dismissal entered, until full payment of all costs is received by the Clerk of Courts, including appraisal fees, publication costs and the costs (including exam fees and premiums) of both the preliminary judicial report and the final judicial report.

**(H) Judgment Entry for Distribution**

(1) All judgment entries for distribution shall contain the following:

(a) Amount for which the property sold;

(b) Amount of court costs, including the fees, appraisal and advertisement costs taxed as the result of any sale by a private selling officer, if applicable;

(c) The total of the following amounts:

(i) Taxes and assessments, the lien for which attaches before the date of sale, but that are not yet determined, assessed, and levied for the year that includes the date of sale, apportioned pro rata to the part of that year that precedes the date of sale, and any penalties and interest on those taxes and assessments; and

(ii) All other taxes, assessments, penalties, and interest, the lien for which attached for a prior tax year, but that have not been paid on or before the date of sale;

(d) Amount of judgment the decree of foreclosure awarded to the moving party (not required in tax foreclosure cases);

(e) Amounts awarded to other lienholders in order of priority (not required in tax foreclosure cases); and

(f) Amount to be awarded to the former property owner(s)/judgment debtor(s) or in the event that one or more owners/judgment debtors is in default and/or cannot be located, a statement directing the Clerk to administer the undistributed balance of the sale proceeds in accordance with R.C. 2329.44 (not required in tax foreclosure cases).

(2) Where a judgment entry contains language directing that excess funds be held until further order of the Court, the Clerk of Courts shall hold such funds for a period of 30 days. If no further order is then issued, at the expiration of 30 days, as to said funds, the Clerk shall administer any undistributed balance pursuant to the ORC.

(3) Except in tax foreclosure cases, all judgment entries for distribution shall be accompanied by a file stamped affidavit, signed by the attorney of record or a financial officer of the moving party, which affidavit lists the following information on individual lines:

- (a) Outstanding principal balance as set forth in the foreclosure documents;
- (b) Interest due and owing; and
- (c) Itemization of any amounts advanced for protection of the property, such as taxes, insurance, property inspection, etc.

(4) Except in tax foreclosure cases, all judgment entries for distribution shall be accompanied by a written statement, signed by the Treasurer of Butler County, Ohio, or the Treasurer's designate, of the Treasurer's estimate of taxes due, as described in Section H of this Rule. A written request for such statement of estimated taxes due shall be submitted to the Treasurer of Butler County upon a form approved by the Treasurer.

**(I) Writ of Possession**

(1) No writ of possession shall issue until all sale proceeds and fees have been paid.

(2) A writ of possession may issue against any named occupant of real property if a judgment against said occupant has been obtained. The Sheriff shall return the Writ unexecuted if it is determined that the occupant is other than a named party.

**5.25 RECEIVERS IN FORECLOSURE ACTIONS**

(A) A receiver in a foreclosure case appointed to collect the rents, issues, and profits of the mortgaged premises, pending the suit, shall be a disinterested person as between the parties to the foreclosure, unless it seems just and prudent to the Court that one of the parties be permitted to act.

(B) Before such appointment is made it must appear by affidavit or other evidence that the conditions of the mortgage have not been performed. It must further appear that:

- (1) the property is probably insufficient to discharge the mortgage; and
- (2) the mortgagor is insolvent or a non-resident of the county; or that the property is in danger of being lost or its value materially impaired; or that the rents and profits are, by terms of the mortgage, security for the mortgage.

(C) When appointed, it shall be the duty of receiver to take charge of the property pending the litigation, to preserve it from waste or destruction, to receive the rents and profits and to dispose of them under the direction of the Court.

(D) A receiver appointed, within 60 days after the appointment, shall file with the Clerk a report of receipts and distributions, and a like report shall be filed every 3 months thereafter, unless otherwise ordered by the Court.

- (E) A receiver shall not lessen the fund coming into receiver's hands by expenditure for repairs or otherwise without first procuring an order from the Court for that purpose, except necessary outlays under \$100.00, which may be made without such order, subject, however, to the final approval of the Court.
- (F) If any unpaid back or current taxes or assessments are due on the property, these shall be satisfied before distribution by the receiver.
- (G) The receiver shall be required to give bond immediately upon appointment in such amount as the Court requires.
- (H) Notice of the receiver's appointment shall be immediately given to all tenants of the property subject to the foreclosure suit.
- (I) Vacancies in receiverships shall be called to the attention of the Court by receiver's counsel as soon as they occur.
- (J) No compensation shall be allowed either to a receiver or receiver's counsel, or both, except upon written application filed in the case. The application shall state amounts previously received, amount currently requested, and, generally, the services rendered therefor.
- (K) All receivers shall file a final report within 30 days from the time at which their trust and their duties may be regarded as completed and performed.
- (L) Exceptions to the accounts of receivers, or any allowances made to them by the Court, must be filed within 20 days after such accounts are filed, or allowances made.
- (M) See [Local Rule 5.19](#) for cases involving receivers that do not include foreclosure actions.

## **CHAPTER 6: CRIMINAL**

### 6.01 BAIL OR SURETY - PROHIBITIONS

No attorney, officer, or employee of the Court or of the Sheriff shall be accepted as principal or as agent for bail or surety or any family members of such individuals as defined by the Ohio Ethics Commission, except upon application and approval of the Court.

### 6.02 ESTABLISHMENT OF BAIL/ MODIFICATION OF BAIL

(A) When a felony charge, as well as any misdemeanor charges that arose from the same act or transaction, is bound over from a lower court in this county, the charges shall be consolidated into one case before this court. Bail shall be the aggregate of the amount listed for each charge as set by the lower court and shall remain as such unless altered by an entry of the Court of Common Pleas that addresses the entirety of the case, and not an individual charge.

(B) When the amount of bail has been fixed in a criminal case in a court other than the Court of Common Pleas, and either the State or the defendant desires to modify the amount or conditions thereof, such party shall make application to the Court. Notice shall be given to the adverse party upon the filing of such application. The decision on the application shall be by entry. If the adverse party waives such notice, the Court may rule on the application forthwith.

### 6.03 CRIMINAL CASE ASSIGNMENT

(A) **Individual Assignment Method.** The system used by the General Division of the Common Pleas Court to assign cases is known as the "Individual Assignment Method," pursuant to Rules of Superintendence.

The individual assignment method ensures all of the following:

- (1) judicial accountability for the processing of individual cases;
- (2) timely processing of cases through prompt judicial control over cases and the pace of litigation;
- (3) random assignment of cases to judges through an objective and impartial system that ensures the equitable distribution of cases among the judges.

(B) **Assignments.** When a criminal case naming an individual or entity as a defendant is filed with the Clerk of Courts, whether by referral from a municipal or county court or by direct indictment, each defendant shall receive a case number. That number shall be randomly assigned to an individual judge by a computer program designed to provide equitable and random distribution of cases among the General Division Judges of the Common Pleas Court. All subsequent transfers of cases between judges must be by entry.

(C) **Co-defendants.** If more than one defendant is indicted in a single indictment, each defendant shall be assigned a separate case number as required by (B) above, above. For example, if there are 3 co-defendants charged, each defendant will be assigned a separate number i.e., CR2000-01-0001, CR2000-01-0002 and CR2000-01-0003. Each case is assigned to a judge

selected randomly. The judge assigned to the case with the lowest case number will be the judge of record for court appearances pertaining to all defendants. Upon the Court's own motion or on motion of a party, the Court may reconsider the issue of joinder. Upon any finding that joinder is not proper, the Court may sever the case and either keep jurisdiction of the case(s), or transfer the higher-numbered case(s) back to the judge(s) to whom the case(s) was originally assigned.

**(D) Modification (Transfer) of Assignment.**

(1) Section D of this rule shall not apply to cases in which the maximum possible sentence is lifelong incarceration or the death penalty.

(2) A criminal case shall be transferred if a defendant is determined:

(a) to be under community control supervision of the Adult Probation Department and the case has not been assigned to a specialty court;

(b) to have an additional, pending indicted case; or

(c) to be under community control supervision of the Adult Probation Department and the case has been assigned to a specialty court.

(3) If condition (2)(a), (2)(b) or (2)(c) is met, and the case(s) does not involve co-defendants, the case shall be transferred as follows. If condition (2)(a) is met, the case shall be transferred to the judge who placed the defendant on community control/probation; if condition (2)(b) is met, the case shall be transferred to the judge who was assigned to the additional, pending indicted case. If condition (2)(c) is met, the case shall be transferred to the judge who operates the specialty court involved.

If both conditions (2)(a) and (2)(b) are met, and the case(s) does not involve co-defendants, both the newest case and the additional, pending indicted case shall be transferred to the judge who placed the defendant on community control/probation.

If both conditions (2)(b) and (2)(c) are met, and the case(s) does not involve co-defendants, both the newest case and the additional, pending indicted case shall be transferred to the judge who operates the specialty court involved.

**(E) Transfer Entries.** All entries transferring cases under this rule must be signed by the Administrative Judge.

#### **6.04 APPOINTED COUNSEL FOR INDIGENT DEFENDANTS**

(A) The Butler County Public Defender will provide attorneys to the Court of Common Pleas and the Butler County Area Courts and Municipal Courts to provide representation for indigent defendants charged with felonies. Should a conflict arise in representation by the Public Defender, the following procedure shall be instituted by the Common Pleas Court.



(B) **Conflict.** Court administration shall maintain, and make appointments from, a rotary list of those attorneys who have been approved by the General Division Judges to qualify as conflict or appellate attorneys. The list may pair the seriousness and complexity of a case with the qualifications and experience of the person to be appointed. The General Division Judges may add attorneys to the approved list due to caseload concerns, replace attorneys being removed from the list, or develop less-experienced attorneys, by allowing them to represent only clients charged with fifth, fourth, and/or third degree felonies.

(C) All counsel appointed to represent indigent defendants shall meet the minimum education and training requirements contained in the Ohio Administrative Code for each type of case that any such attorney undertakes. The General Division Judges may add attorneys to the approved list, remove attorneys from the list, replace attorneys removed from the list, or restrict the types of cases to which any particular attorney can be assigned.

(D) It is the intention of the Court to distribute equitably appointments for conflict attorneys who have been approved by the Court in an objectively rational, fair, neutral, and nondiscriminatory manner, although the court retains the discretion to deviate from the list when taking into account the factors contained in (B).

(E) In making an appointment for a conflict attorney, the Court will consider the factors contained in the Ohio Rules of Superintendence.

(F) No attorney shall be required to join or pay a fee to any organization as a condition for inclusion in the appointment system.

(G) The Court shall maintain a record of all appointments of counsel, a record of attorneys' refusals to accept appointments, and the reasons for each such refusal.

(H) No attorney on the conflict list is assured of any number of appointments or of a substantially equal number of appointments. No attorney is granted a legal right or claim by virtue of consideration for being on the conflict list, acceptance onto the list, or exclusion from the list.

(I) In accordance with the Rules of Superintendence, at least once every 5 years, the Court shall review the compensation paid to court appointed counsel in order to determine the compensation's adequacy and effect upon the availability of court appointments. The Court shall provide the report to all funding authorities of the Court. In conducting that review, the Court may survey the compensation of appointed attorneys in other courts of similar size around the state; may take into account the attorney comments elicited pursuant to (J); may consider how the amount of compensation affects the availability of qualified attorneys to take appointments; and may take any other steps reasonably calculated to provide a sufficient overview of the adequacy of the Court's funding.

(J) By January 15<sup>th</sup> of each year, the Court Administrator will prepare a summary of the number of criminal cases originating during the previous year which required appointed counsel. The summary will indicate how many cases were assigned to each of the attorneys on the Court's list of attorneys approved for appointment for indigent defendants in criminal cases. A copy of

this summary shall be immediately sent to all attorneys on the appointment list and to the judges of the Court. By letter accompanying the summary, the Court Administrator will invite the attorneys to express to him any concerns they might have regarding the equitable distribution of appointments. At the second judges' meeting in February, the judges will discuss the concerns raised by the attorneys. The judges will then decide whether any action is warranted in order to ensure that the Court is distributing criminal appointments equitably.

**(K) Application Procedure for the Approved Counsel List of Conflict Attorneys**

Attorneys who wish to be appointed to represent indigent defendants when a conflict has been determined by the Butler County Public Defender shall first complete an Application for Approval as Indigent Defense Counsel ([Appendix G](#)). Completed applications, along with any other documentation required by court policy, shall be submitted to the court administration office and shall be reviewed by the General Division Judges. A decision will be made by a majority of the General Division Judges to approve or disapprove applications. Attorneys shall not approach individual judges for reconsideration. Attorneys approved for appointment will be approved for one calendar year and, thereafter, performance will be reviewed a minimum of once per year. Approved attorneys shall follow policies and procedures provided and approved by the Court.

**(L) Procedure for Appointment of Counsel**

- (1) A defendant's case will be assigned by the Butler County Public Defender to one of the public defenders assigned to the Court in which the indigent defendant is appearing.
- (2) After consultation with the trial judge all counsel for capital murder cases shall be appointed by the Common Pleas Court Administrative Judge from the Supreme Court list of certified attorneys.
- (3) Requests for appointed counsel from the conflict list for indigent defendants shall be directed to the Court's bailiff. All appointments of conflict attorneys shall be made by entry prepared by the Court's bailiff and signed by the judge assigned to hear the case.

**(M) Procedure for Submission of Fee Applications**

Appointed counsel shall submit a Motion, Entry and Certification for Appointed Counsel Fees, as prescribed by the Ohio Public Defender's Office, within 30 days from the date of the final hearing. Fee applications submitted outside the 30-day guideline shall be subject to a reduction of the amount requested at the discretion of the judge assigned to hear the case. Motions for judicial release and other post-conviction motions shall be submitted on a separate fee application, which shall be submitted within 30 days of the date of the entry of the judge's decision.

In accordance with Ohio Public Defender Standards and Guidelines for Appointed Counsel Reimbursement, counsel is required to prepare and maintain time records for each appointed case, showing the date of service, nature of services rendered, and hours worked. Time records shall be provided to the Court upon request.

## **6.05 PRETRIAL MOTIONS**

(A) All pretrial motions in criminal cases shall be filed in accordance with the time limits prescribed in the Ohio Rules of Criminal Procedure, unless leave to file such a motion is granted by the judge assigned to hear the case after notice to the adverse party.

(B) Copies of all motions shall be served upon the adverse party in accordance with the Ohio Rules of Criminal Procedure. The original of all motions with supporting memoranda shall be filed with the Clerk of Courts. The filing party shall also deliver a courtesy copy to the assigned judge.

(C) All pretrial motions shall be determined 7 days prior to trial, and an entry recording the disposition of that motion shall be prepared and submitted by the prevailing party. Should circumstances prevent or preclude a determination of a timely-filed pretrial motion within this time limit, the party seeking relief by a motion shall be entitled to a continuance unless, in the discretion of the Court, such a continuance would greatly prejudice the adverse party or be a denial of substantial justice to the adverse party, or in the interests of justice.

## **6.06 HEARING ON GUILTY AND/OR NO CONTEST PLEAS**

Cases in which a defendant is desirous of entering a plea of guilty or no contest to a criminal charge shall be heard by the judge assigned to hear such matters, unless both parties and the assigned judge agree.

## **6.07 MOTIONS FOR EXPUNGEMENT AND/OR SEALING OF RECORDS**

All motions for expungement, and/or for sealing of records of conviction and of not guilty findings, dismissals or no bills shall be filed with the Clerk of Courts on a fully-completed, court-approved expungement packet. See [Appendix H](#).

Following the necessary investigation of the movant's record by the Butler County Adult Probation Department, the Court shall set the matter for hearing.

## **6.08 EXTRADITION PROCEEDINGS**

(A) When any person is arrested in this jurisdiction pursuant to the ORC Chapter 2963, the arresting agency shall file with the Clerk of this Court a petition for hearing on extradition. In accordance with Ohio Rules of Superintendence, and these Local Rules, the Clerk of Court shall assign a case number to each petition, and assign each case to a judge using the individual assignment system.

(B) Once the petition has been filed, the case shall be scheduled for hearing. Pursuant to Criminal Rules and the ORC, the magistrate shall conduct the initial hearing, set bond when appropriate, and may accept a waiver of extradition. If extradition is not waived, the magistrate shall set the case for hearing before the assigned judge.

(C) Appeals of the magistrate's decision and proceedings on a Governor's Warrant shall be heard before the assigned judge.

## **6.09 ELECTRONIC SEARCH WARRANTS**

Pursuant to authority granted by, and in conjunction with, Crim. R. 41, the Court has adopted processes and procedures via which applications for search warrants may be accepted and issued electronically, during non-business hours and at other times deemed necessary and appropriate. Policies governing electronic search warrants are set forth in [Appendix I](#).

## **CHAPTER 7: CRIMINAL – SPECIALIZED COURT DOCKETS**

## 7.01 DRUG COURT

(A) **Creation of Specialized Docket, “Drug Court.”** Drug Court is created according to the requirements set forth in the Supreme Court of Ohio’s Rules of Superintendence. Drug Court is intended to facilitate efficient and effective treatment of drug addicted offenders. Offenders shall be supervised by the Butler County Adult Probation Department to ensure compliance with community control sanctions and to assist offenders with criminogenic needs.

(B) **Eligibility Criteria for Drug Court Admission.** Drug Court offenders may be ordered by the sentencing judge to Drug Court through a plea and sentencing, probation violation, Judicial Release, or through Intervention in Lieu of Conviction pursuant to R.C. §2951.041. The defendant must be amenable to community control; been charged with a felony offense of the third, fourth, or fifth degree; reside in Butler County, Ohio; have no history of violent behavior; have a substance abuse addiction in which the current and/or past criminal behavior has been drug driven; have no acute health condition; and demonstrate a sincere willingness to participate in a long-term treatment process.

(C) **Referring Criminal Defendants to Drug Court.** Drug Court receives referrals from the General Division judge to whom the case is assigned. The Drug Court team shall review the case for legal/clinical eligibility as identified in the Drug Court Program Description. The Drug Court judge shall have the authority to accept or reject cases referred to Drug Court. Written eligibility information is then sent to the sentencing judge. The sentencing judge shall have final discretion to decide if the defendant is sentenced into Drug Court.

(D) **Sentencing.** Once the defendant has been ordered to Drug Court as a condition of community control, or as a condition for Intervention in Lieu of Conviction, along with any other appropriate sanctions, the case shall be transferred to the Drug Court judge where any, and all further Court proceedings with respect to that, shall be heard by the Drug Court judge. The Drug Court judge shall have the authority to conduct arraignments, accept pleas, enter findings and dispositions, and grant Intervention in Lieu of Conviction pursuant to R.C. §2951.041.

(E) **The Drug Court Team.** The Drug Court team shall consist of the judge, magistrate, Specialty Courts Program Director/Coordinator and subordinate staff, probation officers, case managers, licensed treatment providers, the assistant prosecuting attorney, and defense counsel. The Drug Court team shall convene weekly to handle the Docket, to discuss the progress and status of individual offenders, and to apply sanctions as needed.

(F) **Drug Court Treatment Phases.** Drug Court offenders shall be required to complete phases of treatment, and all other requirements, as identified in the Drug Court Program Description, the Drug Court Participant Handbook, and the Drug Court Participation Agreement. While in Drug Court, offenders shall receive services to assist in meeting criminogenic needs. Upon graduation from Drug Court, the offender may remain under community control sanctions to ensure continued compliance/success.

(G) **Unsuccessful Termination from Drug Court.** Reasons for termination from Drug Court include, but are not limited to, failure to remain clean from illegal substances, violations of the

rules of community control, violations of the conditions as set forth for an Intervention in Lieu of Conviction, and/or failure to comply with the Drug Court Program Participation Agreement. Noncompliance with the aforementioned may result in a probation violation, or an Intervention in Lieu of Conviction revocation hearing. Any such hearing shall be adjudicated by the Drug Court judge. At said hearing, the defendant may have the conditions of his/her community control, or the conditions of his/her Intervention in Lieu of Conviction modified. Modifications may include, but are not limited to, commitment to a Community Based Correctional Facility (CBCF), revocation of the defendant's Intervention in Lieu of Conviction, termination from Drug Court, and/or revocation of the defendant's community control. The Drug Court judge does maintain discretion to refer the defendant back to the General Division judge originally assigned to the case for further proceedings.

(H) **Statistical Reports.** For purposes of Supreme Court statistical reports, the case shall be considered disposed by the assigned judge when the defendant is sentenced to Drug Court, or if the defendant is ordered into Drug Court as a condition of Intervention in Lieu of Conviction.

## 7.02 SUBSTANCE ABUSE AND MENTAL ILLNESS COURT

(A) **Creation of Specialized Docket, "Substance Abuse Mental Illness" Court.** Substance Abuse Mental Illness Court (SAMI) is created according to the requirements set forth in the Supreme Court of Ohio's Rules of Superintendence. SAMI is to facilitate efficient and effective treatment of felons who suffer from co-occurring mental and substance abuse disorders. Offenders shall be supervised by the Butler County Adult Probation Department to ensure compliance with community control and to assist offenders with criminogenic needs.

(B) **Eligibility Criteria for Substance Abuse Mental Illness Court Admission.** SAMI offenders may be ordered by the sentencing judge to the Substance Abuse Mental Illness Court through a plea and sentencing, probation violation, Judicial Release, through Intervention in Lieu of Conviction pursuant to R.C. §2951.041, or a conditional release after a finding of Not Guilty by Reason of Insanity. The defendant must be eligible for community control; been charged with a felony offense; been diagnosed with a severe mental disorder; been diagnosed with a substance use disorder; have no acute health condition; and demonstrate a sincere willingness to participate in a long-term treatment process.

(C) **Referring Criminal Defendants to the Substance Abuse Mental Illness Court.** SAMI receives referrals from the General Division judge to whom the case is assigned. The SAMI team shall review the case for legal/clinical eligibility as identified in the SAMI Court *Program Description*. Upon review and approval by the SAMI team, written eligibility information is then sent to the sentencing judge. The sentencing judge shall have final discretion to decide if the defendant is ordered to the Substance Abuse Mental Illness Court.

(D) **Sentencing.** Once the defendant has been ordered to the Substance Abuse Mental Illness Court as a condition of community control, condition for Intervention in Lieu of Conviction, or as a conditional release after a finding of Not Guilty by Reason of Insanity, along with any other appropriate sanctions, the case shall be transferred to the Substance Abuse Mental Illness judge

where any, and all further Court proceedings with respect to that, shall be heard by the SAMI judge.

(E) **Substance Abuse Mental Illness Court Team.** The Substance Abuse Mental Illness Court team shall consist of the judge, magistrate, Specialty Courts Program Director/Coordinator and subordinate staff, probation officers, case managers, licensed treatment providers, the Program nurse, the Program psychiatrist, the Program psychologist, the assistant prosecuting attorney, and defense counsel. The SAMI team shall convene weekly to handle the Docket, to discuss the progress and status of individual offenders, and to apply sanctions as needed.

(F) **Substance Abuse Mental Illness Court Treatment Phases.** Substance Abuse Mental Illness offenders shall be required to complete phases of treatment, and all other requirements, as identified in the SAMI *Program Description*, the SAMI *Participant Handbook*, and the SAMI *Participation Agreement*. While in SAMI, offenders shall receive services to assist in meeting criminogenic needs. Upon graduation (Transition) from SAMI, the offender may remain under community control sanctions to ensure continued compliance/success.

(G) **Unsuccessful Termination from the Substance Abuse Mental Illness Court.** Reasons for termination from the Substance Abuse Mental Illness Court include, but are not limited to, failure to remain clean from illegal substances, failure to take medications as prescribed, violations of the rules of community control, violations of the conditions as set forth for an Intervention in Lieu of Conviction, and/or failure to comply with the SAMI *Participation Agreement*. Noncompliance with the aforementioned may result in a community control, probation, Intervention in Lieu of Conviction revocation hearing, or a hearing to modify/terminate the conditions as set forth for a conditional release after a finding of Not Guilty by Reason of Insanity. Any such hearing shall be adjudicated by the Substance Abuse Mental Illness judge. At said hearing, the defendant may have the conditions of his/her community control, Intervention in Lieu of Conviction, or conditional release modified. Modifications may include, but are not limited to, commitment to a non-lock-down residential treatment facility, commitment to a Community Based Correctional Facility (CBCF), local jail incarceration, revocation of the offender's Intervention in Lieu of Conviction, termination from the Substance Abuse Mental Illness Court, and/or revocation of the defendant's community control. The SAMI judge does maintain discretion to refer the defendant back to the General Division judge originally assigned to the case for further proceedings. Termination from the Substance Abuse Mental Illness Court does not preclude re-admission at a later date.

(H) **Statistical Reports.** For purposes of Supreme Court statistical reports, the case shall be considered disposed by the assigned judge when the defendant is sentenced to the SAMI Court.

### **7.03 FELONY NON SUPPORT DOCKET**

(A) **Creation of Specialized Docket, "Felony Non Support" Docket.** Felony Non Support Docket (FNS) is created according to the requirements set forth in the Supreme Court of Ohio's Rules of Superintendence. FNS is to facilitate efficient and effective treatment of felons who are convicted of or granted Intervention in Lieu of Conviction for criminal Non Support, who owe support to dependent children, and who are required to complete community control sanctions.



Offenders shall be supervised by the Butler County Adult Probation Department to ensure compliance with Court-ordered child support and to assist offenders with criminogenic needs.

**(B) Eligibility Criteria for Felony Non Support Docket Admission.** Felony Non Support Docket offenders may be sentenced by the trial Court to the Felony Non Support Docket after a felony conviction for criminal Non Support, a probation violation, Judicial Release, or through Intervention in Lieu of Conviction pursuant to R.C. §2951.041.. The felony child support offender must be amenable to a community control sanction, owe current child support for dependent children, and score above Low Risk ORAS.

**(C) Referring Criminal Defendants to the Felony Non Support Docket.** Felony Non Support Docket receives referrals from the General Division judge to whom the case is assigned. The FNS team shall review the case for legal/clinical eligibility as identified in the FNS *Program Description*. The FNS judge shall have the authority to accept or reject cases referred to the Felony Nonsupport docket. Written eligibility information is then sent to the sentencing judge. The sentencing judge shall have final discretion to decide if the defendant is sentenced to the Felony Non Support Docket.

**(D) Sentencing.** Once the defendant has been sentenced to the Felony Non Support Docket as a community control sanction, or as a condition for Intervention in Lieu of Conviction, along with any other appropriate community control sanctions, the case shall be transferred to the Felony Non Support Docket judge where any, and all further Court proceedings with respect to that, shall be heard by the Felony Non Support Docket judge.

**(E) Felony Non Support Docket Team.** The Felony Non Support Docket team shall consist of the judge, magistrate, Specialty Courts Program Director/Coordinator and subordinate staff, probation officers, case manager/employment liaison, CSEA representative, the assistant prosecuting attorney, and defense counsel. The Felony Non Support Docket team shall convene weekly to handle the Docket, to discuss the progress and status of individual offenders, and to apply sanctions as needed.

**(F) Felony Non Support Docket Phases.** Felony Non Support Docket offenders shall be required to complete phases, as well as all other requirements, as identified in the FNS *Program Description*, the FNS *Participant Handbook*, and the FNS *Participation Agreement*. During said phases, services shall be provided to assist the offender with obtaining employment and meeting criminogenic needs. Upon graduation from FNS, the offender may remain under community control sanctions to ensure continued compliance/success.

**(G) Unsuccessful Termination from the Felony Non Support Docket.** Reasons for termination from the Felony Non Support Docket include, but are not limited to, failure to remain negative of illegal substances, failure to pay Court-ordered child support, violations of the rules of community control, violations of the conditions set forth for an Intervention in Lieu of Conviction, and/or failure to comply with the Felony Non Support Docket *Participation Agreement*. Noncompliance with the aforementioned may result in a probation violation hearing or an Intervention in Lieu of Conviction revocation hearing. Any such hearing shall be adjudicated by the Felony Non Support Docket judge. At said hearing, the offender may have his/her community

control modified. Modifications may include, but are not limited to, commitment to a non-lockdown residential treatment facility, commitment to a Community Based Correctional Facility (CBCF), local jail incarceration, revocation of the defendant's Intervention in Lieu of Conviction, termination from the Felony Non Support Docket, and/or revocation of the offender's community control. Termination from the Felony Non Support Docket does not preclude re-admission at a later date.

(H) **Statistical Reports.** For purposes of Supreme Court statistical reports, the case shall be considered disposed by the assigned judge when the defendant is sentenced to the FNS Docket or if the defendant is ordered into the FNS docket as a condition of Intervention in Lieu of Conviction.

#### **7.04 VETERANS TREATMENT COURT PROGRAM**

(A) **Creation of Specialized Docket, "Veterans Treatment Court" Program.** Veterans Treatment Court (VTC) is created according to the requirements set forth in the Supreme Court of Ohio's Rules of Superintendence. VTC is to supervise Veteran offenders who are required to complete community control sanctions. Offenders shall be supervised by the Butler County Adult Probation Department to ensure compliance with community control sanctions and to assist offenders with criminogenic needs.

(B) **Eligibility Criteria for Veterans Treatment Court Program Admission.** Veteran offenders may be ordered by the sentencing judge of the Butler County Common Pleas Court General Division to the Veterans Treatment Court Program through a plea and sentencing, probation violation, judicial release, or through Intervention in Lieu of Conviction pursuant to R.C. §2951.041. The offender must have a Butler County Common Pleas Court General Division case; be amenable to community control sanctions; be a Veteran of the United States Armed Forces; and demonstrate a sincere willingness to participate in a long-term treatment process.

(C) **Referring Criminal Offenders to the Veterans Treatment Court Program.** VTC receives referrals from the General Division judge to whom the case is assigned. The VTC team shall review the case for legal/clinical eligibility as identified in the *VTC Program Description*. The VTC judge shall have the authority to accept or reject cases referred to the Veterans Treatment Court Program. Written eligibility information is then sent to the sentencing judge. The sentencing judge shall have final discretion to decide if the offender is ordered to the Veterans Treatment Court Program.

(D) **Sentencing.** Once the offender has been ordered to the Veterans Treatment Court Program as a condition of community control, or as a condition for Intervention in Lieu of Conviction, along with any other appropriate sanctions, the case shall be transferred to the Veterans Treatment Court judge where any, and all further Court proceedings with respect to that, shall be heard by the VTC judge.

(E) **Veterans Treatment Court Program Team.** The Veterans Treatment Court Program team shall consist of the judge, magistrate, Specialty Courts Program Director/Coordinator and subordinate staff, probation officers, Veterans Justice Outreach Specialist, Butler County Veterans

Service Commission representative, Homeless Veterans Reintegration Project (HVRP) case manager, the assistant prosecuting attorney, and defense counsel. The VTC team shall convene weekly to handle the docket, to discuss new potential participants for the program, to discuss the progress and status of offenders currently in the program, and to apply sanctions as needed.

(F) **Veterans Treatment Court Program Phases.** Veterans Treatment Court Program offenders shall be required to complete phases of the program, and all other requirements, as identified in the *VTC Program Description*, the *VTC Participant Handbook*, and the *VTC Participation Agreement*. While in VTC, offenders shall receive services to assist in meeting criminogenic needs. Upon graduation from VTC, the offender may remain under community control sanctions to ensure continued compliance/success.

(G) **Unsuccessful Termination from the Veterans Treatment Court Program.** Reasons for termination from the Veterans Treatment Court Program include, but are not limited to, failure to remain clean from illegal substances, violations of the rules of community control, violations of the conditions as set forth for an Intervention in Lieu of Conviction, and/or failure to comply with the Veterans Treatment Court Program *Participation Agreement*. Noncompliance with the aforementioned may result in a community control, probation, or Intervention in Lieu of Conviction revocation hearing. Any such hearing shall be adjudicated by the Veterans Treatment Court Program judge. At said hearing, the offender may have the conditions of his/her community control, or the conditions of his/her Intervention in Lieu of Conviction modified. Modifications may include, but are not limited to, commitment to a non-lockdown residential treatment facility, commitment to a Community-Based Correctional Facility (CBCF), local jail incarceration, revocation of the offender's Intervention in Lieu of Conviction, termination from the Veterans Treatment Court Program, and/or revocation of the offender's community control. The VTC judge does maintain discretion to refer the offender back to the General Division judge originally assigned to the case for further proceedings.

(H) **Statistical Reports.** For purposes of Supreme Court statistical reports, the case shall be considered disposed by the assigned judge when the offender is sentenced to the VTC Program, or if the offender is ordered VTC as a condition of Intervention in Lieu of Conviction.

## **APPENDICES**











A. If you answered "Yes," list each dependent's name, age and their relationship to you:

<u>Name</u>	<u>Age</u>	<u>Relationship</u>
_____		
_____		
_____		

IV. Within the past 12 months, have you received any income from a business, profession or other form of self-employment, or in the form of rent payments, interest dividends, retirement benefits, annuity payments or any other source, including Workers Compensation, Social Security payments, disability payments? Yes \_\_\_\_\_ No \_\_\_\_\_

A. If you answered "Yes," describe each source of income and the total amount you received from that source over the 12-month period:

<u>Source</u>	<u>Amount</u>
_____	
_____	
_____	

V. Do you or your spouse have any cash on hand or money in a savings, checking or other account? Yes \_\_\_\_\_ No \_\_\_\_\_

A. If you answered "Yes," state the combined total amount:  
\$ \_\_\_\_\_

VI. Do you or your spouse own any , stocks, bonds, notes, or any ?  
Yes \_\_\_\_\_ No \_\_\_\_\_

A. If you answered "Yes," describe each asset and state its value:

<u>Asset</u>	<u>Value</u>
_____	
_____	
_____	

VII. List all of your monthly expenses.

<u>Type of Expense</u>	<u>Amount</u>
Child Support paid out	\$ _____
Child Care (only if working)	\$ _____
Insurance (medical, dental, auto, etc.)	\$ _____
Medical/Dental Expenses	\$ _____
Rent/Mortgage	\$ _____
Food	\$ _____
Telephone	\$ _____
Transportation/Fuel	\$ _____
Taxes Withheld or Owed	\$ _____
Credit Card, Other Loans	\$ _____
Utilities (Gas, electric, Water/Sewer, Trash	\$ _____
Other (Specify)	\$ _____
<hr/>	
TOTAL EXPENSES	\$ _____

VIII. State your address and a phone number where the Court can reach you:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
 (Signature of Plaintiff)



IN THE COMMON PLEAS COURT, BUTLER COUNTY, OHIO

Petitioner/Plaintiff,

: CASE NO:

:

:

vs.

: ORDER APPROVING MOTION TO

: PROCEED IN FORMA PAUPERIS

Respondent/Defendant.

---

Upon Motion of the

\_\_\_\_\_ petitioner/plaintiff

\_\_\_\_\_ movant

\_\_\_\_\_ respondent/defendant

\_\_\_\_\_ (other)

in this proceeding, the Court having considered the affidavit and support documentation of the movant, it is:

ORDERED that the movant may proceed *In Forma Pauperis* in these proceedings.

Approved:

\_\_\_\_\_  
Judge, Court of Common Pleas



**APPENDIX D (LOCAL RULE 5.03)**

**IN THE COURT OF COMMON PLEAS  
BUTLER COUNTY, OHIO**

Plaintiff(s), : Case No: CV \_\_\_\_\_  
:   
: **NOTICE OF APPEARANCE**  
vs. :   
: **NOTICE OF LIMITED APPEARANCE/**  
Defendants(s), : **COMPLETION OF LIMITED**  
: **APPEARANCE**  
:

\_\_\_\_\_ New Notice of Appearance

\_\_\_\_\_ Change of Information

\_\_\_\_\_ Notice of Limited Appearance

\_\_\_\_\_ Notice of Completion of Limited Appearance

Attorney name \_\_\_\_\_

*Law firm name* \_\_\_\_\_

Business address \_\_\_\_\_

Supreme Court registration number \_\_\_\_\_

Telephone number \_\_\_\_\_

Fax number \_\_\_\_\_

Party/parties represented \_\_\_\_\_

E-Mail \_\_\_\_\_

Signature of Attorney \_\_\_\_\_

**APPENDIX E (LOCAL RULE 5.21)**

**(SAMPLE) PETITION**

IN THE COURT OF COMMON PLEAS  
BUTLER COUNTY, OHIO

**PETITION FOR COURT-ORDERED TITLE  
AND PRAECIPE FOR SERVICE**

PETITIONER NAME  
PETITIONER ADDRESS  
CITY, STATE AND ZIP CODE  
*(Petitioner)*

**BODY OF THE COMPLAINT**

*(Statement of what you are requesting from the Court)*

PETITIONER NAME (SIGNED)  
PETITIONER NAME (PRINTED)  
PETITIONER ADDRESS  
CITY, STATE AND ZIP CODE  
PETITIONER TELEPHONE NUMBER

---

**INSTRUCTIONS TO THE CLERK OF COURTS**

*Please send summons with a copy of the Petition to any individual identified as, "Titled in the name of," and/or "Lienholder" listed on the Clerk of Court's "Title Division Affidavit."*

***Please serve by certified mail.***

**SAMPLE AFFIDAVIT  
REGARDING ABSENCE OF EVIDENCE OF VEHICLE OWNERSHIP**

Petitioner's Name: \_\_\_\_\_

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

City: \_\_\_\_\_ State: Zip: \_\_\_\_\_

County: \_\_\_\_\_ Phone Number: (\_\_\_\_\_) \_\_\_\_\_

Vehicle Description:

Year	Make	Model	VIN#
------	------	-------	------

1. How did you obtain the vehicle? (If you purchased the vehicle, include date of transaction, person you bought it from, and how much you paid.)

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

*Submit copy of receipt, Bill of Sale, Check, or Other Proof of Transaction*

2. State why you do not have a title.

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

3. State the efforts that were taken to notify those who may have an interest in the vehicle.

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

4. How much was the purchase price of the vehicle? \_\_\_\_\_

5. Did you submit a Records Request through the Ohio Bureau of Motor Vehicles? \_\_\_\_\_

*(Attach a copy of the results)*

\_\_\_\_\_  
(Petitioner's) signatureDate



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

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

\_\_\_\_\_  
(Petitioner)

**TITLE DIVISION AFFIDAVIT**

I, a sworn deputy clerk serving in the Title Division of the Clerk of Courts office in Butler County, Ohio, state that I have reviewed the evidence of ownership and determined that the applicant cannot provide sufficient proof of ownership or evidence for the issuance of a state Certificate of Title.

**YesNo**

An Original, Assigned Title

Copy of completed BMV Records Request Form 1173

Ohio Highway Patrol Inspection

Proof of Certified Mail

I have performed a statewide title record search and have determined the following:

No Records Found

Title # \_\_\_\_\_ County of Issuance: \_\_\_\_\_

Titled in the name of: \_\_\_\_\_

Lienholder: \_\_\_\_\_

Other Information: \_\_\_\_\_

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

\_\_\_\_\_  
Title Division Director/Asst. Director Approval Date



MARY L. SWAIN  
BUTLER COUNTY CLERK OF COURTS

To: The Ohio State Highway Patrol District #08

From: Butler County Clerk of Courts

Date: \_\_\_\_\_

Re: \_\_\_\_\_ (Customer's name)

VIN: \_\_\_\_\_

The above-named customer has requested a Certificate of Title through the State of Ohio. The customer does not have the proper documentation or evidence for us to issue a vehicle title. Therefore, the customer has informed this office that he/she will be petitioning the Butler County Common Pleas Court for a court order to obtain a vehicle title.

Please complete a physical inspection of the subject vehicle upon presentation of the receipt/proof of payment of the inspection fee.

If you have any questions, please contact 513-887-3090

\_\_\_\_\_, Deputy Clerk

\_\_\_\_\_  
(signature)

**APPENDIX F (LOCAL RULE 5.22)**

**MEDIATOR QUALIFICATION QUESTIONNAIRE**

Name \_\_\_\_\_

Business Address \_\_\_\_\_

Telephone \_\_\_\_\_

List any formal post-law school training for mediation (including seminars). Include the dates of the formal training:

List the number of cases you acted as mediator:

Check off the following areas you feel confident in mediating:

Tort	_____
Commercial	_____
Products Liability	_____
Administrative Appeals	_____
Workers Compensation	_____

List any professional associations affiliated with mediation:

By submitting this application, I acknowledge I am familiar with Local Rule 7.05 on mediation, and I agree to comply with those rules.

\_\_\_\_\_  
Signature

**\*This application must be submitted to:**

**Manager, Court Administration  
Government Services Center  
315 High Street, 3<sup>rd</sup> Floor  
Hamilton, Ohio 45011**

**APPENDIX G (LOCAL RULE 6.04)**

**APPLICATION FOR  
APPROVAL AS INDIGENT CRIMINAL DEFENSE COUNSEL  
BUTLER COUNTY COMMON PLEAS COURT**

Name \_\_\_\_\_

Butler County Business Address \_\_\_\_\_

\_\_\_\_\_  
(Location where you intend to confer with your clients; not a P.O. Box)

Preferred Mailing Address \_\_\_\_\_

\_\_\_\_\_  
Phone \_\_\_\_\_ Fax \_\_\_\_\_ Cell \_\_\_\_\_

E-mail \_\_\_\_\_ Attorney Registration # \_\_\_\_\_

Preferred contact individual (for case assignments) and individual's phone  
\_\_\_\_\_  
\_\_\_\_\_

List any formal post-law school training for criminal representation (including seminars). Include the year in which the formal training took place:

List any professional associations affiliated with, with regards to criminal defense:

Estimate the number of criminal defendants, along with the types of offenses, you have represented (we recognize that for some of you, this will be a very rough estimate). State if case went to evidentiary hearing (motion, court or jury trial, etc):

Do you have Supreme Court certification for capital cases? \_\_\_\_\_ Yes \_\_\_\_\_ No

Dates and location of training \_\_\_\_\_

What do you feel are your biggest strengths with regards to criminal defense?

What areas do you feel could use improvement with regards to your criminal defense abilities and what will you do to make those improvements?

Do you have current legal malpractice insurance? List company, policy number and expiration date of the policy. (Attach proof of insurance.)

List any professional organizations for which you are currently a member:

Review and sign each of the appropriate Certification of Compliance with State Standards for Appointment of Counsel forms for which you are applying:

- \_\_\_\_\_ Capital Cases
- \_\_\_\_\_ Felony Cases
- \_\_\_\_\_ Appellate Cases
- \_\_\_\_\_ Misdemeanor Cases

Signature \_\_\_\_\_

Return completed application and all Certification of Compliance with State Standards for Appointment of Counsel forms to:

Manager of Court Administrative Services  
Butler County Common Pleas Court  
Government Services Center, Third Floor  
315 High Street

Hamilton, Ohio 45011

**BUTLER COUNTY COURT OF COMMON PLEAS**  
**Certification of Compliance with State Standards for**  
**Appointment of Counsel on Capital Cases**

By signing this certification, I represent that I am a licensed attorney in good standing with state requirements governing the legal profession. I am requesting to be considered for court appointments on capital cases. I understand the following standards must be complied with to obtain court appointments on capital cases pursuant to Revised Code Chapter 120, Ohio Administrative Code Section 120-1-10, and the Local Rules of Court.

\_\_\_\_\_ **All Attorneys** appointed to represent indigent clients in capital cases must meet the following requirements: (1) Must meet qualifications of Supreme Court Rules for Appointment of Counsel in Capital Cases (formerly Rule 20); and (2) Must appear on list of attorneys qualified to accept appointments in capital cases promulgated by the Commission on Appointment of Counsel in Capital Cases (formerly the Rule 20 Commission); or (3) Must have a waiver of pre-qualification issued by the Commission on Appointment of Counsel in Capital Cases (formerly the Rule 20 Commission).

\_\_\_\_\_ **Lead trial counsel:** (1) At least 5 years' criminal litigation and experience; and (2) Experience as lead counsel for the defense in jury trial of at least one capital case OR experience as co-counsel for the defense in jury trial of at least 2 capital cases; and 3 Within 10 years preceding appointment, experience as lead counsel in jury trial of at least one murder or aggravated murder case OR within 5 years preceding appointment, experience as lead counsel in 3 aggravated or first or second degree felony jury trials.

\_\_\_\_\_ **Trial co-counsel:** (1) At least 3 years' of criminal litigation experience; and 2 within 10 years preceding appointment, experience as co-counsel in one murder or aggravated murder jury trial OR within 5 years preceding appointment, experience as lead counsel in one first or second degree felony jury trial OR within 5 years preceding appointment, experience as lead or co-counsel in at least 2 felony jury or civil jury trials.

By my signature, I certify that I have read and understand these requirements for appointment of counsel. I have checked where appropriate the capital categories for which I am eligible for appointment under these standards. I will notify the Court if an appointment is made in a category where I do not meet the above requirements. I understand I may be requested to document my qualifications for appointment. I have malpractice insurance.

\_\_\_\_\_  
DatePrinted NameSignature

Attorney Registration No. \_\_\_\_\_ Telephone \_\_\_\_\_

**BUTLER COUNTY COURT OF COMMON PLEAS**  
**Certification of Compliance with State Standards for**  
**Appointment of Counsel on Felony Cases**

By signing this certification, I represent that I am a licensed attorney in good standing with state requirements governing the legal profession. I am requesting to be considered for court appointments on felony cases. I understand the following standards must be complied with to obtain court appointments on felony cases pursuant to Revised Code Chapter 120, Ohio Administrative Code Section 120-1-10, and the Local Rules of Court.

\_\_\_\_\_ **All Attorneys** appointed to represent indigent clients in felony cases must meet the following requirements: Within 2 years prior to the appointment, minimum 12 hours of continuing legal education in criminal practice and procedure.

\_\_\_\_\_ **Felony OVI:** Minimum 6 hours of continuing legal education focused on OVI practice and procedure.

\_\_\_\_\_ **Fourth and fifth degree felony:** At least one year experience in criminal law.

\_\_\_\_\_ **Third degree felony:** (1) At least one year experience in criminal law; and (2) Within 6 years preceding appointment, experience as lead trial counsel in at least one criminal jury trial OR as co-counsel in at least 2 jury trials.

\_\_\_\_\_ **First and second degree felony:** (1) At least 3 years' experience in criminal law; and (2) Within 10 years preceding the appointment, experience as lead trial counsel in 2 criminal jury trials, at least one of which involved felony charges OR as lead counsel in one felony jury trial and as co-counsel in 2 additional jury trials.

\_\_\_\_\_ **Life imprisonment felonies:** (1) At least 5 years' experience in criminal law; and (2) Within 10 years preceding the appointment, experience as lead trial counsel in 5 felony jury trials, at least 3 of which involved felony charges of the first or second degree OR as lead counsel in 3 jury trials, at least one of which was a third degree felony and as co-counsel in 5 additional jury trials, at least 3 of which were first or second degree felonies.

By my signature, I certify that I have read and understand these requirements for appointment of counsel. I have checked where appropriate the felony categories for which I am eligible for appointment under these standards. I will notify the Court if an appointment is made in a category where I do not meet the above requirements. I understand I may be requested to document my qualifications for appointment. I have malpractice insurance.

\_\_\_\_\_  
DatePrinted NameSignature

Attorney Registration No. \_\_\_\_\_ Telephone \_\_\_\_\_



**BUTLER COUNTY COURT OF COMMON PLEAS**  
**Certification of Compliance with State Standards for**  
**Appointment of Counsel on Appellate Cases**

By signing this certification, I represent that I am a licensed attorney in good standing with state requirements governing the legal profession. I am requesting to be considered for court appointments on appellate cases. I understand the following standards must be complied with to obtain court appointments on appellate cases pursuant to Revised Code Chapter 120, Ohio Administrative Code Section 120-1-10, and the Local Rules of Court.

\_\_\_\_\_ **Misdemeanors and fourth and fifth degree felony:** (1) Minimum 6 hours CLE in criminal or appellate practice and procedure OR Successful completion of clinical education program focusing on appellate practice; and (2) In lieu of required training, at least one year experience as an attorney.

\_\_\_\_\_ **Misdemeanor OVI:** Minimum 6 hours CLE focused on OVI practice and procedure.

\_\_\_\_\_ **Third degree felony:** (1) Within 2 years prior to appointment, minimum 12 hours CLE in criminal practice and procedure, at least 6 of which must be in appellate practice; and (2) At least one year experience as attorney practicing in appellate law; and (3) Within 6 years preceding appointment, filed appeals in 3 cases resolved by plea OR one appeal of a case resolved by trial.

\_\_\_\_\_ **First and second degree felony:** (1) Within 2 years prior to appointment, minimum 12 hours CLE in criminal practice and procedure, at least 6 of which must be in appellate practice; and (2) At least 2 years' experience as attorney practicing in appellate law; and (3) Within 10 years preceding appointment, filed appeals in 3 cases resolved by trial.

\_\_\_\_\_ **Cumulative sentences of 25 years or more:** (1) Within 2 years prior to appointment, minimum 12 hours CLE in criminal practice and procedure, at least 6 of which must be in appellate practice; and (2) At least 5 years' experience as attorney practicing in appellate law; and (3) Within 10 years preceding appointment, filed appeals in 3 cases resolved by trial.

By my signature, I certify that I have read and understand these requirements for appointment of counsel. I have checked where appropriate the appellate categories for which I am eligible for appointment under these standards. I will notify the Court if an appointment is made in a category where I do not meet the above requirements. I understand I may be requested to document my qualifications for appointment. I have malpractice insurance.

\_\_\_\_\_  
Date Printed Name Signature

Attorney Registration No. \_\_\_\_\_ Telephone \_\_\_\_\_

**BUTLER COUNTY COURT OF COMMON PLEAS**  
**Certification of Compliance with State Standards for**  
**Appointment of Counsel on Misdemeanor Cases**

By signing this certification, I represent that I am a licensed attorney in good standing with state requirements governing the legal profession. I am requesting to be considered for court appointments on misdemeanor cases. I understand the following standards must be complied with to obtain court appointments on misdemeanor cases pursuant to Revised Code Chapter 120, Ohio Administrative Code Section 120-1-10, and the Local Rules of Court.

\_\_\_\_\_ **All Attorneys** appointed to represent indigent clients in misdemeanor cases must meet the following requirements: (1) Minimum 6 hours CLE in criminal practice and procedure OR Successful completion of a clinical education program focusing on criminal defense; and (2) In lieu of required training, at least one year experience as an attorney.

\_\_\_\_\_ **Misdemeanor OVI:** Minimum 6 hours CLE focused on OVI practice and procedure.

By my signature, I certify that I have read and understand these requirements for appointment of counsel. I have checked where appropriate the misdemeanor categories for which I am eligible for appointment under these standards. I will notify the Court if an appointment is made in a category where I do not meet the above requirements. I understand I may be requested to document my qualifications for appointment. I have malpractice insurance.

\_\_\_\_\_  
DatePrinted NameSignature

Attorney Registration No. \_\_\_\_\_ Telephone \_\_\_\_\_



**IN THE COMMON PLEAS COURT  
BUTLER COUNTY, OHIO**

\_\_\_\_\_  
Applicant Name : Case No(s). \_\_\_\_\_  
: \_\_\_\_\_  
: \_\_\_\_\_  
: \_\_\_\_\_  
: Judge: \_\_\_\_\_  
: \_\_\_\_\_  
: **Application to Seal Records of Nonconviction**  
: **Pursuant to R.C. 2953.52**

The Applicant moves the Court to order the sealing of the record of arrest, charge(s), and \_\_\_\_\_ in this case and all related records. The Applicant is not depositing a fee with this application, as R.C. 2953.52 does not require a fee to seal records after a not guilty finding, dismissal of proceedings, or a no bill by a grand jury. The Applicant hereby certifies all requirements for sealing the records are met.

Name of Applicant	Name of Attorney (if applicable)
Signature of Applicant (if pro se)	Signature of Attorney (if applicable)
Street Address of Applicant	Attorney Registration No. (if applicable)
City, State, and Zip Code of Applicant	Street Address of Attorney (if applicable)
Driver's License No. of Applicant (if applicable)	City, State, and Zip of Attorney (if applicable)
Telephone of Applicant (if pro se)	Email Address of Attorney (if applicable)
	Telephone of Attorney (if applicable)

(TO BE COMPLETED BY THE COURT)

**SERVICE**

A copy of this application was served by this Court on the Office of the Prosecutor for \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**IN THE COMMON PLEAS COURT  
BUTLER COUNTY, OHIO**

Applicant Name	:	Case No(s). _____
	:	_____
	:	Judge: _____
	:	<b>Application to Expunge Record of Conviction for Improperly Handling Firearm in Motor Vehicle Pursuant to R.C. 2953.37</b>

The Applicant moves the Court to order the expungement of the record of conviction for improperly handling a firearm in a motor vehicle pursuant to R.C. 2953.37. In support of this application, the Applicant provides the following information:

1. Please complete the following (you may attach additional pages if necessary):

Offense	Date of the Conviction or Guilty Plea	Court

2. Please attach evidence the offense was a violation of R.C. 2923.16 (B), (C), or (E) and the Applicant is authorized by R.C. 2923.16(H)(2)(a) to file this application.

3. Please indicate any other information you would like the Court to know in reviewing your application (you may attach additional pages if necessary).

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The Applicant hereby certifies all requirements for expunging the records are met.

\_\_\_\_\_  
Name of Applicant

\_\_\_\_\_  
Name of Attorney (if applicable)

\_\_\_\_\_  
Signature of Applicant (if pro se)

\_\_\_\_\_  
Signature of Attorney (if applicable)

\_\_\_\_\_  
Street Address of Applicant

\_\_\_\_\_  
Attorney Registration No. (if applicable)

\_\_\_\_\_  
City, State, and Zip Code of Applicant

\_\_\_\_\_  
Street Address of Attorney (if applicable)

\_\_\_\_\_  
Driver's License No. of Applicant (if applicable)

\_\_\_\_\_  
City, State, and Zip of Attorney (if applicable)

\_\_\_\_\_  
Telephone of Applicant (if pro se)

\_\_\_\_\_  
Email Address of Attorney (if applicable)

\_\_\_\_\_  
Telephone of Attorney (if applicable)

(TO BE COMPLETED BY THE COURT)

**SERVICE**

A copy of this application was served by this Court on the Office of the Prosecutor for \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.



The Applicant hereby certifies all requirements for expunging the records are met.

\_\_\_\_\_  
Name of Applicant

\_\_\_\_\_  
Name of Attorney (if applicable)

\_\_\_\_\_  
Signature of Applicant (if pro se)

\_\_\_\_\_  
Signature of Attorney (if applicable)

\_\_\_\_\_  
Street Address of Applicant

\_\_\_\_\_  
Attorney Registration No. (if applicable)

\_\_\_\_\_  
City, State, and Zip Code of Applicant

\_\_\_\_\_  
Street Address of Attorney (if applicable)

\_\_\_\_\_  
Driver's License No. of Applicant (if applicable)

\_\_\_\_\_  
City, State, and Zip of Attorney (if applicable)

\_\_\_\_\_  
Telephone of Applicant (if pro se)

\_\_\_\_\_  
Email Address of Attorney (if applicable)

\_\_\_\_\_  
Telephone of Attorney (if applicable)

(TO BE COMPLETED BY THE COURT)

**SERVICE**

A copy of this application was served by this Court on the Office of the Prosecutor for \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.



## **APPENDIX I (LOCAL RULE 6.09)**

### **UNIFORM ELECTRONIC SEARCH WARRANT PROCEDURE FOR ISSUING SEARCH WARRANT REQUESTED/ISSUED BY ELECTRONIC MEANS**

Rule 41 of the Ohio Rules of Criminal Procedure permits search warrant applications and the issuance of search warrants to be communicated by “reliable electronic means.” During non-business hours the Court may accept applications and issue search warrants via reliable electronic means pursuant to the following protocols:

- 1) The requesting officer must first make contact with the issuing judge via telephone or teleconference, establish to the satisfaction of the judge the requesting officer’s identity and proper credentials, and communicate to the judge necessity for the warrant and the general contents of the affidavit. If requested by the judge, the requesting officer shall transmit via email to the judge a copy of the proposed, unsigned affidavit and search warrant for review and consideration. The judge may decline the requesting officer’s request for an electronic application and search warrant. Alternatively, the judge may require the requesting officer to appear personally, and may examine under oath the requesting officer and any witnesses he or she may produce.
- 2) If the judge is inclined to consider approval of the electronic application for a search warrant, the judge shall place the requesting officer under oath while both are engaged on the telephone call or teleconference. While still engaged on the telephone call or teleconference and under oath the requesting officer shall swear to and/or affirm the contents of the affidavit and sign the affiant’s oath/affirmation (see paragraph 8(a) below).
- 3) The requesting officer must complete and sign the affiant’s certification (see paragraph 8(b) below). The requesting officer must then transmit via email the signed affidavit and proposed search warrant to the judge.
- 4) If the judge is satisfied with the application, the judge shall sign and date the Attestation of Judge Administering Oath/Affirmation (see paragraph 8(c) below), the Search Warrant and Certification and Order Regarding Original (see paragraph 8(d) below) with AdobeSign. Once the affidavit and warrant are signed, Adobe will be used to “flatten” the documents, meaning that they will not be able to be altered further. The executed affidavit and search warrant shall then be transmitted via email to the requesting officer.
- 5) Upon the requesting officer’s receipt of the judge’s email containing the signed affidavit and search warrant, the requesting officer shall print onto 8 ½” x 11” plain paper the affidavit and search warrant. The printed affidavit and search warrant shall be deemed the original of each document.
- 6) Following execution of the search warrant, the original affidavit, search warrant and the inventory shall be returned to the court and filed by the requesting officer with the Clerk of Courts. All search warrant returns must be made in person and during regular business hours.
- 7) All email communications by and between the Judge and law enforcement as described herein shall be through a government email account. The use of government email

accounts shall be considered a “reliable electronic means” as that term is used in Criminal Rule 41. The affidavit and search warrant shall be transmitted in Adobe PDF format only.

8) The affidavit and search warrant must include the following provisions:

- a. Affiant’s Oath/Affirmation. The affidavit shall contain the following oath/affirmation which shall be completed and signed at the time the affiant (requesting officer) is placed under oath by the judge and during the course of the telephone or teleconference:

“The affiant hereby swears or affirms the contents of the foregoing affidavit are true and accurate to the best of my knowledge and belief.”

- b. Affiant’s Certification. The affidavit shall contain the following certification, which shall be completed and signed by the affiant (requesting officer):

“I do hereby certify that a true copy of the foregoing affidavit was executed by me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ at \_\_\_\_\_ o’clock \_\_.m. while under oath administered to me by Judge \_\_\_\_\_ during the course of said telephone call/teleconference. The undersigned further certifies that the foregoing affidavit and proposed search warrant shall be immediately transmitted to Judge \_\_\_\_\_ by email transmission.”

- c. Attestation of Judge Administering Oath/Affirmation. The affidavit shall contain the following attestation of judge administering oath, which shall be signed by the judge after the warrant is signed and issued and before the signed warrant and affidavit is sent to the requesting officer by email:

“This affidavit was transmitted to the undersigned by reliable electronic means. Prior to its transmission, the affiant was placed under oath via telephone/teleconference communication between the affiant and the undersigned and during the course of said communication the affiant swore to and/or affirmed the content of this affidavit this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.”

- d. Certification and Order Regarding Original. The search warrant shall contain the following certification, which shall be signed by the judge after the warrant is signed and issued and before the signed warrant and affidavit is sent to the requesting officer by email:

“I do hereby certify that the foregoing search warrant was executed by me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ and the search warrant and supporting affidavit shall be immediately transmitted to the requesting officer by email transmission. Upon receipt of the email the requesting officer is ordered to print on paper the search warrant and supporting affidavit, thereupon the printed, paper documents will be

deemed to be the original affidavit and search warrant. Following execution of the search warrant the requesting officer is instructed to return the inventory to the Court during regular business hours and file with the Clerk of Courts the original affidavit, search warrant and inventory as provided by law.

7/14/2021 at 9:07 a.m.

# SAMPLE

## AFFIDAVIT FOR SEARCH WARRANT REQUESTED/ISSUED BY ELECTRONIC MEANS

\_\_\_\_\_ Township / City of \_\_\_\_\_

Butler County  
State of Ohio

1.Name, Rank, Assignment, Badge No., Agency, Address of Applicant:

*XXX*

2.Name, Rank, Assignment, Badge No., Agency, Address of Additional Officers Supplying Information:

*XXX*

3.Names and Addresses of Other Individuals Supplying Relevant Information:

*XXX*

4.Agency to Which the Warrant is to be Directed:

*XXX*

5.Identity of the Person to be Searched or Owner of the Property to be Searched:

*XXX*

6.Description of the Place to be Searched:

*XXX*

7.Property Within the Description of the Place Sought to be Searched:

*XXX*

8.Description of Property Sought to be Searched for and Seized:

*XXX*

9.Criminal Conduct Involved in Relation to the Property Sought to be Searched and Seized:

XXX

Underlying Facts and Circumstances that Establish Probable Cause:

10.01 Affiant's Training, Experience and Personal Observations:

XXX

10.02 Information Received from Fellow Law Enforcement Officer(s):

XXX

10.03 Information Received From Bystanders or Victims of a Crime:

XXX

10.04 Information Received From Confidential Informant(s):

XXX

10.05 Additional Factors:

XXX

11. Request for Authorization to Conduct a Night Time Search:

XXX

12. Request for Waiver of Statutory Precondition for Nonconsensual Entry:

XXX

*Therefore, it is respectfully requested that this Court waive the Statutory Precondition for Nonconsensual Entry (so called "Knock and Announce" Rule).*

#### **AFFIANT'S OATH/AFFIRMATION**

The affiant hereby swears or affirms the contents of the foregoing affidavit are true and accurate to the best of my knowledge and belief.

---

Date Affiant's signature

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

Title: \_\_\_\_\_

Badge Number: \_\_\_\_\_

Law Enforcement Agency: \_\_\_\_\_

Assigned Unit: \_\_\_\_\_

### **AFFIANT'S CERTIFICATION**

"I do hereby certify that a true copy of the foregoing affidavit was executed by me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ at \_\_\_\_\_ o'clock \_\_.m. while under oath administered to me by Judge \_\_\_\_\_ during the course of said telephone call/teleconference. The undersigned further certifies that the foregoing affidavit and proposed search warrant shall be immediately transmitted to Judge \_\_\_\_\_ by email transmission."

### **ATTESTATION OF JUDGE ADMINISTERING OATH**

This affidavit was transmitted to the undersigned by reliable electronic means. Prior to its transmission, the affiant was placed under oath via telephone/teleconference communication between the affiant and the undersigned and during the course of said communication the affiant swore to and/or affirmed the content of this affidavit this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Date / Judge's signature

\_\_\_\_\_  
Printed Name / Court

7/14/2021 at 9:07 a.m.

# SAMPLE

## SEARCH WARRANT REQUESTED/ISSUED BY ELECTRONIC MEANS

STATE OF OHIO  
BUTLER COUNTY: SS

To \_\_\_\_\_ Police Department / Sheriff's Office

Greetings:

WHEREAS, there has been transmitted to me by reliable electronic means an affidavit, a copy of which is attached hereto and incorporated as if fully rewritten herein, to command you, in the name of the State of Ohio, with the necessary and proper assistance to execute a search and/or seizure.

WHEREAS, the requesting agency is:

*Requesting Agency (Item #4 of Affidavit)*

WHEREAS, the Identity of the Person to be Searched or Owner of the Property to be Searched is:

*Identity of Person/Owner (Item #5 of Affidavit)*

WHEREAS, the Premises to be Searched is:

*Description of Premises (Item #6 of Affidavit)*

WHEREAS, the Property Within the Description of the Place Sought to be Searched is:

*Description of Premises (Item #7 of Affidavit)*

WHEREAS, the Description of Property Sought to be Searched for and Seized is as follows:

*Description of Property Sought (Item #8 of Affidavit)*

The undersigned Judge has determined the affidavit demonstrates probable cause for a search to be made of the aforementioned premises for the property set forth herein.

YOU ARE HEREBY COMMANDED to search the above named person and/or place for the property described, serving this warrant and making the search within three (3) days from the

issuance of this order, and if the property be found there to seize it, leaving a copy of this warrant and a receipt for the property taken, and prepare a written inventory of the property seized and return this warrant to me upon execution to be disposed of and dealt with according to law.

- Daytime only warrant – you are hereby commanded to serve this warrant during daylight hours only.
- Nighttime warrant – there is reasonable cause demonstrated in the affidavit to permit execution of this warrant at night, and nighttime execution is hereby authorized.
- Furthermore, for good cause shown, the statutory precondition for nonconsensual entry (so called “knock and announce” condition) is hereby waived.

So ordered.

\_\_\_\_\_  
Judge

\_\_\_\_\_  
Court

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_ o'clock  
\_\_\_\_.m.

#### **CERTIFICATION AND ORDER REGARDING ORIGINAL**

I do hereby certify that the foregoing search warrant was executed by me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ and the search warrant and supporting affidavit shall be immediately transmitted to the requesting officer by email transmission. Upon receipt of the email the requesting officer is ordered to print on paper the search warrant and supporting affidavit, thereupon the printed, paper documents will be deemed to be the original affidavit and search warrant. Following execution of the search warrant the requesting officer is instructed to return the inventory to the Court during regular business hours and file with the Clerk of Courts the original affidavit, search warrant and inventory as provided by law.

So certified and ordered.

\_\_\_\_\_  
Judge

7/14/2021 at 9:07 a.m.