

**COURT OF COMMON PLEAS
CLINTON COUNTY**

**RULES OF LOCAL PRACTICE
CIVIL AND CRIMINAL**

IN THE COURT OF COMMON PLEAS

CLINTON COUNTY, OHIO

**IN THE MATTER OF
THE RULES OF PRACTICE**

**ORDER AMENDING LOCAL
RULES OF PRACTICE
EFFECTIVE January 1, 2024**

IT IS HEREBY ORDERED that the Rules of Practice attached hereto shall be the rules of practice for this Court commencing January 1, 2024, and that prior Rules of Practice shall be null and void.

ENTER this 8th day of November, 2023.



Judge John W. Rudduck

**COURT OF COMMON PLEAS
CLINTON COUNTY, OHIO
RULES OF LOCAL PRACTICE**

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RULE 1

TERMS OF COURT

The calendar year is divided into four (4) terms of Court commencing on the first day of January, April, July and October. All causes and proceedings, civil and criminal, and other matters pending on the last day of a term are continued to the next term without further order of the Court.

RULE 2

FILES

No original papers or court files shall be removed from the Clerk’s Office except by a Judge of this Court or authorized court personnel. Copies of pleadings and papers can be obtained from the Clerk by payment of the copy fee.

RULE 3

(AMENDED April 1, 2013)

SECURITY FOR COSTS

- A. No civil action or proceeding shall be accepted by the Clerk for filing unless the party or parties offering the same for filing shall have first deposited a sum to secure the payment of the costs that may accrue in each action or proceeding, except as otherwise provided by law. Such advance deposit shall be in accordance with the following schedule:

SCHEDULE OF DEPOSITS REQUIRED BY CLINTON COUNTY CLERK OF COURTS

CIVIL CASE	\$250.00
COMPLAINT IN FORECLOSURE.....	\$570.00
(This includes \$350.00 filing fee and \$220.00 Real Auction fee)	
DIVORCE/DISSOLUTION OF MARRIAGE W/O CHILDREN	\$300.00
DIVORCE/DISSOLUTION OF MARRIAGE WITH CHILDREN	\$400.00
FOREIGN JUDGMENT	\$ 75.00
EXECUTION	\$ 50.00
WRIT OF POSSESSION	\$100.00
GARNISHMENTS	\$ 50.00

JUDGMENT DEBTOR EXAM	\$100.00
MOTION REOPENING DOMESTIC CASE W/O CHILDREN.....	\$ 100.00
With children	\$175.00
MOTION REQUIRING SERVICE	\$ 20.00
(When No Previous Deposit has been made)	
IF SERVICE MADE BY SHERIFF	\$ 50.00
ANSWER AND CROSS-COMPLAINT REQUIRING SERVICE	\$ 20.00
IF SERVICE BY SHERIFF	\$ 50.00
ANY CASE THAT SERVICE BY PUBLICATION IS REQUIRED	\$500.00
(This is in addition to the original case deposit)	
ISSUING A CERTIFICATE OF JUDGMENT	\$ 5.00
FILING A CERTIFICATE OF JUDGMENT	\$ 30.00
RELEASE OF A CERTIFICATE OF JUDGMENT	\$ 5.00
FILING A NOTICE OF APPEAL	\$225.00
EXPUNGEMENT	\$50.00
SUBPOENA When a precipe for subpoena is filed for a CLINTON COUNTY resident, the deposit is <u>\$20.00</u> per witness.	
When a precipe for subpoena is filed for OUT OF COUNTY RESIDENT, it shall be accompanied by a check made payable to the witness for one day witness fee (\$12.00) plus round trip mileage at \$.10 per mile, and a \$15.00 deposit (to cover issuing subpoena and Sheriff's fee).	
If the subpoena is issued for the afternoon only, the fee would be for one-half day plus mileage.	
Subpoena issued for Cuyahoga County, a Deposit of <u>\$20.00</u> is required.	
HOME INVESTIGATION	\$150.00
COPIES	\$.10 cents a page
CERTIFIED COPIES Per page charge plus \$1.00 per document	

JURY DEMAND FEE \$200.00

WHEN FILING A PRECIPE FOR ORDER OF SALE – \$500.00. IF THE DESCRIPTION IS UNUSUALLY LARGE, ADDITIONAL DEPOSIT MAY BE REQUIRED.

ALL OTHER FEES – PURSUANT TO STATUTE.

COPIES OF PAPERS SENT TO THE CLERK SOFFICE FOR FILING WILL NOT BE RETURNED UNLESS A STAMPED, SELF-ADDRESSED ENVELOPE IS ENCLOSED.

- B. When a case is transferred from Municipal Court to the Common Pleas Court in which the prayer of the counterclaim or cross-claim exceeds the monetary jurisdiction of the Clinton County Municipal Court or when a case is transferred to this Court from another County, the counter-claimant or cross-claimant or person requesting transfer of the case to this Court, shall post security for costs in a sum equal to the amount required if the case was originally filed in this Court.
- A. When the Clerk has determined that costs in an active case have exceeded the deposit, the Clerk shall require an additional deposit in the same amount that was originally deposited at the time of filing.
- B. An Affidavit of Indigence stating the reasons for the inability to make the full deposit or partial deposit for costs may be accepted by the Clerk in lieu of a full or partial payment if ordered by the Court.
- C. Regardless of who is charged with the costs, thirty (30) days after the Entry of final judgment, if the costs have not been paid, the Clerk is directed to apply the deposit to the unpaid costs. If the costs are later paid by the party against whom they are assessed, the amount previously applied from the deposit will then be refunded to the party who made the deposit.

RULE 4

PLEADINGS

- A. Every pleading, motion, and memorandum filed shall have typed or printed thereon the name, address, Supreme Court number, and telephone number of counsel filing the same. When the counsel is a firm of attorneys, a particular attorney within the firm having primary responsibility for the case shall be indicated thereon. Civil cases shall designate the type of case, according to the Supreme Court definitions.
- B. When a new party plaintiff or defendant is added to a case after its commencement, the caption of subsequent pleadings shall contain the name and

address of the new party, followed by the specific designation of “new party plaintiff” or “new party defendant” as is applicable.

- C. Pleadings and motions may be amended as provided by Civil Rule 15, but no pleading or motion shall be amended by interlineations or obliteration.

RULE 5

MOTIONS

- A. All motions shall be accompanied by a brief or memorandum stating the grounds thereof and citing the authorities relied upon. The opposing counsel or party may file a memorandum in opposition to the motion by the fourteenth (14th) day after the day on which the motion was filed.

The moving party may file a reply brief by the twenty-first (21st) day following the day on which such motion was filed. On the twenty-first calendar day after the motion was filed, the motion shall be deemed submitted to the trial judge.

Oral hearings on motions will not be allowed except upon leave of the trial judge after receipt of a written request by a party.

- B. Motions for Summary Judgment shall be dealt with in accordance with Ohio Civil Rule 56. Again, oral hearings on such motions will not be allowed except upon leave of the trial judge.
- C. Motions for temporary restraining orders and preliminary injunctions shall be dealt with in accordance with Ohio Civil Rule 65.

RULE 6

DISCOVERY

- A. It is the declared policy of this Court to encourage professional informal discovery wherever practicable in preference to formal discovery and to avoid the Court’s involvement in the discovery process. Counsel shall make every effort to comply with this policy.
- B. In accordance with Ohio Civil Rule 5(D), all papers, after the complaint, required to be served upon a party shall be filed with the Court within three days after service, but depositions upon oral examination, interrogatories, requests for documents, requests for admission, and answers and responses thereto shall not be filed unless on order of the Court or for use as evidence or for consideration of a motion in the proceeding. The Clerk of Court shall not accept for filing the transcript of a deposition unless it is accompanied by a certification by counsel

that the deposition is being filed on order of the Court or for use as evidence or for consideration of a motion in a proceeding.

- C. If relief is sought under Ohio Civil Rule 26(C) or Ohio Civil Rule 37 concerning interrogatories, requests for production of documents or inspections, and requests for admissions, copies of the portions of such documents which are in dispute shall be filed with the Court contemporaneously with any motion filed under Ohio Civil Rule 26(C) or Ohio Civil Rule 37.
- D. The Court strictly construes Ohio Civil Rule 37(E) regarding the duty to resolve discovery disputes.

RULE 7

ENTRIES AND DECISIONS

- A. Unless the Judge or Magistrate otherwise directs, counsel for the party in whose favor an order, decree, judgment or decision is rendered, shall within fourteen (14) days thereafter prepare the proper entry and/or decision and submit it to opposing counsel who shall approve or reject it within three (3) days after its receipt and who may file objections with the Court. Counsel who prepared the entry and/or decision shall then submit it to the Court and put the Court on notice if it has not been approved by opposing counsel.

If counsel are unable to agree upon the entry and decision, the matter shall be submitted to the Judge or Magistrate, who will direct what entry and/or decision shall be made.

- B. Counsel shall promptly submit an entry of dismissal to the Judge following settlement of any case. If counsel fails to present such an entry to the Judge within twenty (20) days after informing the Court that a case has been settled, the Judge may order the case dismissed as for want of prosecuting.
- C. When a timely written request for findings of fact and conclusions of law is made pursuant to Ohio Civil Rule 52, the Judge or Magistrate may direct the party making the written request to prepare, within seven (7) days, proposed findings of facts and conclusions of law and file them with the Court serving a copy on the opposing counsel. Within ten (10) days after its receipt by the opposing counsel, opposing counsel may submit to the Court counter proposed findings and conclusions. However, only those findings of fact and conclusions of law made by the Court shall form part of the record.
- D. All entries must be on a separate sheet of paper and must be captioned with the appropriate style of the case, except entries which immediately follow and adopt a Magistrate's Decision.

RULE 8
(Amended November 8, 2023)

Electronic Transmission Filing (E-Filing) to be effective January 1, 2024

A. Implementation

1. The Court's goal is to make e-Filing available and required in all case types with limited exceptions. However, to assure a smooth transition between e-Filing and paper filing, e-Filing will be available and required in some case types prior to others. The Clerk will maintain on the Clerk's website a list of all case types that are required to be e-Filed. Counsel and self-represented litigants (pro se parties) shall determine whether e-Filing is required. If required, all documents to be filed are subject to the requirements, exceptions and limitations set forth in these rules.
2. Once e-Filing is implemented for a particular case type, all pleadings, motions, briefs, memoranda of law, deposition transcripts, transcripts of proceedings and other documents submitted in a mandatory e-File case type shall be submitted electronically through the e-Filing Portal. Subject to applicable exceptions, the Clerk shall not accept for filing or file any document in paper form in mandatory e-Filing case types.
3. Fax filings will not be accepted for cases for which e-Filing has been implemented.
4. Any document filed electronically that requires a filing fee may be rejected by the Clerk of Court unless the filer has complied with the mechanism established by the court for the payment of filing fees in accordance with Civ. R. 5(E)(3).

B. Users/Registration

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

2. All licensed attorneys are expected to use the e-Filing Portal. Any documents received in person, by mail, or fax from a licensed attorney will be returned to the attorney, unfiled, with instructions on how to register as a user of the e-Filing Portal and how submit documents electronically. No such documents shall be considered filed until they are submitted through the e-Filing Portal.
 3. At this time, pro se litigants are exempt from being mandatory e-Filers.
 4. Parties who are represented by counsel, are not permitted to e-File documents or pleadings on their own behalf. Such filings shall be rejected.
 5. If a party or counsel of record does not have internet access, the party or counsel of record may use the Clerk's Public Access Terminal to register to use the Court's e- File Portal and to e-File documents (when implemented). Leave to file other than through the e-Filing Portal may be granted only by the filing of a motion with the Judge assigned to the case, specifically stating the reasons the attorney/party cannot comply with e-Filing Procedures.
- C. Official Court Record. For documents that have been e-Filed or documents filed in paper format that have been scanned and uploaded to the e-File system by the Clerk, the electronic version constitutes the Official Court Record. E-Filed Documents have the same force and effect as those filed by traditional means.
- D. Form of Documents:
1. Format: All pleadings, motions, briefs, and other documents shall be formatted in accordance with the following:
 - a) Typewritten or printed, double spaced, on 8 1/2" x 11" paper, not less than 11-point and not greater than 12-point regular type font, paginated sequentially.
 - b) A filed document shall not contain links internal or external to other documents or references to the Court's e-Filing Portal.
 2. The Clerk of Courts may establish parameters for the size of filings.
- E. Format of Documents Electronically Filed
1. Document Types.
All e-Filed documents, pleadings, and papers shall be filed with the Clerk in .pdf (Portable Document Format).
 2. Proposed Orders/Entries.

In order to submit a proposed order or entry you must select the “proposed entry” document type in the e-Filing portal. A proposed order or proposed entry submitted for review (or other documents requiring a judge’s signature) shall be submitted in Word [.doc] format and reference the specific motion to which it applies.

Upon receipt the filer will receive a rejection from the Clerk and a note stating the order has been forwarded to the Court for review.

***All proposed orders/entries shall be submitted separately from any other filings.**

3. Signatures.

a) Attorney/Filing Party Signature: e-Filed documents that require the signature of the attorney or filing party shall be signed with a conformed signature of “/s/[name].”

The correct format for an attorney’s conformed signature is as follows:

/s/Attorney Name

Attorney Name

Bar Number 1234567

Attorney for [Plaintiff/Defendant] XYZ Corporation

ABC Law Firm

Address

Telephone

Fax number and E-mail address

The conformed signature on an e-Filed document is deemed to constitute a signature on the document for the purposes of signature requirements imposed by the Ohio Rules of Superintendence, Rules of Civil Procedure, Rules of Criminal Procedure and any other law.

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

The submitting party or attorney shall sign the stipulation or document himself or herself as follows: “/s/ John Smith”

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

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

- c) **Third Party Signatures:** A document containing the signature of a third party, who is not a party to the action (i.e., affidavit signed by a doctor, military affidavit signed by a staff member or company representative, etc.), shall be electronically submitted only as a hand-signed (not a conformed signature) scanned-in PDF document.
- d) Documents requiring an original signature, such as an affidavit or other notarized documents shall be e-Filed as a .pdf.
 - i. The filer shall maintain the signed document in the filer’s records and have it available for production upon request of the Court.
 - ii. The signed document shall be maintained until the case is closed and the time for appeal has expired or the appeals have been heard or denied and all opportunities for post judgment relief are exhausted.
- e) **Signature of Judge or Judicial Officer:** E-Filed documents may be signed by a Judge or judicial officer via a digital signature. All orders, decrees, judgments and other documents signed in this manner shall have the same force and effect as if the Judge had affixed his or her signature to a paper copy of the order and journalized it.

F. Availability of e-Filing-Acceptance of Documents

Definitions: As used in this section:

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

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

“Rejected Document” refers to a document containing deficiencies such as errors or omissions of a party failing to comply with the procedural aspects of these Local Rules, technical requirements of the e-Filing Portal, or clerical errors while submitting a document for filing. Such document will not be considered filed until deficiencies have been corrected.

- 1. Documents may be submitted to the Clerk for e-Filing 24 hours per day 7 days per week.

2. Documents shall be considered filed upon date of submission and shall receive an electronic stamp that includes the date and time the filer submitted the document to the Court's e-File system. The filer shall receive a confirmation after submission. Once accepted by the Clerk the document will be deemed filed for purposes of Ohio Law and relevant Rules of Court Procedure.

3. Notice of Deficiencies in Submissions:
The Clerk shall notify a submitting party of any deficiencies. That notice is sent from the Clerk's office via email to the submitting party. The notification component of e-Filing must be turned on or you may not be aware that your filing was rejected.

If the document is rejected, the document shall not become part of the Court record and the submitter shall be required to re-submit the document to meet the requirements within 48 business hours. If not submitted within 48 hours, the document will be rejected. The burden for timeliness falls on the filing party.

A rejected document will be considered filed upon resubmission, provided any deficiencies are corrected in a timely manner.

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

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

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

4. Filing of Initial Pleadings:

When any complaint or third-party complaint is submitted for electronic filing, **the filing party shall file a case designation sheet**. Consistent with Ohio Rules of Civil Procedure, the filing party shall also file instructions for service and the Clerk shall issue a summons and serve the complaint or third-

party complaint according to such instructions. The Clerk shall produce paper copies of these initial pleadings and charge a fee of .10 cents per page, as stated in the Clerk's fee schedule, for production of service copies, which shall be assessed as costs.

5. Documents Filed Subsequent to Complaint or Indictment:

In accordance with Civ. R. 5(B) and Crim. R. 49, the filer not the Clerk, shall be responsible for serving all documents filed subsequent to the original complaint on all parties or their attorneys.

6. Entries and Orders:

After the order or entry has been signed and filed, the Court or Clerk shall serve copies of all entries and orders.

7. Certificate of Service by attorneys or *pro se* parties:

Proof of service of all documents required or permitted to be served shall be made in compliance with Civ. R. 5 and Crim. R.49(C).

8. Effect of Technical Error:

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

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

G. Missed Deadline as a Result of E-Filers Technical Failure

1. Non-jurisdictional Deadlines: A party who misses a non-jurisdictional deadline because of technical problems with the filer's equipment, software, or internet access may move the Court to file a document *instanter* no later than the next business day following the resolution of the party's technical problems.

- a) The motion must be accompanied by a signed declaration explaining the failure to meet the deadline.

- b) The judge or magistrate assigned to the case may grant or deny such motion in his or her discretion.
2. Jurisdictional Deadlines:
- a) Technical failures, whether the fault of the E-Filing Portal or otherwise, cannot extend jurisdictional deadlines (such as statutes of limitation or deadlines for appeal).
 - b) When the E-Filing Portal is subject to a technical failure, filers may file documents in paper format or via the Clerk's Email filing process to comply with jurisdictional and non-jurisdictional deadlines.
- H. Exceptions to E-Filing:
- 1. Exhibits, attachments, or other documents that may not be comprehensibly viewed in .pdf shall be filed in their physical form with the Court.
 - 2. All documents related to Civil Protection Orders, Certificates of Judgment and Executions of Judgment shall be filed in paper form with the Clerk.
 - 3. *Pro se* parties who are not registered users of the Court's E-File system may file documents in paper form with the Clerk in person, by U.S. Mail, or by using the Clerk's Public Access Terminal (when implemented). Documents filed in accordance with this Rule shall be deemed filed and shall become the Court's Official Court Record when they are entered by the Clerk in the Court's E-File system.
 - 4. Bonds filed in criminal cases shall be filed in paper form with the Clerk.
 - 5. Subpoenas which are to be issued by the Clerk shall be filed in paper form with the Clerk.
 - 6. Criminal case documents filed at arraignment and prior to arraignment.
 - 7. Motion, Entry, and Certification for Appointed Counsel Fees.
 - 8. Garnishments
 - 9. QDRO
 - 10. Cognovit Notes
- I. Collection and Filing Deposit Fees: Any document requiring payment of a filing Deposit or fee to the Clerk in order to achieve valid filing status shall be filed in the same manner as any other E-Filed document. The E-File system accepts payment of deposits and fees electronically. Alternatively, the E-File system can accommodate the filing of an affidavit of indigence.

RULE 9

EX PARTE ORDERS

Ex parte applications, orders, and entries shall not be submitted unless expressly authorized by law. (See Ohio Civil Rule 65).

RULE 10

CERTIFICATE OF SERVICE

Certificate of service shall be made in accordance with Ohio Civil Rule 4 and 5. Trial briefs need not be filed or served if it has been agreed by counsel that they shall not be exchanged.

RULE 11

REPRODUCTION OF HOSPITAL RECORDS

A. Upon motion of any party showing good cause and upon notice to all other parties, the Judge may order a hospital, by any agent competent to act in its behalf, to reproduce (by photostating or other recognized method of facsimile reproduction) all or any portion of designated hospital records or x-rays, not privileged, which constitute or contain evidence pertinent to an action pending in this Court.

Such order shall direct the hospital to describe by cover letter the portion or portions of the records reproduced and any omissions there from and to specify the usual and reasonable charges therefore. Such order shall designate the person or persons to whom such reproductions shall be delivered or made available.

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

C. Charges for reproductions of its records shall be paid directly to the hospital concerned by the movant or movants.

D. Where original records are produced in Court and reproductions subsequently substituted by agreement of the parties, or by the order of the Court, the movant or movants shall be responsible for the cost. Unless otherwise ordered by the Court, all

original records shall be returned by the Court Reporter to the hospital upon entry of judgment in this court.

RULE 12

RULE DAYS

A. Civil Rule 12 prescribing Rule Day for pleadings will be strictly enforced. However, parties may obtain an extension of time not to exceed thirty (30) days in which to answer, plead or otherwise move, when no such prior extension has been granted, by filing with the Clerk a written stipulation approved by all counsel providing for such extension. The stipulation shall affirmatively state that no prior extension has been granted. If no such stipulation is obtained, or if an additional extension beyond the initial stipulated period is requested, the party desiring an extension must obtain the approval of the Court.

RULE 13

CIVIL CASE MANAGEMENT PLAN

A. PURPOSE: The purpose of this local rule is to establish, pursuant to Rule 9 of the Rules of Superintendence for Courts of Common Pleas, a system for case management which will provide for the prompt and fair disposal of all cases and motions before the Court.

B. SCHEDULING ORDER:

1. Within 60 days of the filing of a complaint, the Court shall assign the case for a scheduling conference (first pretrial) which may be conducted in person or by telephone.
2. The scheduling order entered after the scheduling conference (first pretrial) shall adhere to case management time guidelines set forth in Section C and shall limit the time:
 - a. To join new parties and to amend the pleadings
 - b. To file and hear motions
 - c. To complete discovery

It may also include:

- d. The pretrial and trial dates
- e. Any other matters appropriate to the particular case

The scheduling order shall include referral to available ADR programs if appropriate. The scheduling order shall not be modified except by order of the Court.

C. CASE MANAGEMENT GUIDELINES

TYPE OF CASE:*

**TORTS & PRODUCT LIABILITY
(24 Months Maximum)**

**GENERAL, CIVIL, WORKERS
COMP & FORECLOSURE
(12 Months Maximum)**

EVENT:

CASE FILED	0 MO.**	0 MO.
SCHEDULING CONFERENCE	2 MO.	2 MO.
MOTIONS TO JOIN NEW PARTIES:	4 MO.	3 MO.
PLAINTIFF DISCLOSES EXPERTS	7 MO.	3 MO.
DEFENDANT DISCLOSES EXPERTS	10 MO.	5 MO.
DISCOVERY CUTOFF	12 MO.	7 MO.
DISPOSITIVE MOTION CUTOFF	13 MO.	8 MO.
FORMAL PRETRIAL CONFERENCE	2 WEEKS BEFORE TRIAL	2 WEEKS BEFORE TRIAL
TRIAL:	15 MO.	10-12 MO.

***DOES NOT INCLUDE COMPLEX, ADMINISTRATIVE APPEAL OR CRIMINAL LITIGATION.**

****ALL TIMES MEASURED IN MONTHS FROM MONTH IN WHICH CASE IS FILED.**

RULE 14

PRETRIAL CONFERENCE

A. It shall be the duty of the Judge to schedule pretrial conferences by way of telephone, mail, review, or appearance as required by the complexity of the pending case.

B. All trial counsel shall attend the pretrial conferences with full authority and knowledge to adequately represent the client in the following matters:

1. Agreement on final date for filing any pleadings or motions and any necessary responses thereto;
2. Establish schedule for completion of discovery with identity of witnesses to be deposed, submission of interrogatories, examination of documents, expert witnesses, and other witnesses for trial appearance, to the extent any of the foregoing are then known to counsel;
3. Establish date for determination of stipulations, agree on authenticity and relevancy of any documents to be offered in evidence together with admissibility, if possible;
4. Establish schedule of pretrial conferences, if necessary, and determine review procedures;
5. Establish necessity for trial memoranda and date of submission;
6. Determination of settlement discussions; and
7. Establish trial date.

C. All procedures of Civil Rule 16 shall be part of a pre-trial discussion.

D. Counsel for either party may make application for a pretrial conference at any time.

E. The failure of trial counsel to appear at a pretrial conference may result in the continuance of such pretrial and appropriate sanction, such as costs and attorney fees of opposing litigants resulting from such continuance.

RULE 15

ASSIGNMENT FOR TRIAL

A trial date for a case shall be set by the Judge.

Notice of trial assignment shall be by mail to each counsel and to all parties not represented by counsel at least three weeks prior to the trial date by the Assignment Commissioner.

After being notified of an assignment date counsel shall promptly notify the Assignment Commissioner of any facts which might interfere with the trial of the case on the assigned date.

RULE 16

DEFAULT HEARING

In any case in which the defendant is in default for answer or other pleading, the matter may be set as a default hearing with notice to be given by regular mail, to all parties in default, at least seven (7) days prior to the date of said hearing. If the address of any party is unknown or cannot be ascertained with reasonable diligence, notice will be dispensed with upon filing of an affidavit of counsel attesting to such fact.

The notice of default hearing shall set forth the time and place for the default hearing and the original copy of the notice shall be placed in the Court's record-jacket of the case an exhibit of service to the defaulting party.

At hearings on motions for default in which damages sought by plaintiff are unliquidated, (e.g. in personal injury cases) the hearing judge may consider the following:

1. Perfection of service of the complaint by plaintiff or counsel;
2. Defendant's failure to respond or appear within 28 days of service;
3. Proper issuance of default hearing notice;
4. Evidence of damages either by verified pleadings by plaintiff, or testimony of plaintiff, together with any exhibits properly appended to pleadings or affidavit, or introduced and accepted at hearing;
5. Correspondence from expert stating opinion as to proximate cause of injury.

At hearings on motions for default in which damages sought by plaintiff are liquidated, (e.g. on accounts) the hearing judge shall consider the following:

1. Perfection of service as above;
2. Failure of defendant to respond as above;
3. Notice of default hearing on above;
4. Affidavit of status of account as to amount.

As per Rule 55, no default judgment will be entered against a juvenile or incompetent unless represented by a guardian or other representative who has appeared in the action.

Attorneys must be personally present at default hearings where damages are unliquidated. Where liquidated damages are involved per affidavit of status of account as to amount, no presence of the attorney is required; no entry will be journalized, however, without first being certified by the Clerk as having court costs paid.

RULE 17

DISMISSALS

In the event a case has been on the docket for six (6) months without any proceeding taken therein, except cases awaiting trial assignments, it shall be the duty of the assigned judge, after fourteen (14) days' written notice to counsel or the unrepresented party, to dismiss it for want of prosecution, unless good cause is shown to the contrary.

RULE 18

OBTAINING TRANSCRIPTS

I. Disclosure by Court Reporter

A. Upon Request for Preparation of a Transcript when stenographic notes have been taken in a case and the Court or either party to the suit or counsel requests transcripts of any portion of the notes, the court reporter reporting the case shall make full and accurate transcripts of the notes at a cost determined by the Court of Common Pleas for the use of the Court or party. A copy of the fee schedule is available in the Court Administrator's Office.

Procedure

The court reporter shall not provide any transcript of testimony to any party to the suite or counsel unless the party or counsel has:

- a. File a written request for transcripts under the case number with the Clerk;
- b. Served a copy of the request upon the court reporter who is responsible for the preparation of the transcript; and
- c. Caused the court reporter to be compensated for making the transcript or copies thereof in the amount determined by the Court.

B. Upon request, the court reporter shall provide copies of any original transcript of testimony that the court reporter has prepared. Copies of the transcripts shall be made available at a cost determined by the Court within a reasonable period of time, and during regular business hours. A copy of the fee schedule is available in the Court Administrator's Office.

II. Disclosure by Clerk of Court

All transcripts of testimony that are filed with the Clerk of Courts may be removed, examined and/or duplicated in accordance with the following procedure.

A. Removal

No filed original transcript of testimony may be removed from the Clerk's Office without an order of the Court.

B. Examination

Upon request, the Clerk of Courts shall allow any individual to examine, but not remove, any original transcript of testimony that has been filed with its office. Examination shall be allowed during regular business hours.

C. Duplication

Upon request and payment of a photocopy fee, the Clerk of Courts shall provide copies of any original transcript of testimony that has been filed with its office. Copies shall be provided during regular business hours within a reasonable period of time as determined by the Clerk of Courts. A reasonable period of time shall be based upon the extent of the request with efforts toward a 24-hour response time.

RULE 19 (Modified/Effective July 1, 2006)

ATTORNEY FEES - PARTITION ACTIONS

- A. Reasonable counsel fees shall be allowed to the attorneys who have rendered complete services in an action in this Court for the partition of real estate pursuant to O.R.C. sections 5307.01 through 5307.25. Counsel fees will be presumed to be reasonable if the fee is within the Court's guidelines, but the guidelines shall not be represented as a schedule of a minimum or a maximum fee to be charged. Fees allowed in partition cases as costs therein shall be predicated either upon the appraised value of the property (if partitioned); or upon the proceeds of sale (if sold).
- B. Guidelines for total counsel fees in the case to all attorneys that the Court decides have rendered services in the case for the common benefit of the parties in partition actions in this Court are as follows: Seven (7%) percent of any sum not

exceeding \$40,000.00; additionally, six (6%) percent of any sum exceeding \$40,000.00 and not exceeding \$100,000.00; additionally, four (4%) percent of any sum exceeding \$100,000.00; provided that in any partition case, the Court shall approve a minimum fee of not less than \$400.00. Any claimed fee over \$30,000.00, even if otherwise within the above guidelines, shall require a motion and hearing, and be subject to the approval of the Court. Where more than one attorney seeks allowance of counsel fees, the Court shall allocate the fees as the requesting attorneys shall agree, or if there is no such agreement, as the Court shall decide.

- C. When an allowance for counsel fees over and above the guidelines stated above is sought in a partition action, the request must be made by motion and approved by the Court, in a manner consistent with DR 2-106.

RULE 20 (Modified/Effective July 1, 2006)

**CERTIFICATES OF TITLE FOR JUDICIAL SALES
TAX MAP REVIEW (Form 1)
ATTORNEY'S CERTIFICATION OF READINESS (Form 2)**

- A. Preliminary Certificate of Title: At the time of the filing of any complaint in actions to quiet title, partition, and/or for the marshalling and foreclosure of liens on real property, except those involving registered lands, the attorney for the plaintiff shall file with the Clerk a Preliminary Certificate of Title as to the condition of the real estate in question for a period of 40 years prior to the filing of the complaint. Said certificate may be prepared by an attorney or title company, and shall be completed not more than thirty (30) days prior to the filing of the complaint.

The Preliminary Certificate, which shall be addressed to the Court, shall include:

1. The names of the owners of the property;
2. Reference to the volume, page, and date of the recording of the next preceding recorded instrument by or through which the owners claim title;
3. The parcel number(s) assigned by the Clinton County Auditor to the property(ies) the subject of the action.
4. The names of all lien holders of record and any other parties claiming an interest in the real property the subject of the action, and the nature of such interest.

5. **Tax Map Review (Local Rule 20 Form 1)**, completed by the Tax Map Office of the Clinton County Engineer, approving or rejecting for transfer the legal description of the property(ies) the subject of the action.

If the legal description of the property(ies) is rejected for transfer by the Tax Map Office, a legal description obtained from a new survey of the property(ies) or otherwise corrected, and approved by the Tax Map Office, shall be obtained by the plaintiff in the action prior to the issuance of any order of sale for the property(ies) by the Clerk to the Sheriff of this county. Such new description shall be evidenced by a supplemental Form 1, indicating the approval of the legal description by the Tax Map Office. There shall be a count in the complaint to reform the deed, if a new legal description is required.

- B. Supplemental Certificate of Title: A Supplemental Certificate of Title shall be issued and filed with the Clerk before the Decree of Foreclosure or Decree of Partition is filed. Said Supplemental Certificate shall state the method of service and date of service on each of the parties to the action and shall include a disclosure of any additional liens or mortgages that have been filed since the date of the Preliminary Certificate of Title was issued, and, if applicable, the reasons that such additional liens or mortgages are claimed to be subject to the doctrine of *lis pendens*, and the holders thereof not necessary parties to the action. The certificates of title shall become and remain part of the file in the case.
- C. Upon failure of the plaintiff's attorney to comply with the foregoing requirements, any other interested party may, upon notice to the plaintiff's attorney, procure such Certificate of Title and file the same in such action, together with Form 1 required under this Rule.
- D. Where either a Preliminary or a Supplemental Certificate of Title indicates that necessary parties have not been made defendants, the attorney for the party filing the same shall proceed without delay to cause such new parties to be added and served.
- E. Fees for the Preliminary and Supplemental Certificate of Title shall be allowed by the Court and taxed as part of the costs as follows: \$60.00, plus \$4.00 per \$ 1,000, or fraction thereof, based on the auditor's appraised true value as to the Certificate of Title. \$75.00 additional for the Supplemental Certificate of Title. Said fees shall be paid to the party providing the same to the Court as provided herein.
- F. **Attorney's Certification of Readiness (Local Rule 20 - Form 2)**.
Prior to the issuance of any judgment in an action to quiet title, partition, and/or for the marshalling and foreclosure of liens on real property, counsel for plaintiff shall complete and file with the Clerk an **Attorney's Certification of Readiness (Local Rule 20 - Form 2)**.

G. Failure to comply with the foregoing rule shall be grounds for dismissal of an action.

IN THE COURT OF COMMON PLEAS
CLINTON COUNTY, OHIO

Case No. _____

Plaintiff(s)

**TAX MAP OFFICE REVIEW
(Local Rule 20 - Form 1)**

vs.

**To be attached to Preliminary
Certificate of Title**

_____ et al.,

Defendants

To the Court of Common Pleas, Clinton County, Ohio:

A review of the legal description attached hereto, as submitted to this office, discloses that the real estate tax duplicate of the Clinton County Auditor shows title to said property to be in the name(s) of: _____

Auditor's Parcel No(s): _____ Deed/Book Vol. _____, Page _____.

And that said legal description: is approved

is NOT APPROVED (Reason: _____

for use in a conveyance and transfer thereof.

Date: _____

Clinton County Tax Map Department

Review request submitted by:

_____, Attorney for: _____

IN THE COURT OF COMMON PLEAS
CLINTON COUNTY, OHIO

Case No. _____

Plaintiff(s)

**TAX MAP OFFICE REVIEW
(Local Rule 20 - Form 1 - Supplemental)**

vs.

et al.,

Defendants

To the Court of Common Pleas, Clinton County, Ohio:

A review of the legal description attached hereto, as submitted to this office, discloses that the real estate tax duplicate of the Clinton County Auditor shows title to said property to be in the name(s) of: _____

Auditor's Parcel No(s): _____ Deed/Book Vol. _____, Page _____.

And that said legal description: is approved

is NOT APPROVED (Reason: _____)

for use in a conveyance and transfer thereof.

Date: _____

Clinton County Tax Map Department

Review request submitted by:

_____, Attorney for: _____

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

Plaintiff(s),

CASE NO. _____

vs-

_____ et al.
Defendant(s).

**ATTORNEY'S CERTIFICATION
OF READINESS
(Local Rule 20 - Form 2)**

To the Court of Common Pleas, Clinton County, Ohio:

The undersigned attorney of record for _____ (party seeking judicial sale), hereby certifies to the Court the following, with respect to this matter:

<u>YES</u>	<u>NO</u> (Attach explanation)	<u>ITEM CERTIFIED</u>
_____	_____	1.0) A legible copy of the <u>promissory note</u> is attached to the Complaint or Cross Claim.
_____	_____	2.0) A legible copy of the <u>recorded mortgage</u> with a legible legal description is attached to the Complaint or Cross Claim
_____	_____	3.0) The <u>legal description</u> in the mortgage is correct and has been approved for transfer by the Clinton County Tax Map Office. Local Rule 20 - Form 1 is attached to this Certification.
_____	_____	3.1) The legal description in the mortgage is <u>incorrect</u> . I have asserted a count for reformation of the mortgage. Local Rule-- "Form 1 Supplemental" is attached to this Certification.
_____	_____	4.0) A Preliminary Certificate of Title as required by Local Rule 20 was filed and completed not more than thirty (30) days prior of the filing of the Complaint.

YES

NO
(Attach explanation)

ITEM CERTIFIED

_____	_____	5.0) A Final (Supplemental) Certificate of Title has been filed. Its start date matches the preliminary report's end date and covers the lis pendens date. It lists all additional parties not subject to lis pendens.
_____	_____	6.0) All <u>parties</u> claiming an interest in the subject property(ies), as disclosed in the preliminary and final Certificate of Title have been named as defendant and their interest have been identified.
_____	_____	6.1) No <u>parties</u> are minors or incompetent.
_____	_____	7.0) I have examined the <u>service</u> returns in the Case file; and
		<input type="checkbox"/> <input type="checkbox"/> A. Service has been perfected on all named defendants.
		- and -
		<input type="checkbox"/> <input type="checkbox"/> B. Except parties served by publication, I have served all filings subsequent to the service of the Complaint at a proper address for all parties or, if counsel has entered an appearance for a party, a proper address for that party's counsel.
_____	_____	8.0) The party seeking judgment is the holder of a note and holder of a record of a mortgage.
_____	_____	8.1) Proof that the party seeking judgment is a current holder of a note is in the file. (assignment)
_____	_____	8.2) Proof that the party seeking judgment is a current holder of record of a mortgage is in the file.(assignment)
_____	_____	9.0) No Defendants have contested the allegations of the Complaint or Cross Claim(s)

YES

NO
(Attach explanation)

ITEM CERTIFIED

9.1) I have filed a properly supported Motion for Summary Judgment that addresses all of my clients claims or the contested claims are otherwise being litigated.

10) A Motion for Default Judgment has been filed against all of the parties who are in default or

10.1) All parties have answered movant's claims and no motion for default judgment is necessary.

11.0) The Clinton County Treasurer has been named as a defendant for the claim of real property taxes.

12.0) If the United States of America is named a defendant because of IRS liens, service has been requested upon both the Att. Gen. of the U. S. and upon the U. S. Attorney for the S. Dist. of Ohio in accordance with 28 U.S.C. 2410.

13.0) I have no knowledge of any bankruptcy proceeding currently pending against any defendants named herein.

13.1) A bankruptcy proceeding is currently pending for one or multiple Defendants named in this case, but relief from stay has been granted to Plaintiff(s) to proceed in this matter.

14.0) For all parties who have not entered an appearance and are capable of serving in the United States Armed Forces, I have filed an affidavit that complies with 50 U.S.C. 521 (the Service Members' Civil Relief Act).

15) The title to any manufactured home located on the real estate has been surrendered to the County Auditor and is being taxed as part of the real estate.

I understand that if the above requirements are not met as of the date of the default hearing or date a response to the motion for summary judgment is due, my case will be dismissed without prejudice at my client's cost. Pursuant to Civil Rule 11, I understand that the Court shall be relying upon the information contained in this Certificate.

Certified this ____ day of _____, 20__.

Attorney for: _____

RULE 21 (Modified/Effective July 1, 2006)

JUDICIAL SALE OF REAL ESTATE

A. Notice of Sale: In every action wherein a judicial sale of real estate is ordered by the Court, the attorney for the plaintiff, or such other party requesting the sale, shall promptly mail, by ordinary U.S. mail, notice of the time, date, and location of the Sheriff's sale to the record owners of the subject real estate and to all other interested parties not in default for failure to appear, or their counsel of record, at their respective last known addresses. The record owners of the real estate shall be noticed by ordinary U.S. mail in all cases, whether or not in default for failure to appear, except when said owner(s) were originally served with summons solely by publication. No other parties to the proceeding in default of answer need be served with notice of sale except by publication as provided by O.R.C. Sections 2329.26 and 2329.27. Failure to provide timely notice to interested parties shall constitute grounds for denying confirmation of the sale.

B. Required Filing: Not less than seven (7) days prior to the scheduled sale date, counsel for the party requesting the sale shall file with the Clerk of Courts a Certificate of Service of Notice of Sale Date certifying compliance with local Rule 21 (A) which includes the following language:

"The undersigned states that all persons entitled to notice of sale:

_____ Have waived notice of sale

_____ Have received notice of sale

Plaintiff

Counsel for Plaintiff

Other interested person"

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

C. Opportunity for Title Examination: Any purchaser at the Court ordered sale shall have thirty (30) days from the date of sale to obtain examination of title to said real estate. Should examination disclose the title so purchased to be unmarketable by reason of any defect in the proceedings or the existence of any interest not previously disclosed, said purchaser may, within the thirty (30) day period, notify the Court thereof by written motion requesting that said sale be set aside. If the Court, upon hearing thereof, finds said title to be unmarketable, the Court shall refuse to confirm

said sale. The Court may, however, fix a reasonable time, not to exceed ninety (90) days, within which such defects may be corrected.

D. Waiver: A purchaser may waive any part or all of the above indicated thirty (30) day examination period by signing the Confirmation Entry, but no Confirmation Entry not approved by the purchaser shall be filed until said period has expired.

IN THE COURT OF COMMON PLEAS
CLINTON COUNTY, OHIO

Plaintiff(s)

vs.

_____ et al.,

Defendants

Case No. _____

CERTIFICATE OF SERVICE OF
NOTICE OF JUDICIAL SALE DATE
(Local Rule 21)

The undersigned states that all persons entitled to notice pursuant to Local Rule 21:

[CHECK ALL APPLICABLE BOXES]

_____ Have waived notice of sale. The waivers are filed herein.

_____ Have received notice of sale.

_____ Plaintiff
_____ Counsel for Plaintiff
_____ Other interested person

Attorney Registration No. _____

RULE 22 (Modified/Effective July 1, 2006)

CONFIRMATION OF PUBLIC SALES

A. Where there are counsel of record other than the plaintiff, the confirmation of sale of real estate shall be endorsed by all such counsel who have appeared of record, in the event it is not so endorsed, counsel for Plaintiff shall file a Motion and Entry for Confirmation of Sale which shall be held for fourteen days before being submitted to the Court for ruling.

B. In so far as is possible, all such entries of confirmation shall distribute proceeds according to their priorities and discharge liens of record. The distribution of proceeds shall include the conveyance fee of \$3.50 per \$1,000.00 or such other conveyance fee which is in effect at the time of the conveyance. The county Sheriff shall compute these fees and deduct them from the proceeds of the sale. The distribution of proceeds shall allow for all real estate taxes and special assessments to be prorated to the date of the Sheriff's sale. Every effort shall be made by counsel for plaintiff, or the moving party, for confirmation and distribution to secure and protect the title of the purchaser at the sale. The Court will not approve any entry to confirm a sale in the absence of a military affidavit in compliance with the Service Members Civil Relief Act under Federal law.

RULE 23 (Modified/Effective July 1, 2006)

APPRAISER'S AND AUCTIONEER'S FEES

In actions to quiet title, partition and for marshaling and foreclosure of liens on real property, appraiser's fees shall be allowed in the amount of \$65.00 to each appraiser and auctioneer's fees shall be allowed in the amount of \$65.00 for each auctioneer, unless otherwise order by the Court.

RULE 24

APPEALS FROM ADMINISTRATIVE AGENCIES

The time for filing the brief in all appeals to the Court of Common Pleas provided in Section 119.12 of the Ohio Revised Code and in Chapter 2506 of the Ohio Revised Code from administrative agencies shall be as follows:

1. Within twenty (20) days after the filing of the record of proceeding with the Clerk of the Common Pleas Court, the appellant shall file his assignments of error and brief.
2. Within twenty (20) days after the filing of the record of proceeding with the Clerk of the Common Pleas Court, the appellant shall file his assignments of error and brief.

3. Within ten (10) days after filing of the appellee's brief, the appellant may file a reply brief.
4. For good cause, the Court may, upon motion, extend the time for filing the brief and assignment of error.

Upon expiration of the time for filing the brief as set forth above, the case will be considered submitted on briefs unless oral argument is requested in writing and granted by the Judge to whom the appeal is assigned.

Hearing upon oral arguments when granted shall be assigned by the Court and each party shall be given fifteen (15) minutes per side to argue.

The above rules do not apply to appeals from the Industrial Commission pursuant to Ohio Revised Code Section 4123.519.

RULE 25

DEPOSITIONS

A deposition filed with the Clerk shall not be withdrawn except by leave of the Court granted upon motion and due notice to the proper party or his attorney.

RULE 26

SURETIES

No attorney or officer of the Court shall be received as bail or surety in any matter, cause, or proceeding pending in this Court.

RULE 27

NOTARY TEST

For the purpose of assisting the Court in the performance of its duty pursuant to Section 147.02 of the Revised Code of Ohio, the Court shall appoint a Committee of the Bar to periodically review the Notary Public test.

The Court shall give the Notary Public test on a monthly basis, or more often if the need arises. Said examination shall be in writing and shall deal with the duties and responsibilities of Notaries Public.

Said written examination shall be administered by court personnel on the last Tuesday of each month in the Common Pleas Court Jury Room, 3rd Floor, Clinton County Court House, Wilmington, Ohio or at such other place as the Court may designate.

No judge of this Court shall issue or approve the Certificate of Qualifications of an applicant for Notary Public unless the applicant is a resident of Clinton County, Ohio, is registered to vote, and has successfully passed the examination.

Such examination shall not be required of attorneys-at-law, legal secretaries, or for renewal of commissions.

All applicants shall be provided with a suitable manual setting for the statutes pertinent to Notaries Public.

The fees to accompany such application shall be as follows:

- \$10.00 as a county fee, to be paid by separate check, cash, or money order payable to the Clinton County Notary Commission.
- \$5.00 fee to be forwarded with approved application to the Commission Clerk for the Governor.
- \$5.00 County fee for all renewals.

All county fees shall be deposited to the account to be established by the commission and from these fees said commission shall purchase all application forms and manuals. Said commission account shall be a separate account and shall be administered by the Clerk of Court.

RULE 28 – Mediation Revised 11/2/98

The Clinton County Common Pleas Court's experience participating in the Supreme Court of Ohio's pilot mediation program had lead to the conclusion that mediation is a viable tool for resolving disputes in the judicial process. Thus, the Clinton County Common Pleas Court will continue to utilize mediation as part of the judicial process.

A. Case Selection and Referral:

1. Automatic Referrals:

Cases of the following type will automatically be referred to mediation by order of the court:

- a. Personal injury involving automobile accident;
- b. Other personal injury claims; and
- c. Workers' compensation

2. Discretionary Referrals:

The Court shall have the discretion to refer any other type of case to mediation.

3. Submission to Mediation by agreement of the parties:

Cases not referred to mediation by court order may be submitted to mediation by agreement of the parties.

B. Scheduling:

Cases referred to mediation by the Court will be scheduled at a mutually acceptable time and date, unless otherwise ordered by the Court or the mediator. Cases submitted to mediation by agreement of the parties will be scheduled at a mutually acceptable time and date.

C. Mediation Selection:

For all cases referred to mediation by the Court or submitted to mediation by agreement of the parties, the mediator for the Clinton County Common Pleas Court will be assigned to conduct the mediation. However, the parties shall have the right to select a mediator of their own choosing from the Court's pre-approved mediator's panel. If the parties choose to select a mediator from the Court's panel, the parties will be responsible for scheduling the mediation directly with the mediator and will be responsible for compensating the mediator. If the Court's assigned mediator is utilized to conduct the mediation sessions the parties will not be responsible for the mediator's compensation and the mediation will be scheduled through the Court's mediation office. A list of pre-approved mediators may be obtained from the mediation office.

D. Authority and Duties of the Mediator:

1) Authority of the Mediator. The mediator shall at all times be in control of the mediation, including scheduling, and the procedures to be followed. The mediator may meet and consult privately with any party or parties or their counsel during the mediation.

2) Duties of the Mediator. The mediator shall define and describe the following to the parties at the beginning of the mediation:

- a) The process of mediation.
- b) The differences between mediation and other forms of conflict resolution.
- c) The facts that a mediation is not a trial, the mediator is not a judge, and the parties retain their right to trial if they do not reach settlement.
- d) The circumstances under which the mediator may meet alone with either of the parties or with any other person.
- e) Whether and under what conditions communications with the mediator will be held in confidence during the conference.
- f) The duties and responsibilities of the mediator and the parties.

Additionally, the mediator has the duty to:

- g) Determine whether an impasse exists or that the mediation should end.
- h) Report to the court in writing whether a full or partial agreement has been reached, whether efforts to settle the case through mediation have ceased or are continuing.
- i) Report to the Court the name of the necessary person who failed to be present for a scheduled mediation session.
- j) No other information shall be communicated in any manner by the mediator to the Court.

E. Duties of Parties, Representatives, and Attorneys:

1) Attendance. The following persons shall physically attend mediation:

a) All individual parties; or an officer, director, or employee having authority to settle the claim for a corporate party, or in the case of a governmental agency, a representative of that agency with full authority to negotiate on behalf of the agency and to recommend settlement to appropriate decision making body of the agency; and

b) the party's counsel of record, if any; and

c) a representative of the insurance carrier for any insured party who is not such carrier's outside counsel and who has full authority to settle without further consultation.

2) Finalizing Agreement. Upon reaching agreement, the parties shall reduce the agreement to writing and sign it along with their counsel.

3) Termination Entry. Upon being advised that the parties have reached a resolution in mediation, the mediator's administrative assistant shall cause a Rule 41(a) Dismissal Entry to be filed with the Clerk dismissing the action without prejudice. Once, the full releases have been signed and complied with, counsel for the parties shall file a Dismissal Entry terminating the cause of action with prejudice.

F. Sanctions for Failure to Attend:

If counsel or a party fails to attend a duly ordered mediation without good cause, the court may impose sanctions, including an award of attorneys' fees and other costs, contempt or other appropriate sanction.

G. Immunity, Confidentiality and Privilege:

1) Immunity. A mediator acting pursuant to this Local Rule shall have all immunity conferred by statute, rule and/or common law.

2) Confidentiality. All conduct and communications are confidential and shall not be disclosed in any civil judicial or administrative proceeding, or in response to a public records request pursuant to Section 149.43 of the Ohio Revised Code except that disclosure shall not be precluded:

- a) By any person, of the mediator's communications, if all parties to the mediation and the mediator consent to disclosure.
- b) By any person other than the mediator, of communications made by any person other than the mediator, if all parties consent to disclosure.
- c) If the communications were made in furtherance of the commission of a crime or as part of a plan to commit a crime.
- d) If a court after a hearing determines that such disclosure does not circumvent Evidence Rule 408 and is necessary to prevent a manifest injustice of sufficient magnitude in a particular case to outweigh the importance of protecting the principle of confidentiality in mediation proceedings in general.

This provision shall not be construed to prevent or inhibit the discovery or admissibility of any mediation communication that in the absence of mediation would be subject to discovery or admission under applicable law and Rules of Court, or would be subject to disclosure as a public record under the Public Records Act.

This provision does not affect the admissibility, or the status a public record, of a written settlement agreement signed by the parties.

3) Privilege. Privilege as applied to the mediation process and the participants shall be governed by the applicable statutory provisions, the Rules of Evidence and any other pertinent judicial rule.

RULE 29

CRIMINAL CASES

1. On the day of arraignment, the prosecutor's office will automatically provide to the accused or his counsel of record a "discovery package" in which the prosecution will provide full and complete disclosure of all things discoverable under the rules of discovery in criminal cases, including, but not limited to, a bill of particulars. The prosecutor shall notify the Court, in writing, of the speedy trial date.

Under the provisions of Revised Code Section 2941.33 where the prosecuting attorney desires to enter a nolle prosequi in any criminal case, he shall file written application therefore.

2. Criminal cases will be assigned for trial at the pre-trial or as soon as practical thereafter. Time limitations for trial, sentencing and probation after serving sentence as provided in Superintendence Rule 8 will be strictly adhered to by the Court and counsel.

3. Motions and other written requests in criminal cases shall be filed within fourteen (14) days after arraignment or plea unless otherwise allowed by the Court. Motions not filed in such time or not disposed of will be heard and decided at the trial at the discretion of the trial judge. An assignment for trial will not be continued because the filing of such motion.

4. All requests for continuance shall be made by written motion. Notice of the filing of such motion shall be served upon opposing counsel who may forthwith file an affidavit in opposition. If the defendant has no counsel and a motion for continuance is filed by the prosecuting attorney, such notice shall be served on the defendant. The motion shall be submitted upon the affidavit or upon oral hearing as the Judge may direct.

5. Counsel for Indigent Defendants: Whenever it shall be determined by a Municipal Court Judge that a person charged with a felony in said Judge's Court is without financial ability to furnish his own attorney, and in the Judge's opinion the defendant should be represented by an attorney, said Judge shall notify the Assignment Commissioner of that fact. Such case shall be referred to the office of the Public Defender for the attention and action of that office.

In the event the Public Defender is otherwise engaged, or has a professional conflict of interest or otherwise cannot represent the indigent defendant, then the Public Defender shall notify the Assignment Commissioner of such conflict of interest.

The Assignment Commissioner shall select an attorney from the list of available attorneys and shall contact him and make arrangements for the representations of said defendant.

If and when the case reaches the Court of Common Pleas, the Court will, when practicable, appoint the same attorney to represent the defendant in that Court who represented the defendant in the lower Court.

The attorney fee in such cases where the Court appoints an attorney shall be according to the current fee schedule for appointed counsel.

RULE 30

ORDER AND LOCAL RULE ESTABLISHING A SPECIALIZED DOCKET “YOU TURN” Recovery Docket (November 10, 2014)

Having received initial certification by the Ohio Supreme Court as evidenced by the attached letter, the Court hereby creates the “You-Turn” Recovery Docket as a specialized, substance abuse treatment docket within the Court. Included within the Docket shall be two separate programs.

- a. The “Fresh Start” program is designed for offenders who have filed a Motion for Intervention in Lieu of Conviction pursuant to RC 2951.041.
- b. The “Community Cares” program is designed for (1) offenders who have pled guilty to any felony offense for which there is no presumption that a prison term is necessary or mandatory, (2) offenders who are currently on community control and have pending a Motion to Revoke Community Control and, (3) offenders who are seeking to be placed on community control through a Motion for Judicial Release Re-Entry program otherwise meet all eligible criteria for admission.
- c. The mission of the Docket is to enhance public safety by reducing recidivism, to assist participants in taking responsibility for their behavioral health issue by turning them from a path of self-destruction to a sustainable path of recovery, to encourage and implement the creation of a continuum of community programs to meet the needs of the participants, and to use evidence based practices in intervention in treatment while providing local accountability with community based resources.

A. Eligibility for Admission to “You-Turn” Recovery Docket

The “You-Turn” Recovery Docket is a program designed for offenders who have entered a plea of guilty to at least one felony offense and are assessed to be a drug or alcohol dependent offender amendable to treatment. The offender must meet the following criteria to be admitted to the “You Turn” docket:

1. Clinical Eligibility Criteria
 - a) The offender must have first completed a drug/alcohol assessment by a certified licensed provider and be diagnosed as substance dependent.
 - b) The offender must demonstrate a willingness to turn from the lifestyle that triggered the pending felony offense, an understanding of the program requirements, and a commitment to comply with the treatment program.
2. Non-Clinical Eligibility Criteria
 - a) The offender must have no physical health issues which would hinder participation in the treatment program which shall be reviewed on a case by case basis.

- b) The offender must score 15 or higher on the Ohio Rise Assessment Report.
- c) The offender must be a resident of Clinton County or a contiguous county. Priority shall be given to residents of Clinton County. If exception mitigation circumstances are demonstrated, residents of other counties might be admitted at the discretion of the Judge. The Judge has the sole discretion in granting or denying admission into the Recovery Docket. The victim notification provision of Revised Code Chapter 2930 shall be followed where applicable.

B. Referral to “You-Turn” Recovery Docket Screening and Assessment Process

The Judge, defense counsel, prosecuting attorney, or any supervision officer may make a referral of an offender to the Recovery Docket. Upon application filled by the offender on Form 30a, the Recovery Docket case manager will initially screen applicants for eligibility.

Form 30b may be completed prior to the filing of Form 30a. Applicants must complete and sign all necessary release of information to facilitate inter-agency communication.

Upon completion of initial eligibility screening including consideration of applicable criteria and circumstances, the Recovery Docket case manager will then provide a written recommendation to the Court. After review, of all relevant information including optional consultation with all potential treatment team members, the Judge shall determine whether the application might be granted as a condition of entrance into the Fresh Start program or the Community Cares program.

The case shall remain on the regular docket of the Court until the Court determines the application shall be granted. If granted, Form 30c shall be completed at the first reasonably available record hearing to formally address the application in conjunction with other issues then pending before the Court. Form 30c represents the offender’s acknowledgement of understanding of the requirements of the Recovery Docket programming prior to entry onto the Docket. Admission is always only a condition of being granted community control sanctions or being granted intervention in lieu of conviction.

C. Docket Case Management and Treatment Team

Upon acceptance onto the “You-Turn” Recovery Docket, the Court will schedule regular review hearing to monitor compliance with the original orders of the Court, including treatment, in accordance with the offenders’ program phases. The offender will be referred to local agencies based upon the individual needs of the offender for treatment. Services to the offender will be expedited pursuant to the agreement of understanding with the treatment agencies and providers. The offender will be provided the participant’s manual and a copy of the signed participant agreement.

The treatment team will consist of the Judge, the Recovery Docket case manager, the assigned supervision officer, treatment agency representatives as needed, and any other participant the Judge deems necessary to ensure the offender is complying with the treatment

program established for the offender. Compliance shall be assured by communication with the designated treatment providers and through direct monitoring and meetings with the offender. The treatment team shall be responsible for obtaining and presenting information at the regular docket hearings to be conducted to review the offender's progress.

D. Unsuccessful Terminations

If the Judge believes the offender is not compliant with the original Court orders, including treatment programming, the Judge reserves the right to terminate the offenders continued participation within the "You-Turn" Recovery Docket. Common behaviors that can lead to unsuccessful termination include but are not limited to the following:

- a. On-going noncompliance with treatment;
- b. Resistance to treatment;
- c. A new serious criminal conviction;
- d. A single, serious community control violation or intervention in lieu of conviction violation or a series of community control violations or intervention in lieu of conviction violations.

Negative consequences of termination may include loss of future eligibility for admission into the Recover Docket, further legal action including the filing of a Motion for revocation of intervention in lieu of conviction with a felony conviction entered of record, a Motion for revocation of community control, or other consequences.

Depending upon the individual circumstances, the offender would then be subject to being sanctioned to prison, local incarceration in the Clinton County Jail, or other penalties authorized by Ohio law.

RULE 31

ADOPTION AND REPEAL

The foregoing rules shall be in force and effect from and after October 2, 1997 pursuant to this Entry and said Entry shall be entered upon the Journal of this Court. Additionally, any rule adopted after October 2, 1997 has been codified into these rules. All rules which were in force prior to October 2, 1997 stand repealed.

It is ordered that these rules promulgated pursuant to Rule 83 of the Ohio Rules of Civil Procedure shall be filed by the Clerk of this Court and filed with the Supreme Court of Ohio.