

*Uniform Rules of Court*

*Court of Common Pleas*

*Civil, Criminal, Domestic Relations,  
Probate and Juvenile Division*

Effective: July 1, 2005  
Revised Effective: July 29, 2016

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*These rules may be cited as “Local Rule \_\_\_\_\_,” or “Loc. R. \_\_\_\_\_.”*

### ***Rule 1***

#### **Scope and Applicability of Rules; Purpose**

The Rules herein after set forth shall apply to the Criminal, Civil, Probate, Juvenile and Domestic Relations Divisions of the Common Pleas Court of Auglaize County, Ohio. The purpose of these Rules is to define local practices and procedures of this Court, consistent with the Rules of Superintendence, the Rules of Juvenile, Civil and Criminal Procedure and such, as other Rules as may be adopted or promulgated by the Supreme Court of Ohio pursuant to Section 5 or Article 4 of the Ohio Constitution.

### ***Rule 2***

#### **Term of Court; Hours of Sessions**

(A) Pursuant to Revised Code Section 2301.05, the Court shall be in continuous operation for the transaction of Judicial business. There shall be one (1) term of Court commencing on January 1 of each calendar year. The term shall be divided into three (3) sessions; these sessions shall commence on January 1, May 1 and September 1 respectively.

(B) The separate sessions of this Court for the trial of cases shall be from 9:00 a.m. to 12:00 noon, and from 1:00 p.m. to 4:30 p.m. on Monday through Friday each week, except on those days designated by law as legal holidays. The Court shall be in session at such other times as the Judge shall prescribe to meet special situations or conditions.

### ***Rule 3***

#### **Security for Costs**

Unless a Poverty Affidavit is filed, no civil actions or proceedings shall be accepted by the Clerk unless the party or parties offering the same for filing shall have first deposited a sum of money to secure the payment of costs and to pay the filing fees as required by the Ohio Revised Code and Local Rule. Except as otherwise provided by law, when applicable, such advanced deposits shall be as follows:

- A.) \$225.00, general security upon original filing.
- B.) \$175.00, security for each cross-claim, counter claim or third party action.
- C.) \$500.00, additional security for service by a publication.
- D.) \$325.00, petition for dissolution, divorce, alimony or annulment.
- E.) \$150.00, request for in-County investigations.
- F.) \$200.00, request for out-of-County investigations.
- G.) \$225.00, appeals from other tribunals.
- H.) \$150.00, all Post Judgment Motions.

- I.) \$150.00, additional deposit on execution issued to Auglaize County Sheriff or such amounts as may be requested by the Sheriff, due to special circumstances and/or ordered by the Court.
- J.) \$225.00, all other Complaints or Petitions.
- K.) \$150.00, in Expungement proceeding. Clerk shall assess \$75.00 as cost for the Expungement Investigation when ordered by Court to be prepared by the Expungement Investigator.
- L.) \$150.00, deposit or an Affidavit of Indigency must accompany the filing of a Notice of Appeal to the Third District Court of Appeals.
- M.) \$800, deposit for Guardian Ad Litem fees pursuant to Rule 26.08 and \$500, deposit for Home Study Investigations pursuant to Rule 26.09.

On Motion to Modify a former Order of the Court, the moving party shall pay all unpaid Court Costs which said moving party has been ordered to pay and in addition thereto shall deposit the sum of \$150.00.

Said deposit schedule is subject to additions as authorized and/or required by the Ohio Revised Code.

The Clerk may require a deposit for costs in any proceeding at filing and not specifically covered in the foregoing schedule.

In case of multiple parties, the Clerk may require the requesting party to advance an amount estimated by the Clerk to be sufficient to cover the costs thereof.

If it is brought to the attention of the Court by the Clerk of this Court, or by any party to the proceedings, that any deposit is insufficient, the Court may require said deposit to be increased from time to time.

Where the Plaintiff makes an affidavit of inability to pay or secure costs as provided by Section 2323.31 of the Ohio Revised Code, the Clerk of Courts shall receive and file such complaint without such deposit or security; provided, however, the Clerk shall not accept for filing any affidavit of a party's inability to make the required deposit for costs unless and until the Court has indicated approval thereon. Said affidavits are subject to Court review at any stage of the proceeding.

To secure such approval, the attorney for the party desiring to file the affidavit shall certify that no monies have been paid to him by the party, and that to his best knowledge and belief, after reasonable inquiry has been made, the party is unable to make the deposit.

After an Order of Sale is approved by the Court on Foreclosure, or after Praecipe is filed for execution, the Clerk shall estimate all costs taxable through the Clerk's office, such as appraiser's fees, Sheriff's fees and poundage, and so forth, and upon a determination of the estimated costs, and at the Clerk's discretion, she may secure a further deposit from a party or

parties initiating the action for the sale of real estate prior to any further proceedings thereon. This Rule is not applicable to the Treasurer of Auglaize County, Ohio.

Regarding requests to figure Court Costs on all Foreclosure actions, the Clerk of Courts will figure Court Costs due only upon receipt of copies of all documents that will be filed to conclude the action. These documents may include a Motion to Confirm Sale, a Judicial Report Fee Motion and/or the Journal Entry Confirming Sale and Ordering Deed and Distribution.

Requests for Court Costs calculation and copies of the proposed documents may be sent to the Clerk of Courts by US Mail at P.O. Box 409, Wapakoneta, OH 45895-0409 or by FAX to 419-739-6768. The Clerk assumes no responsibility for documents sent by FAX, but not received in the Clerk's office. All Mortgage Releases, Certificate of Judgment Releases, etc. must be included in the Journal Entry Confirming Sale. Any release added or any additional documents that are to be filed after the Court Costs are figured will invalidate the proposed Journal Entry and it will be returned by the Clerk to the sender for correction before submitting it to the Judge for signature and filing.

After the Journal Entry Confirming Sale is signed by the Judge and filed with the Clerk of court, if a change or addition or correction is deemed necessary, including volume and page numbers, or if a Mortgage Release or Certificate of Judgment was omitted and needs to be added, the Court will require the filing party to file a motion to reopen the case and to pay the deposit of \$150.00 to the Clerk of Court for reopening the case.

All Journal Entries should award Judgment for Costs where applicable, including attorney fees where so pronounced.

### ***Discretion of Clerk***

The Clerk of this Court is granted the following discretionary powers:

(A) All costs in dissolution, divorce, alimony and annulment cases must be paid in full before final decree is entered. The Clerk is authorized to withhold filing until such costs are paid.

(B) If the costs are not paid at the termination of litigation, any deposit for costs may be applied by the Clerk to the unpaid costs due.

(C) In order to effectively collect costs, fines, restitutions or other monies due, the Clerk shall: (a) apply any deposits, bonds or other monies in the possession of the Clerk; (b) issue executions for the recovery of said money; (c) file Certificates of Judgment with this or any other Court; and (d) effect collection of such monies due by any other legal means.

(D) The Clerk may make periodical partial distribution of money deposited for the purpose of fines and restitutions.

(E) To refuse to file any paper or Pleading not in complete conformity with these Rules, or any pleading which is not signed (original signatures) or in which the signature is unreadable.

(F) To refuse any check tendered for payment unless certified.

(G) In actions or proceedings when the Clerk of Courts is of the opinion that the deposit for security of costs is, or will become inadequate, said Clerk may request that the Court require the initiating party or parties to advance an amount estimated by said Clerk to be sufficient to cover the costs in excess of the schedule set forth above.

## **Rule 4**

### **Service**

(A)(1) In all civil filings, the plaintiff shall initially choose one method of service as provided for in Civil Rule 4.1, and may not request service by an alternate method until there is a return showing failure of service, except Domestic Relations, which may be served as directed by the parties or otherwise authorized by the Court.

#### (A)(2) Special Process Servers

(a) Application. A person may apply to be designated as a “Special Process Server” for cases filed in the court by filing an application supported by an affidavit setting forth the following information:

- (1) The name, address, and telephone number of the applicant
- (2) That the applicant is eighteen years of age or older
- (3) That the applicant agrees not to accept service of process on any case in which the applicant is a party or counsel for a party
- (4) That applicant agrees to follow the requirement of Civil Rule 4.1 through 4.6, any applicable local rules, and specific instruction for service as ordered by the Court in individual cases.

(b) Order. The applicant requesting the designation shall submit an order captioned “In Re the Appointment of (name of applicant) As Standing Special Process Server” and stating the following:

“It appearing to the Court that the Applicant is eligible for appointment as a Special Process Server, (name of applicant) is hereby designated a Special Process Server authorized to make service of process in all cases filed with the Court, and to serve one year from the filing of this Order.”

(c) Filing. The order shall be signed by the Administrative Judge of the General Trial Division and shall be filed with the Clerk of Court who shall record the entry and retain the original Application and Order. For a one year period from filing, the Clerk shall accept a file-stamped copy of such order as satisfying the requirements of Civil Rule 4.1 for the designation by the Court as a person authorized to make service of process. The cost of filing this application is \$100.00.

(B) Counsel for a party desiring service by a publication shall submit to the Clerk of Courts the proposed legal notice for such publication. This notice shall be promptly published in the local newspaper by the Clerk of Courts. The costs of the legal notice shall be paid by the requesting counsel directly to the newspaper.

(C) In a divorce, annulment, or legal separation action, Service by a Publication shall conform to Civil Rule 4.4(A)(2). The Court does hereby name the additional two (2) posting places to be the public area of the Auglaize County Sheriff’s Office and the public area of the office of the St. Marys, Ohio Police Department.

## ***Rule 5***

### **Removing Files; Copying Files**

The Clerk of Courts shall not permit any of the files of that office to be taken from said Clerk's custody except with written approval by the Court, and only then with proper receipt for the same. No such Pleading or papers shall be removed from the Auglaize County Courthouse. Such orders shall not prevent the files of the Clerk of Courts being removed from the County by a visiting Judge, however.

The Clerk shall permit any party to the action or his attorney or agent to make copies of any papers in the files of the Court (except Depositions and Bills of Exceptions, and except items otherwise sealed), the same to be made at the expense of the party requesting such copies. The Clerk shall charge \$.05 per page for all copies made of documents on file in the office of the Clerk of the Court. If Certificate and Seal is requested, the Clerk shall charge an additional \$1.00 fee for each document.

## ***Rule 5.1***

### **Protection of Personal Identifiers**

A person filing or submitting a document with the Court or the Clerk of Court shall comply with Rule 44 through 47 of the Rules of Superintendence for the Courts of Ohio by not including in any document "personal identifier":

Superintendence Rule 44(H) – "Personal identifier" means social security numbers, except for the last four digits; financial account numbers, including but not limited to debit card, charge card, and credit card numbers; employer and employee identification numbers; a juvenile's name in an abuse, neglect, or dependency case, except for the juvenile's initials or a generic abbreviation such as "C.V." for child victim; any other information deemed personal and private by any federal or state statute, regulation, executive order, or court ruling.

The parties when omitting personal identifiers from a case document shall submit that information to the Court or Clerk on a separate form designated by the Court in this rule as Form 5.1. Such completed forms shall only be accessible as provided for in the Rules of Superintendence, which will be deemed by the Court as a non-public record. The information will be kept in a separate envelope within the case filed and marked as follows: "CONFIDENTIAL FILE – To be opened by Court/Clerk Personnel ONLY."

When issuing orders or other documents that require personal identifiers such as on arrest warrants or garnishment orders, those personal identifiers shall be provided on a separate document and not be a part of the case document. That document shall be maintained by the Clerk in the same manner as the personal identifier information sheet, and shall be transmitted by the Clerk to the Sheriff, law enforcement agency, garnishee, or other appropriate party or person as needed to carry out the warrant or order as appropriate.

It is the responsibility of the filing party and counsel to remove personal and private information from a document filed with the Clerk of Court's office. The responsibility of the filing party and counsel to remove personal and private information extends to and includes exhibits or addenda attached to filings, such as preliminary and final judicial reports, which itemize state tax liens that use social security numbers as case numbers, or medical records. The Clerk of Courts and Deputy Clerks shall have no responsibility for the removal of any personal and private information filed in a public document in the Clerk of Court's office.

Any personal and private information in documents filed prior to June 30, 2009, 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 a 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 removed from the file-stamped document and placed in a separate envelope and deemed a non-public record. A redacted copy of the document will be placed in the public case file.



**Rule 6**

**Pleadings and Motions**

(A) All pleadings, Motions, Memoranda, Briefs and other papers filed for record shall be legibly typewritten or printed on letter size (8 ½" x 11") paper and must be on the FRONT side only. The top right hand corner of the initial sheet of every pleading, motion, brief, or other paper filed for record shall have an area approximately two and one half inches by two and one half inches (2 ½" x 2 ½") left blank for the Clerk of this Court to file stamp the date and time of filing. All subsequent pages shall have a top margin of at least one and one half inches (1 ½"), shall be secure and bound at the top. All such Pleadings shall contain the name, address and telephone number of counsel, the name of the attorney having primary responsibility for the case where counsel is a firm of attorneys or there is co-counsel and the current address of all parties to the action. All such pleadings shall contain a legible, original signature. The Clerk is authorized to refuse to accept any document not conforming to such requirements. Counsel shall notify the Clerk in writing of any change of address of any party.

(B)(1) The Clerk of Courts shall not accept for filing any Pleading, Motion or Memorandum unless it is accompanied by a copy thereof, which copy the Clerk shall forthwith forward to the Judge, plus sufficient copies for service and/or return to the filing party.

(B)(2)(a) Effective immediately, no party or any representative of any party shall cause to be filed in any civil or criminal case any pleading or filing that contains the full social security number of any person, and the Clerk shall not accept for filing any pleading or filing that violates this rule, except as provided in Rule 6(B)(2)(b) below. A party or representative thereof may, at their discretion, file a pleading or filing containing the last four numbers of a person's social security number, if such number is relevant to the case or controversy.

(B)(2)(b) Notwithstanding this rule, any request for issuance of an arrest warrant, summons or bench warrant, and the actual warrant or summons issued thereafter, may include the full social security number and date of birth of the person named therein. The Clerk shall, upon return of service of the warrant or subpoena replace the original with a redacted copy (ies) upon which the Clerk shall redact the first five numbers of such social security number, retaining the original document (s) in a separate envelope maintained with the file, with said documents open only to inspection to judicial staff, clerk's staff or upon Court order.

(C) Motions not expressly governed by Civil Rule #65 and Civil Rule #75, shall have attached thereto and be accompanied by a Brief stating the grounds thereof and citing the authorities relied upon. The Clerk shall not accept for filing any Motion or Exception that is not accompanied by such Memorandum or Brief.

(D) All motions may be decided by the Court without oral hearing unless leave of Court for such a hearing is obtained by counsel.

(E) Motions, except for motions concerning discovery, intervention, Motions for Summary Judgment pursuant to Civil Rule #56(C), Motions pursuant to Civil Rule #65, or Domestic Relations Motions pursuant to Civil Rule #75, will be heard no sooner than fourteen (14) days after notice is served upon the adverse party or counsel unless for good cause shown or the exigencies of the situation verified by affidavit of the moving party. Motions for Summary Judgment will be heard pursuant to Civil Rule #56 (C).

(F) Pleadings and Motions may be Amended as provided in Civil Rule #15, but no Pleading or Motion shall be Amended by interlineation or obliteration except upon leave of Court.

(G) Counsel and parties are reminded of Revised Code Section 2323.51. The Court shall enforce appropriate sanctions where called for.

(H) The Clerk of this Court shall refuse to accept for filing any pleading, motion or other paper which is unsigned. A rubber stamp signature or the signature of an unidentified third-party not an attorney or party acting in a pro se capacity is not sufficient to satisfy Civil Rule 11.

#### *Rule 6.1*

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

Pleadings and other papers may be filed in the Criminal, Civil and Domestic Relations Division of the Court with the Clerk of Courts by facsimile transmission to 419-739-6768 subject to the conditions listed below:

Pleadings and other papers may be filed in the Juvenile and Probate Division of the Court with the Clerk by facsimile transmission to 419-738-1061 subject to the conditions listed below:

#### **APPLICABILITY**

- (A) These rules apply to civil, criminal, probate, juvenile and domestic relations proceedings in the Court of Common Pleas, Auglaize County, Ohio.
- (B) The following documents will not be accepted for fax filing: original wills and codicils, cognovit promissory notes, written pleas of not guilty, written pleas of not guilty by reason of insanity, and any pleadings for filing that require a deposit for costs or check for witness fee.

#### **ORIGINAL FILING**

- (A) A document filed by fax shall be accepted as the effective original filing. The person making a fax filing need not file any source document with the Clerk of Court but must, however, maintain in his or her records and have available for production on request by the court the source document filed by fax, with original signatures as otherwise required under the applicable rules, together with the source copy of the facsimile cover sheet used for the subject filing.
- (B) The source document filed by fax shall be maintained by the person making the **filing** until the case is closed and all opportunities for post judgment relief are exhausted.

#### **DEFINITIONS**

As used in these rules, unless the context requires otherwise:

(A) A “facsimile transmission”: means the transmission of a source document by a facsimile machine that encodes a document into optical or electrical signals, transmits and reconstructs the signals to **print** a duplicate of the source document at the receiving end.

(B) A “facsimile machine” means a machine that can send and receive a facsimile transmission.

(C) “Fax” is an abbreviation for “facsimile” and refers, as indicated by the context, to facsimile transmission or to a document so transmitted.

## **COVER PAGE**

- (A) The person filing a document by fax shall also provide therewith a cover page containing the following information: (See appendix for sample cover page form.)
- (1) the name of the court;
  - (2) the title of the case;
  - (3) the case number;
  - (4) the assigned judge;
  - (5) the title of the document being filed (e.g. Defendant Jones' Answer to Amended Complaint; Plaintiff Smith', Response to Defendants' Motion to Dismiss; Plaintiff Smith's Notice of Filing Exhibit "G" to Plaintiff Smith's Response to Defendants' Motion to Dismiss);
  - (6) the date of transmission;
  - (7) the transmitting fax number;
  - (8) an indication of the number of pages included in the transmission, including the cover page;
  - (9) if a judge or case number has not been assigned, state that fact on the cover page;
  - (10) the name, address, telephone number, fax number, Supreme Court registration number, if applicable, and e-mail address of the person filing the fax document if available; and
  - (11) if applicable, a statement explaining how costs are being submitted.
- (B) If a document is sent by fax to the Clerk of Court without the cover page information listed above, the Clerk may, at the Clerk's discretion;
- (1) enter the document in the Case Docket and file the document; or
  - (2) deposit the document in a file of failed faxed documents with a notation of the reason for the failure; in this instance, the document shall not be considered filed with the Clerk of Court.
- (C) The Clerk of Court is not required to send any form of notice to the sending party of a failed fax filing. However, if practicable, the Clerk of Court may inform the sending party of a failed fax filing.

## **SIGNATURE**

- (A) A party who wishes to file a signed source document by fax shall either:
- (1) fax a copy of the signed source document; or
  - (2) fax a copy of the document without the signature but with the notation "/s/" followed by the name of the signing person where the signature appears in the signed source document.
- (B) A party who files a signed document by fax represents that the physically signed source document is in his/her possession or control.

## **EXHIBITS**

- (A) Each exhibit to a facsimile produced document that cannot be accurately transmitted via facsimile transmission for any reason must be replaced by an insert page describing the exhibit and why it is missing. Unless the court otherwise orders, the missing exhibit shall be filed with the court, as a separate document, not later than five (5) court days following the filing of the facsimile document. Failure to file the missing exhibits as required by this paragraph may result in the court striking the document and/or exhibit.
- (B) Any exhibit filed in this manner shall be attached to a cover sheet containing the caption of the case which sets forth the name of the court, title of the case, the case number, name of the judge and the title of the exhibit being filed (e.g. Plaintiff Smith's Notice of Filing Exhibit "G" to Plaintiff Smith's Response to Defendant's Motion to Dismiss), and shall be signed and served in conformance with the rules governing the signing and service of pleadings in this court . (See appendix for sample exhibit cover sheet.)

## **TIME OF FILING**

- (A) Subject to the provision of these rules, all documents sent by fax and accepted by the Clerk shall be considered filed with the Clerk of Courts as of the date and time the Clerk time-stamps the document received, as opposed to the date and time of the fax transmission. The office of the Clerk of Court will be deemed open to receive facsimile transmission of documents on the same days and at the same time the court is regularly open for business.
- (B) Fax filings may NOT be sent directly to the court for filing but may only be transmitted directly through the facsimile equipment operated by the Clerk of Courts.
- (C) The Clerk of Court may, but need not, acknowledge receipt of a facsimile transmission.
- (D) The risks of transmitting a document by fax to the Clerk of Courts shall be borne entirely by the sending party. Anyone using facsimile filing is urged to verify receipt of such filing by the Clerk of Court through whatever technological means are available.

## **FEES AND COSTS**

- (A) No additional fee shall be assessed for facsimile filings. Costs and fees shall be assessed in accordance with 2303.20.

## **LENGTH OF DOCUMENT**

- (A) Facsimile filing shall not exceed 20 pages in length. The filer shall not transmit service copies by facsimile.
- (B) Copies needed for service shall be made by the Clerk and charged for at the rate established in O.R.C. 2303.20(Z).

## **EFFECTIVE DATE**

- (A) These local rules shall be effective January 25, 2012, and shall govern all proceedings in actions brought after they take effect and also further proceedings in pending actions, except to the extent that, in the opinion of the court, their application in a particular action pending on the effective date would not be feasible or would work an injustice, in which event, the former procedure applies.

## **APPENDIX**

1. Sample Facsimile Filing Cover Page
2. Sample Exhibit Cover Page

**FACSIMILE FILING COVER PAGE**

RECIPIENT INFORMATION:

NAME OF COURT: \_\_\_\_\_

FAX NUMBER: \_\_\_\_\_

SENDING PARTY INFORMATION:

NAME: \_\_\_\_\_

SUPREME COURT

REGISTRATION NO. (if applicable): \_\_\_\_\_

OFFICE/FIRM: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

TELEPHONE NUMBER: \_\_\_\_\_

FAX NUMBER: \_\_\_\_\_

E-MAIL ADDRESS (if available): \_\_\_\_\_

CASE INFORMATION:

TITLE OF CASE: \_\_\_\_\_

CASE NUMBER: \_\_\_\_\_

TITLE OF THE DOCUMENT: \_\_\_\_\_

JUDGE: \_\_\_\_\_

FILING INFORMATION:

DATE OF FAX TRANSMISSION: \_\_\_\_\_

NUMBER OF PAGES (including this page): \_\_\_\_\_

\* If a Judge or case number has not been assigned, please state that fact in the space provided.

IN THE COURT OF COMMON PLEAS  
\_\_\_\_\_ COUNTY, OHIO

JOHN SMITH, Plaintiff

Vs.

Case No.: 123456

BILL JONES, Defendant

Judge \_\_\_\_\_ (Note here if not a  
assigned yet.)

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PLAINTIFF SMITH'S NOTICE OF FILING EXHIBIT "G"  
TO  
PLAINTIFF SMITH'S RESPONSE TO DEFENDANT'S  
MOTION TO DISMISS

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Plaintiff Smith, through counsel, hereby files Exhibit "G" to Plaintiff Smith's Response to Defendant's Motion to Dismiss. The referenced pleading was filed by facsimile transmission with the Court on (date). Exhibit "G" could not be accurately transmitted by fax and is therefore being timely filed as a separate document with the Court pursuant to Local Rule XX.X.

Respectfully Submitted,

---

Attorney Name (Sup. Ct. Reg. No.)  
Office/Firm  
Address  
Telephone  
Facsimile  
E-mail

Counsel for Plaintiff John Smith

CERTIFICATE OF SERVICE

I certify that a copy of this Notice of Filing Exhibit "G" was sent by ordinary U.S. mail on (date) to counsel for Defendant Bill Jones, (name and address of recipient.)

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Attorney Name  
Counsel for Plaintiff John Smith

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**Rule 7**  
**CONTINUANCES**

- (A) No continuance of an oral hearing will be granted except upon written application of the Court together with evidence of good cause for such continuance. Also, its applications for continuance must be made at least seven (7) days prior to such hearing.
- (B) In cases assigned for trial, applications for Continuances must be supported by evidence of good cause for Continuance and when such application is based upon the absence of a witness it must be supported by evidence of reasonable diligence on the part of counsel.
- (C) All applications for Continuances must be approved by the Judge and if a Jury has been called, the expense of calling such Jury will be borne by the party requesting the Continuance. If the request is granted, the applicant shall prepare a Judgment Entry which contains the reason for the Continuance, the name of the attorney who made the request and the new date certain to which the matter has been continued, which dates shall be first obtained from the Assignment Commissioner. All Continuances are discouraged. Counsel who plan to be away on vacation or otherwise, should notify the Assignment Commissioner well in advance of their anticipated absence. After a trial date is scheduled, counsel who have a conflict with a scheduled trial date should immediately apply for Continuance so that their case may be rescheduled and a replacement case inserted instead; also, requests must be accompanied by a copy of the Order creating the conflict. Untimely requests will be denied.

**Rule 8**  
**Certificate of Service**

Every Pleading, Motion, Memorandum or Argument, in writing, filed with the Court and Judge, shall be served upon all opposing counsel or upon all parties not represented by counsel.

Proof of service shall be by certificate of service attached to such Pleading of a Motion, Brief, Memorandum or Argument, and shall include the names of attorneys and/or parties served, and the date and manner of such service.

**Rule 9**

**Rule Dates and Extensions**

Prior to the expiration of any Rule date, any party may be permitted leave to Move or Plead provided the total extension of time does not exceed twenty-one (21) days. Subsequent to the expiration of a Rule date, leave will be granted only for good cause shown.

Where an additional extension of time beyond that provided by the foregoing paragraph is needed, the party desiring the extension shall file a written Motion supported by an affidavit stating facts indicating the practical impossibility of pleading within Rule and demonstrating good cause for further extension. The Motion and affidavit shall be served upon opposing counsel and the matter shall be heard at a time to be fixed by the Court. Motion and affidavit will be required even though consent of counsel is obtained if the extension is for a period of time beyond twenty-one (21) days.



***Rule 10***

***Notification of Counsel***

It shall be the duty of any attorney upon accepting representation of the Defendant in any Civil, or Criminal, or Juvenile matter, to immediately notify the Court of such representation, even though his appearance may not as yet have been entered in the case.

Notification by the Assignment Commissioner by ordinary mail shall be deemed official and complete notification to all counsel of any assignment of any case for any purpose whatsoever.

## *Rule 11*

### *Scheduling Conference*

(A) At such time as the Court may determine, or upon request of any party to the proceeding, and when it appears that any case is at issue before the Court, such case will be assigned for a Scheduling Conference.

(B) Scheduling Conferences may be held in Chambers or by telephone conference as the Court may direct.

(C) Scheduling Conference Statements need not be filed unless specifically directed by the Court. In the event such order is made, the statement will cover the matters set forth in paragraph (D) below.

D) At such Scheduling Conferences, trial counsel shall appear and be prepared to discuss the following:

- 1.) Nature of proceeding;
- 2.) Peculiar issues involved;
- 3.) Analysis of issues;
- 4.) Scope and time needed for Discovery, including cut-off date;
- 5.) Exchange demonstrative evidence and exhibits;
- 6.) Determine whether Pre-trial Conference and/or Pre-trial statement will be required;
- 7.) Determine witness list exchange date;
- 8.) Possible settlement;
- 9.) Estimate of trial time;
- 10.) Firm trial date.

(E) At the Scheduling Conference, the Court shall have the authority to decide any undetermined preliminary matters; to record any admissions, stipulations or agreements; to hear and decide the case with the consent of the parties in Civil cases; to make whatever findings, orders, Judgments or decrees which may be warranted or proper under the circumstances.

(F) Scheduling Conferences will not be held in Foreclosure, Worker's Compensation, Domestic or Appellate type proceedings unless specifically ordered by the Court.

(G) Parties are not required to appear at Scheduling Conferences if held in Chambers unless specifically ordered by the Court.

(H) The Court may set certain proceedings for back-up trial at a Scheduling Conference, or at any time thereafter to date of Pre-trial or Discovery cut-off date. Counsel shall be prepared to go forward with trial. The Court will make every effort to advise trial counsel as early as possible as to whether the back-up trial will go forward or be preempted by a signed primary trial, but in any event, no later than three (3) days before trial date.

## ***Rule 12***

### **Pre-trial Procedure**

(A) All Civil cases not in Default and all Criminal cases where a plea of Not Guilty has been entered at an Arraignment, should be pre-tried. In certain proceedings such as Foreclosure, Worker's Compensation, Domestic, Appellate Review or similar type proceedings, Pre-trial Conferences may be held by telephone conference calls with prior arrangement and approval of the Court.

(B) In all Civil cases, Pre-trial Statements by all parties shall be filed with the Court at least three (3) days before date of Final Pre-trial. They shall include the following:

- 1.) A statement of the facts giving rise to the claim or defense, and/or counter-claim.
- 2.) A comprehensive statement of the issues involved.
- 3.) Propositions of law or positions supported by law with at least two (2) or three (3) authorities cited.
- 4.) List of and addresses of witnesses who will be appearing on behalf of the party, including a short statement of testimony of witnesses. Witness lists shall be furnished to the Court Reporter.
- 5.) A list of all demonstrative evidence or exhibits which will be offered on date of trial. Exhibits shall be marked, in accordance with Court Reporter's instructions, and exhibits shall be exchanged with copies to Court and Court Reporter.
- 6.) A demand or offer for settlement.
- 7.) An estimate of trial time.

(C) It is the intent of the Court to assign Final Pre-trial and trial within a short period of time. Accordingly, it is suggested to counsel that a preparation for the Final Pre-trial hearings shall encompass the same type of preparation as would be required for trial.

(D) The parties and their respective counsel shall appear at each Pre-trial session. A corporate party may appear by an officer or by an employee having knowledge of the subject matter of the case. A party who is insured, concerning the claims of the case, may appear by a Claims Representative of his public liability insurance company. However, if the Pre-trial Judge finds that the presence of the insurance party is essential to the conduct of the Pre-trial, he may direct such party to appear in addition to the Claims Representative. A party unable to appear by reason of illness or other disability, or residence outside the jurisdiction of the Court, may be excused from appearing upon application to the Pre-trial Judge. If such party is excused, it is mandatory that he be available by telephone at the time of the Pre-trial and ordered to assist in negotiations. A party may be excused only upon prior leave of Court.

Whether or not the case is settled, it is likely that by reason of the knowledge gained at Pre-trial, the case will be more efficiently tried.

- (E) The attorneys (or parties pro se) shall be prepared to:
- 1.) Freely discuss the theory or theories of their case, both factual and legal;
  - 2.) Discuss the necessity or desirability of Amendments to any Pleadings or the filing of additional Pleadings;
  - 3.) Discuss simplification of the issues;
  - 4.) Make admissions as to the facts and genuineness of documents and other exhibits which are not in dispute;
  - 5.) Eliminate parties unnecessary to the case;
  - 6.) Give the names and addresses of witnesses whom they intend to call, and state the general nature of their testimony. The refusal or failure of any counsel to disclose a witness may render evidence by that witness inadmissible at trial, unless leave is obtained for good cause shown. This shall not apply to rebuttal witnesses;
  - 7.) Give the number and nature of exhibits they intend to introduce and produce them for examination by the Court or parties;
  - 8.) Give the names, addresses and specialties of any anticipated expert witnesses unless disclosure of such witnesses has been previously ordered;
  - 9.) Exchange reports of expert witnesses expected to be called by the parties;
  - 10.) Exchange medical reports and hospital records;
  - 11.) Discuss limitations on the number of expert witnesses;
  - 12.) Discuss the necessity of supplementing Interrogatory Answers or other previously discoverable matters;
  - 13.) Discuss procedures and time limitations for the completion of any further anticipated Discovery;
  - 14.) Submit and consider authorities on unique or controverted issues or guarantee their submission on or before a date certain;
  - 15.) Discuss any other matters that may expedite the trial or disposition of the case.

(F) At the Pre-trial Conference, the Pre-trial Judge shall have authority to decide any undetermined preliminary matters; to record any admissions, stipulation or agreements; in Civil cases, to hear and decide the case with the consent of the party; to make whatever findings, orders, Judgments or decrees which may be warranted or proper under the circumstances and within the scope and the spirit of the Civil Rules; set the case for trial or dismissal, or take other appropriate action under Civil Rule #37 if counsel failed to appear.

(G) Following the Pre-trial Conference, the Pre-trial Judge will cause to be prepared an Order reflecting all matters stipulated by counsel and all Orders made by the Pre-trial Judge, and said Orders shall control further proceedings in the action subject to the provisions of Rule #60 of the Civil Rules. The Court and counsel may take any further action at the Pre-trial Conference as is authorized in Rule #16 of the Civil Rules.

(H) Failure of any attorney to be prepared for Pre-trial Conferences or failure of a party or attorney to appear, or to cooperate in good faith in the conduct of the Pre-trial Conference, shall subject said attorney or party, in the discretion of the Judge, to any sanctions provided by Rule #37 of the Ohio Rules of Civil Procedure, including an award of expenses and/or attorney fees to any party prejudiced by said failure. In addition, the Court shall have the authority to proceed with all or any portion of the case and to decide and determine any or all matters ex parte upon failure of the Plaintiff or Defendant to appear in person or by counsel at Pre-trial Conferences in Civil cases. In addition, the Court may transfer the matter to the inactive docket of this Court. In addition, the Court may exclude exhibits if not produced at Pre-trial, or exclude testimony of witnesses who have not been identified to opposing counsel on witness lists at Pre-trial.

(I) Statements of the parties through their counsel made in the course of any Pre-trial hearing shall not be binding upon the parties unless expressly made so by written stipulation in the course of the Pre-trial, or as set forth in the Judge's Pre-trial Minutes.

At the Court's discretion, counsel shall file within five (5) days after the Pre-trial, an amended Pre-trial Statement, including those items contained in paragraph (B), above.

### ***Rule 13***

#### **Discovery**

(A) Unless circumstances clearly dictate otherwise, counsel shall participate in informal Pre-trial Discovery Conferences to reduce, in every way possible, the filing of Discovery demands and procedures; to that end it is suggested that no Interrogatory requests, Motions or Applications, or Protective Orders shall be filed under Civil Rule #26-37, inclusive, until counsel have diligently explored such objectives with opposing counsel in an effort to informally handle all Discovery matters and reduce or clarify the issues in controversy to facilitate the presentation at trial.

(B) At such time as Discovery cannot be completed informally, the party seeking Discovery shall advise the Court in writing and file such Interrogatory requests, Motions, Applications and Protective Order requests as may be necessary or advisable to counsel for protecting the interests of their client. Such statements shall recite efforts made to resolve differences informally. In addition, such statements shall recite those matters that remain in dispute, and in addition, the date, time and place of such conferences, and names of all parties participating therein.

(C) All Discovery shall be completed by date of Pre-trial or at such other time as may be set by the Court. Unless authorized by the Court, any Discovery after said date may not be offered at trial.

(D) Any person who has responded to a request for Discovery, informal or formal, is under a continuing duty to supplement such response pursuant to Civil Rule #26(E). Any party who fails to supplement such responses will be subject to sanctions by the Court at trial.

**Rule 14**

**Interrogatories and Production of Documents**

Counsel demanding Discovery shall file with the Clerk of Courts a one (1) page certificate bearing the caption, the type of Discovery requested, the name of the party required to respond, the name and address of the counsel to whom the demand for Discovery was directed, and the date of mailing. Unanswered Discovery requests (interrogatories, requests for production of documents, etc.) shall not be accepted for filing by the Clerk.

**Rule 15**

**Depositions**

(A) The fees of Officers taking and certifying Depositions shall be paid by the party on whose behalf such Depositions are taken. If the Deposition is used to present evidence at the trial, such payments may be taxed as costs in favor of the prevailing party and shall then become part of the Judgment in the action, except as otherwise ordered by the Court.

(B) When a Deposition has been filed in any action, except in actions in which the law prescribes a different procedure, it shall be opened only by the Clerk at the direction of the Court. The fact and date of opening, and the name of the person opening it shall be endorsed on the envelope containing the Deposition, which envelope shall be preserved with the Deposition.

(C) Depositions on file shall not be withdrawn without leave of Court.

(D) All Video Depositions shall be filed no later than fourteen (14) days before trial and shall be accompanied by a written transcript of the testimony. The Court will hold a hearing as soon as possible and order to rule on objections, and allow the Video to be edited by trial date if such editing is required. When testimony is recorded on video tape pursuant to Civil Rule #40, it will be the responsibility of counsel to instruct the Notary Public before whom the testimony is taken to note by the use of a digital counter or other clock device connected with the tape, the point on the video tape where objections are made. The Notary will then number the objections consecutively and attach this record to the certification when filed with the Clerk. Objections must be made at the conclusion of the question and answer only. Counsel may state the basis for the objections and read citations into the record at this time. Any objections made prior to the completion of an answer may, in the Court's discretion, be considered overruled.

(E) The filing party/Court Reporter shall include the name and address of the deposing attorney or the party paying for the deposition to allow the Clerk of Court to notify the proper party when the time comes to dispose of the deposition.

(F) All Exhibits depositions and transcripts., depositions and transcripts shall be destroyed in accordance with Supreme Court Rule 26 Court Records Management and Retention (F) Exhibits.

**RULE 16**

**Trial Briefs**

Preliminary to the trial of cases assigned for trial, counsel may, within their discretion, or counsel shall upon request of the Judge, file Trial Briefs containing questions of law involved in the case. All Trial Briefs shall be furnished to opposing counsel.

## ***Rule 17***

### **Default Judgments and Relief from Judgment**

(A) Default Judgments shall be granted in accordance with Civil Rule #55. All Motions for Default Judgment shall be accompanied by a proposed Judgment Entry. In addition to the following requirements of Civil Rule #55, the party applying for a Default Judgment shall give notice of the application to the party against whom the Default Judgment is sought and shall, at the time of filing the application, submit to the Court proof of service of the application. Said application shall recite that the moving counsel has not been contacted by the Defaulting party or counsel for the Defaulting party, or if such contact has been made, the extent to which such contact has been made.

(B) In all cases where a party is seeking unliquidated damages or is entitled to a Jury trial, at a time designated for Default Judgment, the party entitled to Judgment shall present proper evidence in support of the Allegations and Pleadings for consideration by the Court and Judgment shall be rendered according to the evidence and law applicable. Counsel shall set forth in the Entry of Assignment that a trial by Jury was waived and the matter submitted for decision by the Court.

(C) In any action or proceeding commenced in this Court, if there shall be a Default of any appearance by any party, the party seeking Judgment shall file with the Court an affidavit setting forth facts showing the party in Default is not in the military service. If unable to file such affidavit, the party seeking Judgment shall in lieu thereof file an affidavit setting forth that the party in Default is either in the military service or the affiant is not able to determine whether or not such Defaulting party is in the service, so that before Judgment can be entered, further Civil proceedings shall be had pursuant to the Soldiers and Sailors Civil Relief Act (50 U.S.C. 520 et seq.).

(D) No Motion for Relief from Judgment pursuant to Civil Rule #60(B) shall be granted by the Court unless the Movant has demonstrated the satisfaction of the Court by operative facts of evidentiary quality that:

- 1.) The Movant has a meritorious defense or claim to present if Relief is granted;
- 2.) The Movant is entitled to Relief under one of the grounds stated in Civil Rule #60(B)(1)(5);
- 3.) The Motion is made within a reasonable time;
- 4.) Such party in Default presents and offers to file a proper Pleading in the case together with the Motion for Relief. The Court may, if justice requires, set aside the Default Judgment or decree upon such terms to costs as may be just, and shall order the Pleadings for want of which the Default existed, to be filed forthwith or within such time as the Court may designate.

## ***Rule 18***

### ***Entries in all Cases***

(A) Unless the Court otherwise directs, counsel for the parties in whose favor an order, decree or Judgment is rendered, shall within five (5) days thereafter, prepare the proper Judgment Entry and submit it to counsel for the adverse party who shall approve or reject the same within five (5) days after receipt thereof. When approved by counsel, it shall be so endorsed and furnished to the Court. If counsel are unable to agree on the form of the Entry, or if the same is prepared and submitted by counsel in whose favor the order, decree or Judgment is rendered, and counsel for the adverse party fails, neglects, or refuses to return such Entry, counsel in whose favor an order, decree or Judgment is rendered shall prepare a substitute Entry and submit the same to the trial Judge with the notation thereon that the same has been submitted to counsel for the adverse party pursuant to this Rule, and thereafter the trial Judge will direct what Entry shall be made or shall approve and file the Entries submitted. If such Entry is not prepared and presented for filing by counsel, then it shall be prepared and filed by the Court.

(B) Counsel shall promptly submit an order of dismissal following settlement of the case. If counsel fails to do so within fifteen (15) days after representation to the Court that the case has been settled, the Court may order the case dismissed for want of prosecution or file a Judgment Entry of settlement and dismissal, and assess costs. The Court may also sua sponte transfer any matter to the inactive docket upon being advised the cause has been settled.

(C) Provisions of this Rule shall not be deemed to preclude the Court at any time from sua sponte preparing and filing with the Clerk its own Judgment or order.

(D) All such Entries shall be submitted to the Court with sufficient copies to provide each party with a copy thereof. The Clerk of Courts will not accept for filing any Judgment Entry unless it is accompanied by sufficient copies for each party or counsel in the cause, and the Clerk shall immediately, upon the filing of any such Entry, cause each party or counsel to be served a copy of such Entry.

(E) The Clerk's notation of the service of the entry of judgment on the appearance docket is sufficient evidence of service.



*Previous Rule 19 was repealed on October 20, 1989 and replaced with the following:*

## ***Rule 19***

### ***Appeals to the Common Pleas Court***

All Appeals filed from Administrative Agencies, except Worker's Compensation cases, shall be governed by the procedure outlined in Ohio Revised Code Section 119.12.

Appellants shall order and cause the proper notice, transcripts and information to be filed with the Clerk pursuant to the applicable provisions of the Ohio Revised code.

Upon the filing of the transcript, the Clerk shall notify all parties of the fact of filing, and shall submit the transcript to the Court.

Upon submission of the transcript to the Court, the Assignment Commissioner shall assign the matter for hearing as soon as possible and in an accelerated fashion in accordance with Ohio Revised Code Chapter 119.

All Appellants shall submit briefs at least fourteen (14) days prior to the time set for hearing. Appellees shall submit briefs at or prior to the time set for hearing. No evidentiary hearing shall be allowed at the hearing unless prior leave has been obtained of the Court for good cause shown.

The matter shall be deemed submitted at the completion of the hearing. No continuance of the hearing shall be granted without good cause shown."

## ***Rule 20***

### ***Fees of Counsel and Partition***

Fees allowed in Partition cases as costs therein shall be predicated either upon the appraised value of the property, if Partitioned, or upon the proceeds of sale, if sold, and shall not exceed the following: Ten percent (10%) of the first 1,000; six percent (6%) of the next 3,000; four percent (4%) of the next 8,000; two percent (2%) on the next 10,000; one percent (1%) on the excess. If an action or Partition is terminated, other than upon the merits, the trial attorney for Plaintiff shall be allowed a fee for the reasonable value of his services, commensurate with the time and labor required and expended, the novelty and difficulty of the questions involved, and the skill requisite to perform the service properly. The Court shall tax in costs the fees so allowed in favor of the trial attorney for Plaintiff unless the Court awards some part thereof to the other trial attorneys in the cause for services for the common benefit of all parties. Additional fees may be allowed for good cause shown.

## ***Rule 21***

### ***Certificate of Titles for Judicial Sales***

(A) In every action hereinafter filed, wherein a Judicial Sale of real estate is contemplated by the Complaint or subsequent Pleadings, the party praying for said sale or the attorney for the party praying for said sale shall endorse thereon the following certification: “The undersigned hereby certifies that an examination of the public records of \_\_\_\_\_ County, Ohio, has been made to determine the ownership of subject real estate and all parties who may claim an interest therein, and that in the opinion of the undersigned all such parties have been named as parties to this action,” stating as exceptions any interested party not so named.

(B) Upon any decree subsequently issued which orders the sale of real estate, the party or attorney having requested said sale shall further certify: “The undersigned hereby certifies that the examination of title to subject real estate has been extended to \_\_\_\_\_ (date of order of sale) to determine if any parties have acquired any interest therein subsequent to said previous examination and said examination discloses that in the opinion of the undersigned there are no such parties except parties to whom the doctrine of lis pendens applies,” also stating as further exceptions any such party not subject to lis pendens.

(C) The Sheriff, Deputy or party conducting the sale shall prior thereto announce that any purchaser shall have twenty (20) days from the date of sale to obtain an examination of title to said real estate. Should such examination disclose the title so purchased to be unmarketable by reason of any defect in the proceedings, or the existence of any interest not disclosed in either of the certifications described above, no liability shall be predicated on the certifications, but said purchaser may, within the twenty (20) day period, notify the Court thereof by written Motion requesting that said sale be set aside. If the Court upon hearing thereof finds said title to be unmarketable, the Court shall refuse to confirm said sale. The Court may, however, fix a reasonable time within which such defects may be corrected.

(D) A purchaser may waive any part or all of the twenty (20) day period by signing the Confirmation Entry, but no Confirmation Entry not approved by the purchaser shall be filed until said period has expired.

(E) This Rule shall not apply to proceedings commenced by the Treasurer of Auglaize County for Foreclosure or nonpayment of real estate taxes, or otherwise.

(F) The costs of the legal notice of sale shall be prepaid by the party requesting the sale.

(G) Appraiser’s fees as to actions relating to real or personal property shall be allowed to each appraiser as follows:

- (1) \$.50 per \$1,000.00 or fraction thereof of the appraised value up to \$100,000.00.
- (2) \$.25 per \$1,000.00 or fraction thereof of the appraised value of all over \$100,000.00.
- (3) A minimum fee for each appraiser based upon the above amounts shall be \$50.00.

## ***Rule 22***

### **Receiverships**

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

(A) Unless the Court, by Entry, specifically authorizes the Receiver to continue a business, he shall expeditiously take control of the assets of the Defendant Debtor, give notice to all known creditors of his appointment and afford them opportunity to present and prove their claims, cause the assets to be inventoried and appraised, determine the validity and priority of creditors' claims, take such steps as may be necessary to reduce the assets to cash, and make distribution of said cash between the various classes of creditors.

(B) Within two (2) months after his appointment, the Receiver shall report to the Court, submitting his inventory and appraisal and including his account of receipts and expenditures to date. The several matters herein referred to shall be considered by the Judge and his approval thereof shall be by Entry, approved first by the Receiver and his counsel.

(C) Semi-annually after filing the first report with inventory, appraisal and account, the Receiver shall file with the Clerk, consecutively numbered reports with accounts for approval by Entry by the Court as to all receipts and expenditures made by the Receiver during the reporting period, and a summary of plans for the future conduct of the Receivership.

(D) In cases involving Receivers appointed to take charge of property and to collect rents and other income, the Receiver may expend funds without first having obtained Court approval to pay for insurance premiums, water and utility bills, and make emergency repairs as are necessary for the proper maintenance of the property. For authority other than that conferred upon the Receiver by virtue of this Rule, the Receiver shall make application to the Court for such authority.

(E) In all Receiverships in which property appraised in excess of \$1,000.00 is to be put up for public or private sale, the Receiver shall file in advance of such sale a report with the Court showing the amount of expenditures incurred or to be incurred prior to the time the sale is to be conducted.

(F) An application for payment of Receiver's and counsel for Receiver's fees (partial or final) shall be filed with the Clerk for approval by the Court. Written notice of the hearing on application for fees shall be submitted personally or by mail to all creditors or to their attorney of record, unless otherwise provided by Court Order. Such applications shall show time spent on enumerated items, amounts of money collected, disbursed and on hand, the status of secured and unsecured creditors' claims, including amounts claimed, payments made thereon and balances due, and the estimate of the amount of time necessary to complete work by the Receivership and make final distribution.

(G) Failure to file an inventory and appraisal, accounts, or other reports as contemplated by the Rule, pursuant to notices sent by the Court, will constitute cause for removal of the Receiver and/or his attorney, and for withholding of fees for the Receiver and/or his attorney.

### ***Rule 23***

#### ***Bail and Surety Bonds***

Attorneys and other Officers of the Court shall not be accepted as bail or surety for others, and no bond shall be approved having the name of such persons thereon as surety for others.

### ***Rule 24***

#### ***Judgment Entries in Criminal Cases***

In all Criminal cases where the Entry is Ordered to be prepared by the Office of the Prosecuting Attorney, said Prosecuting Attorney shall submit an Entry to the Court for signature and journalization, and shall cause a file stamped copy to be served upon the Defendant or defense counsel.

In cases where a Pre-Sentence or Post-Sentence Investigation is ordered, the Court shall assess a \$75.00 fee.

### ***Rule 25***

#### ***Execution and Garnishment, Prior Affidavits***

In any action or proceeding in this Court in which a money Judgment has been obtained against an individual, no execution or garnishment shall be had to enforce the collection or satisfaction of such Judgment unless at the time such execution or garnishment is sought by any party, an affidavit shall be filed setting forth facts showing that the Defendant is not in the military service, or if unable to file such affidavit in lieu thereof, an affidavit setting forth either that the Defendant is in the military service or that such party is unable to determine whether or not such Defendant is in the military service. Upon the filing of such affidavit, the Court shall then determine whether or not such execution or garnishment shall be had or stayed in accordance with the Soldiers and Sailors Civil Relief Act of 1940.

This Rule shall be in effect only so long as the above Act is in effect.

## **RULE 26**

### **DOMESTIC RELATIONS PLEADING AND PRACTICE**

#### **RULE 26.01 - FILING OF CASES**

A. Upon the initial filing of any case or upon the re-opening of a closed file, the caption of each case shall contain the names, addresses, date of birth and the last four digits of the social security numbers of the parties. In all files, which are inspected or copied, the Clerk shall redact all but the last four digits of any social security numbers contained within the files. The original shall be replaced with redacted copies and the original retained in a separate file open only to inspection by judicial staff, Clerk's staff or upon a showing of good cause. Counsel and the parties shall comply with Rule of Court 5.1 and provide a personal identifier/sensitive information sheet.

B. A file stamped copy of all pleadings shall be left with the Judge's office, upon filing same. This is the manner in which the Judge's office tracks and schedules its cases.

C. In original cases and in all post decree filings, involving minor children, the parties shall file a IV application (request for child support services) with the Clerk of Court. The Clerk shall docket and forward said applications to the CSEA. The Clerk shall not serve pleadings upon the Defendant until a IV-D application is received.

D. In addition to copies for service, a copy of all standard forms, separation agreements, Judgment Entries, support worksheets, and health cost orders shall be submitted by Counsel and the Clerk of Court shall forward a copy to the CSEA.

E. In all original or re-opened domestic cases counsel, or the parties, if not represented by counsel, shall file all forms APPLICABLE TO THE PROCEEDINGS AS HAVE BEEN ADOPTED BY THE Supreme Court of Ohio. CSEA is excepted from this requirement.

F. All Complaints for Divorce, for Legal Separation or Annulment and Petitions for Dissolution shall be accompanied by a signed copy of the Court's standing orders, DR-SO and the Marital History Information Sheet.

G. All Petitions for Dissolution, Complaints for Divorce, Complaints for Legal Separation and Motions involving Parental Rights and Responsibilities, Child Support or Spousal Support shall be accompanied by all completed affidavits as have been adopted by the Supreme Court of Ohio. CSEA is excepted from this requirement.

H. In all Domestic Relations matters involving children, a child support worksheet that complies with statute, must be filed by each of the parties or an agreed worksheet

filed by both parties. In cases requesting Temporary Orders, such worksheet may be filed along with the Motion or request.

I. Any deviations from the standard child support guidelines must be reflected on the child support worksheet and must be specifically set forth in the Judgment Entry together with the reasons therefore.

J. Assisting Our Kids Plan (A-OK) - All litigants in original divorce, dissolution and legal separation cases as well as post decree motions regarding the determination and enforcement of parental rights and responsibilities, who have not completed an Assisting Our Kids program within two years of the filing, shall attend this Court ordered program.

The fee for attending this class is **PAYABLE AT THE DOOR BY CASH, CHECK OR MONEY ORDER MADE PAYABLE TO THE A-OK PROGRAM.** You will **NOT** be permitted to attend the class if you do not pay the entire fee at the door.

Upon the completion of each session, a Certificate of Attendance will be filed in each case.

Each counsel filing original pleadings shall advise their clients of the program. The Clerk shall serve a copy of DR-AOK upon both parties with the pleadings in each case.

To be excused from attending the A-OK program, a party must file a motion with the Court setting forth with particularity the reasons for the party's desire not to attend and if deemed by the Court to be sufficient cause, the Court will excuse attendance.

K. Upon the request of a party and if the Court believes it to be in the best interests of the minor children of the parties, the Court may transfer the jurisdiction of any domestic relations action to the Juvenile Court pursuant to ORC 2151 and thereafter the matter will proceed in that jurisdiction.

L. Child care Affidavits, Powers of Attorney to Grandparents and Registration of foreign custody orders together with actions to modify or enforce same will be filed in the Juvenile Division of this Court.

## **RULE 26.02 - DISSOLUTION OF MARRIAGE**

A. All petitions for dissolution shall be accompanied by a written Waiver of Service of Summons and where one or both parties are not represented by counsel, by a written Waiver of representation by counsel.

B. Where there are unemancipated children, the Petition for Dissolution shall be accompanied by a child support worksheet signed by both parties.

C. Counsel, or the parties if not represented by counsel, shall have the final Judgment Entry prepared for the Judge's signature on the day set for hearing together with sufficient copies for filing and distribution.

### **RULE 26.03 - DIVORCE ACTIONS**

- A. Upon service of the Complaint upon the Defendant, the Court will assign all divorce actions for pretrial hearing. At pretrial, Counsel shall be prepared to discuss all issues and bring their scheduling calendar. Unless otherwise excused by the Court the parties shall be present at all pretrial hearings.
- B. All divorce actions will next be set for Final Pretrial / Uncontested Divorce. It is contemplated that if settled, the matter will proceed to final divorce hearing at this time. If not settled, Counsel shall meet with the Court to establish a final hearing date, discuss and narrow the issues, exchange witness lists and perform any other necessary pretrial functions. All parties must be present at final pretrial hearing.
- C. In all cases where the divorce is uncontested, the matter shall proceed to final hearing at said time. An uncontested divorce is one where after proper service no answer has been filed, no party has appeared or the parties have otherwise agreed.

### **RULE 26.04 - TEMPORARY ORDERS**

- A. Upon the filing of a motion for temporary spousal support, temporary child support or temporary allocation of parental rights and responsibilities, the Court shall not rule for fourteen (14) days from the date of service of said motion except as provided in Rule 26.05. Upon the expiration of fourteen ( 14) days or the filing of a responsive pleading, whichever is earlier, the Court shall consider the matter submitted. A request for temporary orders must be in the form of a motion filed separately from the Complaint or Answer, upon the forms required by the Supreme Court of Ohio.
- B. All Motions for Temporary Orders must be accompanied by affidavit, sworn to absolutely and stating sufficient grounds for the relief requested. If the information is available, a child support computation worksheet may be filed with the motion for temporary child support or with any responsive pleading thereto. An affidavit for temporary spousal support shall include the reasons for the request and shall include income and expenses of both parties with specificity. An affidavit for temporary allocation of parental rights and responsibilities must be specific and at a minimum set forth the work schedules of the parties, which party has been the primary caregiver, whether child care services are involved and the relative mental, physical and emotional health of the parties and children.
- C. Responses to Motions for Temporary Orders shall be filed within fourteen days of service and shall be completed on forms required by the Supreme Court of Ohio. If a party fails to file a responsive pleading, the Court will consider the matters contained within the movant's affidavit as correct.
- D. After any Temporary Order is issued, any party may request oral hearing. Such request must be in writing, filed with the Clerk of Court and served on the opposing counsel or a party if no counsel has appeared. The Court will then promptly set said matter for hearing within 14 days.

A request for oral hearing does not suspend or delay the commencement of any temporary order or any order issued modifying a temporary order.

E. Motions for Temporary Restraining Orders as provided by the Ohio Rules of Civil Procedure relating to domestic relations cases shall be accompanied by affidavit setting forth the specific basis for the requested relief. The Court will not issue Restraining Orders that are already adequately covered by the Court's Standing Orders ( DR-SO). Temporary Restraining Orders will be considered in the same manner as all other temporary orders except as set forth in Rule 26.05.

#### **RULE 26.05 - EMERGENCY TEMPORARY ORDERS - EX PARTE**

A. The Court will grant certain temporary orders without hearing in only unusual and extreme situations where the exigencies of the circumstances require immediate action to protect the best interests of the parties or children.

B. A motion for an Emergency Temporary Order shall identify on its face that an emergency exists and the Order is being requested ex parte.

C. The Court will automatically set for hearing, on a priority basis, any Order issued ex parte and said hearing will be held within 14 days or on the first available date thereafter. An affected party may file a response to the movant's emergency request and the Court will reconsider its Order based upon the pleadings of the responding party.

D. The Clerk shall cause a copy of all Temporary or Emergency Temporary Orders to be served upon the parties by certified mail, upon attorneys of record by regular mail and upon CSEA by hand delivery, unless the order or pleading directs otherwise. The clerk may also serve by hand delivery in cases where such service is more expeditious.

E. Restraining Orders may also be issued without hearing, under the same conditions as other emergency orders in the manner stated above.

#### **RULE 26.06 - FINAL JUDGMENT ENTRIES**

A. All Judgment Entries shall state child support in a monthly amount. (see O.R.C. 3113).

B. All Court costs shall be specifically assessed to either party or jointly to both parties. Costs will normally be assessed to deposits and then divided equally by the parties unless otherwise order.

C. The Clerk shall provide a certified copy of the final Judgment Entry to each party upon the filing of same. Counsel, or the parties, if no counsel, shall provide the necessary copies for certification.

D. If a deviation from the child support guidelines is ordered, the Judgment Entry shall set forth the reasons for the deviation, that the deviation is in the best interests of the children and shall be accompanied by a child support worksheet.



E. All Judgment Entries shall state that child support and spousal support shall be paid through the Child Support Enforcement Agency, along with the appropriate administrative fees. No direct payments shall be made by the Obligor to the Obligee.

F. All Judgment Entries shall contain the appropriate language for wage withholding pursuant to statute, including last four digits of Social Security numbers, dates of birth and the complete names and addresses of employers.

G. When the Court orders counsel to prepare an entry, counsel will have fourteen (14) days to prepare the same and submit it to the Court unless some other time period is allowed.

H. Unless previously filed, all Judgment Entries ordering support shall be accompanied by a signed and completed IV-D Application which the Clerk of Court shall docket and forward to the CSEA within fourteen (14) days of the filing of the Entry.

I. All Judgment Entries, in addition to the appropriate orders, shall contain the mandatory language found in Appendix A. or as otherwise required by statute or the CSEA. Examples of that language are as follows:

**1. Language to be added to all Final Entries requiring withholding:**

Check with the Child Support Enforcement Agency to get the appropriate language.

**2. QDRO – If a Qualified Domestic Relations Order is issued:**

“The intent of this Order is to fairly distribute to the alternate payee his or her share of the marital portion of the retirement plan. In the event that there is a defect in the wording of the QDRO which precludes that intended outcome, the Court retains jurisdiction to modify the QDRO as to form.”

**3. REAL ESTATE TRANSFER**

“It is ORDERED that (name of party) is divested of all right, title and interest in the real property described as follows:

(insert real estate description)

It is further ORDERED that (name of party) is hereby vested with all right, title and interest to said real estate and the Auditor and Recorder of this County are ORDERED to accept this entry as transferal of said interest and to transfer said real property on its books and records.”

### **RULE 26.07 - HEALTH INSURANCE ORDERS**

A. All final entries involving children shall contain the necessary statutory language dealing with health insurance for the children of the parties.

### **RULE 26.08 - GUARDIAN AD LITEM - INVESTIGATIONS**

A. If either party desires the appointment of a Guardian Ad Litem for minor children involved in the pending case and requests a Guardian Ad Litem be appointed, a deposit of \$800 shall be required with any motion requesting such appointment and shall be paid to the Clerk of Court unless otherwise ordered by the Court.

B. A proposed Judgment Entry (form DR-GAL) shall be submitted along with the motion and shall leave a blank for the name of the proposed Guardian Ad Litem.

C. Reports of the Guardian Ad Litem are confidential to the Court. GAL reports shall not be filed with the Clerk of Court nor shared with any person unless specific permission of the Court is obtained. Under most circumstances the Court will share GAL reports with counsel for the parties.

### **RULE 26.09 - HOME STUDY INVESTIGATIONS**

A. If, pursuant to Civil Rule 75(D), either party desires a home investigation where allocation of parental rights and responsibilities of children is an issue, such party shall request said investigation by motion and deposit the required fee of \$500.

B. If the motion is granted, a written report shall be prepared and provided to the Court by the court appointed investigator at least fourteen (14) days prior to the final hearing. The Court will then make the report available to both parties and will consider same in its decision on parental rights and responsibilities.

C. Either party may call the investigator as a witness as upon cross examination, and such testimony shall be received into evidence by the Court.

D. Once an investigation is ordered, but canceled prior to its completion, the Court will determine the amount to be paid to the investigator based on the time involved and the progress of the report. A minimum amount for a canceled child custody investigation shall be \$100.

### **RULE 26.10 - MODIFICATION OF CHILD SUPPORT OR SPOUSAL SUPPORT**

A. A copy of all motions requesting a modification of child support or spousal support shall be served upon the CSEA.

B. Upon filing of any motion for modification of child support or spousal support, the filing party or counsel shall file a completed Affidavit 1, and in the case of a child support modification, completed Affidavits 3 & 4 with sufficient copies to serve upon CSEA and the opposing party. Within 30 days of service upon the opposing party, the filing party and the opposing party shall provide to both the CSEA and each other the following financial information:

1. A copy of the party's federal income tax return from the previous year.
2. A copy of all pay stubs obtained by the party within the preceding six (6) months.
3. A copy of all their records evidencing the receipt of any other salary, wage, or compensation within the preceding six (6) months.
4. Any other information necessary to properly review the child or spousal support order.

**NOTE:** The information in Paragraphs 1-4 above is not to be filed with the Court.

C. Upon the CSEA receiving the financial information within the thirty (30) day period after service upon the responding party, said CSEA shall review and serve the results of that review upon all parties within fifteen (15) days of their receipt of the financial information.

D. Should either party not comply with the notice of the financial information within the thirty (30) day period, the CSEA shall so inform the Court and file a Motion for Citation in Contempt which shall be served upon the party and the hearing date previously set by the Court shall be used as a contempt hearing.

E. This rule shall not effect the ability of the CSEA to conduct its own independent review pursuant to the Ohio Revised Code. Upon said review being conducted and the results of same being sent to all parties, and if one or more of the parties do not agree, the CSEA shall file a motion requesting modification which will then be set for hearing. The intent of this Rule is to coordinate the CSEA administrative review with motions filed by individual parties.

F. All orders for child support shall be effective retroactive to the date of filing of the motion unless otherwise ordered by the Court.

### **RULE 26.11 - POST JUDGMENT MODIFICATION OF PARENTAL RIGHTS AND RESPONSIBILITIES**

A. When filing a post decree motion to modify parental rights and responsibilities, there must also be filed an affidavit in support, an affidavit of income and expenses, parenting proceedings affidavit, health insurance affidavit and an application for child support services.

B. The parties shall have fourteen (14) days after service of the motion to respond thereto. Thereafter the Court will rule upon any requests for temporary orders and set the matter for pre-trial conference.

C. In Camera interviews of children will be conducted on the request of any party if found to be in the best interest of the child. The interviews will be in the Courtroom, on record, with the Judge and a Court reporter only. If the parties desire that the interview not be on the record and in Chambers, each party must affirmatively waive record. Said interviews will be held at Final Pre-trial, unless otherwise directed by the Court.

**RULE 26.12 - REASONABLE AND ORDINARY UNINSURED MEDICAL EXPENSES**

A. The amount of \$100 per year per child shall be deemed reasonable and ordinary medical expenses of a minor child.

B. Expenses remaining thereafter shall be deemed extraordinary and shall be allocated between the parties on a case by case basis based upon the income shares established and any other factors the Court deems to be relevant.

C. Medical expenses shall be defined as hospital, doctor visits, dental, orthodontic, laboratory testing, optical, optometric, pharmaceutical, psychiatric and psychological expenses pre-approved by both parents, ordered by the Court or reasonable and necessary under the circumstances. Medical expenses do not include those for purely cosmetic reasons.

**RULE 26.13 - CHILD RELOCATION**

A. Prior to the relocation of either parent to a residence other than that specified in the visitation order or decree of the Court, the relocating parent must file a notice of intent to relocate in advance notice of the move. (See O.R.C. 3109.051(G)). Included in said notice shall be the last known address of all parties, a new residential address and telephone number of the relocating parent and the name and address of the school in the district in which the child(ren) shall attend, if applicable. If these items are not available at the time of filing the notice, they shall be provided immediately upon the receipt of the information.

B. The party filing the notice shall request service by certified mail upon the other party at the time of filing.

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

**RULE 26.14 - POST JUDGMENT RELIEF ACCOMPANIED BY CITATION FOR CONTEMPT**

A. Any motion requesting a citation in contempt shall state the basis for the contempt citation with particularity and be accompanied by an affidavit specifically setting forth the facts supporting the motion.

B. A show cause order shall contain notice of hearing and shall accompany any motion filed requesting citation in contempt. The same shall be submitted to the Judge's Office with the filing of the motion in order that a date may be provided by the Court. The notice of hearing/showcause order shall be served with the motion for citation in contempt as provided by the Civil Rules.

### **RULE 26.15 - ATTORNEY FEES**

A. The amount of \$500 shall be deemed to be a reasonable, necessary and appropriate amount for attorney fees for representation in cases upon which a finding of contempt has been made or a motion to impose jail sentence from a previous finding in contempt is heard. Any request for attorney fees in excess of that amount shall require a presentation of evidence as to the reasonableness and necessity of said fees in accordance with Ohio law. Except for those matters in which attorney fees are statutorily mandated, it is in the discretion of the Court whether to award attorney fees in such action.

### **RULE 26.16 - CONCILIATION PROCEDURES**

A. Any party may, pursuant to O.R.C. sec. 3117.05, file a petition for conciliation. Said petition shall be in substantial compliance with O.R.C. sec. 3117.05(B) (see suggested form DR-Conciliation) and shall be filed in the pending domestic relations matter. The Clerk shall not charge any fee for the filing of a petition for conciliation. Service of the petition shall be in accordance with the Civil Rules and the opposing party shall answer the petition within fourteen (14) days of service. The Court will rule upon the petition based upon the pleadings.

B. The parties shall state within the petition the duration of time that they wish the conciliation to proceed but in no event shall the same exceed six (6) months. If the amount of time is not stated, the Court will assign ninety (90) days.

C. During the period of conciliation, the Court will assign the case to the inactive status and at the conclusion of the conciliation period, the Court will set the matter for Pre-trial conference. A pending domestic relations matter may be dismissed by the parties at any time during the conciliation period.

### **RULE 26.17 - CIVIL DOMESTIC VIOLENCE ACTIONS**

A. All actions requesting the issuance of a civil protection order because of domestic violence shall be filed in accordance with O.R.C. sec. 3113.31. All petitions or motions must contain the full name and addresses of the parties, the physical description of the subject of the order including height, weight, hair color, eye color, race and sex.

B. The Clerk shall not require a costs deposit for petitions filed under this section.

C. Upon filing such a petition the Clerk shall immediately notify the Court and the filing party shall immediately report to the Court for the assignment of a hearing time. Thereafter, the matter will proceed according to statute.

### **RULE 26.18 - MEDIATION**

- A. If the parties to an action for divorce, dissolution, legal separation, annulment or the allocation of parental rights and responsibilities cannot agree upon the allocation of parental rights and responsibilities or upon a specific schedule of visitation, the Court may upon its own or upon the request of any party, order the parents to mediate their differences pursuant to statute.
- B. The parties are responsible for the costs of mediation on whatever terms they work out with the mediator. Relief from this requirement may be requested by motion pursuant to statute.
- C. Mediation and the report of mediation will be completed within sixty (60) days of the mediation order. During mediation the case will be placed on an inactive status. If additional time is required, same will be granted upon a showing of just cause by appropriate motion.
- D. The mediator shall have all necessary qualifications required by law and shall have successfully completed mediation training. A certificate of completion, statement of qualifications and fee schedule shall be filed with the Court before a particular mediator will be appointed by the Court.
- E. All other requirements of mediation shall be in accordance with statute.

#### **RULE 27.00- STANDING ORDERS**

A. All parties to original divorce and legal separation actions in the Auglaize County Common Pleas Court are subject to the following orders from the date an action is filed. These orders shall be strictly adhered to under penalty of contempt of court.

1. Each party is hereby enjoined and restrained from causing or permitting the minor child(ren) of the parties to be removed from the jurisdiction of this Court except by a signed agreement of the parties or unless authorized in writing by this Court. The minor child(ren) shall not be removed from Auglaize County for purposes of relocation unless by written agreement of the parties or authorized in writing by this Court.

2. Each party is enjoined and restrained from doing, attempting to do, or threatening to do any act of injuring, maltreating, vilifying, molesting, or harassing the adverse party or any of the children of the parties.

3. Each party is enjoined and restrained from selling, encumbering, contracting to sell, removing from the jurisdiction of this Court, or otherwise disposing of any of the property belonging to either of the parties, except in the ordinary course of business or unless authorized in writing by this Court.

4. Both parties are restrained from entering safe deposit boxes until further order of the court.

5. The attorney representing the Plaintiff in any divorce action hereinafter filed in this Court shall furnish the client a copy of this rule, and the client, upon the signing of the complaint, shall be bound by the terms of this rule.

6. The Clerk of this Court shall attach a copy of this rule to the summons so that both documents will be served simultaneously. The defendant shall be bound by the terms of this rule

upon service of same. The Clerk shall not file a Waiver and Entry of Appearance until a copy of this rule is received and served upon the Defendant.

7. Any party may file a motion to modify this Standing Order for good cause shown and will be granted a speedy hearing.

**RULE 28.00 - STANDARD VISITATION AND COMPANIONSHIP RIGHTS**

A. Visitation and companionship rights shall comply with this Rule unless otherwise ordered by the Court or by the mutual agreement of the parties.

B. The non-residential parent shall have visitation on alternate weekends from Friday night at 7:00 PM to Sunday evening at 7:00 PM.

C. The non-residential parent shall have week day visitation for a period of two (2) hours per week. The beginning and ending times may be varied to accommodate the work schedules of the parties, the schedule of the children and the appropriate bedtime for the children during the school year. If no agreement can be reached, said visitation shall be had on Wednesday of each week.

D. Mother's Day the children shall be with the mother and Father's Day the children shall be with the father. In the event this provision requires the children to be with the residential parent when it is the non-residential parent's normal weekend visitation, the non-residential parent shall return the children by 9:00 AM on the appropriate holiday. In the event that this provision requires the children to be with the non-residential parent on a day not falling within the non-residential parent's visitation weekend, the non-residential parent shall receive the children at 9:00 AM on that day and return them at 7:00 PM on said day.

E. Holiday visitation shall be as follows:

**EVEN YEARS**

**Residential Parent**

**President's Day**

Friday night to Monday night

**Memorial Day**

Friday night to Monday night

**Labor Day**

Friday night to Monday night

**Christmas**

Christmas Eve and Christmas Day until 2:00 PM.

**Non-residential Parent**

**Easter**

Thursday night to Sunday night

**4th of July**

Night before to morning after except when the 4th falls on Friday, Saturday, Sunday or Monday, when the visitation shall commence on Friday night and continue to the end of the weekend or the end of the holiday, whichever is later.

**Thanksgiving**

Wednesday night to Sunday night

**Christmas**

Christmas Day at 2:00 PM for the remainder of the Christmas holiday until

6:00 PM on January 1st unless January 1st falls on a Friday or Saturday in which case the visitation shall continue until the Sunday immediately following that date at 6:00 PM.

### **Odd Years**

During the odd years the above schedule shall be reversed as to Residential and Non-residential parents.

Unless otherwise indicated, holiday visitations shall commence at the regular hour as set forth for the commencement of weekend visitation and shall end at the regular hour set for the ending of weekend visitation. Holiday visitation shall have precedence over the regular weekend visitation but shall not modify it (for example, if the Holiday granted in any particular year to a non-residential parent falls between the regular weekend visitation, the non-residential parent will have three (3) weekends in a row at that particular time).

Christmas and holidays may be modified by agreement of the parties to suit individual family schedules or by agreement or Court Order, upon proper motion, to suit religious preferences.

F. The child shall celebrate the birthday in the home of the residential parent, unless it falls on a regular visitation day, in which event it shall be celebrated with the non-residential parent.

#### G. Summer visitation

1. The non-residential parent shall have extended summer visitation each summer; however, same shall not exceed four (4) weeks in duration and shall be exercised in two (2) separate blocks of time consisting of fourteen (14) consecutive days. The non-residential parent shall notify the residential parent, in writing, of the time thereof as soon as the vacation schedules at the non-residential parent's place of employment are posted or decided upon but in any event no later than thirty (30) days prior to the exercise of each summer visitation.

***2. The residential parent is also entitled to two (2) weeks of vacation time in a block of fourteen (14) consecutive days and shall notify the non-residential parent, in writing, of their intent to exercise a period of time for summer vacation. If there is a conflict over summer vacation time, the parent to first supply written notification to the other parent shall be entitled to exercise the chosen time. Extended summer visitation does not modify or terminate child support during the period of visitation unless by specific order of the Court. Further, unless otherwise agreed by the parties, neither parent may use summer visitation in combination with regular visitation such as to extend the vacation block of time to a period in excess of (14) days.***

3. Holiday visitation takes preference over summer visitation and summer visitation takes preference over weekend visitation.

#### H. Miscellaneous Orders as to visitation and companionship:



1. It is the responsibility of the residential parent to ensure that the children have visitation with the non-residential parent. Such decisions shall not be left to the child.

2. The residential parent shall take the necessary action with the school authorities of the schools in which the children are enrolled to list the non-residential parent as a parent of the children, to authorize the school to release to the non-residential parent any and all information concerning the children and to insure that the non-residential parent receives copies of any notices regarding the children.

3. The residential parent shall promptly transmit to the non-residential parent any information received concerning parent - teacher meetings, school club meetings, school programs, athletic schedules, and any other school activities in which the children may be engaged or involved.

4. Both parties shall be diligent in having the children ready and available at the appointed times and the transporting party shall be prompt in picking up and delivering the children, provided however, that the transporting parent for visitation shall have a grace period of fifteen (15) minutes for pick up and delivery if the parties live within a distance of thirty (30) miles of each other. If the one way distance between the parties is in excess of thirty (30) miles, the grace period shall be thirty (30) minutes. In the event that the visiting parent exceeds the grace period, the visitation for the weekend is forfeited unless prior notification and arrangements have been made and except in cases where the visiting parent lives in excess of thirty (30) miles away and suffers an unavoidable breakdown or delay en route, and the visiting parent promptly notifies the other parent by telephone of the delay. Repeated violations by either parent shall be cause for granting a modification of parental rights and responsibilities.

5. The residential parent shall send with the children on visitations sufficient clothing and outer wear appropriate for the season to last the period of visitation. ( For a weekend visitation this shall consist of a minimum of two (2) extra sets of play clothes and one (1) dress outfit in addition to the clothes the children are wearing at the start of the visitation). In the case of infants, the residential parent shall send with the child sufficient bottles, formula and diapers to last the visitation period. Violations of this requirement shall be deemed sufficient cause for a modification of parental rights and responsibilities.

6. Visitation does not include picking up the children and leaving them with a non-family member while the visiting parent pursues their own pleasure nor does it include taking the children to a bar for an extended period of time. Violations may result in a modification of companionship time.

7. The residential parent shall encourage free communications between the children and the non-residential parent and shall not do anything to impede or restrict communications by phone or mail between the children and the non-residential parent whether initiated by the children or the non-residential parent. The mail between the children and parent shall be strictly confidential between them and that parent, and shall not be opened or read by the other parent. This rule applies equally to the residential and non-residential parents.

8. Both parents shall refrain from criticizing the other in the presence of the children and shall refrain from requiring the children to choose sides as between the parents.

9. Neither party shall attempt to modify the religious practice of the children without first having consulted the each other and the Court.

*10. The parent receiving the child is responsible for transportation, except mid-week companionship, when the non-residential parent shall transport.*

*11. These are guidelines concerning parental rights and responsibilities and they will be changed or modified by the Court if it is shown that there is a need for such change. The Court also recognizes that it is impossible to devise a set of rules that will apply in each and every case and therefore encourages the parties to attempt to work out their differences on their own keeping in mind, the best interests of their children.*

*I. Long Distance Visitation (more than 200 miles, each way) – If the standard rule visitation is not practical due to the distance between the parties, and if the parties do not otherwise agree, the following non residential parent schedule shall apply:*

- 1. In odd years – from December 26 through January 1.*
- 2. In even years from the day after school ends through January 1 and if the child is not attending school, from December 18 through January 1.*
- 3. Every Spring break from school.*
- 4. The first one-half of the summer in odd years and the last one-half of the summer in even years.*
- 5. Holidays per the standard rule unless otherwise addressed.*
- 6. Anytime that the non-residential is in the vicinity of the residential parent, the non-residential parent may exercise up to 48 hours of visitation provided there has been 72 hour notice to the residential parent. Said visitation may not take place outside the child's county of residence.*

*J. Phase - in Visitation – If the parties and child have never lived as a family unit, or have not lived as a family unit for over one year, the visitation with the non-residential parent shall be phased in using the following schedule. After the introduction phase is concluded, visitation would be extended to the standard visitation schedule.*

*1. Unless the parties agree otherwise, or subject to modifying order, introductory visitation shall be as follows:*

- (A) Visitation shall occur once a week for three hours away from the residential parent's home at a neutral site, such as a suitable relative of the non-residential parent or Our Home or Grampy's House.*
- (B) The non-residential relative must agree to the supervision.*
- (C) The child will not be removed from the agreed upon visitation site during the visitation period.*
- (D) No alcoholic beverages or substances of abuse shall be used during or in the 24 hours prior to any visitation.*
- (E) The visit shall take place on a day of the residential parent's choice and time, unless this conflicts with the non-residential parent's work schedule. In such case, if the residential parent can not choose another non-conflicting day and time, then the non-residential parent may choose the day and time.*

*(F) Introductory visitation shall continue for four weeks. If the non-residential parent misses any visitation, the introductory period will continue beyond four weeks until three consecutive weeks have occurred.*

*2. Thereafter, visitation shall be enhanced for an additional four weeks, for one day per week, for six hours. However, visitation may take place away from the relative's home or other facility. All other guidelines under the first introductory phase shall continue in effect.*

*3. Thereafter, the non-residential parent may have the child for overnight visitation, once every other week. This shall continue for six weeks. The choice of days shall follow the selection process set out in the first introductory phase. Visitation shall commence at 10:00AM and terminate the following day at 10:00AM, unless otherwise agreed to.*

*4. After the successful completion of the third phase, the parties shall exercise visitation in accordance with the standard order.*

*K. Grandparent or other relative or non-relative visitation - if allowed by law, after proper joinder, motion or complaint and the parties can not agree otherwise, the following schedule of non-parental visitation shall apply:*

- 1. One weekend per month from Saturday at 10:00 AM to Sunday at 7:00 PM.*
- 2. One week per summer from July 10 at 10:00 AM to July 17 at 7:00 PM.*
- 3. Non-parental visitation shall not interfere with a non-residential parent's visitation or with any holiday visitation of either parent.*

## ***Rule 29***

### ***Discharge of Jurors for Past Service***

Pursuant to R.C. 2313.21(B), persons who were drawn from the jury wheel for jury service in Auglaize County in the prior jury service year (defined as from September 1 through August 31) shall be and are hereby DISCHARGED and shall be prohibited from jury service in Auglaize County in the ensuing jury service year, and shall be excluded from the jury draw therefor.

### ***Rule 30***

#### ***Transcription: Trial Record***

Requests for transcriptions of testimony from the recordings of any cases shall be made in writing by Motion with the Court, with a copy to be served upon the Court Reporter. The Motion shall request an estimated cost of the transcript from the Court Reporter. Upon the estimate being determined and after submission, the party shall secure the cost of the transcript before transcription commences.

The Motion shall further set forth the testimony to be transcribed.

Transcription from the recording for the Court record shall be made by the Court Reporter, under the control and direction of the Court and shall be paid for at rates assessed by the Court and filed under Sundry Paper in the office of the Clerk of Courts. (Reference to Third Appellate District Local Rule #5.)

The electronic recording for the making of a trial record are the property of Auglaize County and the record thereon is the public's.

No transcript shall be prepared by other than a duly appointed and sworn Court Reporter as set forth and certified in Third Appellate District Court of Appeals, Rule #5 .

Transcription of the tapes shall be made by the Court Reporter under the control and direction of the Court and shall be charged as determined by the Court and filed under Sundry Papers in the office of the Clerk of Courts.

Said transcript schedule is as follows: original and one copy to same person \$2.75 per page; subsequent copy \$1.00 per page.

All transcript charges are to be paid for in advance to the Auglaize County Common Pleas Court before transcription will commence, by the appointed Court Reporter-Transcriber.

***Rule 31***

***Exhibits for Reporter***

It shall be the duty of the Court Reporter to receive and hold all exhibits offered and received during the trial of any case and safely keep same throughout such trial, unless the release thereof is consented to by the parties, or released by the Order of the Court.

***Rule 32***

***Attorney Case Load***

Any attorney whose case load interferes with the effective function of the trial docket, shall obtain co-counsel and proceed to trial on the date scheduled.

This Rule is in accordance with Superintendence Rule #9 of the Supreme Court.

***Rule 32.1***

***Admission Pro Hac Vice***

In order to make for consistent treatment of counsel admitted *Pro Hac Vice*, the Court establishes this local rule to require all counsel who have been admitted *Pro Hac Vice* in pending cases to comply with all registration requirements of the current Rules for the Government of the Ohio Bar, Rule XII. Pending cases shall be counted in the limitation contained within said Rule XII, and shall be reported accordingly. Counsel shall forthwith register and fully comply with said Rule XII, and shall certify the same to this Court as soon as practicable.

***Rule 33***

***Confirmation of Sales***

No confirmation of any sale by the Sheriff, by any Master or Receiver, appointed by the Court, shall be entered within one (1) week from the day of such sale, unless consented to by all parties interested.

In Partition cases, no election to take or the report of Partition shall be confirmed within one (1) week from the filing of such report or election unless the other co-tenants consent thereto.

***Rule 34***

***Guardian ad Litem***

Hereafter, no person other than an Attorney at Law, duly admitted to practice the profession of Law in the State of Ohio, shall be appointed guardian ad litem or trustee for the suit in any matter or proceeding in this Court. Fees to be taxed as costs as approved by the Court.

## ***Rule 35***

### ***Counsel for Indigent Criminal Defendants***

In all Criminal cases of a serious offense where the Defendant is unable to obtain counsel, the Court shall appoint counsel from the members of the Bar or the Public Defender's Office.

When counsel appointed by the Court to represent an indigent Defendant or the Public Defender's Office discovers that the Defendant has property in addition to that reported to the Court when indigence was determined, he shall report the facts in open Court in Defendant's presence.

## ***Rule 36***

### ***Cut-off Date for Acceptance of Plea Offer***

(A) In the event the Prosecuting Attorney shall offer to accept a plea of a reduced or new charge, the offer shall remain open for acceptance by the Defendant no longer than a period of five (5) days following the final Pre-trial Conference.

(B) If the Defendant fails or refuses to accept the offer within the five (5) day period, the trial shall proceed on the charge in the Indictment.

(C) Five (5) days after final Pre-trial hearings, in any Criminal proceeding, the Court will not accept a reduced plea on behalf of the Defendant, the only alternative being going forward with trial on the charge before the Court or dismissal of the proceeding by the Prosecuting Attorney.

(D) The Judge to whom the case has been assigned for trial shall strictly enforce this Rule unless upon the filing of a Motion at a hearing the Court finds good cause for waiving compliance.

## ***Rule 37***

### **Indigent Appeal Procedure**

An indigent, where there is reasonable grounds to believe that prejudicial error has been committed during the trial proceedings, has the right of appeal. A Defendant has the right to seek leave to appeal a sentencing order of the Court, unless the sentencing was consistent with a joint recommendation pursuant to R.C. 2953.08. Defense counsel, upon determination that an appeal is meritorious, shall advise the indigent Defendant of his rights of appeal, the grounds for the appeal, and file the Notice of Appeal. At the time of the filing of the Notice of Appeal, counsel shall:

- 1.) File a Motion with the trial Court requesting an estimated cost of that part of the transcript required to perfect the appeal.
- 2.) File a Motion with the trial Court on behalf of the Defendant requesting the appointment of defense counsel.
- 3.) File a Motion with the Trial Court asking for approval of the cost estimate for the payment of the cost of the transcript.

Each Motion, upon a termination, must be terminated in the appropriate Court by Journal Entry.

## ***Rule 38***

### **Notaries Public**

Every person (other than Attorneys at Law) desiring to secure from the Judge of the Court of Common Pleas a certificate as to his or her qualifications and ability to discharge the duties of a Notary Public, shall secure written forms of application prepared by said Judge from the Court Bailiff; and after answering all questions therein propounded concerning their qualifications to act as Notary Public, submit the same to the Judge for approval. If the Auglaize County Bar Association has informed the Court that a particular person is probably unqualified to be a Notary Public, or has become incapacitated to continue as such, the Court will conduct a suitable hearing to determine qualifications. The Court will not approve an application of any person who has been unlawfully practicing law. All such written applications shall be prepared and submitted to, and be retained by the Court.

## ***Rule 39***

### ***Bankruptcy Adjudication***

Whenever any party to an action pending in this Court files bankruptcy, the attorney of record or the party, if acting in a pro se capacity shall, within fifteen (15) days after filing bankruptcy, file written Notice of Filing with the Clerk of this Court. Such Notice shall include a copy of the Order Staying State Court actions or other appropriate documentation confirming and giving the date of such filing.

Such attorney or party shall likewise give such Notice to other counsel or pro se parties of record in such pending litigation; same to conform to requirements of Civil Rule #5.

Furthermore, such attorney or party shall file and serve all counsel or pro se parties notice of the lifting of any such stay within fifteen (15) days after such a stay is lifted by the Bankruptcy Court or operation of law.



## ***Rule 40***

### **Work-Release Program**

WHEREAS, Section 5147.28 et seq. Of the Revised Code of Ohio provides for establishment of a prisoner work-release program, which said program is first to be established with the agreement of all Courts in the County, and,

WHEREAS, the officials of all Courts is Auglaize County together with those persons and officials connected with the administration and with the working of such program having heretofore met and agreed upon and have approved a program which they feel to be feasible under the provisions of such statutes and provided in such cases, Now Therefore:

BE IT ORDERED, ADJUDGED AND DECREED that a prisoner work-release program be and the same is hereby established and adopted for all Courts of Auglaize County, Ohio, in order that the Court of this county may permit a prisoner confined in jail in Auglaize County, Ohio, to have employment so that he/she can continue and that he/she may provide for restitution, payment of other bills and expenses and to provide a fund for himself/herself as upon his/her release from such institution.

Such prisoner work-release program shall be administered and shall be subject to the following rules, terms and conditions, which said rules may be complemented, amended or changed by Judgment Entry of this Court.

#### **RULES AND REGULATIONS**

- (1) At the discretion of the sentencing Judge in Auglaize County, Ohio, any prisoner sentenced to a County jail term may be permitted to participate in a Work-Release Program, provided:
  - (A) Prior to the time of sentencing, said defendant makes application to the appropriate Court setting forth the nature of his employment, the amount of his/her wages, the names and address of any and all dependents, the addresses of all Courts and Bureaus of Support through whom obligations for child support, fines or Court costs are owing, and the hours of his/her employment.
- (2) Any prisoner participating in a work-release program in Auglaize County, Ohio, shall be paid remuneration, subject to garnishment, and have hours and other conditions of work substantially equal to those prevailing in the locality. However, the sentencing Court may under special circumstances approve the work-release program for a wage less than the prevailing rate in the locality.
- (3) “The Sheriff of Auglaize County shall be appointed to serve as the Administrator of the Work-Release Program as set forth herein such position being necessary and proper pursuant to Section 5147.29 at seq. of the Ohio Revised Code and shall be designated as Work-Release Administrator.”

- (A) A person participating in a work-release program shall surrender his/her earnings, less standard payroll deductions required by law, to a person designated by the Court, which has established the work-release program.
  - (B) The person designated by the Court to collect the earnings of the prisoners shall maintain complete and accurate records as to all prisoners employed in the work-release program with respect to all monies received and disbursed.
  - (C) The Court may establish rules to determine the amount of the payments that are required to be made from a prisoner's earnings to reimburse the county or city for the costs of boarding the inmates while on the work-release program. The rules shall require the payment for each day of boarding to be based upon the number of persons actually dependent upon the inmates for their support. The payment may be less than, but shall not exceed, the actual cost of boarding the inmate for a day.
- (4) A prisoner participating in a work-release program shall surrender his/her earning, less standard payroll deductions required by law, and his/her pay stub or copy thereof, to the work-release administrator.
- (5) Said work-release administrator shall collect the earnings of the prisoner, shall maintain a complete and accurate record as to all prisoners employment in the work-release program in respect to all monies received and disbursed. A written statement of his/her account shall be furnished at least every thirty (30) days, and at any time requested. All monies collected by work-release administrator will be deposited in the bank daily as prescribed by the Auditor of the State of Ohio. Work-release disbursement order is as follows:
- (A) All participants in the work-release program will be charged twenty-five percent (25%) of their gross pay in order to satisfy their room and board cost. This is in accordance with division (D) of ORC 5147.29.
  - (B) Payment of restitution, fines and court costs. A minimum of \$10.00 per week is required for each until outstanding balance is satisfied.
  - (C) Necessary travel expense to and from work and other incidental expenses of inmate.
  - (D) Payment for all pay-to-stay obligations as determined by the Sheriff subject to the Sentencing Judge approval.
  - (E) Inmates who are serving ten (10) days or less will be required to pay their room and board fee up front as determined by the Sentencing Judge and the Sheriff.
  - (F) The balance to the prisoner or designated person agreed upon by order of the Sentencing Judge on a weekly basis.

- (1) Any prisoner under the work-release program shall be permitted to leave the jail thirty (30) minutes before the time he/she is required to report to his job and said prisoner shall report back to the jail within thirty (30) minutes after the completion of his/her work for that day, subject to Court Order in each particular case concerning distance to and from work and subject to the necessity of obtaining meals both before, after and during said employment.
- (2) Each prisoner on the work-release program shall provide his/her own transportation to and from his employment.
- (3) No prisoner on the work-release program shall be required to work in an establishment where legally constituted strike is in progress.
- (4) All prisoners will provide to the work-release administrator a written record of earnings on a weekly basis while on work-release program. All inmates will provide the work-release administrator all earnings less standard payroll deductions on a weekly basis while on the work-release program. All inmates are required to provide the work-release administrator their final written record of earnings and earnings to settle their obligations prior to or after discharge.
- (5) All prisoners on the work-release program shall be kept incarcerated under the minimum-security conditions as soon as the same are available.
- (6) Employment in another County will not be permitted under the work-release program unless specifically authorized by the sentencing Court.
- (7) Any prisoner gainfully employed by this work-release program shall be provided adequate and nourishing meals by the jail only if said employment allows him/her to be incarcerated during the serving of meals, and if this is not the case, then each prisoner shall provide his/her own meals.
- (8) Any prisoner on the work-release program who fails to abide by the rules and regulations of such program shall be discontinued on such program and remanded to the County Jail until a hearing is had on such violation and said prisoner shall not be reinstated except by the sentencing Court. Such prisoners shall be monitored by the Probation Officers of Auglaize County Common Pleas Court to insure that such rules and regulations are being complied with.
- (9) Any prisoner who desires to become eligible to participate in the Auglaize County work-release program shall subscribe to a separate and independent Work-Release Agreement.

Revised  
09-09-99

STATE OF OHIO,

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

Plaintiff

vs.

\_\_\_\_\_  
Defendant

**WORK-RELEASE AGREEMENT**

I, \_\_\_\_\_ being in the custody of the Sheriff of Auglaize County under sentence of the Court of Auglaize County, agree to abide by the following rules and regulations in order to become eligible to participate in the work-release program.

- (1) The prisoner agrees and understands that he/she is to go directly to his/her place of employment and return directly therefrom without exception at the end of the working day, subject to the Order of the Court.
- (2) The prisoner agrees to furnish and provide his/her own transportation to and from the Auglaize County Jail subject to the approval of the Sheriff.
- (3) The prisoner agrees that he/she will under no circumstances drink alcoholic beverages or consume any controlled substances during the period of his/her participation in the work-release program.
- (4) The prisoner will not leave his/her place of employment for any purpose other than to return to the Auglaize County Jail, subject to the Order of the Court.
- (5) The prisoner understands and agrees that he/her will make an accurate record of the time he/she enters and departs from the Auglaize County Jail.
- (6) All prisoners will provide to the work-release administrator a written record of earnings on a weekly basis while on the work-release program. All prisoners will provide the work-release administrator all earnings less standard payroll deductions on a weekly basis while on the work-release program. All prisoners are required to provide the work-release administrator their final written record of earnings and earnings to settle their obligations prior to or after discharge.
- (7) The prisoner agrees to endorse his/her paycheck to the Work-Release Administrator of Auglaize County and to pay all wages earned by him/her to the Work-Release Administrator of Auglaize County. If the employee cannot pick up his/her check, the employer shall mail said check to the Sheriff of Auglaize County for endorsement to the Administrator.
- (8) The prisoner agrees that the Work-Release Administrator shall deduct from his/her pay a charge for boarding in the Auglaize County Jail as ordered by the Court, reflecting twenty-five percent (25%) of the gross weekly earnings.
- (9) The prisoner agrees that the Work-Release Administrator shall allocate his earnings for the following purposes in the order stated:
  - (a) The room and board of prisoner ..... \_\_\_\_\_
  - (b) Payment of restitution, fines and court cost ..... \_\_\_\_\_
  - (c) Travel expenses or incidental expenses ..... \_\_\_\_\_
  - (d) Payment for all pay-to-stay obligations as determined  
by the Sheriff subject to Sentencing Judge approval ..... \_\_\_\_\_
  - (e) The balance to the prisoner or designated person agreed  
upon by order of the Sentencing Judge on a weekly basis ..... \_\_\_\_\_

- (10) The prisoner agrees to hold the County of Auglaize, the Court, the Sheriff, the Work-Release Administrator, and any of the county employees harmless for any injuries or damages which the prisoner might suffer while outside of the Auglaize County Jail and while participating in the Work-Release Program.
- (11) The prisoner understands and agrees that while outside the jail, he/she will not visit with family or friends or call on the telephone.
- (12) The prisoner understands and agrees that while outside the jail, he/she will not send or receive mail.
- (13) The prisoner understands and agrees that he/she will not carry mail or packages into or out of the jail without specific approval of the Sheriff or one of his officers.
- (14) The prisoner understands that if he/she escapes or walks off the job, he/she will be charged with escape.
- (15) I hereby release any and all confidential reports that may be made by Counsel that may visit me, this report to be a part of the Sheriff's report.
- (16) All prisoners are responsible for their own medical costs while on the work-release program. All prisoners will coordinate their medical and/or dental appointments based on approval by the Sheriff. It is the prisoners' responsibility to arrange their own transportation to their medical and/or dental appointment subject to approval by the Sheriff. The Sheriff will provide medical services to prisoners in an emergency.
- (17) All barbershop appointments will be coordinated by the prisoner and approved by the Sheriff.

I have read and agree to all of the above terms and conditions, and I have received a copy thereof for my own records.

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

Prisoner

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Administrator of Work-Release

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Sentencing Judge

\_\_\_\_\_  
Date

Revised

09-09-99

***Rule 41***  
**Conduct at Trial**

(A) Trial Counsel shall meet in Chambers with the Court on day of Jury Trial at least thirty (30) minutes before time set for trial.

(B) Prior to trial, counsel for the parties shall be provided by the Court with copies of Juror questionnaires which have been previously completed by perspective Jurors and directed to the Court. During voir dire, Counsel may not inquire of Jurors as to matters satisfactorily and completely answered in the questionnaires. Counsel may not copy the Juror questionnaires furnished to them, and must return the jury questionnaires to the Court promptly after voir dire.

(C) Except when making objections during testimony, Counsel shall rise and remain standing when addressing the Court or Jury.

(D) Witnesses shall be expected to take the stand in all cases, unless prevented from doing so by physical infirmity. A witness, not a party, when examined, cannot be recalled without express permission of the trial Judge.

(E) Only one (1) Counsel on each side will be permitted to examine the witness on the trial of a case. Only the same Counsel who examines the witness will be permitted to object.

(F) The Court Reporter shall be the official custodian of all exhibits offered and admitted during the trial of any cause. The same shall be retained by her/him until otherwise ordered by the Court.

(G) After a Judgment and appeal, or after appeal time has expired without appeal, Counsel for each party shall, upon issuing a receipt to the Court Reporter therefore, obtain return of the exhibits introduced into evidence by such Counsel and cause them to be returned to the owner. In cases of doubtful ownership of the exhibits, Counsel shall bring the matter before the Court for determination.

(H) The plaintiff or movent in any proceedings shall be seated to the left of the Court (adjacent to the jury box).

(I) Any party or their Counsel, who requests a view of the premises or scene, must make a request in writing for such not later than seven (7) days prior to the scheduled date of trial. No requests will be honored if made with less than seven (7) days notice. View requests will be granted only upon a showing to the Court that it will expedite or make the testimony of witnesses more understandable, and that it is necessary in the interest of substantial justice.

## ***Rule 42***

### ***Findings of Fact and Conclusions of Law***

When a party requests the Court to state its findings of fact separately from its conclusions of law under the provisions of Civil Rule #52, the party requesting such statement shall within five (5) days after receipt of notice of the Court's decision, submit to the Court a statement of proposed findings of fact and conclusions of law and shall serve copies thereof on all opposing parties or their Counsel. Within five (5) days after receipt of such proposed statement of findings of fact and conclusions of law, opposing Counsel shall submit and similarly serve their proposals.

For want of strict compliance with this Rule on the part of the party requesting this statement of findings of fact and conclusions of law, the Court will enter a general finding.

A party moving for dismissal pursuant to Civil Rule #41(B)(2) shall submit to the Court proposed findings of fact and conclusions of law in writing together with his Motion for Dismissal.

## ***Rule 43***

### ***Withdrawal of Trial Counsel***

A trial Counsel shall not be permitted to withdraw from any action at any time within twenty (20) days in advance of trial or hearing. At other times withdrawal shall be permitted only:

- (A) Upon written application with the written consent of his or her client and the entry of appearance of a substitute trial Counsel, or;
- (B) Upon written application showing a good cause, and service of a copy of this Rule and notice to the client, and upon such terms as the Court shall impose.

If Counsel for a party shall die or formally enter withdrawal from a case, a party shall have fourteen (14) days in which to secure new Counsel. During such time no actions shall be taken in said cause unless the Court shall determine that suspension shall work an injustice to the opposite party. Upon application of the parties, said time may be extended. If a party fails to procure Counsel within fourteen (14) days or fails to request the Court for an extension, all pending actions will be assigned as in any other case, and the case will proceed. In such case, notice of assignment, filed with the Clerk and made a part of the original papers will be deemed notice to the party without Counsel.

Any Counsel formally withdrawing from a case shall advise the party to the action of this rule by furnishing a written copy of such rule to the party.

## ***Rule 44***

### **Courtroom Procedure**

(A) No photographic, television, recording, broadcasting, telephonic equipment or devices shall be used within the confines of the Courthouse, and in official business, unless otherwise approved by the Court for trial related proceedings and as long as such action is approved by Canon 3(A), Ohio Code of Judicial Conduct.

(B) Spectators and others will be seated in the Courtroom on a first come, first serve basis for whom seats are provided behind the rail, and remain there until such time as the Court declares a recess or adjournment. The Court may, in the public interest, reserve seats for the public media, this Rule notwithstanding.

(C) No person shall have on his person or under his control any dangerous weapon or dangerous ordinance other than police officers on official business. Any person within the confines of the Courthouse shall be subject to search at any time by the Sheriff of Auglaize County, Ohio. The Sheriff is further directed to search any and all spectators at his discretion.

(D) The Courtroom shall be cleared at all 12:00 noon recesses.

(E) Representatives of the media will under no circumstances question or converse with prospective or selected Jurors concerning a cause set for trial.

(F) No person except officers of the Court and duly authorized persons shall be permitted in front of the railing or bar of the Common Pleas Courtroom.

(G) There shall be no eating, drinking or smoking in the Courtroom.

(H) Any person violating any part of Rule 1.24 shall be subject to a finding as in "Contempt of Court".



## ***Rule 45***

### **Guidelines for Counsel in Jury Trials**

The following guidelines for counsel involved in Jury Trials in this Court are established in the hopes that they will not only enhance the likelihood of a fair trial, but also will permit the trial to run more smoothly.

#### **I. VOIR DIRE EXAMINATION:**

During voir dire counsel should not:

- (A) Argue the case.
- (B) Engage in efforts to indoctrinate, visit with or establish “rapport” with Jurors.
- (C) Question Jurors concerning anticipated instructions or theories of law, or Jurors’ “understanding” of various legal principles yet to be explained to them.
- (D) Ask Jurors what kind of verdict they might return under a hypothetical state of facts.
- (E) Seek a pre-commitment from a Juror to a factual or legal proposition that is in issue.

#### **II. CHALLENGES TO JURORS:**

All challenges, whether peremptory or for cause, shall be addressed to the Court outside the hearing of the Jury at the bench.

#### **III. OPENING STATEMENTS:**

Opening statements of counsel afford an opportunity to explain to the Jury the issues in the case and summarize the facts that counsel expect the evidence will show. Argument in support of the client’s case should not be made during opening statements. Counsel may use visual aids such as charts, graphs, maps, photographs, models or other graphic devices, but leave the Court for such use should be first obtained unless the visual aid has, outside the presence of the Jurors, already been admitted into evidence or its use has been approved by stipulation of all counsel.

IV. OBJECTIONS AND TRIAL MOTIONS:

Generally speaking, except when the Court feels it necessary to act sua sponte to prevent a manifest miscarriage of justice, the Court will make rulings on evidentiary and related matters only upon appropriate objection or Motion of counsel. Objections or Motions should be made promptly and should state the basis or grounds for the objection or the nature of the Motion, but without argument unless or until invited by the Court. “Speaking” objections or Motions, that is, objections or Motions in which counsel argue the basis or ground of the objection or Motion, should be avoided. All objections or Motions should be addressed to the Court and at no time should counsel address one another directly except for perfunctory matters of courtesy, such as stating the page and line number of a Deposition to which reference is made. All argument in support of or against an objection or Motion, unless otherwise directed by the Court, should be out of the hearing of the Jury, either in a low voice at the bench or after the Jury has been excused.

V. EXAMINATION OF WITNESSES:

Ordinarily, counsel should remain at or behind the lectern when examining a witness. However, counsel may approach a witness for the purpose of showing a witness a document or other object. Before approaching a witness for any other purpose, counsel should request permission from the Court. For limited or brief examination, counsel may conduct such examination from his position at counsel’s table, but should always stand while conducting examination of the witness or while addressing the Court. Counsel, upon completing examination of the witness, whether on direct or cross, should so state to the Court and the Court will then direct such further examination of the witness as may be appropriate.

VI. RECORD AWARENESS:

Please remember that while all present in the Courtroom may be fully aware of the document or exhibit which you show to a witness and say, “I now hand you this document”, and while all present in the Courtroom may understand what the witness means when he points to a drawing and says “I was standing over here”, one who subsequently reads the Court Reporter’s transcript of the proceedings will have no idea of what was meant by “this document” or “over here” without the exhibit number. Have the witness identify where “over here” is, preferably by an identifiable symbol on the map, chart or drawing, etc.

VII. FINAL ARGUMENT:

Arguments should be limited to matters in evidence and all inferences fairly and reasonably to be drawn from the evidence together with reference to matters of common and every day knowledge. Except where a different procedure may be required in a complex case, the order of argument is (1) Plaintiff's summation; (2) Defendant's summation, including rebuttal of the Plaintiff's summation, and; (3) Plaintiff's rebuttal of Defendant's summation.

While the Court will generally give counsel wide latitude, there are some areas which are improper for argument and which are generally known by experienced trial counsel. While not meant to be an exclusive list, the following are considered by the Court to be improper during closing argument.

- (A) Reading from the Pleadings is not allowed.
- (B) Counsel may not testify in the guise of argument by suggesting that he has personal knowledge of the facts in the case or of matters outside of the evidence, nor should counsel assert his personal belief in the justice of his cause.
- (C) Plaintiff's counsel may not comment on his client's obligation to pay an attorney's fee out of the gross damages awarded by the Jury.
- (D) The Golden Rule Argument – requesting the Jury to put itself in the place of one of the parties and reach a verdict according to how the Jury would wish to be treated in the same position – is improper.
- (E) Personal attack on opposing counsel is to be avoided.
- (F) Argument which in any way attempts to relate to an individual Juror or which attempts to elicit a direct or immediate response from a Juror is improper.
- (G) Any argument which seeks to appeal to sympathy, bias or prejudice, or seeks to inflame the Jury by arousing in them any feeling of hatred or distrust of a party or counsel is improper. The Jury's duty is to fairly and dispassionately consider and weigh the evidence, to decide the disputed issues of fact, and to apply the law to the facts as it finds them from the evidence. It is not the Jury's duty to "send a message" to anyone.

*Rule 46*

**CONDITIONS OF COMMUNITY CONTROL**

All persons subject to supervision by the Ohio Adult Parole Authority Probation Officers in all cases in this court, whether by reason of a conviction and sentence to Community Control Sanctions, or by reason of Intervention in Lieu of Conviction, shall be subject to the special conditions ordered in that individual case, IN ADDITION TO the following standard conditions of supervision:

1. Defendant shall obey all federal, state and local laws and ordinances, including Chapter 2923. of the Revised Code relating to conduct involving firearms and other deadly weapons, and all orders, rules and regulations of the Ohio Department of Rehabilitation and Corrections.
2. Defendant shall always keep Defendant's supervising officer informed of residence and place of employment. The Defendant shall obtain written or verbal permission from the supervising officer before changing either residence or employment. The Defendant shall understand that if Defendant absconds supervision, Defendant may be prosecuted for the crime of Escape under section 2921.34 of the Revised Code in addition to consequences for violation of their underlying case;
3. Defendant shall not leave the State of Ohio without written permission of the supervising officer;
4. Defendant shall not enter the grounds of any correctional facility or jail nor attempt to visit any prisoner or inmate without the written permission of the supervising officer. The Defendant shall not communicate with any prisoner in any manner without obtaining permission from the Defendant's supervising officer;
5. Defendant shall follow all verbal or written orders given by their supervising officer or other authorized representatives of the Court or the Department of Rehabilitation and Corrections;
6. Defendant shall not purchase, possess, own, use or have under their control any firearms, ammunition, dangerous ordnance or weapons, including chemical agents, electronic devices used to immobilize, pyrotechnics and/or explosive devices or any object indistinguishable from a firearm or dangerous ordnance;
7. Defendant shall not purchase, possess, use or have under their control any narcotic drug or other controlled substance or illegal drugs, including any instrument, device or other object used to administer drugs or to prepare them for administration, unless it is lawfully prescribed by a licensed physician. Defendant shall inform the Defendant's supervising officer promptly of any such prescription and shall agree to submit to drug testing as required by any supervising officer or any law enforcement officer;

8. Defendant shall report any arrest, citation of a violation of the law, conviction or any other contact with a law enforcement officer to the Defendant's supervising officer no later than the next business day;
9. Defendant shall agree to a search, without warrant, of their person, motor vehicle or place of residence by a supervising officer or other authorized representative of the Department of Rehabilitation and Corrections at any time. *Notice: Pursuant to section 2967.131 of the Revised Code, Officers of the Adult Parole Authority may conduct warrantless searches of the offender's person, their place of residence, their personal property, or any property which they have been given permission to use if they have reasonable grounds to believe that they are not abiding by the law or terms and conditions of their supervision;*
10. Defendant shall agree to sign a release of confidential information from any public or private agency if requested to do so by their supervising officer;
11. Defendant shall not associate, without the prior permission of the Defendant's supervising officer, with persons having a criminal background and/or persons who may have gang affiliation, or who could influence the Defendant to engage in criminal activity;
12. Defendant shall give all information regarding their financial status to assist in determining their ability to pay specific financial obligations, to their supervising officer and shall agree to comply with all financial obligations, including child support and/or supervision fees as ordered by any court and/or the Department of Rehabilitation and Corrections;
13. Each person under supervision shall pay a supervision fee as set by the Court by separate entry in accordance with the Ohio Revised Code, due each month. Failure to pay as ordered shall result in violation charges being filed.
14. The Defendant shall either obtain high school diploma or G.E.D.
15. All persons under supervision of the Ohio Adult Parole Authority for the Auglaize County Common Pleas who have custody of, or who reside in the same household with any children of school age, including preschool children enrolled in Kindergarten, Pre-kindergarten or Head Start Programs, shall be responsible to ensure that each of said children shall be awakened at an appropriate time, bathed and have appropriate hygiene, clothed with clean, laundered clothing of appropriate weight (warmth) for the weather, and shall have appropriate meals, including specifically breakfast, and shall arrive at school on time, each and every school day.
16. During the period of the sanctions, the Defendant must abide by the law and must not leave the State of Ohio without the permission of the Court or the Defendant's Probation Officer.
17. The Defendant shall neither consume nor possess any alcoholic beverages, or substances of abuse, harmful intoxicants, or drug paraphernalia.

18. The Defendant shall not visit or be present on any premises where alcohol is served or substances of abuse, harmful intoxicants, or drug paraphernalia are present.
19. Obtain and maintain full-time employment.
20. Obtain and maintain mental health counseling to include alcohol and substance abuse issues as approved by the Probation Officer.
21. The Defendant shall be subject to testing of his/her breath, hair, blood or urine as requested by any Probation Officer or Law Enforcement Officer at any time. Failure to submit to a bodily substance test shall be grounds for revocation of Community Control Sanctions. Said testing shall be at the expense of the Defendant.
22. The Defendant shall submit his/her person, property, place of residence, vehicle, personal effects, to search at any time, with or without a search warrant, warrant of arrest or reasonable cause by any Probation Officer or Law Enforcement Officer.
23. The Defendant shall also abide by all terms and conditions of his/her supervision through any other Court as ordered by any other Court.
24. The Defendant shall not operate a motor vehicle without a valid operator's license and proof of insurance provided to his/her Probation Officer.
25. The Defendant shall pay all Restitution (plus any surcharge), fine, and costs in full within 90 days through the Clerk of Courts. If Defendant is unable to pay said obligations he/she shall apply for an extension which includes a proposed payment schedule to be approved by the Court.

## Local Rule 47

### CERTIFICATE OF QUALIFICATION FOR EMPLOYMENT –

The purpose of this local rule is to define the specific local court requirements and processes that support a Petitioner’s application for a Certificate of Qualification for Employment (CQE) as set forth in Revised Code 2925.25 and related rules established by the Ohio Department of Rehabilitation and Corrections (DRC).

A. In order to request a CQE, the Petition for Certificate of Qualification for Employment (RC 2953.25) [Form A] shall be filed with the Clerk of Courts by the Petitioner, **after completing the petition process online through the DRC ([www.drccqe.com](http://www.drccqe.com))**. **The Clerk and the Court do not avail computers to the public for internet access.**

1. The Petitioner shall provide the DRC Electronic Petition Number and attach a printed receipt of electronic filing.
2. All Petitions shall be accompanied by the Department of Rehabilitation and Corrections CQE Summary (CQE Summary).
3. Any Petition submitted to the Clerk without the DRC Electronic Petition Number and attached printed receipt of electronic filing and without the Department of Rehabilitation and Corrections CQE Summary (CQE Summary) shall be stricken and not be considered by the Court.

B. Before any action is required to be taken on the Petition, the Petitioner must pay a deposit in the amount of **\$150.00**. Payment of this deposit may be made in any form otherwise accepted in the court of filing.

The Judge may waive some or all of the deposit otherwise required by this Rule. The Petitioner may submit an Affidavit of Indigency (Form B) or other relevant information for the Court’s consideration if requesting a reduction in the filing fees. **Said Affidavit of Indigency shall be submitted to the Court for approval prior to the filing of petition.**

C. All social security numbers and other information that must be excluded from public record shall be redacted in accordance with the rules of this court and the Rules of Superintendence. Records or information received by a court to assist the court with making its decision under Section 2953.25 of the Revised Code, including information included on a petition, shall retain their character as public or non-public records, as otherwise provided in law.

D. Upon receipt of a Notice of Petition and the required deposit, the Clerk of Courts shall assign the Petition a miscellaneous civil case number and randomly assign the matter to a trial judge.

E. The Court shall obtain a criminal history for the Petitioner, either through the investigation ordered in support of the Petition (see Order for Investigation (Form F)) or otherwise. The Clerk shall assess a \$75.00 fee for completion of an Investigation ordered pursuant to this rule.

F. The Court's investigating officer shall attempt to determine all other courts in the state in which the Petitioner has been convicted of or plead guilty to an offense through review of the Petitioner's criminal history or other investigation.

**1. The Court's investigating officer shall submit a list of these courts to the Clerk of Court for purposes of notification and request for information.**

G. The Clerk of Courts shall send a Notice to Court Regarding Petition for Certificate of Qualification for Employment [Form C] and Submission of Information Regarding Petition for Certificate of Qualification for Employment (Form E) to each court so identified. Such Notice shall be sent via ordinary US mail.

H. The Clerk of Courts shall also send a Notice to Prosecutor Regarding Petition for Certificate of Qualification for Employment [Form D] and Submission of Information Regarding Petition for Certificate of Qualification for Employment (Form E) to the Prosecuting Attorney of the county in which the Petition was filed.

I. The Judge 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.

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

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

K. The Clerk shall provide a written notice to the Petitioner of the Court's Decision and Judgment Entry.

1. If denied, the notice shall include conditions, if any, placed on subsequently filings and language that a final appealable order has been filed.

2. The Clerk shall also notify the DRC of the disposition of the petition as required under the Administrative Rules, and if granted order the DRC to issue the CQE to Petitioner.