

**COURT OF COMMON PLEAS**

**ASHTABULA COUNTY, OHIO**

**RULES OF**

**CIVIL AND CRIMINAL PRACTICE**

**GENERAL DIVISION**

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**RULE 1**  
**PRECEDENCE**

The rules set forth herein are adopted in accordance with Rule 83 of the Ohio Rules of Civil Procedure and, in case of conflict, shall be subordinate to the Ohio Rules of Civil Procedure. These rules shall also apply to all criminal cases except where clearly inapplicable.

**RULE 2**  
**FILING OF PLEADINGS, MOTIONS, ETC.**

- A. Every pleading, motion or other document filed in any case shall contain the names of all parties and the complete addresses, if known, of any party who is appearing in the case for the first time.
- B. Every pleading, motion or other document filed on behalf of a party shall have printed or typed thereon the name, address, telephone number and Supreme Court registration number of counsel filing same; and if filed by a law firm, the name of the attorney having primary responsibility for the case shall be specifically designated.
- C. It shall be the responsibility of the filing party to provide the Clerk of Courts with sufficient copies of any pleading, motion or other document to be served by the Clerk or Sheriff.
- D. If a case is dismissed and subsequently refiled, the refiled complaint shall contain the following designation under the case number: "THIS IS A REFILED CASE." The trial Judge to whom the case was previously assigned shall be reassigned to the refiled case. Failure to comply with this rule may subject the attorney or party to appropriate sanctions.

**Confidential Information** (Adopted March 9, 2006)

On any civil case, including domestic relations cases, Social Security Numbers and Birthdates shall not be included on any pleading or exhibit to be filed in the court record.

In domestic relations cases, upon filing a divorce, dissolution or legal separation, counsel or parties filing pro se shall submit to the Clerk of Courts, the form attached as Exhibit A - Confidential Form.

The Clerk of Courts is instructed to place the information contained in Exhibit A into a non-public access area of the computer and such information is to be considered confidential.

# **CONFIDENTIAL**

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

**PLAINTIFF:** \_\_\_\_\_

**SSN:** \_\_\_\_\_

**DOB:** \_\_\_\_\_

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

**DEFENDANT:** \_\_\_\_\_

**SSN:** \_\_\_\_\_

**DOB:** \_\_\_\_\_

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

## **CHILDREN**


**CC: ASHTABULA COUNTY CHILD SUPPORT ENFORCEMENT AGENCY**

**RULE 3**  
**TIME FOR FILING PLEADINGS**

Unless otherwise provided by law or other rule, all pleadings, amended pleadings or motions shall be filed within fourteen (14) days after the filing of any entry granting leave to file or overruling or sustaining a motion unless otherwise specified in the entry itself.

The opposing party shall move or otherwise respond to the pleading, amended pleadings, or motion within fourteen (14) days of filing such pleading, amended pleading or motion unless otherwise ordered by the Court.

**RULE 4**  
**PLEADING OUT OF RULE**

- A. All counsel may agree to grant a party one (1) extension of time to move or plead, not exceeding thirty (30) days, without leave of Court. Such consent shall be filed with the Clerk, in writing, signed by counsel for each party.
- B. If the parties or counsel cannot agree to the first extension of time or if an extension of time beyond thirty (30) days is desired, a party who is not yet in default may move the Court for such additional time which shall be fixed by the Court. Each such motion shall state therein the number of prior extensions of time obtained by the moving party.
- C. A party in default may file instanter a responsive pleading prior to two (2) days before the date set for trial without leave of Court only with written consent of opposing counsel attached to such pleading.

If such consent cannot be obtained or if the filing is requested within two (2) days of the date set for trial, then a responsive pleading may only be filed with leave of Court.

If the case has been set for trial, the filing of any responsive pleading instanter under this rule shall not be a reason for continuance of trial unless otherwise ordered by the Court.

**RULE 5**  
**FAX FILINGS**

The Clerk will accept the filing of pleadings and other papers, other than the original filing of complaints in civil or criminal cases, by telephone facsimile transmission, in accordance with Rule 5(E), Ohio Rules of Civil Procedure, subject to the following provisions:

- A. A transmitted document must not be longer than ten (10) pages, not including the cover page, and must pertain to only one case. Each filing must be made by a separate transmission. The attorney shall verify with the Clerk, within one (1) business day of the filing, the receipt and acceptance of the facsimile filing.
- B. All documents submitted will be considered filed when the date/time has been stamped by the Clerk on the telephone facsimile transmitted document. For purpose of this section, the date/time stamped produced by the Clerk's facsimile machine shall constitute the date/time stamp of the Clerk.
- C. A fee of \$1.00 per page shall be charged to the person who causes a document to be filed with the Court by means of a telephone facsimile machine. The risk of facsimile filing remains with the sender, and the Court assumes no responsibilities or liabilities.
- D. Any user of the telephone facsimile filing shall prepare a cover page using the following format:

FAX FILING

TO: Ashtabula County Court of Common Pleas, Clerk of Court

1-440-576-2819

FROM: \_\_\_\_\_

(Name)

\_\_\_\_\_  
(Telefax Number)

\_\_\_\_\_  
(Office Number)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Case Name)

\_\_\_\_\_  
(Case Number)

\_\_\_\_\_  
(Name of Opposing Counsel, if any)

The sender acknowledges that they are financially responsible for the cost of \$1.00 per page for each page filed with the Court by the use of a telephone facsimile machine.

Transmissions that do not substantially comply with the above format may be ordered stricken by the Court.

- E. This rule does not alter any duty imposed upon a party or their attorney under the Ohio Rules of Criminal and Civil Procedure to serve a copy of all pleadings upon the opposing party or their attorney.

**RULE 6**  
**CASE MANAGEMENT: CIVIL CASES**

**A. PREFACE**

The goal of this Rule is the prompt but fair disposition of litigation. This goal can only be accomplished by early and continuing judicial control and management of each case assigned to the Judge's docket. This Rule will establish a general framework for management of cases, leaving to the discretion of the individual Judge the use of additional procedures to accomplish the goal of this Rule.

**B. SCHEDULING CONFERENCE**

1. After service of the complaint, the Judge assigned to the case shall make a scheduling order. The Judge shall make the order after a scheduling conference with all counsel of record and *pro se* parties. The conference may be conducted in person or with leave of Court by telephone. The arrangements for a telephone scheduling conference shall be made by counsel requesting the same.
2. The scheduling order shall make provision for and limit the time to:
  - a. join new parties and amend pleadings;
  - b. file and hear pretrial motions;
  - c. name experts;
  - d. complete discovery;
  - e. schedule pretrial conference and file pretrial statements;
  - f. schedule trial date;
  - g. other appropriate matters.
3. The schedule so ordered shall not be modified except by order of the Court.
4. At the case management conference, counsel shall inform the Court of any appropriate and available alternative dispute resolution programs or procedures that might result in the early resolution of the case without a trial.

**C. MOTIONS**

**1. SUMMARY JUDGMENT**

- a. Motions for summary judgment shall be in accordance with Civil Rule 56, and shall be decided without oral hearing, unless oral argument is requested and determined necessary by the Court. Upon the filing of the motion, the Assignment Commissioner will fix a "hearing" date as required by Civil Rule 56©) by notice, which shall be mailed to parties or their counsel or be otherwise served by the Clerk of Courts.
- b. To assure compliance with Civil Rule 56©), depositions, answers to interrogatories, written admissions, affidavits, transcripts of evidence, and written stipulations of fact to support or oppose a motion for summary judgment shall be (1) separately filed with the Clerk and incorporated into the motion, or (2) attached to the motion or memorandum. The caption of the summary judgment motion shall state, "...including affidavit or \_\_\_\_\_, ...deposition of \_\_\_\_\_." Documents which are not



expressly mentioned in Civil Rule 56©) shall be attached to an affidavit and filed. Failure to file any document as provided herein may result in its exclusion by the Court.

## 2. ALL OTHER MOTIONS

All other motions will be decided without oral hearing unless oral argument is requested and determined necessary by the Court. The moving party shall file with the motion a brief supporting memorandum containing the authorities relied upon and any affidavits or other supporting documents required or appropriate to file with the motion. Each party opposing the motion shall file a written response within fourteen (14) days after receipt of the motion. Reply or additional briefs or memoranda shall be submitted only with approval of the Court. Motions for leave to plead shall be in accordance with local rules of Court.

## D. CONTINUANCES

1. Requests for continuance shall be submitted to the Judge assigned to the case at least fourteen (14) days prior to the trial or hearing date, absent emergency or other cause deemed sufficient by the Court. Requests for continuance shall be by motion and proposed journal entry, which shall include:
  - a. The reason for the request. If the reason is another case scheduled on the same date in another Court, attach a copy of the conflicting notice.
  - b. The time and date of the current assignment.
  - c. A new date obtained from the Assignment Commissioner and cleared with opposing counsel by movant in the event the court grants the motion for continuance.

## E. PRETRIAL CONFERENCE

1. The pretrial conference shall be scheduled at the Scheduling Conference, and notice given to all counsel and all unrepresented parties.
2. Such pretrial conference shall be attended by counsel for the parties, who shall have their clients present or available by telephone for consultation and by all unrepresented parties. In those cases in which the real party in interest is an insurance company, the presence or availability by telephone of a representative of the insurance company shall constitute compliance with the provisions of this subsection.

3. Counsel who attend pretrial conferences shall have conferred with each other prior thereto, and they shall have authority to discuss all phases of the case, to conduct good faith negotiations toward settlement of the case, and to enter into stipulations and admissions in preparation for trial.
4. The parties shall, at the pretrial conference, submit to the Court, with a copy to all opposing counsel, a pretrial statement which shall include:
  - a. identification of the claims or defenses,
  - b. brief statement of the facts,
  - c. issues of fact,
  - d. injuries if applicable,
  - e. damages, list specials,
  - f. issues of law,
  - g. witnesses (lay) (expert),
  - h. estimate of time for trial,
  - i. pending motions,
  - j. stipulations,
  - k. depositions to be used in case in chief.
5. At the conclusion of the conference, the Court may cause to be prepared a memorandum or stipulation of the action taken at such conference and order it filed in the case. The matters therein stipulated shall thereupon be binding upon the parties. In lieu thereof, the Court may make an order which recites the action taken at the conference and the agreements of the parties, which order, when entered, shall control the subsequent course of the proceedings.
6. The Court may require the parties, or any one of them, to furnish the Court with a trial brief as to any or all of the issues in the case at such time as the Court may designate.

#### **F. EXPERT WITNESS**

1. Each counsel shall exchange with all other counsel written reports of medical and expert witnesses expected to testify in advance of the trial. The parties shall submit expert reports in accord with the time schedule established for discovery. The party with the burden of proof as to a particular issue shall be required to first submit expert reports as to that issue. Thereafter, the responding party shall submit opposing expert reports within the schedule established for discovery.

2. A party may not call an expert witness to testify unless a written report has been procured from the witness and provided to opposing counsel. It is counsel's responsibility to take reasonable measures, including the procurement of supplemental reports, to insure that each report adequately sets forth the expert's opinion. However, unless good cause is shown, all supplemental reports must be supplied no later than thirty (30) days prior to trial. The report of an expert must reflect his opinions as to each issue on which the expert will testify. An expert will not be permitted to testify or provide opinions on issues not raised in his report.
3. All experts must submit reports. If a party is unable to obtain a written report from an expert, counsel for the party must demonstrate that a good faith effort was made to obtain the report and must advise the Court and opposing counsel of the name and address of the expert, the subject of the expert's expertise together with his qualifications and a detailed summary of his testimony. In the event the expert witness is a treating physician, the Court shall have the discretion to determine whether the hospital and/or office records of that physician's treatment which have been produced satisfy the requirements of a written report. The Court shall have the power to exclude testimony of the expert if good cause is not demonstrated.
4. If the Court finds that good cause exists for the non-production of an expert's report, the Court shall assess costs of the discovery deposition of the non-complying expert against the party offering the testimony of the expert unless, by motion, the court determines such payment would result in manifest injustice. These costs may include the expert's fee, the Court Reporter's charges and travel costs.
5. If the Court finds that good cause exists for the non-production of a report from a treating physician, the court shall assess costs of the discovery deposition of the physician equally between the Plaintiff and the party or parties seeking discovery of the expert. These costs may include the physician's fees, the Court Reporter's charges and travel costs.
6. A party may take a discovery deposition of the opponent's medical or expert witness only after the mutual exchange of reports has occurred. If a party chooses not to hire an expert in opposition to an issue, that party will be permitted to take the discovery deposition of the proponent's expert. Except upon good cause shown, the taking of a discovery deposition of the proponent's expert prior to the opponent's submission of an expert report constitutes a waiver of the right on the party of the opponent to call an expert at trial on the issues raised in the proponent's expert's report.

**RULE 7**

**CASE MANAGEMENT GUIDELINES**

**A. CIVIL CASES**

<b>EVENT</b>	<b>TORTS &amp; PRODUCT LIABILITY (24 MONTHS)</b>	<b>GENERAL CIVIL, FORECLOSURE &amp; WORKERS' COMP (12 MONTHS)</b>
Case Filed	0 Mo.	0 Mo.
Status Check	3rd Mo.	3rd Mo.
Scheduling Conference	4th Mo.	3rd Mo.
Plaintiff ID Expert Witnesses	7th Mo.	5th Mo.
Defendant ID Expert Witnesses	9th Mo.	7th Mo.
Discovery Cutoff	12th Mo.	8th Mo.
Disposition Motion Cutoff	12th Mo.	8th Mo.
Formal Pretrial	12th Mo.	9th Mo.
Trial	15th Mo.	10th Mo. +

**B. ADMINISTRATIVE APPEALS**

**EVENT:**

Notice of Appeal Filed	0 mo.
Petition, Assign. Error, Record Filed	40 Days
Answer Brief in Opposition	30 Days
Reply Brief	14 Days
Oral Argument Set	4th Mo.

## C. DOMESTIC RELATIONS

a.	<u>Dissolutions</u>	
	Filed	0 Mo.
	Parent Education Seminar	60 Days
	Hearing	2nd Mo.
b.	<u>Divorce</u>	
	Filed	0 Mo.
	Temp. Support Order	17 Days from Service
	Parent Education Seminar	60 Days from Service
	Mediation Assessment	75 Days from Service
	Request Family Custody Evaluation	14 Days after Assessment (if Mediation Unsuccessful)
	Pretrials	At request of a party
	Discovery Cutoff	120 Days
	Final	120 Days +
c.	<u>Reciprocals, Domestic Violence</u>	
	Filed	0 Days
	Hearing, Reciprocal Action	28 Days after Service
	Hearing, Domestic Violence Case	10 Days after Service

## D. CRIMINAL

a.	Indictment Filed	0 Mo.
b.	Arraign	Within 7 Days
c.	Defendant - Request Discovery	14 Days
d.	Plaintiff - Answer Discovery & file Recip. Request	28 Days
e.	Defendant - Answer Discovery	42 Days
f.	Pretrial Motion Cutoff	46 - 60 Days
g.	Pretrial Conference only on Motion & with leave of Court	46 Days
h.	Pretrial Motion Hearing	46 - 60 Days
i.	Set Trial Date, subject to Speedy Trial Time Limitation	60 Days +

[Common Pleas Local Rule 35 Speedy Trial Time](#)

Link to [Speedy Trial Time Form](#)

**Rule 8**  
**ASSIGNMENT OF CASES**

- A. The Clerk shall assign newly filed cases to judges by lot under the adopted individual assignment system, except as provided by Local Rule 8.1, regarding the assignment of criminal cases.
- B. Assignments of cases for trial shall be made in accordance with the scheduling practice of the assigned judge.
- C. All cases having priority under any statute shall, upon filing, be brought to the attention of the court by counsel. The case shall then be scheduled according to its priority after consultation with the judge assigned to the case.

**RULE 8.1**  
**ASSIGNMENT OF CRIMINAL CASES**

Adopted April 21, 2016

- A. **ASSIGNMENT.** Criminal cases shall be assigned by lot to a trial judge, through the use of computer software that has been tested to ensure that assignments of cases are made in a random manner, immediately after arraignment, except as follows:
  - 1. Any re-indictments or re-filings on a case that was previously dismissed shall be assigned to the judge who had the original case.
  - 2. If a defendant who is on probation or community control is arraigned on a new case, the new case shall be assigned to the judge who placed said defendant on probation or community control.
  - 3. If a defendant is arraigned on a new case, and said defendant has a pending case assigned to a judge, the new case shall be assigned to the docket of the judge who has the pending case.
  - 4.
    - a. If a defendant is arraigned on a new case, and said defendant had a previous case or cases in the court within the five calendar years immediately preceding the date of the arraignment, the new case shall be assigned to the docket of the judge who had the previous case(s).
    - b. If the judge in Subsection (4)(a) no longer serves on the court the case will be assigned by lot to any judge of the court.
  - 5. All cases of aggravated murder with death penalty specifications ("death penalty case") shall be assigned by lot at the time of arraignment.

- B. **CODEFENDANTS.** Codefendants shall be indicted as part of the same case, and all codefendants shall be assigned to the same judge who was first assigned to a codefendant at arraignment. Section (A) shall not apply to any codefendant case.
- C. **CLERK OF COURTS.** Upon the filing of an indictment or information, the Clerk of Courts shall attempt to ascertain, with the assistance of the Prosecutor's Certification described in Section (D) of this rule, whether the defendant has had any prior cases, open or closed, within the previous five calendar years, and the judge to whom said case or cases had been assigned. The case shall then be assigned according to Section (A) of this rule. This determination shall not be required with respect to codefendants.
- D. **PROSECUTOR'S CERTIFICATION.** At the time of filing an indictment, bill of information, or bind-over order, the prosecuting attorney shall file a certification with the Clerk of Courts which affirms that all *Courtview* or other court case management system records in place at the time of review, have been searched and that to the best of the prosecuting attorney's knowledge the certification shall indicate:
1. Whether the case has previously been dismissed, and if so, the prosecuting attorney shall note the judge to whom the previous case was assigned;
  2. Whether the case is being brought against a defendant who is on probation or community control through this court, and if so, the prosecuting attorney shall list the case number or numbers and the judge who placed the defendant on probation or community control;
  3. Whether the defendant has a pending case with the court, and if so, the judge to whom the case is assigned;
  4. Whether the defendant has had a previous case with the court within the last five years as described in Subsection (A)(4), and if so, the judge to whom the case was assigned;
  5. In the case of codefendants, the prosecuting attorney will not file the certification described in this section.
- E. The assignment of cases shall be made to evenly distribute cases between all three Judges.
- F. This rule is effective January 1, 2016, and shall apply prospectively, i.e, only to cases arraigned on or after the effective date, and only to cases starting with Case Number 2016 CR 001 and all cases thereafter filed with the Court. Rule 8.1(B) shall be effective April 21, 2016.



## **RULE 9**

### **WITHDRAWAL OF COUNSEL**

Withdrawal of attorney of record shall be only upon application with Judgment Entry of approval by the Court, and where possible, the name of the successor attorney shall be included in the Judgment Entry. The application to withdraw shall include a certification by counsel that the client has been informed of all scheduled hearing dates and/or filing deadlines, and that a copy of the application to withdraw was served on the client. Upon allowance of withdrawal by the Court, such withdrawing counsel shall serve a copy of the Judgment Entry on the client and the opposing party or counsel, if any, by regular U.S. mail.

## **RULE 10**

### **PREPARATION OF ENTRIES**

- A. Unless the Court specifically agrees to prepare a Judgment Entry, it shall be the responsibility of counsel to do so. Upon the settlement of any pending matter, counsel for the Plaintiff, or moving party, shall prepare the entry unless the Court is advised otherwise. In all other cases, counsel for the party in whose favor an order, decree or judgment is rendered shall prepare the entry.

A proper Judgment Entry shall be prepared within fourteen (14) days and submitted to counsel for the opposing party, who shall approve or reject the proposed entry within seven (7) days after receipt. If counsel who is required by this rule to prepare an entry, fails to do so within the fourteen (14) day period, counsel for the opposing party shall prepare the entry and submit it to the counsel failing to comply with this rule, who shall approve or reject the proposed entry within seven (7) days after receipt.

If approval or rejection of an entry is not communicated to the counsel preparing the entry, such counsel may note that fact on the entry and then present the entry to the Court for signature and filing without such approval.

When the entry is approved by counsel, it shall be so endorsed and presented to the Court for approval, and if signed by the Judge, shall be filed with the Clerk.

If counsel are unable to agree upon an entry or fail to submit an entry within thirty (30) days following the order, decree, judgment, or notification to the Court of settlement, the trial judge, after reasonable notice to the parties, may prepare and enter an entry or dismiss the case.

- B. Every Judgment Entry concluding a pending case shall specify the allocation of court costs. In the absence of an agreement as to the allocation of costs, the Clerk shall assess costs as follows:
1. Default Judgment ----- against Defendant,
  2. Dismissed by Plaintiff ----- against Plaintiff,
  3. Settlement ----- against Plaintiff and Defendant equally,
  4. Following trial or contested hearing ----- as directed by the Court

## **RULE 11**

### **JUDICIAL SALE/EVIDENCE OF TITLE**

Amended May 20, 2016

A. In every action demanding the judicial sale of real property, including actions to quiet title, partition, marshaling of liens, and foreclosure, the party or parties seeking such judicial sale shall file, together with the filing of the pleadings requesting such relief, a preliminary judicial report prepared by a licensed "title insurance company," as that term is defined in Section 3953.01(c) of the Ohio Revised Code, showing:

1. the name of the owners of the property to be sold;
2. a reference to the volume and page of the recording by which the owners acquired title to such real estate;
3. a description of all exceptions to said owner's fee simple title and liens thereon;
4. the name and address, as shown on the record lien, of the lien holder(s); and
5. a reference to the volume and page of the recording by which the named plaintiff claims its lien or other interest in the property.

The preliminary judicial report shall be current to within fourteen days prior to the filing of the Complaint or other pleading requesting judicial sale.

B. (1) In all real property foreclosure actions, where the Ashtabula County Treasurer is named as a party defendant, the Treasurer need not file an answer to the complaint or any cross-claim, nor does the Treasurer need to be served with any answer or other pleading after the complaint, unless any party challenges the real estate taxes and/or assessments claimed by the Treasurer on the tax records either as to the amount or validity, or as to the priority as a first and best lien. In all foreclosure cases where the Ashtabula County Treasurer need not answer, the Treasurer will also not be required to attend any hearings unless specifically directed to do so by the court.

(2) In real property foreclosure actions where the Treasurer need not file an answer, the Ashtabula County Treasurer's appearance will be presumed for purposes of jurisdiction and the court shall take judicial notice that the Treasurer has the first and best lien for taxes due.

(3) The Plaintiff, however, shall cause the Clerk to deliver a copy of the complaint but not a summons to the Treasurer in all cases in which the Treasurer is either not named as a party or named as a party but where the taxes are not contested or in dispute.

(4) The Treasurer may intervene in the foreclosure action as a defendant and file a cross-claim and/or third party complaint to foreclose the lien of delinquent taxes or tax lien certificates or assert any other claim properly joined in the action, just as though named as a defendant in the original action. The Plaintiff shall serve the Ashtabula County Prosecutor on behalf of the Treasurer with a copy of the proposed confirmation entry, time-stamped final confirmation entry, and time-stamped dismissal entry whether or not the Treasurer is named as a party in the action. The proposed confirmation entry shall be provided to the Ashtabula County Prosecutor's Office for approval at least fourteen (14) days prior to being submitted to the Court, and shall include the payment of any outstanding delinquent taxes, unpaid current year taxes (prorated to the date of sale), and all penalties and interest due.

(5) After the real property is foreclosed, all motions requesting a confirmation of sale that include a request for distribution of the proceeds, shall be accompanied by a statement from the Ashtabula County Treasurer, on a court-approved form, stating the amount of the delinquent taxes, unpaid current year taxes, current year penalty and interest, pro-rated taxes, future assessments, and the total taxes due and to be paid out of the proceeds from the sale of the real property.

C. At the time of the filing of the final decree in foreclosure, the party or parties submitting the same shall file a final judicial report, updating the preliminary report to a date subsequent to the date of judgment, to insure that all necessary parties are properly before the Court in the pending action. Where the evidence of title indicates that a necessary party or parties have not been made defendants, the attorney for the party submitting the precipe for Order For Sale shall proceed without delay to cause such new parties to be added and serve a copy of the Complaint in accordance with the Ohio Rules of Civil Procedures.

D. After the Sheriff's return of the Order For Sale and prior to confirmation of the sale, the party or parties requesting the Order For Sale shall file an invoice for the cost of the preliminary and final judicial reports with the Clerk of this Court. The amount of the invoice shall be taxed as costs in the case.

E. The party or parties requesting the Order For Sale shall prepare a distribution entry showing court costs assessed, which includes the invoice for the cost of the title examination, and all other costs and distribution of sale proceeds.

F. In actions for the marshaling and foreclosure of liens, any other judicial sale of real estate, or any action involving title to real estate, the attorney for the plaintiff shall file simultaneously with the precipe for Order For Sale, a separate Exhibit "A," that must include all of the following:

1. the caption of the case and the case number;
2. the legal description of the subject real estate; and
3. a notation by the Ashtabula County Auditor that the legal description is acceptable for transfer purposes.

No Order For Sale shall issue unless the description of the real estate is acceptable for transfer by the Ashtabula County Auditor. Refusal to comply with the foregoing provisions of this rule shall be grounds for dismissal of the case.

**RULE 12**  
**APPRAISERS** (Amended September 24, 2003)

Pursuant to Revised Code Section 2335.01, the Court fixes the compensation of appraisers of real estate as follows:

For the appraisal of any property under the same case, a fee of \$50.00 per appraiser.

**RULE 13**  
**PROPERTY BONDS**

Where real property bonds are accepted by the Court in criminal or civil actions, executed by an Ashtabula County property owner, the Court will consider the fair current market value to be three times the appraised value for tax purposes, as shown in the county records, for the purpose of determining the owner's equity. Prior to the Court's acceptance of the real property bond, the Court may require evidence of title in the form of a title guarantee or abstract of title to be filed.

## **RULE 14**

### **ATTORNEY NOT TO BE RECEIVED AS SURETY**

No practicing attorney shall be received as surety on any bond or recognizance in any action or proceeding, civil or criminal.

## **RULE 15**

### **ARBITRATION**

#### **PART I**

- A. **CASES FOR SUBMISSION.** Every case in which a pretrial has been conducted and the amount actually in controversy (exclusive of interest and costs) is Twenty-five Thousand Dollars (\$25,000.00) per claimant or less, except those involving title to real estate, actions in equity, domestic relations or appeal, may be submitted to, heard and decided by a Board of Arbitration consisting of three (3) members of the Bar of Ashtabula County, Ohio, to be selected as provided in Part II. A case shall be placed upon the Arbitration List when so ordered at pretrial or upon written request by counsel for any party after a pretrial, by a Judge upon the determination that the amount actually in controversy, exclusive of interest and costs, is Twenty-five Thousand Dollars (\$25,000.00) per claimant or less. The Court may order a case to be scheduled for trial to the Court or jury, without referral to arbitration.
- B. **CASES SUBMITTED BY STIPULATION.** The parties in any action which is at issue may stipulate in writing, before or after pretrial, that it may be submitted for Arbitration in accordance with this Rule, without monetary limit. Upon the filing of such stipulation, the action may be ordered upon the Arbitration List.
- C. **CASES SUBMITTED BY MOTION.** Any party to an action which is at issue and has been pending at least six (6) months may file a motion requesting that the case be submitted for Arbitration in accordance with this Rule. The assigned Judge may, without the necessity of a hearing, grant such motion and order the case placed upon the Arbitration List.

#### **PART II**

- A. **SELECTION OF ARBITRATORS:** In all cases subject to arbitration, the members of the Board of Arbitration shall be appointed by the Court from the list of members of the Bar of Ashtabula County.

B. **MANNER OF APPOINTMENT:** The Court shall appoint a panel of three arbitrators, the chair of which shall be designated by the assigning Judge.

Upon written agreement of the parties, one arbitrator may be assigned to hear their case. The parties may agree upon the arbitrator, and/or the arbitrator shall be appointed by the Court. The arbitrator shall be entitled to receive compensation equal to the total compensation paid to the Board of Arbitrators of Three Hundred Fifty Dollars (\$350.00) pursuant to the schedule in Part V.

C. **COMPOSITION OF BOARD:** Disqualification. Not more than one member of a law partnership or an association of attorneys shall be appointed to the same Board, nor shall an attorney be appointed to the Board who is related by blood or marriage to any party or attorney of record in the case or who is a law partner or an associate of, or shares expenses with, any attorney of record in the case.

D. **ASSIGNMENT OF CASES:** The Court shall, if possible, assign two or more cases to each Board at the time of appointment. Said cases shall be taken in order from the Arbitration List.

E. **DISCLOSURE:** No disclosure of any offers of settlement shall be made to the arbitrators prior to the filing of the report and award referred to in Part IV.

### **PART III**

A. **HEARINGS; WHEN AND WHERE HELD; NOTICE; REFERRAL ENTRY; DEPOSIT.**

Hearings shall be held in Ashtabula County at a place provided by the Chair of the Board of Arbitration. Should the Chair be unable to provide a place for the hearing, the Chair shall request another member of the Board to make such provision. Hearings may be held in the courthouse provided they are scheduled through the Assignment Office. The Chair shall schedule a hearing not less than fifteen (15) days nor more than sixty (60) days after the appointment of the Board of Arbitration and shall notify the arbitrators and the parties or their counsel in writing, at least ten (10) days before the hearing, of the time and place of the hearing. The sixty (60) day period may be extended by the Court.

No hearings shall be scheduled for Saturdays, Sundays, legal holidays or evenings, except upon agreement by counsel for all parties and the arbitrators. Since sufficient time is available to the parties prior to the hearing date to settle or compromise their disputes, the hearing shall proceed forthwith at the scheduled time. Neither counsel nor

the parties shall communicate with the arbitrators concerning the merits of the controversy prior to the commencement of the hearing.

The Entry referring a case to arbitration shall include the following:

1. Case referred to arbitration. Arbitration hearing shall be held and concluded within sixty (60) days from the date of referral.
2. Arbitration hearings scheduled prior to Court trials should be given priority.
3. If continuance of a hearing is agreed to by the Chair of the Arbitration Panel upon request of an attorney or a party, the party so requesting the continuance shall have the responsibility of contacting all parties and Arbitration Panel members to obtain a date and time, agreeable to all involved, for the rescheduled hearing and notifying all parties and panel members in writing of the rescheduled date, time and place of the hearing. Continuances should be granted by the Chair only in situations of extreme hardship. Nothing herein shall be construed to permit an Arbitration Chair to continue an arbitration beyond sixty (60) days from the date of referral.

- B. **INABILITY OF PARTY TO PROCEED.** In the event that counsel for any party is unable to proceed within sixty (60) days from the appointment of the Board of Arbitration, the Chair shall notify the Court which may mark the case "continued," place it at the bottom of the arbitration list and assign another case to that Board; or transfer such case to the regular docket.
- C. **CASE CONTINUED TWICE CERTIFIED TO COURT.** Whenever any case has been continued two times after assignment to two Boards of Arbitration, the Court shall summon the parties or their counsel. The Court shall have the power to make any appropriate order, including transfer to the Court's regular trial docket, an order of dismissal for want of prosecution, or an order that the case be again assigned to a Board of Arbitration, heard and an award made whether or not the parties appear and prosecute or defend.
- D. **OATH OF ARBITRATORS.** When the whole number of the arbitrators shall be assembled, they shall be sworn or affirmed to well and truly try all matters properly at issue submitted to them, which oath or affirmation may be administered to them by any person having authority to administer oaths, including any one of their number.
- E. **DEFAULT OF A PARTY.** The arbitration may proceed in the absence of any party, who, after due notice, fails to appear or obtain a continuance. An award shall not be made solely on the default of a party; the Board of Arbitration shall require the other party to submit such evidence as it may require to make an award.

F. **CONDUCT OF HEARING; GENERAL POWERS.** The three members of the Board, unless the parties agree upon a lesser number, shall decide the relevancy and materiality of the evidence offered. Strict adherence to legal rules of evidence shall not be necessary. All evidence shall be taken in the presence of the arbitrators and parties except when a party is absent, in default, or has waived the right to be present. The Board may receive the evidence of witnesses by affidavit or written report and shall give it such weight as they deem it is entitled after consideration of any objections made to its admission.

Each party is strongly urged to limit presentation of evidence to thirty (30) minutes. If special and unusual circumstances require additional time, the Chair and the other parties must be notified in advance.

G. **SPECIFIC POWERS.** The Board of Arbitration shall have the general powers of a court including, but not limited to, the following powers:

1. **Subpoenas.** To cause the issuance of subpoenas to witnesses to appear before the Board and to request the issuance of an attachment according to civil and local court rules for failure to comply therewith. Counsel shall, whenever possible, produce a party or witness at the hearing without the necessity of a subpoena.
2. **Production of Documents.** To compel the production of all books, papers and documents which they shall deem material to the case.
3. **Administration Oaths; Admissibility of Evidence.** To administer oaths or affirmations to witnesses, to determine the admissibility of evidence, to permit testimony to be offered by deposition, affidavits reports or otherwise and to decide the law and the facts of the case submitted to them.

H. **PROOF OF DAMAGES.** In actions involving personal injury, damage to property or both, the following bills or estimates may be offered and received in evidence to prove the value and reasonableness of the charges for services, labor and material, or items contained therein and, where applicable, the necessity for furnishing the same, on condition that copies of the bills to be offered in evidence are provided to the adverse party at least seven (7) days prior to the arbitration hearing. Adverse parties are not bound by such evidence and may present evidence to the contrary regarding such bills or estimates.

1. **Healthcare Bills.** Hospital bills on the official letterhead or billhead of the hospital when dated and itemized; bills of doctors and dentists, when dated and containing a statement showing the date of each visit and the charge therefor;



bills of registered nurses, licensed practical nurses, or physical therapists and other healthcare professionals, when dated and containing an itemized statement of the days and hours of service and the charges therefor; bills for medicines, eye glasses, prosthetic devices, medical belts, or similar items.

2. **Property Repair Bills or Estimates.** Property repair bills or estimates when identified and itemized setting forth the charges for labor and material used in the repair of the property.

- I. **EXCHANGE OF DOCUMENTARY EVIDENCE.** Copies of all documents and or evidence which a party intends to introduce at the arbitration, including, but not limited to, medical and other expert reports, shall be provided to the other party seven (7) or more days prior to the scheduled arbitration date. For good cause shown, the Board may permit admission of documents provided to the other party less than seven (7) days before the hearing.
- J. **SUPERVISORY POWERS OF COURT.** The assigned Judge shall have full supervisory powers with regard to any questions that arise during arbitration proceedings and in the application of these rules.
- K. **WITNESS FEES.** Witness fees in any case referred to arbitration shall be the same amount as fees for witnesses in trials in the Common Pleas Court of Ashtabula County, Ohio. Witness fees may be ordered taxed as costs in the case. The costs in any case shall be paid by the same party or parties to whom taxed if the case had been tried in the Common Pleas Court of Ashtabula County, Ohio.
- L. **TRANSCRIPT OF TESTIMONY.** The Arbitrators shall not be required to make a transcript of the proceedings before them. Any party desiring a transcript shall provide a court reporter, cause a record to be made and pay the cost thereof, which shall not be considered costs in the case. Any party desiring a copy of any transcript shall be provided with it by the court reporter upon payment therefore.

#### **PART IV**

- A. **REPORT AND AWARD.** Within seven (7) days after the hearing, the Chair of the Board of Arbitration shall file a report and award with the Court and on the same day shall mail or otherwise provide copies thereof to all parties or their counsel. An award for each party may not exceed Twenty-five Thousand Dollars (\$25,000.00) per claimant, exclusive of interest and costs, except an award greater than Twenty-five Thousand Dollars (\$25,000.00) per claimant may be made when the parties have consented to arbitration. The report and award shall be signed by all of the members of the Board. In the event the

three members do not agree on the finding and award, the dissenting member shall write the word "Dissents" before his or her signature. A minority report shall not be required unless the arbitrator elects to submit the same due to unusual circumstances. The Court shall make a note of the report and award on the docket and file the original report with the Clerk of Courts forthwith.

- B. **LEGAL EFFECT OF REPORT AND AWARD; ENTRY OF JUDGMENT.** The report and award, unless appealed from as herein provided, shall be final and shall have the attributes and legal effect of a verdict. If no appeal is taken within the time and in the manner specified therefor, the prevailing party shall provide the Court a judgment in accordance therewith. After entry of such judgment, execution process may be issued as in the case of other judgments.

## PART V

- A. **MEMBER'S COMPENSATION.** Each member of a Board of Arbitration shall receive a fee of One Hundred Dollars (\$100.00), and the Chair shall receive One Hundred Fifty Dollars (\$150.00), as compensation for services in each case. When more than one case arising out of the same transaction is heard at the same hearing or hearings it shall be considered as one case insofar as compensation of the arbitrators is concerned. The members of a Board shall not be entitled to receive their fees until after filing the report and award with the Court. Fees paid to arbitrators shall not be taxed as costs nor follow the award as other costs.
- B. **DEPOSIT FOR ARBITRATORS' FEES.** One-half ( $\frac{1}{2}$ ) of the Board of Arbitrators' fees in the amount of One Hundred Seventy-five Dollars (\$175.00) shall be paid by Plaintiff(s), and one-half ( $\frac{1}{2}$ ) of the Board of Arbitrators' fees in the amount of One Hundred Seventy-five Dollars (\$175.00) shall be paid by Defendant(s). The arbitrators' fees shall be deposited with the Chair or sole arbitrator at least fourteen (14) days prior to the scheduled arbitration. In the event that a party fails to deposit the arbitrators' fees as ordered, the other parties to the action may deposit the amount with the Chair three (3) days prior to the scheduled hearing. The Board of Arbitration shall have the authority to increase the award to Plaintiff in the additional sum of One Hundred Seventy-five Dollars (\$175.00) if Defendant fails to deposit arbitration fees prior to the hearing and Plaintiff does so; and to deduct the sum of One Hundred Seventy-five Dollars (\$175.00) from any award to Plaintiff if Plaintiff fails to deposit arbitrators' fees prior to the scheduled hearing and Defendant does so.

- C. **DISMISSAL OF CASE.** In the event that a case is dismissed more than two days prior to the scheduled hearing, the Board members shall not be entitled to the aforesaid fee. In the event that a case is settled or dismissed within two (2) days of the hearing, the Board members shall be entitled to receive said fee. Upon receiving notice that a case has been settled or dismissed more than two (2) days before the date set for hearing, the Court may assign another case to the same Board.

## PART VI

- A. **RIGHT OF APPEAL.** Any party may appeal the award of the Board of Arbitration to the Common Pleas Court of Ashtabula County. Appeal by any party shall require a trial *de novo* of the entire case on all issues and as to all parties. Separate appeals by each are not necessary. The right of appeal shall be completed subject to the following conditions, compliance with which shall be within thirty (30) days after the entry of the award of the Board on the docket of the Clerk of Courts.
1. **Notice of Appeal.** The appellant shall file with the Clerk of Courts a notice of appeal. A copy shall be served upon all parties or their counsel.
  2. **Repayment of Arbitration Fees.** The appellant shall pay to the Clerk of Court the appellee's portion of the arbitrators' fees in the amount of One Hundred Seventy-five Dollars (\$175.00) contemporaneously with filing the notice of appeal. The sum shall be paid to appellee or appellee's counsel, shall not be taxed as costs in the case and shall not be recoverable by the appellant in any proceeding. Failure to pay arbitrators' fees may result in dismissal of the appeal.
  3. **Poverty Affidavit and Notice.** A party desiring to appeal an award may apply by a written motion and affidavit to the Court alleging by reason of poverty the inability to make the payments required for an appeal. If after due notice to the opposite parties the Court is satisfied of the truth of the statements in such affidavit, the Court may order that the appeal of such party be allowed although the said amounts are not paid by the appellant.
  4. **Return to Active List.** The case shall thereupon be returned to the assigned Judge for trial *de novo*.
  5. **Withdrawal of Appeal.** An appeal of an award of the Board of Arbitration filed hereunder may be withdrawn only upon agreement of all parties to the action.
- B. **TESTIMONY OF ARBITRATORS ON APPEAL.** In the event of an appeal from the award or decision of the Board of Arbitration, the arbitrators shall not be called to testify at any

hearing *de novo* as to the proceedings which occurred before them in their official capacity as arbitrators.

C. **EXCEPTIONS AND REASONS THEREFOR.** Any party may file exceptions with the Clerk of Courts from the decision of the Board of Arbitration within thirty (30) days from the filing of the report and award for the following reasons and for no other:

1. that the arbitrators misbehaved in the conduct of the case, or
2. that the action of the Board was procured by corruption or other improper means.

Copies of the exceptions shall be served upon each arbitrator within forty-eight (48) hours after filing, which shall be forthwith set for hearing before the assigned Judge, and which shall toll the thirty (30) day appeal period until decided by the Court.

If the exceptions are sustained, the report of the Board shall be vacated by the Court, and the case assigned for trial or reassigned for arbitration.

## **RULE 16**

### **TEMPORARY ORDERS**

- A. Upon the filing of a Complaint for Divorce or Legal Separation, on its own motion the Court may automatically issue a standard mutual restraining order as to the parties' conduct and assets. The standard mutual restraining order shall be served by the Clerk of Court on parties or their counsel.
- B. All *ex parte* requests shall be by written motion with supporting affidavits stating with specificity the grounds and facts supporting the allegation of irreparable harm. A proposed Order shall be submitted with the written motion.
- C. Emergency *ex parte* orders will only be granted where there are exigent circumstances that may result in irreparable harm for which there is no other remedy. A proposed Order shall be submitted with the written motion.
- D. A Motion for Exclusive Use of Premises is to be supported by affidavit of the moving party that states the specific reasons and facts for the motion. The motion may be granted if the moving party documents domestic violence or establishes that the other party has been absent from the premises for more than thirty (30) continuous days for reasons other than employment prior to filing the motion. A proposed Order shall be submitted with the written motion.
- E. All cases with a request for temporary orders will be scheduled for hearing on temporary orders within twenty eight (28) days of filing. No continuances of said hearing will be granted unless the moving party has filed an Answer Affidavit, obtained

the consent of the adverse party, or for other good cause at the discretion of the Court. If a request for continuance results in a rescheduling of the temporary orders hearing beyond the 28 days and the adverse party has not consented to said continuance, the Court may, at its discretion, enter temporary support orders based upon the Affidavits of the parties. Support orders based upon Affidavits shall be subject to retroactive modification upon hearing.

- F. Mandatory Disclosure. By the date of the hearing on a request for temporary support, each party shall submit to opposing party or counsel:
1. A recent earnings statement/pay stub
  2. Tax returns for the prior three (3) years
  3. A copy of the health insurance card, if any
  4. A list of current monthly expenses
  5. Child care expenses, if any
  6. Cost of health insurance for the children
- G. Motions for temporary support and temporary allocation of parental rights shall comply with Rule 75(N) of the Ohio Rules of Civil Procedure and with Local Rules. A proposed Child Support Worksheet shall accompany all requests for child support.
- H. Post-decree motions requesting ex parte orders that affect children are discouraged. However, the Court will issue such orders only where it is shown that irreparable harm will occur to the child unless immediate action is taken and a hearing shall be held within fourteen (14) days. A proposed Order shall be submitted with the written motion.

## **RULE 16-A**

### **UNIFORM DOMESTIC RELATIONS FORMS**

In every Divorce or Legal Separation, both parties shall file an [Affidavit of Property](#) in the form prescribed by Civ. R. 84, [Uniform Domestic Relations Affidavit 2](#). Plaintiff shall file the Affidavit with the Complaint for Divorce or Legal Separation. Defendant shall file the Affidavit within the time that an Answer would be required to be filed.

In every Divorce or Legal Separation, in which a party is requesting child support, spousal support, or parenting rights, the party shall file the [motion](#) in the form prescribed by Civ. R. 84, [Uniform Domestic Relations Affidavit 5](#). Within fourteen (14) days of service, the other party shall file a counter Affidavit in the form prescribed by Affidavit 5. If a party is requesting spousal support or child support, the moving party shall also file an [Affidavit of Income and Expenses](#) on the form prescribed in Civ. R. 84, [Uniform Domestic Relations](#)

[Affidavit 1](#). The other party shall file the affidavit within fourteen (14) days of service of the motion for child or spousal support.

In any case involving a parenting determination, including Divorces, Dissolutions, Legal Separations, Domestic Violence Petitions, and Post Judgment Motions to Modify the Allocation of Parental Rights, each party shall file a [Parenting Proceeding Affidavit](#) and a [Health Insurance Affidavit](#) in the form prescribed by Civ.R.84, Uniform Domestic Relations Affidavits [3](#) and [4](#) with their first pleading. A [Health Insurance Affidavit, Affidavit 4](#), shall also be filed by the moving party with any Motion to Modify Child Support. The other party shall file Affidavit 4 within fourteen (14) days of service of the Motion to Modify Child Support.

## **RULE 17**

### **IV-D APPLICATIONS**

All pending and post decree motions requesting that child support and/or spousal support be established or modified must be accompanied by a completed IV-D Application signed by the obligee.

## **RULE 18**

### **CUSTODY AND PSYCHOLOGICAL EVALUATIONS**

- A. Upon the filing of a Complaint for divorce, legal separation or dissolution, in which the parenting and support of minor child(ren) are involved, and if mediation has been deemed inappropriate, the Court may direct or the parties may request that the Family Court Services Office make an evaluation of the character, family relations, past conduct, earning ability and financial worth of the parties and of the home and its surroundings where it is proposed that the child(ren) are to live.
- B. The home investigation and report shall be made by a Family Court Services Investigator of the Court of Common Pleas or other competent person designated by the Court. Unless an objection is filed with the Court and served on opposing counsel, not less than seven (7) days before the scheduled hearing, the report of the Family Court Services investigation shall be considered as evidence in any trial for a divorce, dissolution, change of parenting or other similar proceeding.
- C. The party requesting the investigation, or the Court, shall direct whether the investigation should be complete or partial.

**COMPLETE INVESTIGATION** - includes office interviews and home visits with both parents; interviews with the children; employment verifications, personal references, school information, collateral information from counselors, police and other agencies. Written assessment of family situation and a recommendation regarding custody and/or visitation is provided to the Court.

**PARTIAL INVESTIGATION** - includes home visits to evaluate the physical living conditions and brief interviews with the parties. In addition, certain specific information or issues may be requested by the Court. A written summary and limited recommendation is provided to the Court.

- D. The investigation fee and expenses shall be taxed as costs in the case. Upon any party filing a motion for a custody evaluation, they shall pay the sum of Three Hundred Dollars (\$300.00) for a complete investigation, or One Hundred Fifty Dollars (\$150.00) for a partial investigation, as a deposit toward investigation fees.
- E. In all cases in which investigations are ordered, a notice may, at the request of the investigator, be mailed to each party to appear at the designated time and place for an interview with the investigator. A copy of such notice will be mailed to counsel for each party and it will be the duty of each party to comply with the request for appearance, just as it would be necessary to appear for a court ordered hearing.
- F. Upon written motion and upon cause shown by accompanying memorandum specifically setting forth the basis, the Court may, at its discretion, order the parties and minor children to submit to psychological evaluation.
- G. Psychological evaluations shall be made at the cost of the requesting party or the filing party and shall be assessed by the Court upon completion of the case. Arrangements for payment of the costs of the evaluation and any report shall be made directly by the parties. Unless an objection is filed with the Court and served on opposing counsel, not less than seven (7) days before the scheduled hearing, the report of the psychological evaluator shall be admitted into evidence upon motion of either party.

Where parenting is a real issue in the case, the parties are requested, early on in the case, to agree to a disinterested psychologist. If neither party can agree, the Family Investigator shall name a psychologist for the evaluation. Neither counsel nor the parties shall attempt to influence or otherwise interfere with a neutral determination by the psychologist involved and shall not contact the psychologist, except in reference to the type of evaluation requested, to provide basic case information or scheduling information,



or to arrange for payment. Neither counsel shall provide the psychologist with a history of the case or any other factual matters concerning the case, except as specifically requested by the psychologist.

H. Upon motion or order of the Court ordering a psychological evaluation, the following procedure shall be adhered to:

1. A Judgment Entry shall issue at the direction of the Court ordering such evaluation. Such Judgment Entry shall be submitted to the Court within five (5) days of any oral order;
  2. Within ten (10) days of the filing of the Judgment Entry, all counsel shall insure that their clients and their minor child(ren) will contact the designated psychologist or such other agreed upon counselor for the purposes of making an appointment for evaluation; all appointments for psychological evaluation to be made under this Rule shall be at the convenience of the counselor but shall be completed as soon as possible;
  3. Counsel shall be responsible to insure full compliance with this Rule and insure that their clients appear for such evaluation purposes; failure to comply with this Rule and failure to show just cause for noncompliance may entail appropriate sanctions;
  4. All inquiries by counsel shall be directed to the Court's Domestic Relations Investigator.
- I. The report of any investigator shall be made in writing and shall be kept in the possession of the Domestic Relations Investigator or submitted to the Court except that, if the case is certified to Juvenile Court, such report shall be turned over to that Court. Home investigation and psychological reports shall not be made public, but a copy of the report for the parties may be provided to their respective counsel upon request to the Clerk of Courts.



## **RULE 19**

### **STANDARD PARENTING ORDER**

- A. The following standard parenting guidelines will be applied in all cases unless otherwise ordered:
1. Presumptions:
    - a. Shared parenting is in the best interests of the child(ren);
    - b. Equal division of the available parenting time is in the best interests of the child(ren);
    - c. Whenever possible, it is in the best interests of the child(ren) that they are in the care and supervision of a parent, rather than third persons.
  2. The presumptions are rebuttable and may be rebutted by competent credible evidence, such as, without limitation, evidence of domestic violence, abuse, neglect, and/or one or more criminal convictions.
  3. This rule does not create a presumption of a deviation in child support. It is for parenting time purposes only and child support shall be considered on a case by case basis.
- B. In the absence of an agreement by the parties, the court has wide discretion in determining what parenting schedule is reasonable and in the best interests of the child(ren), and each judge may develop a uniform fixed schedule of parenting time.
1. In the event the parties cannot agree upon a parenting schedule, they shall participate in mediation.
  2. If the parties cannot develop their own parenting schedule through mediation, both parties shall provide the court with verification of their work schedules and available parenting times. The court will then assign parenting time, based upon the presumptions.
  3. Primary residential parent refers to the parent from whose home the child(ren) attends/will attend school. Unless otherwise noted, this is the parent designated the Residential Parent for School Purposes.
  4. Secondary residential parent refers to the other parent.
- C. Unless the court finds that parenting time should be restricted, the minimum time afforded to the secondary residential parent shall be as follows:
- 1. Infants: Birth – Age 2**
    - A. From Birth – Age 1, the secondary residential parent shall spend time with the child(ren) as follows: every Tuesday and Thursday from 5:30 P.M. to 8:30 P.M., and alternating weekends, from Saturday at 10:00 A.M. to Sunday at 6:00 P.M.

- B. From Age 1 – Age 2, the secondary residential parent shall spend time with the child(ren) as follows: every Tuesday and Thursday from 5:30 P.M. to 8:30 P.M., and on alternating weekends, from Friday at 6:00 P.M. to Sunday at 6:00 P.M.
- C. **Holidays:** In even-numbered years, Mother shall spend time with the child(ren) from 6:00 P.M. the day before Memorial Day until 8:00 P.M. on Memorial Day, 9:00 A.M. on July 4th until 9:00 A.M. on July 5th, Mother’s Local Trick-or-Treating (plus an hour on either side of the trick-or-treat schedule), and 8:00 P.M. Christmas Eve until 9:00 A.M. on December 26th and Father shall spend time with the child(ren) from 9:00 A.M. to 6:00 P.M. on Easter, 6:00 P.M. the day before Labor Day until 8:00 P.M. on Labor Day, Father’s Local Trick-or-Treating (plus an hour on either side of the trick-or-treat schedule) if it does not interfere with Mother’s Local Trick-or-Treating, 6:00 P.M. the day before Thanksgiving Day until 6:00 P.M. on Thanksgiving Day, 6:00 P.M. on December 23rd until Christmas Eve at 8:00 P.M. and New Year’s Eve at 6:00 P.M. until 6:00 P.M. on New Year’s Day.

In odd-numbered years, Father shall spend time with the child(ren) from 6:00 P.M. the day before Memorial Day until 8:00 P.M. on Memorial Day, 9:00 A.M. on July 4th until 9:00 A.M. on July 5th, Father’s Local Trick-or-Treating (plus an hour on either side of the trick-or-treat schedule), and 8:00 P.M. Christmas Eve until 9:00 A.M. on December 26th and Mother shall spend time with the child(ren) from 9:00 A.M. to 6:00 P.M. on Easter, 6:00 P.M. the day before Labor Day until 8:00 P.M. on Labor Day, Mother’s Local Trick-or-Treating (plus an hour on either side of the trick-or-treat schedule) if it does not interfere with Father’s Local Trick-or-Treating, 6:00 P.M. the day before Thanksgiving Day until 6:00 P.M. on Thanksgiving Day, 6:00 P.M. on December 23rd until Christmas Eve at 8:00 P.M. and New Year’s Eve at 6:00 P.M. until 6:00 P.M. on New Year’s Day.

- D. **Older Siblings:** If there are older brothers and sisters of an infant child, the parenting time, including holidays, set forth below for children ages two years through 12 years shall govern infant visitation, once the infant is two months old.

2. **Child(ren): Ages 2 -13**

- A. The parents shall exercise a “2-2-5-5” schedule, with Mother’s parenting time beginning on Mondays at 9:00 A.M. Here is an example of the 2-2-5-5 schedule:

Sun	Mon	Tue	Wed	Thu	Fri	Sat
DAD	MOM	MOM	DAD	DAD	MOM	MOM
MOM	MOM	MOM	DAD	DAD	DAD	DAD
DAD	MOM	MOM	DAD	DAD	MOM	MOM
MOM	MOM	MOM	DAD	DAD	DAD	DAD

B. Holidays and days of special meaning shall take precedence over the “2-2-5-5” schedule.

<b>Holiday</b>	<b>Even-Numbered Years</b>	<b>Odd-Numbered Years</b>	<b>Time Period</b>
Easter	Father	Mother	6:00 P.M. the day before until 6:00 P.M. on Easter
Memorial Day	Mother	Father	6:00 P.M. the day before until 8:00 P.M. Memorial Day
July 4th	Mother	Father	July 3rd at 6:00 P.M. until July 5th at 9:00 A.M.
Labor Day	Father	Mother	6:00 P.M. the day before until 8:00 P.M. Labor Day
Trick-or-Treat	Mother-Priority	Father-Priority	Local Trick-or-Treat hours + 1 hour before & after
Thanksgiving	Father	Mother	Wednesday after school until 6:00 P.M. Thanksgiving*
Christmas Eve	Father	Mother	6:00 P.M. on 12/23 until 9:00 P.M. on 12/24
Christmas Day	Mother	Father	9:00 P.M. on 12/24 until 9:00 A.M. on 12/26
New Year's Eve/Day	Father	Mother	6:00 P.M. on 12/31 until 6:00 P.M. on 1/1

\*Unless the weekend following is that parent's regularly-scheduled weekend, in which case the parenting time shall continue through that parent's regularly-scheduled weekend.

C. **Spring Break:** In even-numbered years, Mother shall have parenting time during Spring Break, and in odd-numbered years Father shall have parenting time during Spring Break.

- D. **Winter Break:** Winter Break shall be divided equally between the parents. In even-numbered years, Father shall have parenting time with the child(ren) during the first half, and the Mother shall have parenting time with the child(ren) during the second half of Winter Break. In odd-numbered years, Mother shall have parenting time with the child(ren) during the first half and the Father shall have parenting time during the second half of Winter Break. Winter Break begins at 6:00 P.M. on the last day of school and ends at the drop-off of the child(ren) at school after the last day of Winter Break. Christmas Eve, Christmas Day, New Year's Eve and New Year's Day shall not be included in calculating the equal number of days to which each parent is entitled.
- E. **Days of Special Meaning:** Father's Day shall be spent with Father; Mother's Day shall be spent with Mother. Parenting time shall be from 6:00 P.M. the day before until 6:00 P.M. on the day of Mother's Day or Father's Day, or as otherwise agreed.

The child's birthday shall be spent with the Mother in even-numbered years and the Father in odd-numbered years. Parenting time shall be from 10:00 A.M. to 8:00 P.M., or as otherwise agreed. Siblings shall be permitted to participate if the exercising parent desires.

- F. **Extended Summer Parenting Time, Summer Vacations, and Travel:** Each parent shall have half of the child(ren)'s summer vacation. Parenting time shall occur on a one week on, one week off basis, beginning at 6:00 P.M. on Sunday and extending until the following Sunday at 6:00 P.M. Parenting time with the secondary residential parent shall begin on the first full week following the last day of school. Parenting time with the primary parent shall end the last full week of summer. The "2-2-5-5" schedule can be used in place of the week on/week off schedule if the parties prefer.

Each parent is entitled to a two week period of uninterrupted parenting time with the minor child(ren) each summer. In even-numbered years, Mother shall have the first choice and shall choose her two week uninterrupted parenting time by advising Father of that time period on or before May 1st of that year. In odd-numbered years, Father shall have the first choice and shall choose his two week uninterrupted parenting time by advising Mother of that time period on or before May 1st of that year. Neither parent shall have more than a two week, or fourteen day, period of uninterrupted parenting time during the summer without the consent of the other parent.

For any vacation or holiday travel, each parent must provide the other parent with information about the destination, times of arrival and departure, and methods of travel. If there are children in different age brackets, the provisions for the oldest age bracket shall apply to all children, except that there shall be no extended parenting time or vacation time for a child under two months of age.

If summer school is necessary for a child to pass to the next grade, the child is required to attend summer school classes. Parents may schedule summer extended parenting time during a mandatory summer school period, but the child must attend all classes.

### 3. Teenagers: Ages 13 – 18

The schedule above is used with the following considerations:

- A. Parents are urged to understand a child's normal social development during these sensitive years, when the teenager normally spends less time with either parent.
- B. In exercising parenting time with a teenager, parents shall make reasonable efforts to accommodate a teenager's participation in the teenager's academic, athletic, extracurricular, and social activities.

#### D. Rules Regarding Parenting Time

1. **Conflicting Schedules:** In the event of any conflict between parenting time schedules, the following is the order of priority:
  - A. Holidays and Days of Special Meaning;
  - B. Vacation periods or extended parenting times; and,
  - C. Weekends and mid-week days.

For example, one parent may not schedule his or her summer vacation to include July 4<sup>th</sup> if July 4<sup>th</sup> is the other parent's holiday that year. As another example, the primary residential parent may be entitled to have the child(ren) on the Easter holiday even though it falls on the secondary residential parent's alternating weekend. In this case, the secondary residential parent's weekend shall conclude at 6:00 P.M. on the day before Easter (ages 2-18).

2. **Illness:** It is expected that the parents will follow the parenting time schedule despite any illness of the child(ren), unless both parents agree that this would not be advisable due to the child(ren)'s condition or contagiousness.

Both parents should use common sense as to a sick child and be sensitive to the child's needs. In the event that a child is ill, medications and instructions for special care shall travel with the child. Each parent should notify the other, as soon as reasonably possible, of any diagnosis, injury or treatment, as well as the name, address and phone number of all treatment facilities and medical professionals involved.

Any weekend parenting time that is missed due to the illness of a child shall be made up the following weekend or as the parents may mutually agree. The primary residential parent shall promptly notify the secondary residential parent of the child's illness prior to the exercise of parenting time. The Court does not expect parents to abuse the intent of this Rule and interfere with the secondary residential parent's time with the child(ren).

3. **Telephone and Mail:** Each parent may have reasonable telephone contact with the child(ren) during the other parent's parenting time, not to exceed once a day between the hours of 9:00 A.M. and 8:00 P.M. If the child(ren) is/are not available, the child(ren) should return the telephone call.

Each parent shall encourage free communication between the child(ren) and the other parent, and shall not do anything to impede or restrict reasonable communication by telephone, mail or e-mail between the child(ren) and the other parent, whether initiated by the child(ren) or the other parent. Parents need to be aware that older children and teens text rather than having telephone conversations. Any mail or e-mail between the child(ren) and either parent shall be strictly confidential and shall not be opened or read by the other parent.

4. **Cooperation:** Both parents shall refrain from criticizing the other parent or arguing with the other parent in the presence of the child(ren) or where the child(ren) can overhear.
5. **Exchange of Phone Numbers:** Each parent must, unless the Court orders otherwise, keep the other parent informed of his or her current telephone number and a telephone number where the child(ren) may be reached. This includes the parents' cell phone numbers.
6. **Grace Period:** The transporting parent for parenting time shall have a grace period of 30 minutes for pick-up and delivery, if the parents live within 30 miles of each other. If the one-way distance to be traveled is more than 30 miles, the grace period shall be one hour.

In the event that one parent exceeds the grace period, that period of parenting time is forfeited, unless prior notification and arrangements have been made. This rule does not apply in cases where the one parent lives in excess of 30 miles away and suffers an unavoidable breakdown or delay en route, and the parent promptly notifies the other parent by telephone of the delay.

Repeated violations by either parent shall be cause for granting a modification of the parenting order. Parents are to exercise common sense as to weather conditions, traffic accidents and other unforeseen circumstances.

7. **Transportation:** In the event that the parents are unable to reach an agreement regarding transportation, the parent receiving the child(ren) shall arrange transportation.
8. **Clothing and Supplies for Child(ren):** Each parent is expected to maintain suitable clothing for the child(ren) during their periods of parenting time. Each parent shall return all items that are sent with the child(ren) at the end of the parenting time.
9. **Child(ren)'s Activities:** A parent shall not unilaterally enroll a child in an activity that infringes on the other parent's parenting time. Written consent is required for enrollment of a child in an activity that encompasses parenting time of both parents. Scheduled periods of parenting time shall not be delayed or denied because a child has other activities (with friends, work, lessons, sports, etc.). Parents need to realize the significance of these activities in their child(ren)'s lives, and flexibility is encouraged. It is the responsibility of the parents to discuss the child(ren)'s extracurricular activities in advance, including times, dates and transportation needs, so that the child(ren) is/are not deprived of activities and maintaining friends. Each parent shall provide the other with copies of any written material (i.e. activity schedules, maps, instructions) that are distributed in connection with the child(ren)'s activities. The parent who has the child(ren) during the time of scheduled activities is responsible for transportation, attendance, or

other arrangements. Both parents are encouraged to attend all of their child(ren)'s activities.

10. **Right of First Refusal:** In the event a parent needs childcare during a scheduled work day, that parent shall first inquire as to the availability of the other parent.

**E. Designations when Parenting Time Schedule in Section C is used.**

Because the parenting time schedule set forth in Section C. above provides for equal time between the parents, the Court shall make the following designations when Section C is used.

1. Designate which of the parent's residences is to serve as the child(ren)'s home for purposes of receiving public assistance and public benefits;
2. Designate which parent is head of household for purposes of claiming the earned income credit. The parties shall adjust the parenting time schedule set forth in Section C to ensure that the designated parent has the child(ren) for at least 183 days each calendar year;
3. Designate which parent may claim the child(ren) for dependency tax exemptions;
4. Designate which parent shall be the custodian of the child(ren)'s important papers such as social security cards, birth certificates, and passports;
5. Designate which of the parent's residences is to serve as the child(ren)'s home for school purposes. The Residential parent for school purposes shall not change the school placement of the child(ren) without written agreement of the other parent or a court order.

**F. Deviation from Existing Parenting Time Schedule Order.**

Parents are encouraged to allow for flexibility to meet the changing needs of the child(ren) and the employment schedules of the parents. The parents shall follow the parenting time schedule set forth in a temporary or final order, unless there is a clear, mutual understanding between parents to deviate. Any such deviation shall be in writing to document the parents' mutual understanding.



**RULE 20**  
**SUPPORT ORDERS**

Separate Judgment Entries on a form provided or approved by the Court, with appropriate mandatory orders required by the Ohio Revised Code, shall accompany all final divorce, legal separation, and dissolution of marriage, or post decree modification entries providing for child support and/or spousal support, and any entry establishing or modifying a support order. All child support orders shall be accompanied by the appropriate mandatory health insurance orders required by Ohio Revised Code §3113.217, and health insurance information forms approved by the Court. In addition, the entry establishing or modifying a support order shall specify a date certain on which such support provision commences, and the date payments shall commence through the Ohio Child Support Payment Central, if different.

**RULE 21**  
**MOTION TO SHOW CAUSE**

If a motion asserts nonpayment of medical or dental bills, or support orders other than periodic payments, the motion shall also itemize such expenses and state whether demand for payment has been made prior to the filing of the motion.

**RULE 22**  
**GUARDIAN AD LITEM**

Upon motion of either party, or the Court's own motion, the Court may appoint a Guardian ad Litem. The order of appointment shall state the name of the guardian, the amount to be deposited with the Clerk of Court's office for the guardian's services and by whom, and the date when the deposit is to be made.

The parties shall cooperate fully with the guardian. The guardian shall file an itemized fee statement every sixty days during the term of the guardian's appointment. A copy of the itemization shall be filed with Clerk of Courts and served on all attorneys and pro se parties.

The guardian's fees shall be approved by the Court and payment for the guardian's fees shall be borne equally by the parents unless otherwise ordered by the Court.



**RULE 22-A**  
**PARENTING COORDINATION**

**I. Definitions** as used in this rule

(A) Domestic abuse means a pattern of abusive and controlling behavior that may include physical violence; coercion; threats; intimidation; isolation; or emotional, sexual, or economic abuse.

(B) Domestic violence has the same meaning as in R.C. 3113.31(A)(1).

(C) Parenting coordination means a child-focused dispute resolution process ordered by the Court to assist parties in implementing a parental rights and responsibilities or companionship time order using assessment, education, case management, conflict management, coaching, or decision-making. A Parenting coordination@ is not mediation subject to R.C. Chapter 2710, R.C. 3109.052, or Sup.R. 16 nor arbitration subject to R.C. Chapter 2711 or Sup.R. 15.

(D) " Parenting coordinator "means an individual appointed by the Court to conduct parenting coordination.

**II. Scope**

At any point after a parental rights and responsibilities or companionship time order is filed, the Court may order parenting coordination except to determine the following:

- (A) Whether to grant, modify, or terminate a protection order;
- (B) The terms and conditions of a protection order;
- (C) The penalty for violation of a protection order;
- (D) Changes in the designation of the primary residential parent or legal guardian;
- (E) Changes in the primary placement of a child.

**III. Appointment**

(A) Reasons for Ordering Parenting Coordination

The Court may order parenting coordination, sua sponte or upon written or oral motion by one or both parties, when one or more of the following factors are present:

1. The parties have ongoing disagreements about the implementation of a parental rights and responsibilities or companionship time order and need ongoing assistance;

2. There is a history of extreme or ongoing parental conflict that has been unresolved by previous litigation or other interventions and from which a child of the parties is adversely affected;
3. The parties have a child whose parenting time schedule requires frequent adjustments, specified in an order of the Court, to maintain age-appropriate contact with both parties, and the parties have been previously unable to reach agreements on their parenting time schedule without intervention by the Court;
4. The parties have a child with a medical or psychological condition or disability that requires frequent decisions regarding treatment or frequent adjustments in the parenting time schedule, specified in an order of the Court, and the parties have been previously unable to reach agreements on their parenting time schedule without intervention by the Court;
5. One or both parties suffer from a medical or psychological condition or disability that results in an inability to reach agreements on or make adjustments in their parenting time schedule without assistance, even when minor in nature;
6. Any other factor as determined by the Court.

(B) Parenting Coordinator Qualifications

The Court may appoint an individual as a parenting coordinator who meets all of the following qualifications:

1. A master's degree or higher, a law degree, or education and experience satisfactory to the Court;
2. At least two years of professional experience with situations involving children, which includes parenting coordination, counseling, casework, legal representation in family law matters, serving as a guardian ad litem or mediator, or such other equivalent experience satisfactory to the Court;
3. Has completed the following training approved by the Dispute Resolution Section of the Supreme Court:
  - a. At least twelve hours of basic mediation training;
  - b. At least forty hours of specialized family or divorce mediation training;
  - c. At least fourteen hours of specialized training in domestic abuse and dispute resolution;
  - d. At least twelve hours of specialized training in parenting coordination.

(C) Parenting Coordinator Qualifications in Abuse, Neglect and Dependency Cases

In addition to the qualifications under Section III (B) of this rule, the Court may appoint a parenting coordinator to an abuse, neglect, or dependency case, provided the parenting coordinator meets both of the following qualifications:

- (1) Significant experience working with family disputes;
- (2) At least thirty-two hours of specialized child protection training that has been approved by the Dispute Resolution Section of the Supreme Court.

(D) Parenting Coordinator Continuing Education

To maintain eligibility for appointment, a parenting coordinator shall complete at least three hours per calendar year of continuing education relating to children that has been approved by the Dispute Resolution Section of the Supreme Court.

(E) Parenting Coordinator Appointment Order

The Court's appointment order shall set forth all of the following:

- (1) The name of the parenting coordinator and any contact information the Court may choose to include;
- (2) The specific powers and duties of the parenting coordinator;
- (3) The term of the appointment;
- (4) The scope of confidentiality;
- (5) The parties' responsibility for fees and expenses for services rendered by the parenting coordinator;
- (6) Parenting coordination terms and conditions;

(F) Selection of Parenting Coordinator for Appointment

The parenting coordinator who meets the qualifications in Section III of this rule shall be selected using one of the following:

- (1) Use of a Court employee;
- (2) Random selection by the Court from the Court's roster of parenting coordinators;
- (3) Specific appointment based on the type of case and the qualifications and caseload of the parenting coordinator;
- (4) Parties select a parenting coordinator from the Court's roster of parenting coordinators;

(G) Prohibited Parenting Coordinator Appointments

The Court shall not appoint a parenting coordinator who does not possess the qualifications in Section III, or who has served or is serving in a role that creates a professional conflict including, but not limited to, a child's attorney or child advocate; guardian ad litem; custody evaluator; therapist, consultant, coach, or other mental health role to any family member; or attorney for either party. Parties may not waive this prohibition.

(H) Appointment of Mediator as Parenting Coordinator

A mediator who has worked with a family shall not later serve as parenting coordinator with the same family except at the Court's discretion, and with written consent of the parties.

(I) Termination or Modification of Parenting Coordinator Appointment

Upon motion of a party, for good cause shown, or sua sponte, the Court may terminate or modify the parenting coordinator appointment.

**IV. Parenting Coordinator Responsibilities**

I. Ability to Perform Duties

(A) Parenting Coordinator shall report to the Court any activity, criminal or otherwise, that would adversely affect the parenting coordinator's ability to perform the functions of a parenting coordinator.

(B) Compliance with Appointment Order A parenting coordinator shall comply with the requirements of and act in accordance with the appointment order issued by the Court.

(C) Independence, Objectivity, and Impartiality

A parenting coordinator shall maintain independence, objectivity, and impartiality, including avoiding the appearance of partiality, in dealings with parties and professionals, both in and out of the courtroom.

(D) Conflicts of Interest

(1) A parenting coordinator shall avoid any clear conflicts of interest arising from any relationship activity, including but not limited to those of employment or business or from professional or personal contacts with parties or others involved in the case. A parenting coordinator shall avoid self-dealing or associations from which the parenting

coordinator may benefit, directly or indirectly, except from services as a parenting coordinator.

(2) Upon becoming aware of a clear conflict of interest, a parenting coordinator shall advise the Court and the parties of the action taken to resolve the conflict and, if unable to do so, seek the direction of the Court.

(E) Ex Parte Communications

A parenting coordinator shall not have ex parte communications with the Court regarding substantive matters or issues on the merits of the case.

(F) Legal Advice

A parenting coordinator shall not offer legal advice.

(G) Reporting

(1) A parenting coordinator shall submit a resume to the Court documenting compliance with Section III; provide an updated resume to the Court in the event of any substantive changes; and notify the Court of any changes to name, address, telephone number and, if available, electronic mail address contained in the resume.

(2) On or before January 1st of each year, a parenting coordinator shall report to the Court a list of all continuing education training completed during the previous year pursuant to Section III(D), including the sponsor, title, date, and location of each training. A parenting coordinator shall not be eligible for appointment until this requirement is satisfied. The parenting coordinator shall complete three hours of continuing education for each calendar year of deficiency.

**V. Parenting Coordination Procedures**

(A) Screening for and Disclosure of Domestic Abuse and Domestic Violence

(1) All cases shall be screened for domestic abuse and domestic violence by the parenting coordinator before the commencement of the parenting coordination process and by the parenting coordinator during the parenting coordination process.

(2) All parties and counsel shall immediately advise the parenting coordinator of any domestic violence convictions and/or allegations known to them or which become known to them during the parenting coordination process.

(3) When domestic abuse or domestic violence is alleged, suspected, or present, before proceeding, a parenting coordinator shall do each of the following:

- (a) Fully inform the person who is or may be the victim of domestic abuse or domestic violence about the parenting coordination process and the option to have a support person present at parenting coordination sessions;
- (b) Have procedures in place to provide for the safety of all persons involved in the parenting coordination process;
- (c) Have procedures in place to terminate the parenting coordination session/process if there is a continued threat of domestic abuse, domestic violence, or coercion between the parties.

(B) Disclosure of Abuse, Neglect, and Harm

A parenting coordinator shall inform the parties that the parenting coordinator shall report any suspected child abuse or neglect and any apparent serious risk of harm to a family member's self, another family member, or a third party to child protective services, law enforcement, or other appropriate authority. A parenting coordinator shall report child abuse or neglect pursuant to the procedures set forth in R.C. 2151.421.

(C) Attendance and Participation

- (1) Parties shall attend parenting coordination sessions. Requests to reschedule parenting coordination sessions shall be approved by the parenting coordinator.
- (2) A parenting coordinator shall allow attendance and participation of the parties and, if the parties wish, their attorneys and any other individuals designated by the parties.

(D) Referrals to Support Services

A parenting coordinator shall provide information regarding appropriate referrals to resources including legal counsel, counseling, parenting courses or education, and other support services for all parties, including, but not limited to, victims and suspected victims of domestic abuse and domestic violence.

(E) Parenting Coordination Agreements, Reports, and Decisions

- (1) Parties shall sign and abide by agreements reached during a parenting coordination session, which shall be maintained in the parenting coordination file. The parenting coordinator shall provide a copy to each party and their attorneys, if any.

(2) Upon request by the Court or at the parenting coordinator's discretion, the parenting coordinator shall prepare a written report including, but not limited to, all of the following:

- (a) Dates of parenting coordination session(s);
- (b) Whether the parenting coordination session(s) occurred or was terminated;
- (c) Requests to reschedule a parenting coordination session(s), including the name of the requestor and whether the request was approved;
- (d) Whether an agreement was reached on some, all, or none of the issues;
- (e) Who was in attendance at each session(s);
- (f) The date and time of a future parenting coordination session(s);
- (g) Whether any decisions were written and if so, the date(s).

(3) The parenting coordinator shall first attempt to assist the parties in reaching an agreement that resolves the dispute. If the parties are unable to reach an agreement, the parenting coordinator shall issue a written decision that is effective immediately and remains effective unless otherwise ordered by the Court. The parenting coordinator shall provide copies to the parties and their attorneys, if any. The decision shall be immediately filed with the Court and include all of the following:

- (a) Case caption, including the case number;
- (b) Date of the decision;
- (c) The decision of the parenting coordinator;
- (d) Facts of the dispute and facts upon which the decision is based;
- (e) Reasons supporting the decision;
- (f) The manner in which the decision was provided to the parties;
- (g) Any other necessary information.

(4) A party may file written objections to a parenting coordinator's decision with the Court and serve all other parties to the action within fourteen days of the filing date of the decision. If any party timely files objections, any other party may also file objections with the Court and serve all other parties to the action, not later than ten days after the first objections are filed. A hearing may be scheduled, upon request, at the discretion of the Court. A judge or magistrate shall issue a ruling on the objections within thirty days from the date of the last objection filed.

(F) Parenting Coordinator Evaluations and Complaints

- (1) A parenting coordinator shall provide participants with the Parenting Coordinator Evaluation form, provided by the Court, prior to the first parenting coordination session and at the end of the term of the appointment.
- (2) The Court shall complete a review of the parenting coordinators on the Court's roster in January of each year.
- (3) A party to a case appointed to parenting coordination may file a complaint regarding the parenting coordinator within one year from the termination of the appointment. The complaint shall be submitted to the Court, and include all of the following:
  - (a) The case caption and case number;
  - (b) The name of parenting coordinator
  - (c) The name and contact information for the person making the complaint;
  - (d) The nature of any alleged misconduct or violation;
  - (e) The date the alleged misconduct or violation occurred.
- (4) The Court shall provide a copy of the complaint to the parenting coordinator.
- (5) The parenting coordinator has fourteen days from the date of the receipt of the complaint to respond in writing to the Court.
- (6) The Court shall conduct an investigation into the allegations and shall issue a response within thirty days from the date the complaint was filed.

(G) Fees

Parenting coordinator fees and expenses shall be included in the appointment order and paid by the parties. When the parenting coordinator is a court employee, the initial fee shall be \$150 per person unless otherwise ordered by the Court, and may be subject to further costs upon review by the Court.

(H) Stay of Proceedings

Unless otherwise provided by court order, referral of a case to parenting coordination stays a case until further notice. The Clerk of Court shall not accept for filing any documents while a case is in parenting coordination with the following exceptions:

- (1) An objection to a parenting coordinator's decision;
- (2) A motion to lift the stay;
- (3) A response to a motion to lift the stay;
- (4) An application to dismiss the case;



- (5) A notice related to counsel;
- (6) A motion for changes in the designation of the primary residential parent or legal guardian.
- (7) A motion for changes in the primary placement of a child.
- (8) A motion regarding matters unrelated to the issues referred to the parenting coordinator.

**VI. Confidentiality and Privilege**

Except as provided by law, communications made as part of parenting coordination, including communications between the parties and their children and the parenting coordinator, communications between the parenting coordinator and other relevant parties, and communications with the Court, shall not be confidential. Except as provided by law, parenting coordination shall not be privileged.

**VII. Public Access**

The files maintained by a parenting coordinator but not filed with the Clerk of Court or submitted to the Court shall not be available for public access pursuant to Rules 44 through 47 of the Rules of Superintendence for the Courts of Ohio.

**VIII. Model Standards**

The Court and a parenting coordinator shall comply with the "Guidelines for Parenting Coordination" developed by the Association of Family and Conciliation Courts Task Force on Parenting Coordination. Wherever a conflict exists between the "Guidelines for Parenting Coordination" and this rule, this rule shall control.

**IX. Sanctions**

The Court may impose sanctions for any violation of this rule which may include, but is not limited to, attorney's fees and other costs, contempt, or other appropriate non-financial sanctions at the discretion of the Court. The Court may consider sanctions as recommended by the parenting coordinator.

## **RULE 23**

### **PARENT EDUCATION PROGRAM**

In all divorce, dissolution and legal separation cases with child(ren), the parties shall, unless excused by the Court for cause shown, successfully complete the Court sponsored Parent Education Seminar.

In divorce cases and legal separation cases, along with service of the Complaint, the Clerk of Court shall serve the Defendant with an Order to contact Family Court Services within fourteen (14) days of service of the Complaint to schedule a date for attendance at the seminar. The Clerk of Court shall further serve the Plaintiff with the same Order by ordinary mail. The parties shall complete the seminar within sixty (60) days of service of the Complaint.

In dissolution cases, within seven (7) days of the filing of the Petition, the Clerk of Court shall, by regular mail, serve both parties with an Order to Attend the Parent Education Seminar. The parties shall contact Family Court Services immediately to schedule a date for attendance, and shall complete the seminar within sixty (60) days of the filing of the Petition.

Family Court Services shall be responsible for mailing informational brochures and class schedules to the parties within seven (7) days of filing. Family Court Services shall file a notice with the Clerk of Court after each party attends the class. Copies of this notice shall be sent by Family Court Services to the parties or their attorneys, if the parties are represented. It is the attorney's responsibility to check Clerk of Court's file or contact Family Court Services prior to hearing date.

The Court may refuse to conduct a final hearing, or enter a final order allocating the primary rights and responsibilities for a child(ren), or may refuse to grant visitation to or on behalf of any parent who has not completed the Court approved seminar, or may take other action deemed appropriate.

## **RULE 24**

### **DOMESTIC RELATIONS MEDIATION** (Amended August 7, 2013)

This Local Rule 24 relating to Domestic Relations Mediation incorporates by reference R.C. §2710 ("Uniform Mediation Act") and R.C. §3109.052 (Mediation of Differences as to Allocation of Parental Rights and Responsibilities) and Rule 16 of the Supreme Court of Ohio Rules of Superintendence.

#### **A. Referrals to Mediation**

(1) In all domestic relations cases with children the parties shall be referred to mediation. Domestic relations matters where there are no children may also be referred for mediation assessment and mediation by the Court or by the parties themselves. In any domestic relations proceeding, a Motion for Mediation may be filed by the parties and/or their attorneys.

(2) In domestic relations matters with children, after both parents have attended the Parent Education Seminar or have completed an online Divorce Education Course approved by Family Court Services, they shall contact the Family Court Services office to schedule an appointment for an individual mediation assessment.

(3) Parties may choose a private mediator whose qualifications, pursuant to Rule 16 of the Supreme Court of Ohio Rules of Superintendence for the Courts of Common Pleas, meet those set forth in Section H of this Rule. All private mediators chosen by the parties pursuant to the Court's Order to Attend Mediation shall complete the forms and evaluations required by the court.

(4) Mediation may be waived upon the filing of a Motion to Waive Mediation which shall have attached a signed agreement of the parties allocating parental rights and responsibilities and visitation rights. A copy of the motion with the signed agreement shall also be provided to Family Court Services.

#### **B. Mediation Reports**

The mediator will file a Mediation Report with the Clerk of Courts in regard to the status of the mediation process upon completion of the mediation. All Mediator Reports shall be in compliance with R.C. §3109.052 and R.C. §2710.03-2710.05.

### **C. Privilege, Confidentiality and Mediator Disclosures**

Mediation communications are privileged as described in R.C. §§ 2710.03 - 2710.05. If the parties believe that confidentiality beyond the scope of privilege is necessary, they may sign a written confidentiality agreement prior to the mediation. Except where otherwise required by law, the mediator shall keep all mediation communications confidential unless all mediation participants and the mediator have consented to disclosure. All disclosures by the mediator shall be in compliance with R.C. § 3109.052 and R.C. §§2710.03 - 2710.05.

### **D. Mediation Fees**

A onetime fee of one hundred dollars (\$100) shall be assessed as court costs on all cases filed with the Court and mediated after the initial assessment.

### **E. Family Investigations During Pendency of Mediation**

Absent extraordinary circumstances, no family investigation shall be ordered until the mediation has concluded. If a family investigation was previously ordered (and initiated), it shall be suspended during the pendency of the mediation.

### **F. Ex Parte Orders During Pendency of Mediation**

While the case is in mediation, no ex parte orders allocating parental rights and responsibilities shall be entered by the Court, unless extraordinary circumstances are alleged in an affidavit, which in the Judge's discretion justify an ex parte order. Absent extraordinary circumstances, an ex parte order which is entered, shall only provide for a physical placement of the children, and that the parents shall not remove the children from the jurisdiction.

### **G. Procedures**

(1) The Court shall utilize procedures for all cases that will:

- a. Ensure that parties are allowed to participate in mediation, and if the parties wish, that their attorneys and other individuals they designate are allowed to accompany them and participate in mediation;
- b. Screen for domestic violence both before and during mediation;
- c. Encourage appropriate referrals to legal counsel and other support services for all parties, including victims of and suspected victims of domestic violence;
- d. Prohibit the use of mediation in any of the following:
  1. As an alternative to the prosecution or adjudication of domestic violence;

2. In determining whether to grant, modify or terminate a protection order;
3. In determining the terms and conditions of a protection order; and
4. In determining the penalty for violation of a protection order.

Nothing in this section of this Rule shall prohibit the use of mediation in a subsequent divorce or custody case even though that case may result in the termination of the provisions of a protection order.

(2) Mediation of allocation of parental rights and responsibilities or the care of, or visitation with, minor children shall abide by all provisions set forth in section G(1) of this Rule, mediation may then proceed, when violence or fear of violence is alleged, suspected, or present, only if the mediator has specialized training as set forth in the Qualifications section of this Rule and all the following conditions are satisfied:

- a. The person who is or may be the victim of domestic violence is fully informed, both orally and in writing, about the mediation process, his or her right to decline participation in the mediation process, and his or her right to have a support person present at mediation sessions.
- b. The parties have the capacity to mediate without fear of coercion or control.
- c. Appropriate procedures are in place to provide for the safety of the person who is or may be the victim of domestic violence and all other persons present at the mediation.
- d. Procedures are in place for the mediator to terminate mediation if he or she believes there is continued threat of domestic violence or coercion between the parties.
- e. Procedures are in place for issuing written findings of fact, as required by R.C. § 3109.052, to refer certain cases involving domestic violence to mediation.

## **H. Qualifications**

**(1) General Qualifications and Training.** A mediator employed by this Court or to whom this Court makes referrals for mediation of allocation of parental rights and responsibilities, the care of, or visitation with, minor children, abuse, neglect and dependency, or juvenile perpetrated domestic violence cases shall satisfy all of the following:

- a. Possess a bachelor's degree or equivalent education or experience as is satisfactory to the Court, and at least two years of professional experience with families.

"Professional experience with families" includes mediation, counseling, casework, legal

representation in family law matters, or such other equivalent experience satisfactory to the Court.

b. Complete at least twelve hours of basic mediation training or equivalent experience as a mediator that is satisfactory to the Court.

c. After completing the above training, complete at least forty hours of specialized family or divorce mediation training which has been approved by the Dispute Resolution Section of the Supreme Court.

**(2) Specific Qualifications and Training: Domestic Abuse.**

A mediator employed by the Court or to whom the Court makes referrals for mediation of any case shall complete at least fourteen hours of specialized training in domestic abuse and mediation through a training approved by the Ohio Supreme Court Dispute Resolution Section. A mediator who has not completed this specialized training may mediate these cases only if he or she co-mediate with a mediator who has completed the specialized training.

**RULE 25**

**ASHTABULA COUNTY JOINT COURT MEDIATION PROGRAM**

(Amended August 7, 2013)

This Local Rule 25 relating to Common Pleas Court General Division Mediation incorporates by reference the R.C. §2710 ("Uniform Mediation Act") and Rule 16 of the Supreme Court of Ohio Rules of Superintendence.

**A. Referrals to Mediation**

(1) In any civil case, the Court may, upon its own motion or upon the motion of either party, refer the case to mediation. Parties, their attorney and any other individual designated by the party may accompany them to and participate in the mediation. Cases may also be referred to mediation by agreement of all the parties. A defendant in a foreclosure case may request foreclosure mediation by completing a Request for Foreclosure Mediation form. This form is to be delivered to the Joint Court Mediation Program office for review as to the appropriateness of mediation.

(2) Referral of a case to mediation shall not operate as a stay of proceedings unless otherwise ordered by the Court. Copies of Judgment Entries issued for cases ordered to mediation shall be forwarded to the Joint Court Mediation Program office.

## **B. Mediation Fees**

(1) A onetime fee of one hundred dollars (\$100) for up to and including three (3) parties and one hundred fifty dollars (\$150) for more than three (3) parties shall be assessed as court costs on all mediated cases. In the event there is a request to reschedule or cancel a mediation session for reasons other than that the case has been settled, except in cases of emergency, this fee shall be assessed when that request is made less than 2 business days prior to the scheduled mediation session.

(2) Where a foreclosure mediation has concluded and the case is returned to the active court docket, a defendant may submit a subsequent Request for Foreclosure Mediation. In the event that case is again mediated, an additional filing fee shall be assessed.

## **C. The Mediation Process**

(1) **Participation.** Parties so ordered shall participate in the mediation process and cooperate in all matters pertaining to the mediation. Along with face-to-face sessions, the mediation process shall provide an opportunity to parties and their attorneys to engage in whatever other appropriate steps may be helpful in settling the matters in dispute. Unless otherwise ordered, trial counsel, all parties and, if applicable, the principal insurance adjuster(s), with complete authority to settle the case, shall personally attend all mediation sessions and be prepared to discuss all relevant issues, including settlement terms. A party other than a natural person must be represented by an officer or authorized employee, and may also be represented by counsel.

(2) **Scheduling mediation.** The parties and/or their attorneys shall contact the Joint Court Mediation Program staff to schedule sessions as needed to resolve the issues in dispute. Rescheduling of cases shall also be done through the Joint Court Mediation Program staff.

(3) If parties have either resided in a common residence or are related by blood, adoption or marriage, and have known or alleged domestic abuse at any time prior to or during the mediation, the parties or their counsel shall disclose such information to the mediation staff. Such party shall participate in any screening required by the Supreme Court of Ohio's Rules of Superintendence Rule 16 prior to, and during the mediation session(s).

#### **D. Sanctions for Failure to Attend**

If parties identified in Section C above fail to attend a duly ordered mediation without good cause, the Court may impose sanctions, including an award of attorney fees and other costs, contempt or other appropriate sanctions.

#### **E. Privilege and Confidentiality**

Mediation communications are privileged as described in R. C. §§ 2710.03 - 2710.05.

If the parties believe that confidentiality beyond the scope of privilege is necessary, they may sign a written confidentiality agreement prior to the mediation.

#### **F. Mediator Disclosures**

The mediator shall inform the Court who attended the mediation, whether the case settled and whether mediation shall continue. No other information shall be directly or indirectly communicated by the mediator to the Court unless all who hold a mediation privilege have consented to such disclosure. Except where otherwise required by law, the mediator shall keep all mediation communications confidential unless all mediation participants and the mediator have consented to disclosure.

#### **G. Miscellaneous Procedures**

The Court shall utilize procedures for all cases that will:

- a. Ensure that parties are allowed to participate in mediation, and if the parties wish, their attorneys and other individuals they designate are allowed to accompany them and participate in mediation;
- b. Screen for domestic violence both before and during mediation;
- c. Encourage appropriate referrals to legal counsel and other support services for all parties, including victims of and suspected victims of domestic violence;
- d. Prohibit the use of mediation in any of the following:
  1. As an alternative to the prosecution or adjudication of domestic violence;
  2. In determining whether to grant, modify or terminate a protection order;
  3. In determining the terms and conditions of a protection order; and
  4. In determining the penalty for violation of a protection order.



**RULE 26**  
**ATTORNEY FEES**

In cases where in the Court has jurisdiction to award attorney fees, the following procedure shall apply:

A. How requested:

- 1) A request for attorney fees and expenses to prosecute an action shall be included in the body of the motion or other pleading that gives rise to the request for fees.
- 2) A request for attorney fees and expenses to defend an action shall be made by motion filed at least fourteen (14) days prior to the hearing on the motion being defended.
- 3) No oral motion for fees shall be entertained.
- 4) An itemized statement describing the services rendered, the time for such services, and the requested hourly rate for the in court time and out of court time shall be filed with the Court, and exchanged with opposing counsel or pro se party no later than seven (7) days before the hearing in which the fees requested will be adjudicated.

B. Evidence in support of motion: At the time of the final hearing on the motion or pleading that gives rise to the request for attorney fees, the attorney seeking the fees shall present:

- 1) testimony as to whether the case was complicated by any or all of the following: new or unique issues of law; difficulty in ascertaining or valuing the parties' assets; problems with completing discovery; any other factor necessitating extra time being spent with the case;
- 2) testimony regarding the attorney's years of practice and expertise; and
- 3) evidence of the parties' respective incomes and expenses, if not otherwise disclosed during the hearing.

C. Expert testimony is not required to prove reasonableness of attorney fees.

D. Failure to comply with the provisions of this rule shall result in the denial of the request for the attorney fees, unless jurisdiction to determine the issues of fees is expressly reserved in any order resulting from the hearing.

## **RULE 27**

### **JURY USE AND MANAGEMENT**

- A. The opportunity for jury service shall not be denied or limited on the basis of race, national origin, gender, age, religious belief, income, occupation, disability, or any other factor that discriminates against a cognizable group.
- B. The jury commissioners appointed by the Judges of the Court of Common Pleas shall be responsible for the administration of the jury system, acting under the supervision of the Administrative Judge of the court.
- C. The names of potential jurors shall be drawn from the list of electors certified annually by the Ashtabula County Board of Elections, using an automated process that assures random selection procedures throughout the jury selection process and that provides each eligible person with an equal probability of selection.
- D. Persons called for jury service shall not be required to remain available for a period of more than two weeks.
- E. All requests for exemptions, excuses or deferrals, must be in writing and approved by a Judge of the Common Pleas Court.
- F. Jurors shall be compensated in accordance with the fees adopted by the Ashtabula County Board of Commissioners, and the Judges shall review the fees annually to assure that they are reasonable.
- G. Persons who fail to respond to a summons for jury service may be subject to contempt of court proceedings.
- H. Each Court will provide an orientation for persons called for jury service and such instructions as may be appropriate and necessary to increase their understanding of the judicial system and each phase of the trial process, and to prepare them to serve competently as jurors.
- I. A jury shall not be sequestered, except for good cause, or when required by law.

## RULE 28

### **ELECTRONIC RECORDING**

Pursuant to Rule 11 of the Rules of Superintendence of the Supreme Court of Ohio, the General Division of the Court of Common Pleas may use audio electronic recording devices, and/or video recording systems, or live court reporters for the recording of court proceedings in all civil and criminal matters, at the discretion of the trial judge.

In any case in which the trial judge has determined, pursuant to this rule, to record the proceedings by use of an audio electronic and/or video device, a party may request the use of a private stenographic reporter. The engagement of the stenographic reporter shall be by agreement of all parties and the reporter shall not seek compensation from the Court. The cost incurred will not be calculated as an element of court costs. The privately employed court reporter will be appointed and sworn as the *ad hoc* Appointed Court Reporter by the Trial Judge and an entry recording such appointment shall be filed with the Clerk of Courts in the case file.

#### A) Definitions

1. The transcript of proceedings is the part of the record that reflects the events in the trial not represented by the original papers. Essentially it is the testimony of witnesses and the oral participation of counsel and the Trial Judge as recorded by stenographic, or electronic audio recording.
2. The Court Reporter is a person employed by the Court and appointed by journal entry pursuant to O.R.C. 2301.18 and O.R.C. 2301.19.
3. An Appointed Court Reporter is appointed by the Trial Judge to prepare transcriptions of electronic audio recordings of court proceedings, or is privately employed by trial counsel and appointed *ad hoc* by the Trial Judge.
4. Transcription is the process of converting stenographic, or audio recording (transcript) into a typed format.

In cases in which audio electronic and/or video recording is utilized, the Court Reporter shall maintain permanent custody of the CD-ROM's on which original electronic audio recordings of proceedings are recorded and shall have access to the server on which the recording is backed up on a daily basis. Discs copied from the original recording on the server may be destroyed after three (3) years.

Any person may request an electronic copy of the audio record of proceedings, or a portion thereof by submitting a request to the Court Reporter. A fee of \$5.00 per CD shall be paid to the Clerk of Courts for copies of the audio record.

The Court Reporter and Appointed Court Reporters shall take an oath to faithfully and impartially discharge the duties of such position.

A transcription is ordered by submitting a written request on the court-approved form entitled "Transcription Request" to the Court Reporter, who will secure the preparation of the transcription. No transcription will be prepared without such a request being filed. The original of the request shall be filed in the case file.

The costs for preparing the transcription will be billed to the party and/or persons ordering the transcription and other recipients of the transcription in accordance with the fee schedule which is on file with the Clerk of Courts. In the case of indigent criminal appeals, the appropriate documentation for compensation shall be submitted.

Transcriptions for appellate purposes shall be prepared in accordance with Appellate Rule 9(A) and (B).

### **AMENDMENT TO RULE 28**

(Adopted November 14, 2007)

Local Rule 28, Electronic Recording, adopted by the Court of Common Pleas on October 16, 2007, is only applicable to the Trial Court of the Honorable Gary L. Yost. Specifically, until further modification of Local Rule 28, Electronic Recording, the procedures and policies outlined in such Rule, concerning electronic recording and all pertinent material, shall apply only to the Trial Court of the Honorable Gary L. Yost.

### **RULE 29**

#### **TRANSCRIPTS**

(Amended May 17, 2013)

Any party or counsel requesting or requiring a transcript of any proceedings for any purpose shall notify the Official Court Reporter directly of the request and obtain an estimate of the anticipated cost. One-half (½) of such estimate shall be paid in advance to the Official Court Reporter with the balance due upon delivery of the transcript.

Such compensation shall be paid forthwith by the party for whose benefit a transcript is made. Transcripts requested by the prosecuting attorney or an indigent defendant in criminal cases or by the trial judge in either civil or criminal cases, and for copies of

decisions and charges furnished by direction of the Court shall be paid from the County Treasury and taxed and collected as costs.

Pursuant to Ohio Revised Code Section 2301.24, the compensation of the Official Court Reporters of the Ashtabula County Common Pleas Court for making transcripts is hereby fixed as follows:

**ALL CRIMINAL, DOMESTIC, CIVIL & JUVENILE:**

\$4.25 per page for One Original.

\$1.00 per page for One Copy to someone who is not a party to the case (This includes co-defendants).

\$0.25 per page "at cost" rate for Official Court Reporters to provide hard copies (Public records rate currently charged in our Clerk of Courts Office).

\$5.00 per page for Expedited Transcripts (Expedited to be within 72 hours, depending on length and requested delivery date).

\$6.50 per page for Daily Copy (depending on length).

**REALTIME RATES:** (Upon Request to Purchase Same:)

(\$1.00 additional per page; an Original should ALWAYS be ordered with a Purchased Realtime Feed.)

Realtime & Regular Delivery = \$5.25 per page

Realtime & Expedited Delivery = \$6.25 per page

Realtime & Daily Copy Delivery = \$7.25 per page

**RULE 30**

**DESTRUCTION OF STENOGRAPHIC NOTES AND EXHIBITS**

Any stenographic notes, pen shorthand notes, reel-to-reel tapes, exhibits, index cards and notebooks of any Court Reporter presently or in the past employed by the Ashtabula County Court of Common Pleas that are ten (10) or more years old may be destroyed, without notice to counsel or the parties, at said Court Reporter's discretion.

Any exhibits that are under ten (10) years old may be destroyed after any appeal period has run by the following procedure. The Court Reporter shall notify counsel in writing to determine whether or not they desire the exhibits returned to them or if they wish the exhibits to be destroyed. If counsel declines the return of exhibits, or if counsel do not respond within thirty (30) days of the inquiry, the Court Reporter may destroy the exhibits. The Court Reporter shall file with the Clerk of Courts Office notice of the

final return of exhibits to counsel or notice of their destruction. Exhibits from criminal cases shall be returned to the Office of the Prosecuting Attorney or the appropriate law enforcement agency to be disposed of according to law. Said destruction of exhibits shall also be at the Court Reporter's discretion.

## **RULE 31**

### **CUSTODY OF FILES**

No papers or files shall be taken from the custody of the Clerk unless authorized by the Court. Before taking such papers or files, a receipt must be given the Clerk therefore. Papers or files in the courtroom during the time a cause is on trial shall be considered in the custody of the Clerk. The Clerk is required to keep files of pending cases in a place secure from promiscuous handling and inspection and under his or her personal supervision.

## **RULE 32**

### **FILING FEES AND COURT COST DEPOSITS**

(Revised August 10, 2017)

- A. Filing fees and costs in the Court of Common Pleas shall be as set forth in the [Filing Fee and Costs Schedule](#) maintained by the Clerk of Courts.
- B. All filing fees and deposits shall be paid at the time of filing.
- C. The Clerk shall not accept any document for filing unless the correct deposit is made unless:
  - 1. An affidavit of indigency in such form as prescribed by the Court is filed as provided in Ohio Revised Code §2323.31. In any case in which a private attorney files an affidavit of indigency, the attorney shall also submit an affidavit certifying that he or she has not received any retainer fee for undertaking the case.
  - 2. The party filing such document is exempt from such requirement by law or this Rule.
  - 3. No deposit for costs shall be required in proceedings filed by the County Prosecutor or Bureau of Support.
- D. Any party making a jury demand in a civil action before this court shall deposit the sum of \$400 with the Clerk of Courts no later than four (4) weeks before the original trial date set in the case schedule. Failure to timely pay the \$400 jury deposit fee shall conclusively constitute a waiver of the jury. Notwithstanding the foregoing, any party

that has filed an affidavit of indigency pursuant to Subsection (C)(1) is not required to make a monetary deposit under this subsection. (Effective August 10, 2017)

- E. Any party making a demand for a jury view in a civil action before this court shall deposit the sum of \$400 with the Clerk of Courts no later than four (4) weeks before the original trial date set in the case schedule. The failure to timely pay the \$400 jury view fee shall conclusively constitute a waiver of a jury view. Notwithstanding the foregoing, any party that has filed an affidavit of indigency pursuant to Subsection (C)(1) is not required to make a monetary deposit under this subsection. (Effective August 10, 2017)

### **RULE 33**

#### **STATEMENT FOR COSTS AND EXECUTION FOR COSTS**

The Clerk shall keep a list of all unpaid and accrued costs in all proceedings where costs have been taxed, and shall send statements to all persons against whom costs have been taxed in all proceedings that have become final, at least once every three months, if practical. After two such notices if the costs have not been paid, the Clerk shall issue a Certificate of Judgment for the amount of such costs without further order.

No Complaint will be accepted for filing by the Clerk where the party seeking the filing of said action has failed to pay costs previously incurred unless costs are waived by the Court due to indigency of the party.

### **RULE 34**

#### **NOTARY PUBLIC COMMISSION**

(Adopted May 3, 2011)

- A. Every person desiring to secure from a Judge of the Court of Common Pleas of Ashtabula County, Ohio, a certificate as to his or her qualifications and ability to discharge the duties of the Office of Notary Public, must first be found competent to discharge such duties by a member of the Ashtabula County Bar Association Notary Public Committee.
- B. The following rules govern Notary Public Committee action:
1. A Notary Public Committee is hereby created to serve at the pleasure of the Common Pleas Judges, the three (3) Committee members to be appointed on the recommendation of the President of the Ashtabula County Bar Association.
  2. All Ashtabula County applicants for appointment to the office of Notary Public must make application to the Notary Public Committee, and upon being found competent to

discharge the duties of the Office of Notary Public, must attend a review session and pass an examination, as established by the Notary Public Committee.

3. The application, review session, and examination fee is \$40.00.
4. All notaries applying for renewal must make application to the Notary Public Committee, attend the review session, and pay a renewal fee of \$20.00
5. The Committee shall before December 31 of each year, report all funds received and disbursed and pay over any remaining funds to the Treasurer of the Ashtabula County Bar Association.

Link to [Ashtabula County Bar Association](#)

### **RULE 35**

#### **SPEEDY TRIAL TIME** (Adopted March 25, 2011)

For every indictment filed, the Prosecuting Attorney shall provide to the Court, prior to the time of the Arraignment, at a minimum, the following information, by using the [Speedy Trial Time Form](#), attached as Exhibit A:



In the Court of Common Pleas  
Ashtabula County, Ohio

State of Ohio, )  
 )  
 ) Case No. \_\_\_\_\_  
 vs. )  
 )  
 ) Speedy Trial Time Form  
 )  
 \_\_\_\_\_)

Information required below is specifically based upon the Ashtabula County Local Rule regarding Speedy Trial Time, which counsel shall follow when completing this form.

1. Final Trial Date Allowable \_\_\_\_\_

2. Date of Arrest \_\_\_\_\_

3. Bond Set Date: \_\_\_\_\_

\_\_\_\_\_

Amount: \_\_\_\_\_

Posted: Yes or No Date: \_\_\_\_\_

4. Actual Days in Jail Spent on Charges  
\_\_\_\_\_

5. Time Waiver Executed Yes or No Date: \_\_\_\_\_

6. Defendant Incarcerated on Other Charges Yes or No

Describe(as outlined in Local Rule)

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

7. Were same charges in this case previously filed? Yes or No

## **Amount of Speedy Trial Time Accrued and Status**

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- a) Final trial date allowable within the time limits of O.R.C. 2945.71 et seq., for the charges in the indictment;
- b) Date of arrest on the charges set forth in the indictment;
- c) If and when bond was posted on the charges in the indictment;
- d) Actual days in jail the Defendant has spent on the charges;
- e) Whether the Defendant has executed a time waiver prior to the Arraignment;
- f) Whether the Defendant is incarcerated, or has been, stemming out of the incident that led to this indictment, or on any other charges, and if so:
  - 1) what are the charges, probation violation, etc.;
  - 2) where did the charges initiate;
  - 3) whether bond was set on such charges; and
  - 4) if the Defendant is serving a prior sentence, state the date of the completion of that sentence.
- g.) If the charges in the Indictment were previously filed in a County or Municipal Court, the status of that case.

As criminal cases proceed through the Court system, speedy trial deadlines are constantly changing based upon a wide variety of factors, including continuances and others listed in O.R.C. 2945.72, and such deadlines are a continuing obligation of the Prosecuting Attorney. Any issues regarding the calculation of Speedy Trial Time, or scheduling dates set in a criminal case, shall immediately be brought to the Court's attention.

The purpose of this Rule is to comply with the Ohio Revised Code as well as the Ohio Rules of Criminal Procedure, as interpreted by pertinent court decisions, and to eliminate unnecessary delay, while ultimately ensuring a fair process for all involved in the justice system.

## **RULE 36**

### **DRUG COURT DOCKET**

(Adopted June 25, 2015)

- A. The Drug Court is a specialized criminal docket established to reduce substance abuse, crime and recidivism by coordinating and integrating substance abuse treatment and other related services to low-level felony offenders with serious drug dependency problems.
  
- B. The Drug Court judge will be selected by a majority of the Common Pleas Court General Division judges and will be assigned by the Administrative Judge to preside over the Drug Court docket. This assignment will continue until changed by a majority of the Common Pleas Court General Division judges.
  
- C. When a case is transferred to the Drug Court docket, the Drug Court judge shall be responsible for the determination of every issue and proceeding in the case. When the participation of a defendant in Drug Court is concluded for any reason, the case shall be removed from the Drug Court docket and returned to the regular docket of the judge originally assigned, who shall resume responsibility for such further proceedings as are warranted.
  
- D. The Drug Court docket will have two tracks: pretrial diversion and post-conviction. The Prosecuting Attorney and the Drug Court Team will assess and approve every application for Drug Court. However, participation in and assignment to either drug court track shall remain at the discretion of the originally-assigned Judge. There is no legal right to participate in the Drug Court Program, and the decisions of the Ashtabula County Prosecutor and the Drug Court Team regarding admission are final.

## DIVERSION TRACK:

- A. The defendant must submit an application for Drug Court to the Ashtabula County Prosecutor's Office, within thirty (30) days of the arraignment, on a form made available by the Prosecuting Attorney, who shall make the initial determination of eligibility.
- The applicant must satisfy all of the following conditions:
1. The defendant must meet the legal criteria for Intervention in Lieu of Conviction, set forth in Ohio Revised Code Section 2951.041.
  2. The defendant must have a serious substance abuse/dependency problem; and must reside in Ashtabula County.
  3. The defendant has no criminal history of sexually oriented or violent behavior.
- B. If the prosecuting attorney makes an initial determination that the defendant is eligible, the defendant must be assessed to assure that the risk and needs criteria of the Drug Court are satisfied. A licensed treatment provider shall conduct a drug and alcohol assessment. The defendant must fully cooperate with all requirements of the assessment process. The drug court team will then decide the defendant's suitability for Drug Court and devise a treatment plan. Defense counsel is encouraged to attend drug court team meetings involving their clients.
- C. If approved for Drug Court, the defendant shall enter a plea of guilty in the case. The Court shall then stay all criminal proceedings in the matter and transfer the case to the drug court docket. The Court shall advise the defendant that failure to successfully complete the Drug Court program will result in an immediate removal of the stay of proceedings, an immediate adjudication of guilt, and the imposition of sentence, which can include any penalties permitted by law. The defendant shall execute a Drug Court Participation Agreement, accepting the terms and conditions of participation in the Drug Court Program, as set forth in the Agreement and the Ashtabula County Drug Court Handbook, both of which are fully incorporated herein by reference.
- D. Upon successful completion of the diversion drug court program, the case shall be returned to the regular docket of the judge originally assigned, who shall dismiss the charge(s), upon the recommendation of the Prosecuting Attorney.
- E. Upon unsuccessful termination from the diversion drug court program, the case shall be returned to the regular docket of the judge originally assigned & be set for sentencing.

POST CONVICTION TRACK:

- A. The defendant must submit an application for Drug Court to the Ashtabula County Prosecutor's Office, on a form made available by the Prosecuting Attorney, who shall make the initial determination of eligibility.

The applicant must satisfy all of the following conditions:

1. The defendant is not charged with O.V.I., felony drug trafficking of the third degree or higher, sex offenses, offenses involving the use of a deadly weapon, offenses involving children as victims, violent offenses involving a victim with a serious injury, or any offense with facts or circumstances that the drug court team deems to make drug court inappropriate for the offender.
  2. The defendant must have a serious substance abuse/dependency problem; and must reside in Ashtabula County.
  3. The defendant has no criminal history of sexually oriented or violent behavior, unless waived by the drug court team.
- B. The Court may consider sentencing a defendant to complete the Drug Court Program following a plea of guilty; as a result of a community control violation; or as a condition of judicial release. If the prosecuting attorney makes an initial determination that the defendant is eligible, the defendant must be assessed to assure that the risk and needs criteria of the Drug Court are satisfied. A licensed treatment provider shall conduct a drug and alcohol assessment. The defendant must fully cooperate with all requirements of the assessment process. The drug court team will then decide the defendant's suitability for Drug Court and devise a treatment plan. Defense counsel are encouraged to attend drug court team meetings involving their clients.
- C. The Drug Court Coordinator shall notify the trial judge whether the defendant is approved for Drug Court, and if so, of the proposed treatment plan. At the time of sentencing, the Court may adopt the recommendations of the Drug Court Team, require the defendant to complete the Drug Court Program as a condition of a community control sentence, and transfer the case to the drug court docket.

- D. If sentenced to the Drug Court Program, the defendant shall execute a Drug Court Participation Agreement, accepting the terms and conditions of participation in the Ashtabula County Drug Court Program, as set forth in the Agreement and the Ashtabula County Drug Court Handbook, both of which are fully incorporated herein by reference.
- E. Upon successful completion of the post conviction drug court program, the case shall be returned to the regular docket of the judge originally assigned. The defendant shall be on Community Control Intensive Supervision subject to further order of the sentencing Court.
- F. Upon unsuccessful termination from the post conviction drug court program, the case shall be returned to the regular docket of the judge originally assigned, and the probation department shall file a complaint for violation of community control.

**ADVISORY COMMITTEE/TEAM:**

There shall be a Drug Court Advisory Committee established to provide input on drug court policies and operations, whose members shall be representative of the Ashtabula County community and who shall serve at the discretion of the drug court judge.

There shall be a drug court team which shall assist and advise the drug court judge in the administration of the drug court. The drug court team shall consist of the drug court judge, the drug court coordinator, the prosecuting attorney, the public defender; a representative of NEOCAP, Lake Area Recovery Center, adult probation, and such other members as may be designated by the drug court judge.

**RULE 37**

**NON-PUBLIC FILES**

Adopted April 22, 2016

- A. Documents filed in any domestic relations case containing sensitive personal information shall be kept in a “non-public file,” separate from the public case file otherwise maintained by the Clerk of Courts. The non-public file shall be maintained by the Clerk of Courts in such manner and in such location as the Clerk deems appropriate.
- B. Consistent with Rule 44 of the Rules of Superintendence for the Courts of Ohio, the non-public file shall contain, but is not limited to, the following documents:

1. Health care documents, including but not limited to physical health, psychological health, psychiatric health, mental health, and counseling documents;
2. Drug and alcohol use assessments and pre-disposition treatment facility reports;
3. Guardian ad litem reports, including collateral source documents attached to or filed with the reports;
4. Home investigation reports, including collateral source documents attached to or filed with the reports;
5. Child custody evaluations and reports, including collateral source documents attached to or filed with the reports;
6. Domestic violence risk assessments;
7. Supervised parenting time or companionship or visitation records and reports, including exchange records and reports;
8. Financial disclosure statements regarding property, debt, taxes, income, and expenses, including collateral source documents attached to or filed with the records and statements;
9. Asset appraisals and evaluations; and
10. Paternity testing reports.

C. Upon the motion of any party or upon the Court's own motion, other documents containing sensitive personal information may be ordered to be maintained in the non-public file.

D. The public case file shall contain, in place of the document contained in the non-public file, a Notice of Filing reflecting the filing of the document maintained in the non-public file and the date thereof. The Notice of Filing is to be prepared by the filing party.

E. The contents of the non-public file may be inspected by the parties, an attorney for the parties, a Guardian ad litem, and the Court. Inspection of the non-public file may be permitted by others upon a motion to the Court and for good cause shown. Authorized viewers may take notes while reviewing the non-public file, but they shall be prohibited from copying, distributing, or removing the documents.

F. Notwithstanding the provisions of this rule, the Court may order certain documents to be filed under seal by the Clerk of Courts. Said documents would not be accessible to any person without permission of the Court.

## **RULE 38**

### **MENTAL HEALTH COURT**

Adopted May 1, 2017

**A. Creation of Specialized Criminal Docket:** The Ashtabula County Court of Common Pleas has established the following specialized docket according to the requirements set forth in Superintendence Rule 36.02 through 36.29:

1. **Mental Health Court:** This Specialized Docket was established in year 2017 with the goal of addressing the unique needs of offenders with identified mental health issues that contributed to the underlying offense while increasing the likelihood of future criminal justice system involvement. The overarching goal of the Mental Health Court Program is to reduce the likelihood of recidivism through intensive treatment, supervision and personal accountability.

**B. Placement in Mental Health Court Program:** Potential participants can be referred to the Mental Health Court Program, through various points of entry including:

1. Judge referral
2. Prosecutor referral
3. Request of Defense Counsel
4. Treatment Providers
5. Probation Officer
6. Self-referral
7. Jail-referral

Referral can be made at any stage of the case or court process, to include arraignment, pretrial, pre-plea agreement, change of plea, intervention in lieu of conviction (R.C. 2951.041), post-plea (presentence investigation), sentencing, while currently under court supervision/community control or as a result of a community control violation. The referring entity contacts the Coordinator of the Mental Health Court Program who conducts an initial eligibility screening. If an offender is deemed eligible for participation, the formal screening and assessment process is initiated. All offenders referred to the Mental Health Court Program are screened using the validated Ohio Risk Assessment System (ORAS) either during the Presentence Investigation (PSI) or upon initiation of a community control sentence.



The following eligibility and disqualification criteria are specific to each individual docket:

**a.) Mental Health Court Eligibility Criteria:**

- i. The current charge must be a community control sanction eligible offense.
- ii. The offender is capable of participating in and completing the program.
- iii. The offender demonstrates an interest in and a willingness to participate in the program.
- iv. The offender would benefit from mental health treatment.
- v. The offender resides in Ashtabula County.
- vi. Offender is charged with an offense that is not defined as a sex-related offense (per ORC) and there is no history of sex related offenses (to be determined on a case by case basis).
- vii. The primary diagnosis is not a substance abuse disorder.
- viii. The primary diagnosis is not mental retardation, nor developmental disability.
- ix. The offender meets diagnostic criteria for mental illness:
  - 1) He/she must have a history of mental illness prior to the commission of the crime.
  - 2) He/she must be diagnosed with a serious persistent mental diagnosis, not including personality disorders.
  - 3) Other disorders will be considered on a case by case basis.

**C. Case Assignment in Multi-Judge Courts:** All cases are initially assigned to a Judge pursuant to Loc.R. 8.1. Upon referral and acceptance of a case to the Mental Health Court Program, the case is transferred to the Judge responsible for that docket. Upon unsuccessful termination of a specialized docket, the case is returned by the Mental Health Court Judge to the initially assigned Judge for further disposition.

**D. Specialized Dockets Case Management:** Case Management is an integral element of the Mental Health Court Program. All offenders referred to specialized dockets are screened using the validated Ohio Risk Assessment System (ORAS) either during the Presentence Investigation (PSI) or upon initiation of a community control sentence. Officers then develop an individualized case management plan that is maintained within the ORAS portal. This plan is prioritized based on the risk findings of the ORAS to ensure that the most imminent concerns are addressed immediately. Participants are educated as to the role of case management through the program description, participant hand-

book and signed participation agreement. Participants, therefore, understand the relationship between the Court and adjunct service providers as well as the expectations for compliance. The case plan is an ever-evolving document that follows the offender through every state of community control supervision, thus ensuring continuity and that all identified issues and risks are addressed even beyond Mental Health Court Program involvement.

## **E. Completion/Discharge from the Mental Health Court Program:**

1. **Criteria for Successful Completion:** Successful completion criteria are the guidelines used to identify how Mental Health Court participants can successfully complete the program. While program completion is based on a relatively standard set of expectations, each case is assessed individually and the Judge makes the final determination of successful completion.

**In general, the following indicate positive accomplishment to be considered for successful completion (graduation):**

- Completed community service hours;
- Demonstrated period of treatment compliance:
  - Evidenced by submitting verification of treatment attendance; and
  - Medication regime compliance as reported from Treatment Provider.
- Displayed a change in thinking, attitude and beliefs;
- Successfully completed treatment or programming, or continues to be actively engaged in treatment process;
- Maintained consistent employment and housing;
- Demonstrated ability to identify and eliminate criminal thinking patterns;
- Paid in full fines, court costs, restitution (if applicable), and treatment costs (inability to pay costs in full does not necessarily prevent success completion).

**Accomplishments may include:**

- Medication regime compliance;
- Demonstrated abstinence from alcohol and drugs as evidenced by negative screens (as relevant);
- Completion of treatment or continued engagement in treatment;
- Aftercare plan established;
- Completed Mental Health Court Program requirements including community service;
- Completed vocational or educational plan;
- Paid in full restitution, fines and court costs, unless otherwise determined;
- Displayed responsibility for his or her behavior;
- Demonstrated stability in the community.

*The Mental Health Court Judge has discretion to determine when the participant will successfully complete the program.*

**In general, the process for determining when a participant has successfully completed the program includes the following steps:**

- 1) **Nomination:** The participant and/or member of the Treatment Team offers a nomination of a participant for successful completion.
- 2) **Treatment Team Review:** The Treatment Team conducts a review of compliant behavior and accomplishments, to include drug testing results, violations/sanctions, incentives, treatment compliance and aftercare activities.
- 3) **Treatment Team Recommendation:** The Treatment Team then makes a formal recommendation to the Mental Health Court Judge.
- 4) **Judicial Decision:** The Mental Health Court Judge determines that the participant successfully completed the Mental Health Court program.
- 5) **Graduation Ceremony:** Each graduate has a formal graduation ceremony in which they are presented with a certificate of completion and addressed by the Treatment Team and participants. The Mental Health Court Judge makes a formal statement indicating the accomplishments of the graduate, thus reinforcing expectations for other participants.
- 6) **Aftercare Components:** The participant is then directed to the aftercare component of the program.
- 7) **Final Disposition:** Depending on case type, the underlying case is closed, or in cases implementing intervention in lieu of conviction, the underlying case is dismissed.

2. **Neutral Discharge:** There may be circumstances in which the participant is discharged from the Mental Health Court through a Neutral Discharge status. This status is assessed in situations when the participant has reached maximum benefit for various possible reasons:

- a serious medical condition;
- cognitive impairment;
- serious mental health condition;
- death;
- other factors that may keep the participant from meeting the requirements for success completion.

3. **Inactive Status:** There may be circumstances that necessitate a participant being placed in "inactive status," whereby they are not formally discharged from the program yet are not actively participating. Examples of situations warranting this status include participants who are:

- Placed in a residential facility and cannot be transported for status review hearings;
- Charged with new crimes pending adjudication and/or a final disposition for sentencing;
- In need of further assessments or evaluations to determine if the Mental Health Court is beneficial to the participant and the program;
- Unable/unwilling to comply with program requirements in a timely manner as directed; or
- Under an outstanding warrant for non-compliance from the specialized docket and the issue has not been resolved.

## **AMENDMENTS**

These rules may be amended by a concurrence of a majority of the trial Judges upon motion of a Judge at a special meeting called for such purpose. Each Judge is to be provided with a written copy of the proposed amendment at least ten (10) days prior to such meeting.

The Ashtabula County Bar Association may also propose amendments and/or new rules at a special meeting, upon request, and pursuant to a duly adopted resolution of the association at a meeting called for that purpose.