



**The Common Pleas Court  
Huron County, Ohio  
General Division**

**Local Court Rules**

James W. Conway, Judge

Effective February 1, 2017

**HURON COUNTY COMMON PLEAS COURT**

2 East Main Street, Suite 202  
Norwalk, Ohio 44857  
Telephone.....(419) 668-6162  
Fax.....(419) 663-4048

**COURT STAFF**

Judge..... James W. Conway  
Magistrate..... Bradley E. Sales  
Court Administrator/Bailiff..... Linda S. Stower  
Assignment Commissioner..... Michelle A. Sweet  
Official Court Reporter..... Yolanda L. Walton  
Secretary/Jury Coordinator..... Julie A. Wise

**ADULT PROBATION DEPARTMENT**

12 East Main Street, 5<sup>th</sup> Floor  
Norwalk, Ohio 44857  
Telephone.....(419) 668-8610  
Fax..... (419) 663-9846

**PROBATION STAFF**

Probation Secretary..... Valerie O'Brien  
Intensive Supervision Probation Officer..... Andrea Cooke  
State Parole/Probation Officer..... James Zappa  
State Parole/Probation Officer..... Jason Shupe  
State Parole Officer..... Steve Bogner

**HURON COUNTY CLERK OF COURT**

2 East Main Street, Suite 207  
Norwalk, Ohio 44857  
Telephone..... (419) 668-5113  
Fax..... (419) 663-4048

**CLERK STAFF**

Clerk of Court. . . . . Susan S. Hazel  
Chief Deputy Clerk. . . . . Nancy Sisson  
Accounts Manager. . . . . Marcia Grose  
Criminal/Domestic/Passports/Court of Appeals. . . . . Margaret Hardy  
Domestic/Returns. . . . . Jodi Stang  
Civil/Domestic/Garnishment . . . . . Stacey Oney  
Civil/Foreclosures. . . . . Melanie Grof  
Criminal/Court of Appeals/Jury. . . . . Tiffany Blair

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# LOCAL RULES OF PRACTICE

## HURON COUNTY COURT OF COMMON PLEAS

### RULE 1. ADMINISTRATION OF CIVIL AND CRIMINAL LITIGATION FOR HURON COUNTY, OHIO

EFFECTIVE DATE: This section applies to all civil, criminal and domestic cases filed in or transferred to Huron County Common Pleas Court on or after February 1, 2015. All local rules filed before February 1, 2015, are hereby revoked.

#### POLICY

It is the policy of the Huron County Common Pleas Court to adopt and follow the American Bar Standards relating to court delay reduction as follows:

**1.01 - Caseflow Management: General Principle** - From the commencement of litigation to its resolution, this Court is committed to just and efficient resolution of cases. The Court will control the pace of litigation, reduce delay and maintain a current docket.

**1.02 - Case Management** - The essential elements which this Court uses to manage its cases are:

1. Court supervision and control of the movement of all cases from the time of filing of the first document invoking court jurisdiction through final disposition.
2. Promulgation and monitoring of time standards for the overall disposition of cases.
3. Rules, conferences or other techniques establishing times for concluding the critical steps in the litigation process, including the discovery phase.
4. Early identification of cases that may be protracted, and for giving them special administrative attention where appropriate.
5. Adoption of a trial setting policy which schedules a sufficient number of cases to ensure efficient use of judge time while minimizing resetting caused by over scheduling.
6. Commencement of trials on the original date scheduled with adequate advance notice.
7. A firm, consistent policy for minimizing continuances.

**1.03 - Standards of Timely Disposition** - The following time standards apply to cases in this Court:

#### ***General Civil***

90% of all civil cases should be settled, tried or otherwise concluded within 12 months of the date of case filing; 98% within 18 months of such filing; and the remainder within 24 months of such filing except for individual cases in which the Court determines exceptional circumstances exist and for which a continuing review should occur.

#### ***Domestic Relations***

90% of all domestic relations matters should be settled, tried or otherwise concluded within three months of the date of case filing; 98% within six months and 100% within one year.

***Criminal***

FELONY - 90% of all felony cases should be adjudicated or otherwise concluded within 120 days from the date of arrest; 98% within 180 days and 100% within one year.

PERSONS IN PRETRIAL CUSTODY - Persons detained should have a determination of custodial status or bail set within 24 hours of arrest. Persons incarcerated before trial will be afforded priority for trial.

**RULE 3. TERM OF COURT**

The Court shall be in continuous sessions for the transaction of judicial business but for the purposes of O.R.C. Section 2313.02 et seq. each calendar year shall be divided into three (3) terms of Court. The January term shall begin on the first Monday following the first day of January; the May term shall begin on the first Monday of May; and, the September term shall begin on the day following Labor Day.

**RULE 5. HOURS OF SESSION**

The sessions of the general division of this Court shall, unless otherwise ordered by the Judge, being at 8:30 A.M. and close at 4:30 P.M. on Monday through Friday, each week, except on those days designated by law as legal holidays.

**RULE 6. JURY MANAGEMENT PLAN**

The Court adopts the Jury Management Plan filed in this Court.

**RULE 7. COURT ADMINISTRATOR**

The Judge shall appoint an Administrator who will function as the chief non-judicial officer of the Court. In addition to providing general supervision of the Court's assignments, probation, jury, budgetary, and personnel systems, the Court Administrator will implement the administrative policy decisions of the Court and perform such other duties as may be assigned by the Court. With the exception of the Magistrate, all other Court personnel, including Court Reporters, shall be under the general supervision of the Court Administrator.

**OFFICIAL REPORTER**

The Official Reporter shall be responsible for the general supervision of the Office of Court Reporters and for the assignment of reporters. Reporters shall report for duty at 8:30 A.M. each working day and shall not engage in any other employment, except with prior approval from the Court or the Court Administrator. In every case reported by the Official or Assistant Reporter, the statutory fee for each day shall be taxed and collected as costs in the case.



## **RULE 8. DOCKETS AND INDEXES**

The Clerk of the Court shall prepare and maintain for the use of the Judge the following dockets, calendars and indexes:

1. A general Appearance Docket (by electronic or paper format).
2. A general Trial Docket (by electronic or paper format).
3. A Journal (by electronic or paper format).
4. A separate Execution Docket (by electronic or paper format).
5. The Clerk shall keep an index to the Appearance and Execution Dockets direct and reverse and to all other books direct (by electronic or paper format).
6. The Clerk shall prepare and file all Supreme Court reports as directed by the Court.

## **RULE 9. FILES**

**9.01 - Color Coding Files** - The Clerk shall use color coded files as directed by the Court.

**9.02 - Numbering of Files** - All civil cases, correctly prepared in conformance with Rule 15 herein, received by the Clerk for filing, shall be numbered consecutively in a new series each calendar year. Said number shall carry the prefix of the year, followed by the consecutive number, each year beginning with the number "one". Example 08-1, 08-2, 08-3; 09-1, 09-2, 09-3.

**9.03 - Preservation of Papers** - The Clerk shall file together and carefully preserve in his office all papers delivered to him for filing in every action or proceedings.

**9.04 - Removal of Court papers** - No person, except a Judge of the Court or one of his employees, shall remove any Court papers, files of the Court, or parts thereof from the custody of the Clerk of Courts without the consent of the Judge to whom the case is assigned. Removal of such papers and files shall be in accordance with a procedure approved by the Court.

**9.05 - Copies of papers in files** - The Clerk shall permit any party to an action or his/her attorney to obtain a copy of any papers in the files of the Court except depositions and transcripts. The Clerk shall require a deposit in advance to secure copying costs.

**9.06 - Filing of papers in files** - The Clerk shall make all reasonable attempts to cause all papers filed in an action to be inserted in the proper case file within 24 hours of the time of filing.

**CIVIL**

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## RULE 1. ADMINISTRATION OF CIVIL LITIGATION

**1.04 - Matters Submitted to the Judge** - Matters under submission to the Judge or judicial officer will be promptly determined. Short deadlines will be set for party presentation of briefs and affidavits and for production of transcripts. Decisions where possible will be made from the bench or within a few days of submission; except in extraordinarily complicated cases, a decision will be rendered not later than 30 days after submission.

**1.05 - Continuance Policy** - Continuance of a hearing or trial will be granted only by the Judge or Magistrate for good cause. Extension of time for compliance with deadlines not involving a court hearing will be permitted only on a showing to the Court that the extension will not interrupt the scheduled movement of the case.

Requests for continuances and extensions, and their disposition, will be recorded in the file of the case. Where continuances and extensions are requested with excessive frequency or insubstantial grounds, the Court will adopt one or a combination of the following procedures:

1. Cross-referencing all requests for continuances and extensions by the name of the lawyer requesting them.
2. Requiring that requests for continuances and stipulations for extensions be in writing and the litigants be notified.
3. Summoning lawyers who persistently request continuances and extensions to warn them of the possibility of sanctions and to encourage them to make necessary adjustments in management of their practice. Where such measures fail, restrictions may properly be imposed on the number of cases in which the lawyer may participate at any one time.

## 11. FILING FEES & COSTS

### A) Civil Actions

**Filing Fee/Deposit**

\$ 625.00	Foreclosures
\$1,000.00	Order of Sale
\$1,000.00	Alias Order of Sale for each parcel to be appraised
\$ 550.00	Alias Order of Sale without reappraisal
\$ 375.00	Malpractice Suits
\$ 300.00	Service by Publication Through the Clerk
\$ 325.00	Complaint/Counterclaims/Third Party Complaint
\$ 275.00	Cross-claims/Motion to Intervene
\$ 325.00	Cognovit Notes
\$ 100.00	Order in Aid of Execution/Debtor's Exam
\$ 75.00	Order in Aid of Execution/Garnishment
\$ 100.00	Writ of Levy on Execution
\$ 75.00	Writ of Possession

\$ 5.00	Making Certificate of Judgment or Certificate to Transfer
\$ 30.00	File Certificate of Judgment
\$ 5.00	Release of Certificate of Judgment
\$ 10.00	Additional Fee if Personal Service Requested
\$ 275.00	Foreign Judgment
\$ 75.00	Judgment Debtor's Exam
\$ 125.00	Jury View
\$ 275.00	Reopening Closed Cases
\$ 275.00	Contempt in Closed Cases/or Reactivated Cases
\$ 70.00	Court Ordered Title Fee

**B) Court of Appeals**

**Filing Fee/Deposit**

\$ 100.00	Original Actions, Mandamus, Prohibition, Quo-Warrant or Habeas Corpus
\$ 175.00	Notice of Appeal - Each Filing
\$ 10.00	Subpoenas for Witnesses in Actions in Habeas Corpus, per person

**C) Miscellaneous**

**Costs**

\$ .10	Fax/Electronic Transmissions (per page)
\$ 1.00	Witnessing Signatures
\$ 1.00	Certification of any Document or Documents
\$ 5.00	Filing of Notary (Notary & Affidavit \$6.00)
\$ .10	Copies, Each Page
\$ 7.00	Notary Book
\$ 1.00	Assignment of Judgment
\$ 5.00	Transfer of Judgment

**11.01 - Transferred Cases** - In cases transferred to the Common Pleas Court in which the demand of the counterclaim exceeds the monetary jurisdiction of the Municipal Court the counterclaimant shall post security costs in a sum equal to the amount required if the case was originally filed in this Court.

**11.02 - Multiple Parties** - In cases with multiple parties, the Clerk may require the party requesting service to advance an amount estimated by the Clerk to be sufficient to cover the cost thereof.

**11.03 - Poverty Affidavit** - A poverty affidavit filed in lieu of a cash deposit must state the reasons for the inability to prepay costs and is subject to Court review at any stage of the proceedings.

**11.04 - Costs Secured by Security** - This rule shall be subject to the provisions of Sections 2323.30-59 of the Ohio Revised Code.



**11.05 - Court Cost Applied** - Upon final judgment, the Clerk of Courts is directed to apply the deposit for costs to the costs in the case, regardless of the party against whom costs are assessed. Court costs in civil cases shall be assessed equally among the parties unless otherwise ordered by the Court. The Clerk shall thereupon assess the costs against the proper party, and notify and bill such party, reimbursing the Court costs depositor upon receipt of such costs.

**11.06 - Fees for Computer Research and Services** - Pursuant to the authority of R.C. 2303.201(A) it is determined that, for the efficient operation of the Civil, Criminal and Domestic Relations Divisions of this Court, additional funds are required to obtain computerized legal research services.

The Clerk of this Court is directed and hereby authorized to charge and collect an additional fee of six dollars (\$6.00) upon the filing of each cause or appeal under R.C. 2303.20 (A), (Q), and (U).

All funds collected pursuant to this rule shall be paid to the County Treasurer to be maintained by the County Auditor in a separate account for utilization by this Court in procuring and maintaining computerized legal research services.

Pursuant to the authority of R.C. 2303.201 (B) it is determined that, for the efficient operation of the Civil, Criminal and Domestic Relations Divisions of this Court, additional funds are required to computerize the office of the Clerk of Court of Common Pleas.

The Clerk of this Court is directed and hereby authorized to charge an additional fee of twenty dollars (\$20.00) upon the filing of each cause of action, appeal, certificate of judgment, or the docketing and indexing each aid in execution or petition to vacate, revive, or modify a judgment under R.C. 2303.20, (A), (P), (Q), (T), and (U).

The Clerk of this Court is authorized and directed to charge an additional fee of one dollar (\$1.00) for the services described in divisions (B), (C), (D), (F), (H) and (L) of Section 2303.20 of the revised code. *Effective April 1, 2013*

All funds collected pursuant to this rule shall be paid to the County Treasurer to be disbursed, upon an order of the Court of Common Pleas and subject to appropriation by the Board of County Commissioners, in an amount no greater than the actual cost to the Court of procuring and maintaining computer systems for the office of the Clerk of the Court of Common Pleas.

#### **RULE 14. COMMUNICATIONS WITH JUDGE AND/OR MAGISTRATE**

**14.01 – Ex Parte Communications** - No attorney shall discuss the merits either orally or in writing, of any litigation with the Judge and/or Magistrate presiding over the matter before final disposition thereof without the presence of or by mailing or delivering a copy of any writing to opposing counsel or the party, if not represented.

**14.02 – Attorney Conferences** - If it is determined that an issue in a pending action needs to be discussed with the Judge and/or Magistrate prior to hearing or disposition of the action, the attorney desiring said conference may, with notice to opposing counsel, request a conference with the Judge or Magistrate.

**RULE 15. PLEADINGS**

**15.01 - Filing Requirements and Designation** - All pleadings, motions and memoranda filed or submitted by facsimile with the Court shall have a top margin of at least one and one-half (1½) inches, be typewritten, and contain the following information:

1. Name, address, telephone number and Supreme Court registration number of counsel. If counsel is a firm of attorneys, the attorney having primary responsibility for the case shall be indicated thereon. Counsel shall promptly notify the clerk of Courts of any change in this information.
2. The current address of all parties to the action shall be included on the original pleadings. A post judgment motion for purposes of this rule shall be considered an original pleadings.
3. The name of the Judge to whom the case is assigned.
4. It is requested that each complaint filed contain in the caption thereof a designation of the category of said action, which category shall be one of the following:

**Civil Litigation**

Professional Tort.....	CVA
Products Liability.....	CVB
Other Torts.....	CVC
Worker’s Compensation.....	CVD
Foreclosures.....	CVE
Administrative Appeal.....	CVF
Complex Litigation.....	CVG
Other Civil.....	CVH

**15.03 -New Parties Added** - When a new party plaintiff or defendant is added to a case after the commencement thereof, the caption of the first pleading in which or after which such new party is added shall contain the name of such new party, together with his or its address followed by the specific designation of “new party plaintiff” or “new party defendant” as is applicable.

**15.04 - Amended Pleadings or Motions** - No pleading or motion shall be amended by interlineation or obliteration except upon express leave of the assigned Judge first obtained. Upon the filing of an amended pleading or motion, the original or any prior amendment thereof shall not be withdrawn from the files.

**15.05 - Change of Address** - Counsel shall file with the Clerk of Court's Office written notice of any change of address.

**15.06 - Copies Required** - All motions, briefs and memoranda, pro and contra, shall be filed in duplicate.

**15.07 - Attorney Signature Requirement** - The name of the attorney preparing judgment entries shall be typed in the lower left-hand corner of the last page of the entry and prefaced by the words "prepared by (attorney's name)". The Clerk shall serve a date-stamped copy of the entry on all parties who have appeared unless this requirement is waived in writing.

## **RULE 16. FACSIMILE FILING**

The provisions of this local rule are adopted under Civ.R. 5(D), Civ.R.73(J) and Crim.R.12(B).

Pleadings and other papers may be filed with the Clerk of Courts by facsimile transmission to 419-663-4048 subject to the following conditions:

**16.01 - Applicability** - These rules apply to civil, criminal, and domestic relations proceedings in the Huron County Common Pleas Court, General Division.

The following documents will not be accepted for fax filing: cognovit promissory notes.

**16.02 - Original Filing** - A document filed by fax shall be accepted as the effective original filing. The person making a fax filing need not file any source document with the Clerk of Court but must, however, maintain in his or her records and have available for production on request by the court the source document filed by fax, with original signatures as otherwise required under the applicable rules, together with the source copy of the facsimile cover sheet used for the subject filing.

The source document filed by fax shall be maintained by the person making the **filing** until the case is closed and all opportunities for post judgment relief are exhausted.

**16.03 - Definitions** - As used in these rules, unless the context requires otherwise:

**"Facsimile transmission"** means the transmission of a source document by a facsimile machine that encodes a document into optical or electrical signals, transmits and reconstructs the signals to **print** a duplicate of the source document at the receiving end.

**"Facsimile machine"** means a machine that can send and receive a facsimile transmission.

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

**16.04 - Cover Page** - All fax filings shall be submitted to the Clerk of Courts (419-663-4048) and provide a cover page containing the following information:

1. the name of the court;
2. the title of the case, case number (if known);
3. the title of the document being filed;
4. the date of the transmission;
5. the transmitting fax number;
6. the number of pages including the cover page;
7. the name, address, telephone number of the person filing the fax document;
8. a statement explaining how costs are being submitted.

If a fax is submitted to the Clerk of Court without the information listed above, the Clerk may, at its discretion:

1. enter the document in the Case Docket and file the document; or
2. deposit the document in a file of failed faxed documents with a notation of the reason for the failure; in this instance, the document *shall not* be considered filed with the Clerk of Courts.

The Clerk of Court is not required to send any form of notice to the sending party of a failed fax filing. However, if practicable, the Clerk of Court may inform the sending party of a failed fax filing.

**16.05 - Signature** - Fax filings received by the Clerk of Courts are considered to be an original, signed document and need **not** be followed by an original.

**16.06 - Exhibits** - Each exhibit to a facsimile produced document that cannot be accurately transmitted via facsimile transmission for any reason must be replaced by an insert page describing the exhibit and why it is missing. Unless the court otherwise orders, the missing exhibit shall be filed with the court, as a separate document, not later than five (5) court days following the filing of the facsimile document. Failure to file the missing exhibits as required by this paragraph may result in the court striking the document and/or exhibit.

Any exhibit filed in this manner shall be attached to a cover sheet containing the caption of the case which sets forth the name of the court, title of the case, the case number, name of the judge and the title of the exhibit being filed (e.g., Plaintiff Smith’s Notice of Filing Exhibit “G” to Plaintiff Smith’s Response to Defendants’ Motion to Dismiss), and shall be signed and served in conformance with the rules governing the signing and service of pleadings in this court. [See appendix for Rule 16 for sample exhibit cover sheet.]

**16.07 - Time of Filing** - Subject to the provisions of these rules, all documents sent by fax and accepted by the Clerk shall be considered filed with the Clerk of Courts as of the date and time the fax transmission was received by the Clerk of Court. The office of the Clerk of Court will accept faxed documents 24 hours per day seven days per week including holidays. Each page of any document received by the Clerk will be automatically imprinted with the date and time of receipt. The date and time imprinted on the document will determine the time of filing.

Fax filings may **NOT** be sent directly to the court for filing but may only be transmitted to the Clerk of Courts office.

The Clerk of Court may, but need not, acknowledge receipt of a facsimile transmission.

The risks of transmitting a document by fax to the Clerk of Courts shall be the sole responsibility of the sending party. Anyone using fax filing is urged to verify receipt of such filing by the Clerk of Court.

**16.08 - Fees and Costs** - Documents filed by fax that require a filing fee shall be accepted by the Clerk for filing but the Clerk shall not issue process for such documents until the Clerk has received by mail or hand delivery the filing fee deposit.

No additional fee shall be assessed for fax filings.

**16.09 - Length of Document** - Fax filings shall not exceed 35 pages in length.

The filer shall not transmit service copies by fax.

## **RULE 17. RULE DAY EXTENSIONS**

### **17.01 - Refer to Civil Rule 6**

**17.02 - Leave to Move, Plead or Answer** - Civil Rule 12, prescribing Rule Day for pleadings, and the time periods designated for answering interrogatories, requests for admissions and requests for production shall be strictly enforced. However, a party may, with leave of court, obtain one or more extensions, not to exceed thirty (30) days each, in which to move, plead or answer. Each motion for an extension shall be in writing and shall state the number of prior extensions granted. As a courtesy to opposing counsel, counsel requesting the rule day extension should orally notify opposing counsel, obtain consent thereto and, if consent is granted, note the same on the motion. Motion for leave will not be granted automatically by accommodation, nor denied automatically because consent of opposing counsel is not obtained. An entry shall accompany each motion. Domestic relations cases are excluded from this rule as it relates to pleading extensions.

## **RULE 19. DISCOVERY**

**19.02 - Civile Rule 33, 34, 36, 37 or 26 c-** In civil cases interrogatories under Civil Rule 33, Requests for Production or Inspection under Civil Rule 34, and Requests for Admissions under Civil Rule 36, shall be served upon other counsel or parties in accordance with such rules, but shall not be filed with the Court. The party responding shall file with the Court a certification that answers to interrogatories have been served on the adverse party. If relief is sought under Civil Rule 26(c) or Civil Rule 37 concerning any interrogatories, requests for production or inspection 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 Civil Rule 26 (c) or Civil Rule 37.

**19.03 - Limit on Interrogatories** - The number of interrogatories served by a party upon another shall not exceed forty (40), including subparts, without first obtaining leave of the Court.

## **RULE 21. DEPOSITIONS**

**21.01 - Withdraw of Deposition Filed with the Clerk of Courts-** Any deposition filed with the Clerk of Courts shall not be withdrawn except by leave of the Court.

**21.02 - Videotaped Depositions and Testimony** - The use of videotaped depositions and testimony is permissible, provided that the following guidelines are met:

1. When testimony is recorded on videotape pursuant to Civil Rule 40, C.P. Sup R. 10 and 15, it will be the responsibility of counsel to instruct the person before whom the testimony is taken in accord with Civil Rule 28 (A), to note by the use of a digital counter or other clock device connected with the tape the point on the videotape where objections consecutively are made. The Notary will then number the objections consecutively and attach this record to the certification when filed with the Clerk.
2. Objections must be made at the conclusion of the question and answer only. Counsel shall state the basis for the objection, and may read citations into the record at this time, however additional citations may be provided to the Court at a later time. Any objection made prior to the completion of an answer may, in the Court's discretion, be disregarded and overruled.
3. When cases are assigned for trial pursuant to Civil Rule 40 and C.P. Sup. R. 15, a date will be assigned for the filing of plaintiff's testimony and defendant's testimony for editing. A copy of the transcript of the testimony or such portion thereof as is necessary to rule on any objections shall accompany a videotape deposition. The transcript shall be certified by the transcriber to be a true and accurate transcription.
4. In all cases where testimony is recorded on videotape, the costs shall be assessed pursuant to C.P. Sup. R. 12(D).

5. If videotape depositions are to be used in the trial of a case, the tape(s) must be filed with the Clerk of Courts, for editing by the court, no later than seven (7) days prior to trial. Any videotapes submitted after this date will not be presented to the jury, unless for good cause shown, the Court grants leave to file said depositions out of rule. All videotape depositions must comply with the requirements of C.P. Sup. R. 12 (A). Except for good cause shown there will be no trial continuances for inability of a medical expert to be present to testify.
6. Videotape Trials: The Court may, in any appropriate case, order the recording of all testimony and evidence on videotape in accordance with C.P. Sup. R. 12 (B).
7. Pursuant to Civil Rule 54 (D) and in compliance with C.P. Sup. R. 12 (D), deposition costs, including costs of video depositions, shall be taxed as costs and shall be recoverable by the prevailing party. This shall apply only to depositions used in lieu of testimony at trial.

### **RULE 23. CERTIFICATE OF SERVICE**

Proof of service of all pleadings, motion, briefs, memorandum or other writing filed with Court shall be by certificate of service attached to such pleading, motion, brief, memorandum or other writing and shall include the names and addresses of the attorneys and/or parties served, not simply "all parties or counsel of record".

### **RULE 25. CIVIL MOTIONS AND HEARINGS**

**Informal Conferences** - Parties may request informal conferences with the Judge or Magistrate by calling the Assignment Commissioner to schedule a chamber's conference or telephone conference on short notice to address urgent matters. All parties must be represented.

The moving party should file with the Court an original and one copy of the motion, affidavit, and notice of hearing and all parties should file with the Court an original and one copy of memoranda of authorities in order to provide the Court with a working copy. It is not necessary, but a party is allowed to file an extra copy of affidavits, the relevant portions of depositions, exhibits and other documentation submitted in support or in opposition to a motion.

This rule applies to all civil motions except rule day extensions which are governed by Local Rule 17, motions for continuances which are governed by Local Rule 34 and domestic relations motions which are governed by Local Rule 69. For purposes of scheduling and briefing, there are three classes of motions:

## **25.01 - Non-Oral Hearing Motions.**

**A. Motions for Summary Judgment** - shall be scheduled for a non-oral hearing by the party filing the motion by noting the option on the first non-oral hearing calendar date that is at least 28 days after the date of filing the motion with the Court or the date of service set forth on the certificate of service attached to the motion, whichever is later. Non-oral hearings are scheduled every Thursday at 1:00 p.m. The moving party shall calculate the appropriate time frame and schedule the motion by filing with the Court a Notice of Non-Oral Hearing.

The party filing the motion shall file with it and cause to be served on the opposing party(s) a Notice of Non-Oral Hearing, supporting affidavits, depositions, exhibits and documentation and a memorandum of authorities in support of the motion. Not later than 14 days before the date of the non-oral hearing, the opposing party(s) shall file with the Court and cause to be served upon the moving party opposing affidavits, depositions, exhibits and documentation and a memorandum of authorities opposing the motion. The moving party may file with the Court and cause to be served upon the opposing party(s) a reply memorandum of authorities not later than seven days before the date of the non-oral hearing. All affidavits, depositions, exhibits and documentation must be filed with the court and served on the opposing party(s) so as to be actually received not later than 1:00 p.m. on the day before the non-oral hearing. Motions not supported by a memorandum of authorities may be stricken from the motion hearing calendar.

**B. Other Civil Motions** - shall be scheduled for a non-oral hearing by the party filing the motion by noting the motion on the first non-oral hearing calendar date that is at least 14 days after the actual date of filing the motion with the Court or the date of service set forth on the certificate of service attached to the motion, whichever is later. Non-oral hearings are scheduled every Thursday at 1:00 p.m. The moving party shall calculate the appropriate time frame and schedule the motion by filing with the Court a Notice of Non-Oral Hearing.

The party filing the motion shall file with it and cause to be served on the opposing party(s) a Notice of Non-Oral Hearing, supporting documentation, if any, and a memorandum of authorities in support of the motion. Not later than 7 days before the date of the non-oral hearing, the opposing party(s) shall file with the Court and cause to be served on the moving party opposing documentation, if any, and a memorandum of authorities opposing the motion. The moving party may file with the Court and cause to be served upon the opposing party(s), so as to be actually received not later than 1:00 p.m. on the day before the non-oral hearing, any reply documentation and a reply memorandum of authorities. Motions not supported by a memorandum of authorities may be stricken from the motion hearing calendar.

**C. Motions for default judgment** shall be heard by the Court at a date and time established at the Court's earliest convenience there is no need to schedule a non-oral hearing on a simple default motion.



## **25.02 - Oral Hearing Motions.**

An oral hearing may be requested on any motion by any party moving or opposing the motion. The party requesting the oral hearing should initially contact the Court's Assignment Commissioner to advise of the request. Oral hearings are granted only upon approval of the Judge. If the judge authorizes an oral hearing, the party requesting the oral hearing is responsible for coordinating the scheduling of the oral hearing with the other party(s) and the Court's Assignment Commissioner. The scheduling of the oral hearing shall conform to the scheduling of the non-oral hearing in order to permit the parties to have the same briefing schedule. The oral hearing will not be scheduled earlier than the date and time of the non-oral hearing. The request for the oral hearing must be made at least 7 days before the non-oral hearing date, except in the case of Local Rule 25.01(b) motions. A party will not be permitted to argue at the oral hearing unless he has complied with the briefing schedule for non-oral hearing motions. The Court may, in its discretion, limit the time allowed for oral argument.

The party requesting the oral hearing should first contact the opposing party(s) to advise that an oral hearing will be requested and obtain dates and times when the other party(s) can be available for the oral hearing. The requesting party should then contact the Court's Assignment Commissioner to obtain an oral hearing date and time and thereafter serve notice thereof on the other party(s) and file with the Court a copy of the notice and a certificate of service.

**25.03 - Emergent Matters** - Motions for a temporary restraining order or for other urgent equitable relief shall be heard by the Court at a date and time to be fixed by the Assignment Commissioner upon application of the party seeking the relief. The moving party should contact the Assignment Commissioner to obtain the hearing date and time and thereafter, if possible, notify the opposing party or his counsel in an appropriate manner calculated to give actual, timely notice of the hearing. Such motions will be heard *ex parte* only upon a showing that an extraordinary hardship will result to the moving party by any delay in the proceeding and in appropriate cases a bond will be required. *Ex parte* determinations shall be subject to immediate review in a hearing before the Court upon application of the party against whom the Court's order was enforced. The party seeking such review should contact the Assignment Commissioner to obtain the hearing date and time and thereafter notify the opposing party or his counsel in an appropriate manner calculated to give actual, timely notice of the hearing. Hearings will be non-oral hearings on affidavits, depositions, exhibits and documentation unless an oral hearing is requested and granted or ordered by the Court. Parties should file with the Court and serve on each other a memorandum of authorities supporting their positions, a certification of notice detailing what efforts were made to give the opposing party notice, a proposed judgment entry and in the case of a temporary restraining order and preliminary injunction a proposal for bond.

## **RULE 27. TRANSCRIPTS AND EXHIBITS**

### **TRANSCRIPTS**

**27.01- Payment for Transcripts** - The furnishing of transcripts by the Official Court Reporters and the amount and method of paying the compensation for them shall be fixed by Court order and as provided by O.R.C. Section 2301.21 - 2301.25.

**27.02- Deposit for Transcript and Time Line** - The transcription of proceedings in any case other than indigent criminal cases shall not be begun and transcribed by an official reporter for the Court until there is deposited with her or him a sum equal to the estimated cost thereof as the same shall be estimated by the official reporter. In the event the deposit is not sufficient to cover the entire cost of the transcript, the unpaid balance shall be paid to the official reporter before the transcript is delivered to the party ordering it. In the event the deposit exceeds the costs of the transcript, the unused portion thereof shall be returned by the official reporter to the party ordering and paying for the transcript.

**27.03 -Transcribing Electronic Recording** - In accordance with C.P. Sup. R. 10, in any proceeding recorded by electronic means, the recording shall be the official record and shall be transcribed, if required, by the official reporter or the reporter's designee. Any other reporter's transcript shall not constitute the official record unless so stipulated by counsel and approved the Court or Magistrate upon commencement of the proceedings.

**27.04 - Retention of Transcripts** - Records in the custody of the Clerk of Courts and the shorthand notes of the Official Court Reporters may be destroyed then (10) years after a case is concluded, and after compliance with Section 149.40 of the Ohio Revised Code, except in Murder and Aggravated Murder cases.

### **EXHIBITS**

**27.05 - Regarding Size of Exhibits** - Any exhibit admitted into evidence larger than that which will fit into a letter-sized manilla envelope will have to have a photo substituted in its place for purposes of storage. Original exhibits will be returned for retention to the offering party.

**A. Withdrawn Exhibits** - Exhibits withdrawn during the trial will be returned to the appropriate party at the conclusion of the trial.

**B. Retention/Return of Exhibits Offered** - Exhibits in the custody of the Court Reporter shall be available for return to the offering party after the expiration of the appeal process. If they are not obtained after notification from the Court, the exhibits shall be destroyed, except exhibits in a criminal case, which will be turned over to the Huron County Prosecutor's Office.

## **RULE 28. DISMISSALS**

**28.01 - Dismissal by the Court** - The Court may dismiss, on its own motion, all cases in which:

1. There has been no affirmative action taken for an unreasonable time; or
2. There has been no response to inquiries from the Court or Court Administrator regarding the status of the case.

**28.02 - No Affirmative Action Dismissal** - If no affirmative action is taken in a case (such as request for assignment or request for good cause that the case be allowed to pend) or no response to court inquiries is made, a case may be dismissed after ten (10) days from the date of notice to counsel and/or parties that the Court is considering dismissal of such case. Such dismissals shall be without prejudice with costs to be taxed as the Court deems just.

## **RULE 29. WITHDRAWAL OF COUNSEL**

No attorney shall be allowed to withdraw without substitution of counsel in a pending case without good cause shown and the court granting said motion. Attorneys seeking to withdraw shall submit to the Judge a motion, proposed entry and affidavit setting forth the reason counsel seeks to withdraw and certifying that counsel has informed his client by certified mail of his intent to withdraw and notice to the client of the nature, date and time of the next pending proceeding before the Court, the arrangements by which the client may obtain his papers, items of evidence and file materials from counsel and notice to the client to obtain replacement counsel as soon as possible and to notify the court of the identity of his substitute counsel. There must also be a certificate of service to the opposing counsel.

## **RULE 30. SUBSTITUTION OF COUNSEL**

An attorney may withdraw in a pending case where he files a Notice of Substitution of Counsel identifying the name, Supreme Court registration number, address, and telephone number of the attorney substituting his appearance. The Notice of Substitution of Counsel shall be signed by the withdrawing and substituted counsel and contain a certificate of service to the opposing counsel.

## **RULE 31. PRE-TRIAL PROCEDURE FOR CIVIL CASES**

**31.01 - Case Flow** - Normal case flow for civil cases in this Court consists of A FIRST TELEPHONE STATUS CONFERENCE at 3 months; a SECOND TELEPHONE STATUS CONFERENCE or a PRETRIAL CONFERENCE (if counsel advises the Court that settlement would likely be facilitated) at 6 months; a PRE-TRIAL CONFERENCE at 11 months; and TRIAL at 12 months. It is important that counsel advise the Court of any unique circumstances anticipated in preparing a case which would make departure from the normal case flow appropriate.

**31.02- First Telephone Status Conference** - The purpose of the first telephone status conference is to establish a time table for the case, address any preliminary discovery issues and determine whether the case is appropriate for assignment of an early pre-trial conference to explore settlement or for early trial assignment.

**31.03 - Second Telephone Status Conference** - The purpose of the second telephone status conference is to report the status of discovery, resolve existing discovery disputes, explore the possibility of settlement and set the case for a pre-trial conference and trial. In order to facilitate the purpose of the second telephone status conference, counsel should at a minimum accomplish the following prior to the conference:

1. Produce documentary evidence for which there has been a timely request pursuant to the discovery rules.
2. Answer interrogatories timely served pursuant to the discovery rules.
3. Depose the parties or their principal agent or spokesperson.
4. Confer with their clients and opposing counsel about settlement.

Counsel should be prepared to advise the Court how much additional time will be necessary to complete discovery and motion practice. Counsel should have their calendars available, so that dates for the pre-trial conference and trial can be set.

**31.04 - Pre-Trial Conference** - Unless waived by the Court, all civil cases, when at issue shall be pre-tried. Such pre-trial conference shall be held with the intention of accomplishing the objectives set forth in Rule 16 of the Ohio Rules of Civil Procedure. Pretrials shall be held at such times as the Court shall direct. The Assignment Commissioner shall give notice of a pre-trial hearing by delivering or mailing a copy of such notice to all known interested counsel, and to all unrepresented parties. Such pre-trial conference shall be attended by counsel for the parties, who shall have their clients present, 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. Counsel attending the pre-trial conference shall have complete authority to stipulate matters of evidence, to make admissions and to discuss settlement.

**31.05 - Civil Trial Order.** - The Court will issue a civil trial order at the time of setting the case for trial. The civil trial order will contain the following requirements:

1. Ninety (90) days before trial Plaintiff(s) and Defendant(s) shall **DISCLOSE** to each other and file with the Court the name, address and subject area of **EXPERT WITNESSES** expected to testify at trial. Rebuttal expert witness identification shall be disclosed and filed sixty (60) days before trial. Expert's Reports shall be exchanged at least 21 days prior to trial if they are intended to be admitted into evidence at trial. **FAILURE TO COMPLY MAY BE GROUNDS TO EXCLUDE AN EXPERT WITNESS OR REPORT AT TRIAL.**
2. Permission is granted to file **PRE-TRIAL MOTIONS**, including motions for summary judgment, if any, provided such motions are timely filed and scheduled pursuant to Local Court Rule 25, so that the oral or non-oral hearing date is scheduled not later than the pretrial conference scheduled above.

3. **TRIAL BRIEFS** shall be served on opposing counsel and filed with the Court seven (7) days before trial.
4. **MOTIONS IN LIMINE** and **OBJECTIONS IN DEPOSITIONS** to be used in trial and briefs in support thereof shall be served on opposing counsel and filed with the Court seven (7) days before trial. Responding briefs shall be served so as to actually be received by opposing counsel and filed with the Court no later than noon of the date before trial. **FAILURE TO COMPLY MAY CONSTITUTE A WAIVER.** A transcript of deposition testimony shall be provided to the Court and objections shall be noted to the page(s) and lines. Videotaped objections shall additionally be time-marked at the beginning and end of each objection. See Local Court Rule 21.02 for requirements of videotaped testimony.
5. **EXHIBITS**, except rebuttal exhibits, shall be marked and exchanged by counsel not later than one half hour before trial commences. A schedule of each party's proposed exhibits shall be served on opposing counsel and filed with the Court seven (7) days before trial. **FAILURE TO SO DISCLOSE AN EXHIBIT MAY BE GROUNDS FOR EXCLUSION OF THE EXHIBIT AT TRIAL. COUNSEL SHALL NOT MAKE REFERENCE IN OPENING STATEMENT TO AN EXHIBIT NOT SO DISCLOSED.** It is the practice of this Court that exhibits which are to be published to the jury (except illustrative exhibits) in the course of presenting testimony must first be offered and admitted into evidence before the jury may view or listen to them. Other exhibits may be identified and authenticated during testimony and offered and admitted into evidence at the close of a party's case. If an exhibit is otherwise admissible, the preferred method is to offer the exhibit into evidence at the time it is identified and authenticated while the witness is present and can, in the case of an objection, respond to questions pertaining to its identification and authenticity. **Compliance with this order is not intended to be in lieu of the duty to timely respond to or supplement discovery requests.**
6. Names and addresses of **WITNESSES** expected to testify at trial, except rebuttal witnesses, shall be served on opposing counsel and filed with the Court seven (7) days before trial. **FAILURE TO DISCLOSE A WITNESS MAY BE GROUNDS FOR EXCLUSION OF THE WITNESS AT TRIAL. COUNSEL SHALL NOT MAKE REFERENCE IN OPENING STATEMENT TO A WITNESS NOT SO DISCLOSED.** Compliance with this order is not intended to be in lieu of the duty to timely respond to or supplement discovery requests.
7. **JURY QUESTIONNAIRES** are available from the Court in a timely manner before trial. See Local Court Rule 49.02 (Not applicable to non-jury cases.)

8. A request for a **JURY VIEW** shall be in writing and filed with the Court seven (7) days before trial. Counsel so requesting shall inform the Sheriff in writing seven (7) days before trial and deposit fifty dollars (\$50.00) with the Clerk of Courts, which will be applied to transportation costs. Instructions for the view shall be in writing, served on opposing counsel and filed with the Court seven (7) days before trial. Counsel for any party may file additional instructions for the view, provided they are in writing and served, so that they are actually received by opposing counsel and filed with the Court not later than noon on the day before trial. Objections to instructions for the view may be made orally and will be determined on the day of trial. A record will be made of the jury view instructions to be given by the Bailiff to the jury and any objections thereto. (Not applicable to non-jury cases.)
9. Requested **JURY INSTRUCTIONS AND INTERROGATORIES** shall be served on opposing counsel and filed with the Court seven (7) days before trial. It is not necessary to submit standard O.J.I. instructions applicable to all cases. Requested instructions from O.J.I. should cite the O.J.I. instruction number. Other instruction should cite authorities Shepardized to date. Instructions filed with the Court should consist of one set numbered containing citations and one set unnumbered without citations suitable for submission to the jury. Each instruction should be set forth on a separate page. (Not applicable to non-jury cases.)
10. **JURY COSTS MAY BE ASSESSED IF THE COURT IS NOT ADVISED OF SETTLEMENT AT LEAST FORTY-EIGHT (48) HOURS BEFORE TRIAL.**

**\*\*\*PLEASE NOTE - BEGINNING FEBRUARY 1, 2009, PLAINTIFF(S) WILL BE ASSESSED A \$100.00 (One Hundred Dollar and 00/100) MEDIATION FEE. The fee is to be deposited with the Clerk of Court's Office within 30 (thirty) days of the filing of this Civil Trial Order. (See Rule 67.05)**

### **RULE 32. ASSIGNMENT OF CIVIL CASES**

**32.01 - Assignment of Cases for Trial** - All assignments of cases for trial shall be made by the Assignment Commissioner with the approval of the Court at least two weeks prior to the date set for trial, unless otherwise ordered by the Court. Provided, however, that no case shall be assigned for trial less than one week prior to the date set for trial without the consent of all counsel. Notice of the assignment of a case set for trial shall be mailed or delivered forthwith to all interested counsel.

**32.02 - Priority Cases Under Any Statute** - All cases having priority under any statute, and injunctions, mandamus, uncontested divorce, annulment, legal separation, Habeas corpus and such other cases as the Court may direct may be heard at any time as may be ordered by the Court, after proper notice, without having been assigned by the Assignment Commissioner for trial.

## **RULE 33. CONDUCT OF COUNSEL AT TRIAL**

**33.01- Counsels to Speak on Motions or at Trial** - Except by permission of the Court, only one counsel for each party will be permitted to speak on any interlocutory motion, or upon any question arising during the trial of a cause or a proceeding, and only one counsel for each party will be permitted to examine the same witness in any trial or proceeding before the Court.

**33.02 - Limited Counsel for Arguments/Trial** - In any argument to the Court or jury upon the trial of a cause, only two counsel for each party will be heard unless for special reasons the Court permits otherwise. The Court may limit the time for argument as it may deem reasonable.

**33.03 - Seating at Counsel Table** - Only counsel and parties shall be seated at counsel table except as may be otherwise authorized by the Court.

## **RULE 34. CONTINUANCES**

**34.01 - Continuance Policy** - Continuance of a hearing or trial will be granted only by the Judge for good cause. Extension of time for compliance with deadlines not involving a court hearing will be permitted only on a showing to the Court that the extension will not interrupt the scheduled movement of the case.

Requests for continuances and extensions, and their disposition, will be recorded in the file of the case. Where continuances and extensions are requested with excessive frequency or insubstantial grounds, the Court will adopt one or a combination of the following procedures:

1. Cross-referencing all requests for continuances and extensions by the name of the lawyer requesting them.
2. Requiring that requests for continuances and stipulations for extensions be in writing and the litigants be notified.
3. Summoning lawyers who persistently request continuances and extensions to warn them of the possibility of sanctions and to encourage them to make necessary adjustments in management of their practice. Where such measures fail, restrictions may properly be imposed on the number of cases in which the lawyer may participate at any one time.

**34.02 - Reasons for Continuances** - It is the policy of this Court to determine matters submitted in a timely way. Continuances will be granted only for good cause shown. In interlocutory matters counsel should accommodate each other where the continuances sought will not grant an unfair advantage, will not delay the trial or other matters set for hearing before the Court and counsel proposing the continuance has a reasonable explanation for the need for the continuance. Continuances of trial or matters set for hearing before the Court, which if continued may cause a delay in the trial, will not be granted by the Court by accommodation of counsel but will be granted only for good cause shown.

**34.03 - Continuance Requirements-** Continuances will be granted only by the Judge.

All requests for continuances must be by written motion which complies with Civil Rule 7(B). The motion shall state that counsel for the moving party has contacted the other counsel in the case and whether other counsel are willing to accommodate the request for a continuance. The moving party shall certify that a copy of the motion was mailed/delivered to his client. Service of the motion shall comply with Civil Rule 5.

- A. When a continuance for a pretrial is requested, the moving party shall contact the Court's Assignment Commissioner and obtain a date and time for the tentative new pretrial. The new pretrial date shall be cleared with opposing counsel. The Motion and Judgment Entry reflecting the new pretrial date and time shall be filed with the Clerk of Court's office. In the event a continuance is granted, the Court may, in its discretion, assess costs and expenses against the moving party.**
- B. When a continuance for a trial is requested, the moving party shall file the motion for continuance, reflect whether opposing counsel agrees or objects, then file the motion with the Clerk of Court's office. The Court will review the motion and make a determination or possibly set a telephone status conference. No judgment entry is required prior to the Court's review of the motion or the setting of a possible telephone status conference. In the event a continuance is granted, the Court may, in its discretion, assess costs and expenses against the moving party.**

**34.05 - Grounds for Continuance** - Continuance of a cause may be granted on the grounds of inability to procure the testimony of an absent witness when it is made to appear that due diligence was used to procure such testimony. In order to obtain a continuance on these grounds, the party making the application must support the same by affidavit stating therein what he expects to prove by such witness. If the Court finds the testimony set forth to be immaterial or if both parties consent to the reading of the affidavit in evidence, the application will not be sustained and the case will proceed to trial.

**34.06 - Counsel not Available** - When a continuance of a cause is requested on the grounds that an attorney interested in the case is attendance of Continuing Legal Education, proof of such prior commitment shall be attached to the motion for continuance which shall be filed forthwith following notification of the assignment of the case in this Court.

## **RULE 39. ENTRIES**

**39.01 - Judgment Entry Time Line** - Unless the trial Judge otherwise directs, counsel for the party in whose favor an order, decree, or judgment is rendered, shall within five (5) days thereafter prepare the proper journal entry, and submit it to the counsel for the adverse party, who shall approve or reject the same within three (3) days after the receipt thereof. Name of the counsel and of the Trial Judge shall be typed or printed upon the entry. When the entry is approved by counsel, it shall be so endorsed and presented to the Judge to whom the case is assigned for approval and if signed by him shall then be filed with the Clerk. If counsel are unable to agree upon the entry, it shall be submitted to the Trial Judge, who will direct what entry shall be made.



If counsel fails to present an entry within twenty (20) days after the order is decreed, or judgment is rendered, the Trial Judge may cause the proper entry to be prepared and filed without submission or notice to counsel or take such other action as may be appropriate under the circumstances.

**39.02 - Findings of Fact and Conclusions of Law** - When a party requests the Court to state its findings of fact separately from its conclusions of law under the provision of Civil Rule 52, the party requesting such statement shall, within five (5) days after the receipt of notice of the Court's decision, submit to the Court a statement of proposed findings of fact and conclusions of law and shall serve copies thereof to all opposing parties or their counsel. Within five (5) days after receipt of such proposed statement each opposing party shall submit to the Court a proposed statement of findings of fact and conclusions of law. For want of a strict compliance with this Rule by the party requesting such findings of fact and conclusions of law, unless good cause shown, the Court upon its motion will enter a general finding.

### **RULE 43. COGNOVIT JUDGMENTS**

**43.01 - Requirements for Cognovit Judgment** - When a complaint is presented to the Court for the rendering of a Cognovit judgment, it shall contain, or be accompanied by, an affidavit to the effect:

1. That the maker of the Cognovit now resides in Huron County, or
2. That the maker, or any one of several makers, of the Cognovit note signed the warrant or attorney in Huron County.

**43.02 - Address of Defendant (s)** - The attorney who represents the judgment creditor shall include in the complaint a statement setting forth to the best of his knowledge the last known address of the defendant or defendants.

**43.03 - Judgment Entry to Clerk of Courts**- Immediately upon the entering of any judgment the attorney who represents the judgment creditor shall furnish a copy of the judgment entry to the Clerk of this Court. The Clerk shall notify the defendant or defendants by mailing a copy of the judgment entry by registered or certified mail at the address set forth in the complaint.

### **RULE 47. APPEALS TO THE COMMON PLEAS COURT**

**47.01 - Fixed Time for Filing Assignment(s) of Errors** - Where the time for filing assignments of errors and briefs are fixed by statute or by Rule of Supreme Court, they shall be filed within such time or extension thereof as may be granted in writing by the Judge after notice to opposing counsel or party. Upon the expiration of such time as extended, the case will be considered as submitted on the briefs unless oral argument is requested in writing and granted by the Judge. When granted, such oral argument shall not exceed fifteen (15) minutes per side unless extended by the Judge.

**47.02 - Unfixed Time for Filing Assignment(s) of Errors**- Where the time for filing is not fixed by statute or rule of the Supreme Court, the Appellant shall file a brief within twenty (20) days after the filing of the transcript of the record: the Appellee shall file his brief within ten (10) days after the filing

of the brief of Appellant and any reply brief shall be filed within five (5) days after the filing of the Appellee's brief. Extensions of time may be granted by entry by the Judge for good cause shown after notice to all parties.

In all cases, in which demand or request to the agency by the Appellant is a prerequisite to the preparation or filing of the transcript of the record by the agency, the Appellant shall make such request at the time of filing the notice of appeal, unless otherwise provided by law, or Rule of Supreme Court.

Upon the expiration of the time for filing of the last brief, the case will be considered as submitted upon the briefs unless oral argument is requested in writing and granted by the Judge to whom the case is assigned or is required by law. Such argument shall not exceed fifteen (15) minutes per side unless extended by such Judge.

**47.03 - Industrial Commission-** The procedures of paragraphs 47.01 and 47.02 above as may be applicable shall apply to all appeals including those under Chapter 2506 of the Revised Code and Chapter 119 of the Revised Code. Where under those chapters or any other provision of law including appeals from the Industrial Commission, the offering of additional evidence or a trial *de novo* is granted or required by law, the case shall be assigned to the civil calendar but may be assigned to an expedited schedule.

**47.04 - Dismissal of Appeal-** Failure of an Appellant to file his assignments of error, his brief or a demand for a transcript of the record within the time required shall be cause for dismissal of the appeal for want of prosecution or other disposition of the case at the discretion of the Judge.

**47.05 - Copies Required -** All briefs and memoranda, *pro* and *contra*, and all motions, briefs and memoranda thereto, *pro* and *contra*, shall be filed in duplicate.

## **RULE 49. JURIES**

The Court adopts the Jury Management Plan filed with the Supreme Court of Ohio on February 1, 2009.

Persons to be summoned for jury service may be served by United States Mail as provided by Section 2313.25 of the Revised Code.

**49.01 - Jury Questionnaires** -It is within the discretion of the Court to have jury questionnaires prepared and to make such questionnaires available to counsel. If jury questionnaires are to be used, the following procedure shall apply:

Prior to trial, the Bailiff shall provide counsel for the parties copies of jury questionnaires which have been previously completed by prospective jurors under the Court's direction.

During voir dire, counsel may not inquire of jurors as to matters satisfactorily and completely answered in the questionnaires.

Counsel may not copy the jury questionnaires furnished to them, and must return the jury questionnaires to the bailiff promptly after voir dire.

**49.02 - Pleadings into Evidence-** The pleadings in a civil case shall be neither read nor exhibited to the juries unless admitted into evidence as an exhibit for good cause shown.

**49.03 - Prior Jury Service -** Any jurors summoned for jury service may elect not to serve in the event that said juror has been previously selected for service on a petit or grand jury within one year of the date for which the juror is first summoned.

## **RULE 51. AGREEMENTS**

No oral agreement by counsel or with a party or an officer of the Court, will be regarded unless made in open court.

## **RULE 53. FORECLOSURE, QUIET TITLE AND PARTITIONS ACTIONS**

In actions to quiet title, partition and for the marshaling and foreclosure of liens on real property and except those involving foreclosure of real property for delinquent land taxes by *In Rem* proceedings under Section 5721.18, the attorney for the plaintiff shall procure and file with the Clerk, within thirty (30) days after the filing of the complaint, evidence of the state of the record title to the premises in question including the name of the owners of the property to be sold and a reference to the volume and page of the recording of the next preceding recorded instrument by or through which the owners claim title as the same shall have been prepared and extended by a responsible title and abstract company to a date not over thirty (30) days prior to the filing of the complaint. The Court may, however, upon motion and notice to all interested parties and for good cause shown, permit such evidence of title to be prepared by any qualified person of recognized good standing. A true copy certified by the attorney or a photostatic copy of the original evidence of title may be filed with the Clerk in lieu of such original. Upon failure of the attorney for the plaintiff to comply with the foregoing requirement within sixty (60) days after filing of the complaint, any cross-complainant or other interested party upon notice to plaintiff's attorney may procure leave to furnish and file such evidence of the state of title within the ensuing thirty (30) days. Such evidence of title or copy thereof shall become and remain a part of the files in the case. Where the evidence 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. In all foreclosure actions, it is not necessary for the Huron County Treasurer to be named as a party or for the Treasurer to file and answer. It shall, however, be the responsibility of the attorney for the plaintiff to provide for payment of real estate taxes in the confirmation order. Further, no sheriff's deed shall be issued unless and until the real estate taxes have been paid in full to the date of transfer.

At the time of entry of judgment in any such case a final certificate of extension of the evidence of title shall be prepared and filed in accordance with the foregoing requirements showing the address or location of the property and the record state of title as of a date not more than thirty (30) days prior to the taking of the decree. Such extension shall also become and remain a part of the files in the case.

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

The expenses of the title work required under this rule shall include a base search fee not to exceed \$160.00, plus a premium on the Judicial Report issued, based on the fair market value of the property, or in the case of a foreclosure, the balance due on the first mortgage or such additional amount as may be allowed by the Court for each property involved, and said costs shall be taxed as part of the costs in said cause. The premium on the Judicial Report is the rate allowed by the Ohio Department of Insurance. A statement of the costs for the title work and the Judicial Report premium shall be filed with the Clerk before the sale will be confirmed.

**53.01 - Attorney Fees in Partition Suits.**

Attorney fees for all parties entitled thereto in partition suits may be allowed according to the following schedule:

Valuation - \$2,500 or less	\$125 - \$250
Valuation - \$2,500 to \$5,000	\$250 - \$400
Valuation - \$5,000 to \$10,000	\$400 - \$500
Valuation in excess of \$10,000	Additional 3% to \$55,000
Valuation in excess of \$55,000	Additional 2%

**RULE 55. RECEIVERSHIP**

As soon as practicable after appointment, and not more than thirty (30) days after taking possession of property, a receiver shall file an inventory of all property and assets in his/her possession unless otherwise ordered by the Court.

A receiver shall file reports of receipts and of all moneys disbursed by him/her (with receipts for same) and of his/her acts and transactions as receiver within three (3) months after the date of appointment and at regular intervals every three (3) months thereafter until discharged or at such other times as the Court may direct. Failure to file any report within thirty (30) days after the same is due or ordered shall be grounds for removal without notice and without compensation. Any person removed as receiver shall be ineligible for any subsequent appointment.

Applications for allowance of compensation to receivers or attorneys for receivers shall be made only upon prior notice to creditors and other persons in interest as the Court may direct. Such applications shall be heard at the convenience of the Court.

*(Fee schedule for Collection of Rents)*

Single Residence - 12½ % of gross monthly income up to \$60.00 and 10% of gross monthly income of \$60.00 or more.

Double and Miscellaneous Residence Properties - 10% of gross monthly income if fully occupied or same as single residence if but one unit is occupied.

Apartment Houses, Storerooms and Office Buildings - from 6% to 9% of the gross income.

Ninety-Nine Year Leases - 5% of collections where rent is payable quarterly or collections range between \$2,500.00 and \$5,000.00; 3% of collections above \$5,000.00

A minimum fee of \$60.00 shall be allowed in all cases to cover cost of bond and care of property.

Where extraordinary repairs or construction are necessary and upon application and estimate the Court has authorized the same, a receiver may be allowed additional compensation for supervision thereof to the extent of 10% of the amount authorized and expended. For the securing of new tenants an allowance of 50% of the first month's rent may be made except that where a custodian or janitor is in charge the allowance may be 25%. Notwithstanding the provisions of the paragraph, the Court or a Judge thereof may allow additional compensation to a receiver for extraordinary services rendered and not related to repairs or construction upon the filing of a detailed statement of such services. To entitle a receiver to compensation under the foregoing it shall be incumbent upon him/her to collect the rent and income of the properties in his/her charge, pay insurance premiums, pay water, fuel, gas and light bills, and cause ordinary repairs to be made.

#### **RULE 57. SHERIFFS SALES**

**57.01 - Deposit for Sheriff's Sale of Real Property** - In every Sheriff's sale of real property, no deposit is required unless specifically ordered by the Court. Full payment of purchase price shall be required when sale has been confirmed by the Court. In cases where the purchaser is a lienholder, only the monies in excess of the amount of the lien will be required to be paid.

**57.02 - Sheriff Sales Time and Place**- The Sheriff shall normally conduct sales of real property on Mondays or Fridays, unless time limitations prohibit same. Sales shall be held at the Huron County Sheriff's Department.

**57.03 - Appraisal Expenses** - The Sheriff shall enter the interior of all structures on the property and cause the appraisers to view the interiors of the structures and may use reasonable force, if necessary, to allow such interior appraisal to occur. Each appraiser shall receive \$150.00 for each parcel of land appraised. The plaintiff will deposit sufficient funds to cover appraisal expenses at the time that the praecipe is filed for the sale. Appraisers will be paid for their services within one month of the appraisal, regardless of whether the property was actually sold or not.

## **RULE 63. MEDIA RECORDING OF PROCEEDINGS.**

Pursuant to Rule 12 of the Rules of Superintendence for the Courts of Ohio, the broadcasting, televising, recording and photographing by news media during courtroom sessions, including recesses between session, shall be permitted under the following conditions:

**63.01- Permission Required** - Requests for permission for the broadcasting, televising, recording or taking of photographs in the courtroom shall be in writing and the written permission of the judge shall be made a part of the record of the proceedings. Such requests shall be made within a reasonable time before any scheduled proceedings. News media will be given a copy of the judgment entry granting them such permission and may be required to show the Court Administrator or his/her designee the copy before entrance into the courtroom.

**63.02 - Cameras in Courtroom** - One television camera with operator, and one still photographer will be permitted in the courtroom. The Court Administrator, or designee, shall identify the location in the courtroom for the camera equipment and operators.

**63.03 - Audio Pickup** - Audio pickup by microphone for all media purposes shall be accomplished from existing audio systems present in the courtroom. If no technically suitable audio system exists in the courtroom, microphones, and related wiring essential for all media purposes shall be unobtrusive but visible and located in places designated by the Court Administrator in advance of any session.

**63.04 - No Noise or Light by Equipment** - Equipment shall not produce distracting sound or light. Signal lights or devices to show when equipment is operating shall not be visible. Motorized drives, moving lights, flash attachments, or sudden light changes shall not be used. Still cameras that do not operate quietly will not be used at any time when court is in session.

**63.05 - Setup** - All equipment must be set up prior to the opening of the court session and may not be removed until after the conclusion of the court sessions, or during a court recess.

**63.06 - Interview Procedure** - Media personnel may not interview participants in the courtroom. The court may, where space is available, make available a space where news reporters and photographers may conduct their business with the consent of persons willing to participate in such interviews.

**63.07 - Pooling Arrangement-** It will be the responsibility of the news media to agree upon a pooling arrangement for their respective news medium. The Court Administrator shall be notified of any pooling arrangement at a sufficient time prior to the court proceeding.

**63.08 - Search-** All those entering the courtroom are subject to search. With the exception of the television camera and still camera indicated above, no electronic recording devices will be permitted in the courtroom. No cell phones or pagers will be permitted in the courtroom.

**63.09 - Movement During Court Proceeding-** The still photographer and television camera operator shall be afforded a clear view, but shall not be permitted to move about in the courtroom during court proceedings from the places where they have been positioned by the Court Administrator. The equipment and operators shall not impede the view of persons seated in the public area of the courtroom.

**63.10 - Changing of Film-** The changing of film or recording tape in the courtroom during court proceedings is prohibited.

**63.11 - Confidentiality-** There shall be no audio pickup or broadcast of conferences conducted in the courthouse between attorneys and clients or co-counsel, or of conferences conducted at the bench between counsel and the judge.

**63.12 - Rights of Victim/Witness -** The judge shall inform victims and witnesses of their right to object, pursuant to Rule 12(C)(2) of the Ohio Rules of Superintendence, to being filmed, videotaped, recorded or photographed. The media shall not film, videotape, record or photograph a witness unless that witness has consented before the hearing in writing on a form provided by the Court. The written consent shall be made a part of the court's record. The media shall not film, videotape, record or photograph any minor children.

**63.13 - Revoking of Privileges -** Upon the failure of any media representative to comply with the conditions prescribed by this Local Court Rule or the Ohio Rules of Superintendence, the judge may revoke the permission to broadcast or photograph the trial or hearing.

**63.14 - Security Check Point-** Courthouse security policies require all persons and equipment entering the courthouse to pass through a magnetometer. Media should plan to allow sufficient time to get through this security checkpoint and to the media room or courtroom in advance of the commencement of the proceedings.

**63.15 - Superintendence Rule 12 -** This rule shall not be construed to grant media representatives any greater rights than are permitted by the Rules of Superintendence for the Courts of Ohio. Matters addressed in the Superintendence Rules that are not specifically addressed in this Local Court Rule shall be governed by Superintendence Rule 12.

## **RULE 65. ARBITRATION**

**65.01- Cases for Arbitration -**The Judge of the general division of the Court of Common Pleas may, at any time by a general entry, order any case assigned to that Judge to be heard and decided by a Board of Arbitration, consisting of not more than three (3) members who are licensed Ohio attorneys to be selected as provided in this Rule, except cases involving title to real estate, equitable relief and appeals, provided the following conditions are satisfied:

1. The case must be at least sixty (60) days old unless earlier agreed to by all parties.
2. The amount actually in controversy in the case (exclusive of interest and costs), as determined by the assigned Judge, does not exceed \$25,000, unless agreed to by all parties.

Where other parties in the case have filed counterclaims or crossclaims, all the parties' claims shall not be aggregated in determining the amount "actually in controversy". The Judge may order any or all of said claims for arbitration, and may sever others, as he shall see fit in his discretion provided that no claim or claims of anyone which the Court determines exceeds \$25,000 as the amount in controversy, may be referred to arbitration, except by agreement of all parties.

All times provided herein shall be computed from the date the Arbitration Entry is filed in the office of the Clerk of Courts, unless stated otherwise.

Upon the filing by any party of a motion to arbitrate at any time after the case is at issue, but in no event later than 270 days after the case is at issue in personal injury cases, and 180 days in all other cases, the assigned Judge may within 30 days after said filing hold a hearing upon notice to all parties, to determine whether a case is ready and appropriate for arbitration under this rule. A party who wishes to oppose arbitration shall file a memorandum contra within 14 days of service of the Motion to Arbitrate.

At the hearing the Court shall determine whether all necessary discovery has been concluded before the arbitration, whether the amount in controversy is within this rule, and whether the action is otherwise ready and appropriate for arbitration.

The arbitration shall be non-binding appealable to the Common Pleas Court unless the parties in writing filed with the Court agree to binding arbitration.

**65.02 - Exception to Order for Arbitration** - Exceptions to an order referring a case to arbitration or the selection of any arbitrator shall be raised by motion filed within fourteen (14) days of the mailing of the notice of the order or selection, and shall be decided by the assigned Judge.

**65.03 - Selection of Arbitrators** - When the order or arbitration is made by the Judge, the Judge shall select the Chairman and shall forward the entry to the Assignment Commissioner, who shall select the time and location of the hearing, file the entry, and forward a copy to all parties.

The Chairman shall be an attorney with at least three (3) years experience, appointed from a list of volunteers maintained by the Assignment Commissioner.

Within fifteen (15) days of the filing of the entry, each side shall appoint an arbitrator who can be available for the scheduled date, and shall notify all parties and the Assignment Commissioner in writing. Upon failure to do so, the party will be deemed to have waived their right to so appoint and the Judge may appoint their arbitrator for them.

Where there is more than one Plaintiff or more than one Defendant, each side shall nominate one arbitrator. If any conflict arises out of the differing interests of the parties, the Judge shall make appropriate rulings.

By agreement or by waiver, the parties may proceed with the Chairman as the sole arbitrator.



Before the hearing, the Chairman shall obtain the Court file on the case, along with the appropriate forms for the required Report and Award.

No more than one member of a law partnership or association of attorneys shall be appointed to the same Board, nor shall any attorney be appointed to a Board who has an interest in the determination of the case or a relationship with the parties or their counsel which would interfere with an impartial consideration of the case.

**65.04 - Compensation of Arbitrators** - Each member of a Board who has signed an award or files a minority report shall receive as compensation for his or her services in each case a fee of Three Hundred (\$300) Dollars. When more than one case arising out of the same transaction is heard at the same hearing or hearings, it shall be considered as one case insofar as compensation of the arbitrators is concerned.

In cases requiring hearings of unusual duration involving questions of unusual complexity, the assigned Judge, on motion of the members of the Board and for cause shown, may allow additional compensation. 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.

The Chairman shall receive as additional compensation the sum of One Hundred (\$100) Dollars for each case heard by the Board.

Each side shall be responsible for paying the fee of one arbitrator and one-half the fee of the Chairman. Payments shall be made to the Clerk of Courts no later than fourteen (14) days before the date set for the arbitration hearing.

In the event that one or more parties is unable due to poverty to make the payment for arbitrators' fees, he may file a motion and affidavit under Rule 65.15 (A) 1. c) herein, and all of the provisions of the subsection shall apply.

In the event that a case shall be settled or dismissed more than two (2) days prior to the date scheduled for the hearing, the Board members shall not be entitled to the fee. In the event that a case has been settled or dismissed within said two-day period, the Board members shall be entitled to receive the fee. The parties are required to notify the Chairman and the Assignment Commissioner immediately of settlement or dismissal.

In the event that a case is settled or dismissed more than two (2) days prior to the date of hearing, the parties shall file the standard Settlement & Dismissal Entry, shall serve the Assignment Commissioner with a copy, and shall notify the arbitrators of the settlement. If the settlement is within two (2) days or less prior to the arbitration, the Settlement & Dismissal Entry shall also contain an order for payment of fees to the arbitrations, designating their names, addresses and amounts due.

**65.05 - Hearings-** Hearings shall be held at a time scheduled by the Assignment Commissioner at a courtroom or hearing room unless the Chairman, upon agreement by all parties, shall designate another place, such as a law office, or another public office. A hearing shall be scheduled not more than sixty (60) days after the appointment of the Chairman.

The sixty (60) day period may be extended only by the Court. No hearing shall be fixed for Saturdays, Sundays, legal holidays or evenings, except upon agreement of counsel for all parties and the Board.

Since sufficient time is available to the parties prior to the hearing date to settle or compromise their disputes, once a hearing date is determined, the hearing shall proceed at the scheduled time. There shall be no communications by counsel or the parties with the arbitrators concerning the merits of the controversy prior to the commencement of the arbitration hearing.

**65.06 - Oath of Arbitrators** - When all the arbitrators are assembled and before the hearing begins, each arbitrator shall take an oath or affirmation, as follows:

“I solemnly swear or affirm that I will faithfully and fairly hear and examine the matter in controversy and that I will make a just award to the best of my understanding and ability.”

**65.07 - Default of a Party** - The arbitration may proceed in the absence of any party who, after due notice, fails to be present, appoint its arbitrator, obtain a continuance, or to present evidence. An award shall not be made solely on the default of a party. The Board shall require the other party to submit such evidence as it may require for the making of an award.

**65.08 - Supervisory Powers of Court** - The Judge of the General Division of the Court of Common Pleas shall have full supervisory powers with regard to any questions that arise in all arbitration proceedings and in the application of these Rules.

**65.09 - Witness Fees, Written Depositions, Videotape Depositions** - Witness fees in any case referred to arbitration shall be in the same amount as now or hereafter provided for witnesses in trials in the Common Pleas Court. Costs of written and videotaped depositions and witness fees may be ordered taxed as costs. The costs in any case shall be paid by the same party or parties by whom they would have been paid had the case been tried.

**65.10 - Transcript of Testimony** - The arbitrators shall not be required to make a transcript of the hearing. If any party desires a transcript, he or she shall provide a reporter and cause a record to be made. The party requesting the record shall pay the expenses which shall not be considered costs in the case. Any party desiring a copy of any transcript shall be provided with it by the reporter upon payment of the usual charges for a copy of a deposition plus the party's proportionate share of the cost of the reporter's attendance.

**65.11 - Continuance of Hearing -** The Chairman may continue a hearing date only upon a showing by a party or parties of extraordinary reasons. In such event, it shall be the responsibility of the party requesting the continuance to reschedule such hearing at a date and time, not later than thirty (30) days, mutually agreeable to the Assignment Commissioner, the arbitrators and the parties, and provide written notice of the rescheduled hearing date to the Assignment Commissioner, the arbitrators and the parties. In no event shall a case be continued more than twice without the approval of the Judge.

In the event that one or two members of the Arbitration Board are unable to attend the hearing, the parties shall obtain a substitute arbitrator or may agree that the hearing proceed before a Board of less than three arbitrators.

In no event shall the hearing proceed in the absence of the assigned Chairman. In such event, the hearing shall be continued to a date and time mutually agreeable to the arbitrators, parties, and the Assignment Commissioner. Such a continuance shall be deemed to be at the request of the Chairman.

In the event that the hearing is unable to proceed as a result of the death or long-term illness or disability of a party or counsel, the Chairman shall return the case file to the Court with notice of such fact. The Judge shall summon the parties or their counsel and make such orders as are just relative to further proceedings in the case.

Any motion that has not been ruled on prior to the date of the arbitration shall be disregarded by the Board and for the purposes of arbitration treated as a nullity.

**65.12 - Conduct of Hearing/General Powers -** Although strict conformity to legal rules of evidence is not necessary, the Board shall receive all relevant and material evidence as determined by a majority of the members of the Board. All evidence received shall be given such weight as the Board deems appropriate after consideration of any objections. Rulings upon objections shall be made by the Chairman, based upon the majority decision of the Board. All evidence shall be taken in the presence of the arbitrators and all the parties except where any of the parties is absent and consents, or is in default, or has waived his right to be present. The Board may receive evidence in the following forms:

**A. Testimony -** Testimony by competent witnesses, whether live, or by deposition, pursuant to stipulation or Civil Rule 32, signed and dated witness statements or transcripts of the same, or affidavits. The Board shall administer oaths or affirmations to all live witnesses.

**B. Documentary Evidence.**

1. *Medical Bills, Property Damage Bills or Estimates* – In actions involving personal injury and/or damage to property, the following bills or estimates may be offered and received in evidence without further proof, for the purpose of proving the value and reasonableness of the charges for services, labor and materials, or items contained therein, and, where applicable, the necessity for furnishing the same.
  - a. *Health Care Providers* – Bills of hospitals, doctors, dentists, nurses, therapists, and all other health care providers, on the proper form or letterhead, when itemized and dated.

- b. *Bills for Medicines, etc.* – Bills for medicines, eye glasses, prosthetic devices, medical appliances, or similar items.
- c. *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 property, provided that sufficient proof of ownership is offered by the party seeking to introduce such bill or estimate.
- d. *Procedure in Case of Estimate* – In the case of an estimate, the party intending to offer the estimate shall forward with his or her notice to the adverse party, together with the copy of the estimate, a statement indicating whether or not the property was repaired, and if it was, whether or not the repairs were made in full or part, attaching a copy of the receipted bill showing the items or repair made and the amount paid.

## 2. Records and Reports.

- a. Police, sheriff and highway patrol reports.
- b. Hospital, medical, therapy, doctor's reports, and x-rays.
- c. Employer's reports on lost wages, economist reports.

All written or documentary evidence as listed above must be served upon the adverse parties or their counsel at least seven (7) days before the hearing, unless counsel otherwise agree. Failure to give such notice or serve such evidence upon opposing parties can be sufficient grounds for exclusion of the evidence, in the discretion of the arbitrators.

Counsel shall, upon request whenever possible, produce a party or witness at the hearing without the necessity of a subpoena. Subpoenas are to be issued as provided in Civil Rule 45 through the Clerk's office as in any other case.

The Chairman may compel the reasonable production of books, papers and documents which may be material to the case.

Should a party or witness fail to produce documents or testify as to a matter after being ordered to do so by a Board, the Board may treat that particular matter as not controverted and proceed to make a final award without the necessity of issuing a citation for contempt.

Where documentary evidence of special damages including, but not limited to, the types of evidence referred to in Subsection (2) above, will be offered for admission at the hearing, counsel for the party offering the evidence shall secure a copy of each document for every arbitrator and a list summarizing and totaling items of special damages.

The Chairman, at the discretion of the Board, may request that counsel provide the Board with brief written arguments of law, together with supporting authorities, if necessary to a just determination of the issues. The Board shall decide the law and the facts of the case submitted to them.

This Section shall be construed to promote the efficient, fair and expeditious handling of arbitration hearings.

**65.13 - Report and Award** - Within ten (10) days after the hearing, the Chairman shall file a Report and Award with the Clerk of Courts and the Assignment Commissioner, and on the same day shall mail or otherwise forward copies to all parties or their counsel. An award may not exceed \$25,000 exclusive of interest. The Report and Award shall be signed by all of the members of the Board. In the event that all three members do not agree on the findings and award, the dissenting member shall write the word "Dissents" before his or her signature. A minority report shall not be required unless the dissenting arbitrator elects to submit one. The Clerk of Courts shall note the Report and Award on the docket, and shall provide a copy to the Judge.

**65.14 - Legal Effect / Entry of Judgment** - The Report and Award, unless appealed from, shall be final. If no appeal is taken within the time and in the manner specified, the Court shall enter judgment on such award. After the appeal time runs, the prevailing party shall prepare a judgment entry, which shall be submitted to opposing counsel for approval and to the Judge for signature. If no entry has been submitted to the Court as set out in Rule 39.01 of the Local Rules, from the date of the filing of the Report and Award, the Court will file its own entry. The Court shall order the Clerk of Courts to pay the arbitrators, as soon as practicable, following the filing of an award by the Chairman, or a settlement or dismissal entry or stipulation entitling the arbitrators to payment under 65.04.

### **65.15 - Appeals**

**A. Right of Appeal *De Novo*.** - Unless the parties have agreed to binding arbitration, any party may appeal from the action of the Board to the Common Pleas Court. No appeal can be withdrawn without the consent of all parties. The filing of a single appeal shall be sufficient to require a *de novo* trial of the entire case on all issues and as to all parties without the necessity of each party filing a separate notice of appeal. The right of appeal shall be subject to the following conditions, all of which shall be complied within thirty (30) days after the filing of the award with the Clerk of Courts.

1. *Notice of Appeal and Costs* – An appellant shall file a Notice of Appeal *de novo*, together with an affidavit that the appeal is not taken for delay but because he believes an injustice has been done, in the office of the Clerk of Courts. Appellant shall pay to the Clerk of Courts the sum mentioned in 1. b) below. Appellant shall serve a copy of the Notice of Appeal and Affidavit upon all parties or their counsel and the Assignment Commissioner.
2. *Repayment of Arbitration Fees* – The appellant shall deposit with the Clerk of Courts, all fees received by the members of the Board in the case which shall be refunded to the parties who had made deposits for arbitration costs. The sum paid shall not be taxed as costs in the case and shall not be recoverable by the appellant in any proceeding.

3. *Poverty Affidavit and Notice* – A party, desiring to appeal an award, may concurrently with the filing of a Notice of Appeal *de novo*, file with the Judge a written motion and affidavit averring that by reason of poverty he or she is unable to make the payments required for an appeal and requesting the Court to allow an appeal *de novo* without payment of the amount specified in 1.(b). If after due notice to the opposite parties, the Judge is satisfied with the truth of the statements in the affidavit, the Judge may order that the appeal of such party be allowed although the amounts are not paid by the appellant.

If, however, the plaintiff or party appealing, who has filed a poverty affidavit as described above, receives a settlement or judgment in the case, the defendant or party who agrees to or is ordered to pay the judgment, shall pay first to the Clerk of Courts out of such settlement or judgment, before making payment to anyone else, an amount equal to the non-deposit portion of the compensation due for the appeal *de novo*.

**B. Return to Judge** - After perfection of the appeal, the case shall be returned to the Judge for trial.

1. *Appeal De Novo* - All cases which have been duly appealed shall be tried *de novo*. No mention of the arbitration or its result shall be made at the time of trial. However, this section shall not be construed to prohibit a party from employing the transcript of testimony of a witness or party made at the arbitration hearing for the purpose of impeachment, or for any other purpose allowed by law or the Ohio Rules of Civil or Criminal Procedure.
2. *Testimony of Arbitrators on Appeal* - In the event of an appeal from the award or decision of the Board, the arbitrators shall not be called as witnesses as to what took place before them in their official capacity as arbitrators.
3. *Exceptions and Reasons Therefore*- Any party may file exceptions with the Clerk of Courts, from the decision of the Board, within thirty (30) days from the filing of the Report and Award for reasons set out in O.R.C. 2711.10.

Copies of the exceptions shall be served upon each arbitrator within three (3) days after filing and shall be forthwith assigned for hearing before the Judge to conduct a hearing thereon.

If the exceptions are sustained, the report of the Board shall be vacated by the Court and the Court shall return the case to the trial docket for trial or assign the case again to arbitration before a new Board of Arbitrators. The Judge vacating the Report and Award may also withhold arbitrator's compensation, or require a refund of such compensation, from any one or more of the arbitrators. The filing of exceptions shall toll the running of the thirty (30) day appeal period provided in (A) above until a determination of the exceptions by the Court.

## **RULE 67. MEDIATION**

**67.01 - Reference to Mediation** - Appropriate cases may, upon completion of necessary pleadings or motions, be referred by the Judge to a mediator for a mediation conference. Mediation of civil cases is generally ordered at the First Telephone Status Conference.

In civil cases parties and their counsel are required to attend. Defendants need not attend if the claim is within the policy limits of their insurance. In all cases in which a party is insured and the insurance carrier is providing a defense, a representative of the insurance company with full authority to adjust the claim must attend.

Failure to attend when required may result in a contempt of court citation.

**67.02 - Notification of Conference** - A reference to mediation shall be by order of the Court which shall set the time and place of the conference. Mediations are generally conducted in the Court's Mediation Center in the basement of the Huron County Office Building, 12 East Main Street (immediately next to the Courthouse).

**67.03 - Settlement of Case** - At the mediation conference, the mediator shall try to settle the entire case. The mediator may schedule, recess, or continue the conference; order monies held in trust by the Clerk of Court; conduct a view of the scene, if applicable; and exercise such other powers as are necessary and proper for the mediation of cases.

**67.04 - Statements of Evidence** - Statements made during a mediation conference are subject to Evidence Rule 408.

**67.05 - Mediation Fee** - A \$100.00 Mediation Fee will be accessed to all civil cases where Mediation is ordered. The fee is to be deposited with the Clerk of Court's Office within 30 days of the filing of the Civil Trial Order.

## **RULE 70. BANKRUPTCY**

In the event any party to a proceeding in this Court files bankruptcy proceedings in the Federal Court which causes an automatic stay of the proceedings in this Court, the party filing the bankruptcy shall cause notice of that bankruptcy, including the case number and date of filing, to be submitted to this Court at the earliest possible time, but not to exceed seven (7) days after the date of filing. See, Appendix "G". The notice shall include an estimate as to the time for resolution of the bankruptcy or relief from stay required before the case can continue in this Court. The Judgment Entry shall also include a requirement that the party filing bankruptcy shall notify this Court of any relief from stay within seven (7) days of the date the relief from stay is granted.

Any party to a proceeding who obtains notice of filing of bankruptcy by another party to the same proceeding may file the Notice and Judgment Entry required by this provision upon receipt of notice.

**CRIMINAL**

**LOCAL COURT RULES**

**AND FORM**



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## **RULE 1. ADMINISTRATION OF CRIMINAL LITIGATION**

**1.04 - Matters Submitted to the Judge** - Matters under submission to the Judge or judicial officer will be promptly determined. Short deadlines will be set for party presentation of briefs and affidavits and for production of transcripts. Decisions where possible will be made from the bench or within a few days of submission; except in extraordinarily complicated cases, a decision will be rendered not later than 30 days after submission.

**1.05 - Continuance Policy** - Continuance of a hearing or trial will be granted only by the Judge or Magistrate for good cause. Extension of time for compliance with deadlines not involving a court hearing will be permitted only on a showing to the Court that the extension will not interrupt the scheduled movement of the case.

Requests for continuances and extensions, and their disposition, will be recorded in the file of the case. Where continuances and extensions are requested with excessive frequency or insubstantial grounds, the Court will adopt one or a combination of the following procedures:

1. Cross-referencing all requests for continuances and extensions by the name of the lawyer requesting them.
2. Requiring that requests for continuances and stipulations for extensions be in writing and the litigants be notified.
3. Summoning lawyers who persistently request continuances and extensions to warn them of the possibility of sanctions and to encourage them to make necessary adjustments in management of their practice. Where such measures fail, restrictions may properly be imposed on the number of cases in which the lawyer may participate at any one time.

## **RULE 11. FILING FEES & COSTS**

### **Criminal Actions**

#### **Filing Fee/Deposit**

\$ 85.00 Sealing of Record/Postage Deposit

**11.03 - Poverty Affidavit** - A poverty affidavit filed in lieu of a cash deposit must state the reasons for the inability to prepay costs and is subject to Court review at any stage of the proceedings.

**11.06 - Fees for Computer Research and Services** - Pursuant to the authority of R.C. 2303.201(A) it is determined that, for the efficient operation of the Civil, Criminal and Domestic Relations Divisions of this Court, additional funds are required to obtain computerized legal research services.

The Clerk of this Court is directed and hereby authorized to charge and collect an additional fee of six dollars (\$6.00) upon the filing of each cause or appeal under R.C. 2303.20 (A), (Q), and (U).

All funds collected pursuant to this rule shall be paid to the County Treasurer to be maintained by the County Auditor in a separate account for utilization by this Court in procuring and maintaining computerized legal research services.

Pursuant to the authority of R.C. 2303.201 (B) it is determined that, for the efficient operation of the Civil, Criminal and Domestic Relations Divisions of this Court, additional funds are required to computerize the office of the Clerk of Court of Common Pleas.

The Clerk of this Court is directed and hereby authorized to charge an additional fee of twenty dollars (\$20.00) upon the filing of each cause of action, appeal, certificate of judgment, or the docketing and indexing each aid in execution or petition to vacate, revive, or modify a judgment under R.C. 2303.20, (A), (P), (Q), (T), and (U).

The Clerk of this Court is authorized and directed to charge an additional fee of one dollar (\$1.00) for the services described in divisions (B), (C), (D), (F), (H) and (L) of Section 2303.20 of the revised code. *Effective April 1, 2013*

All funds collected pursuant to this rule shall be paid to the County Treasurer to be disbursed, upon an order of the Court of Common Pleas and subject to appropriation by the Board of County Commissioners, in an amount no greater than the actual cost to the Court of procuring and maintaining computer systems for the office of the Clerk of the Court of Common Pleas.

### **RULE 13. BAIL OR SURETY**

No attorney or officer of the Court will be received as bail surety.

### **RULE 14. COMMUNICATIONS WITH JUDGE AND /OR MAGISTRATE**

**14.01 – Ex Parte Communications** - No attorney shall discuss the merits either orally or in writing, of any litigation with the Judge and/or Magistrate presiding over the matter before final disposition thereof without the presence of or by mailing or delivering a copy of any writing to opposing counsel or the party, if not represented.

**14.02 – Attorney Conferences** - If it is determined that an issue in a pending action needs to be discussed with the Judge and/or Magistrate prior to hearing or disposition of the action, the attorney desiring said conference may, with notice to opposing counsel, request a conference with the Judge and/or Magistrate.

**RULE 15. PLEADINGS**

**15.01 - Filing Requirement and Designations** - All pleadings, motions and memoranda filed or submitted by facsimile with the Court shall have a top margin of at least one and one-half (1½) inches, be typewritten, and contain the following information:

1. Name, address, telephone number and Supreme Court registration number of counsel. If counsel is a firm of attorneys, the attorney having primary responsibility for the case shall be indicated thereon. Counsel shall promptly notify the clerk of Courts of any change in this information.
2. The current address of all parties to the action shall be included on the original pleadings. A post judgment motion for purposes of this rule shall be considered an original pleadings.
3. The name of the Judge to whom the case is assigned.
4. It is requested that each complaint filed contain in the caption thereof a designation of the category of said action, which category shall be one of the following:

**Criminal Cases**

Criminal..... CRI

**15.05 - Change of Address** - Counsel shall file with the Clerk of Court’s Office written notice of any change of address.

**15.06 - Copies Required** - All motions, briefs and memoranda, pro and contra, shall be filed in duplicate.

**15.07 - Attorney Signature Requirement** - The name of the attorney preparing judgment entries shall be typed in the lower left-hand corner of the last page of the entry and prefaced by the words “prepared by (attorney’s name)”. The Clerk shall serve a date-stamped copy of the entry on all parties who have appeared unless this requirement is waived in writing.

**RULE 16. FACSIMILE FILING**

The provisions of this local rule are adopted under Civ.R. 5(D), Civ.R.73(J) and Crim.R.12(B).

Pleadings and other papers may be filed with the Clerk of Courts by facsimile transmission to 419-663-4048 subject to the following conditions:

**16.01 - Applicability** - These rules apply to civil, criminal, and domestic relations proceedings in the Huron County Common Pleas Court, General Division.

The following documents will not be accepted for fax filing: cognovit promissory notes.

**16.02 - Original Filing** - A document filed by fax shall be accepted as the effective original filing. The person making a fax filing need not file any source document with the Clerk of Court but must, however, maintain in his or her records and have available for production on request by the court the source document filed by fax, with original signatures as otherwise required under the applicable rules, together with the source copy of the facsimile cover sheet used for the subject filing.

The source document filed by fax shall be maintained by the person making the **filing** until the case is closed and all opportunities for post judgment relief are exhausted.

**16.03 - Definitions** - As used in these rules, unless the context requires otherwise:

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

**“Facsimile machine”** means a machine that can send and receive a facsimile transmission.

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

**16.04 - Cover Page** - All fax filings shall be submitted to the Clerk of Courts (419-663-4048) and provide a cover page containing the following information:

1. the name of the court;
2. the title of the case, case number (if known);
3. the title of the document being filed;
4. the date of the transmission;
5. the transmitting fax number;
6. the number of pages including the cover page;
7. the name, address, telephone number of the person filing the fax document;
8. a statement explaining how costs are being submitted.

If a fax is submitted to the Clerk of Court without the information listed above, the Clerk may, at its discretion:

1. enter the document in the Case Docket and file the document; or
2. deposit the document in a file of failed faxed documents with a notation of the reason for the failure; in this instance, the document **shall not** be considered filed with the Clerk of Courts.

The Clerk of Court is not required to send any form of notice to the sending party of a failed fax filing. However, if practicable, the Clerk of Court may inform the sending party of a failed fax filing.

**16.05 - Signature** - Fax filings received by the Clerk of Courts are considered to be an original, signed document and need **not** be followed by an original.

**16.06 - Exhibits** - Each exhibit to a facsimile produced document that cannot be accurately transmitted via facsimile transmission for any reason must be replaced by an insert page describing the exhibit and why it is missing. Unless the court otherwise orders, the missing exhibit shall be filed with the court, as a separate document, not later than five (5) court days following the filing of the facsimile document. Failure to file the missing exhibits as required by this paragraph may result in the court striking the document and/or exhibit.

Any exhibit filed in this manner shall be attached to a cover sheet containing the caption of the case which sets forth the name of the court, title of the case, the case number, name of the judge and the title of the exhibit being filed (e.g., Plaintiff Smith's Notice of Filing Exhibit "G" to Plaintiff Smith's Response to Defendants' Motion to Dismiss), and shall be signed and served in conformance with the rules governing the signing and service of pleadings in this court. [See appendix for Rule 16 for sample exhibit cover sheet.]

**16.07 - Time of Filing** - Subject to the provisions of these rules, all documents sent by fax and accepted by the Clerk shall be considered filed with the Clerk of Courts as of the date and time the fax transmission was received by the Clerk of Court. The office of the Clerk of Court will accept faxed documents 24 hours per day seven days per week including holidays. Each page of any document received by the Clerk will be automatically imprinted with the date and time of receipt. The date and time imprinted on the document will determine the time of filing.

Fax filings may **NOT** be sent directly to the court for filing but may only be transmitted to the Clerk of Courts office.

The Clerk of Court may, but need not, acknowledge receipt of a facsimile transmission.

The risks of transmitting a document by fax to the Clerk of Courts shall be the sole responsibility of the sending party. Anyone using fax filing is urged to verify receipt of such filing by the Clerk of Court.

**16.08 - Fees and Costs** - Documents filed by fax that require a filing fee shall be accepted by the Clerk for filing but the Clerk shall not issue process for such documents until the Clerk has received by mail or hand delivery the filing fee deposit.

No additional fee shall be assessed for fax filings.

**16.09 - Length of Document** - Fax filings shall not exceed 35 pages in length.

The filer shall not transmit service copies by fax.

## **RULE 19. DISCOVERY**

**19.01 - See Criminal Rule 16** - In Criminal cases discovery shall be conducted in accordance with Criminal Rule 16.



## **RULE 20. CRIMINAL TRIAL PREP WORKSHEET**

**20.01 - Criminal Trial Prep Worksheet to Court** - This worksheet MUST be turned in to the **Court** (*not the Clerk of Court's office*) NO LATER than 4:00 p.m. the day BEFORE trial. (This form can be found on our website [www.huroncountycourts.org](http://www.huroncountycourts.org) under forms)

## **RULE 23. CERTIFICATE OF SERVICE**

Proof of service of all pleadings, motion, briefs, memorandum or other writing filed with Court shall be by certificate of service attached to such pleading, motion, brief, memorandum or other writing and shall include the names and addresses of the attorneys and/or parties served, not simply "all parties or counsel of record".

## **RULE 27. TRANSCRIPTS AND EXHIBITS**

### **TRANSCRIPTS**

**27.01 - Payment for Transcripts** - The furnishing of transcripts by the Official Court Reporters and the amount and method of paying the compensation for them shall be fixed by Court order and as provided by O.R.C. Section 2301.21 - 2301.25.

**27.02 - Deposit for Transcripts and Time Line** - The transcription of proceedings in any case other than indigent criminal cases shall not be begun and transcribed by an official reporter for the Court until there is deposited with her or him a sum equal to the estimated cost thereof as the same shall be estimated by the official reporter. In the event the deposit is not sufficient to cover the entire cost of the transcript, the unpaid balance shall be paid to the official reporter before the transcript is delivered to the party ordering it. In the event the deposit exceeds the costs of the transcript, the unused portion thereof shall be returned by the official reporter to the party ordering and paying for the transcript.

**27.03 - Transcribing Electronic Recording** - In accordance with C.P. Sup. R. 10, in any proceeding recorded by electronic means, the recording shall be the official record and shall be transcribed, if required, by the official reporter or the reporter's designee. Any other reporter's transcript shall not constitute the official record unless so stipulated by counsel and approved the Court or Magistrate upon commencement of the proceedings.

**27.04 - Retention of Transcripts** - Records in the custody of the Clerk of Courts and the shorthand notes of the Official Court Reporters may be destroyed then (10) years after a case is concluded, and after compliance with Section 149.40 of the Ohio Revised Code, except in Murder and Aggravated Murder cases.

### **EXHIBITS**

**27.05 - Regarding Size of Exhibits** - Any exhibit admitted into evidence larger than that which will fit into a letter-sized manilla envelope will have to have a photo substituted in its place for purposes of storage. Original exhibits will be returned for retention to the offering party.

**A. Withdrawn Exhibits** - Exhibits withdrawn during the trial will be returned to the appropriate party at the conclusion of the trial.

**B. Retention/Return of Exhibits Offered** - Exhibits in the custody of the Court Reporter shall be available for return to the offering party after the expiration of the appeal process. If they are not obtained after notification from the Court, the exhibits shall be destroyed, except exhibits in a criminal case, which will be turned over to the Huron County Prosecutor's Office.

## **RULE 28. DISMISSALS**

**28.01 - Dismissal by the Court** - The Court may dismiss, on its own motion, all cases in which:

1. There has been no affirmative action taken for an unreasonable time; or
2. There has been no response to inquiries from the Court or Assignment Commissioner regarding the status of the case.

**28.02 - No Affirmative Action Dismissal** - If no affirmative action is taken in a case (such as request for assignment or request for good cause that the case be allowed to pend) or no response to court inquiries is made, a case may be dismissed after ten (10) days from the date of notice to counsel and/or parties that the Court is considering dismissal of such case. Such dismissals shall be without prejudice with costs to be taxed as the Court deems just.

## **RULE 29. WITHDRAWAL OF COUNSEL**

No attorney shall be allowed to withdraw without substitution of counsel in a pending case without good cause shown and the court granting said motion. Attorneys seeking to withdraw shall submit to the Judge a motion, proposed entry and affidavit setting forth the reason counsel seeks to withdraw and certifying that counsel has informed his client by certified mail of his intent to withdraw and notice to the client of the nature, date and time of the next pending proceeding before the Court, the arrangements by which the client may obtain his papers, items of evidence and file materials from counsel and notice to the client to obtain replacement counsel as soon as possible and to notify the court of the identity of his substitute counsel. There must also be a certificate of service to the opposing counsel.

## **RULE 30. SUBSTITUTION OF COUNSEL**

An attorney may withdraw in a pending case where he files a Notice of Substitution of Counsel identifying the name, Supreme Court registration number, address, and telephone number of the attorney substituting his appearance. The Notice of Substitution of Counsel shall be signed by the withdrawing and substituted counsel and contain a certificate of service to the opposing counsel.

### **RULE 33. CONDUCT OF COUNSEL AT TRIAL**

**33.01 - Counsels to Speak on Motions or at Trial** - Except by permission of the Court, only one counsel for each party will be permitted to speak on any interlocutory motion, or upon any question arising during the trial of a cause or a proceeding, and only one counsel for each party will be permitted to examine the same witness in any trial or proceeding before the Court.

**33.02 - Limited Counsel for Arguments/Trial** - In any argument to the Court or jury upon the trial of a cause, only two counsel for each party will be heard unless for special reasons the Court permits otherwise. The Court may limit the time for argument as it may deem reasonable.

**33.03 - Seating at Counsel Table** - Only counsel and parties shall be seated at counsel table except as may be otherwise authorized by the Court.

### **RULE 34. CONTINUANCES**

**34.01 - Continuance Policy** - Continuance of a hearing or trial will be granted only by the Judge for good cause. Extension of time for compliance with deadlines not involving a court hearing will be permitted only on a showing to the Court that the extension will not interrupt the scheduled movement of the case.

Requests for continuances and extensions, and their disposition, will be recorded in the file of the case. Where continuances and extensions are requested with excessive frequency or insubstantial grounds, the Court will adopt one or a combination of the following procedures:

1. Cross-referencing all requests for continuances and extensions by the name of the lawyer requesting them.
2. Requiring that requests for continuances and stipulations for extensions be in writing and the litigants be notified.
3. Summoning lawyers who persistently request continuances and extensions to warn them of the possibility of sanctions and to encourage them to make necessary adjustments in management of their practice. Where such measures fail, restrictions may properly be imposed on the number of cases in which the lawyer may participate at any one time.

**34.02 - Reasons for Continuances** - It is the policy of this Court to determine matters submitted in a timely way. Continuances will be granted only for good cause shown. In interlocutory matters counsel should accommodate each other where the continuances sought will not grant an unfair advantage, will not delay the trial or other matters set for hearing before the Court and counsel proposing the continuance has a reasonable explanation for the need for the continuance. Continuances of trial or matters set for hearing before the Court, which if continued may cause a delay in the trial, will not be granted by the Court by accommodation of counsel but will be granted only for good cause shown.

**34.03 - Continuance Requirements** - All requests for continuances of a trial or hearing must be by written motion which complies with Civil Rule 7(B). The motion shall state that counsel for the moving party has contacted the other counsel in the case and whether other counsel are willing to accommodate the request for a continuance. The moving party shall certify that a copy of the motion was mailed/delivered to his client. Service of the motion shall comply with Civil Rule 5.

Continuances will be granted only by the Judge or Magistrate. The Court will not grant a continuance to any party at any time without first setting a definite date for trial or hearing. The moving party shall obtain a proposed date and time for the rescheduled trial or hearing from the Court's Assignment Commissioner and include the date and time in the motion and judgment entry submitted with it.

**34.04 -Critical Trial Date Continuances** - No continuances will be granted beyond the critical trial date in a criminal case unless the Defendant consents to and signs a waiver of the critical trial date.

**34.05 - Grounds for Continuances** - Continuance of a cause may be granted on the grounds of inability to procure the testimony of an absent witness when it is made to appear that due diligence was used to procure such testimony. In order to obtain a continuance on these grounds, the party making the application must support the same by affidavit stating therein what he expects to prove by such witness. If the Court finds the testimony set forth to be immaterial or if both parties consent to the reading of the affidavit in evidence, the application will not be sustained and the case will proceed to trial.

**34.06 - Counsel not Available** - When a continuance of a cause is requested on the grounds that an attorney is attending a Continuing Legal Education, proof of such prior commitment shall be attached to the motion for continuance which shall be filed forthwith following notification of the assignment of the case in this Court.

**34.07 - Judgment Entry Requirement** - All motions for a continuance shall be accompanied by a proposed journal entry ordering the reassignment of said case for a date certain. In the event a continuance is granted, the Court may, in its discretion, assess costs and expenses against the moving party.

## **RULE 35. CRIMINAL CASES**

**35.01 - Purpose.** - The purpose of these rules of criminal practice is to provide the fairest and most expeditious administration of criminal justice possible within the requirements of the Ohio Rules of Criminal Procedure, the provisions of the Ohio Revised Code, the Ohio Constitution and the United States Constitution. These rules shall be construed and applied to eliminate delay, unnecessary expense, and all other impediments to a just determination of criminal cases. Further, the disclosure and discovery requirements placed upon both the prosecution and the defense are to fully implement Rule 16 of the Ohio Rules of Criminal Procedure and the requirements of *Brady v. Maryland*, 373 U.S. 83 (1963). The rules of practice of this Court for civil cases apply to all criminal proceedings, except where clearly inapplicable.

**35.02 - Bail.** - Rule 46 of the Ohio Rules of Criminal Procedure will govern in all cases.

When the amount of bail has been fixed in a criminal case before it reached this Court and either the State or the defendant desire to modify the amount or conditions thereof, such party shall make application to the Court. Notice thereof shall be given to the adverse party and after submission to the Court, the action approved by the Court shall be by entry made a part of the papers of the case.

**35.03 - Application for Nolle Prosequi** - Where under the provision of Revised Code Section 3941.33 the prosecuting attorney desires to enter a Nolle Prosequi in any criminal case, he shall file written application thereof.

**35.04 - Grand Jury Transcripts** - All Grand Jury proceedings shall be recorded by the reporter. The Official Court Reporter shall not prepare transcripts of testimony of grand jury proceedings except under order of the Court.

**35.05 - Grand Jury - Failure to Timely Indict** - Criminal cases bound over to this Court on which no final action is taken by the grand jury within sixty (60) days from this bind over may be dismissed on motion of the defendant without prejudice. If the complaining witness's testimony is not available, the case may be continued by the Court for a definite period of time and such continuance noted in the report of the grand jury.

**35.06 - Arraignments** -

1. Arraignments will be scheduled as ordered by the Court.
2. If the defendant is not represented by counsel, the Public Defender will be appointed to advise the defendant, and a not guilty plea shall be entered, bond continued and an attorney assigned from a list of eligible counsel or from the County or from the County Public Defender's Office.
3. If at the arraignment a guilty plea is entered by defendant:
  - (a) A disposition date shall be set before the Judge if said plea is to a felony offense.
  - (b) An immediate disposition shall be made by the Judge, if said plea is to a misdemeanor offense.
4. If at arraignment a not guilty plea is entered by the defendant:
  - (a) The Court will set a date and time for the trial, final pretrial and for the pre-trial conference, which shall be at least 7 days before the trial.
  - (b) No plea other than guilty to all counts and specifications in the indictment will be accepted unless the Court is given notice of the plea not later than noon on the Thursday of the week before trial and the plea is entered not later than Friday of the week before trial.

**35.07 - Discovery** - Discovery shall be as provided in accordance with the Criminal Rule 16.

**35.09 - Indigent Defendants.** - All arraignments for alleged indigent defendants shall be represented by the Public Defender unless counsel for the defendant has been previously appointed by a Municipal Court. Counsel appointed by the Municipal Court for an indigent defendant shall continue as attorney of record for said defendant from the time of bind over until arraignment and payment for services shall be pursuant to (C) below. The Judge may appoint new counsel for indigent defendants at arraignment.

Appointments of private counsel will be made from a list of qualified attorneys who desire and are willing to undertake such defense. Any attorney desiring such appointments shall submit two (2) copies of his or her resume' to the Court. The copies shall be distributed as follows: one to the Judge and one to the Court Administrator. Refusal to accept any appointment, except for good cause, may subject an attorney to immediate removal from the appointment list.

**35.10 - Preliminary Motions.** - Motions and other written requests in the criminal cases shall be filed within thirty-five days after arraignment or plea unless otherwise allowed by the Court. Except for motions required to be determined prior to trial under Criminal Rule 12, motions not filed in such time or not disposed of may be heard and decided at the trial at the discretion of the Trial Judge. An assignment for trial will not be continued because of the filing of such a motion.

A hearing on a Motion to Suppress Evidence shall be scheduled in advance with the Court in order to allow sufficient time for the hearing. Before filing a motion the moving party shall obtain a hearing date and time from the Assignment Commissioner and shall file with the Court and serve on the opposing party a Notice of hearing together with the Motion and a Memorandum of Authorities in support of the motion. The opposing party shall, not later than noon on the day before the hearing, file a memorandum of authorities opposing the motion. Memoranda should be law and fact specific.

All other motions in criminal cases shall be scheduled for an oral hearing by calling the Assignment Commissioner to obtain a date on time. The moving party shall file with the Court and serve on the opposing party a Notice of Hearing together with the motion and a memorandum of authorities in support of the motion. The opposing party shall, not later than noon on the Friday before the hearing, file a memorandum of authorities opposing the motion.

The failure to file a memorandum of authorities in support of a motion will cause the motion to be stricken from the hearing calendar. The failure to file a memorandum of authorities in opposition to a motion may be deemed as a waiver of the privilege to orally argue against the motion at the hearing.

Motions for jury view shall be filed at least 7 (seven) days prior to trial. See Rule 31.05 (H) for procedure for obtaining jury view.

All motions, briefs and memoranda, pro and contra, shall be filed in duplicate.

**35.11 - Conduct of Attorneys.** - It is the duty of the lawyer not to release or authorize the release of information or opinion for dissemination by any means of public communication in connection with pending or imminent criminal litigation with which he is associated if there is a reasonable likelihood that such dissemination will interfere with a fair trial or otherwise prejudice the due administration of justice.

With respect to grand jury or other pending investigation of any criminal matter, a lawyer participating in the investigation shall refrain from making any extrajudicial statement for dissemination by any means of public communication that goes beyond the public record or that is not necessary to inform the public that the investigation is underway or describe the general scope of the investigation or obtain assistance in the apprehension of a suspect or warn the public of any dangers or otherwise to aid in the investigation.

From the time of the arrest, issuance of an arrest warrant or the filing of an affidavit, information or indictment in any criminal matter until the commencement of trial or disposition without trial, a lawyer associated with the prosecution or defense shall not release or authorize the release of any extrajudicial statement for dissemination by any means of public communication relating to the matter and concerning:

1. The prior criminal record (including arrest, indictments, or other charges of crime) or the character or reputation of the accused, except that the lawyer may make an actual statement of the accused's name, age, residence, occupation, and family status and if the accused has not been apprehended, a lawyer associated with the prosecution may release any information necessary to aid in his apprehension or to warn the public of any dangers he may present.
2. The existence or contents of any confession, admission or statement given by the accused or the refusal or failure of the accused to make any statement.
3. The performance of any examinations or test on the accused or the refusal or failure to submit to an examination or test.
4. The identity, testimony, or credibility of prospective witnesses except that the lawyer may announce the identity of the victim if the announcement is not otherwise prohibited by law.
5. The possibility of a plea of guilty to the offense charged or a lesser offense.
6. Any opinion as to the accused's guilt or innocence as to the merits of the case or the evidence in the case.

The foregoing shall not be construed to preclude the lawyer during this period in the proper discharge of his official or professional obligations from announcing:

1. The name, age, residence, occupation, and family status of the accused.
2. If the accused has not been apprehended, any information necessary to aid in his apprehension or to warn the public of any dangers he may present.
3. A request for assistance in obtaining evidence.
4. The identity of the victim of the crime.

5. The fact, time, and place of arrest, resistance, pursuit, and use of weapons.
6. The identity of the investigating and arresting officers, and the length of the investigation.
7. At the time of the seizure, a description of the physical evidence seized, other than a confession, admission or statement.
8. The nature, substance or text of the charge.
9. Quotations from or references to public records of the Court in the case.
10. The scheduling or result of any step in the judicial proceedings.
11. That the accused denies the charges made against him.

During the trial of any criminal matter including the period of selection of the jury, no lawyer associated with the prosecution or defense shall give or authorize any extrajudicial statement or interview relating to the trial or the parties or issued in the trial for dissemination by any means of public communication except that the lawyer may quote from or refer without comment to public records of the Court in the case.

After the completion of a trial or disposition without trial of any criminal matter and prior to the imposition of sentence, a lawyer associated with the prosecution or defense shall refrain from making or authorizing any extrajudicial statement for dissemination by any means of public communication if there is a reasonable likelihood that such dissemination will effect the imposition of sentence.

**35.12 - Bail Forfeiture.** - Bail forfeiture proceedings shall be in accordance with Ohio Revised Code §2937.36.

**35.13 - Inactive Criminal Cases** - Criminal cases in which further proceedings are not presently possible shall be placed in a suspended file by the Clerk and considered closed for statistical purposes either upon motion of the prosecution attorney or the Court's own motion and shall not be subject to dismissal for want of prosecution. A case shall be removed from such list when the defendant is available and proceedings resumed or when such case is dismissed. Cases to which this rule is applicable shall include those in which the defendant is not competent to stand trial, or is confined in a penal institution in another state, or has not been served or cannot be found or has been admitted to a diversion program. No case shall be placed on such suspended list until any bail has been forfeited and judgment entered thereon.

**35.14 - Daily Copies of Transcripts** - Daily copies of transcripts to counsel in criminal cases will not be ordered, provided for, or permitted except in such cases where, in the sound discretion of the Trial Judge, the interest of justice would require the same.



**35.15 - Certification of Assets** - Any defendant found guilty of a criminal offense in this Court shall, on a form provided by this Court, disclose assets of whatsoever kind for the purpose of assisting the Court, the Adult Probation Department, and the Sheriff, in the collection of the fine and costs in such action.

The form shall be completed subsequent to sentencing, and shall be filed with the Prosecuting Attorney's Office and maintained by that office until the fine and costs are paid.

These records shall be available to the Sheriff in regard to his duties in executing any judgment for the fine and/or costs.

Upon payment in full of the fine and costs, the Prosecuting Attorney's Office shall destroy the Certification of Assets.

**35.16 - Disclosure of Presentence Report** - At the time a Judge orders a presentence investigation, a date for sentencing shall be established. The date of sentencing shall be not less than six weeks after the presentence investigation is ordered.

The Presentence Investigator who prepares the report shall have it completed no later than two court days prior to sentencing. When the report is complete, it shall be sent to the Judge and made available at the Court for review by the defendant's attorney (or by the defendant if he is not represented by an attorney) and the Prosecutor. The copy of the report made available to attorneys or the defendant for review, may be reviewed in the Court's offices on the two days before sentencing and in the courtroom on the day of sentencing. No report shall be taken from the Court without the written approval of the Judge assigned to the case.

In order to protect information which is not available pursuant to R.C. §2951.03(B)(3), the copy of the report made available for review by the attorneys or the defendant shall contain a summary of the report and the sections of the report deemed by the Court to be protected by R.C. 2951.03 (B)(3) shall be redacted.

Any hearing and/or Court findings necessitated as a result of inaccurate information contained in the presentence report or summary shall be held on the date of sentencing or at any other date designated by the Judge.

The Bailiff of the Court on the day of sentencing shall be responsible for obtaining all copies of the presentence report immediately after the imposition of the sentence.

**35.17 - Sentencing Memoranda** - On or before noon of the day before the day of the sentencing hearing, the Defendant's attorney or the Defendant, if not represented by counsel, and the prosecutor may file with the Court a sentencing memorandum in which should be noted any inaccuracies in the presentence report or summary and any additional information which it is desired that the Court review before imposing sentence. The memorandum shall be filed with the Court in duplicate and a copy shall be served upon the opposing party in a manner calculated to give actual notice of its contents on or before noon of the day before the day of the sentencing hearing. A certification of such service shall be filed with the Court. The prosecutor shall be permitted to address the Court at the sentencing hearing, provided he has timely filed a sentencing memorandum.

**35.18 - Post-Conviction Determination of Constitutional Rights** - These rules govern the procedure in the Huron County Court of Common Pleas on a Petition under Ohio Rev. Code Section 2953.21 (Post-Conviction Determination of Constitutional Rights).

**A. Petition.** Blank petitions in the prescribed form shall be made available without charge by the Clerk of Huron County Court of Common Pleas to applicants under their request. It shall specify all the grounds for relief which are available to the petitioner and of which he has, or by the exercise of reasonable diligence, should have knowledge and shall set forth in summary form the facts, without legal citation, supporting each of the grounds. The petition shall be typewritten or legibly hand written and shall be signed and sworn to by the petitioner. A petition shall be limited to the assertion of a claim for relief against judgment entered by one Court only. If a petitioner desires to attack the validity of other judgments of that Court under which he is in custody, he shall do so by separate petitions.

**B. Preliminary Consideration by Judge.** The original petition shall be presented promptly to the Judge of the Common Pleas Court who was originally assigned the petitioner's case at trial for the preliminary determinations concerning the sufficiency of the Petition.

**C. Discovery.** A party may invoke the processes of discovery available under the Ohio Rules of Civil Procedure including Rules 26, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37 or elsewhere in the usages and principles of law if, and to the extent that the Judge, in the exercise of his discretion and for good cause shown grants leave to do so, but not otherwise. If necessary for effective utilization of discovery procedures, counsel shall be appointed by the Judge for a petitioner who qualifies for appointment under Chapter 120 of the Revised Code.

**D. Evidentiary Hearing.** Determination by Court. If the petitioner has not been dismissed at a previous stage in the proceedings, the Judge, after the answer is filed and any transcripts or records of prior court actions in the matter are in his possession, shall, upon a review of those proceedings and of the expanded record, if any, determine whether an evidentiary hearing is required. If it appears that an evidentiary hearing is not required, the Judge shall make such disposition of the petition as justice dictates.

**E. Delayed Petitions** - A petition for relief pursuant to these rules may be dismissed if it appears that the State of Ohio has been prejudiced in its ability to respond to the petition by delay in its filing, unless the petitioner shows that it is based on grounds of which he could not have had knowledge by the exercise of reasonable diligence before the circumstances prejudicial to the state occurred.

**F. Successive Petitions.** A second or successive petition may be dismissed if the Judge finds that it fails to allege new or different grounds for relief and the prior determination was on the merits, or, if new and different grounds are alleged, the Judge finds that the failure of the petitioner to assert those grounds in a prior petition constituted an abuse of procedure governed by these rules.

**35.19 - Search Warrants.** - The Clerk shall maintain a separate index and docket for each warrant.

Where the Judge files with the Clerk, pursuant to Rule 41 (E) of the Ohio Rules of Criminal Procedure, the search warrant, copy of the return, inventory or any other papers in connection therewith, the Clerk shall secure said documents in a separate jacket, consecutively numbered and indexed by name.

If property is seized it shall be held by the officers or arresting authority WHO SEIZED THE PROPERTY for safekeeping unless the Court directs otherwise.

**35.20 - Sealing of Record** - Motions for Sealing of Records shall include date of birth and social security number of the defendant.

**35.21 - Petition for Certificate of Qualification for Employment (CQE)** - The Petitioner shall apply online at [www.drccqe.com](http://www.drccqe.com) by completing the DRC Petition for CERTIFICATE OF QUALIFICATION FOR EMPLOYMENT.

Once the form is completed the Petitioner will be notified by email that the Petition is ready for use.

Petitioner shall file the completed Petition with the Clerk of Court's office with the appropriate filing fee.

## **RULE 39. ENTRIES**

**39.01 - Judgment Entry Time Line** - Unless the trial Judge otherwise directs, counsel for the party in whose favor an order, decree, or judgment is rendered, shall within five (5) days thereafter prepare the proper journal entry, and submit it to the counsel for the adverse party, who shall approve or reject the same within three (3) days after the receipt thereof. Name of the counsel and of the Trial Judge shall be typed or printed upon the entry. When the entry is approved by counsel, it shall be so endorsed and presented to the Judge to whom the case is assigned for approval and if signed by him shall then be filed with the Clerk. If counsel are unable to agree upon the entry, it shall be submitted to the Trial Judge, who will direct what entry shall be made.

If counsel fails to present an entry within twenty (20) days after the order is decreed, or judgment is rendered, the Trial Judge may cause the proper entry to be prepared and filed without submission or notice to counsel or take such other action as may be appropriate under the circumstances.

**39.03 - Judgment Entry Discrepancy** - In criminal cases the prosecuting attorney shall prepare judgment entries to be submitted to the Court with a copy served on the Defendant's attorney. If the Defendant believes that the judgment entry prepared by the prosecution does not accurately reflect the Court's ruling, the defendant should file a motion to set the judgment aside and attach thereto a memorandum in support and a proposed judgment entry which defendant believes more accurately reflects the court's ruling.

## **RULE 47. APPEALS TO THE COMMON PLEAS COURT**

**47.01 - Fixed Time for Filing Assignment of Errors** - Where the time for filing assignments of errors and briefs are fixed by statute or by Rule of Supreme Court, they shall be filed within such time or extension thereof as may be granted in writing by the Judge after notice to opposing counsel or party. Upon the expiration of such time as extended, the case will be considered as submitted on the briefs unless oral argument is requested in writing and granted by the Judge. When granted, such oral argument shall not exceed fifteen (15) minutes per side unless extended by the Judge.

**47.02 - Unfixed Time for Filing Assignment of Errors** - Where the time for filing is not fixed by statute or rule of the Supreme Court, the Appellant shall file a brief within twenty (20) days after the filing of the transcript of the record: the Appellee shall file his brief within ten (10) days after the filing of the brief of Appellant and any reply brief shall be filed within five (5) days after the filing of the Appellee's brief. Extensions of time may be granted by entry by the Judge for good cause shown after notice to all parties.

In all cases, in which demand or request to the agency by the Appellant is a prerequisite to the preparation or filing of the transcript of the record by the agency, the Appellant shall make such request at the time of filing the notice of appeal, unless otherwise provided by law, or Rule of Supreme Court.

Upon the expiration of the time for filing of the last brief, the case will be considered as submitted upon the briefs unless oral argument is requested in writing and granted by the Judge to whom the case is assigned or is required by law. Such argument shall not exceed fifteen (15) minutes per side unless extended by such Judge.

**47.04 - Dismissal of Appeal** - Failure of an Appellant to file his assignments of error, his brief or a demand for a transcript of the record within the time required shall be cause for dismissal of the appeal for want of prosecution or other disposition of the case at the discretion of the Judge.

**47.05 - Copies Required** - All briefs and memoranda, *pro* and *contra*, and all motions, briefs and memoranda thereto, *pro* and *contra*, shall be filed in duplicate.

## **RULE 49. JURIES**

The Court adopts the Jury Management Plan filed with the Supreme Court of Ohio on February 1, 2009.

**49.01 - Jury Questionnaires** - It is within the discretion of the Court to have jury questionnaires prepared and to make such questionnaires available to counsel. If jury questionnaires are to be used, the following procedure shall apply:

Prior to trial, the Jury Commissioner shall provide counsel for the parties copies of jury questionnaires which have been previously completed by prospective jurors under the Court's direction.

During voir dire, counsel may not inquire of jurors as to matters satisfactorily and completely answered in the questionnaires.

Counsel may not copy the jury questionnaires furnished to them, and must return the jury questionnaires to the bailiff promptly after voir dire.

**49.02 - Pleading into Evidence** - Persons to be summoned for jury service may be served by United States Mail as provided by Section 2313.25 of the Revised Code at the election of the Clerk.

**49.03 - Prior Jury Service.** - Any jurors summoned for jury service may elect not to serve in the event that said juror has been previously selected for service on a petit or grand jury within one year of the date for which the juror is first summoned.

## **RULE 51. AGREEMENTS**

No oral agreement by counsel or with a party or an officer of the Court, will be regarded unless made in open court.

## **RULE 63. MEDIA RECORDING OF PROCEEDINGS.**

Pursuant to Rule 12 of the Rules of Superintendence for the Courts of Ohio, the broadcasting, televising, recording and photographing by news media during courtroom sessions, including recesses between session, shall be permitted under the following conditions:

**63.01 - Permission Required** - Requests for permission for the broadcasting, televising, recording or taking of photographs in the courtroom shall be in writing and the written permission of the judge shall be made a part of the record of the proceedings. Such requests shall be made within a reasonable time before any scheduled proceedings. News media will be given a copy of the judgment entry granting them such permission and may be required to show the Court Administrator or his/her designee the copy before entrance into the courtroom.

**63.02 - Cameras in Courtroom** - One television camera with operator, and one still photographer will be permitted in the courtroom. The Court Administrator, or designee, shall identify the location in the courtroom for the camera equipment and operators.

**63.03 - Audio Pickup** - Audio pickup by microphone for all media purposes shall be accomplished from existing audio systems present in the courtroom. If no technically suitable audio system exists in the courtroom, microphones, and related wiring essential for all media purposes shall be unobtrusive but visible and located in places designated by the Court Administrator in advance of any session.

**63.04 - No Noise or Light by Equipment** - Equipment shall not produce distracting sound or light. Signal lights or devices to show when equipment is operating shall not be visible. Motorized drives, moving lights, flash attachments, or sudden light changes shall not be used. Still cameras that do not operate quietly will not be used at any time when court is in session.

**63.05 - Setup** - All equipment must be set up prior to the opening of the court session and may not be removed until after the conclusion of the court sessions, or during a court recess.

**63.06 - Interview Procedure** - Media personnel may not interview participants in the courtroom. The court may, where space is available, make available a space where news reporters and photographers may conduct their business with the consent of persons willing to participate in such interviews.

**63.07 - Pooling Arrangement** - It will be the responsibility of the news media to agree upon a pooling arrangement for their respective news medium. The Court Administrator shall be notified of any pooling arrangement at a sufficient time prior to the court proceeding.

**63.08 - Search** - All those entering the courtroom are subject to search. With the exception of the television camera and still camera indicated above, no electronic recording devices will be permitted in the courtroom. No cell phones or pagers will be permitted in the courtroom.

**63.09 - Movement During Court Proceedings** - The still photographer and television camera operator shall be afforded a clear view, but shall not be permitted to move about in the courtroom during court proceedings from the places where they have been positioned by the Court Administrator. The equipment and operators shall not impede the view of persons seated in the public area of the courtroom.

**63.10 - Changing of Film** - The changing of film or recording tape in the courtroom during court proceedings is prohibited.

**63.11 - Confidentially** - There shall be no audio pickup or broadcast of conferences conducted in the courthouse between attorneys and clients or co-counsel, or of conferences conducted at the bench between counsel and the judge.

**63.12 - Rights of Victim/Witness** - The judge shall inform victims and witnesses of their right to object, pursuant to Rule 12(C)(2) of the Ohio Rules of Superintendence, to being filmed, videotaped, recorded or photographed. The media shall not film, videotape, record or photograph a witness unless that witness has consented before the hearing in writing on a form provided by the Court. The written consent shall be made a part of the court's record. The media shall not film, videotape, record or photograph any minor children.

**63.13 - Revoking of Privileges** - Upon the failure of any media representative to comply with the conditions prescribed by this Local Court Rule or the Ohio Rules of Superintendence, the judge may revoke the permission to broadcast or photograph the trial or hearing.

**63.14 - Security Check Point** - Courthouse security policies require all persons and equipment entering the courthouse to pass through a magnetometer. Media should plan to allow sufficient time to get through this security checkpoint and to the media room or courtroom in advance of the commencement of the proceedings.

**63.15 - Superintendence Rule 12** - This rule shall not be construed to grant media representatives any greater rights than are permitted by the Rules of Superintendence for the Courts of Ohio. Matters addressed in the Superintendence Rules that are not specifically addressed in this Local Court Rule shall be governed by Superintendence Rule 12.

# **DOMESTIC RELATIONS**

## **LOCAL COURT RULES AND FORMS**



## DOMESTIC RELATIONS INDEX

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## **RULE 1. ADMINISTRATION OF DOMESTIC RELATIONS LITIGATION**

**1.04 - Matters Submitted to the Judge and/or Magistrate** - Matters under submission to the Judge or judicial officer will be promptly determined. Short deadlines will be set for party presentation of briefs and affidavits and for production of transcripts. Decisions where possible will be made from the bench or within a few days of submission; except in extraordinarily complicated cases, a decision will be rendered not later than 30 days after submission.

**1.05 - Continuance Policy** - Continuance of a hearing or trial will be granted only by the Judge or Magistrate for good cause. Extension of time for compliance with deadlines not involving a court hearing will be permitted only on a showing to the Court that the extension will not interrupt the scheduled movement of the case.

Requests for continuances and extensions, and their disposition, will be recorded in the file of the case. Where continuances and extensions are requested with excessive frequency or insubstantial grounds, the Court will adopt one or a combination of the following procedures:

1. Cross-referencing all requests for continuances and extensions by the name of the lawyer requesting them.
2. Requiring that requests for continuances and stipulations for extensions be in writing and the litigants be notified.
3. Summoning lawyers who persistently request continuances and extensions to warn them of the possibility of sanctions and to encourage them to make necessary adjustments in management of their practice. Where such measures fail, restrictions may properly be imposed on the number of cases in which the lawyer may participate at any one time.

## **RULE 11. FILING FEES & COSTS**

### **Domestic Relations Actions**

#### **Filing Fee/Deposit**

\$ 350.00	Home Study (Deposit by Moving Party)
\$ 450.00	Divorce
\$ 450.00	Dissolution/Legal Separation
\$ 225.00	Counterclaims and Crossclaims
\$ 275.00	Change of Custody
\$ 275.00	Reopening Closed Cases
\$ 275.00	Contempt in Closed or Reactivated Cases
\$ 10.00	Additional Fee if Personal Service Requested
\$ 50.00	Q.D.R.O. (if filed in a closed case)
\$ 750.00	G.A.L. (per party)

**11.02 - Multiple Parties** - In cases with multiple parties, the Clerk may require the party requesting service to advance an amount estimated by the Clerk to be sufficient to cover the cost thereof.

**11.03 - Poverty Affidavit** - A poverty affidavit filed in lieu of a cash deposit must state the reasons for the inability to prepay costs and is subject to Court review at any stage of the proceedings.

**11.04 - Costs Secured by Security** - This rule shall be subject to the provisions of Sections 2323.30-59 of the Ohio Revised Code.

**11.05 - Court Costs Applied** - Upon final judgment, the Clerk of Courts is directed to apply the deposit for costs to the costs in the case, regardless of the party against whom costs are assessed. Court costs in civil cases shall be assessed equally among the parties unless otherwise ordered by the Court. The Clerk shall thereupon assess the costs against the proper party, and notify and bill such party, reimbursing the Court costs depositor upon receipt of such costs.

**11.06 - Fees for Computer Research and Services** - Pursuant to the authority of R.C. 2303.201(A) it is determined that, for the efficient operation of the Civil, Criminal and Domestic Relations Divisions of this Court, additional funds are required to obtain computerized legal research services.

The Clerk of this Court is directed and hereby authorized to charge and collect an additional fee of six dollars (\$6.00) upon the filing of each cause or appeal under R.C. 2303.20 (A), (Q), and (U).

All funds collected pursuant to this rule shall be paid to the County Treasurer to be maintained by the County Auditor in a separate account for utilization by this Court in procuring and maintaining computerized legal research services.

Pursuant to the authority of R.C. 2303.201 (B) it is determined that, for the efficient operation of the Civil, Criminal and Domestic Relations Divisions of this Court, additional funds are required to computerize the office of the Clerk of Court of Common Pleas.

The Clerk of this Court is directed and hereby authorized to charge an additional fee of twenty dollars (\$20.00) upon the filing of each cause of action, appeal, certificate of judgment, or the docketing and indexing each aid in execution or petition to vacate, revive, or modify a judgment under R.C. 2303.20, (A), (P), (Q), (T), and (U).

The Clerk of this Court is authorized and directed to charge an additional fee of one dollar (\$1.00) for the services described in divisions (B), (C), (D), (F), (H) and (L) of Section 2303.20 of the revised code. *Effective April 1, 2013*

All funds collected pursuant to this rule shall be paid to the County Treasurer to be disbursed, upon an order of the Court of Common Pleas and subject to appropriation by the Board of County Commissioners, in an amount no greater than the actual cost to the Court of procuring and maintaining computer systems for the office of the Clerk of the Court of Common Pleas.

**RULE 14. COMMUNICATIONS WITH JUDGE AND/OR MAGISTRATE**

**14.01 – Ex Parte Communications** - No attorney shall discuss the merits either orally or in writing, of any litigation with the Judge and/or Magistrate presiding over the matter before final disposition thereof without the presence of or by mailing or delivering a copy of any writing to opposing counsel or the party, if not represented.

**14.02 – Attorney Conferences** - If it is determined that an issue in a pending action needs to be discussed with the Judge and/or Magistrate prior to hearing or disposition of the action, the attorney desiring said conference may, with notice to opposing counsel, request a conference with the Judge or Magistrate.

**RULE 15. PLEADINGS**

**15.01 - Filing Requirement and Designation** - All pleadings, motions and memoranda filed or submitted by facsimile with the Court shall have a top margin of at least one and one-half (1½) inches, be typewritten, and contain the following information:

1. Name, address, telephone number and Supreme Court registration number of counsel. If counsel is a firm of attorneys, the attorney having primary responsibility for the case shall be indicated thereon. Counsel shall promptly notify the clerk of Courts of any change in this information.
2. The current address of all parties to the action shall be included on the original pleadings. A post judgment motion for purposes of this rule shall be considered an original pleadings.
3. The name of the Judge to whom the case is assigned.
4. It is requested that each complaint filed contain in the caption thereof a designation of the category of said action, which category shall be one of the following:

**Domestic Relations**

Divorce or Legal Separation with Minor Children.....	DRA
Divorce or Legal Separation without Minor Children.....	DRB
Dissolution with Minor Children.....	DRC
Dissolution without Minor Children.....	DRD
Change of Custody.....	DRE
Visitation Modification/Enforcement.....	DRF
Support Modification/Enforcement.....	DRG
Domestic Violence.....	DRH
U.I.F.S.A.....	DRI
Paternity Actions.....	DRJ
All Others.....	DRK

**15.02 - Social Security Number** - In domestic relations actions with minor children, the last 4 digits of the social security number and date of birth of the parties shall be included in the caption of original pleadings. The last 4 digits of the social security number and date of birth of the minor child (ren) shall appear in the complaint.

**15.03 - New Parties Added** - When a new party plaintiff or defendant is added to a case after the commencement thereof, the caption of the first pleading in which or after which such new party is added shall contain the name of such new party, together with his or its address followed by the specific designation of “new party plaintiff” or “new party defendant” as is applicable.

**15.04 - Amended Pleadings or Motions** - No pleading or motion shall be amended by interlineation or obliteration except upon express leave of the assigned Judge first obtained. Upon the filing of an amended pleading or motion, the original or any prior amendment thereof shall not be withdrawn from the files.

**15.05 - Change of Address** - Counsel shall file with the Clerk of Court’s Office written notice of any change of address.

**15.06 - Copies Required** - All motions, briefs and memoranda, pro and contra, shall be filed in duplicate.

**15.07 - Attorney Signature Requirement** - The name of the attorney preparing judgment entries shall be typed in the lower left-hand corner of the last page of the entry and prefaced by the words “prepared by (attorney’s name)”. The Clerk shall serve a date-stamped copy of the entry on all parties who have appeared unless this requirement is waived in writing.

**15.08 - Judgment Entry Copies with Children** - The original and three copies of Judgment Entries must be provided to the Clerk in all domestic relations cases involving minor child(ren).

**15.09 - Service by Posting in Domestic Relations Cases** - Pursuant to Ohio Rules of Civil Procedure, service by posting in domestic relations cases shall be made by the Clerk who shall post the required notices in the main lobby of the Huron County Courthouse, Norwalk, Ohio, and the main lobby of the Norwalk City Building, Norwalk, Ohio, and the main lobby of the Willard Municipal Building, Willard, Ohio.

## **RULE 16. FACSIMILE FILING**

The provisions of this local rule are adopted under Civ.R. 5(D), Civ.R.73(J) and Crim.R.12(B).

Pleadings and other papers may be filed with the Clerk of Courts by facsimile transmission to 419-663-4048 subject to the following conditions:

**16.01 - Applicability** - These rules apply to civil, criminal, and domestic relations proceedings in the Huron County Common Pleas Court, General Division.



The following documents will not be accepted for fax filing: cognovit promissory notes.

**16.02 - Original Filing** - A document filed by fax shall be accepted as the effective original filing. The person making a fax filing need not file any source document with the Clerk of Court but must, however, maintain in his or her records and have available for production on request by the court the source document filed by fax, with original signatures as otherwise required under the applicable rules, together with the source copy of the facsimile cover sheet used for the subject filing.

The source document filed by fax shall be maintained by the person making the **filing** until the case is closed and all opportunities for post judgment relief are exhausted.

**16.03 - Definitions** - As used in these rules, unless the context requires otherwise:

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

**“Facsimile machine”** means a machine that can send and receive a facsimile transmission.

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

**16.04 - Cover Page** - All fax filings shall be submitted to the Clerk of Courts (419-663-4048) and provide a cover page containing the following information:

1. the name of the court;
2. the title of the case, case number (if known);
3. the title of the document being filed;
4. the date of the transmission;
5. the transmitting fax number;
6. the number of pages including the cover page;
7. the name, address, telephone number of the person filing the fax document;
8. a statement explaining how costs are being submitted.

If a fax is submitted to the Clerk of Court without the information listed above, the Clerk may, at its discretion:

1. enter the document in the Case Docket and file the document; or
2. deposit the document in a file of failed faxed documents with a notation of the reason for the failure; in this instance, the document **shall not** be considered filed with the Clerk of Courts.

The Clerk of Court is not required to send any form of notice to the sending party of a failed fax filing. However, if practicable, the Clerk of Court may inform the sending party of a failed fax filing.

**16.05 - Signature** - Fax filings received by the Clerk of Courts are considered to be an original, signed document and need **not** be followed by an original.

**16.06 - Exhibits** - Each exhibit to a facsimile produced document that cannot be accurately transmitted via facsimile transmission for any reason must be replaced by an insert page describing the exhibit and why it is missing. Unless the court otherwise orders, the missing exhibit shall be filed with the court, as a separate document, not later than five (5) court days following the filing of the facsimile document. Failure to file the missing exhibits as required by this paragraph may result in the court striking the document and/or exhibit.

Any exhibit filed in this manner shall be attached to a cover sheet containing the caption of the case which sets forth the name of the court, title of the case, the case number, name of the judge and the title of the exhibit being filed (e.g., Plaintiff Smith's Notice of Filing Exhibit "G" to Plaintiff Smith's Response to Defendants' Motion to Dismiss), and shall be signed and served in conformance with the rules governing the signing and service of pleadings in this court. [See appendix for Rule 16 for sample exhibit cover sheet.]

**16.07 - Time of Filing** - Subject to the provisions of these rules, all documents sent by fax and accepted by the Clerk shall be considered filed with the Clerk of Courts as of the date and time the fax transmission was received by the Clerk of Court. The office of the Clerk of Court will accept faxed documents 24 hours per day seven days per week including holidays. Each page of any document received by the Clerk will be automatically imprinted with the date and time of receipt. The date and time imprinted on the document will determine the time of filing.

Fax filings may **NOT** be sent directly to the court for filing but may only be transmitted to the Clerk of Courts office.

The Clerk of Court may, but need not, acknowledge receipt of a facsimile transmission.

The risks of transmitting a document by fax to the Clerk of Courts shall be the sole responsibility of the sending party. Anyone using fax filing is urged to verify receipt of such filing by the Clerk of Court.

**16.08 - Fees and Costs**

Documents filed by fax that require a filing fee shall be accepted by the Clerk for filing but the Clerk shall not issue process for such documents until the Clerk has received by mail or hand delivery the filing fee deposit.

No additional fee shall be assessed for fax filings.

**16.09 - Length of Document**

Fax filings shall not exceed 35 pages in length.

The filer shall not transmit service copies by fax.

## **RULE 17. RULE DAY EXTENSIONS**

**17.01** - Refer to Civil Rule 6.

### **17.02 - Leave to Move, Plead or Answer.**

Civil Rule 12, prescribing Rule Day for pleadings, and the time periods designated for answering interrogatories, requests for admissions and requests for production shall be strictly enforced. However, a party may, with leave of court, obtain one or more extensions, not to exceed thirty (30) days each, in which to move, plead or answer. Each motion for an extension shall be in writing and shall state the number of prior extensions granted. As a courtesy to opposing counsel, counsel requesting the rule day extension should orally notify opposing counsel, obtain consent thereto and, if consent is granted, note the same on the motion. Motion for leave will not be granted automatically by accommodation, nor denied automatically because consent of opposing counsel is not obtained. An entry shall accompany each motion. Domestic relations cases are excluded from this rule as it relates to pleading extensions.

## **RULE 19. DISCOVERY**

**19.02 - Civil Rule 33, 34, 36, 37 or 26 c** - In civil cases interrogatories under Civil Rule 33, Requests for Production or Inspection under Civil Rule 34, and Requests for Admissions under Civil Rule 36, shall be served upon other counsel or parties in accordance with such rules, but shall not be filed with the Court. The party responding shall file with the Court a certification that answers to interrogatories have been served on the adverse party. If relief is sought under Civil Rule 26(c) or Civil Rule 37 concerning any interrogatories, requests for production or inspection 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 Civil Rule 26 (c) or Civil Rule 37.

**19.03 - Limit on Interrogatories** - The number of interrogatories served by a party upon another shall not exceed forty (40), including subparts, without first obtaining leave of the Court.

## **RULE 23. CERTIFICATE OF SERVICE**

Proof of service of all pleadings, motion, briefs, memorandum or other writing filed with Court shall be by certificate of service attached to such pleading, motion, brief, memorandum or other writing and shall include the names and addresses of the attorneys and/or parties served, not simply “all parties or counsel of record”.

## **RULE 25. CIVIL MOTIONS AND HEARINGS**

**Informal Conferences** - Parties may request informal conferences with the Judge or Magistrate by calling the Assignment Commissioner to schedule a chamber's conference or telephone conference on short notice to address urgent matters. All parties must be represented.

The moving party should file with the Court an original and one copy of the motion, affidavit, and notice of hearing and all parties should file with the Court an original and one copy of memoranda of authorities in order to provide the Court with a working copy. It is not necessary, but a party is allowed to file an extra copy of affidavits, the relevant portions of depositions, exhibits and other documentation submitted in support or in opposition to a motion.

This rule applies to all civil motions except rule day extensions which are governed by Local Rule 17, motions for continuances which are governed by Local Rule 34 and domestic relations motions which are governed by Local Rule 69. For purposes of scheduling and briefing, there are three classes of motions:

### **25.01 - Non-Oral Hearing Motions.**

**A. Motions for Summary Judgment** - shall be scheduled for a non-oral hearing by the party filing the motion by noting the option on the first non-oral hearing calendar date that is at least 28 days after the date of filing the motion with the Court or the date of service set forth on the certificate of service attached to the motion, whichever is later. Non-oral hearings are scheduled every Thursday at 1:00 p.m. The moving party shall calculate the appropriate time frame and schedule the motion by filing with the Court a Notice of Non-Oral Hearing.

The party filing the motion shall file with it and cause to be served on the opposing party(s) a Notice of Non-Oral Hearing, supporting affidavits, depositions, exhibits and documentation and a memorandum of authorities in support of the motion. Not later than 14 days before the date of the non-oral hearing, the opposing party(s) shall file with the Court and cause to be served upon the moving party opposing affidavits, depositions, exhibits and documentation and a memorandum of authorities opposing the motion. The moving party may file with the Court and cause to be served upon the opposing party(s) a reply memorandum of authorities not later than seven days before the date of the non-oral hearing. All affidavits, depositions, exhibits and documentation must be filed with the court and served on the opposing party(s) so as to be actually received not later than 1:00 p.m. on the day before the non-oral hearing. Motions not supported by a memorandum of authorities may be stricken from the motion hearing calendar.

**B. Other Civil Motions** - shall be scheduled for a non-oral hearing by the party filing the motion by noting the motion on the first non-oral hearing calendar date that is at least 14 days after the actual date of filing the motion with the Court or the date of service set forth on the certificate of service attached to the motion, whichever is later. Non-oral hearings are scheduled every Thursday at 1:00 p.m. The moving party shall calculate the appropriate time frame and schedule the motion by filing with the Court a Notice of Non-Oral Hearing.

The party filing the motion shall file with it and cause to be served on the opposing party(s) a Notice of Non-Oral Hearing, supporting documentation, if any, and a memorandum of authorities in support of the motion. Not later than 7 days before the date of the non-oral hearing, the opposing party(s) shall file with the Court and cause to be served on the moving party opposing documentation, if any, and a memorandum of authorities opposing the motion. The moving party may file with the Court and cause to be served upon the opposing party(s), so as to be actually received not later than 1:00 p.m. on the day before the non-oral hearing, any reply documentation and a reply memorandum of authorities. Motions not supported by a memorandum of authorities may be stricken from the motion hearing calendar.

### **25.02 - Oral Hearing Motions.**

An oral hearing may be requested on any motion by any party moving or opposing the motion. The party requesting the oral hearing should initially contact the Court's Assignment Commissioner to advise of the request. Oral hearings are granted only upon approval of the Judge. If the judge authorizes an oral hearing, the party requesting the oral hearing is responsible for coordinating the scheduling of the oral hearing with the other party(s) and the Court's Assignment Commissioner. The scheduling of the oral hearing shall conform to the scheduling of the non-oral hearing in order to permit the parties to have the same briefing schedule. The oral hearing will not be scheduled earlier than the date and time of the non-oral hearing. The request for the oral hearing must be made at least 7 days before the non-oral hearing date, except in the case of Local Rule 25.01(b) motions. A party will not be permitted to argue at the oral hearing unless he has complied with the briefing schedule for non-oral hearing motions. The Court may, in its discretion, limit the time allowed for oral argument.

The party requesting the oral hearing should first contact the opposing party(s) to advise that an oral hearing will be requested and obtain dates and times when the other party(s) can be available for the oral hearing. The requesting party should then contact the Court's Assignment Commissioner to obtain an oral hearing date and time and thereafter serve notice thereof on the other party(s) and file with the Court a copy of the notice and a certificate of service.

**25.03 - Emergent Matters** - Motions for a temporary restraining order or for other urgent equitable relief shall be heard by the Court at a date and time to be fixed by the Assignment Commissioner upon application of the party seeking the relief. The moving party should contact the Assignment Commissioner to obtain the hearing date and time and thereafter, if possible, notify the opposing party or his counsel in an appropriate manner calculated to give actual, timely notice of the hearing. Such motions will be heard *ex parte* only upon a showing that an extraordinary hardship will result to the moving party by any delay in the proceeding and in appropriate cases a bond will be required. *Ex parte* determinations shall be subject to immediate review in a hearing before the Court upon application of the party against whom the Court's order was enforced. The party seeking such review should contact the Assignment Commissioner to obtain the hearing date and time and thereafter notify the opposing party or his counsel in an appropriate manner calculated to give actual, timely notice of the hearing. Hearings will be non-oral hearings on affidavits, depositions, exhibits and documentation unless an oral hearing is requested and granted or ordered by the Court. Parties should file with the Court and serve on each other a memorandum of authorities supporting their positions, a certification of notice detailing what efforts were made to give the opposing party notice, a proposed judgment entry and in the case of a temporary restraining order and preliminary injunction a proposal for bond.

## **RULE 27. TRANSCRIPTS AND EXHIBITS**

### **TRANSCRIPTS**

**27.01- Payment for Transcripts** - The furnishing of transcripts by the Official Court Reporters and the amount and method of paying the compensation for them shall be fixed by Court order and as provided by O.R.C. Section 2301.21 - 2301.25.

**27.02- Deposit for Transcript and Time Line** - The transcription of proceedings in any case other than indigent criminal cases shall not be begun and transcribed by an official reporter for the Court until there is deposited with her or him a sum equal to the estimated cost thereof as the same shall be estimated by the official reporter. In the event the deposit is not sufficient to cover the entire cost of the transcript, the unpaid balance shall be paid to the official reporter before the transcript is delivered to the party ordering it. In the event the deposit exceeds the costs of the transcript, the unused portion thereof shall be returned by the official reporter to the party ordering and paying for the transcript.

**27.03 -Transcribing Electronic Recording** - In accordance with C.P. Sup. R. 10, in any proceeding recorded by electronic means, the recording shall be the official record and shall be transcribed, if required, by the official reporter or the reporter's designee. Any other reporter's transcript shall not constitute the official record unless so stipulated by counsel and approved the Court or Magistrate upon commencement of the proceedings.

**27.04 - Retention of Transcripts** - Records in the custody of the Clerk of Courts and the shorthand notes of the Official Court Reporters may be destroyed then (10) years after a case is concluded, and after compliance with Section 149.40 of the Ohio Revised Code, except in Murder and Aggravated Murder cases.

### **EXHIBITS**

**27.05 - Regarding Size of Exhibits** - Any exhibit admitted into evidence larger than that which will fit into a letter-sized manilla envelope will have to have a photo substituted in its place for purposes of storage. Original exhibits will be returned for retention to the offering party.

**A. Withdrawn Exhibits** - Exhibits withdrawn during the trial will be returned to the appropriate party at the conclusion of the trial.

**B. Retention/Return of Exhibits Offered** - Exhibits in the custody of the Court Reporter shall be available for return to the offering party after the expiration of the appeal process. If they are not obtained after notification from the Court, the exhibits shall be destroyed, except exhibits in a criminal case, which will be turned over to the Huron County Prosecutor's Office.

## **RULE 28. DISMISSALS**

**28.01 - Dismissal by the Court** - The Court may dismiss, on its own motion, all cases in which:

1. There has been no affirmative action taken for an unreasonable time; or
2. There has been no response to inquiries from the Court or Court Administrator regarding the status of the case.

**28.02 - No Affirmative Action Dismissal** - If no affirmative action is taken in a case (such as request for assignment or request for good cause that the case be allowed to pend) or no response to court inquiries is made, a case may be dismissed after ten (10) days from the date of notice to counsel and/or parties that the Court is considering dismissal of such case. Such dismissals shall be without prejudice with costs to be taxed as the Court deems just.

## **RULE 29. WITHDRAWAL OF COUNSEL**

No attorney shall be allowed to withdraw without substitution of counsel in a pending case without good cause shown and the court granting said motion. Attorneys seeking to withdraw shall submit to the Judge a motion, proposed entry and affidavit setting forth the reason counsel seeks to withdraw and certifying that counsel has informed his client by certified mail of his intent to withdraw and notice to the client of the nature, date and time of the next pending proceeding before the Court, the arrangements by which the client may obtain his papers, items of evidence and file materials from counsel and notice to the client to obtain replacement counsel as soon as possible and to notify the court of the identity of his substitute counsel. There must also be a certificate of service to the opposing counsel.

## **RULE 30. SUBSTITUTION OF COUNSEL**

An attorney may withdraw in a pending case where he files a Notice of Substitution of Counsel identifying the name, Supreme Court registration number, address, and telephone number of the attorney substituting his appearance. The Notice of Substitution of Counsel shall be signed by the withdrawing and substituted counsel and contain a certificate of service to the opposing counsel.

## **RULE 33. CONDUCT OF COUNSEL AT TRIAL**

**33.01- Counsels to Speak on Motions or at Trial** - Except by permission of the Court, only one counsel for each party will be permitted to speak on any interlocutory motion, or upon any question arising during the trial of a cause or a proceeding, and only one counsel for each party will be permitted to examine the same witness in any trial or proceeding before the Court.

**33.02 - Limited Counsel for Arguments/Trial** - In any argument to the Court or jury upon the trial of a cause, only two counsel for each party will be heard unless for special reasons the Court permits otherwise. The Court may limit the time for argument as it may deem reasonable.

**33.03 - Seating at Counsel Table** - Only counsel and parties shall be seated at counsel table except as may be otherwise authorized by the Court.

## **RULE 34. CONTINUANCES**

**34.01 - Continuance Policy** - Continuance of a hearing or trial will be granted only by the Judge for good cause. Extension of time for compliance with deadlines not involving a court hearing will be permitted only on a showing to the Court that the extension will not interrupt the scheduled movement of the case.

Requests for continuances and extensions, and their disposition, will be recorded in the file of the case. Where continuances and extensions are requested with excessive frequency or insubstantial grounds, the Court will adopt one or a combination of the following procedures:

1. Cross-referencing all requests for continuances and extensions by the name of the lawyer requesting them.
2. Requiring that requests for continuances and stipulations for extensions be in writing and the litigants be notified.
3. Summoning lawyers who persistently request continuances and extensions to warn them of the possibility of sanctions and to encourage them to make necessary adjustments in management of their practice. Where such measures fail, restrictions may properly be imposed on the number of cases in which the lawyer may participate at any one time.

**34.02 - Reasons for Continuances** - It is the policy of this Court to determine matters submitted in a timely way. Continuances will be granted only for good cause shown. In interlocutory matters counsel should accommodate each other where the continuances sought will not grant an unfair advantage, will not delay the trial or other matters set for hearing before the Court and counsel proposing the continuance has a reasonable explanation for the need for the continuance. Continuances of trial or matters set for hearing before the Court, which if continued may cause a delay in the trial, will not be granted by the Court by accommodation of counsel but will be granted only for good cause shown.

**34.03 - Continuance Requirements-** Continuances will be granted only by the Judge. All requests for continuances must be by written motion which complies with Civil Rule 7(B). The motion shall state that counsel for the moving party has contacted the other counsel in the case and whether other counsel are willing to accommodate the request for a continuance. The moving party shall certify that a copy of the motion was mailed/delivered to his client. Service of the motion shall comply with Civil Rule 5.

**A. When a continuance for a pretrial is requested, the moving party shall contact the Court's Assignment Commissioner and obtain a date and time for the tentative new pretrial. The new pretrial date shall be cleared with opposing counsel. The Motion and Judgment Entry reflecting the new pretrial date and time shall be filed with the Clerk of Court's office.**



**In the event a continuance is granted, the Court may, in its discretion, assess costs and expenses against the moving party.**

**B. When a continuance for a trial is requested, the moving party shall file the motion for continuance, reflect whether opposing counsel agrees or objects, then file the motion with the Clerk of Court's office. The Court will review the motion and make a determination or possibly set a telephone status conference. No judgment entry is required prior to the Court's review of the motion or the setting of a possible telephone status conference. In the event a continuance is granted, the Court may, in its discretion, assess costs and expenses against the moving party.**

**34.05 - Grounds for Continuance** - Continuance of a cause may be granted on the grounds of inability to procure the testimony of an absent witness when it is made to appear that due diligence was used to procure such testimony. In order to obtain a continuance on these grounds, the party making the application must support the same by affidavit stating therein what he expects to prove by such witness. If the Court finds the testimony set forth to be immaterial or if both parties consent to the reading of the affidavit in evidence, the application will not be sustained and the case will proceed to trial.

**34.06 - Counsel not Available** - When a continuance of a cause is requested on the grounds that an attorney interested in the case is attendance of Continuing Legal Education, proof of such prior commitment shall be attached to the motion for continuance which shall be filed forthwith following notification of the assignment of the case in this Court.

**34.07 - Judgment Entry Requirements** - All motions for a continuance shall be accompanied by a proposed journal entry ordering the reassignment of said case for a date certain. In the event a continuance is granted, the Court may, in its discretion, assess costs and expenses against the moving party.

## **RULE 39. ENTRIES**

**39.01 - Judgment Entry Time Line** - Unless the trial Judge otherwise directs, counsel for the party in whose favor an order, decree, or judgment is rendered, shall within five (5) days thereafter prepare the proper journal entry, and submit it to the counsel for the adverse party, who shall approve or reject the same within three (3) days after the receipt thereof. Name of the counsel and of the Trial Judge shall be typed or printed upon the entry. When the entry is approved by counsel, it shall be so endorsed and presented to the Judge to whom the case is assigned for approval and if signed by him shall then be filed with the Clerk. If counsel are unable to agree upon the entry, it shall be submitted to the Trial Judge, who will direct what entry shall be made.

If counsel fails to present an entry within twenty (20) days after the order is decreed, or judgment is rendered, the Trial Judge may cause the proper entry to be prepared and filed without submission or notice to counsel or take such other action as may be appropriate under the circumstances.

**39.02 - Findings of Fact and Conclusions of Law** - When a party requests the Court to state its findings of fact separately from its conclusions of law under the provision of Civil Rule 52, the party requesting such statement shall, within five (5) days after the receipt of notice of the Court's decision, submit to the Court a statement of proposed findings of fact and conclusions of law and shall serve copies thereof to all opposing parties or their counsel. Within five (5) days after receipt of such proposed statement each opposing party shall submit to the Court a proposed statement of findings of fact and conclusions of law. For want of a strict compliance with this Rule by the party requesting such findings of fact and conclusions of law, unless good cause shown, the Court upon its motion will enter a general finding.

## **RULE 51. AGREEMENTS**

No oral agreement by counsel or with a party or an officer of the Court, will be regarded unless made in open court.

## **RULE 59. COURT MAGISTRATE**

**Function of the Magistrate** - When designated to do so in accordance with Rule 53 of Ohio Rules of Civil Procedure, a Magistrate may conduct hearings, including evidentiary hearings, on the petition, and submit to a Judge of the Court proposed findings of fact and conclusions of law.

**59.01 - Appointment** - Magistrates shall be appointed by the Court and serve as employees of the Court as provided by Civil Rule 53.

**59.02 - Matters Heard** - A Court Magistrate shall hear any trial or hearing which is referred to him by the Judge, on any issue or issues as to which either no jury right attaches, or as to which such jury right has been waived. Trials, including jury trials, or hearings may also be heard by a Court Magistrate as to any issues submitted by consent of the parties. In such cases, the Magistrate shall sit as a Judge for rulings on all matters.

All hearings for divorce, legal separation, post divorce, URESA, garnishment, and judgment debtor examinations shall be before the Magistrate, unless the Judge orders otherwise, at such times and dates as the Assignment Commissioner designates.

**59.03 - Hearing Procedure** - Trial and hearings before the Magistrate will be conducted in accordance with the standards set out in Local Rule 33. A record will be made of all proceedings before a Magistrate.

**59.04 - Magistrate's Orders or Decisions** - The Magistrate will issue his order or decision after the trial or hearing in accordance with Rule 53 of the Ohio Civil Rules, but he/she may require that briefs, proposed findings or other memoranda be submitted by counsel prior to the issuance of his/her decision. No findings of fact and conclusions of law are required after a jury trial before a Magistrate upon stipulation.

**59.05 - Objections to Magistrate's Decision** - A memorandum of authorities shall be filed in support of objections to the Magistrate's Decision at the time of filing the objections unless a transcript of proceedings is necessary for the Court's review of the Magistrate's Decision and has been ordered from the court's reporter.

If a transcript of proceedings has not been ordered and a deposit paid for the transcript, the objections shall be heard without a transcript. Any other party shall have 10 days from the date of filing of the objections to file a responsive memorandum of authorities and to file objections to the Magistrate's Decision with a memorandum of authorities supporting those objections. The original objecting party shall then have 10 days from the date of filing of the opponent's objections to file a responsive memorandum of authorities. All objections shall be heard in a non-oral hearing scheduled by the assignment commissioner for the twenty-first day following the date that the original objections were filed.

If a transcript of proceedings has been ordered and a deposit paid for the transcript, any objecting party's memorandum of authorities in support of that party's objections shall be filed 10 days after the court reporter files the transcript with the clerk of this court, with notice to the parties. Any other party shall have 10 days from the date that the memorandum of authorities in support of the respective objections is filed with the clerk to file a responsive memorandum of authorities. All objections shall be heard in a non-oral hearing scheduled by the assignment commissioner for the twenty-first day following the date that the court reporter filed the transcript with the clerk. Nothing in this rule shall relieve a party from timely filing objections to the Magistrate's Decision as required by Civil Rule 53(D)(3)(a). If the original objecting party has filed objections without ordering a transcript and a subsequent objecting party has filed objections for which a transcript has been ordered, the briefing schedule and assignment for non-oral hearing for all objections shall be in accordance with the schedule for objections for which a transcript has been ordered.

A request for a transcript must be submitted to the court reporter in writing and a deposit for the transcript paid before filing objections for which a transcript of proceedings is required for the court to review the Magistrate's Decision. The objecting party should state on the objections that a transcript of proceedings has been ordered. If no notation that a transcript of proceedings has been ordered is made on the objections, the Court will treat the objections as made without a transcript and will schedule the objections accordingly.

If a party desires an oral hearing on objections to a Magistrate's Decision, the request should be made following the procedure in Local Rule 25.02.

**59.06 - Entries** - Entries or judgments in uncontested cases read into the record before a Magistrate shall be prepared by the prevailing party in accordance with Rule 39.01 of this Court and shall be submitted to opposing counsel and the Magistrate for his approval and endorsement before being submitted to the Court.

## **RULE 68. CIVIL PROTECTION ORDERS**

A Petition for a Civil Protection Order shall be verified and comply with the requirements of Ohio Revised Code 3113.31(C). It shall contain therein the names, dates of birth and last 4 digits of the Social Security Numbers of the Petitioner, Respondent and family or household members for whom protection is sought. Where protection is sought for any minor child, the petition shall be accompanied by a Child Custody Affidavit (Court Form 4).

Petitioners not represented by counsel may obtain appropriate forms from the Clerk of Court. Forms may be filled out in longhand or typed. Pro se Petitions for Civil Protection Orders must be reviewed by an attorney at the office of the Huron County Prosecutor before filing with the Clerk of Court. At all stages of a proceeding for a Civil Protection Order, a Petitioner may be accompanied by a victim advocate from the Huron County Office of Victims Assistance or the Huron County Domestic Violence Program.

The Assignment Commissioner must be contacted to arrange for an *ex parte* hearing. An *ex parte* hearing on a Petition for a Civil Protection Order will be conducted by the Court as soon as it can be reasonably scheduled on the day it is filed with the Clerk of Court. If the Petition is found to be well taken, the Court will issue a Temporary Civil Protection Order. Certified copies of the Order will be given to Petitioner, the Huron County Sheriff for service on Respondent and for retention in the Sheriff's Office and to the appropriate local police agency.

A full hearing on the Petition shall be conducted at 1:00 p.m. on the 7th day after service is obtained on the Respondent. The Court will serve notice of the hearing date and time on Petitioner and Respondent. If Petitioner has requested custody of a minor child/children, child support and/or spousal support, Petitioner and Respondent shall bring to the hearing a completed Affidavit of Income, Expenses and Financial Disclosure (Court Form 2) and Health Insurance Information Worksheet (Court Form 2 Supp.). Based on the information provided by Petitioner and Respondent the Court will prepare a Child Support Computation (Court Form 1). Respondent is to bring to the hearing a completed Child Custody Affidavit (Court Form 4). Copies of the appropriate court forms will be provided to Petitioner at the time of filing the petition and served on Respondent at the time of service of the Temporary Civil Protection Order.

## **RULE 69. DOMESTIC RELATION**

**69.01 - Deposits** - See Rule 11 for Deposit for Costs.

**69.02 - Venue** - No Petition for Dissolution of Marriage will be heard unless venue is proper in Huron County, Ohio, pursuant to the Ohio Civil Rules. If venue is alleged to be proper for any reason other than residency, the Petition should indicate the basis for proper venue and, if applicable, a supporting affidavit should be attached. Upon the Court's own motion, a case may be transferred to a county of proper venue if venue is not proper in Huron County.

**69.03 - Pleadings** - See Rule 15 for Pleadings.

All judgment entries with support orders shall contain the following language:

“Any support arrearage assigned to the State of Ohio is preserved in full and cannot be waived by any party herein.”

**69.04 - Retention of Exhibits** - See Rules 27.04-05 and 31.05 (E) for Exhibits.

**69.05 - Objections to Magistrate’s Decision** - See Rule 59 for Magistrates, Objections to Magistrate’s Decisions, and Motions to Set Aside Magistrate’s Orders

**69.06 - Property Division Guidelines** - The Guidelines for the Division of Property are adopted for general use and application by the Judge and Magistrate of the Court of Common Pleas, Division of Domestic Relations, in all cases involving the division of property; subject, however, to the principles of justice, fairness and equity applicable in each individual case.

**69.07 - Procedures**

**(A). Divorce and Legal Separation** - A divorce case shall be commenced by the filing of the following documents with the Clerk of Courts:

1. Complaint (one copy of cover page for CSEA, if required)
2. Child Custody Affidavit (Court Form 4), if applicable (UCCJEA - R.C. 3127.23)
3. Support Worksheet, if applicable (Court Form 1)
4. Affidavit of Financial Disclosure (Court Form 2)
5. Proposal for Temporary Orders, including support if plaintiff seeks designation of residential parent and legal custodian or visitation if plaintiff does not seek such designation. (Court Form 3)
6. Counsel is to notify the Court in advance if a divorce or legal separation case is proceeding uncontested, which is defined as having a signed separation agreement executed by both parties.
7. Uncontested divorce hearings will be scheduled on the second Thursday of each month beginning at 8:30 a.m. and thereafter at fifteen (15) minute intervals. Counsel must contact the Assignment Commissioner to secure an available time and must prepare and file the appropriate notices. If a Civ. R. 75(L) Notice of Trial is necessary or appropriate, counsel shall file a praecipe to the Clerk to issue same. Upon motion of a party, and, for good cause shown, the Judge or Magistrate may approve an alternate date and time for an uncontested divorce hearing.
8. Final decrees must contain the required information on income and a Support Worksheet attached. All copies must be provided; the Clerk of Court is not responsible for making copies.

The Clerk shall serve the Defendant with a copy of the following:

1. The Summons and Notice for Request of Temporary Orders.
2. Complaint and copies of Plaintiff's Court Forms 1,2,3, & 4.
3. All other documents filed by the Plaintiff.
4. A blank Court Form 1, Court Form 2, and Court Form 6.
5. A notice saying - "Warning, you have 14 days to complete and attach the following forms."

The Defendant shall have fourteen (14) days from the time the above stated papers are served to respond on the question of Temporary Orders. Defendant shall file within fourteen (14) days the following:

1. Support Worksheet, if applicable, if Plaintiff's not correct (Court Form 1).
2. Affidavit of Financial Disclosure (Court Form 2) (one copy of cover for CSEA, if applicable).
3. Defendant's Proposal for Temporary Orders, including support requested if Defendant seeks designation of residential parent and legal custodian and visitation if Defendant does not seek such designation (Court Form 3).
4. Child Custody Affidavit (Court Form 4), if applicable.

After fourteen (14) days from the date of service upon the Defendant, the Court will review all documents filed and issue the appropriate orders. Where the appropriate orders include a support order, the CSEA shall immediately issue an appropriate withholding or deduction notice pursuant to R.C. 3121.03 et seq.

The parties will also be notified when the pretrial and final hearing will be scheduled. There will be a pretrial unless the Judge or Magistrate determines otherwise.

A party may request an oral hearing on the issue of the Temporary Orders. The Orders remain in full force and effect until and unless they are changed. Said Motion must be in writing and accompanied by a memorandum.

The moving party shall obtain a hearing date and time from the Assignment Commissioner and serve notice on the non-moving party. The Clerk shall be provided with a copy of the motion for Court use. The only subject which will be permitted at the hearing shall be evidence regarding the facts that were the basis for the orders.

A pretrial conference will be conducted approximately 60 days after the action is commenced. Counsel shall comply with the requirements of the Pretrial Order (Appendix E).

Pretrials will be conducted as live hearings in the courtroom with clients present. The issues, outlined in the Pretrial Order, will be addressed in the order printed. Attorneys will be expected to have consulted with their clients and opposing counsel before pretrial so that stipulations of resolved issues can be read into the record. Issues that are contested shall be identified and discussed to attempt to resolve areas of conflict before trial. Attorneys should be prepared to briefly outline a legal or factual basis for the position they are taking on contested issues. Attorneys should adequately explain the stipulations and procedure to their clients before the pretrial so clients are prepared to consent to the stipulations in open court under oath.

In situations where one party is unrepresented, the party will be deemed to be representing himself or herself and counsel for the other party shall negotiate with the pro se party to attempt to resolve issues before pretrial. If a party is unwilling to negotiate or uncooperative, counsel should be prepared to explain what efforts have been made to negotiate with the opposing party.

Counsel shall reduce the stipulations to writing to be filed after the pretrial conference. Stipulations shall be signed and filed according to the Local Rule 39.

Sanctions for failure to come to the pretrial prepared are outlined in the Pretrial Notice.

Pleadings for divorce or legal separation actions shall not include tort claims, other civil causes of action or any claim which may be tried to a jury. The Court will dismiss these additional civil claims, if filed, upon a date certain after reasonable notice to the parties and/or their counsel.

**(B). Dissolution** - A dissolution of marriage shall be commenced by the filing of a Petition for Dissolution of Marriage and a Separation Agreement and the following:

1. Child Custody Affidavit, (Court Form 4), if applicable (UCCJEA - R.C.3127.23)
2. Support Worksheet, if applicable (Court Form 1)
3. Affidavit of Financial Disclosure (Court Form 2) (one copy of each cover page for CSEA, if applicable) for each party.
4. Hearings on petitions for dissolutions of marriage will be scheduled on the second Thursday of each month beginning at 8:30 a.m. Upon filing, the Assignment Commissioner shall schedule dissolution hearings on the earliest permissible Thursday at fifteen (15) minute intervals and send Notice of Assignment to the parties and/or their counsel as appropriate. Upon motion of a party, and, for good cause shown, the Judge or Magistrate may approve an alternate date and time for a dissolution hearing.
5. Final decrees must contain the required information on income and a Support Worksheet attached. All copies must be provided; the Clerk of Court is not responsible for making copies.

Nothing in these rules shall prohibit use of approved software forms in lieu of Court forms.

**C. Pretrial Motions** - Pretrial motions shall be scheduled for oral hearing by the moving party requesting assignment of an oral hearing date and time from the assignment commissioner before filing the motion and noting the date and time of the oral hearing on the caption of the pleading. A memorandum of authorities in support of the motion shall be filed with the motion and any memorandum of authorities in opposition to the motion shall be filed by the opponent with the clerk of this court and served on opposing counsel not later than two days prior to the hearing.

All pretrial motions for which there is no request for an oral hearing shall be noted by the moving party for a non-oral hearing and shall be supported and opposed by memoranda of authorities pursuant to Local Rule 25.01 (C). Upon application of any other party or on its own motion, the court may in its discretion set the motion for an oral hearing, in which case the opponent shall file a memorandum of authorities with the clerk and serve a copy on opposing counsel not later than two days prior to the oral hearing.

**(D). Appointment of Guardian ad Litem** - A party seeking the appointment of a guardian ad litem shall file with the court a motion for appointment of a guardian ad litem and schedule the motion for an oral or non-oral hearing as in subsection (J) above. If the court grants the motion, the parties shall each, unless otherwise ordered by the court, deposit with the clerk of court within 14 days of the court's order \$750.00 to be applied to the cost of the guardian ad litem. If the full deposit of \$1,500.00 has not been paid to the Clerk of Courts within the 14 day period, the parties shall be notified that either may effectuate the appointment by paying the balance of the deposit owed by the other party, and the balance shall be charged as a credit to be reimbursed in the final judgment upon the matter. If the \$1,500.00 deposit has not been paid to the Clerk within 30 days of the filing of the judgment entry appointing the guardian ad litem, the defaulting party(s) will be ordered to appear before the Court to determine the reason for which payment of deposit has not been remitted and to issue any further appropriate orders regarding the deposit.

The guardian ad litem shall commence his duties in the case upon the payment of the deposit. Upon application of the guardian ad litem and allowance by the court, the parties shall each, unless otherwise ordered by the court, deposit with the clerk such additional sum as the court shall have ordered within 30 days of receiving notice of the court's order. Fees and expenses incurred by the guardian ad litem shall be taxed as costs and the deposits with the clerk of court therefore shall be refunded or credited to the respective parties upon payment of court costs.

**(E). Support Obligation Notice** - A Support Obligation Notice (Appendix F) shall be attached to all final judgment entries ordering child or spousal support and a copy provided to each of the parties.

**(F). In-camera Interview** - In any domestic relations matter in which the allocation of parental rights and responsibilities is at issue, the Court, upon request of any party, will conduct an in-camera interview of the minor child(ren) who are the subject of the proceeding. If no such request is made, the Court may conduct an in-camera interview upon its own motion.

To minimize the exposure of minor child(ren) to parental conflicts, in-camera interviews will be conducted by the Judge or Magistrate subsequent to the presentation of all other evidence in the matter and on a separate day from that scheduled for hearing on the merits of the complaint or motion.



As a consequence, and unless the minor child(ren) must be present for some other purpose, the Court expects that the child(ren) will not be present in the Courthouse at the time of the contested hearing on the issue of parental rights and responsibilities.

The Court recognizes that there may be extraordinary circumstances which may make desirable or even require that an in-camera interview be conducted on the same day as hearing on the merits of the motion or other pleading. In that event, the party or counsel making the request must file a motion supported by affidavit, with service upon the opposing party or his counsel, at least seven (7) days prior to hearing on the merits.

### **69.08 - Post Decree Motions.**

**A. Motion for Modification of Support** - A motion for modification of child support and/or spousal support which is post decree shall be commenced by the filing of the following:

1. A motion setting forth the relief sought.
2. Memorandum in Support setting forth:
  - (a) Date and amount of current support order and number of children subject to current order.
  - (b) Statement of income on which current order is based.
  - (c) Number of children subject to proposed support order.
  - (d) Statement as to current arrearages and current makeup orders, if any.
  - (e) The facts and law upon which the claim is made that a change of circumstances exists and would vary the current order by 10% or more.
3. Current Court Form 1, Child Support Computation Worksheet.
4. Current Court Form 2, Affidavit of Income, Expenses and Financial Disclosure completed with the information for the party submitting it.
5. Current Court Form 2, Supp., Health Insurance Information Worksheet.
6. Notice of Oral Hearing - The date and time of the hearing should be obtained in advance by the moving party from the Court's Assignment Commissioner with a date set no less than 24 days from the date of filing the motion with the Court.

Copies of the motion, memorandum, accompanying forms and notice of hearing shall be provided to the Clerk for service on the opposing party.

Within 14 days of service of the motion for modification the non-moving party shall file responsive pleadings which shall include the information required in subparagraphs 2-5 above.

A motion for modification of child support and/or spousal support will not be considered by the Court without the supporting memorandum and accompanying forms.

**B. Motion for Contempt** - A motion for contempt shall be commenced by the moving party filing the following:

1. Motion
2. Memorandum in Support
3. Supporting Affidavits, if applicable
4. Contempt Order to Appear

The moving party shall also secure a hearing date from the Court before filing the motion with the Clerk and cause notice to be served upon the non-moving party in conformity with law.

**C. Motion for Reallocation of Parental Rights and Responsibilities (Change of Custody)** - A motion of change of custody shall be commenced by the filing of the original and three (3) copies of the motion setting forth the relief sought, and two (2) copies of the following:

1. UCCJEA Affidavit (Court Form 4), per R.C. 3127.23.
2. Affidavits in support of the motion showing the change in circumstances and the best interest of the child.
3. Memorandum in support setting forth:
  - (a) Date and amount of current support order and number of children subject to current order;
  - (b) Statement of income on which current order is based;
  - (c) Number of children subject to proposed support order;
  - (d) Statement as to current arrearages and current makeup orders, if any.
4. Current Court Form 1, Child Support Computation Worksheet.
5. Current Court Form 2, Affidavit of Income, Expenses and Financial Disclosure completed with the information for the party submitting it.
6. Current Court Form 2 Supp., Health Insurance Information Worksheet.
7. A Notice of Hearing - The moving party shall secure a hearing date from the Court before filing the motion with the clerk and cause notice to be served upon the non-moving party in conformity with law. Agreed change of residential parent and legal custodian may be before

a Judge or Magistrate. Contested issues of designation of residential parent and legal custodian and contested visitation hearings will be heard by a Magistrate. Unless the parties have signed a proposed agreed entry prior to filing of the motion, the motion will be scheduled for a pretrial hearing.

**D. Interest on Support Arrearage** - When a party requests interest on support arrearages, all interest shall be calculated as simple interest from the date of Judgment.

The party requesting interest shall attach to the motion a statement of CSEA records reflecting arrearages to date of motion.

The moving party shall also provide a praecipe to the Clerk for service as follows:

1. Certified Mail service; and
2. An additional praecipe pursuant to Civil Rule 4.6 for service in the event service fails.

**69.09 - Family files.**

A. Documents filed in any domestic relations case containing sensitive personal information shall be kept in a “family file,” separate from the public case file otherwise maintained by the Clerk of Courts. The family file shall be maintained by the Clerk of Courts in such manner and in such location as the Clerk deems appropriate.

B. The family file shall contain items as follows:

1. Affidavits of indigency, financial records and financial disclosure statements regarding property, debt, taxes, income and expenses, including collateral source documents attached to or filed with records and statement, including, but not limited to, income tax returns;
2. Health care documents, including, but not limited to, physical health reports, psychological assessments and any other mental health or counseling documents;
3. Drug and alcohol assessments, screens and reports;
4. Guardian *ad litem* reports, including collateral source documents attached to or filed with the reports;
5. Home studies, including collateral source documents attached to or filed with the studies;
6. Child custody evaluations, including collateral source documents attached to or filed with the evaluations;
7. Domestic violence reports and screens, including, but not limited to, risk assessments;

8. Supervised parenting time/companionship/visitation records and reports, including, but not limited to, exchange records and reports;
9. Genetic testing relationship reports;
10. Asset appraisals/valuations;
11. Other items as directed by the Court.

C. Upon motion of any party or upon the Court's own motion, and, for good cause shown, other documents containing sensitive personal information may be ordered to be maintained in the family file. If there are documents which are to be filed in the public case file containing social security numbers or any other individual personal identifiers, the same shall be redacted by the filing party on those documents in the public case file.

D. The public case file shall contain, in place of the document contained in the family file, a Notice of Filing signed by the Clerk or designee reflecting the filing of the document maintained in the family file and the date thereof.

E. Contents of the family file may be inspected by the parties, an attorney for the parties or a Guardian *ad litem* upon request filed with the Clerk. A prescribed form will be made available for that purpose.

F. Inspection of family files may be permitted by others upon motion to the Court and for good cause shown. A prescribed form will be made available for that purpose. Authorized viewers may take notes while reviewing confidential reports and documents, but they are strictly prohibited from copying those documents, distributing them or showing them to unauthorized individuals, or from removing them from the Courthouse. Upon completing a review of the family file, these documents are to be returned immediately to the Court or to the designated Deputy Clerk.

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

#### **69.10 - Attorney Fees.**

- A. Orders for attorney fees payable at the time a case is filed will not be granted.
- B. Attorney fees in contempt actions.

As provided by statute, the Court has established a uniform award of attorney's fees in the amount of \$500.00 to the obligee when the obligor is found in contempt. The amount is considered a moderate average fee for filing and preparation of a motion for contempt. At the hearing, moving counsel should elicit a brief response from movant that he/she hired counsel and incurred attorney's fees as a result.

When moving counsel requests fees in excess of \$500.00, movant's counsel must present the Court with a statement of the anticipated fee and introduce evidence in support of the award as required by law.

**69.11 - Filing of Required Documents** - All required documents must be filed with the complaint and/or counterclaim and/or motion. Failure to do so is grounds for dismissal.

Incomplete papers will be returned by the Assignment Commissioner.

**69.12 - Current Addresses** - Since all spousal support and child support payments are to be paid through the Huron County Child Support Enforcement Agency, counsel is to instruct their clients that it is very important for them to furnish the Huron County Child Support Enforcement Agency of a current address.

**69.13 - Dismissal of Cases for Want of Prosecution** - If a defendant has not been served with complaint and summons in an original action or if an opposing party has not been served properly with a post-decree motion within sixty (60) days of the filing thereof, notice will be sent to the filing attorney or party that the case may be dismissed on a date certain unless service has been completed by that date or other good cause has been shown why the matter should not be dismissed.

**69.14 - Sanctions** - The presentation to the Court of unnecessary motions and unwarranted opposition of motions, which in either case unduly delays the course of an action through the Court, may subject the offender to appropriate discipline including the imposition of costs and attorney's fees.

**69.15 - Continuances** - See Rule 34.07 for Continuances.

**69.16 - Medical Reports and Evidence in Domestic Relations Cases** - In any type of domestic hearing concerning the reasonableness or the necessity of the work to be done, a medical report duly signed by the physician or other supplier of medical related services shall be sufficient and be admitted into evidence at said hearing if properly served on the opposing counsel within seven days before trial.

Said medical suppliers are not limited to but shall include physicians, surgeons, optometrists, dentists, or any other medical specialty.

**69.17 - Standard Health Care Orders and Payment of Extraordinary Medical Expenses for Minor Children.**

The Court has adopted a standard health care order and a schedule for payment of medical expenses for minor children, which is designated as Appendix "A". The Court will use this order and schedule unless the best interest of the minor children and/or the evidence dictates otherwise.

**69.18 - Visitation** - The Court has adopted schedules for parenting time (Visitation and Companionship), Appendix B, and Long Distance Visitation and Companionship, Appendix C. The

Court will use these schedules unless the best interest of the children and/or the evidence dictates otherwise. For children of tender years, generally under two years of age, the court will modify the standard visitation to make visitation appropriate for the specific circumstances. Parties should submit to the court in their application for temporary orders a proposed visitation schedule with justification for the deviation from the standard visitation. Parties should address any need to deviate from the standard visitation schedules at the pretrial conference and final hearing.

**69.19 - Genetic Testing** - A party requesting genetic testing regarding paternity in a non-UIFSA action shall do so by written motion with supporting affidavit at least seven (7) days prior to pretrial or forty-five (45) days prior to trial or hearing on the merits, whichever shall first occur. In certain limited circumstances, the costs of the genetic testing may be prepaid by the Huron County Child Support Enforcement Agency (CSEA). If Huron County CSEA will not be responsible for prepayment of costs, the Court may require the moving party to deposit with the Clerk of Courts sufficient security for the costs of obtaining such testing at the time of ordering said testing. If the testing will not be performed through the Huron County CSEA, the Court may require the moving party to propose qualified examiners to conduct the genetic testing.

The Huron County CSEA, the approved qualified examiner, or the party receiving the test results shall forward a copy of the genetic testing relationship report to the Clerk of Courts, who shall file the report under seal and note the filing thereof on the docket. The Clerk shall provide notification of the filing to the Court, which will take further appropriate action. The moving party may be responsible for certifying service of a copy of the relationship report prior to its admission into evidence in accordance with law. The Court reserves the right to assess and/or to apportion the costs of the genetic testing between or among parties at the conclusion of the proceedings.

**69.20 - Home Study and Psychological Evaluation Procedures.** A party requesting a home study or psychological evaluation shall do so by written motion with supporting affidavit and shall schedule the motion for oral or non-oral hearing in accordance with these rules. A motion for home study shall be submitted with a deposit to the Clerk of Courts in accordance with the fee schedule for costs. Deposits for psychological evaluations shall be determined upon any order issued granting same in consultation with the service provider.

The persons or entity appointed to conduct the home study or psychological evaluation shall forward a copy of any report to the Clerk of Courts, who shall file the report under seal and note the filing thereof on the docket. The Clerk shall provide notification of the filing to the Court, which will take further appropriate action. The Court reserves the right to assess and/or to apportion the costs of the home study or psychological evaluation between or among parties at the conclusion of the proceedings.

**69.21 - Dismissals** - The Court may dismiss, on its own motion, all cases in which:

1. There has been no affirmative action taken for an unreasonable time;
2. There has been no response to inquiries from the Court or Assignment Commissioner regarding the status of the case; or

3. The Court is advised by counsel or the parties that the parties to domestic relations cases have reconciled since the case was filed.
4. If no affirmative action is taken (such as request for assignment or request for good cause that the case be allowed to pend), such cases may be dismissed after ten (10) days from the date of notice to counsel and/or parties that the Court is considering dismissal of such case. Such dismissals shall be without prejudice, without record, and costs to be taxed as the Court seems just.

#### **69.22 - Court Sponsored Parenting Class -**

**A. - C.O.P.E. -** In all divorce, dissolutions or legal separation actions, in which the parties have children under 18 years of age, except when otherwise ordered by the Court, parents shall be required to attend a parenting class designed to increase their awareness of the impact of their separation and the legal proceedings on their children. Attendance at such class may also be required on a case-by-case basis in post-decree motions for change in custody or visitation enforcement. This class is to be completed within forty-five (45) days after the filing of the Temporary Orders.

Unless the parties have been excused by the Court from attending the parenting class, a final Judgment Entry of divorce, dissolutions or legal separation shall not be granted until a Certificate of Attendance at such class has been filed with the Clerk of Courts. The non-attendance of a parent who does not enter an appearance or contest the action or who fails to timely comply shall not delay the filing of the final entry; however, the Court may require attendance by such parent before allowing any visitation privileges; and the non-attending parent may also be cited for contempt. For good cause shown, the Court may waive such seminar attendance.

A fee of \$30.00 shall be paid to the instructor by each of the parties at the time they attend the class.

An informational sheet has been prepared by the Court. Counsel shall provide a copy of the informational sheet to their client and encourage the client to enroll in such class as soon as possible. Copies of the informational sheet may be obtained from the Court and counsel should provide a copy of such information to each client who has a child under the age of eighteen and who is seeking a divorce, dissolution or legal separation. Parties are encouraged to attend the class before filing for divorce and credit will be given for such attendance. The information can also be obtained at [www.huroncountycommonpleas.org](http://www.huroncountycommonpleas.org)

Attendance at the parenting class should be at the C.O.P.E. class in either Huron or Sandusky Counties. The Court will also give credit to any other parenting class attended by the parties, provided the parties have received prior approval from the Court to attend such in lieu of attending a C.O.P.E. class.

**B. - K.I.D.D.S -** In all divorce, dissolutions, or legal separation actions, in which the parties have children ages five (5) to seventeen (17) years, except when otherwise ordered by the Court, the children shall be required to attend a class to assist them in dealing with the stress typically associated

with these legal proceedings and family lifestyle transitions. Attendance at such class may also be required on a case-by-case basis in post decree motions for modifications of custody or companionship. This class is to be completed within forty-five (45) days after the filing of temporary orders.

Unless the parties' children have been excused by the Court from attending the K.I.D.D.S. (Kids' Information in Dealing with Divorce Stress) Class, a final judgment entry granting a divorce, dissolution or legal separation shall not be granted until a certificate of attendance for each child has been filed with the Clerk of Courts. For good cause shown, the Court may waive attendance.

A fee of \$20.00 per child shall be paid to the instructor by the residential parent at the time of attendance at the class.

An informational sheet has been prepared by the Court. Counsel shall provide a copy of the informational sheet to their clients and encourage them to enroll the children in the class as soon as possible. Copies of the informational sheet may be obtained from the Court, and counsel should provide a copy of such information to each client who has children between the ages of five (5) and seventeen (17) years inclusive and who is seeking a divorce, dissolution or legal separation. The information can also be obtained at [www.huroncountycommonpleas.org](http://www.huroncountycommonpleas.org)

Attendance at the K.I.D.D.S. class shall be in Huron County. There shall be two (2) different sessions offered; one for children ages five (5) through eleven (11) years, and one for adolescents ages twelve (12) through seventeen (17) years. The Court may also give credit for such other comparable children's classes attended in other jurisdictions, provided that prior approval has been obtained from the Court.

**69.23 - Motions for Emergent Matters.** - Motions for emergent matters shall be filed and heard in the manner prescribed in Local Rule 25.03.

**69.25 - CSEA Payment Records in Domestic Relations Cases** - In any domestic relations hearing in which the amount of support arrears is a relevant issue, a payment history certified by the Huron County Child Support Enforcement Agency (CSEA) shall be sufficient and be admitted into evidence at said hearing without foundation and testimony by a CSEA records-keeper if properly served upon opposing counsel (or opposing party, if unrepresented) at least seven (7) days prior to hearing.

**69.26 - Qualified Domestic Relations Orders and Other Orders Apportioning Pension/Retirement Benefits in Divorce/Dissolution Cases** - Unless otherwise agreed, counsel for the alternate payee entitled to receive a portion of a spouse's pension/retirement benefits as a result of a divorce or dissolution of marriage shall prepare the appropriate Qualified Domestic Relations Order (QDRO) or other entry apportioning the pension/retirement benefits in accordance with a final decree for submission to the Court. Whenever the parties have agreed to a division of a pension or retirement benefits by QDRO or other appropriate entry, the parties or their counsel shall sign and approve the QDRO or other appropriate entry submitted to the Court and shall sign and approve any subsequent (QDRO) or other appropriate entry submitted to the Court, unless this requirement specifically has been waived by the



Court. The QDRO or other entry apportioning pension/retirement benefits shall be prepared and submitted to the Court as soon as possible subsequent to entry of the final decree.

In the event that the Court has ordered a division of a pension/retirement benefits without agreement of the parties, the Court may assign the responsibility to the parties/counsel of preparation and submission of a QDRO or other appropriate entry apportioning the benefits.

In all cases in which a QDRO or other entry apportioning pension/retirement benefits is to be issued, the final judgment entry granting the divorce or dissolution of marriage shall contain the following language:

1. "The Court shall retain jurisdiction with respect to the Qualified Domestic Relations Order or other entry apportioning pension/retirement benefits to the extent required to maintain its qualified status and the original intent of the parties. The court further retains jurisdiction to entry further orders as are necessary to enforce the assignment of benefits to the non-participant spouse as set forth herein, including the re-characterization thereof as a division of benefits under another plan as applicable, or to make an award of spousal support, if applicable, in the event that the participant fails to comply with the provisions of this order.
2. "The participant shall not take any actions, affirmative or otherwise, that may circumvent the terms and provisions of the Qualified domestic Relations Order or other entry apportioning pension/retirement benefits that may diminish or extinguish the rights and the entitlements of the participant."

#### **69.27 - Mediation in Domestic Relations Cases -**

**A. General provisions** - Parties to divorce cases and post-decree motions in which the allocation or modification of parental rights and responsibilities or of parenting time (i.e., custody and/or visitation) is at issue may be referred by the Judge or Magistrate to participate in a mediation session. At his/her discretion, the Judge or Magistrate may refer other cases involving disputed issues to mediation. Cases shall not be referred to mediation for the following purposes:

1. The prosecution or adjudication of domestic violence;
2. The determination of granting, modifying or terminating a protection order;
3. The determination of the terms and conditions of a protection order; and
4. The determination of the penalty for violation of a protection order.

Mediation will be scheduled typically at the initial pretrial hearing on the pending matter, subject to the availability of the mediator. Attendance by counsel at a mediation session is optional. If counsel for a party elects not to attend the mediation session or a party is not represented by counsel, a party may designate an alternate person to accompany her/him to the mediation session. The identity of the alternate person must be disclosed at the pretrial hearing. If referral to mediation is deemed appropriate,

the Judge or Magistrate shall issue an order of referral setting forth the time and place of the mediation session. The parties shall be advised that failure to attend a mediation session may result in a finding of contempt.

Parties unrepresented by counsel shall be advised of their right to counsel. The parties or their counsel shall advise the Judge or Magistrate whether he or she alleges to be a victim of domestic violence from the adverse party. In the event of such allegations, the Judge or Magistrate shall make the party aware of the existence of any known support services, such as the Huron County Victims' Assistance Program, and proceed in accordance with division (B) of this rule.

At the conclusion of the mediation session, the mediator shall issue a written report. Copies of the report shall be provided to the parties or their counsel, as appropriate.

Statements made during a mediation conference are subject to and governed by R.C. 2710.01 ("Uniform Mediation Act"), R.C. 3109.052 and Evid. R. 408.

**B. Provisions for cases involving allegations of domestic violence** - In cases in which violence or fear of violence is alleged, suspected, or present, the Judge or Magistrate will allow mediation to proceed pursuant to this rule if all of the following are satisfied:

1. 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 option to have a support person present at mediation sessions;
2. The Judge or Magistrate has determined that the parties have the capacity to mediate without fear of coercion or control;
3. The mediation session can be scheduled to take place in the Huron County Courthouse during normal business hours;
4. The parties are informed that the mediator shall terminate the mediation session if he or she believes there is continued threat of domestic violence or coercion between the parties.

The Judge or Magistrate shall issue written findings of fact, as required by R.C. 3109.052, when referring cases involving domestic violence to mediation pursuant to this rule.

**C. Qualification and training of mediator** - A mediator employed by the Court or to whom the Court makes referrals for mediation of issues of the allocation of parental rights and responsibilities shall satisfy all of the following:

1. Possess a bachelor's degree, or equivalent education experience as is satisfactory to the division, 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;

2. Complete at least twelve hours of basic mediation training or equivalent experience as a mediator that is satisfactory to the Court.
3. After completing the training required by division (C)(2) of this rule, complete at least forty hours of specialized family or divorce mediation training that is provided by a training program approved by the Dispute Resolution Section in accordance with standards established by the Supreme Court Advisory Committee on Dispute Resolution.

### **RULE 70 - BANKRUPTCY FILINGS BY PARTIES**

In the event any party to a proceeding in this Court files bankruptcy proceedings in the Federal Court which causes an automatic stay of the proceedings in this Court, the party filing the bankruptcy shall cause notice of that bankruptcy, including the case number and date of filing, to be submitted to this Court at the earliest possible time, but not to exceed seven (7) days after the date of filing. See, Appendix "G". The notice shall include an estimate as to the time for resolution of the bankruptcy or relief from stay required before the case can continue in this Court. The Judgment Entry shall also include a requirement that the party filing bankruptcy shall notify this Court of any relief from stay within seven (7) days of the date the relief from stay is granted.

Any party to a proceeding who obtains notice of filing of bankruptcy by another party to the same proceeding may file the Notice and Judgment Entry required by this provision upon receipt of notice.