

Rules of Practice
of the Morrow County Court of Common Pleas
Morrow County, Ohio

General Provisions

- (1) **Divisions** - The Court of Common Pleas, Morrow County, Ohio shall be divided into four divisions, to wit: the General Division; the Probate Division; the Domestic Relations Division; and the Juvenile Division. The rules herein shall apply to all divisions where applicable, but to each respective Division as specifically indicated.
- (2) **Purpose** - The purpose of these Rules is to set forth local practices and procedures of this Court, consistent with the Rules of Superintendence, the Rules of Civil and Criminal Procedure and such other rules as may be adopted or promulgated by the Ohio Supreme Court pursuant to Section 5 Article IV of the Ohio Constitution.
- (3) **Effective Date** - The effective date for these Rules of Court is August 1, 2006
- (4) **Supersedence** – to the extent that these rules may be in conflict with local rules in place at the time of the adoption of these rules, these rules shall supersede such existing local rules, since it is intended that these rules replace any and all local rules in existence prior to the effective date of these rules.

Rule 1

Term of Court / Hours of Court Sessions
Term of Court

- 1.00** The Court shall be in continuous session for the transaction of judicial business. For purposes of R.C. Chapter 2313, each calendar year shall be divided into three terms of Court, to wit: January Term; May Term; and September Term. Each term shall commence at 8:00 a.m. on the first business day of the months of January, May, and September.

Hours of Court Sessions

- 1.01** The daily sessions of court shall be from 8:30 a.m. to 12:00 p.m. and from 1:00 p.m. to 4:00 p.m. on Monday through Friday of each week, except for those days designated by law as legal holidays. Such hours may be extended or modified by the Judge(s) and/or Magistrate(s) as circumstances may dictate or to meet special conditions.

Rule 2

Presiding Judge/Administrative Judge

2.00 After January 1, 2007, pursuant to Sup. R. 3 (A) (3), a duly elected Judge, shall serve as the Presiding Judge of the Morrow County Court of Common Pleas.

2.01 After January 1, 2007, pursuant to Sup. R. 4 (A) (3), a duly elected Judge shall serve as the Administrative Judge of the Morrow County Court of Common Pleas.

Rule 3

General Order of Reference: Magistrates

3.01 The parties to actions in the Domestic Relations and Juvenile Divisions are not entitled to a trial by jury (**except Serious Youthful Offenders and adults charged with criminal conduct in the Juvenile Division as authorized by statute**) under the Constitution of the State of Ohio, and it is deemed to be for the best interests of the parties that any such cases or actions may be referred to a Magistrate of this Court in accordance with Rule 53 of the Ohio Rules of Civil Procedure. Magistrates shall exercise all powers delegated to a Magistrate by rule, statute, and/or the Constitutions of the United States of America and the State of Ohio. Magistrates may issue restraining orders in domestic relations cases and also may issue restraining orders when proper pursuant to O.R.C. 3113.31 (Domestic Violence) or O.R.C. 2903.013 (AntiStalking)

Magistrates are hereby authorized to delegate the drafting of a decision to an attorney of record in any matter that has been referred pursuant to this rule.

Rule 4

Clerk of Courts

General and Domestic Relations Divisions Deposit of Cash to Secure Costs, Bonds, Etc.

4.01 No action or documents shall be accepted for filing by the Clerk of Courts unless the party or parties shall have first deposited a sum of money to secure the payment of costs. If the costs are not paid at the termination of the litigation, any deposits for costs shall be applied by the Clerk to the unpaid costs. The following represents the filing fee and cost schedule for actions filed with the Clerk of Courts, which became effective on

September 20, 2004.

New Civil Case Complaint	\$325.00
(over 5 mailings)	\$375.00
Amended Complaint	\$325.00
Counter Claim/Cross Claim	\$300.00
Third Party Complaint	\$300.00
Re-Open Case with a Motion	\$100.00
Bank Attachment	\$100.00
Debtors Exam	\$100.00
Garnishment	\$100.00
Writ of Execution or Possession	\$100.00
Divorce with or without Minor Children	\$325.00
Dissolution with or without Children	\$200.00
Certificate of Judgment	
To Make	\$ 5.00
To File	\$ 23.00
To Release Regular Lien	\$ 5.00
To Release State Lien	\$ 28.00
To File Appeal	\$ 90.00
Expungement or Sealing of Record	\$ 50.00
Each Page	\$ 1.00
Filing Requiring Judge's Signature	\$ 2.00

All other costs not specifically set forth above shall be charged pursuant to the applicable

O.R.C. provisions.

4.02 Duties — It shall be the responsibility of the elected Clerk of Courts to file together and carefully preserve in the office of the Clerk of Courts all papers delivered in every action or proceeding. Such guidelines shall be pursuant to the applicable sections of the Ohio Revised Code.

4.03 Copies — It will be the discretion of the Clerk of Courts to establish guidelines pertaining to making copies for counsel and the public within the laws of Ohio.

4.04 Definitions

- a. Facsimile Transmission** — The transmission of a source document through a facsimile machine which encodes a document into electrical or optical signals, transmits and then recreates the document to print to provide a duplicate of the original source document.
- b. Facsimile Machine** — a machine that can send and receive a facsimile transmission.
- c. Fax** — an abbreviation for “facsimile”.

4.05 Filing of a Facsimile Copy — Pleadings and other papers may be filed with the Clerk of Courts by facsimile transmission to 419-947-5421 subject to the following conditions: A document filed by fax shall be accepted as an original filing. The person making a fax filing need not file any source document with the Clerk of Courts, but must maintain in his or her records and have available for production on request by the Court, the original source documents with original signatures. The source document filed by fax shall be maintained by the person making the transmission until the case is closed and all opportunities for post judgment relief are exhausted. The person filing a document by fax shall also provide a cover page containing the following information:

- a.** The name of the Court
- b.** The title of the case
- c.** The case number
- d.** The name of the assigned Judge/Magistrate
- e.** The title of the document being filed
- f.** The date of the transmission
- g.** The transmitting fax number

- h.** An indication of the number of pages being transmitted, including the cover page
- i.** The name, address and telephone number of the person making the filing

If a document is sent by fax to the Clerk of Courts, without the cover page information listed above, the filing shall not be accepted by the Clerk.

The Clerk of Courts is not obligated to send any form of notice to the sending party of a failed fax transmission. However, the Clerk of Courts may inform the sending party of the failed transmission.

Subject to the provisions of these rules, all documents sent by fax and accepted by the Clerk of Courts shall be considered filed with the Clerk of Courts as of the date and time the Clerk time stamps the document received, as opposed to the date and time of the fax transmission.

Fax filings may **not** be sent directly to the Court for filing, but may only be transmitted directly through the facsimile equipment operated by the Clerk of Courts.

The Clerk of Courts is not required to acknowledge the receipt of a facsimile transmission. The risks of sending a document by facsimile to the Clerk of Court's Office for filing shall be borne entirely by the sending party. Anyone using facsimile transmissions to file documents with the Clerk of Courts is encouraged to use technological methods to verify the receipt of the transmission. Transmissions shall be limited to less than ten (10) pages in length.

4.06 Taxing of Costs - When a case is finalized through any means, a judgment entry shall be filed which will outline the party to whom the costs shall be taxed. Any deposit for costs shall be applied to the costs of the proceeding. If the costs are greater than the deposit for a proceeding, the party to whom the costs are taxed shall make arrangements with the Clerk of Courts for payment.

4.07 Execution for Costs — The Clerk of Courts shall keep a list of all unpaid and accrued costs in all proceedings before the appropriate Divisions of the Court, and the Clerk shall send statements to all persons against whom costs have been taxed in all proceedings that have become final at least once every three months. After two such notices, if the costs are not paid, the Clerk of Courts shall issue and file a certificate of judgment in the amount of the costs without further order.

Rule 5

Confidentiality of Records

5.00 Reports and records of Juvenile proceedings, Juvenile Probation, Victim Witness, Adoption proceedings, and Job and Family Services are confidential information and shall not be made public without a written order of this Court.

5.01 Inspection of Juvenile Court records by attorneys or other interested parties shall be governed by Rule 32 [C] of the Ohio Rules of Juvenile Procedure. Any Pre-Disciplinary Investigation, physical examination, or mental health report or evaluation prepared at the direction of the Court shall not be copied by counsel without the express approval of the Court. The Court may limit or deny inspection pursuant to Rule 32 [C] of the Ohio Rules of Juvenile Procedure.

5.02 Juvenile Traffic records maintained by the Court are confidential and shall not be made public. Inspection by attorneys or interested parties shall not be allowed without the express approval of the Court. Record check by counsel, law enforcement, or other agencies shall be directed to the Juvenile Deputy Clerks who shall provide reasonable access to public records.

5.03 All requests for records shall be provided in compliance with the Ohio Revised Code.

Rule 6

Professionalism, Gender and Racial Fairness

6.00 Professionalism demands that all persons having contact with the courts be treated with dignity, and in a fair and equitable manner, and to that end those conducting business in the Morrow County Common Pleas Court, including but not limited to Judges, lawyers, litigants, witnesses, court personnel and jurors, shall conduct themselves so as to promote professionalism, gender and racial fairness in this court.

6.01 The judges and court employees shall set a professional, gender and racial fairness example and shall require everyone involved in the court system to do so.

6.02 As officers of the court and the attorneys have a responsibility to set a gender-fair example, treat clients, litigants, court employees, members of the bar, judges, and the public with fairness and equal dignity, as well as promote gender and racial fairness with their clients and associates. The highest standards of professionalism are required of those practicing in this Court.

6.03 All proceedings shall be conducted in a professional manner. Litigants and counsel shall be civil to one another and to the Court.

6.04 Attorneys shall not engage in undignified or discourteous conduct which tends to degrade the Court and/or the legal profession.

Rule 7

CASE MANAGEMENT

For the purpose of compliance with the mandates of the Rules of Superintendence of the Supreme Court of Ohio (C. P. Sup. Rule 9), together with the purpose of ensuring the readiness of cases for pretrial and trial, and maintaining and improving the timely disposition of cases, the following case management program is hereby adopted as Local Rule 7.

It is the desire of the Court to expedite cases through this Court, and every effort shall be made by the parties and their counsel at Pretrial to cooperate in accomplishing this purpose.

7.00 CIVIL CASES

This Rule is made in addition to, and not in derogation of, rules promulgated by the Supreme Court of Ohio.

1) Continuances

Continuances shall only be granted in accordance with Local Rule 12.

2) Scheduling

All scheduling matters regarding cases filed in this Court shall be overseen by the Assignment Commissioner of the Morrow County Court of Common Pleas utilizing the MAXIMUS computer system.

All cases shall be scheduled in an appropriate manner based upon individual case factors.

3) Status Conferences

In the event a case appears to be delayed, a status conference shall be scheduled. All parties or their counsel shall be present for the status conference, the purpose of which shall be to determine what is causing a delay, to explore methods of resolving the delay problem, and to move forward towards the prompt scheduling of a trial, if necessary.

4) Time Guidelines

The following are "tolerable delay" times for the various civil cases brought before the Morrow County Court of Common Pleas:

<u>Type Case</u>	<u>Time</u>
Forcible Entry	45 Days
Habeas Corpus	45 Days
Injunction	60 Days
Dissolution and Uncontested Divorces	90 Days
Worker's Compensation	120 Days
Mortgage Foreclosures	120 Days
Contested Divorces	120 Days
Administrative Appeals	120 Days
Product Liability	210 Days
Other Torts	210 Days
Personal Injury	210 Days
Medical Malpractice	360 Days
Complex Litigation	720 Days

7.01 CRIMINAL CASES

Criminal matters shall be conducted as provided in the Morrow County Court of Common Pleas, Criminal Division Local Rules of Court, with preference given to said criminal matters as provided by law.

7.02 DOMESTIC RELATIONS CASES

The Clerk of Courts shall, within 72 hours after the completion of service of summon or motion on the adversarial party(s) in a domestic relations case, inform the Court of said completion of service.

In the event there are contested matters, the parties or their counsel shall notify

the Court of that fact within 30 days from date of summons being served, at which time the Assignment Commissioner shall schedule the matter as contested (See Local Rule DR-3)

7.03 ADMINISTRATIVE APPEALS

Upon the filing of an administrative appeal, a Pretrial conference shall be set within 30 days after notice of appeal has been served upon the opposing party, at which Pretrial conference the issues shall be delineated and a hearing date set, if deemed necessary.

7.04 COMPLEX LITIGATION

At such time as a matter bearing the designation of complex litigation is at issue, a Pre-Trial Conference shall be scheduled by the Assignment Commissioner, at which conference the following matters shall be discussed and date(s) established setting forth the time each of the following matters shall be accomplished:

1. All pleadings, including amendments, shall be filed.
2. All motions, including Civil Rule 56 motions, shall be filed.
3. To disclose witnesses, both lay and expert, to each other.
4. To complete discovery.
5. To take evidentiary depositions.
6. To file requested special instructions and authority therefore.
7. To advise the Court of unusual questions of law.
8. Status and Pretrial conference schedules. Status schedules shall be not less than quarterly.

At the earliest possible time, whether at a status conference or a Pretrial conference, the Court shall ascertain the number of trial days which will be required to try the matter, and set a trial date certain.

Unless upon motion and for good cause shown, with the written permission of the Court to deviate from such, the schedule shall be strictly followed. It is the intent of this Court to bring each case, whether simple or complex, to completion within the shortest time possible, without materially affecting a fair and just disposition.

Rule 8

Entries

8.00 Unless the Court otherwise directs, counsel for the party in whose favor an order, decision, decree, or judgment is rendered, shall within five (5) days after the rendering of such, prepare the proper journal entry of judgment, and submit it to counsel for the adverse party, who shall approve or reject the same within five (5) days after the receipt thereof. When approved by counsel, it shall be so endorsed and furnished to the trial Judge. If an entry is not returned to the preparing counsel within five (5) days, it shall be filed with notation "submitted." If counsel is unable to agree upon the form of the entry, each shall submit a desired version of the entry within five (5) days to the trial Judge who will decide what entry shall be filed.

8.01 Within 30 days after a verdict, decree, order or decision is rendered, the judgment entry shall be filed. If such entry is not prepared and presented for filing by counsel, then it may be prepared and filed by the Court or, in the Court's sole discretion, the Court may dismiss the matter for want of prosecution.

8.02 Counsel shall promptly submit an order of dismissal following settlement of any case. If counsel fail to do so within fourteen (14) days after representation to the Court that a case has been settled, the trial Judge may order the case dismissed for want of prosecution, or file a judgment entry of settlement and dismissal and assess costs.

8.03 Requests for findings by the Court: see Civil Rule 52. Both attorneys shall, within 14 days after the filing of the request, submit their proposed findings. Failure to file proposed findings by the party making the request, within the time allotted, shall be deemed to be a waiver of the request.

8.04 The entry reflecting the verdict in an appropriation case shall contain language which directs that the appropriating agency shall be responsible for and effect the transfer of the appropriated land on the Auditor's, Treasurer's and Recorder's records, and the entry shall further provide for the payment of all required costs of such transfer(s). Additionally, such entry shall provide for distribution of the award or portion thereof remaining to be distributed.

Rule 9

Record of Proceedings

- 9.00** Pursuant to Sup. R. Rule 11, the official record of the Court shall be by video recording system used in the main Courtroom of the Morrow County Court of Common Pleas. An audiotape system shall be used in all other hearing rooms or courtrooms which are used for conducting Common Pleas Court proceedings. All copies of recorded proceedings before the Court using the digital technology shall be supplied to a requesting party upon payment of a \$10.00 fee for each copy. This fee is the responsibility of the requesting party and shall be paid to the Morrow County Court of Common Pleas. Upon proof of a valid receipt, the bailiff shall make the copies requested.
- 9.01** For purposes of appeal, transcripts of proceedings recorded on disk shall be prepared in accordance with Rule 9 (A) of the Rules of Appellate Procedure. The requesting party will be responsible for the costs associated with transcribing the proceedings.
- 9.02** The Court is the custodian of the electronic proceedings. An attorney, pro se litigant or designated court stenographer or transcriber, may at the Court's convenience, request an appointment to review the recorded proceedings. This shall allow a party to prepare an appeal without ordering unnecessary portions of the record pursuant to App. R. 9 (A). No person, who is not a member of the Bar or a law firm's representative, a pro se litigant, or a designated court reporter/transcriber, will be granted permission to view or listen to the recording without counsel being present. There shall be no cost to review or listen to the video proceedings.
- 9.03** This applies to all audio tapes of testimony from Morrow County Common Pleas Court prior to the installation of the video recording system. No audio tapes of testimony may be removed from the court without written permission by the Court. The recognized court stenographer/transcriber or any other person who petitions the Court to remove audio tapes of testimony from the court premises and who is granted leave to do so shall sign a receipt for those tapes removed. In no case shall audio tapes of testimony be removed from the Court for more than 7 days without express leave of the Court.

Rule 10

Service of Copies and Notices

10.00 See Civil Rules 4 and 5

Certified mail shall be marked that delivery is restricted to the addressee. Service may be deemed defective if return receipt card is signed by one other than addressee, or one named in instructions to the Clerk for service upon a partnership, corporation or association, although the Ohio Rules of Civil procedures shall govern unless it is clear that the addressee did not, in fact, receive service. If an attorney or other person attempting to obtain service is notified of failure of service of certified mail and fails to file further instructions for the Clerk to obtain service within 30 days after notice has been deposited in the U.S. mails, the case will be dismissed for want of prosecution, without further notice. All persons are reminded that service may be checked and case status ascertained by speaking with the Probate Division Deputy Clerk, Juvenile Division Deputy Clerk, or the Morrow County Clerk of Courts, whichever is appropriate.

10.01 Facsimile copies of pleadings and motions may be served on the opposing parties or their counsel of record. SEE LOCAL RULE 4, SECTION 4.04

Rule 11

Subpoenas

11.00 Except for good cause shown, the Clerk shall not be required to issue subpoenas, nor the Sheriff required to serve the same, unless requests are filed with the Clerk at least three (3) business days prior to the time for trial/hearing

11.01 The Clerk of Courts shall not fax blank subpoenas.

11.02 Only written instructions for service of subpoenas shall be accepted by the Clerk of Courts.

Rule 12

Continuances and Motions to Withdraw as Counsel

12.00 Continuances may only be granted following the filing of a written motion with memorandum indicating the basis for such request or by oral motion in Court with opposing counsel or parties present. **All Motions for Continuance shall bear the signature of the client of the requesting counsel, indicating that the client acknowledges and agrees to the continuance being filed on his or her behalf.** No case will be continued on the date of hearing except for good cause shown. As long as there are no time issues concerning the case, the motion may be granted without hearing so long as the opposing counsel or the opposing party does not object and, in fact, consents to the continuance. However, the moving party shall be obligated to obtain a new date and time for the matter to be heard thereafter, which shall clear the Court's calendar as well as the calendars of all other attorneys and parties to the action. The burden shall be upon the moving party to be certain that all of the above is done in a proper manner. Oral Motions may be made in situations where such are justified. If the opposing counsel or parties do not consent to the continuance, then the matter shall be set for hearing on the motion before this Court as soon as possible after the filing of the motion depending on the availability of the Court and the Attorneys for the parties. The Court retains the discretionary authority to waive provisions of this rule if special circumstances exist.

12.01 With regard to Motions to Withdraw as Counsel for any party involved in an action pending before this Court, a formal Motion to Withdraw must be filed with the Court, with a supportive memorandum setting forth the basis thereof. Whether or not the party consents to the withdrawal of his, her or its Attorney, the Court may require a hearing on the matter if no Substitute Counsel has made an appearance on behalf of the party whose Counsel desires to withdraw.

Rule 13

Guardian Ad Litem

13.00 When Appointed

Whenever the Court appoints a guardian ad litem and/or legal counsel to protect the interest of a child or whenever the Court is required to do so by statute, it shall join the child as a party defendant and appoint a guardian ad litem and/or legal counsel.

13.01 Qualifications

A. In order to serve as a guardians ad litem, each prospective guardian ad

litem shall have the following qualifications:

1. Either
 - a. Possession of a law degree or a graduate degree in psychology, psychiatry or social work; or
 - b. Possession of a Certificate of Good Standing from an appropriate board or other licensing body.
2. Maintenance of appropriate malpractice insurance.
3. Experience as a guardian ad litem.

The Court shall have discretion to modify or waive any of the above qualifications on an individual case by case basis, as, for example, for a person who has extensive experience as a guardian ad litem, but who may not have the qualifications set forth in A.1. above.

B. All guardians ad litem must submit an application to the Administrative Judge or his designee (Court Administrator) for approval. The Court may request updated applications from time to time. The Court retains the discretionary authority to appoint individuals to the position of guardian ad litem in any case where circumstances justify the appointment of such individuals as a guardian ad litem even though that individual may not otherwise be qualified as set forth above, but where that individual may have special credentials and experience for that particular case involvement.

13.02 How Appointed

The Administrative Judge or his/her designee (Court Administrator) shall maintain a list of qualified attorneys and a separate list of qualified non-attorneys.

The judge or magistrate may appoint any individual from the qualified guardian ad litem list. Decisions will be based upon the circumstances of the specific case

to which the guardian ad litem is to be appointed.

13.03 Removal

A guardian ad litem may be removed from the appointment list established herein for the following reasons:

1. Refusal of three (3) cases in any 12-month period without just cause.
2. Failure to meet or to maintain the qualifications and/or responsibilities established herein.
3. In the interest of justice and for good cause shown.
4. Due to a complaint/investigation to be found with merit and justification resulting in disciplinary action from an appropriate licensing board.

13.04 Compensation

Guardians ad litem shall be compensated at an appropriate rate for all reasonable and necessary time expended.

13.05 Periodic Review

The Administrative Judge or his designee shall periodically review all guardian ad litem appointments to ensure the equitable distribution of appointments among persons on each list maintained by the Court.

13.06 Conflicts

When appropriate at the time of appointment, the Court may also appoint the guardian ad litem to be the child's legal counsel. In the event that a guardian ad litem is also appointed as the child's legal counsel and a conflict of interest arises in the appointment, the guardian ad litem shall immediately move for permission to withdraw as counsel. In the event of such withdrawal, the Court may appoint a successor legal counsel from the list of qualified attorneys maintained in accordance with this rule.

13.07 Responsibilities

At a minimum, the guardian ad litem shall:

1. Interview each parent separately, perform a home visit to observe the living conditions and sleeping arrangements. Investigate all significant persons

and interview those deemed appropriate independently.

2. Interview, where appropriate, the child or children separately.
3. Observe the child or children in the presence of each parent.
4. Contact the child's school, if any. Meet with child's teachers or guidance counselor and review school records. Obtain information on the child's behavior while at school.
5. Contact the child's health care providers, if appropriate. Obtain records from family physician or hospital. Evaluate the necessity of a psychological evaluation and/or counseling.
6. Meet with any evaluator assigned to the case. Review pleadings and consult with each attorney as to position and issues concerning the child.
7. Participate in all pretrials, but, unless specifically requested to do so by the Court, the guardian ad litem shall not participate in any hearings or trial, other than to testify as the Court's witness.
8. Communicate with Job and Family Services, and make appropriate referrals.
9. Prepare a written recommendation to be presented to the Court outlining the findings of the Guardian Ad Litem. The GAL shall immediately notify the Court if the child's wishes are in opposition to the GAL recommendation.
10. Submit monthly-itemized fee statements to the involved parties; including a log of all GAL activities pertaining to the case.

13.08 Complaints against GAL's

In an effort to establish a clear and consistent process for the filing of complaints against guardians ad litem the following shall be followed:

The Court Administrator of the Morrow County Court of Common Pleas is hereby designated to receive complaints regarding guardians ad litem, and their performance. The Court Administrator shall meet with the person(s) wishing to file the complaint in an effort to resolve the complaint. If the matter cannot be resolved, the complainant will need to file the necessary paperwork with the appropriate licensing board for review.

Only at the conclusion of the investigation by the appropriate licensing board, and *if* the complaint has been found to have merit resulting in disciplinary action will the

Court discontinue the use of that individual as a guardian ad litem. It will be the responsibility of the appropriate licensing board to enforce any disciplinary action deemed appropriate as the Court has no authority to enforce any form of disciplinary action against an individual appointed as a guardian ad litem.

If the complaint is found to be without merit by the appropriate licensing board, the individual appointed as a guardian ad litem will continue to remain in good standing with the Court and will still receive appointments.

All complaints filed should be investigated and concluded in a professional, prompt, and timely manner.

It will be the responsibility of the Court Administrator to maintain files for individuals seeking appointments as guardians ad litem. Within these files, any complaints and dispositions of complaints shall be preserved. A copy of all paperwork filed against a guardian ad litem shall be copied and placed in the guardian ad litem's official file maintained by the Court.

The Court has the discretionary authority as to who is appointed as a guardian ad litem, and the Court may discontinue the use of an individual as a guardian ad litem at any time.

Revised and Adopted August 10, 2007

Supercedes and replaces former Local Rule 13

IT IS SO ORDERED

Date _____

Howard E. Hall, Administrative Judge

Rule 14

Hearing and Submission of Motions Including Motions Under Civil Rule 56

14.00 Motions shall be accompanied by a memorandum stating the grounds therefore and citing the authorities and reasons relied upon. Within 14 days after service of such Motion unless a lesser time is specified, each party opposing the Motion shall respond. Upon expiration of the time for filing memoranda, the matter shall be deemed submitted. Failure to file a memorandum at the time required is a waiver and consent to submit the issue or case to the Court forthwith for decision.

14.01 Motions shall, at the discretion of the Court, be ruled upon pursuant to Civil Rule 7(B)(2). Oral hearings on motions shall be set only where the Court orders such or where the party desiring an oral hearing demonstrates the need for such in writing prior to the expiration of fourteen (14) days.

Rule 15

Mediation

15.00 Scope of Mediation

Only issues regarding visitation, companionship, the allocation of parental rights and responsibilities of minor children, civil cases, and truancy issues shall be mediated unless otherwise agreed by the parties and approved by the Court. Any agreement arrived at in mediation shall be reduced to writing. Parties with legal counsel shall be advised and given the opportunity to have the written agreement reviewed by their legal counsel prior to signing the agreement. The final settlement agreement shall be signed by the parties participating in the mediation, evidencing their voluntary and mutual agreement to the same. Said agreement shall then be deemed as binding on the parties, subject only to the approval of the Court; however, said agreement shall not become the order of the Court until prepared, approved, and filed as a judgment or order of the Court.

15.01 Stay of Proceedings

Except as otherwise required by the Ohio Revised Code, all actions concerning the allocation of parental rights and responsibilities (including visitation and companionship actions, home investigations, and contempt actions) shall be automatically stayed during mediation proceedings. The stay may be lifted, at the Court's discretion for good cause shown, upon written application of any party.

15.02 Costs of Mediation

The costs of mediation shall be paid by the parties in the case who are involved in the mediation process, unless otherwise ordered by the Court. The costs of mediation shall be allocated on an equal basis unless otherwise agreed by the parties, or unless otherwise ordered by the Court after consideration by the Court of the parties' respective abilities to pay for the same. The parties shall pay the mediator(s) directly and all fees for the mediation services must be paid before a final journal entry of judgment containing the mediated agreement will be approved by the Court.

15.03 Mediation Procedure

Cases for mediation can be referred automatically pursuant to local rule or by the Judge/Magistrate if it is believed that mediation could be beneficial. Once a case is referred for mediation, the mediator shall conduct an initial mediation assessment. Upon completion of the mediation assessment, if the mediator determines that the parties are not amenable to mediation, a mediation report indicating that determination shall be filed with the Court and the mediation proceedings shall be concluded. Upon completion of the mediation assessment, if it is determined that the parties are amenable to mediation, the mediator shall mediate the dispute between the parties, and the parties shall fully cooperate with the mediator during the mediation process. The mediator shall complete the mediation within thirty (30) days from the date of the referral, unless extended by the Court for good cause shown. If parties are unable to enter into an agreement, the mediator, with all of the parties present, shall contact the Assignment Commissioner to obtain a hearing date.

Pursuant to Ohio Revised Code Section 3109.052(B) a mediation report, indicating whether or not an agreement had been reached on any of the issues that were subject of the mediation, shall be filed with the Court by the mediator within seven (7) days after mediation is completed or terminated. The report shall contain the content and details the agreement if an agreement had been reached. Upon filing the mediation report, the case shall be returned to the Court's regular docket for further proceedings. The mediation report shall be considered by the Court to the extent permitted by Ohio Revised Code Section 3109.052(B).

15.04 Qualification of Mediators

Mediators shall meet the qualification of mediators set forth in Rule 16 of the Rules of Superintendence for the Courts of Ohio, effective November 24, 1997, or as thereafter amended.

15.05 Confidentiality

Pursuant to Ohio Revised Code 3109.052(C), the information presented by the parties to the mediator within the mediation process is deemed confidential, and the mediator cannot be required to give testimony before the Court. However, the mediator may be required to give testimony in a separate criminal, delinquency, child abuse, child neglect, or child dependency proceeding.

Rule 16

Defaults

16.00 See Ohio Civil Rule 55

16.01 In all cases where a party is seeking unliquidated damages, or is entitled to a jury trial, at the time designated for default judgment, the party entitled to such judgment shall present proper evidence in support of the allegations in the pleadings for consideration by the Court, and judgment shall be rendered according to the evidence and the law applicable. Prior to the commencement of said hearing, counsel shall indicate, and the entry of judgment shall show, that a trial by jury was waived and the matter submitted for decision by the Court. If the party seeking the judgment is desirous of a trial by jury, this must be indicated to the Court at the time that the matter is assigned for default judgment hearing.

16.02 In any action or proceeding commenced in this Court, if there shall be a default of any appearance by a party, the party seeking judgment shall file in the Court an affidavit setting forth facts showing that the party in default is not in the military service. (See 50 U. S.C. 520 et seq. the Soldiers and Sailors Civil Relief Act) and that the party is not a minor or an incompetent person.

16.03 In the cases in which a judgment or decree has been rendered upon default, in addition to the requirements of Rule 60(B) of the Civil Rules, the default or the judgment or the decree shall not be set aside unless the party in default presents or offers to file the proper pleading in the case, together with his, her or its affidavit, or the affidavit of his, her or its agent or attorney, setting forth the facts excusing the cause of the default, and setting forth that there is a meritorious cause of action or defense along with the facts showing the nature of it, in which case the Court may, if justice requires it, set aside the default, judgment or decree, upon such terms as may be just, and shall order the pleadings, for want of which the default existed, to be filed forthwith, or within such time as the Court may designate.

16.04 Having complied with all of the requirements above, the party moving for default judgment shall submit to the Court, at the time of submission of the Motion for

Default, a proposed Journal Entry of Judgment. Failure to provide a proposed entry may result in the Motion being dismissed.

Rule 17

Grievance / Complaints

- 17.00** All parties involved in a proceeding before the Morrow County Court of Common Pleas have the right to file a complaint with the Court Administrator if they feel there has been an issue with processes, receiving timely decisions, Court personnel, or other such matters.
- 17.01** It shall be the responsibility of the Court Administrator to investigate the complaint using the best means available in an effort to determine the validity of the complaint.
- 17.02** If the complaint is directed against the Judiciary of the Morrow County Common Pleas Court, the Court Administrator shall relay the complaint directly to the Judge/Magistrate to whom the complaint is being filed. The Court Administrator and the Judge/Magistrate will review the complaint and take whatever action which is deemed appropriate to resolve the issue or complaint.
- 17.03** The Court Administrator will be responsible for contacting the complainant and advising him/her as to the action that is being taken to provide relief.
- 17.04** The Court Administrator will then monitor the situation surrounding the complaint to ensure that the proper course of action is taken and followed by the Court personnel.
- 17.05** This rule in no way hinders the rights of citizens of the State of Ohio to file complaints with the Ohio Supreme Court, Board of Discipline and Grievances.

Rule 18

Jury Trials

- 18.00** All basic Jury Trial procedures set forth in the Ohio Revised Code will be observed. Attorneys are reminded that this Court participates in the voir dire and requires counsel to observe the "Rules on Voir Dire" in 1 O. J. I. 2.10, and 4 O. J. I. 402.12.
- 18.01** The Court will conduct the initial voir dire examination, after which counsel will be allowed a reasonable time to question the prospective jurors. In the interests of conserving time, no questions or answers will be repeated, nor will questions answered and contained on the jury questionnaires be allowed. No promises will be exacted from the jury, nor shall hypothetical questions be asked to exact a juror's projected position. Jurors may not be asked what kind of verdict they might return under any circumstance.
- 18.02** Counsel may not examine prospective jurors concerning the law or possible instructions of the Court. The Court will instruct the jury on the law at the proper time.
- 18.03** The case may not be argued in any way while questioning the prospective jurors.
- 18.04** Counsel may not engage in efforts to indoctrinate jurors. This does not prevent general questions concerning the validity and philosophy of reasonable doubt or the presumption of innocence (criminal cases) or other applicable burden of proof (civil cases).
- 18.05** Questions are to be asked collectively of the entire panel whenever possible.
- 18.06** Continuances shall be governed by the provisions of Local Rule 12.
- 18.07** Counsel are reminded that Opening Statements are a concise statement of what they believe the evidence will show, and are not "Opening Argument".
- 18.08** Subpoenas. See Local Rule 11.
- 18.09** Counsel will be responsible for seeing that their clients and witnesses are properly attired for their appearance in the courtroom. No cut-off jeans, shorts more than 2 inches above the knees, or tank tops will be permitted in the courtroom. No hats or caps are to be worn in the courtroom and no clothing bearing obscene, offensive, or sexually explicit pictures or wording shall be permitted in the courtroom.

Rule 19

Assignment and Trial of Cases

- 19.00** Civil cases shall be assigned as nearly as practicable in consecutive order according to the original case number.
- 19.01** Cases preferred by statute shall be advanced for trial and assigned without regard to the date of filing.
- 19.02** For good cause shown, any case at issue may be advanced for trial out of its order. Any party seeking the advancement of a cause shall file a motion for advancement accompanied by a memorandum setting forth the reasons therefore.

Rule 20

Jury Use and Management Plan

The following is adopted using the Ohio Trial Court Jury Use and Management Standards as a guideline.

20.00 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. The Morrow County Common Pleas Court provides handicapped access, and shall make reasonable efforts to provide hearing impaired equipment, enhanced exhibits for sight impaired and interpreters for citizens on jury duty.
- B.** Jury Service is an obligation and privilege of all qualified citizens of Morrow County, Ohio.

20.01 Jury Source List

- A.** The jury source list shall be obtained from the Board of Elections' list of all registered voters. The jury source list should be as inclusive of the adult population in the jurisdiction as is feasible.

- B.** The Court shall annually review the jury source list for its representativeness and inclusiveness of the adult population. Should the Court determine that improvement is needed in the representativeness or inclusiveness of the jury source list, appropriate corrective action will be taken.

20.02 Random Selection Procedures

- A.** The complete list from the Board of Elections shall be used so as to include all registered voters of Morrow County. An automated computer selection shall be made to insure that each eligible and available person has an equal probability of selection. The Jury Commissioners shall set up drawing dates and shall be present at each drawing, together with a representative designated by the Judge of the Morrow County Common Pleas Court, a representative designated by the Morrow County Clerk of Courts, and a representative designated by the Morrow County Sheriff.

20.03 Eligibility for Jury Service

- A.** All persons shall be eligible for jury service, except those who:
 - 1.** Are less than 18 years of age; unless 17 years of age and registered to vote;

2. Are not citizens of the United States;
3. Are not residents of the jurisdiction in which they have been summoned to serve; to wit, Morrow County
4. Are not able to communicate in the English language;
5. Have been convicted of a felony and have not had their civil rights restored.

20.04 Term and Availability for Jury Service

- A. The Court has implemented a telephone call-in system whereby jurors call a local number to hear a message which informs them as to whether or not they are still needed for jury service.

20.05 Exemption, Excuse, and Deferral

- A. There are no automatic excuses or exemptions, with the exception of statutory exemptions, from jury service.
- 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 a Judge or a specially authorized court

official.

2. They request to be excused because they are 75 years or older; their service would be a continuing hardship to them or to members of the public; and they are excused by a Judge or specifically authorized court official.
 3. They request to be excused for any other reason allowed by the Court; and they are excused by a Judge, the Assignment Commissioner, the Bailiff or specifically authorized court official.
- C. Deferrals for jury service for reasonably short periods of time may be permitted by a Judge, the Assignment Commissioner, or another specifically authorized court official. No deferral shall be granted for more than 12 months.
- D. Requests for excuses and deferrals must be written or otherwise recorded.
- E. Jurors with young children are not permitted to bring them to the jury room or Courtroom.

20.06 Voir Dire

- A. Voir dire examination should be limited to matters relevant to determining whether to remove a juror for cause and to determine the juror's fairness and impartiality. Direction should be obtained from the Ohio Jury Instruction 2.01.
- B. To reduce the time required for voir dire, basic background information

regarding panel members may be made available to counsel in writing for each party at least 24 hours prior to the day on which jury selection is to begin, by way of a jury questionnaire. No question answered on a jury questionnaire will be repeated on voir dire. The jury panel will be advised of the decision in *State ex rel. Beacon Journal Pub. Co. v. Bond*, (2003), 98 Ohio St. 3d 146, prior to answering and returning a questionnaire, if questionnaires are requested.

- 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. No question asked by any Counsel, or the answer to that question, shall be repeated.
- 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. Each juror shall be afforded the privilege of requesting voir dire privately at the bench or in camera for purposes of avoiding embarrassment or invasion of privacy.
- E. The voir dire process shall be held on the record.
- F. Jurors will be invited to ask questions of the Court and/or counsel prior to completion of examination for cause.

20.07 Removal from the Jury Panel for Cause

- A. If the Judge determines during the voir dire process that any individual is unable or unwilling to hear the particular case at issue fairly and impartially, that individual shall be removed from the panel for that case. Such determination may be made on motion, on request of counsel or by the Judge.

20.08 Peremptory Challenges

- A. Rules of determining procedure for exercising peremptory challenges are designed to be uniform throughout the state.
- B. Peremptory challenges should be limited to a number no larger than necessary to provide reasonable assurance of obtaining an unbiased jury.
- C. In civil cases, the number of peremptory challenges should not exceed three for each side. If the Court finds that there is a conflict of interest between parties on the same side, the Court may allow each conflicting party up to three peremptory challenges.
- D. In criminal cases, the number of peremptory challenges should not exceed:
 - 1. Six for each side when a death sentence may be imposed upon conviction.
 - 2. Four for each side when a sentence of imprisonment may be imposed upon conviction; or
 - 3. Three for each side in all other prosecutions.
- E. One additional peremptory challenge should be allowed for each defendant in a multi-defendant criminal proceeding.
- F. In criminal and civil proceedings, each side shall be allowed one peremptory challenge if one or two alternate jurors are impaneled, two

peremptory challenges if three or four alternates are impaneled, and three peremptory challenges if five or six alternates are impaneled. These additional peremptory challenges shall be used against an alternate juror only, and the other peremptory challenges allowed by law shall not be used against an alternate juror.

- G. Systematic use of peremptory challenges to purge the jury, solely by reason of those factors mentioned in I (A) herein, is forbidden.

20.09 Administration of the Jury System

- A. The responsibility for administration of the jury system should be vested exclusively with the judicial branch of government.
- B. All procedures concerning Jury Selection and service shall be governed by the Ohio Revised Code, the Rules of Superintendence for Common Pleas Courts and the Local Rules of Court.
- C. Responsibility for administering the jury system shall be vested in an administrator and any deputy administrators assigned by the Judge acting under the supervision of the Common Pleas Judge.

20.10 Notification and Summoning Procedures

- A. The notice summoning a person to jury service by the Jury Commission and/or Sheriff and the questionnaire eliciting essential information regarding that person shall be done in conjunction with the Common Pleas Court and shall be:
 - 1. Phrased as to be readily understood by an individual unfamiliar with

the legal and jury systems.

2. Delivered by ordinary mail.
 - B. The summons shall clearly explain how and when the recipient must respond and the consequences of a failure to respond.
 - C. The questionnaire should be phrased and organized so as to facilitate quick and accurate screening and should request only that information essential for: determining whether a person meets the criteria for eligibility; providing basic background information ordinarily sought during voir dire examination; and efficiently managing the jury system.

20.11 Monitoring the Jury System

The Court shall collect and analyze information regarding the performance of the jury system annually in order to evaluate:

- A. The representativeness and inclusiveness of the jury source list;
- B. The effectiveness of qualification and summoning procedures;
- C. The responsiveness of individual citizens to jury duty summonses;
- D. The efficient use of jurors;

- E. The cost-effectiveness of the jury management system;
- F. Post-Juror questionnaires shall be evaluated not less than once a year.

20.12 Juror Use

- A. The Court shall employ the services of prospective jurors so as to achieve optimum use with a minimum of inconvenience to jurors.
- B. The Court shall determine the minimally sufficient number of jurors needed to accommodate trial activity, and coordinate the number of jurors with the Jury Commission. This information shall be used to adjust both the number of individuals summoned for jury duty and the number assigned to jury panels.

20.13 Jury Facilities

- A. The Court shall provide an adequate and suitable environment for jurors.
- B. The entrance and registration area shall be clearly identified and appropriately designed to accommodate the daily flow of prospective jurors to the courthouse.
- C. Jurors shall be accommodated in pleasant waiting facilities furnished with suitable amenities, including but not limited to, separate men's and women's restrooms and a drinking water fountain.
- D. Jury deliberation rooms shall include the space, furnishings, and facilities

conducive to reaching a fair verdict. The safety and security of the deliberation rooms shall be ensured.

- E.** To the extent feasible, juror facilities should be arranged to minimize contact between jurors, parties, counsel, and the public.
- F.** Appendix E of the Ohio Rules of Superintendence should be followed as closely as possible.

20.14 Juror Compensation

- A.** Persons called for jury service shall receive a reasonable fee for their service and expenses pursuant to statutory authority. It is the responsibility of each juror to notify the Clerk of Courts of any change of name or address during jury duty.
- B.** Juror fees shall be paid promptly.
- C.** Employers shall be prohibited from discharging, laying off, denying advancement opportunities to, or otherwise penalizing employees who miss work because of jury service.
- D.** The Grand Juror foreperson shall be compensated at standard daily rates for performing duties as foreperson in presenting indictments.
- E.** Upon completion of the jury term, the Clerk of Courts shall mail checks to jurors.

20.15 Juror Orientation and Instruction

- A.** The Court shall develop and have an orientation program:
 - 1. Designed to increase prospective jurors' understanding of the judicial system and prepare them to serve competently as jurors, through oral or videotape instruction, and;
 - 2. Presented in a uniform and efficient manner using a combination of written, oral, and audiovisual materials.

- B.** The Court shall develop and provide some form of orientation or instruction to persons called for jury service.

- C.** The trial Judge shall:
 - 1. Give preliminary instructions to all prospective jurors.

 - 2. Give instructions directly following empanelment of the jury to explain the jury's role, the trial procedures including note taking and questioning by jurors, cautionary instructions regarding fraternizing with the litigants, witnesses, and/or attorneys, not discussing the case with others prior to deliberations, the nature of evidence and its evaluation, the issues to be addressed, and the basic relevant legal principles.

 - 3. Prior to the commencement of deliberations, instruct the jury on the law, on the appropriate procedures to be followed during deliberations, and on the appropriate method for reporting the results of its deliberations. Such instructions should be made

available to the jurors during deliberations.

4. Prepare and deliver instructions which are readily understood by individuals unfamiliar with the legal system.
 5. Utilize written instructions.
 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 when 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.
- D.** All communication 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. Counsel for each party shall be informed of such communication and given the opportunity to be heard.

20.16 Jury Size and Unanimity of Verdict

- A. Jury size and unanimity in civil and criminal cases shall conform with existing Ohio law.

20.17 Jury Deliberations

- A. Jury deliberations should take place under conditions and pursuant to procedures that are designed to ensure impartiality and to enhance rational decision making and shall conform with existing Ohio law.
- B. The Judge should instruct the jury concerning appropriate procedures to be followed during deliberations.
- C. A jury should not be required to deliberate after a reasonable hour unless the trial Judge determines that evening or weekend deliberations would not impose an undue hardship upon the jurors and are required in the interest of justice.
- D. Training should be provided to personnel who escort and assist jurors during deliberations.

20.18 Sequestration of Jurors

- A. A jury should be sequestered only for good cause, including but not limited to, insulating its members from improper information or influences.
- B. **THE JURY SHALL BE SEQUESTERED AFTER A CAPITAL CASE IS SUBMITTED TO THE JURY**, in conformity with existing Ohio law.

- C. The trial Judge shall have the discretion to sequester a jury on the motion of counsel or on the Judge's initiative and shall have the responsibility to oversee the conditions of sequestration.

- D. Standard procedures should be promulgated to:
 - 1. Achieve the purpose of sequestration; and

 - 2. Minimize the inconvenience and discomfort of the sequestered jurors.

- E. Training shall be provided to personnel who escort and assist jurors during sequestration.

Rule 21

Requirements for Media at Trial

21.00 Definitions

For purposes of this rule 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 broadcast, televise, record, or photograph.

21.01 Application

This Rule shall be applied in conjunction with Canon 3(A)(7) of the Ohio Code of Judicial Conduct and Rule 12 of the Ohio Rules of Superintendence for the Courts of Ohio.

21.02 Authorization

The Court shall grant requests to record proceedings that are made in accordance with this Rule. All requests for authorization to record proceedings shall be made: (a) to the Common Pleas Judge in writing; (b) on the appropriate form available through the Court Administrator of the Common Pleas Court; and (c) as far in advance as is reasonably possible, but in no event later than 24 hours prior to the courtroom session to be recorded. Upon a showing of good cause, the Judge may waive the advance notice provision. In the event the Judge decides to approve the request, the Judge shall sign the journal entry setting forth the conditions of recording, whereupon the entry shall be filed and made a part of the record of the case.

21.03 Limitations

No recording equipment shall be allowed in the courtroom and no recording of proceedings shall be allowed in the absence of a written request and authorization. In the event that a proceeding for which authorization is granted is continued for more than 30 days, a new request shall be obtained in accordance with the procedures set forth in this Rule. No recording shall be made of proceedings in the Judge's chambers, in the jury deliberation room during the course of the trial or after the case has been submitted to the jury, of victims or witnesses who object to being recorded, or of jurors, without the express permission of the Judge. Under no circumstances shall photographs be taken of sexual assault victims or undercover law enforcement agents.

21.04 Permission granted for recording shall not be interpreted to diminish the requirement that jurors are forbidden to discuss the case with any person until after the trial, and the ethical requirements that restrict judges and lawyers from releasing information pertaining to a case while the case is pending.

21.05 The trial shall proceed in exactly the same manner as though there were no recording in process. Any equipment which is non-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 the 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. "Pooling" of equipment shall be required in all proceedings. It is the responsibility of those requesting permission to record the proceedings to arrange for "pooling" of equipment.

21.06 Ohio Sup. R. 12 is incorporated herein.

21.07 Protection of Victims

At no time will a member of the press or media outlet, harass, molest, or in any manner bother a victim, family member of a victim, or court observer while in the courtroom. If complaints are received or contemptuous actions are observed, the member of the press, media outlet, or their employer may be barred from future

proceedings.

Rule 22

Video Transcript of Testimony

- 22.00** If testimony is to be presented by video deposition, the video tape and a written transcript with page and line (as opposed to time) index to objections shall be submitted to the Court for ruling on objections at the time of a pretrial, or not later than seven (7) days prior to trial, whichever is earlier. Failure to comply with this rule will result in the videotape not being admitted at trial, unless the Court, upon written application and for good cause shown, allows the videotape to be shown.
- 22.01** Ohio Sup. R. 13 is incorporated herein.

Rule 23

Rule Day for Pleadings, Extensions

- 23.00** A party who desires to move, plead, or otherwise answer a complaint on a pleading after the rule date shall apply to the Court for leave to file such before the rule date expires. Up to 30 days will be granted without approval of opposing counsel. All other leaves to plead after the first 30 days must have the written approval of opposing counsel and be filed before the expiration date of the former leave to plead. Failure to comply will be at the risk of default judgment being granted pursuant to Rule 55 of the Ohio Rules of Civil Procedure.

Rule 24

Rule Day not Fixed by Law

- 24.00** In all cases where the time for filing of a pleading or amended pleading is not fixed by law or another rule, the pleading or amended pleading shall be filed on or before the 14th day after the file date of the entry requiring or granting leave for the filing of such pleading or amended pleading, unless otherwise specified in the

entry.

Rule 25

Foreclosure, Quiet Title, Partition and Actions

25.00 Filings

Unless the Court should direct otherwise, in actions to quiet title, partition and for the marshaling and foreclosure of liens on real property, except those involving registered lands, the Plaintiff shall procure and file with the Clerk of Courts within 30 days after the filing of the complaint, evidence of the record title (Preliminary Judicial Report) covering a period of at least 42 years immediately preceding the date of filing such petition. The report may be prepared by an attorney or a competent abstractor or title company. The evidence of title shall become and remain a part of the files in the case. The expense of procuring such an instrument of title shall be taxed as costs in the case. If a party to any such action has in its possession or control an abstract or partial abstract of title of the premises, it shall promptly be disclosed and made available at no cost or charge for purposes of making copies to the Plaintiff.

Within 45 days after completion of service upon all parties, counsel for the Plaintiff shall file a continuation of the previously filed Preliminary Judicial Report or attorney's opinion, stating that the report or opinion has been extended to (lis pendens date - R.C. §2703.26) and that no third party has acquired an interest since the date of the original report or opinion. Where the evidence of title indicates that necessary parties have not been made Defendants, the attorney for the party filing the same shall proceed without delay to add and serve such new parties.

Upon failure of the Plaintiff to timely comply with the foregoing, any other interested party, upon notice to Plaintiff, may procure Court permission and file such evidence of title.

25.01 Failure to Comply

Failure to comply with this Rule shall be grounds for dismissal of the case.

25.02 Notice of Sale

In any case where the Court has ordered the sale of real estate, the Clerk of Courts shall mail a memorandum notice showing the conditions of the order of sale to all parties to the suit.

25.03 Fee Schedule

The expenses of title work required under this Rule include a base search fee not to exceed \$200.00, plus a premium on the Judicial Report issued, based on the fair market value of the property or in the case of a foreclosure, the final principal balance due on the first lien or such additional amount as may be allowed by the Court for each property involved, and the costs shall be taxed as part of the costs in the case.

Unless the Court should direct otherwise, the attorneys for the parties for all services in a case of partition of real estate shall be allowed the following fees: On the appraised value of the real estate if partitioned, or on the gross proceeds of the sale if sold, 8% of the first \$5,000.00, 6% on the next \$10,000.00, and 2% on the balance, provided, however, that such fee shall not be less than \$100.00 if the gross proceeds of the sale permit such a minimum. Such fees shall be divided between counsel pursuant to R.C. §5307.25. All attorneys shall maintain detailed and accurate time records of services rendered and of time spent thereon. This rule shall apply to proceedings for the sale of real estate by a fiduciary in the General Division of the Court.

25.04

This rule shall also apply to proceedings for the transfer and/or sale of real estate by a fiduciary in the Probate Division of the Court.

Rule 26

Sheriff's Sales

In every Sheriff's sale of real property, the purchaser shall be required to deposit by 12:00 p.m. on the day of the sale or as soon as the purchaser's bid is accepted whichever is earlier in time, in cash or by certified check payable to the Sheriff, 10% of the amount of the accepted bid. Where the bid is \$3,000.00 or less, the minimum amount of such deposit shall be \$300.00. The maximum amount of a deposit in any case shall be

\$10,000.00. The unpaid balance of the purchase price shall be due and payable to the Sheriff within 30 days from the date of sale. The purchaser shall pay interest on the unpaid balance of the purchase price at the annual rate of interest provided in R.C. §1343.03 from the date of the sale to the date of payment of the balance. Any interest received shall be distributed by the Sheriff to the parties entitled to distribution of the proceeds of sale in the proper order of priority.

In the event a party shall register a bid at a Sheriff's sale and such bid is accepted by the Sheriff as the successful bid, and the party offering the bid fails to deposit in cash or by certified check payable to the Sheriff 10% of the amount of the accepted bid, the Sheriff shall disregard the bid, and shall immediately re-offer the property for sale as before.

On the day immediately following the filing of the entry confirming the sale, the Court shall instruct the Sheriff to prepare a deed to the purchaser. The Sheriff's deed shall conform to the requirements of R.C. §2329.36 and shall be delivered to the purchaser upon payment of the full purchase price and interest, if any.

In the event a purchaser fails to pay the balance due on the purchase price within 30 days after the date of the sale, the purchaser may be found to be in contempt of this Court and the Sheriff shall cause a citation to issue commanding such defaulting purchaser to appear before the assigned Judge and show cause why the purchaser should not be found in contempt of court. Upon a finding of contempt, the Court may further proceed in accordance with R.C. §2329.04.

The Court will not confirm any Sheriff's sale until such time as the party ordering the sale has filed a certificate of service of notice of the sale stating that the notice of the sale has been sent to all parties who have appeared in the action, by ordinary mail to their last known address or to their attorney of record.

Rule 27

Posting Notice of Service by Publication

Pursuant to Civil Rule 4.4 (A)(2), the Clerk of this Court shall post in two (2) conspicuous places in the Courthouse, suggested as the bulletin board or wall in the office of the Clerk of Courts, as well as the bulletin board on the first floor near the Auditor's office and also in at least two (2) of the following public places:

Kroger's

Mt. Gilead

Geyer's Save-A-Lot	Mt. Gilead
Kinsell Foods	Cardington
Marengo County Market	Marengo
Marvin's Village Market	Johnsville
J.G.'s Outback Country Store	near Candlewood
Sparta General Store	Sparta
Stogus Lite Stop	Cardington

Rule 28

Redacting Social Security Numbers, Dates of Birth and Personal Identify Information

The Clerk of this Court is directed to redact all personal information in the public records in the Clerk's Office relating to the Social Security Numbers and Dates of Birth of the parties in such actions. The proposed procedure for such redacting is to photocopy the original document before using whatever reasonable means is necessary and available to cover the information in such a manner that it cannot be revealed by any means. The Clerk will have the authority to remove the original document and substitute a copy that has been redacted so long as the original and/or a copy of the original is kept by the Clerk in a sealed records file to be maintained by the Clerk. It is not required of the Clerk that a sealed records file be established for each individual case. However, if the Clerk wants one sealed records file for the purpose of retaining original documents or copies of original documents as set forth above, then all records therein shall be kept in case number order from the oldest at the bottom to the newest at the top of the file and also with also documents attached in the file as opposed to being loose in such file.

RULE 29

SERVICE OF SUMMONS ON ELECTED OFFICIALS

Whenever any Morrow County Elected official is named as a party to a civil lawsuit in his or her official capacity as such elected official, initial service of summons on a complain, cross claim or counter claim shall be made by personal service on the elected official(s) by the clerk of Courts. The Clerk of Courts is hereby permanently appointed as a special process server for the purpose of complying with this rule.

Whenever service of summons is effectuated by personal service made by the Clerk of Courts pursuant to this rule, a receipt of service of summons form shall be signed by the elected official or his or her agent and filed as an official record in the case file.

If such personal service of summons is not completed within one (1) week of the filing of a complaint, cross claim or counterclaim naming said elected official as a party, then the Clerk of Courts shall cause service of summons by certified mail, return receipt requested, or by any other means which may be requested by the suing party pursuant to the Ohio Rules of Civil Procedure