



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 1, 2013, 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 Craig D. Hedric

The Honorable Jennifer Muench-McElfresh

The Honorable Patricia S. Oney

The Honorable Charles L. Pater

The Honorable Noah E. Powers II

The Honorable Michael J. Sage

The Honorable Keith M. Spaeth

PLEASE NOTE

In 2008, all Local Rules were reviewed.

In 2013-2014, rules were revised and renumbered

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CHAPTER I: ADMINISTRATION

1.00 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 Civ.R. 83. These rules govern all proceedings in actions brought after the rules take effect 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 hereof, 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(B) All former rules of this court are superseded as of the effective date hereof.

(C) Amendments and additions hereto 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 Civ.R. 83.

1.01 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.

1.02 SESSIONS OF COURT

(A) The hours for court sessions are from 8:30 AM until Noon and from 1:00 PM until 4:30 PM, Monday through Friday, unless otherwise ordered by the trial judge.

(B) No session shall be held on a day which by law, or proclamation of the President of the United States or the Governor of this State, is designated a national or state holiday.

CHAPTER II: GENERAL

RECORDS AND FILINGS

2.01 APPEARANCE DOCKETS

The Clerk shall indicate on the appearance docket the name of the judge to whom the case is assigned, the nature or purpose of all filings as indicated in the caption and the amount, if any, of the claim. An entry terminating a case shall be indicated on the docket and in the case management system with the appropriate disposition and termination codes 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 Sup.R. 26(D)(2)(d) 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 Sup.R. 26(E); in addition, notification shall be provided to the trial judge who heard the case, and the court administration office.
- (E) Following proper notification, according to Sup.R. 26 and division (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 all cases filed 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 Civ.R. 10(E) and Crim.R. 55(B), 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 R.C. §109.60. 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 four digits of an account number may be listed, i.e., “XXXX- XX-1234”)

and

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 (see Superintendent R. 45 (D)). 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.

MISCELLANEOUS

3.01 PROCEDURE FOR WITHDRAWAL OF COUNSEL

An attorney desiring to withdraw from a case pending in this court must do so by the following procedure:

- (A) Obtain a hearing date from the Judge's office or the court administration office.
- (B) 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.
- (C) The motion must be served on all counsel of record and the party represented by the counsel requesting permission to withdraw.
- (D) 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.

(NOTE: This procedure is not necessary to effect substitution of counsel. Substitution may be accomplished by the submission of an entry signed by both the withdrawing counsel and the substituting counsel.)

3.02 SPECIAL PROJECTS FEES

Under the authority of R.C. §2303.201(E)(1), 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.

Effective October 1, 2014, the special projects fee collected shall be one hundred sixty five dollars (\$165). 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.

3.03 STANDING SPECIAL PROCESS SERVER

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 L.](#))

(A) **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 eighteen (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.

(B) **Awarding 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.

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

(D) 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.

(E) The fee for filing the affidavit and order is twenty-five dollars (\$25).

3.04 TRANSCRIPTS OF PROCEEDINGS

The following procedure shall be followed in the preparation of transcriptions of proceedings in the General Division of the Common Pleas Court.

(A) Pursuant to Sup.R. 11 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.

(B) Definitions

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

(2) “Transcript” - the transcript of proceedings is the part of the record that reflects the events in the trial not represented by the original papers. Essentially, it is the testimony of witnesses and the oral participation of counsel and the trial judge as recorded by stenographer, or audio electronic recording.

(3) 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 R.C. 2301.18. The “Official Reporter” and “Assistant Reporter” shall take an oath to faithfully and impartially discharge the duties of such position.

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

(C) The Manager of Court Administration “Manager” shall maintain permanent custody of the compact discs “disc” on which original audio electronic recordings of proceedings were recorded, and shall have access to the server on which the recording is backed up on a daily basis. The Manager is responsible for receiving confirmation of the implementation of the systematic back-up for all courtroom recordings on the server. Discs copied from the original recording on the server may be destroyed after three (3) years. The Manager shall maintain custody of all stenographic notes of court proceedings. All such notes are the property of the Common Pleas Court.

(D) By appointment, the Court may permit a party to hear the audio transcript of proceedings in the possession of the Court. Any person may request a disc copy of the record of proceedings, or a portion thereof, by submitting a request to the Manager. The Manager has the authority to determine the need to listen to proceedings or for a disc copy. Costs for such requests shall be pursuant to R.C. 149.43 and Section 7.16 of the Personnel Policy for Butler County Common Pleas Court.

(E) 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 transcription. No transcript will be prepared without the submission of such request.

(F) As workload demands, the Manager, with the permission of the Court Administrator, may engage 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 who is to record the proceedings; and if ordered, prepare an official transcript.

(G) Pursuant to R.C. 2301.24, 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 which is on file with the Clerk of Courts. In the case of indigent transcripts, the Identified Agency or Assistant Reporter shall prepare and submit the appropriate documentation for compensation.

(H) Transcripts for appellate purposes shall be prepared in accordance with App.R. 10(A) and the scheduling order issued by the Twelfth District Court of Appeals.

(I) With the exception of capital murder cases, transcripts shall not include the arraignment, video depositions previously transcribed by the videographer's court reporter, scheduling conferences, probable cause hearings, or voir dire examination of the jurors. Transcripts of the above hearings shall only be completed upon the approval of the trial judge.

(J) The originals of all transcripts prepared in accordance with App.R. 10(A) shall be filed with the Clerk of Courts and stored on a limited access server. Requests for copies of such transcripts shall be referred to the Manager.

(K) Custody of exhibits shall be in accordance with [Loc.R. 4.03](#). Exhibits such as photos, documents, and audio/video recordings shall be placed in an envelope with the case number, case caption, and list of exhibits attached to the outside of the envelope; and filed with the Clerk of Courts. The Clerk of Courts shall place the exhibits in an exhibit envelope, and it shall be filed with the case file. Other tangible exhibits shall remain in the custody of the court's Evidence Custodian in the court's evidence room. If an exhibit is not filed, the individual preparing the transcript shall so indicate, on the Index of Exhibits.

(L) Pursuant to the Butler County Court Reporters/Transcripts Policies and Procedure Manual, all original transcripts are to be filed with the Clerk of Courts, and an electronic copy is to be saved in the appropriate folder on a network shared drive.

3.05 ANNUAL DRAW OF PROSPECTIVE JURORS

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.

Selection of prospective jurors shall be made by a key number system in accord with R.C. §2313.07 as follows:

There is a *random* selection of a predetermined number (for example, 75,000 for the 2012-2013 jury year) 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.

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.

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.

The jury commissioners or their designated representatives shall supervise the actual selection of prospective jurors in accord with this rule and the Ohio Revised Code.

3.06 COMMUNICATIONS AND CONFERENCES WITH COURT

Counsel shall not initiate or institute any discussion on a pending case with the trial judge unless all counsel are present, or have been notified of the discussion to take place and given an opportunity to participate.

3.07 AMENDMENTS

Pleadings and motions may be amended in accord with Civ.R. 15. No motion or pleading may be amended by interlineation or obliteration without leave of court.

3.08 REAL TIME/WIRELESS POLICIES AND PROCEDURES

(A) Definitions (as used in this rule):

(1) “Real time” means the immediate transfer by electronic means of courtroom testimony, and Judge and counsel oral participation, into typewritten form, appearing on a screen.

(2) “Transcript” means conversion of courtroom testimony, and Judge and counsel oral participation, from stenotype into typewritten form.

(3) “Wireless” means a signal sent by radio frequency (RF) from the Court Reporter’s writer to a screen.

(B) Real time is not the official record. The official record is edited for shorthand typing untranslates or mis-strokes, completed and finalized at a later date and the Court Reporter’s signed, official certification is attached.

(C) Counsel who wish to receive real time in the courtroom must:

(1) receive permission from the Trial Judge.

(2) have a wireless-capable device.

(a) If all participating counsel do not possess the necessary equipment, the county will not provide the equipment.

(3) be responsible for going to www.stenograph.com to download CaseViewNet, the free software necessary to receive and interpret the transmission from the Court Reporters.

(4) agree to abide by all conditions and responsibilities set forth by the Trial Judge and this Rule.

(D) If permission is granted, Court Reporter will provide an appropriate access password, or passwords, at the discretion of the Trial Judge.

(E) The county’s Information Technology Department and/or Stenograph will assist Judges and Court Reporters as needed with real time software and wireless issues. HOWEVER, the county Information Technology Department is NOT responsible for assisting attorneys or other non-court personnel in accessing and/or using real time or wireless.

(F) Real time is not the official record. It is provided for use only in the hearing at bar. Real time shall not and cannot be substituted for the final transcript to be filed with the Clerk of Courts (i.e., motion to suppress transcripts to be used at trial, trial transcripts to be used for appeal).

(G) Real time is a convenience provided by the Court. As it is not considered the official record, Court Reporters bear no responsibility for errors (untranslates, mis-strokes). A transcript is not considered the official record until accompanied by a certification page from the Court Reporter.

(H) Real time is provided free of charge. The Court Reporter shall not invoice attorneys or the court or county for this service. However, attorneys will receive a written disclaimer. They will be required to agree to the following:

(1) “The wireless real time about to be accessed is not the final work product of the Court Reporter. It is provided only as a resource for use in the case at bar. The real time provided is not the official record. The official record is edited for errors (untranslates, mis-strokes), completed and finalized at a later date, and the Court Reporter’s signed, official certification is attached.”

3.09 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.

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.

CHAPTER III: 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 and permitted by the judge to do so. 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.
- (H) 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. A request for a view of the scene shall be filed within three (3) working days prior to the trial date and the person requesting the view shall be responsible for obtaining and paying for the transportation which must be deemed adequate by the trial judge.

4.02 SCHEDULING CONFLICTS

(A) No continuance shall be granted because counsel has an assignment in another county or in an inferior court except when such other case commenced at least five (5) days before the date assigned by this court and such other case is still in progress.

(B) No continuance shall be granted as to any case that was scheduled on the trial docket for eight or more months. It shall be the duty of such counsel or party to obtain substitute counsel for the trial of any such case.

4.03 CUSTODY OF EXHIBITS

(A) **Definition:** For purposes of this Local Rule, “Exhibit” means any document or tangible item submitted at any hearing before a judge, magistrate or hearing officer of the General Division of the Court of Common Pleas.

(B) Exhibits offered at any hearing shall be taken into the custody of the bailiff. All exhibits shall be marked with an appropriate exhibit number.

(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;
- (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 exceptions:

- (1) dangerous and sensitive items, such as weapons; illegal drugs, hallucinogens, narcotics; narcotic paraphernalia; and
- (2) exhibits which are oversized or bulky.

These shall be photographed by the bailiff and returned to the attorney who proffered the exhibit and/or arresting agency. All photographed exhibits shall clearly show the exhibit number (Sup.R.26 (D)(1)). 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 Ohio Revised Code.

(D) Oversized, demonstrative exhibits, such as presentation boards, shall be substituted with a duplicate 8½" x 11" exact copy, which shall be provided by counsel introducing such exhibits, and shall be clearly marked with the exhibit number.

(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 present an Entry Granting Request to Release, View, Copy or Listen to Evidence form, signed by a judge and presented 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 request.

4.04 RETENTION AND DISPOSAL OF EXHIBITS

Criminal Cases.

(A) All exhibits admitted (including exhibits in which forensic testing was performed) in cases where the maximum possible sentence is lifelong incarceration or the death penalty, shall be permanently retained in the custody of the court, as the designated governmental evidence-retention entity.

(B) Exhibits defined as “biological evidence” in the Ohio Revised Code and not returned to the governmental evidence-retention entity that proffered the evidence in felony case defined in ORC 2933.82(B)(1)(b) shall be retained for thirty years or until the offender is released from incarceration or dies.

(C) Exhibits in all other felony cases shall be retained for five (5) years from the date of the final entry of conviction, at which time the matter of retention or destruction will be reviewed. Exhibits in misdemeanor cases shall be retained for one (1) year. Pursuant to R.C. 2933.82, the Court shall notify the proper parties and/or agencies prior to destruction of any evidence. Parties or agencies requesting the return or preservation of evidence shall file the appropriate motion which shall be set for hearing before the trial judge. If no motion is received within sixty (60) days, destruction will proceed pursuant to statute.

(D) In cases in which a defendant is acquitted, the exhibits shall be immediately returned to the parties.

(E) In cases of a hung jury, exhibits will be returned to the party, or held in evidence, as deemed appropriate by the Court.

Civil Cases.

(A) Exhibits in matters involving real estate shall be so noted on the Inventory by the bailiff. Such exhibits shall be permanently retained by the Evidence Custodian.

(B) The Court shall retain physical custody of exhibits in all civil cases under appeal for three (3) years from the date of the final judgment entry.

(C) Exhibits in civil cases not appealed shall be held for sixty (60) days.

Disposition of Evidence.

(A) The Evidence Custodian shall cause exhibits to be destroyed in accordance with this Rule, when the following conditions are satisfied:

(1) The Court has sent a file-stamped notification to the party and/or attorney of record who submitted the exhibits indicating:

(a) the exhibits shall be destroyed if not retrieved within sixty (60) days from the date of written notification; and,

(b) the information as to where and when exhibits may be retrieved.

Upon satisfaction of the foregoing conditions, the Evidence Custodian shall file an Order of Destruction, signed by the trial judge, magistrate or hearing officer.

(2) Exhibits defined as “biological evidence” shall be retained in an amount and manner sufficient to develop a DNA profile from the biological material contained in or included on the evidence.

(B) “Biological evidence” may be destroyed following notice to the appropriate parties pursuant to ORC 2933.82 (B) (5).

(C) “Biological evidence” may be destroyed five years after a defendant pleads guilty or no contest to a violation of ORC section 2903.01, 2903.02, or 2903.03, a violation of 2903.04 or 2904.06 that is a felony of the first or second degree, a violation of 2907.02, 2907.03, division (A) (4) or (B) or 2907.05, or an attempt to commit a violation of 2907.02, unless the court finds good cause as to why the evidence must be maintained.

4.05 VIEWS OF THE SCENE

All requests for views of the scene by either party shall be in writing and filed with the Court three (3) business days prior to the trial with notice to the adverse party. Failure to file such notice can, within the discretion of the court, result in a denial of such a request. Also see [Rule 4.01\(H\)](#).

4.06 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 is a waiver. Thereafter, leave of court must be granted in order to submit the issue.
- (D) Briefs shall be limited to fifteen (15) pages, except by leave of court.

CHAPTER IV: CIVIL



DOCUMENT FILING

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. An attorney filing a civil action shall either provide a properly completed Form W-9 or other documentation required by the Butler County Auditor to set up the attorney as a vendor within the County Auditor's accounts payable database, or provide written verification that the attorney is already an established vendor with the County Auditor.

In the event of claimed indigency, said indigent shall file an application to proceed *in forma pauperis*, accompanied by an affidavit in support thereof. The application to proceed *in forma pauperis* is subject to court approval. See Appendices [A](#), [B](#) and [C](#) 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, pursuant to [Loc.R. 6.05](#). 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, pursuant to Sup.R. 11(F).

(C) Return of unused court costs shall be to the appropriate attorney of record, provided, however, that no check for unused costs will be issued to an attorney who is not an established vendor with the County Auditor.

(D) Cases transferred to the Common Pleas Court in which the demand of the counterclaim or the cross-complaint exceeds the monetary jurisdiction of any other jurisdiction, the counterclaimant or cross-complainant shall, within ten (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 DESIGNATION OF PLEADINGS

All complaints filed with the Butler County Clerk of Courts shall be captioned in one of the following ways:

- (1) Complaint - Professional Tort
- (2) Complaint - Product Liability
- (3) Complaint - Other Torts
- (4) Complaint - Workers Compensation
- (5) Complaint - Foreclosure
- (6) Complaint - Administrative Appeal
- (7) Complaint - Other Civil

5.03 FILINGS

(A) Retained counsel in all cases shall file a *Notice of Appearance* form 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; and,
- (7) party or parties attorney represents.

(See [Appendix K.](#))

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 immediately reported by the filing of a new Notice of Appearance.

(C) Upon receipt of the filing of a Notice of Appearance, the Clerk will immediately enter all attorney information into the database.

(D) 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, or by hand delivery. In addition, the certificate shall state the name, business address, and fax number (if used) for service of each attorney or party to whom the filing is directed and shall be signed in accordance with Civ.R. 11.

5.04 FILING OF DOCKET STATEMENT

Upon the filing of any complaint, the party filing the same shall also file the original and one copy of a Docket Statement (see [Appendix D](#)).

5.05 LEAVE TO FILE

Leave of court may be granted *ex parte* for an additional thirty (30) days for filing of an answer or reply within the discretion of the court, whose endorsement on the entry shall be sufficient, provided there is no default and that no entry of default or motion for default judgment has been filed, and notice of the extension shall be immediately served, by counsel obtaining the extension, on all counsel of record or parties in the action.

5.06 FACSIMILE TRANSMISSION FILINGS

In conformity with Civ.R. 5(E), pleadings and other papers may be filed with the Clerk of Courts by facsimile transmission, subject to the following provisions:

(A) A document filed by facsimile transmission shall be accepted as the effective original document, consistent with Civ.R. 5(E). The sender need not file the source document if the sender retains possession of the source document until the case is closed and all opportunities for post-judgment relief have been exhausted. The sender represents that the document is in his or her possession and agrees to 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, and provide therewith a cover page, which shall include the following information:

- (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, Supreme Court registration number and e-mail address of the attorney submitting the facsimile 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.

If a document filed by facsimile transmission does not have a cover page containing all the required information, the Clerk will forward the document to the assigned judge. The assigned judge may choose to reject, accept or modify the transmitted document. A facsimile filing rejected by the assigned judge shall be considered a nullity and stricken from the record. The Clerk shall forward the document to the assigned judge, who shall report the failed filing to the sender.

(D) Subject to (F) and (G) below, documents transmitted by facsimile shall be accepted at any time of any day (seven days per week, twenty-four hours per day). The date and time of receipt shall be that imprinted by the receiving facsimile machine.

(E) Subject to (F) and (G) below, and notwithstanding the date of receipt referenced above, the effective date and time of the filing of a document received by facsimile transmission shall be the date and time of the facsimile transmission. Facsimile filings received outside normal business hours shall be date-stamped with the date of receipt imprinted by the receiving facsimile machine by the Clerk of Courts on the business day next following receipt of the facsimile filing.

(F) Facsimile filings shall be typewritten in twelve-point font on 8½" x 11" paper. Facsimile filings shall not exceed fifteen (15) pages in length without prior leave of court. Filings which cannot be transmitted accurately by facsimile shall be filed in person or by mail.

Total length of one or more exhibits shall not exceed fifteen (15) pages. Total length of facsimile filings, including exhibits shall not exceed thirty (30) pages. Exhibits which exceed fifteen (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 fifth (5) business day following the transmission.

(G) The sender shall file with the Clerk of Courts applicable fees and costs on or before the close of business on the fifth (5) business day after the date of transmission. Failure to pay the applicable fees and costs shall result in the document being stricken without motion; the document shall thereupon be deemed not filed.

(H) 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.

(I) This rule does not apply to [Loc.R. 5.07](#).

5.07 ELECTRONIC TRANSMISSION FILINGS

Asbestos and Certain Foreclosure Cases.

In conformity with and pursuant to Civ.R. 5(E), and limited exclusively to designated asbestos cases and to cases commenced by the Prosecuting Attorney for foreclosure of the lien of the state of Ohio for delinquent taxes filed in this court, any pleadings, motions, and other papers, with the exception of any pleading which requires a deposit or fee to accompany the filing, may be transmitted to the Clerk by electronic submission, subject to the following provisions:

(A) A pleading that requires accompanying fees shall be transmitted to the Clerk in proper format.

(B) A pleading, motion, or other paper transmitted electronically shall be submitted to the Clerk as a digital image in the Adobe Portable Document Format (pdf)[©] through an e-filing portal maintained by the Clerk of Courts using a unique identifier assigned by the Clerk to the person responsible for that filing; pleadings may NOT be transmitted to the Clerk as an e-mail attachment. The unique identifier shall serve as the electronic signature of the person responsible for such document's filing for purposes of Civ.R. 11 and for all other purposes for which signature is required on a pleading, motion, or other filed paper, including a certificate of service on all parties entitled to service. The unique identifier shall be integrated into, or attached to, the digital image so that any subsequent alteration of the image will be apparent. (C) An electronic submission shall comply with all filing procedures prescribed by the Clerk. All electronic submissions are subject to review and acceptance by the Clerk.

(D) All documents filed electronically with the Clerk in accordance with this rule shall be served in accordance with the Rules of Civil Procedure, provided, however, that if the Clerk makes an eService application available as a part of the Clerk's E-Filing System, a party making an electronic submission may comply with the requirements of Civ.R. 5 through the use of the eService application for all parties who are registered for that application.

(E) A pleading, motion, or other paper filed electronically shall be accepted as the original. The digital image must bear either an image of the filer's signature, or an "/s/", to indicate that the filer has adopted the document depicted in the image. If it is established that a document filed electronically was transmitted without authority, the Court will order the filing stricken.

(F) A copy of the digital image received by the Clerk shall be printed by the Clerk and placed in the paper case file as an original. The digital image shall be maintained by the Clerk as an archive document in TIF format, subject to existing records restoration rules and procedures. All digital images shall be made available for public access.

(G) Electronically submitted filings will be received twenty-four hours per day seven days per week while the Clerk's system is on-line and operational. Unless an electronic submission is rejected by the Clerk after review, a pleading, motion, or other document submitted

electronically shall be considered filed at the time and date reflected by the encrypted time designated by the Clerk's web server and the physical version shall be date-stamped to reflect the date of the electronic version. For the benefit of the sender, the Clerk's computer shall provide an electronic confirmation receipt to acknowledge transmission and time of arrival, after a filing is received. The facsimile transmission of pleadings will remain as an alternative option available for submission pursuant to [Loc.R. 5.06](#).

(H) No additional fees will be imposed by the Court for electronic filing. Each electronic submission shall be limited to one (1) filing per individual electronic transmission.

(I) Filing by this alternative electronic option is a courtesy offered by the Court of Common Pleas and the Clerk of Courts. It is not required or recommended. For this reason, all risks attendant to the use of electronic filing shall be borne by the sender.

5.08 CAPTIONS ON MOTIONS, JUDGMENTS AND ORDERS

The Clerk of Courts enters all filed documents in the computer 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 insert into the computer. 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 specific remedy sought or granted.

When there are multiple parties, plaintiffs or defendants, and the remedy does not affect all parties, those affected shall be specifically identified by name, as well as case identification. For example: "Motion for Summary Judgment by Plaintiff, Mary Jones, against Defendant, Sam Smith"; "Motion for Summary Judgment by Plaintiff, Mary Jones, on Cross-Claim against Defendant, Sam Smith." A reference to only "Plaintiff" or "Defendant" in the caption will be assumed by the Clerk to include all plaintiffs or defendants.

5.09 JUDGMENTS, ORDERS, OR DECREES

(A) No judgment, order or decree shall be submitted to a judge for signature or approval while the judge is on the bench.

(B) Any judgment, order or decree endorsed by all counsel may be left with the court administration office. If appropriate, it will be signed by the trial judge and delivered to the Clerk's office.

(C) Every judgment order, other than those prepared in accordance with Loc.R. 6.02 (F) or (G), shall be submitted by the prevailing party to the opposing party or counsel, who shall approve and return the same for filing to the prevailing party or his or her counsel within fourteen (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 judgment order is not returned to the prevailing party or counsel within fourteen (14) days after mailing and a request for hearing has not been requested, the prevailing party or counsel shall submit a duplicate original judgment order to the trial court. The trial court shall endorse it for filing, if appropriate, upon proof of service of the original. A certificate of service or a copy of the original or a dated copy of a letter to the non-prevailing party or his or her counsel enclosing the original shall be *prima facie* evidence of its receipt.

(D) Upon direction of the court, the attorney designated to prepare a judgment entry may serve the proposed judgment entry on all other attorneys of record in the action and give notice that:

(1) Said proposed judgment entry will be presented to the court for approval on the date and time specified in the notice, not less than fourteen (14) days following said notice;

(2) All parties objecting to the proposed judgment entry shall appear in person, or by setting forth their objections in written form;

(3) The failure to so appear will be deemed to be an approval of the proposed judgment entry, and,

(4) All judgment orders and decrees shall be filed in duplicate with the Clerk of Courts who shall deliver a file-stamped copy to the court administration office.

(E) All final appealable judgments or orders shall state in the caption "Final Appealable Judgment/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 Supreme Court in Civ.R. 58(B).

Counsel shall furnish to the Clerk of Courts the name and address of all counsel and/or parties entitled to notice of the filing of a final appealable judgment/order.

MISCELLANEOUS

6.01 TRANSFERS OF REFILED CASES AND CONSOLIDATED CASES

(A) Refiled Cases.

(1) In any instance that a previously-filed and dismissed case (“original case”) is refiled (“refiled case”), the refiled case shall be reassigned to the Judge assigned the original case.

(2) The caption of the refiled case shall indicate that it is a refiled case and shall include the original case number and the Judge to whom the original case was assigned (See [Appendix M](#)). Counsel shall deliver a courtesy copy of the complaint and proposed entry transferring the case (See [Appendix N](#)) to the Judge to whom the original case was assigned.

(a) Upon receipt of the courtesy copy and proposed entry, the Judge shall sign the proposed entry and forward the same to the Administrative Judge for processing.

(b) If the Judge to whom the case is to be assigned has cause not to receive the case, he shall indicate by entry.

(B) Consolidated Cases.

(1) 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 and a proposed entry with signature lines for each Judge and the Administrative Judge shall be delivered to the Judge with the lowest case number.

(a) 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.

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

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

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

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

6.02 MOTIONS

(A) All motions, including, but not limited to, motions under Civ.R. 56, shall be supported by a memorandum that is incorporated into or annexed to the motion. Motions and supporting memoranda shall be filed in duplicate. The Clerk of Courts shall deliver the file-stamped duplicate copy to the court administration office, which shall be responsible for delivering it to the trial judge to whom the case has been assigned. In addition, counsel shall deliver a courtesy copy to the trial judge. All motions shall contain within the caption thereof the name of the judge to whom said case has been assigned. Service of motions shall be effected pursuant to the provisions of Civ.R. 5.

(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) All motions, shall be submitted for decision without oral argument unless the original motion or subsequent memorandum either in support of or in opposition to the motion contains the wording “Oral Argument Requested” in the caption. The Court may order oral argument on any motion.

(D) Unless an extension of time is granted for good cause shown, any memorandum in opposition to a motion, or a memorandum of a co-party in support of the motion, shall be filed within twenty-one (21) days of the service of the motion and the movant shall file any reply memorandum in support of the motion within ten (10) days of the service of the last memorandum in opposition. No memorandum shall exceed fifteen (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 as prescribed by Civ.R. 12, or the filing of memoranda, may be obtained by leave of court for a period not to exceed thirty (30) days when no such prior extension has been granted. All extensions exceeding thirty (30) days, and all subsequent extensions, shall be granted by the trial judge to whom the case is assigned only upon written approval of opposing counsel or upon motion filed in compliance with part (A) hereof.

(F) Upon final submission of a motion to the Court, the trial judge to whom the case is assigned may incorporate in an opinion or decision an order that the prevailing party prepare an order in accordance with the opinion or decision, or the trial judge may prepare and file the judge’s own order granting or denying all or part of the relief sought. If an order is not presented to the trial judge for approval within fourteen (14) days after mailing the decision to all counsel, the trial judge may prepare and file an order in accordance with the judge’s decision or opinion.

(G) Upon receipt of an order prepared by the prevailing party or counsel, in accordance with a decision or opinion of a trial judge, the non-prevailing party or its counsel shall, within seven (7) days, approve the order and return the same to the prevailing party or attorney. If, within ten (10) days of the rendering of a decision or opinion, the parties or their counsel are unable to agree on the language of an order, the parties or their attorneys shall each submit an order to the trial judge for approval. The trial judge shall approve and file the order that conforms to the decision or opinion or the court may prepare and file its own order.

(H) All dispositive orders on motions shall be filed in duplicate with the Clerk of Courts, and a duplicate copy shall be delivered to the trial judge's chambers.

(I) All emergency and interlocutory motions shall be heard and assigned pursuant to Sup.R. 4.

6.03 DEFAULTS

Default judgments shall be handled pursuant to the provisions of Civ.R. 55. No default judgment shall be granted on any claim for unliquidated damages without evidence in support thereof presented or submitted to the trial judge to whom the case is assigned or, if unavailable, to any judge of the Common Pleas Court.

All motions for default judgment and all orders granting default judgment shall include the date of service of summons upon each party against whom service 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.

6.04 DISCOVERY

(A) In submitting interrogatories and requests for admissions, a party or counsel shall mail the original and one copy to the party or counsel of record for the party to whom the interrogatories or requests are addressed with one copy to all other parties or counsel of record. A certification of service typed and signed on the interrogatories or request shall be *prima facie* evidence of their mailing. The party or opposing counsel for the party shall type the answer or objection to each question on the original and forward the original to the addressing party or counsel with a copy to all parties or counsel of record within twenty-eight (28) days, unless the parties agree or the Court orders modification of that time period.

(B) 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.

(C) Civ.R. 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 [Loc.R. 6.02](#).

(D) No objections, motions, applications or requests related to discovery shall be filed under the provisions of Civ.R. 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.

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

6.05 VIDEO DEPOSITIONS

At least five (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 trial 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.

6.06 ASSIGNMENT FOR REPORT

- (A) The assigned Court shall schedule the case for report before the assigned trial judge no later than 180 days after the filing of the complaint. Only counsel of record need be present at this hearing. All counsel must orally represent at the report that they have reviewed their file and have generally discussed the case with opposing counsel prior to the report, and that they are prepared to discuss all matters set out in (B) below.
- (B) At the initial report hearing the attorneys for the parties shall advise the trial judge the nature of the case, the time needed for purposes of discovery, the estimated time for trial, and the status of settlement negotiations. At the hearing, the trial 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.
- (C) If trial counsel and the parties agree to the submission of the case to voluntary, binding arbitration, the Court shall order the matter transferred to such arbitration as hereinafter provided. The court may also order compulsory non-binding arbitration.
- (D) Motions will neither be argued nor considered at report hearings.
- (E) At the report hearing, a pretrial and trial date may be selected.
- (F) Any court order contemplated by [Loc. R. 6.07\(D\)](#) (pretrial orders) may also be ordered at the report conference.
- (G) Following the report hearing, no case file shall be left absent a pending date on which the matter will again come before the Court.

6.07 PRETRIALS

(A) In addition to the report to the Court, as previously discussed, all cases shall be pre-tried, unless referred to voluntary binding arbitration otherwise ordered by the Court. 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 procedure.

Unless otherwise ordered by the pretrial order of the trial judge:

(B) Trial counsel for each and all respective parties, shall appear at pretrial. However, with prior 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, the trial counsel for an insured party may appear for the party and the carrier.

Trial counsel has a duty to make a full and fair disclosure of his or her views on the issues at pretrial. If counsel does not disclose witnesses at pretrial, they may be disallowed.

(C) At least seven (7) days prior to the pretrial conference, trial counsel for each of the parties shall file a pretrial statement. Unless otherwise ordered by 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:

Discovery - Counsel shall advise the court of the status of discovery and, if not completed and a cut-off date for discovery has not been exceeded, counsel shall advise the court of the additional discovery anticipated and the time necessary to complete it. If a cut-off date for discovery has passed and no extension has been granted, the trial court may order additional discovery only upon good cause shown.

(2) **The Status of Settlement Negotiations** - Trial counsel shall advise the court of demands for, or offers of, settlement to date or the current status of settlement negotiations.

(3) **Exchange of Medical and Expert Reports** - Trial counsel for each of the parties shall advise the court of the expert or medical witnesses that counsel expects to testify at trial. 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 to pretrial statement, along with the name of each expert from whom a report was received and a statement or notation that a copy was forwarded to opposing counsel or a statement as to why a report was not furnished.

(4) **Special Damages** - Where appropriate, trial counsel shall list all special damages and shall furnish to opposing counsel verification of these damages. Where lost wages or impairment of earning capacity are claimed, the basis on which the claim will be proven (i.e. testimony of the party, employee, etc.), shall be set forth.

(5) **Exhibits** - Trial counsel shall set forth those exhibits in existence which counsel expects to introduce during the trial of the case, such as photographs, plots, deeds, medical bills or expenses, etc. Except for medical, drug and hospital expenses covered in Part (3) hereof, all listed documents shall be presented to the court at pretrial. Counsel shall also list those exhibits not in counsel's possession, which counsel expects to introduce at trial such as x-rays, diagrams, etc.

Each attorney should mark his or her own anticipated exhibits. Plaintiff shall use numbers 1, 2, 3, etc., and defendants shall use letters A, B, C, etc. Each side should present exhibits to the other side before trial for examination so that time will not be consumed in the courtroom for examination. Each party should date and initial the exhibits of the other side at the time of the examination. If the exhibit can reasonably be anticipated to be used during trial we will not use court time for purposes of marking or examining the exhibits. Counsel shall furnish the bailiff and the court with a list identifying each exhibit with the accompanying identifying number or letter.

(6) **Other Matters** - Trial counsel shall set forth those additional items or requests which may aid in, or affect, the trial of the cause such as:

- (a) Request for a view of the scene;
- (b) Any anticipated delay of trial because of a problem scheduling a witness;
- (c) Request for amendments of the pleadings, leave to file motion for summary judgment, dismissal, etc.;
- (d) Requests for admissions;
- (e) Request for sanctions pursuant to Civ.R. 37.

(7) **Arbitration** - Trial counsel, or a party if unrepresented, shall set forth his or her request for, or objection to, the submission of the cause to compulsory nonbinding arbitration. If trial counsel or the parties agree, the court shall order the matter submitted to voluntary, binding arbitration, as hereinafter provided upon written approval of counsel and the parties. The court may, as hereinafter provided, order the matter submitted to compulsory nonbinding arbitration.

(D) **Pretrial orders** - At the completion of a pretrial conference, the court may prepare and file a pretrial order as set out in Civ.R. 16. Among other items, the court may order any or all of the following:

- (1) A cut-off date for furnishing of the names and addresses of witnesses. A cut-off date may be extended only for good cause shown and upon written motion.
- (2) An order for additional discovery and/or a new cut-off date for discovery.

- (3) An order that counsel supply medical or expert reports and a date for compliance.
 - (4) An order permitting or denying requests for amendments of the pleadings or filings of motions.
 - (5) Memoranda on unusual evidentiary problems, which can be reasonably anticipated, in support of admission and/or non-admission into evidence.
 - (6) Proposed findings of facts and law on issues tried to the court, to be filed seven (7) days in advance of trial.
 - (7) Any other order which memorializes the action at pretrial.
- (E) **Trial Date** - Upon completion of the pretrial conference, counsel for the parties and the trial judge shall select or confirm a trial date. Once selected or confirmed, the trial date shall not be vacated except upon written motion and for good cause shown or upon order of court.
- (F) **Other** - In addition to those sanctions provided in Civ.R. 37, the Court may order the dismissal of an action or the granting of all or part of the relief sought in a complaint or such other order as the Court deems appropriate for failure of trial counsel to comply with a pretrial order, including the exclusion of certain evidence or the disallowance of the testimony of any witness.

The Court may delegate the responsibility for preparing a pretrial order to any one of the trial counsel present. If so ordered, the pretrial order shall be presented to the trial court with proof of service of copies on all counsel of record or to the parties if not represented. The Court shall approve and file the order, if appropriate, within seven (7) days of its presentation. Any objection to the pretrial order as presented shall be submitted in writing to the trial judge within seven (7) days of its presentation.

An issue not covered in a pretrial order, but tried with consent of the parties, shall be treated as if such issue had been included in the pretrial order.

Stipulations or agreements of facts, issues or exhibits by the parties and counsel in a pretrial order are binding on the parties and are admissible at trial without further proof.

The Court, upon timely motion or on its own motion, may modify a pretrial order where no substantial injury to another party is caused thereby to prevent a grave injustice to the injured party.

6.08 SETTLEMENT

If a 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 sixty (60) days, re-open the action if settlement is not consummated. See [Appendix E](#) for sample “Order of Dismissal.”

6.09 OBJECTION TO MAGISTRATE'S DECISION

- (A) Persons filing an objection to a magistrate's decision shall obtain a hearing date from the court administration office. All objections shall contain a notice of the date, time and place of the hearing. Anyone objecting to a magistrate's finding of facts shall provide the court with a typewritten transcript of the proceedings at his or her cost.
- (B) All magistrates' hearings shall be recorded.

6.10 APPEALS TO COURT OF COMMON PLEAS

- (A) In all cases in which demand or request to the agency by the 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 ten (10) days of the filing of the transcript. Time limitations as set forth in [Loc.R.6.02 \(D\)](#) 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 twenty-one (21) days after the filing of the transcript of the record; the appellee shall file his or her brief within fourteen (14) days after the filing of the brief of the appellant and any reply brief shall be filed within seven (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 fifteen (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 Civ.R. 41(B)(1).

6.11 RECEIVERSHIP

The following rule shall apply to receiverships, except as provided in [Loc.R. 8.03, Receivers in Foreclosure Actions](#).

(A) A receiver may be appointed by a judge of the Court of Common Pleas as provided in R.C. §2735.01. No party, attorney, or person interested in an action shall be appointed receiver therein except by consent of the parties (R.C. §2735.02). The Court, whenever a receiver is appointed, shall also appoint an attorney for the receiver. Said attorney shall in no case be an attorney who also represents the party who is placed into receivership.

(B) A written notice shall be given to the opposite party, or the party's agent or attorney, of all applications for the appointment of receivers and injunctions, unless the Court, or a judge thereof, upon good cause shown, dispenses with the same. The notice shall state the time when the application will be made.

(C) A receiver shall be appointed by the judge to whom the case is assigned.

(D) When a defendant consents to the appointment of a receiver, there shall be presented to the Court a complete statement of assets and liabilities as of the nearest date obtainable, verified by an officer, if a corporation, or one of the partners, if a partnership, or by the proprietor, if a proprietorship. The assets shall include cash, accounts receivable, inventory, securities, and, buildings, equipment and anything else of value known to the affiant. Liabilities shall include indebtedness to banks, notes payable, accounts, mortgages payable, accrued taxes, and other known contingent liabilities.

The defendant or defendants so consenting shall by answer set forth these several facts, together with their consent to the appointment.

(E) A motion for the appointment of a receiver based upon an open account will be denied where there is no showing on the face of the application of equitable grounds requiring the appointment of a receiver.

(F) Temporary restraining orders which are allowed without notice shall not continue in force for more than fourteen (14) days without a hearing, unless otherwise ordered by the court.

(G) No person shall be appointed receiver who does not at the time of appointment live in this county unless for good cause it is otherwise ordered by Court.

(H) Upon appointment, a receiver shall immediately qualify and forthwith give a bond in the amount required by the court, to the satisfaction of the Clerk, who shall notify the Court that the bond has been given. In the event the receiver fails to so qualify and give bond after appointment, such appointment shall be voidable by the Court which appointed the receiver, either on its own motion or the motion of any interested party.

(I) 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 two weeks after appointment unless the time is extended by the court for good cause shown. Appraisals shall be in detail unless otherwise ordered by the court.

(J) Vacancies in receiverships shall be called to the attention of the court by receiver's counsel as soon as the vacancy occurs.

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

(L) A receiver who, upon application is permitted to operate a business as a going concern, shall at the expiration of each thirty- (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.

(M) Within thirty (30) days after appointment, a receiver shall file with the Court a list of all the known creditors and their last known addresses and give notice by mail, or as otherwise required by the court, to all said known creditors to file their claims within twenty (20) days from the date of said notice. Receiver shall, in the same notice, inform them that unless filed they will not, without order of the court, be permitted to be filed at a later date. The receiver shall, at the same time, also notify the proper department, subdivision or officer of the county, state, federal or municipal government having claims against the receivership. A list of all claims timely filed shall be made and filed with the Court by the receiver after the time fixed for filing.

(N) In addition to the above notice requirement, the receiver shall cause publication of receiver's appointment to be given once within thirty (30) days following appointment. The notice shall set forth the full name of the party placed into receivership including all names under which party has done business in the previous two (2) years and the case number of the receivership. The notice shall also state that the creditors of the party shall file any claims within twenty (20) days from the date of the notice and that unless filed, their claims will not, without order of the court, be permitted to be filed at a later date.

(O) Claims arising out of judgments shall be accompanied by a certified copy of the final entry thereof. 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 fourteen (14) days, to comply therewith.

(P) 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.

(Q) 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 therefor.

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

(S) Exceptions to the accounts of receivers or any allowances made to them by the court must be filed within twenty (20) days after such accounts are filed or allowances made.

6.12 PAYMENTS BY THE CLERK OF COURTS

The Clerk shall not make any distribution, return of unused costs, or other payment to an attorney unless the Clerk is able to determine that the attorney is an established vendor with the County Auditor. In the event that the Clerk defers a payment which is due to an attorney because the Clerk is unable to determine whether that attorney is an established vendor with the County Auditor, the Clerk shall notify the attorney in writing that a payment is due to the attorney, but that the payment will not be made until the attorney either provides the Clerk with a properly completed Form W-9 or other documentation required by the Butler County Auditor to set up the attorney as a vendor within the County Auditor's accounts payable database, or provides the Clerk with written verification that the attorney is already an established vendor with the County Auditor.

6.13 CERTIFICATE OF QUALIFICATION FOR EMPLOYMENT

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 Revised Code 2953.25 and in related rules established by the Department of Rehabilitation and Corrections (DRC), found in Ohio Administrative Code 5120-15-01.

(A) 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.

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

(C) Before the Petition will be accepted for filing, the Petitioner must pay all appropriate court costs. Payment of this deposit may be made in any form otherwise accepted in the court of filing. Of the appropriate court costs, two-thirds (2/3) shall be paid into and applied to the General Division Special Projects fund and one-third (1/3) shall be paid into the general fund on behalf of the Clerk of Courts Legal Division.

(D) All social security numbers and other information that must be excluded from public record shall be redacted in accordance with the rules of this court and the Rules of Superintendence. Records or information received by a court to assist the court with making its decision under Section 2953.25 of the Revised Code, including information included on a petition, shall retain its character as public or non-public records, as otherwise provided in law. CQE petitions shall not be viewable on the Clerk of Courts' website.

(E) 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.

(F) The Court shall order and obtain a criminal history for the Petitioner, through an investigation conducted by the Probation Department.

(G) 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.

(H) 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.

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

(J) The Judge or magistrate 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, a Judge shall decide whether to grant or deny the Petition within sixty (60) days, unless Petitioner requests, and is granted, an extension of time. The decision to grant or deny a Petition may be referred to a Magistrate, and then sent to the Judge for a final Judgment Entry and Order. All notice and objection periods regarding a magistrate's decision would apply as set forth in the civil rules.

(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.

ALTERNATIVE DISPUTE RESOLUTION

7.01 COMPULSORY NON-BINDING OHIO NON-CONFORMING MOTOR VEHICLE ARBITRATION (Lemon Law Violations)

The intent of this rule is to effectuate the expedient resolution of motor vehicle litigation between parties under R.C. §1345, *et seq.*

(A) Cases for Arbitration.

(1) Any case filed in the Court of Common Pleas and containing a claim for relief under the Ohio Lemon Law, R.C. §1345.71 *et seq.*, may be heard and decided by an arbitration board, consisting of not more than three members of the Bar of Butler County, Ohio, to be selected as provided in [Loc.R. 7.04](#) (A).

(2) Such cases as qualify for arbitration under this Rule may be referred to arbitration by the assigned judge not later than thirty (30) days after all answers have been filed and shall be scheduled for arbitration by the court administration office before a board of arbitration not later than one hundred, twenty (120) days after said referral.

(B) Discovery.

(1) Plaintiff's Required Disclosure.

(a) In addition to any other applicable rules of discovery, within thirty (30) days after service of all defendants' answers, plaintiff shall disclose to all defendants:

(i) The names and job positions, if known, of any of defendants' employees with whom plaintiff has had contact concerning the vehicle involved in the case;

(ii) The identity of any non-party who performed work or service upon the vehicle involved in the case;

(iii) A list of all complaints about the vehicle made by plaintiff to any authorized dealer, the name of the dealer, and the date each complaint was made; and,

(iv) A summary of any expert witness reports, if any.

(b) In addition, at the same time, plaintiff shall provide to all defendants a complete and accurate photocopy of such of the following documents as may be in plaintiff's possession:

(i) Any printed advertisements for the vehicle upon which plaintiff intends to rely;

(ii) The contract of sale;

- (iii) The finance contract;
 - (iv) The date of sale odometer statement;
 - (v) Any written warranties or service contracts upon which plaintiff intends to rely;
 - (vi) Any deposit or down payment receipts which plaintiff may possess;
 - (vii) Any evidence of title which plaintiff may possess;
 - (viii) All repair records;
 - (ix) Any recall notices received;
 - (x) Any correspondence with any defendant; and,
 - (xi) Any correspondence with any private or third party dispute resolution system.
- (1) Defendants' Required Disclosure.

In addition to any other applicable rules of discovery, within sixty (60) days of the filing of a defendant's answer, defendant shall provide a complete and accurate photocopy of such of the following documents as may be in defendant's possession:

- (i) A computer printout or similar summary of the vehicle repair history from the vehicle manufacturer's records;
 - (ii) Copies of repair records;
 - (iii) An index of any service bulletins or advisories issued by the manufacturer on the subject vehicle;
 - (iv) Any franchise agreements between the manufacturer of the vehicle and every franchisee who performed warranty work on the vehicle;
- Any non-privileged correspondence with any other party to the litigation regarding the vehicle;
Any correspondence with any private or third party dispute resolution system;
Any appraisal records on any trade-in motor vehicle relevant to the lawsuit;
The vehicle inventory record (i.e., the "washout sheet") for the vehicle and any trade-in vehicle;
The contract of sale;
The deal work sheet;
Any extended warranty or service contract application form;
Any records of inspection regarding the subject vehicle other than those which are not discoverable under the Civil Rules; and,
Plaintiff's credit application.

(a) In addition, at the same time, each defendant shall disclose to plaintiff the names and job positions of any of defendant's employees with whom plaintiff has had contact concerning the vehicle involved.

(3) In addition, if the purchase of the subject motor vehicle was financed, and the financier is a named party to the litigation, or in the event that the vehicle was the subject of a lease transaction which was assigned to or made by a financial institution which is a named party, then such financier or financial institution shall provide the following documents to all other parties within thirty (30) days of the filing of its answer:

(a) Any documents which bear the signature of plaintiff and relate to the subject vehicle; and,

(b) A computer printout or other summary showing the loan history over:

(i) the life of the loan, including, all payments whether timely, early or late, and showing all the amount of those payments credited toward principal or interest,

(ii) the balance remaining after each monthly payment, and,

(iii) if any, the interest rate dealer reserve schedule applicable between the financier or financial institution and the retail seller of the vehicle on the date of sale.

(4) **Witness and Evidence Disclosure.** In addition to the above, no less than thirty (30) days prior to the arbitration hearing, all parties shall:

(a) produce to all other parties copies of all documents not already produced upon which they intend to rely or otherwise introduce into evidence at the arbitration hearing; and,

(b) identify all witnesses who will testify at the arbitration hearing, with each expert witness so designated in the disclosure, along with the name of his or her field of expertise and a copy of the expert's written report or a summary of his or her opinions.

(5) **Compliance with (A) above Not deemed Waiver of Objection.** The specifications of this Rule shall not be interpreted to restrict any party from engaging in discovery otherwise permitted by the Rules of Civil Procedure and shall not act as a waiver of any objection by any party to the introduction of documents or witnesses at an arbitration or trial proceeding.

7.02 VOLUNTARY BINDING ARBITRATION

(A) **Procedure** - All arbitration proceedings governed by this Rule shall be conducted in the same manner as those governed by [Loc.R. 7.04](#), except as is further provided in this Rule.

(B) **The Agreement** - The agreement submitting the action to binding arbitration shall be filed with the court and shall be signed by all parties to the action and their counsel. The agreement must affirmatively state, in a separate paragraph directly above the place for signatures and in all capital letters, that each party understands that by agreeing to submit the action to binding arbitration the party is forever waiving party's right to have a trial of the facts before either a jury or a judge.

(C) **Relief from the Agreement** - Once the agreement submitting the action to binding arbitration has been signed and filed with the Court, no relief therefrom shall be granted by the Court except upon a showing, by clear and convincing evidence, of fraud, duress, corruption, undue influence, or other good and just cause.

(D) **Default of a Party** - The arbitration may proceed in the absence of any party who, after due notice, fails to be present or fails to obtain an adjournment. An award shall not be made solely on the default of a party; the board of arbitration shall require the other party to submit such evidence as it deems necessary for the making of an award.

(E) **Appeal** - Appeals to the court from an award rendered in an arbitration proceeding under this Rule shall be on the record of the arbitration hearing and shall be limited to questions of law as set forth in R.C. §§2711.01 through 2711.20, inclusive, and shall be commenced by the filing of written objections to the arbitrator's report.

After a hearing on said objections, the Court shall affirm, modify, reverse or vacate the decision of the arbitrator and enter judgment accordingly.

(F) **Continuance of Hearing** - One continuance of the hearing date originally assigned may be allowed by the Chairman of the board of arbitration. The party requesting the continuance has the obligation to notify all arbitrators, counsel of record and the court administration office of any such continuance. A request for continuance shall be made no later than five (5) days prior to the date set for hearing. No untimely requests shall be granted without leave from the judge to whom the matter is assigned.

7.03 MEDICAL CLAIMS ARBITRATION

(A) **Purpose.** The purpose of this rule is to provide procedural guidelines for the hearing of cases submitted to arbitration pursuant to R.C. §2711.21, and any conflict between these rules and applicable statutes shall be resolved in favor of the statute.

(B) **Required Deposits.** Upon referral of a matter to arbitration, each side shall deposit the sum of seven hundred fifty dollars (\$750) with the Clerk. Such sums shall be put toward amounts which the court may allow as compensation for the arbitrators. These amounts may be varied by the court for good cause shown.

(C) **Decisions by the Panel Chair.** Once the arbitration panel is appointed to hear a case, all matters relating to the case, except motions timely filed under Civ.R. 12 or Civ.R. 56, shall be decided by the chair of the arbitration panel. A copy of all such motions shall be served upon the chair of the arbitration panel as well as all persons required to be served by Civ.R. 5. No appeal of a decision of the chair may be granted until after the case is heard by the panel and a decision rendered.

(D) **Pretrial Conference.** As soon as is practicable after the appointment of the panel, the chair shall schedule a pretrial conference and give notice of the time and place to all members of the panel and all parties or counsel of record. The parties shall comply with the provisions of [Loc.R. 6.07](#) prior to the pretrial date and, following the pretrial, the chair may make orders authorized under [Loc.R. 6.07](#).

(E) **Hearing.** At the hearing before the arbitration panel, each party shall make a good faith effort to prevail on the merits of the case. Upon motion of any party and in the discretion of the court, failure to make a good faith effort may result in exclusion of evidence at trial which the party failed to present at the arbitration hearing.

(F) **Panel's Written Report.** After hearing the evidence and arguments presented by the parties, the panel shall prepare a written report and award. Upon the request of any party, the report shall also contain a statement of the findings of fact and conclusions of law reached by the panel in making its decision. Any dissenting opinion shall also be in writing and shall contain a statement of any findings of fact and conclusions of law from which the panel member dissents.

(G) **Court Reporter Fees.** If the parties agree to hire a court reporter to attend the arbitration hearing, they shall equally share the reporter's appearance fee and each party shall pay the costs of any transcript which they order.

(H) **Acceptance or Non-Acceptance of Arbitrators' Decision.** Upon the filing of the arbitrators' decision and award, a copy shall immediately be served upon each party or his or her counsel of record. Within thirty (30) days of the filing of the award, any party who does not accept the award shall amend his or her pleadings in accordance with R.C. §2711.21(C). If no party so amends his or her pleadings within thirty (30) days, all parties shall be deemed to have accepted the award and the Court shall enter judgment thereon.

7.04 ARBITRATION PROCEDURES

(A) Selection of Arbitrators - In all cases subject to arbitration, the members of the board of arbitration shall be appointed by rotation by the court administration office from the list of members of the Bar of Butler County, unless parties choose their own panel as provided for herein. The members of the Bar eligible to act as arbitrators shall include only those who have requested that their names be on the arbitrator's list. Attorneys desiring to be added or deleted from the list must notify the court administration office. Not more than one member of a law partnership or an association of attorneys shall be appointed to the same panel, nor shall an attorney be appointed to a panel who is related by blood or marriage to any party to the case or to any attorney of record in the case, or who is a law partner or an associate of any attorney of record in the case.

(B) Powers of Arbitration - Place and time of hearing shall be set by the court administration office at a location convenient to the parties.

The board of arbitration shall have the general powers of a court including, but not limited to, the power to:

- (1) Cause issuance of subpoenas in conformity with the practice of the courts:
- (2) Compel the production of documents material to the case.
- (3) Administer oaths and determine admissibility of evidence.

Once an arbitration panel is appointed to hear a case, all matters relative to the case, except motions timely filed pursuant to Civ.R. 12 to 56, shall be decided by the chairman of the arbitration panel. No appeal of a decision of the chairman of the panel may be filed until after the case is heard by the panel and an award rendered. Pursuant to Civ.R. 12 to 56, no motions may be filed without leave of court after a panel has been appointed to hear a case.

(C) Arbitration Procedure - It is the intent of the arbitration process that evidence be presented in a precise and summary manner. The board shall enforce the following guidelines in presentation of evidence:

(1) Case in Chief - Each side shall be given ninety (90) minutes to present its case. If a party desires rebuttal testimony, then time for rebuttal will be part of the ninety (90) minutes allocated to that party. If there are more than two parties on a side, the time shall be divided amongst them at the discretion of the panel. This ninety- (90) minute period shall include opening statements, presentation of evidence, rebuttal and closing arguments. Cross-examination of any witnesses shall be included in the cross-examining party's time.

(D) Extended Arbitrations. If the parties are unable to comply with these guidelines, arrangements to deviate from the guidelines must be made with the panel prior to the start of arbitration. Parties deviating from these guidelines are responsible for any additional arbitral fees and costs due the arbitrators.

(E) Evidence in Arbitration. The board of arbitration may receive any information offered by the parties, or of which it takes judicial notice, which it deems to be relevant to the issues in the action.

All materials to be utilized in the arbitration shall be supplied to opposing counsel thirty (30) days before the scheduled arbitration date, unless all the parties agree to a shorter period of time.

In actions involving personal injury and/or damage to property, bills or estimates, with accompanying dates, when required, may be offered and received at the hearing. One week written notice shall be given to the adverse party (unless otherwise agreed upon by the parties) accompanied by a copy of the bills to be offered in evidence. Bills are to be used for the purpose of proving the value and reasonableness and necessity of the charges for services, labor or material. The following bills and evidence are acceptable:

(1) Hospital bills may be accepted as evidence only on the official letterhead or billhead of the hospital and shall be dated and itemized.

(2) Bills of doctors, dentists, nurses and physical therapists may be accepted as evidence when dated and containing a statement showing the date of each visit and the charge therefor, on official letterhead.

(3) Bills for medicine, eyeglasses and prosthetic devices may be accepted as evidence only if the item provided is adequately described and the date when the item was provided is contained in the bill.

(4) Property repair bills may be accepted as evidence only if the item provided identifies and itemizes the charges for labor and material used in the repair of the property.

(5) Reports of medical experts and other experts may be accepted as evidence without necessity for testimony of such experts if the party proffering the report as evidence supplies a copy of such report to the adverse party thirty (30) days before the arbitration hearing. The adverse party may take the deposition of said expert and offer said deposition at the arbitration. The deposition of the expert shall be filed with the court if it is to be used at the hearing.

All evidence shall be taken in the presence of the arbitrators and all parties unless any of the parties is absent, in default, or has waived his or her right to be present. The board may receive evidence by affidavit or written report and shall give it such weight as the board deems the evidence is entitled.

(F) Supervisory Powers of the Court - Any judge of the General Division of the Court of Common Pleas shall have full supervisory powers with regard to any questions that arise in all arbitration proceedings and in the application of these rules.

(G) Witness Fees - Witness fees in any case referred to arbitration shall be in the same amount provided for witnesses in trials to the Common Pleas Court of Butler County, Ohio.

These costs shall be ordered taxed in the case and the costs shall be paid by the same party or parties which would have paid had the case been tried to the Common Pleas Court of Butler County, Ohio.

(H) Transcripts of Testimony - The arbitrators shall not be required to make a record of the proceedings before them. If any party desires a record, that party shall make provisions therefor and shall bear the costs thereof. That party shall provide a certified transcript of the proceedings to any party who requests it and upon receipt of reasonable and customary compensation therefor.

No transcript, or any portion of a transcript of the proceedings shall be admitted into evidence, or used in any fashion, at any subsequent trial unless the evidence would otherwise be admissible under the Ohio Rules of Evidence and such evidence is further subject to the trial judge's discretion.

(I) Report and Award - Within fifteen (15) days after the hearing, the arbitrators shall provide their report to the court administration office, which shall then file the report with the Clerk of Courts, and shall forward copies to all parties.

(J) Legal Effect, Entry of Judgment - The report and award, unless appealed from as herein provided, shall be final and shall have the attributes and legal effect of a verdict.

The Court shall, at the time of the filing of the decision of the arbitrators, enter judgment in accordance with the report and award, which judgment shall become effective after thirty (30) days from filing. After the effective date of such judgment, the execution process may be issued as in the case of other judgments.

(K) Compensation of Arbitrator(s) - The chairman of a board of arbitration shall receive a fee of one hundred, fifty dollars (\$150) and other members of the board shall receive a fee of one hundred dollars (\$100). When more than one case arising out of the same transaction is heard at the same hearing or hearings, it shall be considered as one case insofar as compensation of the arbitrators is concerned. In unusual cases, the court may increase the compensation.

If the parties elect to submit the case to a single arbitrator, the arbitrator shall receive a fee of three hundred dollars (\$300).

Fees paid to arbitrators shall not be taxed as costs nor follow the award as other costs.

All compensation for arbitrators shall be paid, upon proper warrant, from funds of Butler County, Ohio, which have been allocated for the operation of the Common Pleas Court of Butler County, Ohio.

(L) Settlement or Dismissal -- Compensation and Notice - In the event that a case is settled or dismissed more than three (3) days prior to the date scheduled for the hearing, the panel members shall not be entitled to the aforesaid fee.

In the event that a case is settled or dismissed within that three- (3) day period, up to the close of the court business hours on the day prior to the scheduled hearing, the board members shall be entitled to receive a fee of twenty-five dollars (\$25), with an additional fee of fifteen dollars (\$15) to the chairperson.

In the event that a case is settled or dismissed after the close of the court business hours on the day prior to the scheduled hearing or on the date of the arbitration hearing, the arbitrators will be entitled to full compensation as set forth in the rule.

If a case is settled or dismissed after it has been set for arbitration, but prior to the date of hearing, counsel for the plaintiff shall notify the court administration office (case manager) of Butler County and the individual arbitrators, at their business addresses. Failure to comply with this notice requirement will result in the cost of arbitration being assessed as plaintiff's costs.

(M) Default of a Party - The arbitration may proceed in the absence of any party which, after due notice, fails to be present or fails to obtain a continuance. An award shall not be made solely on the default of a party and the board of arbitrators shall require the other party to submit such evidence as they require for the finding of an award.

(N) Appeal and Cost - Any party may appeal from the action of the board of arbitration to the Common Pleas Court of Butler County, Ohio. The right of appeal shall be subject to the following conditions, all of which shall be completed within (30) days after the entry of the award of the board, on the docket in the office of the Clerk of Courts:

(1) The appellant shall pay an appeal fee of thirty-five dollars (\$35) to the Clerk of Courts and shall file with the Clerk and the court administration office a notice of appeal ACCOMPANIED BY AN AFFIDAVIT THAT THE APPEAL IS NOT BEING TAKEN FOR DELAY. A copy of such instruments shall be served upon opposing parties and/or their counsel.

The appellant shall first repay to Butler County, Ohio, by depositing with the Clerk of Courts, all fees received by the members of the panel of arbitration in the case in which the appeal is taken. The sum paid shall not be taxed as costs in the case and shall be refunded to the appellant only if:

Upon a trial *de novo* by the assigned judge, the appellant secures a judgment (i) which reverses the decision of the arbitrators or, (ii) which is more favorable to him or her than the award of the arbitrators; or (iii) prior to trial *de novo* by the assigned judge, the appellant secures a settlement which is more favorable to him or her than the award of the arbitrators. The settlement shall be evidenced by an entry of dismissal, signed by the assigned judge, stating that the court has been advised of the amount of the settlement and orders the Clerk of Courts to refund to the appellant the deposit of the arbitrators' fees.

(3) No appeal can be withdrawn unless notice of such withdrawal is filed with the court with certification of service to all other parties. Any other party shall then have ten (10) days from the date of the filing of the withdrawal to file an appeal from the decision of the panel. If a Rule

41(a) dismissal is filed, and a counterclaim is pending, the counterclaim defendant shall have ten (10) days to file a notice of appeal.

(O) Poverty Affidavit - A party desiring to appeal an award may apply by written motion and affidavit ([Appendix A](#) and [B](#)) to the Court averring that by reason of poverty the party is unable to make payments required for an appeal. If due notice is served upon the opposing parties and the judge is satisfied of the truth of the statements in such affidavit, the judge may order that the appeal of such party be allowed, although the said amounts are not paid by the appellant.

(P) Appeal De Novo - All cases which have been duly appealed shall be tried *de novo* by the assigned judge.

(Q) Testimony of Arbitrators on Appeal - In the event of an appeal from the award of decision of the panel of arbitrators, the arbitrators shall not be called as witnesses as to what took place before them in their official capacity as arbitrators.

(R) Continuance of Hearing - A scheduled arbitration may be continued only by leave of Court upon written motion with notice to all parties and arbitrators. A request for continuance shall be made no later than five (5) days prior to the date set for hearing, unless for good cause shown.

7.05 RULES FOR MEDIATION

(A) **Cases for Mediation** - 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. There is no limitation either as to type or the amount in dispute of any case referred to mediation.

(B) **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 five (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 twenty (20) hours training designed for mediators in civil litigation;
- (3) Participation in three (3) mediations as mediator or counsel for a party, or observation of two (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 three (3) hours devoted to mediation-related training;
- (6) Must maintain malpractice insurance covering services as a mediator;
- (7) Must complete mediator qualification questionnaire ([Appendix I](#)).

Questionnaires will be reviewed by the Butler County Bar Association Alternative Dispute Resolution Committee, which shall make recommendations within sixty (60) days, to the General Division Judges. At the expiration of the sixty (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.

(C) **Compensation of Mediators** - Each mediator shall receive a lump sum compensation in the amount of five hundred dollars (\$500) 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 ([Appendix H](#)). 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.

(D) **Settlement** - If the case is settled or dismissed more than two (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 two-day period, the mediator is entitled to receive a fee of fifty dollars (\$50).

If a case is settled after it has been set for mediation, but prior to the date of the hearing, 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 [Loc.R. 6.08](#).

(E) **Order for Mediation** - When a case is ordered to mediation, the Court shall enter an “Order for Mediation” ([Appendix F](#)).

Pursuant to Civ.R. 16, 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 cancelled due to the absence of necessary parties, additional costs may be assessed by the court.

It is presumed mediations will be held in the court facility, located within the Government Services Center (GSC). Mediators who wish to hold the mediation outside the GSC may do so only with leave of court. The trial judge will notify court administration if such permission is granted.

No mediation date shall be continued without the approval of both the mediator and the assigned trial judge.

(F) **Mediator Witness** - In the event that a case does not settle at mediation, the mediator will not be permitted to 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.

(G) **Procedure** - In all cases ordered to mediation, the mediator shall complete a “Mediation Report” ([Appendix G](#)). The mediator’s report shall be forwarded to the judge and shall not be filed in the court records.

If the mediation has resulted in the successful settlement of the case, the court administration office will report back to the assigned trial judge, who will immediately file an order of dismissal in accordance with [Loc.R. 6.08](#).

If the mediation does not result in settlement of the case, the court administration office will refer the case back to the assigned trial judge, who will set the case for a report as soon as practicable after the mediation.

The provisions of R.C. §§2710.01 to 2710.10 shall apply to mediations conducted under this Local Rule.

7.06 DISPUTE RESOLUTION FEES

Pursuant to R.C. §2303.201(E)(1), a fee of thirty dollars (\$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 [Loc.R. 7.05](#). 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 Arbitration/Mediation Special Project Fund. The Treasurer shall prepare a monthly report of collections to the Administrative Judge.

If the court determines that the amount in the General Division's Arbitration/Mediation Special Project Fund 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 one thousand dollars (\$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.

REAL ESTATE AND FORECLOSURE

8.01 FORECLOSURE ACTIONS - NOTICE

The foreclosing party in all foreclosure actions shall notify each party or their counsel of record of the date of sale of the property. Such notice shall be given without delay. Failure to give notice may be considered by the court on a motion by a party not receiving notice to set the sale aside.

8.02 JUDICIAL SALE OF REAL ESTATE

(A) **Commencement of Action:** In every action filed in any division of the Court of Common Pleas of Butler County, Ohio, which demands a judicial sale of real estate, the party requesting said sale shall, not later than fourteen (14) days after the filing of the Complaint (or other pleading requesting a judicial sale), file either a preliminary judicial report, or a commitment for an owner's fee policy of title insurance, as required by R.C. §2329.191. The preliminary judicial report, or title insurance commitment, shall include a legal description of the subject property and shall indicate that the Butler County Engineer has approved the legal description as being sufficient for conveyance purposes.

Because R.C. §§323.11 and 5721.10 provide 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. If either the Butler County Treasurer or the Butler County Auditor, or both, 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.

(B) **Decree of Foreclosure:** Every decree of foreclosure filed in any division of the Court of Common Pleas of Butler County, Ohio, shall contain the following:

- (1) date and method of service on every defendant in grid format;
- (2) except in tax foreclosure cases, priority of liens language;
- (3) except in tax foreclosure cases, a signature line for each counsel of record and each party who filed an answer to the complaint. Signature authority may be obtained by counsel via fax or telephone; and
- (4) in tax foreclosure cases, a certification by the Prosecuting Attorney 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 fourteen (14) days of the submission of the proposed judgment entry to counsel and parties.
- (5) a legal description of the real estate, including the parcel number.

If a homeowner's personal liability has been discharged in bankruptcy, this should be explicitly stated in the decree of foreclosure, and the case caption should contain the phrase "Judgment in Rem."

Further, every decree of foreclosure shall be accompanied by the following documents:

- (1) 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;
- (2) except in tax foreclosure cases, an affidavit as to the remaining balance on the mortgage; and
- (3) where the foreclosure is based upon the default of a mortgage note that is no longer held by the original mortgagee, an assignment of mortgage to the current mortgagee.

Entry for Judge's signature must be sent directly to the Judge's Chambers and not to the Clerk of Court. If a file-stamped copy is desired, submit extra copies of the entry, together with a request for the same, and a self-addressed, stamped return envelope.

(C) **Order:** Prior to submitting to the Court any order or judgment that orders the sale of real estate, a party who has filed a preliminary judicial report in the action shall file a final judicial report as required by R.C. §2329.191.

(D) **Notice of Sale:** In every action in any division of the Common Pleas Court of Butler County, Ohio wherein a judicial sale of real estate is ordered by the Court, the attorney for the plaintiff, or such other party requesting the sale, shall promptly mail notice of the time, date and location of the sheriff's 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. 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. No other parties to the proceeding in default of answer need be served with notice of sale except by publication as provided by R.C. §§2329.26 and 2329.27. Failure to provide timely notice to interested parties shall constitute grounds for denying confirmation of the sale.

(E) **Required Filing:** Not less than fourteen (14) days prior to the scheduled sale date, counsel for the party requesting the sale 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. Failure to timely file the certificate of service required by this rule shall constitute grounds for denial of the confirmation of sale.

(F) **Withdrawn:** If the sale is withdrawn, or the case is dismissed, additional fees may be required.

(G) Upon filing his return of an Order of Sale or Writ of Execution, the Sheriff shall provide a copy of such return to the Judge to whom the case is assigned.

(H) **Confirmation:** Within fourteen (14) calendar days after the Sheriff's return of an Order of Sale or Writ of Execution indicating that property had been sold pursuant to such Order or Writ, counsel for the party requesting the sale shall submit to the Court a proposed Order confirming the sale. An accurate property description must be attached to every confirmation entry before it will be approved by the court. The Confirmation Entry shall also order that the counsel for the party requesting the sale shall prepare, and deliver to the Sheriff within seven (7) calendar days after filing of the Confirmation Entry, a deed conveying title to the purchaser. Any counsel who fails to timely file the proposed Confirmation Entry may be cited for contempt. Within thirty (30) days after the Sheriff's return, the Court shall, in accordance with R.C. §2329.31, either approve the order confirming the sale or notify counsel submitting the proposed Order of changes required before the proposed Order may be approved for filing; the revised Order including any required changes shall be returned to the Court within seven (7) calendar days. No sale shall be confirmed, nor dismissal entered, until full payment of all costs, is received by the Clerk, including appraisal fees, publication costs and the costs (including exam fees and premiums) of both the preliminary judicial report and the final judicial report.

(I) The **Judgment Entry for Distribution** shall contain a legal description of the subject real estate, including the parcel number, together with the following set forth in **bold** print:

- (1) the amount for which the property sold at Sheriff sale;
- (2) the amount of court costs;
- (3) the total of the following amounts:
 - (a) Taxes and assessments, the lien for which attaches before the confirmation of sale, but that are not yet determined, assessed, and levied for the year in which confirmation occurs, apportioned pro rata to the part of that year that precedes confirmation, and any penalties and interest on those taxes and assessments; and
 - (b) 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 confirmation.
- (4) except in tax foreclosure cases, the amount of judgment the decree of foreclosure awarded to the moving party;
- (5) except in tax foreclosure cases, the amounts awarded to other lienholders in order of priority; and
- (6) except in tax foreclosure cases, the amount to be awarded to the former property owner(s), or in the event that one or more owner is in default or cannot be located, a statement directing the Clerk to administer the undistributed balance of the sale proceeds in accordance with Section 2329.44 of the Revised Code.

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

- (1) outstanding principal balance as set forth in the foreclosure documents;
- (2) interest due and owing; and
- (3) itemization of any amounts advanced for protection of the property, such as taxes, insurance, property inspection, etc.

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 R.C. §323.47(B)(1). 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.

Except in tax foreclosure cases, all judgment entries for distribution shall contain a signature line for all counsel of record. Signature may be faxed to plaintiff's counsel or signature may be by telephone authority. In tax foreclosure cases, the Prosecuting Attorney shall certify that a copy of the proposed judgment entry has been submitted by U.S. Mail or facsimile transmission 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 fourteen (14) days of the submission of the proposed judgment entry to counsel and parties. All entries requiring Judge's signature must be sent directly to the Judge's Chambers, and **not** to the Clerk of Courts. If a file-stamped copy is desired, submit extra copies of the entry, together with a request for the same, and a self-addressed, stamped return envelope.

(J) **Waiver:** A purchaser may waive all or any part of the thirty- (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.

8.03 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 mortgage embraces in the security the rents and profits; or that the right to possession on default is in 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) Receivers appointed to take charge of real estate and collect rents in foreclosure proceedings shall, within sixty (60) days after their appointments, file with the Clerk a report of their receipts and disbursements, and a like report shall be filed every three (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 one hundred dollars (\$100), 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 thirty (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 twenty (20) days after such accounts are filed, or allowances made.

(M) See [Loc.R. 6.11](#) for cases involving receivers that do not include foreclosure actions.

8.04 ATTORNEY FEES - PARTITION ACTIONS

The attorney (or attorneys collectively) for a plaintiff (or plaintiffs), in an action in this Court for the partitioning of real estate, pursuant to R.C. §§5307.01 to 5307.25, inclusive, who have rendered complete services in connection with such partition litigation shall be allowed, and receive, as full compensation for all ordinary services, a reasonable fee in accordance with the provisions of R.C. §5307.25. Said counsel fee shall not exceed, except upon application and order of the court, a sum computed using the following rates:

- (1) six percent (6%) of the first five thousand dollars (\$5,000)
- (2) five percent (5%) of the next five thousand dollars (\$5,000)
- (3) three percent (3%) of the balance
- (4) minimum fee three hundred dollars (\$300).

CHAPTER V: CRIMINAL



9.01 CRIMINAL CASES

The Rules of Practice for civil cases apply to all criminal procedures except where clearly inapplicable.

9.02 BAIL OR SURETY

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. Also see [Loc.R. 9.03](#).

9.03 BAIL

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 prior to the filing of such application. The decision on the application shall be by entry.

9.04 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 Sup.R. 36.

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 three 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 Administrative Judge shall transfer the co-defendants’ cases to the judge to whom the lowest case number is assigned, by entry. Any document that relates to any one or all such cases shall be filed under the lowest case number. 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. If the court finds joinder is not proper, it may sever the case and either keep jurisdiction of the case(s), or transfer the higher-numbered case(s) back to the judge to whom the case(s) was originally assigned.

(D) **Modification (Transfer) of Assignment.** A criminal case shall be transferred if a defendant is determined to be either:

- (1) Under active supervision of the Adult Probation Department; or,
- (2) The defendant has an additional, pending indicted case.

If condition (1) or (2) is met, and the case(s) does not involve co-defendants, the case shall be transferred to the judge who placed the defendant on community control/probation or the judge who was assigned to the additional, pending indicted case.

If both conditions (1) and (2) 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.

When a defendant's transfer would be affected by any specialty court, then decision whether to transfer shall be made on an *ad hoc* basis by the specialty court judge and the judge from whom the case would be transferred.

When an adjustment of judge assignment is made as a result of (1) and/or (2) above, a credit to the judge for the additional assignment shall be made.

The purpose of Section (D) of this Rule is to ensure that a defendant who is under active supervision of the Adult Probation Department or who has an additional, pending indicted case appears before the same judge previously assigned to hear the defendant's case.

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

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

9.05 APPOINTED COUNSEL FOR INDIGENT DEFENDANTS

Butler County Public Defender

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. Should a conflict arise in representation by the Public Defender, the following procedure shall be instituted by the Common Pleas Court.

A list of attorneys from the Butler County Bar Association will be developed from applications received and the list will be known as the "Conflict Attorney List." The bailiff assigned to the courtroom will check with the list to determine the next available attorney on the list and that attorney will be appointed to represent the defendant when a conflict has been determined. Should an attorney be unable to accept the appointment, their name will go to the bottom of the list until rotated back up the list for the next appointment.

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 J). 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.

Procedure for Appointment of Counsel

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.

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.

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.

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 thirty (30) days from the date of the

final hearing. Fee applications submitted outside the thirty-day (30) 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 thirty (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, Section I(F)(2), 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.

9.06 PRETRIALS

All criminal cases shall be set for pretrial within ten (10) days of arraignment. At that time, the case shall be set for plea within ten (10) days, or set for trial.

9.07 PRETRIAL MOTIONS

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.

Copies of all motions shall be served upon the adverse party in accordance with the Ohio Rules of Criminal Procedure and the original of all motions with supporting memoranda shall be filed with the Clerk of Courts, who shall transmit a copy to the court administration office.

All pretrial motions shall be determined seven (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.

9.08 CONTINUANCES

All requests for continuances shall be made by written motion with notice to the adverse party at least one (1) week prior to the trial date unless such time limit is deemed waived by the judge to whom the case is assigned. The granting of such continuances shall be journalized by written entry.

9.09 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.

9.10 MARKING OF EVIDENCE

In all cases where the number of exhibits to be introduced is substantial, the prosecuting attorney and counsel for defendant will, prior to trial, arrange for a conference with the bailiff to mark and record all items of evidence which will be introduced at the trial. This rule, however, will not preclude the introduction of evidence which, through inadvertence or surprise, was unavailable for pretrial marking or is not discoverable prior to trial under Crim.R. 16.

9.11 MOTIONS FOR EXPUNGEMENT AND SEALING OF RECORDS

All motions for expungement (R.C. 2953.31), and for sealing of records of conviction (R.C. 2953.31-37) and of not guilty findings, dismissals or no bills (R.C. 2953.51 -.60), shall be filed with the Clerk of Courts on a fully-completed, Court-approved expungement packet. See [Appendix O](#).

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

SPECIALIZED COURT DOCKETS

10.01 COURT-DIRECTED ADDICTION TREATMENT PROGRAM

(A) **Creation of Specialized Docket, “Court-Directed Addiction Treatment” Program.** Court-Directed Addiction Treatment Program (CDAT), a.k.a. Drug Court, is created according to the requirements set forth in Sup. R. 36.20 – 36.29, Specialized Docket Standards, Appendix I Rules of Superintendence. CDAT is 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 Court-Directed Addiction Treatment Program Admission.** CDAT offenders may be ordered by the sentencing Judge to the Court-Directed Addiction Treatment Program 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 the Court-Directed Addiction Treatment Program.** CDAT receives referrals from the General Division Judge to whom the case is assigned. The CDAT team shall review the case for legal/clinical eligibility as identified in the *CDAT Program Description*. The CDAT Judge shall have the authority to accept or reject cases referred to the Court-Directed Addiction Treatment Program. 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 Court-Directed Addiction Treatment Program.

(D) **Sentencing.** Once the defendant has been ordered to the Court-Directed Addiction Treatment 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 Court-Directed Addiction Treatment Judge where any, and all further Court proceedings with respect to that, shall be heard by the CDAT Judge. The CDAT 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) **Court-Directed Addiction Treatment Program Team.** The Court-Directed Addiction Treatment Program 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 CDAT team shall convene weekly to handle the Docket, to discuss the progress and status of individual offenders, and to apply sanctions as needed.

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

(G) **Unsuccessful Termination from the Court-Directed Addiction Treatment Program.** Reasons for termination from the Court-Directed Addiction Treatment 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 Court-Directed Addiction Treatment 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 Court-Directed Addiction Treatment Program 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 the Court-Directed Addiction Treatment Program, and/or revocation of the defendant's community control. The CDAT 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 the CDAT Program, or if the defendant is ordered CDAT as a condition of Intervention in Lieu of Conviction.

10.02 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 Sup. R. 36.20 – 36.29, Specialized Docket Standards, Appendix I 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 sentencing, probation violation, Judicial Release, or a conditional release after a finding of Not Guilty by Reason of Insanity. The defendant must be eligible for community control; been convicted of a felony offense; been diagnosed with an Axis-I severe mental disorder; have a substance abuse issue; 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, 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, and/or failure to comply with the SAMI *Participation Agreement*. Noncompliance with the aforementioned may result in a probation violation 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, or the conditions of his/her conditional release modified. Modifications may include, but are not limited to, commitment to a Community Based Correctional Facility (CBCF), 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.

10.03 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 Sup. R. 36.20 – 36.29, Specialized Docket Standards, Appendix I Rules of Superintendence. FNS is to supervise felons who are convicted of criminal Non Support, who owe support to dependant 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, or a Judicial Release. The felony child support offender must be amenable to a community control sanction, owe current child support for dependant children, score above Low Risk ORAS, and reside within Butler County, Ohio.

(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 Manager of Court Administration, or his/her designee, shall review the case for legal/clinical eligibility as identified in the FNS *Program Description*. 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, 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 pay

Court-ordered child support, violations of the rules of community control, and/or failure to comply with the Felony Non Support Docket *Participation Agreement*. Noncompliance with the aforementioned may result in a probation violation hearing. Any probation violation 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 Community Based Correctional Facility (CBCF), 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.

APPENDICES



APPENDIX A (L.R. 5.01)

IN THE COMMON PLEAS COURT, BUTLER COUNTY, OHIO

Petitioner/Plaintiff

CASE NO:

VS

**MOTION TO PROCEED
IN FORMA PAUPERIS
WITH AFFIDAVIT AND
SUPPORTING DOCUMENTATION**

Respondent/Defendant

.....

I declare that I am the (check appropriate status)

_____ petitioner/plaintiff

_____ movant

_____ respondent/defendant

_____ (other)

in the above-entitled proceeding. In support of my request to proceed without being required to prepay fees and costs, I state that because of my poverty, I am unable to pay the costs of said proceeding and I believe I am entitled to relief.

In further support of this application, I submit the attached affidavit.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: _____
(date)

(signature of applicant)

APPENDIX B (L.R. 5.01)

IN THE COMMON PLEAS COURT, BUTLER COUNTY, OHIO

In the matter of _____ : CASE NO:
Indigency of: _____ : **AFFIDAVIT IN SUPPORT OF
REQUEST TO PROCEED
IN FORMA PAUPERIS**
(Applicant Name) _____ :
: : : : : : :

INSTRUCTIONS: In order for the Court to properly consider your application, you must answer each question below and provide the information requested. No application will be considered until it is fully completed. If necessary, attach additional pages.

I. Are you employed? Yes _____ No _____

A. If you answered “Yes”:

(1) What is the name and address of your employer?

(2) How much do you earn per month?

B. If you answered “No”:

(1) Have you ever been employed? Yes _____ No _____

If “Yes”: what was the last year and month you were employed?

How much did you earn per month? _____

II. What is your marital status? Single _____ Married _____
Widowed _____ Divorced _____

A. If you answered "Married":

(1) Is your spouse employed? Yes _____ No _____
If "Yes": how much does your spouse earn each month?

III. Do you have any dependents? Yes _____ No _____

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 twelve (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 twelve-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 real estate, stocks, bonds, notes, automobiles or any other valuable property?
Yes _____ No _____

A. If you answered "Yes," describe each piece of property and state its value:

<u>Property</u>	<u>Value</u>
_____	_____
_____	_____
_____	_____

VII. List all your creditors, including banks, loan companies, charge accounts, personal loans, rent, utilities, child support, etc., and the amount you pay each month on each bill/obligation.

<u>Creditor</u>	<u>Amount Owed</u>
_____	_____
_____	_____
_____	_____

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

 (Signature of Plaintiff)

STATE OF OHIO)
) ss:
 BUTLER COUNTY)

Sworn to and signed before me this _____ day of _____,
 20_____.

 Notary Public

CERTIFICATE OF ATTORNEY

I have examined the answers given by my client in this questionnaire and to the best of my knowledge and belief, the answers are true and accurate.

 (Attorney's Signature)

APPENDIX C (L.R. 5.01)

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 (L.R. 5.04)

IN THE COURT OF COMMON PLEAS, BUTLER COUNTY, OHIO

		:	CASE NO:
	Plaintiff,	:	
vs.		:	<u>DOCKET STATEMENT</u>
	Defendant	:	

: : : : : :

Type of Claim

- Professional Tort
- Product Liability
- Other Torts
- Workers Compensation
- Foreclosure
- Administrative Appeal
- Other Civil

Do you know any reason this matter should not be set for report within one hundred eighty (180) days of this date? Yes _____ No _____

If yes, what are the grounds?

Attorney

(For)

APPENDIX E (L.R. 6.08)

IN THE COMMON PLEAS COURT, BUTLER COUNTY, OHIO

	:	CASE NO:
Plaintiff,	:	
vs.	:	<u>ORDER OF DISMISSAL</u>
	:	Date:
Defendant.	:	

: : : : : :

The Court having been advised by the parties that the above action has been settled;

It is the order of this Court that this action is dismissed with prejudice. It is further provided that any of the parties may, upon good cause shown, within sixty (60) days, request further court action if settlement is not consummated. Upon agreement and within sixty days, the parties may submit a supplementary entry outlining details of the settlement. Costs to

_____.

SO ORDERED.

JUDGE

Copies to:

APPENDIX F (L.R. 7.05)

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

Plaintiff(s), : **CASE NO.:**
: :
: :
vs. : :
: :
: : **ORDER FOR MEDIATION**
: :
Defendant(s). :

This case has been ordered to mediation by the Butler County Court of Common Pleas in accordance with Loc.R. 7.05.

Mediation will not affect trial or pretrial dates.

Counsel are asked to expedite discovery in cases selected for mediation. Maximum preparation makes lawsuits more amenable to mediation.

_____ will be the mediator.

Pursuant to Civ.R. 16, all parties will have their clients present for mediation(*). Insurance company representatives, who have decision making authority, must also be present. If an insurance company representative is present, an insured need not be present unless the insured's permission or concurrence is required for settlement.

Your mediation must be completed by _____. The mediator shall contact the attorneys to schedule a time and location for the mediation.

Judge

(*) Notice:

L.R. 7.05 (E) reads in part:

[A]ll counsel shall have their clients present at mediation. ... The failure to have all parties present or mediation will result in the cost of mediation being assessed against the appropriate party.

L.R. 7.05 (D) reads in part:

If a case is settled after it has been set for mediation, but prior to the date of the hearing, 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.

APPENDIX G (L.R. 7.05)
IN THE COMMON PLEAS COURT
BUTLER COUNTY, OHIO
MEDIATION REPORT FORM

Case No:

Case Caption:

Parties Present: (Include attorneys, clients and insurance adjustors)

Result/Status:

Comments:

MEDIATOR SIGNATURE

Please return completed report to the Court Administration office. **DO NOT FILE.**

APPENDIX H (L.R. 7.05)

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

Plaintiff(s), : Case No. _____
: :
: :
vs. : **ORDER TO PAY MEDIATOR**
: :
: :
Defendant(s). :

_____, attorney, being a duly appointed mediator in the within action, hereby applies to the court pursuant to Rule 7.05 of the Rules of Court, General Division, Common Pleas Court, Butler County, Ohio, for payment of mediator’s fee in the amount of five hundred dollars (\$500).

This case **did/did not** settle through mediation held on _____.

Mediator

Address

ENTRY

Upon application of the mediator in the above captioned action, the court finds the above application to be proper in all respects and orders a fee of five hundred dollars (\$500) to be paid to the applicant pursuant to Rule 7.05 of the Rules of Court, General Division, Common Pleas Court, Butler County, Ohio. It is further ordered that the Auditor issue a warrant payable to the appointed mediator in the amount of five hundred dollars (\$500). Said amount to be paid from Account 13284160.531000 of this court’s budget.

Judge Common Pleas Court

INSTRUCTIONS TO THE CLERK:

This case did not settle, the five hundred dollar (\$500) mediator fee shall be taxed as costs of this action. The Clerk shall reimburse the General Division Account 13284160420000, with the refunded costs, pursuant to Local Rule 7.05(C).

SO ORDERED.

Judge Common Pleas Court

APPENDIX I (L.R. 7.05)

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, 3rd Floor
Hamilton, Ohio 45011**

APPENDIX J (L.R. 9.05)

**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.)

Are you currently a member of the Butler County Bar Association? (Attach copy of Bar membership card.)

Signature _____

Return completed application to:

Manager of Court Administrative Services
Butler County Common Pleas Court
Government Services Center, Third Floor
315 High Street
Hamilton, Ohio 45011

APPENDIX K (L.R. 5.03)

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

Plaintiff(s), : Case No: CV _____
: :
: :
vs. : **NOTICE OF APPEARANCE**
: :
Defendants(s), : :
: :

_____ New Notice of Appearance

_____ Change of Information

Attorney name _____

Law firm name _____

Business address _____

Supreme Court registration number _____

Tax Identification Number (T.I.N.) _____

Telephone number _____

Fax number _____

Party/parties represented _____

E-Mail _____

Signature of Attorney _____

APPENDIX L (L.R. 3.03)

IN THE COURT OF COMMON PLEAS
BUTLER COUNTY, OHIO

IN RE: THE APPOINTMENT OF :
STANDING SPECIAL : AFFIDAVIT AND ORDER
PROCESS SERVER :

I, _____, being first duly sworn and cautioned according to law, state that:

1. I reside at _____.
My telephone number is _____.
2. I am eighteen (18) years of age or older.
3. I will not attempt to serve process in any case in which I am a party, counsel for a party, or a relative of any party.
4. I do not have a felony criminal record.
5. I will follow all applicable Local Rules and Ohio Rules of Civil Procedure. I will also obey any specific instructions for service of process as ordered by the Court in individual cases, including: *If a pleading is left with a responsible party who is more than sixteen (16) years of age, then return is as "residential service" and if the pleading is left with the individual to be served, then the return is as "personal service."*
6. I am going to be acting as an agent of _____.

Applicant

Sworn to before me and subscribed in my presence this _____ day of _____, 20____.

Notary Public

IN RE: **THE APPOINTMENT OF
STANDING SPECIAL
PROCESS SERVER**

ORDER

It appearing to the Court that the applicant has provided all the requested information in the affidavit;

The Court, therefore, hereby appoints _____ as a standing special process server. This order expires two years from the date it is filed unless modified by the Court.

IT IS SO ORDERED.

Judge

APPENDIX M (L. R. 6.01)

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

[Plaintiff],

Plaintiff,

vs.

[Defendant],

Defendant.

* CASE NO: CV _____

*

*

* **COMPLAINT**

*

* **REFILING OF CASE NO.**

* **CV- - - - -**

* **JUDGE - - - - -**

*

*

*

APPENDIX N (L.R. 6.01)

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

[Plaintiff],

* CASE NO: CV _____

Plaintiff,

*

*

*

vs.

* **ORDER TO TRANSFER CASE**

*

[Defendant],

*

*

Defendant.

*

*

*

It appearing to the Court that this case is a refiling of an earlier case before
Judge _____;

It is, therefore, **ORDERED** that the above-captioned case be transferred to
Judge _____.

Judge [from whom the case was transferred] Judge [to whom case is transferred]

Administrative Judge

APPENDIX O

PLEASE FOLLOW THE BELOW SEQUENCE WHEN FILING FOR SEALING OF RECORD. A \$50.00 FILING FEE IS DUE UPON COMPLETION OF THIS APPLICATION. MAKE PAYABLE TO THE BUTLER COUNTY CLERK OF COURTS. FILE APPLICATION WITH THE CLERK OF COURTS OFFICE.

Page 1: **Motion for Expungement of Record**

FILL IN BLANKS WITH APPROPRIATE INFORMATION.

- A. Court Name (top of Page)
- B. Case Number
- C. State of Ohio vs. Applicant's name
- D. First paragraph – Case Number _____, Date _____
- E. Second paragraph – I. Applicant's name
- F. Time (second paragraph)
- G. Respectfully submitted, Applicant's name
- H. Proof of Service – Fill in Court's name and date and take to Prosecuting Office
(Done by Applicant).

Page 2: **Entry** – Orders investigation of applicant by the Adult Probation Department

FILL IN BLANKS WITH APPROPRIATE INFORMATION

- A. Court Name (Top of Page)
- B. Case Number
- C. State of Ohio vs. Applicant's name
- D. First paragraph – Applicant's name. Court name
- E. Second paragraph – Court name
- F. Bottom of Page – Attorney's name or applicant's name, address, phone number

Page 3: **Questionnaire** (two pages)

FILL IN BLANKS WITH APPROPRIATE INFORMATION

- A. Completely fill out questionnaire, where applicable, on first page
- B. Page 2 – Complete all personal data, recent work experience, and military service
- C. Page 3 – Complete as necessary.

Page 4: **Jails**

FILL IN BLANKS WITH APPROPRIATE INFORMATION

- A. Fill in all jails that you were held in.

Page 5: **Authorization to Release Confidential Information**

(Two pages for a total of six authorizations)

- A. Sign full name in section marked signature.

STATE OF OHIO

IN THE BUTLER COUNTY

PLAINTIFF

(COURT)

-vs-

STATE OF OHIO, BUTLER CO.

CASE NO. _____

MOTION FOR SEALING OF
RECORD OF CONVICTION

APPLICANT

Now comes _____ and petitions this Honorable Court for an Order to
(Applicant's name)
Seal the Record of conviction in case No. _____ which case was dated

_____.

I, _____, make this petition on the basis that I am a first time
(Applicant's name)
Offender, and that more than _____ has passed since my conviction and discharge
(Time)
date. There are no criminal charges pending against me, and I am rehabilitated, and the sealing
of my convictions is consistent with the public interest.

Respectfully submitted,

(Applicant's Signature)

PROOF OF SERVICE

A copy of my request was delivered to the Prosecuting Attorney of _____
(Court)
on this _____ day of _____, 200__.

IN THE BUTLER COUNTY

(COURT)
STATE OF OHIO, BUTLER COUNTY

STATE OF OHIO : CASE NO. _____
PLAINTIFF :
-vs- :

APPLICANT : ENTRY

.....

1. This matter came before the Court upon this Application of the Applicant herein,

_____, for sealing of his/her record in _____.
Applicants Name Court Name

2. The court orders that said Application shall be set for hearing eight weeks after the filing of said packet on _____ at _____ a.m. The Court further finds that the Butler County Adult Probation Department shall investigate the background of the Applicant herein, be notified of said proceedings, and that the Prosecuting Attorney of said Court shall be notified of said proceedings by the Clerk of said Court.

3. IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Butler County Adult Probation Department be, and they are hereby ordered, to investigate the background of the said Applicant to determine whether or not he/she has been convicted of any violations of any local, state or federal statute, other than his conviction in above mentioned case, and employment status, and in any other areas thought by the Butler County Adult Probation Department to be helpful in assisting the Court to determine whether or not said Applicant's record should be sealed under the law of the State of Ohio, as specified in Section 2953.31 Et Seq. Ohio Revised Code.

APPROVED

(Name)

JUDGE

(Address)

(Phone No.)

**PLEASE ANSWER EVERY QUESTION
PERSONAL DATA**

NAME _____ ANY OTHER LAST NAME USED _____

CURRENT ADDRESS _____

LENGTH OF TIME AT THIS ADDRESS _____ PREVIOUS ADDRESS IF LESS THAN 3 YEARS _____

SOCIAL SECURITY NUMBER _____ DATE OF BIRTH _____

AGE _____ RACE _____ HEIGHT _____ WEIGHT _____ HAIR _____ EYES _____

SEX _____ PLACE OF BIRTH _____ LIST ALL CITIES AND STATES THAT YOU
HAVE LIVED IN _____

MARITAL STATUS _____ NUMBER OF YEARS _____ #OF PRIOR MARRIAGES AND WHO YOU
WERE MARRIED TO _____

CHILDREN _____ AGES _____

HIGHEST GRADE COMPLETED & NAME OF SCHOOL _____

EMPLOYED BY _____ TITLE _____

DATE EMPLOYED _____ WAGE OR SALARY _____

PREVIOUS EMPLOYMENT PAST 3 YEARS _____

HAVE YOU EVER BEEN IN THE MILITARY _____ DATE ENTERED _____

DATE DISCHARGE _____ BRANCH OF SERVICE _____

TYPE OF DISCHARGE _____ HIGHEST RANK HELD _____

SERVICE NUMBER _____ WHERE WERE YOU STATIONED _____

ANY DISCIPLINARY ACTIONS OR COURT MARTIAL'S _____

OFFENSE DATA

WHICH COURT/JUDGE DECIDED YOUR CASE _____ CASE # _____

CHARGES YOU WERE ARRESTED ON _____

DATE OF ARREST _____ WHICH POLICE DEPARTMENT MADE THE ARREST _____

_____ DATE OF PLEA/COURT DECISION _____

WHAT CHARGES DID YOU PLEA TO OR FOUND GUILTY OF _____

DATE OF SENTENCE _____ WHAT SENTENCE WAS IMPOSED _____

SUMMARY OF OFFENSE _____

HAVE ALL COURT COSTS, FINES, RESTITUTION BEEN PAID _____

HAVE YOU EVER BEEN ARRESTED/CONVICTED OF ANY OTHER OFFENSE BEFORE THIS OR AFTER

THIS _____ IF YES, WHERE AND WHEN _____

DO YOU HAVE A CRIMINAL HISTORY IN ANY JUVENILE COURT SYSTEM _____

IF YES WHERE AND WHEN _____

If your application for Sealing of Record is granted by the Judge, we will send the order to the law enforcement agencies and Courts that may have a record of your offense. An order is always sent to the FBI and the Ohio Bureau of Criminal Investigation. Please answer the following questions carefully, as this will determine where else we send the order.

Please understand that this in no way implies that your application will be granted.

1. What are the names of any law enforcement agencies that participate in your arrest, or issued a summons in your arrest? (Example: Private Security at Miami University arrested you and held you for the Oxford Police Department.)

2. What court or courts did you appear in as a result of your arrest? (Example: you appeared in Middletown Municipal Court and your case was bound over to the Butler County Common Pleas Court.)

3. What are the names of any detention facilities (jail or prison) in which you were detained? (Example: you were detained in Middletown City Jail, then transferred to Butler County Jail.)

AUTHORIZATION TO RELEASE CONFIDENTIAL INFORMATION

NAME (LAST, FIRST, MIDDLE)	DATE OF BIRTH	DATE SIGNED
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Authorization release to the Adult Probation Department all confidential records and information concerning me.

(Signature)

NAME (LAST, FIRST, MIDDLE)	DATE OF BIRTH	DATE SIGNED
----------------------------	---------------	-------------

Authorization release to the Adult Probation Department all confidential records and information concerning me.

(Signature)

NAME (LAST, FIRST, MIDDLE)	DATE OF BIRTH	DATE SIGNED
----------------------------	---------------	-------------

Authorization release to the Adult Probation Department all confidential records and information concerning me.

(Signature)