

FILED

2013 DE -2 AM 9:57

CLERK
COMMON PLEAS COURT
GREENE COUNTY OHIO

LOCAL RULES OF PRACTICE AND PROCEDURE

Greene County Common Pleas Court
General Division

May 28, 2002
Amendment No. 1, May 15, 2006
Amendment No. 2, December 2, 2013

FOREWORD

We the Judges of the Common Pleas Court of Greene County, Ohio, General Division, offer this Revised Edition of the Rules of Court, including Amendment No. 2, to help make the judicial system better for all the people we serve.

Michael A. Buckwalter
Judge, Court of Common Pleas
General Division
Greene County, Ohio

Stephen A. Wolaver
Judge, Court of Common Pleas
General Division
Greene County, Ohio

TABLE OF CONTENTS

GENERAL RULES

RULE 1.01	RULES OF CONSTRUCTION	8
RULE 1.02	STATEMENT ON PROFESSIONALISM.....	9
RULE 1.03	PROCEDURE FOR ADOPTING, MODIFYING, AND REPEALING LOCAL RULES.....	9
RULE 1.05	TERMS AND SESSIONS OF THE COURT.....	11
RULE 1.09	DIVISIONS OF THE COURT	12
RULE 1.11	COURT ADMINISTRATOR.....	12
RULE 1.13	FILING AND REMOVAL OF PAPERS FROM CUSTODY OF CLERK.....	12
RULE 1.15	THE APPEARANCE DOCKET	15
RULE 1.17	THE ASSIGNMENT AND CASEFLOW MANAGEMENT SYSTEM	16
RULE 1.19	BAIL OR SURETY	20
RULE 1.21	JURY MANAGEMENT PLAN	20
RULE 1.23	MEDIA RECORDINGS OF COURT PROCEEDINGS.....	27

RULE 1.25	VIDEOTAPED TESTIMONY	32
RULE 1.27	DISCLOSURE OF TRANSCRIPTS OF TESTIMONY	33
RULE 1.29	ATTORNEYS.....	34
RULE 1.31	NOTARIES PUBLIC.....	35

CIVIL RULES OF PRACTICE AND PROCEDURE

RULE 2.01	CIVIL CASE MANAGEMENT PLAN	36
RULE 2.03	DEPOSITS FOR COST	41
RULE 2.04	FILING BY FACSIMILE TRANSMISSION	43
RULE 2.05	PLEADINGS AND MOTIONS	43
RULE 2.07	PRETRIAL PROCEDURES IN CIVIL CASES	47
RULE 2.09	DISCOVERY	50
RULE 2.11	LIMITATIONS ON INTERROGATORIES AND REQUESTS FOR ADMISSIONS	52
RULE 2.13	PAYMENT OF WITNESS FEES	52
RULE 2.14	CONSOLIDATION OF CASES	53

RULE 2.15	DISMISSAL OF ACTIONS	53
RULE 2.17	JUDGMENT (Repealed effective December 2, 2013)	53
RULE 2.19	EX PARTE ORDERS (Repealed effective December 2, 2013)	54
RULE 2.21	CANCELLATIONS AND RELEASES (Repealed effective December 2, 2013)	54
RULE 2.23	JUDICIAL SALE OF REAL ESTATE	54
RULE 2.25	CONFIRMATION OF PUBLIC SALES OF REAL ESTATE	63
RULE 2.27	ATTORNEYS' FEES IN MECHANIC'S LIEN CASES (Repealed effective December 2, 2013)	63
RULE 2.29	RECEIVERSHIPS	63
RULE 2.30	FEES-PARTITION CASES (Repealed effective December 2, 2013)	69
RULE 2.31	PROCEEDINGS IN AID OF EXECUTION- GARNISHMENTS (Repealed effective December 2, 2013)	69
RULE 2.32	MAGISTRATES.....	70
RULE 2.34	OHIO NON-CONFORMING AUTO VEHICLE ARBITRATION (Repealed effective December 2, 2013)	70
RULE 2.35	COURT-ORDERED ARBITRATION (Repealed effective December 2, 2013)	70

RULE 2.36	CIVIL MEDIATION PROGRAM.....	70
RULE 2.37	APPEAL FROM ADMINISTRATIVE AGENCIES (Repealed effective December 2, 2013)	73
RULE 2.41	RECORD RETENTION AND DESTRUCTION (Repealed effective December 2, 2013).....	73
<u>CRIMINAL RULES OF PRACTICE AND PROCEDURE</u>		
RULE 3.01	PURPOSE	73
RULE 3.02	MAGISTRATES.....	74
RULE 3.03	ARRAIGNMENT	74
RULE 3.05	MOTION PRACTICE	74
RULE 3.07	PRETRIAL AND FINAL PRETRIAL CONFERENCE	75
RULE 3.09	CONTINUANCE OF A CRIMINAL PROCEEDING	76
RULE 3.11	COURT TRIAL POLICY.....	76
RULE 3.13	GRAND JURY	77
RULE 3.15	COURT APPOINTMENT OF COUNSEL	77

RULE 3.17	ASSIGNED COUNSEL FEES	77
RULE 3.19	PROBATION DEPARTMENT SUPERIVISION FEE	78
RULE 4.01	COURT-INITIATED PROGRAMS FOR THE SUPERVISION AND TREATMENT OF CONVICTED FELONY OFFENDERS	79
RULE 4.02	THE GREENE COUNTY JUDICIAL-INITIATED TREATMENT PROGRAM.....	79
RULE 4.03	THE GREENE COUNTY INTENSIVE SUPERVISION PROBATION PROGRAM.....	81

GENERAL RULES

RULE 1.01

RULES OF CONSTRUCTION

I. FOREWORD

The General Division of the Common Pleas Court of Greene County, Ohio adopts the following rules for the conduct, government and management of business operations, court proceedings, and other functions and services of the Court. These rules govern the procedure in the Greene County Common Pleas Court, General Division, and supersede all previous rules promulgated by the General Division. These rules do not govern the procedure in the Probate, Juvenile, and Domestic Relations Divisions.

II. SCOPE

These rules shall supplement and complement the Ohio Rules of Civil Procedure, the Ohio Rules of Criminal Procedure, the Rules of Superintendence for the Courts of Ohio, the Ohio Revised Code and any other applicable authority.

III. CONSTRUCTION

- A. These rules shall be interpreted and applied so as to avoid inconsistency with other governing authority. Any conflict between these rules and the Ohio Rules will be resolved by application of the Ohio Rules.
- B. These rules shall be construed and applied to provide fairness and simplicity in procedure and to secure the just, expeditious and economical determination of all cases.
- C. Nothing in these rules prevents the adoption of a rule of practice that promotes the use of any device or procedure to facilitate the expeditious disposition of cases.

IV. EFFECTIVE DATE

These rules took effect on May 28, 2002. They have governed all proceedings in actions brought on or after May 28, 2002, and all future proceedings in actions then pending, except to the extent that, in the opinion of the Court, their application in a particular action pending on May 28, 2002, would not be feasible or would work an injustice, in which event the former procedure has applied.

V. AMENDMENT

These rules may be amended and/or supplemented as needed and required by law. All amendments and rules shall be adopted as provided by Rule 1.03 of these rules and shall govern all proceedings in actions brought after they take effect and also all further proceedings in actions then pending, except to the extent that their application in a particular action pending when the amendments take effect would not be feasible or would work an injustice, in which event the former procedure applies. The effective date of Amendment No. 1 to these rules was May 15, 2006, and the effective date of Amendment No. 2 shall be December 2, 2013.

VI. TITLE

These rules shall be known as the Local Rules of Practice and Procedure for the General Division of the Greene County Common Pleas Court and may be cited as “Gr. Co. C.P.R. _____”.

RULE 1.02

STATEMENT ON PROFESSIONALISM

As professionals we need to strive to meet lofty goals and ideals in order to achieve the highest standards of a learned profession. To this end, the Supreme Court has issued *A Lawyer’s Creed* and *A Lawyer’s Aspirational Ideals*, which can be found in the Supreme Court Rules for the Government of the Bar of Ohio, Appendix V. It is this Court’s hope and expectation that *A Lawyer’s Creed* and *A Lawyer’s Aspirational Ideals* will be utilized by those practicing in this jurisdiction.

RULE 1.03

PROCEDURE FOR ADOPTING, MODIFYING, AND REPEALING LOCAL RULES

Every local rule adopted pursuant to Rule 5 of the Rules of Superintendence for the Courts of Ohio shall be adopted, modified, or repealed by the following procedure:

I. PRESENTATION

Every proposed rule, proposed modification of an existing rule, or proposal to repeal an existing rule shall be presented to the Court by either a judge of the General Division or by any individual who sends a proposed rule, proposed modification of an existing rule, or proposal to repeal an existing rule to any judge of the General Division.

II. INTRODUCTION AND CONSIDERATION

- A. Every proposed rule, proposed modification of an existing rule, or proposal to repeal an existing rule shall be introduced to and considered by the judges of the General Division at their regular monthly meeting.
- B. Every proposal introduced shall be considered at the regular monthly meeting of the judges of the Court. During such meeting, the judges may:
 - 1. Reject the proposed rule, proposed modification of an existing rule, or proposal to repeal an existing rule; or
 - 2. Approve and/or amend the proposed rule, proposed modification of an existing rule, or proposal to repeal an existing rule, so long as the resulting rule adoption, modification, or repeal is not inconsistent with the rules promulgated by the Supreme Court.
- C. The consensus of all elected and appointed judges of the General Division shall be required to adopt a proposed rule, modify an existing rule, or repeal an existing rule as provided herein.

III. PUBLICATION

All proposed rules, proposed modifications of existing rules, or proposals to repeal existing rules that have been presented, introduced, considered and approved in accordance with this rule shall be placed in the law library for sixty (60) days. A notice of such placement will be communicated to each member in good standing of the Greene County Bar Association. During this sixty (60) day period, members of the local bar may respond to the proposed rule, proposed modification of an existing rule, or proposal to repeal an existing rule by submitting comments to the Greene County Bar Association. The Bar Association will collect the comments and submit them to the Court.

IV. ADOPTION OR REPUBLICATION

- A. Every proposed rule, proposed modification of an existing rule, and proposal to repeal an existing rule that has been presented, introduced, considered, approved and submitted to the Greene County Bar Association by notice and placement in the law library shall take effect after the sixty (60) day comment period:
 - 1. If members of the local bar fail to comment on the rule; or
 - 2. If the comments submitted by members of the local bar during the sixty

(60) day comment period were given reasonable consideration by the judges of the General Division at their regular monthly meeting and such judges decide, at the end of the sixty (60) day period, to leave the proposed rule unamended.

- B. If the judges of the Court at their regular monthly meeting amend the proposed rule or proposed modification of an existing rule in response to comments submitted, the proposed rule or proposed modification of an existing rule will be placed in the law library for an additional thirty (30) days. A notice of such placement shall be communicated to each member of the Greene County Bar Association. After this thirty (30) day notice period, the proposed rule or modification shall take effect.
- C. If the judges of the Court at their regular monthly meeting reject the proposal to repeal the existing rule, or reject the proposal to repeal and amend the existing rule in response to comments submitted by members of the Greene County Bar Association, a notice of such shall be placed in the law library and communicated to each member of the Greene County Bar Association.
 - 1. Every proposal to repeal an existing rule that has been presented, introduced, considered, placed in the law library, overruled, and again placed in the law library shall not be adopted and shall not take effect.
 - 2. Every existing rule that has been amended in response to a proposal to repeal such rule, and in response to comments submitted by the members of the local bar, shall be adopted and shall take effect as provided by this rule.

V. FILING

Every proposed rule that has been adopted and every existing rule that has been modified or amended in accordance with this rule shall be filed with the Clerk of Courts and the Clerk of the Ohio Supreme Court.

RULE 1.05

TERMS AND SESSIONS OF THE COURT

- I. Pursuant to the Revised Code Section 2301.05, the term of the Common Pleas Court is one (1) calendar year.
- II. The Court is in continuous session for the transaction of judicial business on all business days throughout the calendar year.

- III. Unless otherwise ordered by the trial judge, trial sessions shall be scheduled on weekdays between the hours of 8:00 a.m. and 4:00 p.m.
- IV. Unless otherwise ordered by the trial judge, trial sessions shall not be scheduled on the following occasions:
 - A. On days that by law or proclamation of the President of the United States, or the Governor of this State, are designated national or state holidays; and
 - B. On days when the weather or other cause requires the Court to be closed as determined by the Administrative Judge.
- V. The Court shall be in session at such other times and hours as the judge thereof shall prescribe.

RULE 1.09

DIVISIONS OF THE COURT

The Court of Common Pleas of Greene County, Ohio consists of four divisions: the General Division, the Domestic Relations Division, the Probate Division, and the Juvenile Division. These rules apply only to the General Division.

RULE 1.11

COURT ADMINISTRATOR

This Court shall appoint an administrator who will function as the chief administrative officer of the Court. The Court Administrator will implement the administrative policy decisions of the Court and perform such other duties that may be assigned by the Court.

RULE 1.13

FILING AND REMOVAL OF PAPERS FROM CUSTODY OF CLERK

- I. FILING
 - A. Duties of Clerk

The Clerk of Courts shall file and maintain all documents delivered to the Clerk's Office. No entry shall be accepted or docketed by the Clerk until it is approved by the appropriate judge.

B. Size of Documents, Pagination and Heading Requirement

All pleadings, motions, briefs and other similar documents that are filed with the Clerk shall be typewritten or printed on 8-1/2" x 11" paper, paginated sequentially and filed without backing or cover. Original documents attached or offered as exhibits thereto are exempt from this requirement. In all filings, a blank space of at least two and one-half (2 ½) inches shall be left at the top of the first page for endorsements thereon. A blank space of four (4) inches shall be left at the top of the first page for filings intended for the Second District Court of Appeals.

C. Documents Requiring Service or Notice

All documents requiring service or notice upon filing shall:

1. Include the addresses of the plaintiffs and defendants in the caption of the document; or
2. Indicate that the addresses of the plaintiffs and defendants are unknown if such addresses are in fact unknown.

The Clerk shall not accept for filing any document that must be served upon counsel or parties which does not designate their names and addresses. In addition, the Clerk shall not accept a civil filing without instructions for service unless an attorney has obtained permission signed by the assigned judge to defer service of summons for a specific period of time.

D. Attorney Registration Number

All attorneys shall include their attorney registration number issued by the Supreme Court of Ohio on all documents filed with the Court.

E. All documents requiring service or notice shall contain counsel's fax numbers if facsimile machines are available.

F. Personal and Private Information in Documents Filed with the Clerk of Courts

1. Personal and private information includes, but is not limited to, social security numbers, financial account numbers, credit and debit card numbers, names of minor children, information protected by law from

public disclosure and other personal identification numbers, such as employer-employee numbers.

2. Filing parties and legal counsel shall not include personal and private information in any document filed with the Court unless such inclusion is necessary and relevant to the case. This requirement extends to and includes exhibits or addenda attached to filings, such as preliminary and financial reports which itemize state liens that use social security numbers as case numbers, or medical records.
3. If personal and private information is necessary and must be included in a document, the filing party and counsel shall partially redact the following personal data and identifiers from the pleadings:
 - a. Social Security Numbers: If an individual's social security number must be included in a document, only the last four (4) digits of that number should be used.
 - b. Financial Account Numbers: If financial account numbers must be included in a document, only the last four (4) digits of these numbers should be used.
 - c. Names of Minor Children: If the involvement of a minor child must be included in a document, only the initials of the child should be used.
4. It is the sole responsibility of the filing parties and counsel to redact these personal identifiers from filed documents. The Clerk of Courts will not review each document for compliance with this rule.
5. Entries and orders that necessarily include personal and private information shall have such personal data and identifiers partially redacted as outlined in this rule, unless it is absolutely necessary to include all digits in a personal identifier. In the event that it is absolutely necessary to include all digits in a personal identifier, the entries and orders must be submitted to the Clerk of Court's as follows:
 - a. The original document that includes the personal and private information; and
 - b. A redacted copy that indicates in the caption above the title of the action "Redacted Copy, Personal and Private Information Redacted" and has the notation "redacted" at all places in the

document where such information was removed.

c. The Court will sign both journal entries.

6. The Clerk of Courts may refuse to accept for filing any document that contains personal and private information that has not been redacted and submitted in accordance with this rule.

II. REMOVAL, EXAMINATION AND DUPLICATION

A. Removal

No person except a judge, magistrate or mediator of this Court, or their designated representative, shall remove any documents or case files from the custody of the Clerk. Originals of papers or pleadings in this Court shall not be taken from the Courthouse, except upon order of this Court.

B. Examination

Upon request, the Clerk of Courts shall allow any person to examine, but not remove, any original document or case file that is maintained by its office. Examination shall be allowed during regular business hours.

C. Duplication

Upon request and the payment of a photocopy fee, the Clerk shall provide copies of any original document maintained by its office. Copies shall be provided during regular business hours within a reasonable period of time as determined by the Clerk of Courts. A reasonable period of time shall be based upon the extent of the request with efforts toward a twenty-four (24) hour response time.

D. Transcripts of Testimony

The inspection, examination, and duplication of transcripts of testimony shall be governed by Rule 1.27 of these rules.

RULE 1.15

THE APPEARANCE DOCKET

The Clerk shall indicate on the appearance docket the name of the judge to whom the case is assigned and the nature or purpose of all filings as indicated in the caption. An entry terminating a case shall be indicated on the docket as a judgment, final entry or dismissal entry.

RULE 1.17

THE ASSIGNMENT AND CASEFLOW MANAGEMENT SYSTEM

I. DEFINITION AND PURPOSE

The individual assignment system is the procedure adopted by the Court for the assignment of cases. Pursuant to this system, each civil and criminal case shall be assigned by lot to a judge who will be responsible for determining all matters in the case. In managing all cases filed in the General Division, the Court shall comply with the Supreme Court's time limits for case disposition as provided in Rules of Superintendence for the Courts of Ohio. (See Sup. R. 39).

II. CASEFLOW MANAGEMENT

This rule shall govern the operations and caseflow management of the General Division and shall require the Clerk to maintain a computer record of each pending case. Each case shall be identified by:

- A. A case number that categorizes the case as civil or criminal and serially numbers cases within each category on an annual basis beginning on the first day of January each year;
- B. The name of the judge to whom the case is assigned; and
- C. One of the following case types:
 - 1. Administrative appeal
 - 2. Appropriation
 - 3. Complex litigation
 - 4. Criminal
 - 5. Declaratory judgment
 - 6. Forcible entry

7. Foreclosure
8. Habeas Corpus
9. Injunction
10. Medical or Legal Malpractice
11. Other tort (specify type)
12. Personal injury
13. Product liability
14. Professional tort
15. Workers compensation; and
16. All others (specify type).

D. Each case record shall include:

1. The date of any pretrial conference
2. The date the case was assigned
3. The date notices were mailed
4. The date the case was assigned for trial
5. The details of any continuance
6. The date of the verdict or decision; and
7. The date of the final entry.

III. THE ASSIGNMENT OF CASES

A. Administration of Civil Dockets

All civil cases shall be assigned to the judges of the Court as follows:

1. Immediately upon the filing of a new civil case, the civil division of the Clerk of Courts Office shall assign that case to a judge by lot. All cases shall be equally divided between the judges of the General Division of the Court.

2. Adjustments of Assignments

If, at the drawing or at any subsequent time, there are companion cases, these cases shall be transferred to the judge whose name was drawn for the case filed first, if that judge so determines. A judge who withdraws from a case may reassign the case to the other general division judge, unless he also has a conflict, in which case the original judge shall request in writing from the Ohio Supreme Court the assignment of a new judge. In instances where a previously filed and dismissed case is refiled, the case shall be reassigned to the originally assigned judge unless, for good cause shown, the judge is precluded from hearing the case. All changes shall be noted in the records of the Clerk.

3. The Clerk shall:

a. Stamp the name of the judge to whom each civil case is assigned on the appearance docket and on the folder containing the original records; and

b. Record any subsequent change in assignment on the appearance docket and the folder containing the original records.

4. When a judge is not available, arrangements may be made by that judge or by the Administrative Judge for another member of the Court to handle urgent matters or sign entries.

B. Administration of Criminal Docket

1. General Supervision

Each term one (1) judge will be assigned to supervise the grand jury. The grand jury judge shall handle criminal matters that may arise in individual cases prior to indictment and assignment to an individual judge, including extraditions, informations, habeas corpus, and the setting of bonds. The other judge of the General Division shall assist the grand jury judge when requested to do so.

2. Assignment of Individual Cases

Each week all criminal cases for which an indictment has been returned shall be assigned by the Clerk of Courts to a judge by lot, unless: (a) the defendant is on probation and probation has not been terminated by entry; or (b) the defendant has another prior indictment pending on active or inactive status in this county.

If condition (a) or (b) is met in any case that does not involve multiple defendants, that case shall be assigned to the judge to whom the prior indictment was assigned or to the judge who placed the defendant on probation.

If both condition (a) and (b) are met, and the case does not involve multiple defendants, the condition which was met first shall control the assignment.

Whenever an adjustment in the method of assignment is made as a result of the satisfaction of condition (a) or (b) or the satisfaction of both conditions (a) and (b), a credit for the additional assignment shall be made. The purpose of the adjustment of assignments is to ensure that a defendant who has a prior or pending indictment or probation appears before the same judge who was previously assigned to his case.

3. The Clerk shall:

- a. Stamp the name of the judge to whom each criminal case is assigned on the appearance docket and on the folder containing the original records; and
- b. Record any subsequent changes in assignment on the appearance docket and on the folder containing the original records.

C. Transfer of Assigned Case to New Judge

If a case is transferred from the originally assigned judge to a new judge, the new judge shall hear all motions and proceedings pertaining to the case.

D. Assignment of Cases to New Judges

A new member of the Court replacing an existing judge shall be assigned the cases previously assigned to the judge whom the new judge replaces. An additional new judge shall be assigned a proportionate share of the pending cases from the individual docket of the other members of the Court.

RULE 1.19

BAIL OR SURETY

No attorney, officer or employee of the Court, the Clerk of Courts, or the Sheriff shall be accepted as principal or as agent for bail or surety. This rule applies to any immediate family of an attorney, officer or employee of the Court, the Clerk of Courts, or the Sheriff.

RULE 1.21

JURY MANAGEMENT PLAN

I. OPPORTUNITY FOR SERVICE

- A. The opportunity for jury service shall not be denied or limited on the basis of race, national origin, gender, age, religious belief, income, occupation, disability, or any other factor that discriminates against a cognizable group in the jurisdiction.
- B. Jury service is an obligation of all qualified citizens of Greene County, Ohio. The Court shall employ the services of prospective jurors so as to achieve optimum use with a minimum of inconvenience to jurors.
- C. Persons called for jury service should receive a reasonable fee for their service and expenses pursuant to statutory authority. Employers shall be prohibited from discharging, laying-off, denying advancement opportunities to, or otherwise penalizing employees who miss work because of jury service.

II. JURY SOURCE LIST

- A. Pursuant to Court order, the jury source list shall be obtained from the Board of Elections' list of registered voters. The Court shall determine the number of jurors needed for a year of service.
- B. The Court shall review the jury source list for its representativeness and inclusiveness of the adult population in the jurisdiction as is feasible.
- C. Should the Court determine that improvement is needed in the representativeness or inclusiveness of the jury source list, appropriate corrective action shall be taken.

III. RANDOM SELECTION PROCEDURES

- A. The jury source list from the Board of Elections shall be printed out on a master list, which is stored in a database at the data processing center. Names are then selected at random by the computer during a public drawing.
- B. Departures from the principle of random selection are appropriate only to comply with lawful exceptions.

IV. ELIGIBILITY FOR JURY SERVICE

All persons on the jury source list shall be eligible for jury service except those who:

- A. Are less than eighteen (18) years of age;
- B. Are not citizens of the United States;
- C. Are not residents of the jurisdiction in which they have been summoned to serve; to wit, Greene County.
- D. Are not able to communicate in the English language; or
- E. Have been convicted of a felony and have not had their civil rights restored.

V. TERM OF AND AVAILABILITY FOR JURY SERVICE

- A. The time that persons are called upon to perform jury service and to be available should be the shortest period consistent with the needs of justice.
- B. Jurors shall be “on call” for two (2) weeks or one (1) trial, if longer than two (2) weeks. The Jury Commissioner’s Office has implemented a telephone system whereby jurors call either a local number or a toll-free number to hear a message which informs them as to whether they are still needed for jury service.

VI. EXEMPTION, EXCUSE, AND DEFERRAL

- A. No automatic excuses or exemptions, with the exception of statutory exemptions, from jury service are made.
- B. Eligible persons who are summoned may be excused from jury service only if:
 - 1. Their ability to receive and evaluate information is so impaired that they are unable to perform their duties as jurors and they are excused for this

reason by the trial judge; or

2. They request to be excused because their service would be a continuing hardship to them or to members of the public and they are excused by the trial judge or the jury commissioner.
- C. Deferrals for jury service for reasonably short periods of time shall be permitted by a judge or specifically authorized court official.
 - D. Requests for excuses and deferrals and their disposition shall be written on the appropriate section of the Jury Summons, which is attached as Exhibit "A," or may be made by telephone or e-mail as may be required. Any request for excusal or deferral must be received by the Court within a reasonable time before the reporting date.

VII. VOIR DIRE

- A. Voir dire examination shall be limited to matters relevant to determining whether to remove a juror for cause and to determine the juror's fairness and impartiality.
- B. To reduce the time required for voir dire, basic background information regarding panel members will be made available to counsel for each party on the last business day before the jury selection is to begin. (See Exhibit "A").
- C. The trial judge shall conduct a preliminary voir dire examination. Counsel shall then be permitted to question panel members for a reasonable period of time.
- D. The judge should ensure that the privacy of prospective jurors is reasonably protected and the questioning is consistent with the purpose of the voir dire process.
- E. In criminal and civil cases, the voir dire process shall be held on the record.
- F. Rules on Voir Dire
 1. Shall be established by the trial judge.
 2. Questions are to be asked collectively of the entire panel whenever possible.

VIII. NOTIFICATION AND SUMMONING PROCEDURES

- A. The notice summoning a person to jury service and the questionnaire eliciting

essential information regarding that person will be:

1. Combined in a single document;
 2. Phrased so as to be readily understood by an individual unfamiliar with the legal and jury systems; and
 3. Delivered by ordinary mail.
- B. The summons will clearly explain how and when the recipient must respond and the consequences of a failure to respond.
- C. The jury questionnaire will be phrased and organized so as to facilitate quick and accurate screening and will request only that information essential for:
1. Determining whether a person meets the criteria for eligibility;
 2. Providing basic background information ordinarily sought during voir dire examination; and
 3. Efficiently managing the jury system.
- D. Policies and procedures may be established for monitoring failures to respond to a summons and for enforcing a summons to report for jury service.
- E. Jurors who fail to report for service may be scheduled for a contempt hearing to inform the judge as to why they did not appear. Sanctions are imposed as warranted.

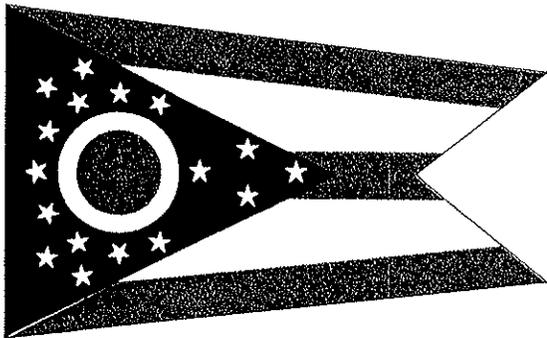
IX. JUROR ORIENTATION AND INSTRUCTION

- A. The Court shall have an orientation program:
1. Designed to increase prospective jurors' understanding of the judicial system and prepare them to serve competently as jurors; and
 2. Presented in a uniform and efficient manner.
- B. The trial judge will:
1. Give preliminary instructions to all prospective jurors;
 2. Give instructions directly following impanelment of the jury to explain the

- jury's role, and the trial procedures and general instructions of law;
3. Prior to the commencement of deliberations, instruct the jury on the law, the appropriate procedures to be followed during deliberations, and the appropriate method for reporting the results of its deliberations. Such instructions shall be made available to the jurors during deliberation in writing;
 4. Prepare and deliver instructions which are readily understood by individuals unfamiliar with the legal system;
 5. Use written instructions; and
 6. Before dismissing a jury at the conclusion of a case:
 - a. Release the jurors from their duty of confidentiality;
 - b. Explain their rights regarding inquiries from counsel or the press;
 - c. Either advise them that they are discharged from service or specify where they must report; and
 - d. Express appreciation to the jurors for their service, but not express approval or disapproval of the result of the deliberation.
- C. The trial judge may allow jurors to take notes and/or to ask questions.
- D. All communications between the judge and members of the jury panel from the time of reporting to the courtroom for voir dire until dismissal shall be in writing or on the record in open court.
- E. Upon completion of the jury term, a representative from the Court or the Clerk's Office shall issue to the juror a certificate of completion to be given to their employer for proof of attendance.

OPEN JUROR QUESTIONNAIRE

REMOVE THESE EDGES FIRST
FOLD, CREASE AND TEAR ALONG PERFORATION



READ BEFORE ANSWERING - EXCEPT FOR YOUR TELEPHONE NUMBER, ALL INFORMATION ON THIS FORM MAY BE PUBLICLY DISCLOSED. IF YOU BELIEVE YOUR PRIVACY INTERESTS WILL BE HURT BY ANSWERING ANY OF THE FOLLOWING QUESTIONS, YOU MAY LEAVE THE RESPONSE LINE BLANK AND, ONCE YOU ARE IN A COURTROOM, ASK FOR A HEARING TO STATE YOUR REASONS FOR LEAVING THE ANSWER(S) BLANK. THE HEARING WILL BE HELD IN THE JUDGE'S OFFICE, ON THE RECORD, WITH COUNSEL PRESENT. THE JUDGE MAY REQUIRE YOU TO ANSWER THE QUESTION(S).

REMOVE THESE EDGES FIRST
FOLD, CREASE AND TEAR ALONG PERFORATION

Address lines with dashed boxes for zip code and city/state.



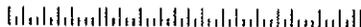
NO POSTAGE NECESSARY IF MAILED IN THE UNITED STATES

BUSINESS REPLY MAIL
FIRST-CLASS MAIL PERMIT NO. 10 XENIA OH

POSTAGE WILL BE PAID BY ADDRESSEE

Check if this is a new address

GREENE COUNTY COMMON PLEAS COURT
JURY COMMISSIONERS
COURTHOUSE
45 N DETROIT ST, ROOM #33
XENIA OH 45385-9987



SLIT THROUGH
CORRIGES OUR FAX TONER PROBLEMS

1 3 0 1

JURY SUMMONS - COUNTY OF GREENE STATE OF OHIO

YOU ARE HEREBY SUMMONED TO BE AVAILABLE FOR THE GREENE COUNTY COMMON PLEAS COURT AS A JUROR. SEE REVERSE SIDE FOR SERVICE DATE, TIME TO APPEAR AND TYPE OF JUROR. **FAILURE TO APPEAR AS INSTRUCTED MAY SUBJECT YOU TO PENALTY OF CONTEMPT OF COURT.**

REPORTING INSTRUCTIONS Jurors must call the special answering unit at 562-5215 or 427-9609 after 6:00 P.M. the night before the date of report. A pre-recorded message will explain your reporting instructions.

JURY TERM

* Petit - your term of service is for two (2) weeks * Grand - your term of service is for one (1) day per week for two (2) months.

JURY COMMISSIONERS NUMBERS If you have any questions regarding this summons, go on-line at: www.co.greene.oh.us "click Government", "click Common Pleas Court", click "Jury Information" for general information regarding your jury service and proper attire or call 562-5970 or 426-1779 ext. 5970.

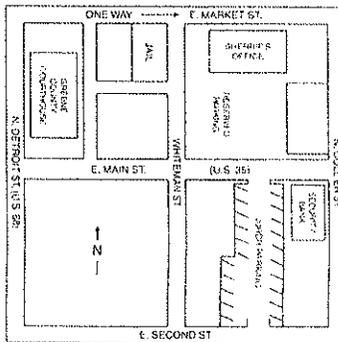
EMPLOYER CERTIFICATES

Verification of jury service will be provided for each day. You will be paid only for the days you are instructed to report to the courthouse. A check will be mailed to you after the end of your service.

COURT SECURITY To maintain proper security, persons entering the courthouse will be subject to search and screening. bags, cases, and parcels may be searched.

JUROR ASSEMBLY ROOM If instructed to report, come to the second floor of the courthouse. You may spend some time waiting. A book or other reading material may help pass the time while the Court is tending to matters related to your service.

PARKING INSTRUCTIONS Many downtown lots are available. We cannot reimburse you for any charges. Limited juror parking is furnished. First come, first served. (see map at right)



PLEASE ANSWER ALL QUESTIONS COMPLETELY. SIGN AND RETURN THIS QUESTIONNAIRE WITHIN 7 DAYS.

SECTION 1

JUDGE _____ JUROR NO. _____ JUROR REPORT DATE _____
NAME _____ AGE _____ () MALE () FEMALE
ADDRESS _____ CITY _____ ZIP CODE _____
PHONE NUMBER: HOME _____ WORK _____
DRIVERS LICENSE NUMBER _____ DATE OF BIRTH _____
OCCUPATION AND EMPLOYER _____

MARITAL STATUS: () MARRIED () SINGLE () DIVORCED () WIDOW(ER) LENGTH OF TIME IN GREENE COUNTY _____
EDUCATION: HS 1 2 3 4 COLLEGE 1 2 3 4 POST GRAD _____ OTHER _____
HAVE YOU HAD ANY EXPERIENCE IN THE ARMED SERVICES? () YES () NO PLEASE DESCRIBE _____

HAVE YOU EVER BEEN CONVICTED OF A FELONY? () YES () NO DATE CONVICTED _____

LIST LIVING MEMBERS OF YOUR FAMILY (SPOUSE AND CHILDREN ONLY).
Table with columns: NAME, AGE, LIVING w/ YOU (YES/NO), OCCUPATION & EMPLOYER

SECTION 1

HAVE YOU EVER BEEN CALLED TO SERVE AS A JUROR? () CIVIL () CRIMINAL () YES () NO

HAVE YOU OR ANY MEMBER OF YOUR IMMEDIATE FAMILY BEEN A PARTY TO A LAWSUIT? () YES () NO
IF YES, WHEN _____ WHAT COURT? _____ TYPE OF CASE? _____

DO YOU HAVE ANY PENDING CASES AGAINST THE STATE OF OHIO? () YES () NO

HAVE YOU EVER STUDIED OR TAKEN ANY LAW COURSES? () YES () NO

HAVE YOU OR ANY MEMBER OF YOUR IMMEDIATE FAMILY EVER BEEN CONVICTED OF A CRIME? () YES () NO
IF YES, NAME WHO WAS INVOLVED AND THE TYPE OF CRIME: _____

HAS A CLAIM FOR PERSONAL INJURY EVER BEEN MADE BY YOU OR AGAINST YOU OR ANY MEMBER OF YOUR FAMILY NOT INVOLVING A LAWSUIT? () YES () NO

ARE YOU RELATED OR A CLOSE FRIEND OF ANY LAW ENFORCEMENT OFFICER? () YES () NO

Signature _____ Date _____

TO REQUEST A DEFERRAL FROM JURY SERVICE, COMPLETE THE FOLLOWING. THE ONLY REASON FOR AUTOMATIC DISQUALIFICATION UNDER THE PRESENT STATUTE IS THAT YOU ARE NO LONGER A RESIDENT OF GREENE COUNTY, OHIO. () I NO LONGER LIVE IN GREENE COUNTY.

I REQUEST AN EXCUSE OR DEFERRAL FROM JURY SERVICE BECAUSE:
() I HAVE A PERSONAL PROBLEM OR I HAVE TRAVEL RESERVATIONS Attach verification for excuse, i.e. a doctor's statement for a medical excuse, copy of travel voucher, etc.

I would rather serve on _____ You will be contacted. Your phone number _____

PLEASE FOLD AT PERFORATION BETWEEN SECTIONS 1 AND 2, SEAL AND MAIL TO THE JURY OFFICE SECTION 2

TO OPEN REMOVE THIS TAB 3RD

GREENE COUNTY COMMON PLEAS COURT
COURTHOUSE
JURY COMMISSIONERS
45 N DETROIT ST. ROOM #33
XENIA, OH 45385

OFFICIAL JURY SUMMONS AND QUESTIONNAIRE ENCLOSED
OPEN, FILL OUT, AND RETURN IMMEDIATELY BY MAIL

IMPORTANT!!
Call 562-5215 or 427-9609
after 6:00pm
the night before report date

Check on-line at
www.co.greenc.oh.us
"jury information" for
further information about
Jury Services

FOLD AT PERFORATION PRESS AND MAIL

REMOVE THIS TAB 2ND

REMOVE THIS TAB 1ST

437725 U.S. Patent #5,941,481 & Others Pending

T-159972

RULE 1.23

MEDIA RECORDING OF COURT PROCEEDINGS

I. DEFINITIONS

For purposes of these rules, the term “proceeding” shall be understood to apply to any public hearing held by the Court, and the term “record” shall be understood to encompass broadcasting, televising, recording, or photographing.

II. APPLICATION

This rule shall be applied in conjunction with Rule 12 of the Rules of Superintendence for the Courts of Ohio.

A. Authorization for All Proceedings

1. All requests to record proceedings shall be made:
 - a. In writing to the assigned judge prior to the proceeding;
 - b. On the appropriate form (Exhibit “B”) available through the Bailiff of the assigned judge, or similarly appropriate form;
2. In the event the assigned judge decides to approve the request, the judge may sign the journal entry (Exhibit “C”) or similarly appropriate form setting forth the conditions of recording. This entry shall be made part of the record of the case.

B. Limitations

1. No recording equipment shall be allowed in the courthouse and no recording of proceedings shall be allowed in the absence of a written request and authorization.
2. In the event that a proceeding that has been recorded is continued for a period in excess of thirty (30) days, a new request shall be obtained in accordance with the procedure set out in section II.A. of this rule.
3. No recording shall be made:
 - a. Of proceedings in the judge’s chambers without the express permission of the judge;

- b. In jury deliberation rooms at any time during the course of the trial or after the case has been submitted to the jury;
 - c. Of victims or witnesses who object to being recorded. The judge will inform victims and witnesses of their right to object to being filmed, videotaped, recorded or photographed; or.
 - d. Of jurors.
4. Permission granted for recording shall not be interpreted to diminish:
- a. The requirement that jurors are forbidden to discuss the case with any person until after the trial; and
 - b. The ethical requirements that restrict judges and lawyers from releasing information pertaining to a case while the case is pending.
5. The trial shall proceed in exactly the same manner as though there were no recording in process.
6. Any equipment which is not portable shall be set up and ready for operation prior to the commencement of morning or afternoon court sessions. No person shall be permitted to bring equipment into the courtroom while trial is in session unless such equipment can be easily carried by a single person into the courtroom without causing a distraction or a disturbance.
7. “Pooling” of equipment may be required in all proceedings. It is the responsibility of those requesting permission to record the proceedings to arrange for “pooling” of equipment, if so ordered by the trial judge.

III. SANCTIONS

- A. Upon the failure of any person to comply with the conditions presented by the judges and these rules, the judge may revoke the authorization to record the proceedings.
- B. If a recording of any proceeding is conducted without completing a request and obtaining an authorization, the bailiff or any authorized Deputy Sheriff may impound the recording equipment, and the Court may hold the equipment subject to future action. Upon such impoundment the Court shall schedule an appropriate

hearing at the earliest possible time. This provision does not apply to employees of the Court in reference to the use of official recording devices, or to recording devices used pursuant to the Rules of Superintendence for the Courts of Ohio.

- C. No party or counsel to a proceeding may independently record a hearing without specific written permission, subject to sanctions indicated in this rule.

Exhibit "B"

IN THE COMMON PLEAS COURT OF GREENE COUNTY, OHIO

REQUEST TO RECORD COURT PROCEEDINGS

_____ of _____
(Name) (Media Affiliation, if applicable)

hereby requests permission to _____
(Broadcast/Televise/Record/Photograph)

any and all OPEN court proceedings in the case of

_____ -vs- _____
(Plaintiff) (Defendant)

Case Number _____ before Judge _____

I certify that I am familiar with the contents of Rule 1.23 of the Rules of Practice and Procedure for the Greene County Court of Common Pleas and Rule 12 of the Rules of Superintendence for the Courts of Ohio.

PLEASE NOTE: This request should be submitted no later than twenty-four (24) hours prior to the courtroom session to be recorded.

REPRESENTATIVE

Received by _____
Date _____
Time _____

Exhibit "C"

IN THE COMMON PLEAS COURT OF GREENE COUNTY, OHIO

_____ CASE NO. _____
Plaintiff

-vs-

**ENTRY OF
PERMISSION TO RECORD
COURT PROCEEDINGS**

Defendant

Upon written request by _____ of
(Representative)

_____ for permission
(Media Affiliation, if applicable)

to _____ any and all OPEN Court proceedings
(Broadcast/Televise/Record/Photograph)

in the above entitled case before Judge _____, the COURT HEREBY:

_____ grants permission in accordance with Rule 12 of the Rules of
Superintendence for the Courts of Ohio and Rule 1.23 of the Rules of
Practice and Procedure for the Greene County Court of Common
Pleas.

_____ grants permission in accordance with Rule 12 of the Rules of
Superintendence for the Courts of Ohio and Rule 1.23 of the Rules of
Practice and Procedure for the Greene County Court of Common Pleas
and with the following additional stipulations or restrictions:

_____ denies permission for the following reasons:

This order may be modified at any time the COURT deems necessary. "Pooling" of
equipment may be required for all proceedings.

JUDGE

RULE 1.25

VIDEOTAPED TESTIMONY

I. APPLICATION

This rule shall be applied in conjunction with Rule 13 of the Rules of Superintendence for the Courts of Ohio and Rules 30 – 32 of the Ohio Rules of Civil Procedure.

II. FILING

In addition to the requirements of Rule 13 of the Rules of Superintendence for the Courts of Ohio and Rules 30 – 32 of the Ohio Rules of Civil Procedure, a written transcript of the deposition shall be filed when the videotape is filed.

III. PRETRIAL REQUIREMENTS

- A. The written transcript of the videotaped deposition shall be filed no later than the date of the final pretrial conference.
- B. Regarding perpetuation depositions, any party objecting to testimony in a deposition shall submit the objections in writing to the Court at or before the final pretrial conference.
 - 1. The Court shall promptly rule on the objections and notify both parties.
 - 2. Failure to submit objections in writing to the Court at or before final pretrial conference may be considered by the Court as a waiver of objections.
- C. The proponent of a video deposition shall cause the deposition to be edited in accordance with the Court's ruling on objections, redacting questions and answers to which objections are sustained.

Failure to edit may result in the Court either playing the testimony in its entirety or not allowing the testimony to be presented at all, as justice requires.
- D. The Court has video equipment for use at trial. The party using the equipment shall be responsible to:
 - 1. Prior to trial, ensure that the videotape, DVD, or other media form is compatible with the Court's equipment or be responsible to employ presentation technology of the party's own choosing.

2. Be familiar with how to operate the Court's equipment.

RULE 1.27

DISCLOSURE OF TRANSCRIPTS OF TESTIMONY

I. DISCLOSURE BY COURT REPORTER

A. Request for Preparation of Transcript

When a record has been made in a case and the Court, or either party to the suit or counsel, requests a transcript of any portion of the record, the court reporter reporting the case shall make a full and accurate transcript of the record at a cost determined by the Court of Common Pleas.

1. Procedure

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

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

2. In criminal cases, there will be no transcripts of voir dire examination, opening statements or closing arguments without written application, the showing of good cause, and the approval of the trial judge.

B. Filing

1. Every transcript filed in this Court shall contain the name, business address and business telephone number of the court reporter making the same.
2. If a transcript to be filed is inside a sealed envelope, the Clerk shall open the envelope to file stamp the title page of the transcript as well as the

envelope. It is preferred that transcripts to be filed are not sealed in an envelope.

C. Duplication

Upon request, the court reporter shall provide copies of any original transcript of testimony that the court reporter has prepared. Copies of the transcripts shall be made available at a cost determined by the judges of the Court. The copies will be made available within a reasonable period of time and during regular business hours.

II. DISCLOSURE BY CLERK OF COURTS

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

A. Removal

No filed original transcript of testimony may be removed from the Clerk's Office without an order of the Court, or in compliance with Rules 9, 10 and 30 of the Ohio Rules of Appellate Procedure.

B. Examination

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

RULE 1.29

ATTORNEYS

I. ATTORNEY WITHDRAWAL

A. No attorney who has entered an appearance in any civil or criminal action shall withdraw his or her appearance or have it stricken from the record except by an entry of the Court. Trial counsel shall not be permitted to withdraw within fourteen (14) days in advance of trial, hearing or mediation.

B. An attorney who appears or enters appearance for a defendant in a criminal case shall not be permitted to withdraw except in open court in the presence of the defendant and upon written entry approved by the Court unless a substitution of

counsel entry has been filed.

II. CONDUCT

Attorneys shall at all times conduct themselves with dignity and propriety.

III. ENGAGED COUNSEL

- A. If a designated trial attorney has such a number of cases assigned for trial in courts of this state so as to cause undue delay in the disposition of such cases, the assigned judge may require the trial attorney to provide a substitute trial attorney.
- B. If the trial attorney fails to provide a substitute trial attorney, the judge shall remove the trial attorney as counsel in the case. If the trial attorney was appointed by the Court, the Court shall appoint a substitute trial attorney.
- C. All counsel are directed to familiarize themselves with and conform to Rule 41 of the Rules of Superintendence for the Courts of Ohio.

IV. ADMISSION OF OUT-OF-STATE ATTORNEYS

Pursuant to Rule I of the Supreme Court Rules for the Government of the Bar of Ohio, an attorney must be admitted to practice in the State of Ohio in order to practice in the Court of Common Pleas. The judge assigned to the particular case has the discretion to admit out-of-state counsel upon written motion for admission pro hac vice and will require local counsel to appear with out-of-state counsel who must comply with all requirements prescribed by the Ohio Supreme Court. (See Gov. Bar R. XII).

RULE 1.31

NOTARIES PUBLIC

- I. An applicant for a notary public commission may obtain a certificate of qualifications from a judge of the Court of Common Pleas pursuant to R.C. Section 147.02. All examinations of applicants for the office of Notary Public shall be administered by the Greene County Bar Association's Committee on Notaries Public, or a designee thereof. The examination shall take place at the Greene County Courthouse at a time designated by the Committee.
- II. The purpose of the examination shall be to determine whether applicants possess the qualifications necessary for the proper discharge of the office of Notary Public as set forth in R.C. Section 147.02. The procedures governing the application process, the

examinations of applicants, re-examinations and appeals, and the amount of fees charged in addition to statutory fees shall be determined by the Greene County Bar Association's Committee on Notaries Public.

CIVIL RULES OF PRACTICE AND PROCEDURE

RULE 2.01

CIVIL CASE MANAGEMENT PLAN

I. PURPOSE

Pursuant to Rule 5 of the Rules of Superintendence for Courts of Ohio, the purpose of this rule is to establish an automated system for civil case management which will achieve the prompt and fair disposition of civil cases, provide the Court with an efficient means of controlling the flow of civil cases, and save time by providing members of the bar with information and case management facilities. In managing all civil cases filed in the General Division, the Court shall comply with the Supreme Court's time limits for case disposition as provided in Rules of Superintendence for the Courts of Ohio. (See Sup. R. 39).

II. SCHEDULING OF EVENTS

The scheduling of events begins when a civil action is filed. The Clerk of Courts will not accept a civil action unless the filing is accompanied by a completed "Civil Case Information Form" provided by the Clerk of Courts. A copy of the form is attached as Exhibit "D." Thereafter, the case is managed in three (3) steps.

III. STEP ONE

Service of summons, in accordance with Rule 4.1 – 4.6 of the Ohio Rules of Civil Procedure, shall be checked within sixty (60) days from the date the action is filed.

- A. If service is complete on all parties and the case is an administrative appeal, appellant shall cause the proper notice, transcripts and information to be filed with the Clerk pursuant to the Ohio Revised Code and applicable law.
- B. All cases other than administrative appeals go to Step Two when all returns of service are filed and service is complete.
- C. If there is no return of service, Step One is repeated every thirty (30) days until all returns are filed.

- D. If service is being accomplished by publication, then:
1. After the last publication, the publisher or agent shall file with the Court:
 - a. An affidavit showing publication was made, and
 - b. A copy of the notice of publication. The affidavit and copy of the notice shall together constitute proof of service.
 2. Twenty-eight (28) days after the last publication, the case shall go to Step Two.
- E. Failure to make service shall be addressed in accordance with Rule 4(E) of the Ohio Rules of Civil Procedure.

IV. STEP TWO

This step assumes that service upon all defendants is complete.

- A. After all defendants have filed an answer, the Court will set a scheduling conference and notify counsel of record. This scheduling conference shall be conducted by telephone, unless otherwise ordered.

Attorneys who will be participating at trial are required to participate in the scheduling conference, and their calendars should be up-to-date in order to set future trial-related dates. It is not necessary for the clients to participate. During the conference, a final pretrial, trial date and/or all other intervening events will be scheduled. Cutoff dates for case management shall also be set.

If no jury demand has been made, the assigned judge shall determine whether the case is to be tried by the judge or referred to a magistrate. The case may also be ordered to mediation in which event the date(s) for the mediation shall be scheduled.

- B. If no answer has been filed and no action has been taken by plaintiff's attorney within sixty (60) days of the completion of service, notice may be served on plaintiff's attorney to either proceed with default judgment or otherwise inform the Court as to why no appropriate action has been taken. If counsel does not respond within fourteen (14) days of this notice, the case shall be dismissed by the Court.
- C. If an extension to plead has been filed and the motion has been granted, the action

shall be recycled to the beginning of Step Two at the end of the extension period.

V. STEP THREE

At the final pretrial conference, the judge will, among other inquiries, determine the status of the case with reference to settlement.

A. Trial counsel should consult with their clients in advance of the conference and be prepared to confer practically and earnestly on all matters as may aid in the disposition of the action.

B. Settled Cases

Counsel shall notify the Court if a case is settled. Upon such notification, the Court may enter and file a judgment entry in conformance with Exhibit "E."

C. Bankruptcy

If any party files a proceeding in the U.S. Bankruptcy Court which results in a stay of this Court's proceedings, counsel shall file with the Court a notice of bankruptcy and submit an order staying proceedings as provided by the provisions of 11 U.S.C. 362. Counsel shall immediately notify the Court of any action of the Bankruptcy Court which would permit the Court to proceed with the case.

D. Continuances

1. The Court shall not grant a motion for continuance of a trial date without the motion being in writing, stating the reason for the continuance and endorsed in writing by the client. Counsel shall provide the Court with an entry granting the motion and reassigning the matter for a date and time when all counsel are available. The Court shall not grant a continuance without rescheduling the trial.

2. When a continuance is requested for the reason that the attorney is scheduled to appear in another case assigned for trial on the same date, the case that was first assigned shall have priority. However, criminal cases assigned for trial shall have priority over civil cases assigned for trial. A copy of the trial assignment must be attached to the motion in order for the motion to be considered.

Exhibit "D"

**GREENE COUNTY COMMON PLEAS COURT - GENERAL DIVISION
CIVIL CASE INFORMATION FORM**

45 North Detroit Street, Xenia, Ohio 45385
Telephone: (937) 562-5290 Facsimile: (937) 562-5309

This form must be completed and filed with all Civil Cases

PARTIES

_____	Case Number _____
Plaintiff	
_____	Attorney Reg. No. _____
Counsel for Plaintiff	
-vs-	Jury Demand (X) <input type="checkbox"/> Yes <input type="checkbox"/> No
_____	Prayer Amount \$ _____
Defendant	Deposit Amount \$ _____

TYPE OF ACTION

- | | |
|---|---|
| <input type="checkbox"/> Administrative Appeal | <input type="checkbox"/> Other Torts |
| <input type="checkbox"/> Appropriation | <input type="checkbox"/> Personal Injury |
| <input type="checkbox"/> Declaratory Judgment | <input type="checkbox"/> Product Liability |
| <input type="checkbox"/> Forcible Entry | <input type="checkbox"/> Professional Tort |
| <input type="checkbox"/> Habeas Corpus | <input type="checkbox"/> Workers Compensation |
| <input type="checkbox"/> Injunction | <input type="checkbox"/> All Others (state type below) |
| <input type="checkbox"/> Medical or Legal Malpractice | _____ |
| <input type="checkbox"/> Foreclosure | <input type="checkbox"/> Violation of R.C. 1345 - Consumer Protection |

Re-filing Information

Is this a re-filing of a previous related case? (X) Yes No

If Yes, please complete the following:

Case Number _____ Assigned Judge _____

Parties _____ vs _____

Suits Involving Like Issues and Similar Parties

Are there any other cases pending that arise from the same incident or related parties?

(X) Yes No

If Yes, please complete the following:

Case Number _____ Assigned Judge _____

Parties _____ vs _____

"ORDER FOR SCHEDULING CONFERENCE"

When answers have been filed and served by all named defendants, the plaintiff shall contact the assigned Judge to set a scheduling conference date immediately.

Original - Clerk of Courts
Copy - Counsel

Signature of Attorney or Party Filing Case

RULE 2.03

DEPOSITS FOR COSTS

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

Aid of Execution	\$175.00
Garnishment/Debtors Exam/Attachment	\$ 115.00
Personal in-county service	\$ 50.00
Employer Garnishment	\$100.00
Land Sale or Foreclosure Actions	\$525.00
Foreclosure: Amended Confirmation or Nunc Pro Tunc	\$100.00
Other Civil Actions	\$250.00
Jury Demand (in addition to filing deposit)	\$500.00
Cross/Counter/Third Party Complaint	
in Civil Actions	\$100.00
if Clerk serves	\$150.00
In Civil Actions: (add)	
with over 5 defendants	\$10.00/per defendant
Amended Complaint with service	\$10.00/per defendant
Personal service by Sheriff	\$50.00/each party
Proceedings to Vacate, Revive,	
Change, or Modify Judgment in Civil Actions	\$110.00
Foreign Judgments	\$60.00
Out-of-county personal service	
(Not covered by the above)	\$ 50.00
All filings or requests for service	
(Not covered by the above)	\$ 50.00

- II. The deposit schedule may be revised by the Clerk of Court to include amounts sufficient to cover costs of the action or proceeding.
- III. The Clerk shall not accept a civil action unless said civil action is accompanied by a completed Civil Case Information Form provided by the Clerk of Court.
- IV. On cases transferred to the Common Pleas Court in which the prayer in the counterclaim or cross-claim exceeds the monetary jurisdiction of the Municipal Court, the party filing the counterclaim or cross-claim shall post security for costs in a sum equal to the amount required if the case was originally filed in this Court.
- V. 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.

- VI. In lieu of a cash deposit, costs may be secured by bond with surety approved by the Clerk; however, no member of the bar shall be accepted as such surety.
- VII. Additional fee for computerized legal research service.
 - A. Pursuant to Section 2303.201(A) of the Ohio Revised Code, the Clerk is authorized and directed by the Court to charge as cost a fee of Three Dollars (\$3.00) on the filing of each cause or appeal under divisions (A), (Q), and (U) of Section 2303.20 of the Revised Code.
 - B. Pursuant to Section 2303.201(B)(1) of the Ohio Revised Code, the Clerk of Courts is authorized and directed to charge as cost a fee of Twenty Dollars (\$20.00) on the filing of each cause of action, appeal, certificate of judgment, or the docketing and indexing of each aid in execution or petition to vacate, revive, or modify a judgment under divisions (A), (P), (Q), (T), and (U) of Section 2303.20 of the Revised Code and One Dollar (\$1.00) each for the services described in divisions (B), (C), (D), (F), (H), and (L) of Section 2303.20 of the Revised Code.
 - C. Pursuant to Section 2303.201(E)(1) of the Ohio Revised Code, the Clerk may be authorized and directed by the Court to charge as costs a fee to be used to acquire and pay for special projects of the Court, including, but not limited to, the rehabilitation of existing facilities, the acquisition of equipment, the hiring and training of staff, community service programs, and other related services necessary for the efficient operation of the Court.
- VIII. A poverty affidavit filed in lieu of a cash deposit must state the reasons for the inability to pay costs and is subject to Court review at any stage of the proceedings. The Clerk shall refuse to accept a civil action or proceeding and the poverty affidavit until the party offering same completes and files a sworn Affidavit of Income, Expenses and Financial Disclosure for the Clerk's review and determination of sufficiency. The Affidavit of Income, Expenses and Financial Disclosure will be provided by the Clerk to any party requesting same.
- IX. On all cases of service by publication, the party desiring such service in Greene County, Ohio shall arrange for publication with any newspaper of general circulation and be responsible for said costs. These costs may thereafter be taxed as costs by entry with the affidavit of publication.
- X. The Clerk may require that any check tendered for any payment be certified before the check will be accepted by the Clerk.
- XI. Upon termination of litigation, the Clerk of Courts is authorized to collect all costs accrued prior to entry of Final Judgment by the Court. Said costs may be collected from the deposits accepted by the Clerk upon filing of the initial cause of action or proceeding.

RULE 2.04

FILING BY FACSIMILE TRANSMISSION

- I. The Clerk of Courts is authorized to receive and send pleadings, attachments and necessary correspondence by facsimile transmission. The telephone number for facsimile filing is (937) 562-5309.
- II. Any pleading, motion, or other paper may be filed by facsimile transmission only in the following manner:
 - A. A document received by the Clerk by facsimile transmission shall be accepted as the filed original. Any signature on electronically transmitted pleadings or papers shall be considered that of the attorney or party it purports to be for all purposes. If it is established that the pleadings or papers were transmitted without authority, the Court shall order the filing stricken.
 - B. All required identification information shall be included on the cover page of the transmission, including the caption of the case, the case number, the assigned judge and/or magistrate, a description of the document being filed, the date of transmission, the transmitting fax number, and an indication of the number of pages included in the transmission, including the cover page. Documents transmitted without such information shall not be accepted as filed.
 - C. The date and time of receipt of a faxed document is the date and time imprinted on the document by the facsimile machine receiving the transmission. Documents submitted by facsimile transmission will be considered filed only when the date and time has been stamped by the Clerk.
 - D. All risk of filing by facsimile transmission remains with the filing party and, except as otherwise provided in this rule, facsimile filing shall be treated in the same manner as filing by mail.
 - E. Fees for filing by facsimile transmission may be set by the Clerk of Courts.

RULE 2.05

PLEADINGS AND MOTIONS

- I. PLEADINGS
 - A. Initial Pleadings
 1. The caption of all initial pleadings shall contain the information required by Rule 10(A) of the Ohio Rules of Civil Procedure.

2. A completed Civil Case Information Form shall be filed with all initial pleadings. This form contains information about the nature of the case. Copies of the form can be obtained from the Civil Division of the Clerk of Courts.
3. A designation of primary counsel shall be filed in the following types of actions:
 - a. A class of litigants represented by more than one (1) attorney of record; or
 - b. Parties who are joined in an action and represented by more than one (1) attorney of record; or
 - c. A party which is represented by more than one (1) attorney of record.

The designation shall be signed by the designated primary attorney and all other attorneys representing any class member or party having interests in the same action as those of the class or party represented by the designated counsel. All court orders, decisions, opinions, or papers served by the Court or the Clerk of Courts shall be served only upon the designated primary counsel for the class, party, or parties. Primary counsel is responsible for notifying and serving all parties or attorneys of record having similar interests in the action with copies of the Court's orders, decision, opinions, or other papers in a timely manner.

B. Pleadings Filed Subsequent to the Initial Pleading

All pleadings filed subsequent to the initial pleading shall specify:

1. The case number;
2. The name of the judge who was assigned to the case or the name of the judge who heard the case and the magistrate, if applicable;
3. The name, address and telephone number of the attorney who is making the filing and the attorney's registration number. The attorney's facsimile number and email address should also be included, if available;
4. The name, address and telephone number of each pro se litigant; and
5. If unreported opinions are cited, copies thereof shall be attached to the pleading and furnished to opposing counsel. Failure to do so may be grounds for striking the pleading or brief.

II. MOTIONS

A. Moving Parties

All moving parties shall file and serve their motions with the following:

1. A brief written memorandum which shall:
 - a. State with particularity the grounds in support of the motion;
 - b. Set forth the relief or order sought; and
 - c. Specify the citations of the authorities upon which the motion is based.
2. No memorandum shall exceed fifteen (15) pages in length, exclusive of the table of contents, table of cases, statutes and other authorities cited, and appendices, if any, except by prior leave of the Court. Application for leave to file a longer memorandum shall be by motion specifying the unusual circumstances which necessitate the filing of a memorandum that exceeds the limits imposed by this rule.
3. All memoranda must be submitted in double-spaced format. Any brief that fails to comply with this rule may be returned by the Clerk for reformation.
4. Copies of all photographs or documentary evidence that will be used in support of the motion if the motion requires the consideration of facts that do not appear in the record.

B. Opposing Parties

All parties opposing motions shall file and serve a memorandum in opposition to the motion that has been filed and served against them. All memoranda shall:

1. Be accompanied by copies of all photographs or documentary evidence that will be used in opposition to the motion if the motion requires the consideration of facts that do not appear in the record; and
2. Be filed and served within fourteen (14) days from the time notice of the motion was received.

No memorandum in opposition shall exceed fifteen (15) pages in length, exclusive of the table of contents, table of cases, statutes and other authorities

cited, and appendices, if any, except by prior leave of the Court. Application for leave to file a longer memorandum in opposition shall be by motion specifying the unusual circumstances which necessitate the filing of a memorandum in opposition that exceeds the limits imposed by this rule.

C. Reply Memorandum

Moving parties may file a reply memorandum to the opposing party's memorandum in opposition to the motion. The reply brief must be filed within ten (10) days from the time notice of the opposing party's memorandum in opposition to the motion was received. If no memorandum is filed within this time limit, the motion may be decided forthwith. Except upon prior leave of the Court, no reply memorandum shall exceed ten (10) pages in length, exclusive of the table of contents, table of cases, statutes and other authorities cited, and appendices, if any. The reply memorandum shall be restricted to matters in rebuttal of the memorandum in opposition.

D. Clerk of Courts

1. Motions

The Clerk shall deliver each motion that requires the attention of the Court to the assigned judge.

2. Memoranda in Opposition and Reply Memoranda

The Clerk shall deliver all Memoranda in Opposition and Reply Memoranda to the assigned judge.

E. Motions in Limine

1. Prior to the final pretrial conference, a party that wishes to challenge the qualifications of an expert witness identified by another party must file a Motion in Limine setting forth the facts and law in support of the Motion to disqualify the expert from testifying.
2. In cases where a party has not sufficiently described the qualifications of an expert witness expected to testify at trial, or has not provided an adequate summary of the expert witness' expected testimony, or in other cases at the discretion of the Court, the Court may allow a Motion in Limine to be filed before trial.
3. A party's failure to file a Motion in Limine, in accordance with this rule, challenging the qualifications and/or anticipated testimony of the expert witness(es) properly identified by another party, shall constitute a waiver

of the right to challenge the qualifications of the expert witness(es) at trial.

F. Decisions

1. Motions shall be decided without oral hearings unless otherwise ordered by the Court, or unless required by law, in which case, upon the filing of the motion, movant shall obtain a date for said hearing and prepare a notice for signature by the assigned judge or magistrate.
2. The Court may, for good cause shown, provide for an early disposition of any motion with or without the filing of memoranda by the opposing parties. To expedite the business of the Court, the Court may decide any motion upon filing without notice to the parties when the motion addresses procedural matters only, is a request for an extension of time or is for a correction pursuant to Civ. R. 60(A), if supported by a showing of good cause made orally or in writing to the Court. In the event the opposing parties claim prejudice by the granting of such ex-parte relief, the Court will afford them, upon request, an immediate oral hearing which shall be granted priority on the calendar of the Court.

RULE 2.07

PRETRIAL PROCEDURES IN CIVIL CASES

I. STATEMENT OF INTENT

This rule implements Rule 16 of the Ohio Rules of Civil Procedure. It sets forth the basic pattern for the orderly pretrial development of civil actions. Initiative, ingenuity and industry on the part of attorneys in these actions will implement this rule and determine the quality of pretrial proceedings. In the effective administration of this rule, appropriate sanctions will be employed as may be necessary.

II. SCHEDULING CONFERENCE

After all party defendants have filed an answer, the Court will assign a scheduling conference of which counsel of record shall be notified. This scheduling conference may be conducted by telephone.

- A. Attorneys who will be participating at trial are required to participate and their calendars should be up-to-date in order to set future trial-related dates. It is not necessary for the clients to participate.
- B. As a result of this scheduling conference, the Court will issue a Scheduling Order setting deadlines for the filing of additional motions, dates for discovery cutoffs, deadlines for the exchange of trial materials and objections to the same, deadlines for filing a pretrial statement, as well as dates for the final pretrial conference and trial. These fixed dates are inflexible and may be modified only by the Court

upon the filing of a motion showing good cause. At the scheduling conference, the Court may also refer a case to mediation or a magistrate for hearing.

III. PRETRIAL CONFERENCE

A. Attorneys should consult with their clients in advance of the pretrial conference and be prepared to confer practically and earnestly on settlement and all other matters as may aid in the disposition of the action. Upon reasonable notice to the parties, the Court may require that parties, or their representatives or insurers, attend the conference or participate in other pretrial proceedings. Trial counsel, parties, and party representatives and insurers, if applicable, shall appear and be prepared to consider:

1. The simplification of the issues;
2. The necessity of amendments to the pleadings;
3. The possibility of obtaining admissions of fact and documents which will avoid unnecessary proof;
4. The ascertainment of the number of expert and lay witnesses;
5. Itemizations of expenses and special damages;
6. The exchange of reports of expert witnesses expected to be called at trial;
7. The exchange of medical reports and hospital records;
8. Written and videotaped depositions;
9. The timing, methods of search and production, and the limitations, if any, to be applied to the discovery of documents and electronically stored information;
10. The adoption of any agreements by the parties for asserting claims of privilege or for protecting designated materials after production;
11. Videoconferencing;
12. The possibility of settlement;
13. The imposition of sanctions as authorized by Civ. R. 37;
14. The waiving of a jury;
15. Proposed jury instructions; and
16. Such other matters as may aid in the disposition of the action.

- B. At the pretrial conference, trial counsel shall be prepared to discuss all phases of their case, shall bring with them the originals or copies of exhibits proposed to be offered at trial, and be prepared to resolve all preliminary questions of evidence pursuant to Rule 104 of the Ohio Rules of Evidence.
- C. The Court shall review and discuss with counsel their previously filed pretrial statements which must contain the following information, where appropriate:
1. A concise statement of the general claims and defenses of the parties;
 2. Those facts established by admissions in the pleadings, admissions by discovery, and stipulations of counsel;
 3. The contested issues of fact;
 4. The contested issues of law, together with counsel's citations of authority for counsel's position;
 5. The names and addresses of witnesses, together with a brief summary of each witness' expected testimony;
 6. The names, addresses and qualifications of the expert witnesses expected to testify at trial, as well as a brief summary of each expert witness' expected testimony;
 7. A list of exhibits counsel intends to offer into evidence marked as follows:
 - a. Joint exhibits with Roman numerals;
 - b. Plaintiff's exhibits with Arabic numerals;
 - c. Defendant's exhibits with letters;
 - d. Third-party exhibits identified as such.
 8. Motions in Limine not already filed;
 9. A list of all special damages being requested; and
 10. Proposed jury instructions (hard copy and disc).
- D. Plaintiff's counsel shall be solely responsible for preparing and submitting to the Court a complete set of proposed jury instructions and interrogatories that have been approved by all trial counsel. If counsel cannot fully agree on the instructions and/or interrogatories, plaintiff's counsel shall specifically identify the approved sections and those that are in dispute. In that event, plaintiff's counsel shall also submit alternative instructions and/or interrogatories for the

disputed sections, along with an explanation of opposing counsel's justification for the alternative language. Failure to submit a complete set of proposed jury instructions and interrogatories pursuant to this rule may result in the imposition of sanctions, including but not limited to, dismissal of the case pursuant to Rule 2.15 II. of these rules.

IV. SETTLED CASES

Counsel shall notify the Court if a case is settled and present a termination entry for approval within thirty (30) days. If counsel informs the Court that a case has been settled, but then fails to present an appropriate termination entry for the Judge's approval and filing, the case may be dismissed by the Court.

V. BANKRUPTCY

If any party files a proceeding in the U.S. Bankruptcy Court which results in a stay of this Court's proceedings, counsel for the debtor shall file with the Court a Notice of Bankruptcy with an attached file-stamped copy of the petition, and shall submit an order staying proceedings as provided by the provisions of 11 U.S.C. 362. Counsel for the debtor shall immediately notify the Court of any action of the Bankruptcy Court which would permit this Court to proceed with the case.

VI. WRITTEN MATERIALS TO BE READ INTO EVIDENCE

If written materials are to be read into evidence, copies of these materials shall be provided by the proponent to the Court and other counsel at pretrial.

VII. REQUEST FOR VIEW

Any party or their counsel who requests a view of the premises or scene must make a written request for such view at or before the final pretrial conference. Requests made after final pretrial will not be granted.

View requests will be granted only upon a showing to the Court that it will expedite or make the testimony of witnesses more understandable, and that it is necessary in the interest of substantial justice and cannot be accomplished by drawing, picture, or videotape submitted at trial.

VIII. EXAMINATION OF WITNESSES

At the trial or hearing of an issue of fact, only one (1) attorney for each party shall examine or cross-examine any witness unless otherwise permitted by the Court.

RULE 2.09

DISCOVERY

I. DISCOVERY DEADLINE

The assigned judge or magistrate may order discovery to be completed at a fixed time prior to the trial date.

II. INFORMAL DISCOVERY

Counsel will participate in pre-trial discovery conferences and shall freely exchange discoverable information and documents upon informal request.

III. DISCOVERY PAPERS

In accordance with Rule 5(D) of the Ohio Rules of Civil Procedure, all papers after the complaint required to be served upon a party shall be filed with the Court within three (3) days after service, but depositions upon oral examination, interrogatories, requests for documents, requests for admission, and answers and responses thereto shall not be filed unless on order of the Court, or for use as evidence or for consideration of a motion in the proceeding.

IV. EFFECT OF RULE: AFFIDAVIT

- A. No application for protective order, objections to any form of discovery, motions for sanctions or the like shall be filed until the impasse which provoked it has been discussed with opposing counsel, and a diligent effort has been made to solve the problem informally.
- B. An affidavit by counsel to that effect shall be affixed to or made a part of the application or motion, and it shall include the specific times and methods of attempted informal resolution.
- C. The presentation of any insufficient or unwarranted application, objection or motion and any unwarranted opposition to discovery, formal or informal, will subject the offender to sanctions under this rule and Rule 37 of the Ohio Rules of Civil Procedure, including the imposition of costs, expenses and reasonable attorneys' fees.

V. POLICY OF LOCAL RULE

- A. It is the declared policy of this rule to encourage professional informal discovery whenever practicable in preference to formal discovery and to avoid the Court's involvement in the discovery process. Counsel shall make every effort to comply with this policy.
- B. This policy is not intended to discourage the use of depositions to discover and to record evidence as provided in the Ohio Rules of Civil Procedure.

RULE 2.11

LIMITATIONS ON INTERROGATORIES AND REQUESTS FOR ADMISSIONS

- I. TOTAL NUMBER OF INTERROGATORIES AND REQUESTS FOR ADMISSIONS
 - A. In the interest of facilitating informal discovery between litigants, the total number of interrogatories submitted by any one party to another party shall not exceed forty (40) including subparts. For purposes of this rule, each question or statement requiring a response shall be considered as one interrogatory.
 - B. Requests for Admissions: The total number of requests for admissions submitted by any one party to another party shall not exceed forty (40) including subparts.

- II. ADDITIONAL INTERROGATORIES AND REQUESTS FOR ADMISSIONS
 - A. Additional interrogatories and requests for admissions may be submitted by agreement of the party from whom such additional information is sought or upon leave of Court by motion filed by the requesting party showing good cause.
 - 1. Either party may request a hearing or the Court may, on its own, assign the matter for hearing.
 - 2. The Court may deny the request for additional interrogatories, and/or requests for admissions, or may grant same upon conditions which the Court deems appropriate under all of the circumstances and considering the nature of the case.
 - B. As with all discovery, the parties shall attempt to resolve any dispute as to the number of interrogatories and requests for admissions between themselves prior to involving the Court.

RULE 2.13

PAYMENT OF WITNESS FEES

The fees and mileage of witnesses shall be paid by the party on whose behalf the witness is subpoenaed. The party requesting service of a subpoena shall provide payment to the Clerk of Courts in the form of a check or money order made payable to each witness for witness fees and mileage. The party shall post a deposit of Fifty Dollars (\$50.00) to the Clerk of Courts, per witness, for sheriff service. Upon the filing and allowance of a verified bill of costs as provided by law, such costs may be taxed in favor of the prevailing party and shall then become part of the judgment of the action.

RULE 2.14

CONSOLIDATION OF CASES

When two or more cases are consolidated, an entry ordering consolidation shall be filed with the Clerk of Courts within five (5) days of the Court granting the consolidation. Upon filing of the entry, all parties shall be required to reference all case numbers on all subsequent pleadings and other papers filed with the Court. All costs accrued prior to the filing of the consolidation entry will be applied to the deposits posted to each individual case. Those costs accrued after the filing of the consolidation entry will then be evenly distributed among the parties unless otherwise ordered by the Court.

RULE 2.15

DISMISSAL OF ACTIONS

I. VOLUNTARY DISMISSAL: NOTICE REQUIREMENT

Any plaintiff or plaintiff's counsel who has filed a notice of dismissal or a stipulation of dismissal pursuant to Rule 41(A)(1) of the Ohio Rules of Civil Procedure shall immediately deliver a copy of the notice or stipulation to the judge, magistrate and mediator assigned to the case so they are promptly informed of the voluntary dismissal of the action.

II. INVOLUNTARY DISMISSAL: DISMISSAL FOR WANT OF PROSECUTION

The Court, upon its own motion or upon the motion of a defendant, may dismiss an action or claim if notice is given to the plaintiff or plaintiff's counsel and any of the following conditions are met:

- A. The plaintiff fails to prosecute;
- B. The plaintiff fails to comply with the Local Rules of Practice and Procedure for the General Division of this Court;
- C. The plaintiff fails to comply with any Court order; or
- D. The case has been pending an unreasonable length of time without any required action having been taken and/or in abrogation of the Rules of Superintendence for the Courts of Ohio.

RULE 2.17

JUDGMENT

(Repealed effective December 2, 2013).

RULE 2.19

EX PARTE ORDERS

(Repealed effective December 2, 2013).

RULE 2.21

CANCELLATIONS AND RELEASES

(Repealed effective December 2, 2013).

RULE 2.23

JUDICIAL SALE OF REAL ESTATE

I. In every action filed in the Common Pleas Court of Greene County, Ohio, wherein a judicial sale of real estate is contemplated by the complaint or subsequent pleadings, the party praying for said sale or the attorney for the party praying for said sale shall do either of the following:

1) Endorse on the pleadings the following Certification:

“The undersigned hereby certifies that an examination of the public records of Greene County, Ohio has been made to determine the ownership of subject real estate and all parties who may claim an interest therein, and that, in the opinion of the undersigned, all parties have been named as parties to this action (stating as exceptions any interested party not so named). This Certification relates to determination of the parties and does not guarantee marketable title”; or

2) File with the Clerk of Courts the original guaranteed evidence of the state of the record title to the property in question (preliminary judicial report) 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, which includes the names of the owners of the property and a reference to the volume, page, and date of the recording of the next preceding recorded instrument by or through which the owners claim title.

II. With any decree or judgment entry subsequently issued which orders the sale of real estate, the party or attorney having requested said sale shall do either of the following:

1) Endorse on the decree or judgment entry the following Certification:

“The undersigned hereby certifies that the examination of title to subject real estate has been extended to (add the date) to determine if any parties have

acquired any interest therein subsequent to said previous examination and said examination discloses that, in the opinion of the undersigned, there are no such parties except parties to whom the doctrine of lis pendens applies,” also stating as further exceptions any such party not subject to lis pendens; or

2) File with the Clerk of Courts the original final certificate of extension of the evidence of title (final judicial report) prepared and extended by a responsible title and abstract company, which includes a copy of the case docket, 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 filing of the judgment entry.

- III. In every pleading wherein a judicial sale of real estate is contemplated, the party praying for foreclosure shall attach as an exhibit a legal description of the real property involved that bears the stamp “Legally Sufficient” from the Tax Map Department of the Greene County Engineer’s Office. The Clerk of Courts shall not accept for filing any complaint for foreclosure that does not have this exhibit attached.
- IV. Any party seeking a default or summary judgment on a claim for foreclosure must file a completed “Certificate of Readiness” along with the party’s motion for default judgment or summary judgment. If any of the requirements of the Certificate of Readiness are not met as of the date of the default hearing in cases where at least one (1) party has not answered movant’s claims, or as of the date a response is due to the motion for summary judgment in cases where all parties have answered movant’s claims, the case will be dismissed without prejudice. “Certificate of Readiness” forms are available from the Clerk of Courts, on the first floor of the Greene County Courthouse. (See Exhibit “F”).
- V. In every action in any division of the Common Pleas Court of Greene County, Ohio wherein a judicial sale of real estate is ordered by the Court, the attorney for the plaintiff, or such other party requesting the sale, shall promptly mail notice of the time, date and location of the Sheriff’s sale to the record owner(s) of the subject real estate and to all other interested parties not in default for failure to appear, or their counsel of record, at their respective last known address. The record owner(s) of the real estate shall be noticed by mail in all cases whether or not in default for failure to appear, except when said owner(s) were originally served with summons solely by publication. No other parties to the proceeding in default of answer need be served with notice of sale except by publication as provided by Sections 2329.26 and 2329.27 of the Ohio Revised Code. Failure to provide timely notice to interested parties shall constitute grounds for denying confirmation of the sale.
- VI. Not less than fourteen (14) days prior to the scheduled sale date, counsel for the party requesting the sale shall file with the Clerk of Courts a Certificate of Service of Notice of Sale Date specifying the date and manner of service and the names and addresses of all interested parties or their respective counsel of record who were sent notice. Failure to timely file the certificate of service required by this rule shall constitute grounds for denial of the confirmation of sale.
- VII. Once scheduled, the Sheriff’s sale shall only be cancelled by an order of the Court approving the cancellation upon proper motion by counsel filed no later than twenty-four

(24) hours prior to the scheduled sale date.

- VIII. The Court, upon the return of the writ of execution and careful examination of the proceedings, shall direct that a deed be made to the purchaser.
- IX. This rule shall not apply to proceedings under R.C. 5721.18, Foreclosure Proceedings on Lien of State.

Exhibit "F"

Certificate of Readiness

[Rev. 12-10-04]

Case Caption _____ Case Number _____

I, having reviewed the above referenced case file, hereby certify each of the following 18 items:

- 1A. That I have compared the legal descriptions in the mortgage/complaint or cross-claim and the preliminary judicial report and both legal descriptions make sense (i.e. describe contiguous and connecting series of dimensions; identify the proper state city and county, etc.) AND both legal descriptions are substantially identical; OR
 - 1B. The legal description in the mortgage is incorrect and I have asserted a count for reformation of the mortgage; OR
 - 1C. The legal description in the preliminary judicial report is incorrect AND I have filed an endorsement correcting the error; OR
 - 1D. (Applicable only in cases where at least one party has not answered movant's claims) I will file an endorsement correcting the error and present it at the default hearing.
-

- 2A. That I have reviewed the complaint or cross-claim and with regard to the promissory note and any loan modification there is a full legible copy of the promissory note and loan modification, if any, attached; OR
 - 2B. The reason for the omission is stated in the pleading and I have filed a sufficient affidavit of lost note and lost loan modification, if any; OR
 - 2C. (Applicable only in cases where at least one party has not answered movant's claims) The reason for the omission is stated in the pleading and I will file a sufficient affidavit of lost note and lost loan modification, if any, and will present it at the default hearing; OR
 - 2D. My client's claim does not involve a promissory note.
-

- 3A. With regard to the interest rate of the promissory note, the note is a fixed rate note; OR
- 3B. The note is a variable rate note AND I have filed an up-to-date affidavit that details the interest rate changes during the relevant time period; OR

- 3C. (Applicable only in cases where at least one party has not answered movant's claims) I will file an up-to-date affidavit that details the interest rate changes during the relevant time period and present it at the default hearing; OR
 - 3D. During the relevant time period, the note has been at its minimum rate and no affidavit is necessary; OR
 - 3E. During the relevant time period, the interest rate has changed but my client seeks only the minimum rate and no affidavit is necessary; OR
 - 3F. My client's claim does not involve a promissory note.
-

- 4A. With regard to the mortgage, there is a full recorded copy of the mortgage attached; OR
 - 4B. (Applicable only in cases where at least one party has not answered movant's claims) There is an unrecorded copy of the mortgage attached and I will present a full recorded copy at the default hearing; OR
 - 4C. There is an unrecorded copy of the mortgage attached and I have separately filed a full recorded copy of the mortgage, OR
 - 4D. My client's claim does not involve a mortgage.
-

- 5A. With regard to the amount claimed to be due, the amount due that is pleaded in the complaint or cross-claim makes sense (i.e. the principal balance pleaded does not exceed the original principal balance; the principal balance pleaded reflects an appropriate decrease from the original principal balance of the loan if not a first payment default, etc.); OR
 - 5B. I have filed an affidavit that explains the pleaded amount due; OR
 - 5C. (Applicable only in cases where at least one party has not answered movant's claims) I will file an affidavit that explains the pleaded amount due and submit it at the default hearing.
-

- 6. With regard to the parties named in the complaint or cross-claim, I have joined all parties with an interest in the property of which I am aware.
-

- 7A. With regard to minor or incompetent parties, to the best of my knowledge none of the defendants in the case is a minor or incompetent; OR
 - 7B. Any minor or incompetent party has answered movant's claims; OR
 - 7C. A Guardian Ad Litem has been appointed for any minor or incompetent party.
-

- 8A. With regard to the party seeking judgment:
 - 1. That the party seeking judgment as named in the complaint or cross-claim is the holder of the note, holder of the loan modification, if any and the holder of record of the mortgage; AND
 - 2. Proof that the party seeking judgment is the current holder of the note is in the file; AND
 - 3. Proof that the party seeking judgment is the current record holder of the mortgage is in the file; AND
 - 4. Proof that the party seeking judgment is the current holder of the loan modification, if any, is in the file; OR
 - 8B. (Applicable only in cases where at least one party has not answered movant's claims) Proof that the party seeking judgment is the current holder of the note, the current holder of the loan modification, if any, and the record holder of the mortgage will be submitted at the default hearing. OR
 - 8C. I have filed a properly supported motion to substitute plaintiff/defendant; OR
 - 8D. My claim does not involve a promissory note, loan modification, or mortgage.
-

- 9A. I have examined the judicial reports that have been prepared for this case and the preliminary judicial report:
 - 1. Has been filed; AND
 - 2. Has a proper monetary guaranty (i.e. at least for the first mortgage amount); AND
 - 3. Has proper conveyance information (i.e. details the last transfer); AND
 - 4. Lists debtors and creditors for each judgment lien; AND
 - 5. Consistently and correctly identifies the permanent parcel number of the subject property; AND
 - 6. Consistently and correctly identifies the address of the subject property; AND

- 7. Has been signed by an appropriate officer of the title company; OR
 - 9B. I have filed an endorsement to the title work to correct any deficiencies; OR
 - 9C. (Applicable only in cases where at least one party has not answered movant's claims) I will file an endorsement to the title work to correct any deficiencies and present it at the default hearing;
-

- 10A. Any final judicial reports;
 - 1. Have been filed; AND
 - 2. Have a start date that matches the previous report's end date; AND
 - 3. Cover the lis pendens date; AND
 - 4. Have an effective date within six months of the date of the default hearing in cases where at least one party has not answered movant's claims or within six months of the date a response is due to the motion for summary judgment in cases where all parties have answered movant's claims; AND
 - 5. Consistently and correctly identify the permanent parcel number of the subject property; AND
 - 6. Consistently and correctly identify the address of the subject property; AND
 - 7. List debtors and creditors for each judgment lien; AND
 - 8. Have been signed by an appropriate officer of the title company; AND
 - 9. Show the final disposition of any cases other than the present case that appear on earlier title reports unless those earlier title reports show the final disposition of said cases; OR
 - 10B. I have filed an endorsement to the title work, have filed amended final judicial reports, or have filed supplemental final judicial reports to correct any deficiencies; OR
 - 10C. (Applicable only in cases where at least one party has not answered movant's claims) I will file an endorsement to the title work, have filed amended final judicial reports, or have filed supplemental final judicial reports to correct any deficiencies and present them at the default hearing;
-

- 11. I have examined the service returns in the case file; and
 - A. Service has been perfected on all named defendants; AND
 - B. Except for parties served by publication, the "case parties" portion of the docket reflects a proper address for all parties or, if counsel has entered an appearance for a party, reflects a proper address for that party's counsel; AND
 - C. Except for parties served by publication, I have served all filings subsequent to the service of the complaint at a proper address for all parties or, if counsel has entered an appearance for a party, a proper address for that party's counsel.

-
- 12A. No defendants have contested the allegations of the complaint; OR
 - 12B. I have filed a properly supported motion for summary judgment that addresses all of my client's claims or the contested claims are being otherwise litigated;
-

- 13A. A motion for default judgment has been filed against all of the parties who are in default; OR
 - 13B. All parties have answered movant's claims and no motion for default judgment is necessary.
-

- 14A. I have reviewed the bankruptcy records and there are no bankruptcies related to this case; OR
 - 14B. A Chapter 7 or 13 bankruptcy has been filed and closed; AND proof that the bankruptcy has been closed **either** has been filed in this case; **or** (applicable only in cases where at least one party has not answered movant's claims) will be presented at the default hearing; OR
 - 14C. A Chapter 13 bankruptcy has been filed and relief from stay has been granted to the party seeking judgment; AND proof that relief from stay has been granted **either** has been filed in this case; **or** (applicable only in cases where at least one party has not answered movant's claims) will be presented at the default hearing; OR
 - 14D. A Chapter 7 bankruptcy has been filed and;
 - 1. Relief from stay has been granted to the party seeking judgment or the debtor has been discharged; AND
 - 2. The trustee has abandoned the property subject to this case; AND
 - 3. Proof that relief from stay has been granted or the debtor has been discharged, and that the trustee has abandoned the property **either** has been filed in this case **or** (applicable only in cases where at least one party has not answered movant's claims) will be presented at the default hearing;
-

- 15. Service has not been perfected during a bankruptcy stay;
-

- 16. The case has not been filed during a bankruptcy stay,

-
- 17A. For all parties who have not entered an appearance and are capable of serving in the United States Armed Forces, I have filed an affidavit that complies with 50 U.S.C. Appx. Section 521 (the Servicemembers' Civil Relief Act); OR
 - 17B. (Applicable only in cases where at least one party has not answered movant's claims) For all parties who have not entered an appearance and are capable of serving in the United States Armed Forces I will file an affidavit that complies with 50 U.S.C. Appx. Section 521 (the Servicemembers' Civil Relief Act) and submit it at the default hearing; OR
 - 17C. All parties have entered an appearance and no affidavit that complies with 50 U.S.C. Appx. Section 521 (the Servicemembers' Civil Relief Act) is necessary.
-

- 18. Any dispositive motions were filed while the case was on the active docket of this court and do not violate any bankruptcy stays.

I understand that if any of the above eighteen (18) requirements are not met as of the date of the default hearing in cases where at least one (1) party has not answered my client's claims or as of the date a response is due to the motion for summary judgment in cases where all parties have answered my client's claims, my case will be dismissed without prejudice at my client's costs. I further understand that the above list does not contemplate all situations that may arise in all cases. Accordingly, I understand that even if all of the above eighteen (18) requirements are met, the case may not be ready for judgment.

Attorney for Party Seeking Judgment

Attorney's Printed Name and Bar Number

RULE 2.25

CONFIRMATION OF PUBLIC SALES OF REAL ESTATE

- I. Confirmation of sales of real estate and applications for determining priority of liens shall be submitted to the judge regularly assigned to the case.
- II. Where there are counsel of record other than the plaintiff, the entry shall be endorsed by all such counsel who have appeared of record and, in the event the entry is not so endorsed, a motion shall be submitted, together with a notice of a hearing which shall be at least three (3) days subsequent thereto, requesting confirmation of sale, and stating that the sale has been regular and proper in every respect in conformity to the statutes provided.
- III. Insofar as is possible, all such entries of confirmation shall distribute proceeds according to their priorities and discharge liens of record. All reasonable efforts shall be made by counsel for plaintiff or the moving party for confirmation and distribution to secure and protect the title of the purchaser at the sale.

RULE 2.27

ATTORNEYS' FEES IN MECHANIC'S LIEN CASES

(Repealed effective December 2, 2013).

RULE 2.29

RECEIVERSHIPS

- I. IN GENERAL
 - A. Procedure Upon Filing of Motion for the Appointment of a Receiver
 1. The following procedure shall apply upon the filing of a motion for the appointment of a receiver with the Clerk of Courts:
 - a. The Court shall fix a date for a hearing on the appointment of a receiver;
 - b. Notice of the hearing shall be served on interested parties unless the Court finds that the time taken to give notice will result in irreparable harm to the plaintiff; and
 - c. The Court shall carefully consider all persons who are recommended for the receivership by unsecured creditors

whose security is threatened.

2. Restrictions on Motions

- a. A motion for the appointment of a receiver based upon an open account or other claims not in judgment will be denied where there is no showing of a right to equitable relief.
- b. A motion for the appointment of a receiver that has already been denied by a judge shall not be renewed before another judge.

B. Consent by Defendant

Whenever a defendant consents to the appointment of a receiver, the defendant shall file the following with the Clerk of Courts:

1. A verified statement of all current assets and liabilities; and
2. A written statement of consent to the appointment.

C. Qualifications of Receivers

1. Oath and Bond

Before a receiver appointed by the Court performs any duties, the receiver must be sworn to perform the duties faithfully, and the receiver must, with surety approved by the Court, judge, or clerk, execute a bond to the person and in a sum as the Court or judge directs, to the effect that the receiver will faithfully discharge the duties of the receiver in the action and obey the orders of the Court.

2. Interested Persons

No party, attorney, or person who is interested in an action shall be appointed receiver in the action without the consent of the parties.

3. Residency Requirements

- a. All receivers shall reside in Greene County except when good cause is shown and the Court orders otherwise.
- b. No person except a resident of Ohio shall be appointed or act as receiver of a railroad or other corporation.

D. Duties of Receivers

1. Within thirty (30) days after the date of their appointment, all receivers shall:
 - a. File an inventory with the Clerk of Courts and deliver a copy to the assigned judge unless otherwise ordered by the Court;
 - b. Give notice by mail or by publication, as directed by the Court, to all known creditors that they are required to file their claims within a certain time, and that unless they file their claims by the specified time, they will not be permitted to file any claim without an order of the Court;
 - c. Provide written notification to all public authorities which have claims against the receivership; and
 - d. File a list of all claims with the Clerk of Courts after the specified time for filing and deliver a copy to the assigned judge.
2. All receivers who, upon application, are permitted to operate a business as a going concern shall file the following with the Clerk of Courts and deliver a copy to the assigned judge thirty (30) days after the application is granted and monthly thereafter:
 - a. A statement of the receiver's operation which shows a balance sheet for the period; and
 - b. An operating statement of income and expenditures that includes:
 - (i) Necessary accruals that make a comprehensive statement of profit and loss for the period;
 - (ii) An inventory or estimated inventory;
 - (iii) Peculiar conditions existing in the business; and
 - (iv) A list of expenses of operation, current interest accrued on loans during the period, and depreciation on buildings, machinery and equipment.
3. Within sixty (60) days after their appointment, all receivers shall apply to the Court for authority to cancel or reject all unprofitable contracts.
4. Within thirty (30) days after their duties are completed, all

receivers shall file a final account and appropriate records, receipts, and/or vouchers. All accounts must be approved by the judge who appointed the receiver.

5. All money coming into the hands of a receiver must be deposited in a federally insured local bank or building and loan, and the deposit shall be in the receiver's name.

E. Appraisers

1. All appraisers shall be suggested to the Court and appointed by the Court.
2. All appraisers shall be named in the entry of appointment.
3. All appraisers shall take an oath to faithfully and accurately appraise all assets submitted to them, including accounts receivable, shall have the same qualifications as appraisers appointed in the Probate Court, and may be one or more of the appraisers used in the Probate Court.

F. Claims

1. All claims arising out of judgments shall be accompanied by a certified copy of the final judgment.
2. All claims based upon an instrument for the unconditional payment of money or upon a written contract must be accompanied by a copy of the instrument or contract.
3. Whenever priority is claimed, attention should be specifically directed to the grounds of priority.

G. Objections

1. All objections to claims must be made in writing and filed by the interested party before distribution is ordered by the Court.
2. All objections to the accounts of receivers or to any allowance made to them by the Court must be filed within fourteen days (14) after the accounts are filed or allowances made.

H. Vacancies in Receiverships

All vacancies in receiverships shall be called to the attention of the Court by receiver's counsel as soon as they occur.

I. Procedure

Unless otherwise provided, the procedure prescribed by the Ohio Revised Code for settling accounts in decedents' estates shall govern.

II. COMPENSATION OF RECEIVER

- A. No compensation shall be allowed to a receiver or the receiver's counsel except upon written application describing the services rendered, the time required, the amount requested for each and the amounts previously received. The Court may fix the time for hearing and determine the nature of the notice to creditors of the application.
- B. Except in operating receiverships where an account has been filed monthly, no compensation shall be paid to or accepted by counsel or the receiver unless the rules have been followed and the final verified account is filed or submitted to the Court for filing; however, in liquidating receiverships requiring more than one (1) year to liquidate, one third (1/3rd) of the probable total fees may be allowed and paid. A violation of this rule will subject the offender to discipline, removal and forfeiture of compensation as determined by the Court. Total allowances to both receiver and the receiver's counsel shall not exceed fifteen (15) percent of the receipts in liquidating receiverships, except where extraordinary services have been authorized by the Court. When fees in excess of fifteen (15) percent are requested for extraordinary services, the receiver shall mail to all known creditors and/or shareholders, if any, a notice of the hearing on the application, the nature of the request, and the date and place of the hearing.

III. SALES BY RECEIVERS

- A. Sales of all property, real or personal, by a receiver shall be for the best price obtainable and the receiver shall file an affidavit to that effect within ten (10) days after any sale.
- B. No sale shall be made to a former owner or to any person interested in the business or operation of the receivership until notice is served on all creditors fixing a date for confirmation of the sale.
- C. No receiver shall offer for sale any property, including any patent or intellectual property interest, until the receiver has established the receiver's right to sell the property.
- D. When it becomes necessary to sell property, notice of the time, place, and terms of the sale shall be given to all creditors who have filed claims and to all stockholders who have an interest in the sale.

IV. RECEIVERS IN REAL ESTATE FORECLOSURES

A. Procedure Upon Filing of Motion for the Appointment of a Receiver

1. The following procedure shall be applied upon the filing of a motion for the appointment of a receiver in a real estate foreclosure case with the Clerk of Courts:
 - a. The date for a hearing on the appointment of a receiver shall be stipulated in the motion;
 - b. Notice of the hearing shall be served on interested parties either by attachment to the complaint and original summons, or by certified mail in accordance with the Ohio Rules of Civil Procedure; and
 - c. Notice shall be served on the owner of the property three (3) days before the hearing.
2. The Court may continue hearings from time to time upon the showing of good cause.

B. Before any receiver is appointed in a real estate foreclosure case the following must be demonstrated by affidavit, evidence or representation of counsel:

1. That legal or equitable grounds exist necessitating the appointment of a receiver; and
2. That one or more of the following facts exist:
 - a. That the property is insufficient to discharge the mortgage;
 - b. That the property is in danger of being vandalized, destroyed, or its value materially impaired;
 - c. That the premises have been abandoned by the mortgagor;
 - d. That the mortgage embraces the rents and profits in the security;
 - e. That the property is income-producing; and/or
 - f. That the mortgage provides for appointment of a receiver without notice.

C. Oath and Bond

Upon appointment, a receiver shall qualify and give a bond in the amount required by the Court unless waived by the Court. Bond shall generally be of a nominal sum in the amount of \$100.00, when the property is vacant, and it is anticipated in the motion and order that the receiver's duty will be that of a caretaker. Where there are rents and profits to be collected and disbursements made in the management of the property during the litigation, bond shall be in a sum sufficiently adequate to cover the costs of all funds reasonably anticipated to be handled by the receiver during the pendency of the litigation. If the receiver fails to qualify and give bond, the appointment is voidable.

D. Duties of Receivers

1. All receivers shall take charge of property during the receivership litigation, preserve property from waste or destruction, receive rents and profits, hold income subject to order of the Court, and have authority to bring a forcible entry and detainer action in the receiver's name and capacity.
2. Within ninety (90) days of the date of their appointment, and every ninety (90) days thereafter, receivers shall file a report of receipts and disbursements with the Clerk of Courts.
3. No receiver shall lessen the funds coming into the receiver's hands by expenditure for repairs or otherwise without first procuring an order from the Court. Exceptions to this requirement are real estate taxes and assessments, gas, light and water bills, trash pick-up and insurance, and necessary outlays under \$200.00, which may be made without the order, subject, however, to the final approval of the Court in the receiver's account.

RULE 2.30

FEES - PARTITION CASES

(Repealed effective December 2, 2013).

RULE 2.31

PROCEEDINGS IN AID OF EXECUTION-GARNISHMENTS

(Repealed effective December 2, 2013).

RULE 2.32

MAGISTRATES

- I. The Court has appointed two magistrates in accordance with Rule 53 of the Ohio Rules of Civil Procedure and Rule 19 of the Ohio Rules of Criminal Procedure.
- II. The trial judge may refer by order any of the following to a magistrate:
 - A. Any pre-trial or post-judgment motion in any case;
 - B. The trial of any case that will not be tried to a jury; and
 - C. Upon the unanimous written consent of the parties, the trial of any case that will be tried to a jury.

RULE 2.34

OHIO NON-CONFORMING AUTO VEHICLE ARBITRATION

(Repealed effective December 2, 2013).

RULE 2.35

COURT-ORDERED ARBITRATION

(Repealed effective December 2, 2013).

RULE 2.36

CIVIL MEDIATION PROGRAM

I. PURPOSE

The Civil Mediation Program was established to provide litigants with an alternative forum in which to resolve their lawsuits. Through the flexible and private process of third-party facilitated negotiation, parties and counsel explore collaborative problem solving in an attempt to reach mutually beneficial agreements without expending the significant time and resources often associated with civil litigation. The Court Mediator assists the participants in framing the issues involved in the dispute, encouraging candor and communication during the negotiations, and tailoring settlement options to the specific needs and interests of the parties.

II. REFERRAL TO MEDIATION

- A. Eligibility. All civil cases filed in this Court are eligible for referral to the Civil Mediation Program. The assigned Judge or Magistrate may refer a case to mediation any time prior to trial on the Court's own motion, on a party's request, or by agreement of the parties. For all cases referred to mediation, the Judge or Magistrate will continue to manage the case by scheduling pre-trial conferences and trial dates, establishing appropriate deadlines, and handling discovery issues and pre-trial motions.
- B. Domestic Violence. In any case referred to mediation, all parties and counsel shall advise the assigned Judge or Magistrate and the Court Mediator of any domestic violence allegations and/or adjudications known to exist or to have existed in the past, or which become known at any time following the referral to mediation but prior to the conclusion of mediation, between any of the persons whose attendance and participation in mediation are required by the Court. Mediation shall not be used as follows: (1) as an alternative to the prosecution or adjudication of domestic violence; (2) in determining whether to grant, modify, or terminate a protection order; (3) in determining the terms and conditions of a protection order; and (4) in determining the penalty for violation of a protection order.
- C. Disclosures. Pursuant to R.C. Section 2710.08, the Court Mediator shall make an inquiry that is reasonable under the circumstances to determine whether there are any known facts that a reasonable individual would consider likely to affect the impartiality of the Court Mediator and shall disclose any such known facts to the parties as soon as practicable. Upon request, the Court Mediator's qualifications to mediate the dispute shall also be disclosed.
- D. Pro Se Litigants. The Court encourages all pro se parties, including victims and suspected victims of domestic violence, to seek appropriate legal counsel. The Greene County Bar Association maintains a list of local attorneys who focus their practices in certain areas of the law. All parties not represented by counsel are encouraged to contact the Bar Association for information about referrals to legal counsel and/or other support services.

III. SCHEDULING OF MEDIATION

- A. Mediation Telephone Conference. A mediation telephone scheduling conference shall be scheduled to take place within sixty (60) days from the date of the Court's order of referral to mediation. During this telephone conference, the Court Mediator and trial counsel or parties shall review the case to determine the appropriate time to schedule the initial mediation conference. Any and all relevant procedural and substantive legal matters and/or discovery issues involved in the case may be discussed during this telephone conference in order to make this assessment.

- B. Initial Mediation Conference. The initial mediation conference shall be scheduled to take place at a time chosen by the Court Mediator after consultation with trial counsel. In preparation for the initial mediation conference, trial counsel shall complete a mediation case summary and submit it to the Court Mediator and opposing counsel at least seven (7) days prior to the scheduled mediation; however, it should not be filed with Clerk of Courts. The mediation case summary should include the following items: material facts; legal issues; damages; prior settlement discussions; position of the parties; and insurance coverage information.
- C. Attendance. Trial counsel, parties, and party representatives with complete authority to negotiate and settle the case are required to personally attend all mediation conferences, unless excused by the Court Mediator. If a party or party representative, such as an insurance adjuster or corporate officer, wants to attend the mediation via telephone participation, counsel shall obtain prior approval by the Court Mediator. It is within the sole discretion of the Court Mediator whether or not to grant telephone participation by a party or party representative.

IV. MEDIATION DOCKET MANAGEMENT

- A. Authority of Court Mediator. The Court Mediator is an appointed officer of the Court who oversees the management and operation of the Civil Mediation Program. The Court Mediator shall at all times be in control of the mediation process, including scheduling and the procedures to be followed, and may meet privately in caucus to consult with any party, party representative, and/or trial counsel.
- B. Status of Mediation. The Court Mediator shall prepare and file a status of mediation form after each mediation to inform the Court of the status of the referred case. This form shall indicate: whether the parties have reached an agreement; when counsel will dismiss a settled case; the scheduled time and date of any subsequent mediation conference; those who attended or failed to attend the mediation; that mediation has been terminated; any disclosure authorized by agreement of all parties and counsel; and any other permitted disclosure as provided in R.C. Section 2710.06.
- C. Dismissal Entry. If an agreement is reached in mediation, trial counsel and the Court Mediator may prepare a written mediation agreement memorializing the settlement for the parties to execute. The mediation agreement should indicate when the dismissal entry will be filed and how court costs will be allocated between the parties. If the settled case is not dismissed by counsel within the allotted time period, the mediation agreement shall be filed with the Clerk of Courts and made an order of this Court. In that event, the settled case shall be dismissed with prejudice by the Court, and unless otherwise provided in the mediation agreement,

court costs shall be allocated equally between the parties.

V. GOOD FAITH AND IMMUNITY

All parties and trial counsel are expected to participate in the mediation process in good faith. Failure to attend a mediation conference or to make a good faith effort to participate in mediation may result in sanctions being imposed by the Court, including contempt, an award of attorneys' fees and costs, or any other appropriate sanction. The Court Mediator acting pursuant to this rule shall have all the immunity conferred by statute, rule, and common law.

VI. CONFIDENTIALITY AND PRIVILEGE

Pursuant to R.C. Section 2710.03, and except as otherwise provided in R.C. Section 2710.05, all statements and communications, whether oral, written, verbal, or nonverbal, made by persons during the mediation process are privileged and neither discoverable nor admissible in a legal proceeding, unless waived or precluded pursuant to R.C. Section 2710.04. With the exception of disclosures permitted under Section IV. B. of this rule and R.C. Section 2710.06, and any mandatory disclosures required by law, no information of any kind concerning the mediation process shall be communicated by the Court Mediator to any person or entity.

RULE 2.37

APPEAL FROM ADMINISTRATIVE AGENCIES

(Repealed effective December 2, 2013).

RULE 2.41

RECORD RETENTION AND DESTRUCTION

(Repealed effective December 2, 2013).

CRIMINAL RULES OF PRACTICE AND PROCEDURE

RULE 3.01

PURPOSE

The purpose of these local rules of criminal practice is to provide a guide to the procedures of the criminal docket of this Court and provide a fair and expeditious administration within the scope of the Ohio Rules of Criminal Procedure, the Ohio

Revised Code, and the Ohio and United States Constitutions. The rules of practice of this Court for civil cases apply to all criminal proceedings, except where clearly inapplicable or specifically addressed in this rule.

RULE 3.02

MAGISTRATES

It is the practice of this Court to appoint magistrates to preside over arraignments. Magistrates may also be referred to preside over post-conviction filings and hearings, or any matter allowed at the discretion of the Court.

RULE 3.03

ARRAIGNMENT

- I. Arraignments will be set for 1:00 p.m. every Friday unless otherwise ordered. The Court may set an arraignment at other times at the discretion of the Court.
- II. Bond requests at the arraignment shall be referred to the Greene Count Adult Probation Department for a review. If approved, the Court will prepare the entry revising the bond.
- III. If the defendant is not represented but wishes appointed counsel, the defendant will be ordered to make an appointment with the Greene County Public Defender for determination of eligibility and appointment of counsel.
- IV. A continuance of the arraignment may be granted, for good cause, at the discretion of the Court. Speedy trial time will be waived in writing if the request for the continuance is by the defendant.
- V. Discovery by the State of Ohio may be given to counsel at arraignment. If not, the defendant shall follow Criminal Rule 16 for the requirements of requesting discovery. Pursuant to Criminal Rule 16, the State may request discovery from the defendant, who shall then promptly provide discovery to the State. The State and defendant shall supplement discovery promptly as further discoverable facts are known to the parties.

RULE 3.05

MOTION PRACTICE

- I. All motions shall be timely filed under the Ohio Rules of Criminal Procedure. Untimely motions may be summarily denied. This includes Motions for Intervention in Lieu of Conviction and Motions to Suppress.

- II. The Court will accept oral as well as written motions, however, the Court may require an oral motion to be subsequently filed in writing. No written motion shall be longer than fifteen (15) pages without prior Court authorization.
- III. A responsive pleading or memorandum may be filed within fourteen (14) days of the date of the filing of the motion. No memorandum may exceed fifteen (15) pages without prior Court authorization. Each party is responsible for arranging attendance of witnesses.
- IV. The Court, at its discretion, may set a hearing for the motion with notice to all parties. The movant may see the Court assignment commissioner for setting the hearing date. The Court reserves the authority to rule upon a motion without a hearing.

RULE 3.07

PRETRIAL AND FINAL PRETRIAL CONFERENCE

- I. PRETRIAL
 - A. A pretrial in each case will be set at a location selected by the Greene County Prosecutor's Office. Unless the defendant is pro se, the Judge will not participate in the pretrial. A pretrial, if held, must not be by telephone.
 - B. The victim of the case shall be notified by the prosecutor of the scheduled pretrial.
 - C. The attorneys shall fully complete a written pretrial report provided by the Court. This must be signed by all attorneys and returned to the Court. Counsel should retain a copy of the report for their file.
 - D. Discovery cut-off dates may be mutually set at the pretrial. If not noted in the pretrial report, neither side will have any discovery cut-off dates before the trial, except for those provided in Criminal Rule 16.
- II. FINAL PRETRIAL
 - A. The Court shall hold a final pretrial in chambers approximately ten (10) days before a scheduled trial.
 - B. The defendant shall be present in the courthouse during the final pretrial. This is also a condition of bond, and failure to appear could result in a bond revocation.
 - C. The attorneys who are assigned as counsel or retained and the prosecutor assigned to the case shall attend the final pretrial. If trial counsel cannot

attend, then counsel representing the absent counsel must be fully aware of the issues of the case and have total authority to make decisions regarding the disposition of the matter before the Court.

- D. The officer in charge of the case will attend the final pretrial, unless the Court orders otherwise.
- E. The Court expects that a written witness list will be provided to opposing counsel before or during the final pretrial. Information provided will be in accordance to Criminal Rule 16.
- F. Before, during or after the final pretrial, if the defendant rejects a State offer either verbally or by the expiration of the date for acceptance, or the state rejects an offer, the Court shall hold a hearing on the record to address this issue, and the last offer will not be further considered by the Court.

RULE 3.09

CONTINUANCE OF A CRIMINAL PROCEEDING

- I. No continuance of any conference, hearing, or trial shall be granted unless prior to the proceeding, a written request is timely filed stating the reasons for the continuance. No proceeding will be cancelled or postponed without previous Court approval. Failure to appear at a criminal proceeding when scheduled may result in sanctions being imposed.
- II. If the request for a continuance is due to a conflict with another court, the motion must have an attached a file-stamped copy of the other court's scheduling notice, which notice was set before the scheduling of the proceeding in this Court.
- III. If counsel for the defendant requests that a previously scheduled criminal proceeding be reset or rescheduled, the Court will do so with the understanding that the defendant has consented to the date and waived any speedy trial requirements up to the date selected for the defendant. A scheduling entry prepared by the Court will reflect the waiver of speedy trial.

RULE 3.11

COURT TRIAL POLICY

Each Judge may establish written rules for the procedure to be followed for jury trials in the Judge's courtroom. Counsel is advised to obtain a copy if counsel has not tried a case before the Judge. Counsel is encouraged to inquire of the Court for answers to any questions about the procedures of the Court.

RULE 3.13

GRAND JURY

The Greene County Grand Jury shall be empanelled for a two (2) month period of time, beginning in January of each year. The term of the Grand Jury may be extended at the discretion of the Court.

Criminal cases bound over to the Common Pleas Court on which no final action is taken by the Grand Jury within sixty (60) days from bindover shall be dismissed forthwith and without prejudice. A request for a continuance of a case presentation to the Grand Jury beyond the sixty (60) day limit may be filed by the Prosecuting Attorney in accordance with Rule of Superintendence 39. The Administrative Judge can address bond issues after bindover and before indictment, if requested.

RULE 3.15

COURT APPOINTMENT OF COUNSEL

If an accused claims indigency, the Court shall provide to him or her the phone number and address of the Public Defender's Office, which shall determine eligibility and appoint qualified counsel under the guidelines of their office and the Court.

RULE 3.17

ASSIGNED COUNSEL FEES

I. IN GENERAL

All counsel appointed by the Court shall be paid for their services by Greene County as provided herein. Counsel appointed to represent indigent clients must be from an approved list prepared by the Greene County Public Defender. Counsel should see the Greene County Public Defender to get placement on the appointed counsel list in accordance with O.A.C. 120-1-10.

II. REQUEST FOR PAYMENT

No assigned counsel shall be paid for their services unless they make a request for payment with ten (10) days of termination of the assigned case. Documentation must be made in accordance with the requirements of the Ohio Public Defender and Greene County Public Defender.

III. COMPENSATION AND EXPENSES

An appointed counsel fee schedule is set by the Greene County Public Defender's Office and approved by the Court for payment. Expenses incurred by counsel in representation will be paid by the public defender, after prior approval by the Court.

IV. REQUEST FOR EXPERTS AND EXPENSES

When appointed counsel believes the appointment of an expert or investigator is necessary for preparation of a defense, counsel shall first consult with the County Public Defender regarding the merits of the request and what amount of public funds will be authorized for such expense. Second, counsel shall present this request to the Court by motion and proposed entry, noting that this rule has been followed and indicating the amount authorized to be paid.

RULE 3.19

PROBATION DEPARTMENT SUPERVISION FEE

I. SUPERVISION FEE

The Common Pleas Court of Greene County requires those offenders placed under a community control sanction pursuant to Ohio Revised Code Sections 2929.16, 2929.17 and 2929.18 to be placed under the supervision of the Greene County Adult Probation Department.

Pursuant to Ohio Revised Code Section 2951.021, the Greene County Common Pleas Court requires offenders who are placed under the control and supervision of the Greene County Adult Probation Department to pay a supervision fee of \$50.00 per month for a period of twelve (12) months. This fee is to be paid to the Clerk of Courts for use by the Greene County Adult Probation Department.

* The Court does not supervise misdemeanors – only cases relating to Ohio Revised Code 2929.26, 2929.27 and 2929.28.

II. USE OF THE ADULT PROBATION SUPERVISION FEE

Pursuant to Ohio Revised Code Section 321.44, supervision fee monies collected and deposited into the Adult Probation Services Fund shall be appropriated to the Greene County Adult Probation Department for use only for specialized staff, purchase of equipment, purchase of services, reconciliation programs for offenders and victims, other treatment programs, including alcohol and drug addiction programs certified under Revised Code Section 3793.06, and other similar probation-related expenses as determined to be appropriate by the Director of the Adult Probation Department.

III. INTERVENTION IN LIEU OF CONVICTION

In order for an applicant for Intervention in Lieu of Conviction (“ILC”) to be evaluated for eligibility, the Court will require payment of a fee to defray the costs of evaluation. Such fee shall be paid in advance of evaluation, in the amount specified by the Court. The Greene County Public Defender’s Office will pay the ILC evaluation fee for indigent defendants who are represented by an attorney appointed by the Public Defender’s Office.

RULE 4.01

**COURT-INITIATED PROGRAMS FOR THE
SUPERVISION AND TREATMENT OF CONVICTED FELONY OFFENDERS**

PURPOSE

The Court has placed the supervisory role and responsibility for the implementation and administration of these programs within the Greene County Adult Probation Department. To accomplish this supervisory responsibility, the Court has established the Office of Prison Diversion Grant Programs and the position of Program Director within the Greene County Adult Probation Department. The Court envisions that this position will manage all prison diversion grants and supervise all such programs for the Court.

RULE 4.02

THE GREENE COUNTY JUDICIAL-INITIATED TREATMENT PROGRAM

I. DESCRIPTION

- A. The Greene County Judicial Initiated Treatment Program is a voluntary substance abuse treatment program for qualified, sentenced, male and female felons as a condition of Community Control. This program mandates participation in two components: an Incarceration Component, and an Aftercare Component. The Greene County Judicial Initiated Treatment Program requires that the offender successfully participates in the Incarceration Component treatment program for a period of up to one hundred eighty (180) days in the Greene County Adult Detention Center for men, and in the Greene County Jail for women, in accordance with the provisions of the Ohio Revised Code Section 2929.16. After completion of the Incarceration Component, the offender is placed in the Aftercare Component during which they are put under the supervision of the Greene County Adult Probation Department and must participate in further specified substance abuse treatment programs.
- B. The Incarceration Component is funded by multiple agencies. The Common Pleas Court has collaborated with the Municipal Courts by

providing treatment to those eligible offenders for a ninety (90) day program.

II. GREENE LEAF THERAPEUTIC COMMUNITY MISSION AND PURPOSE

- A. Mission Statement: As an agent of the Court, the Greene Leaf Therapeutic Community develops, implements, and provides a professional, comprehensive one hundred eighty (180) day residential substance abuse treatment program serving the needs of the community and locally sentenced felons using the Therapeutic Community Treatment Modality and other evidence-based best practices.
- B. A ninety (90) day program has been established for the Municipal Courts.
- C. Purposes
 - 1. To provide the Common Pleas Judges of Greene County a sentencing option ensuring meaningful treatment within a structured, disciplined environment as a condition of Community Control for a period of up to one hundred eighty (180) days in accordance with the provisions of Ohio Revised Code Section 2929.16 for sentenced male and female felons trapped in a cycle of substance abuse and crime.
 - 2. To operate a safe, secure, professional, comprehensive, residential substance abuse treatment program housing sentenced felons within the Greene County Adult Detention Center/Greene County Jail with the direct support of the Greene County Sheriff's Office, the Mental Health Board of Clark, Greene and Madison counties, and its contracted agency, TCN Behavioral Health Services, Inc., and with the general support of other Greene County agencies.
 - 3. To service a target population of at least forty (40) sentenced felons each year.
 - 4. To provide program integrity by meeting the established standards set forth by the grant providers.
 - 5. To reduce offender drug use, reduce repeat criminal behavior and recidivism, and the offender's financial burden upon the taxpayers of Greene County.
 - 6. To return the offender to society as a more productive citizen.

III. IMPLEMENTATION

- A. Staffing, Administration, and Policies

1. The Adult Probation Director oversees the program administration, including submission of all fiscal reports. A Clinical Coordinator handles the day-to-day operation of the Program.
 2. The Clinical Coordinator is responsible for the professional administration of this substance abuse treatment program in accordance with grant programmatic goals and objectives that meet performance measures as approved by grant.
 3. Policies are separately promulgated by the Director, and approved by the Court, to govern the program design and the successful administration of the Program with input from the Clinical Coordinator. The policies are grouped under two Sections: Screening, Intake and Release; and Programming. The specific policies are in a Policy Manual which is available for review at the office of each Judges of the Common Pleas Court (General Division) and in the office of Probation Director.
- B. Goals: To meet all Performance Measures recited in the grant. A copy is available for review at the office of the Probation Director
- C. Reporting Requirements: The Clinical Coordinator reports regularly on the status of the program and on progress towards goal accomplishment and performance measures to the Court annually.
- D. Application for Resources and Grant Renewal: Grants are submitted annually to multiple providers for the funding necessary to adequately administer the program.

RULE 4.03

THE GREENE COUNTY INTENSIVE SUPERVISION PROBATION PROGRAM

I. DESCRIPTION

- A. The Greene County Common Pleas Court received Community Correction Acts (CCA) funding in Fiscal Year 1990 from the Ohio Department of Rehabilitation and Correction (ODRC) to develop an Intensive Supervision Program to effectively deal with nonviolent offenders in the community. The program began its operation in March 1, 1990.
- B. The Intensive Supervision Program is designed to divert offenders from the state institution. The increased contact with the offender, which includes field services officers and the strict conditions of probation, will restrict an offender in the community and help deter criminal behavior. Case plans will be developed to assist in rehabilitation of offenders, enabling them to uphold their responsibilities and become law-abiding

citizens. The use of electronic monitoring equipment will enhance the surveillance component of the Intensive Supervision Program where necessary. A specialized caseload will work with high-needs offenders who have more serious substance abuse problems, focusing on more intensive treatment alternatives and requirements to help the offenders achieve sobriety.

II. MISSION AND GOAL STATEMENTS

- A. Mission Statement: The mission of the Greene County Intensive Supervision Program is to re-integrate nonviolent and repeat offenders into the community through a community-based and intensively supervised evidence-based probation program.
- B. Goals
 - 1. To provide individualized assessment, counseling, referrals, and other forms of professional assistance to the offender.
 - 2. To provide field services of the offender in order to protect the community, deter further criminality, and modify inappropriate behavior.

III. IMPLEMENTATION

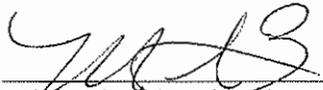
- A. Staffing, Administration, and Policies
 - 1. The Adult Probation Director administers the Intensive Supervision Program for the Common Pleas Court. The Intensive Supervision Program staff consists of staffing appropriate to administer the program.
 - 2. The Probation Director is responsible for the oversight of the grant and for ensuring compliance with the CCA Program Standards, fiscal guidelines, and other statutory requirements.
 - 3. The Supervisor is responsible for oversight of the daily operation of the program and is under the supervision of the Director of the Adult Probation Department who serves as the Project Director.
 - 4. Policies are developed in accordance with CCA guidelines, the American Correction Association and approved by the Court, to govern the program design and the successful administration of the program. The specific policies are in a Policy Manual which is available for review at the office the Director of the Greene County Adult Probation Department.

- B. Reporting Requirements: The Probation Director reports regularly on the status of the program to the Court, and during meetings of the Local Corrections Planning Board as required by Ohio Revised Code.
- C. Application for Resources and Grant Renewal: The Probation Director submits an application annually to the Ohio Department of Rehabilitation and Correction (Bureau of Community Sanctions) for continuation of the funding necessary to adequately administer the program.
- D. The Intensive Supervision Program is audited annually by the Ohio Department of Rehabilitation and Correction.
- E. The Program utilizes best practices.

APPROVAL

The foregoing Local Rules of Practice and Procedure for the General Division of the Greene County Common Pleas Court (“Rules”) were approved and became effective on May 28, 2002, and Amendment No. 1 to these Rules was approved and became effective on May 15, 2006.

Amendment No. 2 to these Rules is hereby approved and shall become effective on December 2, 2013.



Michael A. Buckwalter
Judge, General Division,
Common Pleas Court



Stephen A. Wolaver
Judge, General Division,
Common Pleas Court