



GALLIA COUNTY COMMON PLEAS COURT

GENERAL AND DOMESTIC RELATIONS DIVISIONS

LOCAL COURT RULES



TABLE OF CONTENTS

GENERAL RULES

RULE 1.01	RULES OF CONSTRUCTION.....	6
RULE 1.02	STATEMENT ON PROFESSIONALISM.....	7
RULE 1.03	PROCEDURE FOR ADOPTING, MODIFYING, AND REPEALING LOCAL RULES.....	7
RULE 1.05	TERMS AND SESSIONS OF THE COURT.....	10
RULE 1.09	DIVISIONS OF THE COURT.....	11
RULE 1.11	COURT ADMINISTRATOR	11
RULE 1.13	FILING AND REMOVAL OF PAPERS FROM CUSTODY OF CLERK	11
RULE 1.15	THE APPEARANCE DOCKET	12
RULE 1.17	THE ASSIGNMENT SYSTEM.....	12
RULE 1.19	BAIL OR SURETY.....	13
RULE 1.21	JURY MANAGEMENT PLAN.....	13
RULE 1.23	RECORDING OF COURT PROCEEDINGS	23
RULE 1.25	VIDEOTAPED TESTIMONY.....	28
RULE 1.27	DISCLOSURE OF TRANSCRIPTS OF TESTIMONY	28
RULE 1.29	ATTORNEYS	30
RULE 1.31	EXAMINATION, CERTIFICATION, RENEWAL, AND REMOVAL OF NOTARIES PUBLIC.....	31

CIVIL RULES OF PRACTICE AND PROCEDURE

RULE 2.01	CIVIL CASE MANAGEMENT PLAN.....	34
RULE 2.03	DEPOSITS FOR COST	38
RULE 2.05	PLEADINGS AND MOTIONS	40
RULE 2.07	PRETRIAL PROCEDURES IN CIVIL CASES	43
RULE 2.09	DISCOVERY	47
RULE 2.11	LIMITATIONS ON INTERROGATORIES	48
RULE 2.13	PAYMENT OF WITNESS FEES	49
RULE 2.14	CONSOLIDATION OF CASES.....	49
RULE 2.15	DISMISSAL OF ACTIONS	50
RULE 2.17	JUDGMENT.....	50
RULE 2.19	EX PARTE ORDERS	53
RULE 2.21	CANCELLATIONS AND RELEASES.....	53
RULE 2.23	JUDICIAL SALE OF REAL ESTATE.....	53
RULE 2.25	APPLICATIONS FOR AND CONFIRMATION OF PUBLIC SALES	55
RULE 2.27	ATTORNEY’S FEES IN MECHANIC LIEN CASES.....	55
RULE 2.29	RECEIVERSHIPS.....	56
RULE 2.30	FEES-PARTITION CASES.....	62
RULE 2.31	PROCEEDINGS IN AID OF EXECUTION-GARNISHMENTS	63
RULE 2.32	CIVIL MAGISTRATES	64
RULE 2.34	OHIO NON-CONFORMING AUTO VEHICLE ARBITRATION	66

RULE 2.35	MANDATORY ARBITRATION	69
RULE 2.37	APPEAL FROM ADMINISTRATIVE AGENCIES	78
RULE 2.39	DISPOSITION OF EXHIBITS, MODELS, DIAGRAMS DEPOSITIONS, ETC.	80
RULE 2.41	RECORD RETENTION AND DESTRUCTION	80

CRIMINAL RULES OF PRACTICE AND PROCEDURE

RULE 3.01	PURPOSE	82
RULE 3.02	CRIMINAL MAGISTRATE.....	82
RULE 3.03	ARRAIGNMENT, PRETRIAL AND SCHEDULING CONFERENCE.....	82
RULE 3.05	CONTINUANCE OF A CRIMINAL CASE... ..	85
RULE 3.07	GRAND JURY	85
RULE 3.09	COURT APPOINTMENT OF COUNSEL.....	86
RULE 3.11	ASSIGNED COUNSEL FEES.....	86
RULE 3.13	PROBATION DEPARTMENT SUPERVISION FEE	87
RULE 3.15	CERTIFICATE OF QUALIFICATION FOR EMPLOYMENT (CQE).....	A

RULES OF THE DOMESTIC RELATIONS DIVISION

RULE 4.01	SECURITY FOR COSTS.....	88
RULE 4.03	PRE-TRIAL PROCEDURE.....	89
RULE 4.05	ASSIGNMENT OF CASES FOR TRIAL.....	90
RULE 4.07	HEARING.....	93
RULE 4.09	WITNESSES.....	93
RULE 4.10	COURT APPOINTMENT OF EXPERTS	94

RULE 4.11	INVESTIGATIONS.....	95
RULE 4.13	MAGISTRATE HEARINGS.....	95
RULE 4.15	OBJECTIONS TO RECOMMENDATIONS OF THE MAGISTRATE.....	95
RULE 4.17	NOTIFICATION TO THE GALLIA COUNTY CHILD SUPPORT ENFORCEMENT AGENCY OF ACTIONS INVOLVING MINOR CHILDREN.....	96
RULE 4.19	PLEADINGS.....	97
RULE 4.21	ENTRIES.....	97
RULE 4.23	MOTIONS.....	98
RULE 4.24	EX PARTE MOTIONS:TEMPORARY RESTRAINING ORDERS, CUSTODY ORDERS AND VISITATION ORDERS.....	98
RULE 4.25	MOTION TO SHOW CAUSE	99
RULE 4.26	BROADCASTING, TELEVISIONING, RECORDING, AND PHOTOGRAPHING BY NEWS MEDIA.....	101
RULE 4.27	GUARDIAN AD LITEM.....	103
RULE 4.29	TERMINATION OF INACTIVE CASES.....	105
RULE 4.31	FINANCIAL DISCLOSURE AFFIDAVIT REQUIRED AT TIME OF FILING.....	105
RULE 4.32	REQUIRED LANGUAGE.....	107
RULE 4.33	DOCKETING OF CASES.....	108
RULE 4.34	SUPPORT PAYMENTS THROUGH GALLIA COUNTY CHILD SUPPORT ENFORCEMENT AGENCY; APPLICATION FOR IV-D SERVICES.....	108
RULE 4.35	CHILD SUPPORT WORKSHEETS.....	109
RULE 4.36	MEDIATION.....	110
RULE 4.37	CHILD SUPPORT AND SPOUSAL SUPPORT MODIFICATIONS.....	111

RULE 4.39	HEALTH INSURANCE DISCLOSURE AFFIDAVIT.....	111
RULE 4.41	ASSIGNMENT OF CASES.....	112
RULE 4.43	STANDARD VISITATION ORDER.....	112
RULE 4.45	NOTICE OF RELOCATION.....	113
RULE 4.47	SEMINAR FOR SEPARATING PARENTS.....	113
EXHIBIT	A.....	114
EXHIBIT	B.....	115
EXHIBIT	C.....	116
EXHIBIT	D.....	117
APPENDIX	A	
APPENDIX	B	
APPENDIX	C	
APPROVAL		

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GENERAL RULES

RULE 1.01

RULES OF CONSTRUCTION

I. FOREWORD

The General Division of the Common Pleas Court for Gallia 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 Gallia County Common Pleas Court, General Division and Domestic Relations Division, and supersedes all previous rules promulgated by those Divisions. These rules do not govern the procedure in the Probate and Juvenile 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.
- 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 shall take effect on August 16, 2004. They govern all proceedings in actions brought on or after August 16, 2004, and also 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 August 16, 2004, would not be feasible or would work an injustice, in which event the former procedure applies.

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.

VI. TITLE

These rules shall be known as the Local Rules of Practice and Procedure for the General Division and Domestic Relations Division of the Gallia County Common Pleas Court and may be cited as “Gallia 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, Rule XV. 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. PRESENTING PROPOSED RULES, PROPOSED MODIFICATIONS OF EXISTING RULES, OR PROPOSALS TO REPEAL EXISTING RULES

Every proposed rule, proposed modification of an existing rule, or proposal to repeal an existing rule shall be presented to the Court by:

- A. A judge of the division, or

- B. Any individual who sends a proposed rule, proposed modification of an existing rule, or proposal to repeal an existing rule to the judge of the division.

II. INTRODUCTION OF PROPOSED RULE, PROPOSED MODIFICATION OF EXISTING RULE, OR PROPOSAL TO REPEAL EXISTING RULE

Every proposed rule, proposed modification of an existing rule, or proposal to repeal an existing rule shall be introduced to and considered by the judge of the division.

III. CONSIDERATION OF PROPOSED RULE, PROPOSED MODIFICATION OF EXISTING RULE OR PROPOSAL TO REPEAL EXISTING RULE

Every proposed rule, proposed modification of an existing rule, or proposal to repeal an existing rule shall be considered by the judge of the division. The judge may:

- A. Reject the proposed rule, proposed modification of an existing rule, or proposal to repeal an existing rule, or
- B. 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.

IV. PUBLICATION OF PROPOSED RULE, PROPOSED MODIFICATION OF EXISTING RULE, OR PROPOSAL TO REPEAL EXISTING RULE

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 thirty (30) days. A notice of such placement will be mailed to each member in good standing of the Gallia County Bar Association. During this thirty (30) 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 Gallia County Bar Association. The Bar Association will collect the comments and submit them to the Court.

V. ADOPTION OR REPUBLICATION OF PROPOSED RULE, PROPOSED MODIFICATION OF EXISTING RULE, OR PROPOSAL TO REPEAL EXISTING RULE

A. Adoption of Proposed Rule, Proposed Modification of Existing Rule, or Proposal to Repeal Existing Rule

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 Gallia County Bar Association by notice and placement in the law library shall take effect after the thirty-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 thirty-day comment period were given reasonable consideration by the judge of the division and such judge decides, at the end of the thirty-day period, to leave the proposed rule unamended.

B. Republication of Proposed Rule, Proposed Modification of Existing Rule, or Proposal to Repeal Existing Rule

1. If the judge of the division amends 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 mailed to each member of the Gallia County Bar Association. After this thirty-day notice period, the proposed rule or modification shall take effect.
2. If the judge of the division rejects the proposal to repeal the existing rule or reject the proposal to repeal and amend the 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 mailed to each member of the Gallia County Bar Association. After this thirty-day notice period, the proposed rule or modification shall take effect.
 - a. 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.

b. 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.

VI. **FILING OF ADOPTED PROPOSED RULES, MODIFIED EXISTING RULES, OR AMENDED EXISTING RULES**

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 the Gallia County Common Pleas Court 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 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 AM and 4:00 PM.
- 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 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 Gallia County, Ohio, consists of four divisions: the General Division, the Domestic Relations Division, the Probate Division, and the Juvenile Division. The judges elected and/or appointed to each division shall be responsible for the business and administration of their respective divisions and may adopt rules for their respective divisions.

RULE 1.11

COURT ADMINISTRATOR

This Court may appoint an administrator who shall function as the chief non-judicial officer of the Court and will provide general supervision of Pretrial Services, Information Services, and Operations Services to include, but not limited to, jury, caseload, budgetary, and personnel systems. In addition, the Court Administrator shall 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 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 inches shall be left at the top of the first page for endorsements thereon. A blank space of four inches shall be left at the top of the first page for filings intended for the Fourth District Court of Appeals.

C. Documents Requiring Service or Notice

All documents requiring service or notice upon filing shall:

1. Include the address 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 counsels' fax numbers if facsimile machines are available.

II. REMOVAL, EXAMINATION AND DUPLICATION

A. Removal

No person except a judge of the Court, referee or representative of either 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 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 SYSTEM

I. DEFINITION

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 to a judge who will be responsible for determining all matters in the case.

II. CASEFLOW SERVICES

Rule 1.17 shall govern the operations and caseflow services of General Division and shall require the Clerk to maintain a computer record of each pending case. To the extent applicable, this rule shall also govern the operations and caseflow services of the Domestic Relations Division. 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. Declaratory judgment
 - 4. Foreclosure
 - 5. Injunction
 - 6. Medical or Legal Malpractice
 - 7. Other tort (specify type)
 - 8. Personal injury
 - 9. Product liability
 - 10. Professional tort
 - 11. Workers compensation
 - 12. 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. 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.

RULE 1.19

BAIL OR SURETY

No attorney, officer or employee of the Court, of the Clerk of Courts, or of the Sheriff, shall be accepted as principal or as agent for bail or surety. This rule applies to any immediate family of an attorney, of an officer or of an employee of the Court, of the Clerk of Courts, or of 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 a legal obligation and civil duty of all qualified citizens of Gallia County, Ohio.

II. JURY SOURCE LIST

- A. Pursuant to Court order, the jury source list shall be obtained from the Board of Elections's 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 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

- A. All persons on the Jury Source List shall be eligible for jury service except those who:
 - 1. Are less than eighteen year of age.
 - 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, Gallia County, Ohio.
 - 4. Are not able to communicate in the English language, or
 - 5. 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 instructed on their summons to contact the Court on the day prior to their scheduled service day. An answering service is provided to inform the jurors whether they will still be needed for jury service.

VI. EXEMPTION, EXCUSE, AND DEFERRAL

- A. No automatic excuses or exemptions, with the exception of statutory exemptions, from jury service shall be 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 presiding Judge, or
 - 2. They request to be excused because their service would be a financial hardship, personal or family illness, childcare hardship, physician, firefighter or attorney or be a continuing hardship to them or to members of the public and they are excused by the presiding Judge.
- C. Deferrals for jury service for reasonably short periods of time may be permitted by the 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". The form requesting excusal or deferral must be received by the Court 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. 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.
- C. 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.
- D. In a criminal case, the voir dire process shall be held on the record. In civil cases, the voir dire process shall be held on the record unless waived by the parties.
- E. Rules on Voir Dire
 - 1. The case may not be argued in any way while questioning the jurors.
 - 2. Counsel may not engage in efforts to indoctrinate jurors.

3. Jurors may not be questioned concerning anticipated instructions or theories of law. This does not prevent general questions concerning the validity and philosophy of reasonable doubt or the presumption of innocence.
4. Jurors may not be asked what kind of verdict they might return under any circumstances.
5. Questions are to be asked collectively of the entire panel whenever possible.

VIII. REMOVAL FROM THE JURY PANEL FOR CAUSE

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. Such a determination may be made on motion of counsel or by the judge.

IX. PEREMPTORY CHALLENGES

Rules determining procedure for exercising peremptory challenges shall be in accordance with the Ohio Civil and Criminal Rules adopted by the Supreme Court of Ohio and applicable statutory authority.

X. ADMINISTRATION OF THE JURY SYSTEM

- A. The responsibility for administration of the jury system shall be vested exclusively in the Gallia County Common Pleas Court.
- B. All procedures concerning jury selection and service will be governed by Ohio Rules of Court.

XI. NOTIFICATION AND SUMMONING PROCEDURES

- A. The notice summoning a person to jury service shall be:
 1. Combined in a single document. (see EXHIBIT A)
 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 shall clearly explain how and when the recipient must respond and the consequences of a failure to respond.
- C. Policies and procedures may be established for monitoring failures to respond to a summons and for enforcing a summons to report for jury service.
- D. 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 to be imposed as warranted.

XII. 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 effectiveness of qualification and summoning procedures.
- B. The responsiveness of individual citizens to jury duty summonses.
- C. The efficient use of jurors, and
- D. The cost-effectiveness of the jury management system.

XIII. 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 prospective jurors needed to accommodate trial activity. This information and appropriate management techniques should be used to adjust both the number of individuals summoned for jury duty and the number assigned to jury panels.

XIV. JURY FACILITIES

- A. The entrance and registration area shall be clearly identified and appropriately designed to accommodate the daily flow of prospective jurors to the courthouse.
- B. Jurors shall be accommodated in appropriate waiting facilities furnished with suitable amenities.

- C. Jury deliberation rooms shall include space, furnishings, and facilities conducive to reaching a fair verdict. The safety and security of the deliberation rooms shall be ensured.
- D. To the extent feasible, juror facilities should be arranged to minimize contact between jurors, parties, counsel, and the public.

XV. JUROR COMPENSATION

- A. Persons called for jury service should receive a reasonable fee for their service and expenses pursuant to statutory authority.
- B. Such 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.

XVI. 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 shall:
 - 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.
 - 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 may be made available to the jurors during deliberations.
 - 4. Prepare and deliver instructions which are readily understood by individuals unfamiliar with the legal system, and
 - 5. Preferably use 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 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. 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.
- D. Upon completion of the jury term, a representative from the Court or the Clerk's Office upon request shall issue to the juror a certificate of completion to be given to their employer for proof of attendance.

XVII. JURY SIZE AND UNANIMITY OF VERDICT

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

XVIII. JURY DELIBERATIONS

- A. Jury deliberations shall 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 shall instruct the jury concerning appropriate procedures to be followed.
- 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 deliberation.

XIX. SEQUESTRATION OF JURORS

- A. A jury shall 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 shall be used to:
 - 1. Achieve the purpose of sequestration, and
 - 2. Minimize the inconvenience and discomfort of the sequestered jurors.
- E. Instruction shall be provided to personnel who escort and assist jurors during sequestration.

RULE 1.23

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 broadcast, televise, record, or photograph.

II. APPLICATION

This rule shall be applied in conjunction with Canon 3(B) of the Ohio Code of Judicial Conduct and 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 Judge.
 - b. On the appropriate form (“Exhibit A”) available through the Court, and
 - c. As far in advance as is reasonably possible but in no event later than twenty-four hours prior to the courtroom session to be recorded.
2. In the event the Judge decides to approve the request, the Judge shall sign the journal entry (“Exhibit B”) 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 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 shall be required in all proceedings. It is the responsibility of those requesting permission to record the proceedings to arrange for "pooling" of equipment.

III. SANCTIONS

- A. Upon the failure of any person to comply with the conditions presented by the judge 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 nor to recording devices used pursuant to the Rules of Superintendence for the Courts of Ohio.

“Exhibit A”

IN THE COMMON PLEAS COURT OF GALLIA 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 Gallia County Court of Common Pleas, Canon 3(B) Ohio Code of Judicial Conduct, and Rule 12 of the Rules of Superintendence for the Courts of Ohio.

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

REPRESENTATIVE

Received by _____
Date _____
Time _____

“Exhibit B”

IN THE COMMON PLEAS COURT OF GALLIA 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 Canon 3(B) of the Ohio Code of
Judicial Conduct, 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 Gallia County Court of Common Pleas.

_____ grants permission in accordance with Canon 3(B) of the Ohio Code of
Judicial Conduct, Rule 12 of the Rules of Superintendence for the
Courts of Ohio, Rule 1.23 of the Rules of Practice and Procedure for
the Gallia County Court of Common Pleas and with the following
additional stipulations or restrictions:

_____ denies permission.

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

JUDGE

RULE 1.25

VIDEOTAPED TESTIMONY

I. FILING

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

II. PRETRIAL REQUIREMENTS

- A. The written transcript of the videotaped deposition shall be filed within three working days prior to trial.
- B. The Court has video equipment for use at trial. The party using the equipment shall be responsible for:
 - 1. notifying the Court of intended use within three working days prior to trial,
 - 2. ensuring that the videotape is compatible with the Court's equipment, and
 - 3. familiarity 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 stenographic notes have been taken in a case and the Court, or either party to the suit or counsel requests a transcript of any portion of the notes, the court reporter reporting the case shall make a full and accurate transcript of the notes 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.
 - c. Caused the court reporter to be compensated for making the transcript or copies thereof in the amount determined by the judge of the Court of Common Pleas.
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 not be 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 judge of the Court of Common Pleas. 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 Ohio App. Rules.

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 twenty (20) days in advance of trial or hearing.
- 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 and signed by the defendant.

II. CONDUCT

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

III. COMMUNICATION WITH JURY

When permission is granted for the jury to visit the scene, the bailiff or acting bailiff shall point out places or objects agreed to by counsel or ordered by the Court. No other person shall communicate with the jury.

IV. 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 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 may 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.

V. 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 may require local counsel.

RULE 1.31

EXAMINATION, CERTIFICATION, RENEWAL, AND REMOVAL
OF NOTARIES PUBLIC

I. CERTIFICATE OF QUALIFICATION

An applicant for a notary public commission may obtain a certificate of qualifications from a judge of the Court of Common Pleas. Any certificate issued shall indicate that the applicant is of good moral character; that the applicant is a resident of Gallia County, Ohio; that the applicant is possessed of sufficient qualifications and ability to discharge the duties of the office of Notary Public; and whether the applicant is an attorney at law qualified and admitted to practice in Ohio. No judge shall issue a certificate until:

- A. The judge is satisfied from personal knowledge that the applicant possesses the qualifications necessary to a proper discharge of the duties of the office, or
- B. The applicant has passed the examination set forth in this rule.

II. EXAMINATION

A. Examination

All examinations of applicants for the office of Notary Public shall be administered by the Court. The Gallia County Bar Association shall assist the Court in issuing recommendations for Notaries Public as necessary and help the Court in administering this program as deemed necessary. The Gallia County Bar Association shall receive \$10.00 (or as amended in the future) of the Notary fee for its assistance.

B. Duties

The Court shall conduct examinations of all applicants for the office of Notary Public. The purpose of the examination is to determine whether applicants

possess the qualifications necessary for the proper discharge of the office of Notary Public as set forth in O.R.C. Section 147.02 and this rule.

C. Procedure

All examinations of applicants for Notary Public Commissions shall be conducted by the following procedure:

1. Original Examinations

- a. All applicants for Notary Public Commissions shall appear before the Court and shall file the following items:
 - (i) an application with a sworn written statement which shall be in the form prescribed by the Court and applicable law and shall contain all of the information requested by the Court, and
 - (ii) a fee of \$25.00 (or as amended).
- b. The Court shall administer the examination and notify the applicant if he or she is successful.

2. Application For Re-Examination

In the event the applicant fails to pass the examination, the applicant may file a new application for re-examination in accordance with the following schedule:

- a. Upon the unsuccessful completion of the first examination, an applicant may file an application for re-examination 10 days after the date of that examination unless this time is waived by the Judge.

3. Renewal Application

Any person who has been commissioned as a Notary Public in accordance with this rule may seek renewal of the commission as follows:

- a. Every person seeking renewal of commission shall file an application for renewal with the Court. The application shall:
 - (i) be in writing under oath,

- (ii) provide information as requested by the Court, and
- (iii) be accompanied by a \$25.00 fee (or as amended in the future).

4. Examination And Approval of Application

Every application for renewal shall be examined by the Court. Upon approval of an application for renewal, the applicant shall be considered qualified for renewal of the commission unless the Court rules otherwise.

5. Appeal of Examination

In the event the Court disapproves an application for renewal, the applicant may appeal the refusal.

6. Removal

The Court or a member of the Gallia County Bar Association may seek the removal, suspension or discipline of any Notary Public by filing a complaint with the Clerk of the Court of Common Pleas. Such complaint shall be heard and determined by the Judge of the Court of Common Pleas after the notice of the hearing is provided to the individual or individuals against whom the complaint is filed.

CIVIL RULES OF PRACTICE AND PROCEDURE

RULE 2.01

CIVIL CASE MANAGEMENT PLAN

I. PURPOSE

The purpose of this rule is to establish, pursuant to Rule 5 of the Rules of Superintendence for Courts of Ohio, 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.

II. SCHEDULING OF EVENTS

The scheduling of events begins when a civil action is filed. Thereafter, the case is managed in three 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 21 days after 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 applicable provision of Rule 2.37 and the Ohio Revised Code.
- 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 14 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. 28 days after the last publication, the case shall go to Step Two.

E. Failure to make service shall be addressed in accordance with Ohio Rule of Civil Procedure 4(E).

F. In order to meet service requirements, posting required by Civil Rule 4.4 of the Ohio Civil Rules shall be completed by posting notice at the Samuel L. Bossard Memorial Library, the Gallia County Courthouse and the Gallipolis Municipal Building, all located in Gallipolis, Ohio. All service of process is to be made by the office of the Clerk of the Gallia County Court of Common Pleas upon the Treasurer or Auditor of Gallia County by delivering a copy of the summons with a copy of the complaint attached thereto to the office of the Treasurer or Auditor. The Clerk of Court is to require the Treasurer or Auditor or one of his deputies to sign a receipt for said papers. Said receipt shall be filed in the appropriate case by the Clerk of Courts. A copy of the receipt form is attached as "EXHIBIT C".

IV. STEP TWO

This step assumes that service upon all defendants is complete.

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

Attorneys who will be participating at trial are required to attend and their calendars should be up-to-date in order to set future trial-related dates. It is not necessary for the clients to appear.

In each non-jury case, the Judge shall determine whether the case is to be tried by the Judge or referred to a Magistrate. In either event, the trial date and all other intervening events shall be scheduled.

A jury case may be ordered to arbitration or mediation in which event the date(s) for the mediation and/or arbitration as well as a back-up pretrial and a trial date shall be scheduled.

B. If no answer has been filed and no action has been taken by plaintiff's attorney (or pro se) within sixty (60) days of the completion of service, notice may be served

on plaintiff's attorney or plaintiff to either proceed with default judgment or the action will be dismissed. If neither action has been taken after fourteen (14) days, the action shall be dismissed.

- 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, unless scheduled dates are still useable.

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 and present a termination entry for approval within thirty (30) days.

- 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 for the debtor shall file with the Court a notice of bankruptcy with an attached and file-stamped copy of the petition and 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 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.
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.

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 shall have first deposited a sum to secure the payment of the costs (charged in accordance with ORC 2303.20 A-Z) 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:

Domestic with children (Divorce, Dissolution, Annulment) -----	\$500.00
Domestic without children (Divorce, Dissolution, Annulment) -----	\$450.00
Aid of execution, Judgment Debtor Exam -----	\$250.00
Personal Earnings Wage Garnishment -----	\$250.00
All other garnishments ----- (+ \$1.00 check payable to garnishee)	\$250.00
Land sale or foreclosure action ----- <i>(Additional \$300.00 required appraiser fee paid at the time of filing order of sale)</i>	\$275.00
Other civil actions (including mediation) -----	\$275.00
Out-of-County <u>personal</u> service (all cases) -----	\$50.00
Cross, counter, or third party complaint in civil action ----- (\$5.00 for each additional defendant after 5)	\$50.00
Proceedings to vacate, revive, and change, or modify judgment -----	\$250.00
All filings or requests for service not covered by the above -----	\$50.00
Filing foreign judgment -----	\$235.00
Expungement -----	\$250.00
Making certificate of judgment -----	\$5.00
Release of certificate of judgment (other than state of Ohio case) -----	\$5.00
Release of State of Ohio lien -----	\$60.00

Filing certificate of judgment -----	\$30.00
Notary filing -----	\$7.00
Copy (per page) -----	\$0.25
Court of Appeals deposit -----	\$85.00

- II. On cases transferred to the Common Pleas Court in which the prayer of the cross-complaint exceeds the monetary jurisdiction of the Municipal Court, the party filing the cross-complaint shall post security for costs in a sum equal to the amount required as if the case had been originally filed in this court.
- III. 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.
- IV. 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 Six Dollars (\$6.00) 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 not to exceed one dollar each for the services described in divisions (B), (C), (D), (F), (H), and (L) of section of the Revised Code.
- V. A poverty affidavit filed in lieu of a cash deposit must state the reasons for the inability to pay the deposit 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.
- VI. On all cases of service by publication, the party desiring such service shall arrange for publication with any newspaper of general circulation as required by the Civil Rules and

be responsible for said costs. These costs may thereafter be taxed as costs by entry with the affidavit of publication.

- VII. The Clerk may require that any check tendered for any payment be certified before the check will be accepted by the Clerk.
- VIII. 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 2.05

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 designation of primary counsel shall be filed in the following types of actions:
 - a. A class of litigants represented by more than one attorney of record, or
 - b. Parties who are joined in an action and represented by more than one attorney of record, or
 - c. A party which is represented by more than one 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 registration number. The attorney's facsimile number should be included if available.
4. The name, address and telephone number of each pro-se litigant.
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 twenty (20) 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 space 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 memorandums 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 twenty (20) days from the time the motion was filed with the Clerk.
3. No memorandum in opposition shall exceed twenty (20) 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. 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 fourteen (14) days from the time the opposing party's memorandum in opposition to the motion was filed with the Clerk. If no memorandum is filed within this time limit, the motion shall be deemed submitted and 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

The Clerk shall deliver all Memoranda In Opposition to motions to the assigned judge.

E. Decisions

1. Motions shall be decided without oral hearings unless otherwise ordered by the Court, or unless required by law.
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 parties. To expedite the business of the Court, the Court may decide any motion upon filing without notice to the parties when the motion addressed 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 their 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 will determine the quality of pretrial proceedings. In the effective administration of this Rule, appropriate sanctions shall be employed as may be necessary.

II. SCHEDULING CONFERENCE

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

- A. Attorneys who will be participating at trial are required to attend and their calendars should be up to date in order to set future trial related dates. It is not necessary for the clients to appear.
- 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 Arbitration, to Mediation or to a Magistrate for hearing.

III. PRE-TRIAL CONFERENCE

- A. Attorneys should consult with their clients in advance of the conference and be prepared to confer practically and earnestly on settlement and all other matters as may aid in the disposition of the action. Trial counsel shall appear and be prepared to consider:
 - 1. The simplification of the issues.
 - 2. The necessity or desirability 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. The possibility of settlement.
 - 6. The waiving of a jury.
 - 7. Such other matters as may aid in the disposition of the action.
- B. At the pretrial conference, counsel for the parties 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 the 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 final 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 together with 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.

IV. SETTLED CASES

Counsel shall notify the Court if a case is settled and present a termination entry for approval within twenty (20) days.

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 the 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 final 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 at or before final pretrial. 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 or picture submitted at trial. The party requesting a view of the premises shall be responsible for implementing all necessary arrangements to accomplish same.

VIII. ATTORNEY TESTIFYING AS WITNESS

If an attorney anticipates that he/she or a member of his/her firm may be required to testify as a witness under circumstances which would not require disqualification as counsel under the Code of Professional Responsibility, such attorney shall immediately notify the Court and opposing counsel in writing and set forth:

- A. The issues on which he/she or a member of his/her firm may be required to testify, and
- B. A general plan for handling the testimony.

IX. EXAMINATION OF WITNESSES

At the trial or hearing of an issue of fact, only one 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 shall participate in pre-trial discovery conferences and shall freely exchange discoverable information and documents upon informal request.

III. STIPULATION PROCEDURE

- A. If the attorney, to whom an informal request for information or documents has been made, complies with such request, the attorney who makes the informal request may prepare a stipulation. The stipulation sets forth the information or documents provided in response to such request. The stipulation shall be signed by participating counsel in order to preserve the fruits of discovery and, if otherwise admissible, may be used in evidence as an agreed statement of fact.
- B. In the event that the stipulation or objections thereto are not returned to the attorney who prepared them within fourteen (14) days of its having been mailed to participating counsel for signature and the attorney who requested the information or documents thereafter resorts to formal discovery procedures to obtain such information or documents, the party from whom discovery is sought may be charged with all expenses of the formal discovery.
- C. The Court, upon motion, shall determine whether the failure to sign and return the stipulation was unwarranted and whether the party from whom discovery is sought will be required to pay the expenses of formal discovery including reasonable attorney fees.

IV. DISCOVERY PAPERS

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

V. EFFECT OF RULE: CERTIFICATE

- 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. A certificate 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 Rule 37 of the Ohio Rules of Civil Procedure and this Local Rule including the imposition of costs, expenses and reasonable counsel fees.

VI. POLICY OF LOCAL RULE

- A. It is the declared policy of this Local 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

I. TOTAL NUMBER OF INTERROGATORIES

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.

II. ADDITIONAL INTERROGATORIES

- A. Additional interrogatories 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 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 disputes as to number of interrogatories 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 witness, in the form of a check or money order made payable to said witness and attached to the subpoena to be issued by the Clerk of Court. The party shall post a deposit of \$50.00 to the Clerk of Courts, per witness residing outside of Gallia County requiring foreign county 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 said consolidation shall be filed with the Clerk of Courts within five 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. The Clerk of Courts shall attach said pleadings and other papers to a separate (consolidated) file listing all case numbers. 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 and magistrate assigned to the case so that the judge and magistrate 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 or the Domestic Relations Division of the Gallia County Court of Common Pleas.
- 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.

RULE 2.17

JUDGMENT

I. ENTRY OF JUDGMENT

- A. Procedure
 - 1. The judgment of the Court shall be effective upon the filing and journalization of a judgment entry with the Clerk of Courts.

2. At all uncontested hearings, counsel shall furnish the final entry with supporting orders and sufficient copies to be served on all parties.
3. After a decision has been rendered by the Court in a contested matter and, if the Court requests that counsel prepare the final entry, counsel shall have ten (10) days to submit the final entry to opposing counsel for approval. Opposing counsel shall have five (5) days to submit the entry to the Court for approval, unless otherwise ordered by the court.

B. Objection to Entries of Judgment

1. If counsel refuses to sign an entry presented, counsel may present their version of the entry to the Court along with the presented entry.
2. If counsel refuses to sign an entry presented and does not present an alternative entry within five (5) days, the original entry shall be presented to the Court for approval with a notation that the entry was submitted, was not signed or returned by counsel.
3. No oral arguments shall be heard in the settlement of proposed entries of judgment unless ordered by the trial court.

II. DEFAULT JUDGMENT

A. Procedure

Pursuant to Rule 55 of the Ohio Rules of Civil Procedure, all motions for default judgment shall be submitted to the judge to whom the case is assigned.

B. Form

1. If there shall be a default judgment of any appearance by any party, the party seeking judgment shall file with the Court an affidavit setting forth facts showing the party in default is not in the military service. If unable to file such an affidavit, the party seeking judgment shall file an affidavit setting forth that the party in default is either in the military service or that the affiant is not able to determine whether or not the defaulting party is in the service, so that judgment can be entered as required under 50 U.S.C. 520, et seq.
2. Default judgments shall be granted in accordance with Civil Rule 55. All motions shall recite that the moving counsel has not been contacted by the defaulting party or counsel for the defaulting party, or if contact has been

made, the extent to which such contact had been made. All motions for default judgment shall be accompanied by a proposed judgment entry.

3. Counsel shall endorse the motion, notice and judgment with a certificate of service as required by Rule 5(D) of the Ohio Rules of Civil Procedure. Failure to provide a certificate constitutes an irregularity and a ground for the vacation of judgment unless the record establishes that the name or address of the party against which judgment is sought is unknown.

III. JUDGMENT BY CONFESSION

A. Issuance of Judgment

A judgment by confession shall be granted by the assigned trial judge upon:

1. An attorney's warrant, or
2. The personal appearance of the defendant in Court.

B. Entry of Judgment

All judgments by confession shall:

1. Be in writing.
2. State the debt or cause of action decided, and
3. Be filed with the Clerk.

C. Notice

Notice of all judgments by confession shall be governed by the following procedure:

1. Upon entry of judgment, Plaintiff's attorney shall deliver the following to the Clerk:
 - a. Two copies of the notice of judgment entry for the Defendant. A duplicate of the judgment may be used as notice if it has been file-stamped by the Clerk and bears the name of each defendant, and
 - b. One envelope that is addressed to the defendant, bears the Clerk's return address and is properly stamped for certified mail.

2. Upon receipt of the duplicates of defendant's notice of judgment entry the Clerk shall:
 - a. Mail one copy of defendant's notice of judgment entry to the defendant on the same day the copy was received from the plaintiff.
 - b. File one copy of the defendant's notice of judgment entry in the case file on the same day it was received from the plaintiff, and
 - c. Endorse on the docket and file in the case the certificate of mailing and the return of mailing.

- D. All issues that arise or are pending in a case subsequent to the entry of a judgment by confession shall be referred to the judge to whom the case has been assigned.

RULE 2.19

EX PARTE ORDERS

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

RULE 2.21

CANCELLATIONS AND RELEASES

Releases and assignments of judgments or certificates of judgment shall be in writing and signed by a person authorized to execute the instrument. Releases and assignments shall be placed upon the computer docket and a copy placed in the file.

RULE 2.23

JUDICIAL SALE OF REAL ESTATE

- I. In every action hereinafter filed in the Common Pleas Court of Gallia 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 endorse thereon the following certification:

“The undersigned hereby certifies that an examination of the public records of Gallia 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.”

- II. Upon any Decree subsequently issued which orders the sale of real estate, the party or attorney having requested said sale shall further certify:

“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.

- III. In every action in any division of the Common Pleas Court of Gallia 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 O.R.C. Sections 2329.26 and 2329.27. Failure to provide timely notice to interested parties shall constitute grounds for denying confirmation of the sale.
- IV. 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.
- V. 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.
- VI. This Rule shall not apply to proceedings under R.C. 5721.18, Foreclosure Proceedings On Lien of State.

RULE 2.25

APPLICATIONS FOR AND CONFIRMATION OF PUBLIC SALES

- I. Confirmation entries for sales of real estate and applications for determining priority of liens shall be submitted to the judge regularly assigned to the case within fourteen (14) days of the sale.
- 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 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

ATTORNEY'S FEES IN MECHANIC'S LIEN CASES

- I. Attorney's fees in an action to foreclose a mechanic's lien may be allowed to counsel for plaintiff from the proceeds of sale only when a fund has been created and brought into court by plaintiff's action. The funds must arise out of the sale of property subject to mechanic's liens, be in excess of the amount needed to pay prior mortgage encumbrances, and be applicable to amounts due valid lien claimants.
- II. If, at the time of distribution to the lien claimants, all the liens other than that of the plaintiff have been adjusted and settled, no such fee will be allowed counsel for plaintiff.
- III. If plaintiff pays counsel a fee, the amount so paid shall be considered in the allowance of any such fees.

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 been denied by one 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 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 Gallia County, Ohio, 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, 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, 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 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 by the appraisers 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. The Clerk of Courts shall:

1. Keep a docket of all cases in which a receivership is pending, and
2. Notify each judge who appointed receivers of the status of each pending receivership. The notice shall be provided during the first week of January and during the first week of July.

J. 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 year to liquidate, one third 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, 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, 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 sue in forcible entry and detainer 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

- A. The attorneys for plaintiffs in an action for partition of real property pursuant to Chapter 5307 R.C. who have rendered complete services in connection with partition litigation shall be allowed and receive as full compensation for all ordinary and necessary services a fee ("counsel fee") in accordance with the provisions of Section 5307.25 R.C. for the first \$5,000.00 of the value, as determined in the action, of the real property, at the rate of eight percent (8%); for the next \$5,000.00 or part thereof, at the rate of six percent (6%); for the next

\$5,000.00 or part thereof, at the rate of two percent (2%); and for all value in excess of \$15,000.00 at the rate of one-half percent (½%), with a minimum allowance for full representation being \$650.00. As used herein, value, shall be determined to be the amount of the sale price in the event the property is sold in partition or the value as determined by the appraisers in the event the property is not sold and there is an election to take the property at the appraisal value.

- B. In the event an allowance for actual and necessary expenses, additional compensation, or compensation for extraordinary services is sought by such attorney or attorneys in a partition action (over and above the “counsel fee” contemplated in paragraph A of this rule), the request for an allowance must be made in person to the judge before allowance, be considered and fixed by the Court en banc in an amount the court considers just and reasonable for actual and necessary expenses, and for extraordinary services. Said requests shall be itemized as to time required and have receipts for expenses attached where appropriate.

RULE 2.31

PROCEEDINGS IN AID OF EXECUTION-GARNISHMENTS

I. GENERAL REQUIREMENTS

- A. Proceedings in aid of execution may be referred to a Magistrate named by the Court for that purpose.
- B. Personal earnings garnishment:
1. Only one garnishee per garnishment shall be permitted.
 2. A copy of the Final Report and a copy of the Interim Report shall be included with each filing.
- C. For property other than personal earnings a maximum of two (2) garnishees will be permitted on each garnishment.

II. PROCEDURE FOR PROCESSING A PERSONAL EARNINGS GARNISHMENT

- A. The Clerk of Courts requires the original and four (4) copies of the Affidavit, Order and Notice of Garnishment, three (3) copies of the Notice to Judgment Debtor, three (3) copies of the Request for Hearing form, two (2) copies of the Interim Report, two (2) copies of the Final Report and Answer, and the Fifteen-Day Demand Letter with proof of service.

- B. The Clerk of Courts requires a deposit in the amount of \$250.00 payable to the Gallia County Clerk of Courts for personal earnings garnishments. All other garnishments require a \$250.00 deposit to the Clerk of Courts and a check in the amount of \$1.00 payable to the garnishee.

RULE 2.32

CIVIL MAGISTRATES

I. APPOINTMENT AND REFERENCE

- A. The Court may appoint one or more magistrates in accordance with Rule 53 of the Ohio Rules of Civil Procedure.
- B. The Trial Judge may by order refer any of the following to a magistrate:
 - 1. Any pretrial or post-judgment motion in any case.
 - 2. The trial of any case that will not be tried to a jury, and
 - 3. Upon the unanimous written consent of the parties, the trial of any case that will be tried to a jury.

II. GENERAL POWERS

The magistrate shall regulate all proceedings in every hearing as if by the Court and do all acts necessary or proper for the efficient performance of the magistrate's duties under the order of reference. The magistrate may do all of the following:

- A. Issue subpoenas for the attendance of witnesses and the production of evidence.
- B. Rule upon the admissibility of evidence.
- C. Place witnesses under oath and examine them, and
- D. Call the parties to the action and examine them under oath.

III. PRETRIAL ORDERS

- A. Unless otherwise specified in the order of reference, the magistrate may enter Orders, captioned as such, without judicial approval in pretrial proceedings under Rule 16, in discovery proceedings under Rule 26 through 37, temporary

restraining orders under Rule 75, in hearings under Rule 75 of the Ohio Rules of Civil Procedure, and other orders as necessary to regulate the proceedings.

B. Appeal of Pretrial Orders

Any person may appeal to the Court from any order of a magistrate under division III (A) of this rule by filing a motion to set the order aside, stating the party's objections with particularity. The motion shall be filed no later than ten days after the magistrate's order is entered. The pendency of a motion to set aside does not stay the effectiveness of the magistrate's order unless the magistrate or the Court grants a stay.

IV. TRIALS

A. Trials before the magistrate shall be conducted in accordance with the standard set out in applicable State and Local Rules.

B. A record shall be made of all proceedings before a magistrate with the exception of arbitrations.

V. MAGISTRATE'S DECISIONS

After the trial to the magistrate, the magistrate shall issue a decision with or without findings of fact and conclusions of law as required by law or by the Order of Reference in accordance with Rule 53 of the Ohio Rules of Civil Procedure. The magistrate may require that briefs, proposed findings or other memoranda be submitted by counsel prior to the issuance of said decision.

VI. OBJECTIONS TO DECISION

A. Time for Filing

Objections to the Magistrate's decision may be filed by any party within fourteen (14) days of the filing of the Magistrate's decision. If any party timely files objections, any other party may also file objections or a response not later than ten (10) days after the first objections are filed. If a party makes a request for findings of fact and conclusions of law under Ohio Civil Rules of Procedure 52, the time for filing objections begins to run when the Magistrate files a decision including findings of fact and conclusions of law.

B. Form of Objections

Objections shall be specific and state with particularity the grounds for the objections, referring to the transcript and evidence when applicable.

VII. TRANSCRIPTS

Any objection to a finding of fact in the Magistrate's decision shall be supported by a transcript of all the evidence submitted to the Magistrate relevant to that fact or an affidavit of that evidence if a transcript is not available. A transcript must be filed with the Court by the moving party within thirty (30) days after the filing of objections to the Magistrate's decision unless the Magistrate, in writing, extends the time for inability of the reporter to complete the transcript of the testimony, or, upon motion, waives the requirement for filing a transcript.

The request for a transcript shall be submitted to the proper court reporter within three (3) days after filing of objections and a copy filed with the Magistrate.

VIII. FINAL ENTRIES

If no objections to the Magistrate's decision are filed pursuant to Section V of this rule or the Ohio Rules of Civil Procedure, the Magistrate shall prepare the judgment entry and submit the same to the Court for approval. The Court may adopt the Magistrate's decision if no written objections are filed unless it determines that there is an error of law or other defect on the face of the Magistrate's decision.

RULE 2.34

OHIO NON-CONFORMING AUTO VEHICLE ARBITRATION

This rule is adopted to effectuate the expedient resolution of motor vehicle litigation between parties under Revised Code Section 1345, *et seq.*

I. CASES FOR ARBITRATION

A. Any case filed in the Court of Common Pleas and containing a claim for relief under the Ohio Lemon Law, Revised Code Section 1345.71, *et seq.*, may, if so ordered by the Common Pleas Judge, be heard and decided by a Board of Arbitration consisting of a Magistrate of this Court and two (2) other members of the Bar to be selected as provided in Rule 2.35 (II.)

- B. Such cases as qualify for arbitration under this rule shall be referred to the arbitration commissioner not later than thirty (30) days after all answers have been filed by all parties and shall be scheduled for arbitration by the assignment commissioner before a Board of Arbitration not later than 120 days after said referral.

II. DISCOVERY

A. Discovery Rules Applicable

In addition to any applicable rules of discovery, within thirty (30) days after service of all defendants' answers, plaintiff shall disclose to all defendants (1) the names and job positions, if known, of any of defendants' employees with whom the plaintiff has had any contact concerning the motor vehicle involved in the case, (2) the identify of any non-party person who performed any work or service upon the motor vehicle involved in the case, (3) a list of all complaints about the vehicle made by the consumer to any authorized dealer, and the date each complaint was made, and (4) a summary of any expert witness report, if any. In addition, at the same time, plaintiff shall provide a complete and accurate photocopy of such of the following documents as may be in plaintiff's possession: (1) any printed advertisements for the subject motor vehicle upon which plaintiff intends to rely, (2) the contract of sale, (3) the finance contract, (4) the date of sale odometer statement, (5) any written warranties or service contracts upon which plaintiff intends to rely, (6) any deposit or down payment receipts which plaintiff may possess, (8) all repair records, (9) any recall notices received, (10) any correspondence with any defendant, and (11) any correspondence with any private or third party dispute resolution system.

B. Defendant's Discovery Disclosure

Within sixty (60) days of the filing of defendant's answer, said defendant shall provide a complete and accurate photocopy of such of the following documents as may be in said defendant's possession: (1) a computer printout or similar summary of the vehicle repair history from the vehicle manufacturer's records, (2) copies of all repair records, (3) an index of any service bulletins or advisories issued by the manufacturer on the subject motor vehicle, (4) the franchise agreements between the manufacturer of the subject vehicle and every franchisee who performed warranty work upon the subject motor vehicle, (5) any non-privileged correspondence with any other party to the litigation regarding the subject vehicle, (6) any correspondence with any private or third party dispute resolution system, (7) any appraisal records on any trade-in motor vehicle relevant to the lawsuit, (8) the vehicle inventory record (i.e. the "washout sheet") for the

subject motor vehicle and any trade-in motor vehicle, (9) the contract of sale, (10) the deal work sheet, (11) any extended warranty or service contract application form, (12) any records of inspection regarding the subject vehicle other than those which are not discoverable under the Civil Rules, and (13) plaintiff's credit application. In addition, at the same time, each defendant shall disclose to the plaintiff the names and job positions of any of defendant's employees with whom the plaintiff has had any contact concerning the motor vehicle involved in the case.

In addition to the above, if the purchase of the subject motor vehicle was financed and the financier is a named party to the litigation, or in the event that the subject motor vehicle was the subject of a lease transaction which was assigned to or made by a financial institution which is a named party to the litigation, then such financial institution shall produce the following documents to all other parties with thirty (30) days of filing its answer: (1) any documents which bear the signature of the plaintiff and relate to the subject vehicle, (2) a computer printout or other summary showing the loan history over (a) the life of the loan, if all payments are timely made in the future and showing all payment toward principal or interest, etc., and (b) the loan balance remaining after each monthly payment (assuming it is timely made) for the life of the loan, and (3) the interest rate dealer reserve schedule applicable between the financial institution and the retail seller of the subject motor vehicle on the date of sale, if any.

C. Witness and Evidence Disclosure

In addition to the above, no less than thirty (30) days prior to the arbitration hearing, all parties shall: (1) produce to all other parties any documents upon which they intend to rely or otherwise introduce into evidence at the arbitration hearing not already produced, and (2) identify all witnesses who will testify at the arbitration hearing, with each expert witness so designated in the disclosure, along with the name of his field of expertise and a copy of the expert's written report or a summary of his opinions if no written report was made.

D. Compliance with Rule 2.34 Not Deemed Waiver of Objection

The specification of documents to be produced and witnesses to be identified, required by this Rule, shall not be interpreted to restrict any party from engaging in discovery otherwise permitted by the Rules of Civil Procedure and shall not act as a waiver of any objection by any party to the introduction of said documents or witnesses at an arbitration or trial proceeding.

RULE 2.35

MANDATORY ARBITRATION

Pursuant to Rule 15 of the Rules of Superintendence for the Courts of Ohio, the Court of Common Pleas of Gallia County, Ohio, General Division, does hereby adopt this plan for the mandatory arbitration of civil cases.

I. CASES FOR ARBITRATION

A Judge of this Court may, by a general order, cause any case, regardless of the amount in controversy, to be heard and decided by a Board of Arbitration, which board shall consist of a Magistrate of this Court and two (2) other members of the Bar, except as limited hereinafter:

- A. Before submitting a case to arbitration, a scheduling or pretrial conference must first be held by the assigned trial judge.
- B. Actions involving title to real estate, equitable relief and appeals shall be excluded.
- C. Medical malpractice cases may only be referred to arbitration upon agreement of the parties.

II. SELECTION OF ARBITRATORS

- A. In cases subject to arbitration, the Court shall appoint two (2) arbitrators from a Court approved list of attorneys admitted to practice law in Ohio who have consented to serve as arbitrators and have no interest in the determination of the case. In addition, a Magistrate of this Court shall serve as the third arbitrator. The Court's Magistrate shall act as Chair of the arbitration board. The assigned judge may, for good cause, order the case to be heard by a single arbitrator, that being the Magistrate serving as Chair of the arbitration board.
- B. Not more than one member of a law partnership or an association of attorneys shall be appointed to the same board, nor shall any attorney appointed to the board be related by blood or marriage to the parties or their counsel.

III. DELIVERY OF COPIES

During the pendency of any arbitration hearing date, the parties shall provide copies of all pleadings to the arbitration chair on the date of the filing.

IV. ASSIGNMENT OF CASES

- A. At the scheduling conference, the trial judge and counsel for parties shall determine a mutually convenient arbitration date and shall fix that date by order. Pretrial and trial dates shall also be set. All exceptions to orders assigning cases to arbitration shall be raised by motion filed within ten (10) days of the file-stamped dates of the order assigning the case to arbitration.
- B. Hearings shall be held in the Gallia County Courthouse. The arbitration Chair shall assist the Court in the selection of two (2) other arbitrators and shall notify the arbitrators in writing of the date, time and place of hearing. The Chair shall also prepare for the judge a Judgment Designating Arbitration Board to be mailed to counsel and to the assigned arbitrators.

Any objections to an assigned arbitrator shall be raised by written motion and supporting memorandum filed within seven (7) days of the file-stamped date of Designation of Arbitration Board and shall be ruled on by the assigned judge.

- C. Sufficient time will be available to the parties prior to the hearing date to settle or compromise their disputes and to conduct discovery. Once a hearing date is set the hearing shall proceed forthwith at the scheduled time. There shall be no communications by counsel or the parties with the arbitrators concerning the merits of controversy prior to the commencement of the hearing.
- D. If an assigned arbitrator discovers after appointment that he or she has a conflict of interest or scheduling conflict, he or she must call the office of the arbitration Chair immediately to notify the Chair of such conflict. If notification is made within seven (7) days of the hearing, the assigned arbitrator shall be responsible for finding an appropriate replacement arbitrator and notifying the Chair for approval and then counsel for the parties of such replacement.

V. INABILITY OF PARTY TO PROCEED

Only the judge who referred the matter to arbitration or the presiding Magistrate with the approval of the judge may grant a continuance in writing on motion for good cause shown after a mutually acceptable future hearing date has been arranged with all concerned parties. A copy of the motion and entry granting the continuance shall contemporaneously be delivered to the arbitration Chair upon filing the originals with the Clerk of Courts. Failure to notify the arbitration chair of a continuance may result in the imposition of arbitration fees.

VI. CONDUCT OF HEARING

A. Oath of Arbitrators

The arbitration Chair shall administer to each of the other two arbitrators an oath wherein each shall solemnly swear that he/she will support the Constitution of the United States and the Constitution of the State of Ohio, and that he/she will administer justice without respect to persons and faithfully and impartially discharge and perform all duties incumbent upon him/her as an Arbitrator, according to the best of his/her ability and understanding.

B. Default of a Party

The arbitration may proceed in the absence of any party, who, after due notice, fails to be present or fails to obtain an adjournment, but, an award shall not be made solely on the default of a party. The single arbitrator or Arbitration Board shall require the non-defaulting party to submit such evidence as it may require for the making of an award.

C. Transcripts

1. Arbitrators are not required to prepare nor facilitate the preparation of transcripts of testimony.
2. If a party desires a transcript, the party shall obtain a court reporter who will cause a record to be made and shall pay the reporter for the services. Court reporter fees shall not be taxed as costs in the case.
3. If a party desires a copy of a prepared transcript, the party shall contact the court reporter who prepared the transcript and the court reporter shall provide the party with a copy of the transcript upon the payment of a fee. Fees for copies of prepared transcripts in arbitration cases shall be based upon the usual charges for copies of depositions.

D. Supervisory Powers of the Court

1. The assigned trial judge shall have full supervisory powers over any question that arises in all arbitration proceedings and in the application of these rules.

2. Violations of the provisions governing mandatory arbitration shall subject all offending parties to the assessment of costs or such other sanctions as determined by the Court.

VII. GENERAL POWERS OF THE ARBITRATION BOARD

All arbitrators shall have the following general powers:

- A. The general power of the court, and
- B. The power to judge the relevancy and the materiality of the evidence offered. All evidence shall be taken in the presence of the arbitrators and of all the parties except where any of the parties is absent, is in default, or has waived the right to be present. The Board may receive the witness' evidence by affidavit or written report and shall give it the weight to which they deem it is entitled after considering any objections that have been made to it.

VIII. SPECIFIC POWERS OF THE ARBITRATION BOARD

- A. All arbitrators shall have the following specific powers:

1. Subpoenas

The power to subpoena persons to attend before them as witnesses and in proper cases to bring with them books, records, papers, or documents deemed material evidence in the case. If any person so subpoenaed to testify refuses or neglects to obey the subpoena, the Arbitration Board or single arbitrator may petition the Court to compel the attendance of the person or to punish the person for contempt or may treat the matter as uncontroverted and issue a Report and Award without issuing a contempt citation.

Counsel shall upon request, whenever possible, produce a party or witness at the hearing without the necessity of a subpoena.

2. Depositions

The power to petition the Court to direct the taking of depositions to be used as evidence before the Board of Arbitration or single arbitrator.

3. Administer Oaths and Affirmations

The power to administer oaths or affirmations to witnesses.

4. Conduct Hearing

The power to determine the admissibility of evidence, to permit testimony to be offered by depositions and decide the law and the facts of the case submitted to them, and the power to maintain order and direct the order of the presentation of evidence and/or witnesses.

5. Evidence - Medical Bills, Property Damage Bills, Estimates

The power to accept bills, estimates, and any accompanying data as evidence in personal injury and/or property damage cases. The evidence may be offered and received in evidence without further proof for the purpose of proving the reasonableness of the charges for services, labor, materials, and any other items contained within the bill, estimate, and/or accompanying data. However, no medical bill, property, damage bill, estimate, or accompanying data shall be admitted unless both parties have agreed to the admission of the evidence or the adverse party has been given one week's written notice of the evidence and a copy of the evidence to be admitted.

a. Hospital Bills

Hospital bills that are dated, itemized, and printed on the official letterhead or billhead.

b. Bills of Doctors and Dentists

Bills of doctors and dentists that contain a statement of the date and charge of each visit; are dated; are printed on official letterhead paper; and are accompanied by the doctor's or dentist's statement which certified that the charges are correct and reasonable and that the services rendered were, in the opinion of the doctors or dentists, necessary and causally connected to the incident involved.

c. Bills of Nurses and Physical Therapists

Bills of registered nurses, licensed practical nurses, and physical therapists that are dated; contain an itemized statement of the days and hours of services and the charges therefor; and are accompanied by the nurse's or physical therapist's statement

certifying that the charges are correct and reasonable and that the services were necessary.

d. Bills for Medicine and Medical Equipment
Bills for medicine, eye glasses, prosthetic devices, medical belts, and similar items that are accompanied by a letter from the supplier stating that the charge is correct, reasonable, and representative of the market value of the items referred to in the bill.

e. Property and Repair Bills

Property repair bills or estimates that are identified; set forth the charges for labor and material used in the repair of the property; and are accompanied by a statement which sets forth the qualifications of the person who made or supervised the repairs and provides that the repairs were necessary and the charges for labor and material were fair, reasonable, and customarily charged.

B. Procedure in Case of Estimates

Before an estimate may be admitted into evidence, the proponent of the estimate shall forward the following to the opponent:

1. One week's written notice that the estimate will be admitted into evidence.
2. A copy of the estimate.
3. A statement indicating whether or not the property was repaired, and if it was, whether the estimated repairs were made in full or in part, and
4. A copy of a receipt of the bill which shows the items of repair that were made and the amount paid for each item of repair.

C. Exhibits

All exhibits submitted by the parties at the arbitration hearing shall be marked by and kept in the custody of the arbitration Chair. At the end of the thirty (30) day appeal time, counsel, or the party if pro se, can request the return of the exhibits by telephoning the office of the arbitration Chair and making arrangement for pickup. If no request is made within three (3) months, the exhibits will be destroyed.

IX. REPORT AND AWARD

- A. Within thirty (10) days after the hearing, the Chair shall file a Report and Award with the Court and on the same day shall mail or otherwise forward copies thereof to all parties or their counsel.
- B. The Report and Award shall be signed by all of the members of the panel.
- C. In the event all three (3) members do not agree on the Report and Award, the dissenting member shall write the word “dissents” before his or her signature. A minority report is not required unless the dissenting arbitrator elects to submit the same due to unusual circumstances.

X. APPEALS AND EXCEPTIONS

- A. Appeals of the arbitration award must be filed within thirty (30) days from the date the Arbitrators’ Report and Award is filed with the Clerk of Courts. The Notice of Appeal need not address the merits of the appeal.
 - 1. An affidavit that the appeal is not being taken for delay must be filed and accompany the notice.
 - 2. Copies of the notice shall be served upon the adverse party or parties according to law.
 - 3. The Notice of Appeal must be accompanied by payment in full of arbitration costs as provided below.
- B. Withdrawal of Appeal

If at any time prior to trial the party who files an appeal withdraws the appeal, unless the other party has also filed an appeal, the Report and Award shall have the legal effect of a verdict and judgment shall be granted as provided in Gallia Co. C.P.R. 2.32 (VIII).
- C. Return to Active List

If an appeal is taken from an arbitration order, the case will be set for trial and returned to the assigned judge.
- D. Appeal De Novo

All appeals shall be de novo proceedings.

E. Testimony of Arbitrators on Appeal

No member of the Arbitration Board nor single arbitrator shall be a witness at any de novo appeal proceeding.

F. Exceptions

Exceptions to the decision of the Board or single arbitrator based on either misconduct or corruption of the panel or single arbitrator may be filed by any party within thirty (30) days after the filing of the report.

1. The following actions shall be taken within two (2) business days after exceptions are filed with the Clerk of Courts:
 - a. Copies of the exceptions shall be served upon the members of the Arbitration Board or upon the single arbitrator.
 - b. The exceptions shall be referred to the assigned judge for hearing.
2. If the exceptions are sustained, the report shall be vacated and the case shall be placed on the active list of the judge who ordered the case to mandatory arbitration. The judge who ordered the case to mandatory arbitration may withhold compensation from any arbitrator.

XI. COMPENSATION OF ARBITRATORS

Each member of the Board (except the Court's Magistrate) who has signed an award or files a minority report shall receive as compensation for his or her service in each case a fee of One Hundred Twenty-Five Dollars (\$125.00) per half day or part thereof. When more than one case arising out of the same transaction is heard at the same hearing or hearings, it shall be considered as one case insofar as compensation of the arbitrator is concerned.

- A. In cases requiring hearings of unusual duration or involving questions of unusual complexity, the assigned judge, on petition of the arbitration Chair and for good cause shown, may allow additional compensation.
- B. Upon the completion of the arbitration hearing, deliberations and the filing of the Report and Award, the arbitration Chair and the assigned Judge shall sign and file a Certificate for Attorney Fee which shall designate the amount each of the two (2) assigned arbitrators shall receive for their services.

- C. Fees paid to arbitrators shall be taxed as costs, and shall be made payable to and be paid to the Gallia County Clerk of Courts by the required party within thirty (30) days of the filing of the Report and Award.
- D. All compensation for arbitrators shall be paid upon proper warrant and shall be issued from the fees collected by the Clerk of Courts. The Clerk shall issue payment upon the expiration of the appeal/exception filing deadline.
- E. In the event that a case is settled or dismissed sooner than two business days before the scheduled date for the hearing, the arbitrators shall not be entitled to compensation. In the event that a case is settled or dismissed within said two-business-day period, the arbitrators shall be entitled to receive said fee. In order to avoid paying compensation to the arbitrators, counsel for at least one party must directly notify the office of the arbitration Chair of the settlement or dismissal not later than the close of business on the third business day preceding the day the arbitration is scheduled. A business day is a day the Court is open for business.

Failure to notify the office of the arbitration Chair of a settlement by the deadline will result in the costs being taxed to the parties equally, unless the parties agree to a different division of costs. In the case of voluntary dismissal by a party after these deadlines, costs and fees will be taxed to the dismissing party.

XII. COSTS OF APPEAL

- A. Amount
 - 1. Upon the timely filing of an appeal of a Report and Award of an arbitration board, the party filing the appeal shall deposit with the Clerk the sum of \$400.00 if the case was heard by a board of 3 arbitrators (or more if the Report and Award designates arbitration costs to be higher).
 - 2. Should both parties file an appeal, the party filing last shall pay to the Clerk the sum of \$200.00 (or more if the Report and Award designates arbitration costs to be higher), whereupon the Clerk shall forthwith reimburse the first party to appeal one-half the amount originally deposited.
 - 3. If the arbitration was heard by a single arbitrator, that being the Court's Magistrate, no deposit shall be required.

B. Poverty Affidavit

Any party who desires to appeal an award but is financially unable to do so may file with the Court a poverty affidavit as set out in Gallia. Co. C.P.R. 2.03 (V) and serve it upon opposing parties. Upon such filing and service, the judge may issue an order allowing the moving party to appeal even though the appeal costs have not been paid.

C. Payment of Arbitrators

As soon as the full amount of arbitration costs is deposited by either party with the Clerk, the Clerk shall pay the two appointed arbitrators the sum ordered in the Certificate for Attorney Fee filed pursuant to Gallia Co. C.P.R. 2.35 (XI) (B).

RULE 2.37

APPEAL FROM ADMINISTRATIVE AGENCIES

This rule shall govern all appeals from administrative agencies to the extent that the appeals are not otherwise governed by statute or by the rules of the Ohio Supreme Court.

I. NOTICE

A. Any party desiring to appeal from an order of an administrative agency shall:

1. File the following with the Clerk of Courts:

- a. A notice of appeal that sets forth the order appealed from and the ground for appeal.
- b. A copy of the statement that directs the agency to prepare and file with the Court within forty (40) days a complete transcript of all the original papers, testimony and evidence offered, heard, and taken into consideration in issuing the decision which is being appealed.

2. File the following with the agency:

- a. A copy of the notice of appeal.
- b. A statement that directs the agency to prepare and file within forty (40) days a complete transcript of all the original papers,

testimony, and evidence offered, heard, and taken in consideration in issuing the decision which is being appealed.

- c. It shall be the initial responsibility of the administrative agency to pay the cost of a complete transcript of the original papers, testimony and evidence offered at the administrative hearing. The administrative agency shall certify the cost incurred in providing the same to the Clerk of this Court who shall tax any such cost as court cost in the case.
- B. Upon the agency filing a complete transcript of all original papers, the Clerk of Courts shall notify the appellant of the date that the transcript was filed.

II. BRIEFS

The Court may require arguments of counsel to be written and included in briefs. Unless otherwise ordered by the Court or fixed by statute or by rule of the Ohio Supreme Court, all briefs shall be filed as follows:

- A. Unless the Court has authorized an extension of time, the appellant shall file a claim of error, brief, and all other essential papers within twenty (20) days after the notice of appeal has been filed or the filing of the transcript, whichever is later. Failure to file briefs and assignment of errors within the requisite period of time may result in dismissal of the appeal as directed by the Court.
- B. Within fifteen (15) days after service of appellant's brief, counsel for appellee shall file his brief.
- C. All reply briefs shall be filed by appellants within ten (10) days after appellee's brief has been served.
- D. All requests for extensions or reductions of time to file briefs or other papers shall be approved only before the requisite filing time has expired.
- E. The Court shall decide the appeal after the time for filing briefs has expired, without a hearing, unless otherwise ordered by the trial judge.

RULE 2.39

**DISPOSITION OF EXHIBITS, MODELS,
DIAGRAMS, DEPOSITIONS, ETC.**

I. DISPOSAL BY THE CLERK OF COURTS

Exhibits, depositions, or transcripts, items are subject to disposal at the conclusion of litigation, including times for direct appeal. The Clerk of Courts shall notify attorneys of record of intent of disposal and may destroy exhibits, depositions, and transcripts when the following conditions are satisfied:

1. Clerk notifies party or parties who tendered the exhibits, depositions, or transcripts in writing that the party/parties may retrieve exhibits, depositions, or transcripts within sixty (60) days from the date of written notification.
2. The written notification required in division (I) (1) of this rule informs the party that tendered exhibits, depositions, or transcripts will be destroyed if not retrieved within sixty (60) days of the notification.
3. The written notification required in division (I) (1) of the rule informs the party of the location for retrieval of the exhibits, depositions, or transcripts;
4. The party who tendered the exhibits, depositions, or transcripts does not retrieve the exhibits, depositions, or transcripts within sixty (60) days of the written notification required in division (I) (1).

RULE 2.41

RECORD RETENTION AND DESTRUCTION

In accordance with Section 149 of the Ohio Revised Code, a schedule of retention and destruction for the following records is hereby established.

- I. Shorthand notes made by official court stenographers recording the individual sessions of the individual courts of the Court of Common Pleas of Gallia County, Ohio:
- | | | |
|----|----------------|----------|
| A. | Capital Crimes | 21 Years |
| B. | Other Felony | 10 Years |
| C. | Misdemeanors | 5 years |

D. All Civil Cases 5 Years

II. The time for retention shall be calculated from the date of verdict or finding of guilty in Criminal Cases and from the date of final judgment entry in Civil Cases. In the event that an appeal transcript has been filed, the notes of such case may be disposed of one year after the filing of such transcript.

III. The schedule of retention and destruction of other Court records shall be as established in Rule 26 of the Rules of Superintendence of the Courts of Ohio. The schedule of retention and destruction for those records not listed in Rule 26 shall be as follows:

Bank Records (Canceled checks, deposit slips, statements)	3 years
Coroner Inquests	50 years
Election Poll Books (election records filed)	2 years after filing
Final Record	Permanent
Jury Lists and Voucher Stub (Payment lists for jurors and witnesses)	1 year after trial
Jury Venires (jury list)	1 year after selection
Notaries Commissions (Record of Notaries Commission)	Permanent
Optometrists Register	Permanent
Partnership Register	Permanent
Real Estate License Register	Permanent
Special Judgment: Retail Sales Tax (Special docket for judgments)	Permanent
State Record (Final record for criminal cases before 1957)	Permanent

CRIMINAL RULES OF PRACTICE AND PROCEDURE

RULE 3.01

PURPOSE

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

RULE 3.02

CRIMINAL MAGISTRATES

Magistrates may be appointed and cases referred in accordance with Rule 19 of the Ohio Rules of Criminal Procedure.

RULE 3.03

ARRAIGNMENT, PRETRIAL, AND SCHEDULING CONFERENCE

I. ARRAIGNMENT

A. Schedule

All arraignments shall be:

1. Scheduled at the time of the defendant's preliminary hearing or as ordered in the indictment or as soon as practicable after arrest.
2. Heard by the assigned judge or a magistrate appointed pursuant to Rule 19 of the Ohio Rules of Criminal Procedure.

B. Explanation Of Rights

If a defendant not represented by counsel is brought before the Court and called upon to plead, the judge or magistrate shall:

1. Inform the defendant of the charge and the defendant's rights as required by Section 2937.02 of the Ohio Revised Code and Rule 10 of the Ohio Rules of Criminal Procedure.
2. Continue the case for a reasonable time to obtain counsel if the defendant expresses a desire to consult with an attorney.
3. Order the assignment of an attorney for the defendant from the list of eligible counsel or from the Public Defender's Office if the defendant is unable to obtain counsel, and
4. Set bail for the duration of the continuance if the offense is bailable.

C. Joint Arraignment

If there are multiple defendants to be arraigned, the judge or magistrate may by general announcement advise them of their rights.

D. Pleas Made During Arraignment

1. Guilty

a. Felony Offense

If the defendant enters a guilty plea to a felony offense, a disposition date shall be set before the assigned judge.

b. Misdemeanor Offense

If the defendant enters a guilty plea to a misdemeanor offense, the judge or magistrate may make an immediate disposition.

2. Not Guilty or Not Guilty by Reason of Insanity

If the defendant enters a not guilty plea or a not guilty by reason of insanity plea, the following provisions shall apply:

- a. The defendant must be present except that the judge, with the written consent of the defendant and the approval of the

prosecuting attorney, may permit arraignment without the presence of the defendant, if a plea of not guilty is entered.

- b. The judge shall set a motion deadline date, a status conference date, a final pretrial date (the date after which the court will only accept a guilty plea as charged or proceed to trial as charged) and a trial date.
- c. If a not guilty by reason of insanity plea is entered, the judge shall make the appropriate referrals for evaluations to determine the defendant's mental condition at the time of the commission of the offense.

RULE 3.05

CONTINUANCE OF A CRIMINAL CASE

No continuance of any conference or hearing shall be granted to the prosecutor or to the defense unless request is made in writing or in open court. Any order granting a continuance shall contain the date to which said trial is continued.

RULE 3.07

GRAND JURY

The Grand Jury shall convene at such times as requested by the Prosecuting Attorney or ordered by the Court. (See EXHIBIT B for sample summons)

Criminal cases bound over to this court on which no final action is taken by the Grand Jury within sixty (60) days shall be dismissed forthwith and without prejudice. If the complaining witness' testimony is not available, the case may be continued by the court for a definite period of time and such continuance noted in the report of the Grand Jury.

RULE 3.09

COURT APPOINTMENT OF COUNSEL

When it appears to the court that the accused in a criminal case is indigent, the court shall utilize and appoint an attorney from the approved counsel list to represent the defendant in a criminal case.

Each attorney is responsible for assuring compliance with each requirement. Copies of these Criminal Rules of Practice and Procedure and the State Public Defender Commission's "Attorney Qualifications to Represent an Indigent Client" can be obtained by contacting the Court.

RULE 3.11

ASSIGNED COUNSEL FEES

I. IN GENERAL

All counsel appointed by the Court shall be paid for their services by the county pursuant to the fee schedule passed by the Gallia County Board of Commissioners if their clients are unable to pay them on a retained basis.

II. REQUEST FOR PAYMENT

No assigned counsel shall be paid for their services unless they make a request for payment.

III. COMPENSATION AND EXPENSES

- A. The compensation and expenses shall be paid in accordance with the schedule approved by the Gallia County Board of Commissioners and the rules established by the State Public Defender's Commission.
- B. Additional compensation may be made in extraordinary cases when approved by the Court.
- C. Reimbursement (payment) for reasonable expenses associated with providing representation may be made when submitted with the attorney's completed pay request and approved by the Court. Expenses include, but are not limited to, such items as expert witness fees, polygraph examination costs, long distance phone

calls, photocopying, certain travel expenses, and other necessary items as approved in the discretion of the Court.

RULE 3.13

PROBATION DEPARTMENT SUPERVISION FEE

I. SUPERVISION FEE

Misdemeanor offenders placed on probation or felony offenders under a community control sanction pursuant to Revised Code Sections 2929.16, 2929.17 or 2929.18 who are placed under the control and supervision of the Gallia County Adult Probation Department are required to pay a supervision fee of fifty (\$50) dollars per month payable to the Clerk. The fee shall be paid in monthly installments of fifty (\$50) dollars per month. This supervision fee is established pursuant to and will be administered and enforced in accordance with Revised Code Section 2951.021.

IN THE COURT OF COMMON PLEAS
GALLIA COUNTY, OHIO

21 TR 84
J 486 P 691
21 MAY 20 AM 11:05
FILED
CLERK OF COURTS
GALLIA COUNTY, OHIO

GALLIA COUNTY LOCAL RULE 3.15

CERTIFICATE OF QUALIFICATION FOR EMPLOYMENT (CQE)

____.01. The purpose of this local rule is to define the specific local court requirements and processes that support a Petitioner's application for a Certificate of Qualification for Employment (CQE) as set forth in Revised Code 2953.25 and related rules established by the Department of Rehabilitation and Corrections (DRC).

____.02. In order to request a CQE, the Petition for Certificate of Qualification for Employment (RC 2953.25) the appropriate petition shall be filed with the Clerk of Courts by the Petitioner. The Petitioner shall provide the DRC Electronic Petition Number and attach a printed receipt of electronic Petition if submitted through the DRC.

____.03. All Petitions shall be accompanied by the Department of Rehabilitation and Corrections CQE Summary (CQE Summary).

____.04. Before any action is required to be taken on the Petition, the Petitioner must pay a deposit in an amount required by the Clerk of Court. Payment of this deposit may be made in any form otherwise accepted in the court of filing. A Judge may waive some or all of the deposit otherwise required by this Rule. The Petitioner may submit an Affidavit of Indigence.

____.05. All social security numbers and other information that must be excluded from public record shall be redacted in accordance with the rules of this court and the Rules of Superintendence. Records or information received by a court to assist the court with making its decision under Section 2953.25 of the Revised Code, including information included on a petition, shall retain their character as public or non-public records, as otherwise provided in law.

____.06. Upon receipt of a Notice of Petition and the required deposit, the Clerk of Courts shall assign the Petition a miscellaneous civil case number and refer the matter to the judge and notify the Chief Probation Officer of the filing.

____.07. The Court will order the Chief Probation Officer to obtain a criminal history for the Petitioner, either through the investigation ordered in support of the Petition (see Order for Investigation) or otherwise.

____.08. The Court through the Chief Probation Officer, shall attempt to determine all other courts in the state in which the Petitioner has been convicted of or plead guilty to an offense through review of the Petitioner's criminal history or other investigation. The Clerk of Courts shall send a Notice to Court Regarding Petition for Certificate of Qualification for Employment and Response to Request for Information to each court so identified. Such Notice shall be sent via ordinary US mail.

____.09. The Clerk of Courts shall also send a Notice to Prosecutor Regarding Petition for Certificate of Qualification for Employment and Response to Request for Information to the Prosecuting Attorney of the county in which the Petition was filed.

____.10. The Judge or Magistrate shall review the Petition, criminal history, all filings submitted by the prosecutor or victim, and all other relevant evidence.

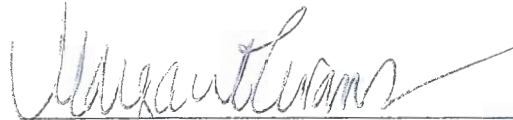
____.11. The Judge or Magistrate may order any report, investigation or disclosure by the Petitioner that it believes is necessary to reach a decision (see Order for Investigation and Order for Additional Information).

____.12. Once all information requested has been received, a Judge shall decide whether to Grant or Deny the Petition within sixty days, unless Petitioner requests and is granted an extension of time. The decision to grant or deny a Petition may be referred to a Magistrate, and then sent to the Judge for a final Judgment Entry and Order. All notice and objection periods regarding a magistrate's decision would apply as set forth in the civil rules.

____.13. The Clerk shall provide a written notice to the Petitioner of the Court's Decision and Judgment Entry. If denied, the notice shall include conditions, if any, placed on subsequent filings and language that a final appealable order has been filed. The Clerk shall also notify the DRC of the disposition of the petition as required under the Administrative Rules, and if granted order the DRC to issue the CQE to Petitioner.

Issued/Adopted: _____

4/19/21



MARGARET EVANS, JUDGE

RULES OF THE DOMESTIC RELATIONS DIVISION

RULE 4.01

SECURITY FOR COSTS

I. TO INSTITUTE AN ACTION

In all actions for dissolution, divorce, annulment, or legal separation the party instituting the action shall deposit with the Clerk of Courts the sum of \$500.00 with children/\$450.00 without children, unless a poverty affidavit providing for a payment plan in lieu of deposit is filed.

In the event that said poverty affidavit is filed, the Clerk of the Court of Common Pleas is to set forth a payment plan not to exceed three monthly installments for those individuals filing a poverty affidavit to insure collection of Court costs. Poverty affidavit is attached as "EXHIBIT D".

A. Post Judgment Motions

In all post judgment motions, the party instituting such motion shall deposit with the Clerk of Courts the sum of \$250.00 for each motion as security for costs, except that no such deposit for security for costs shall be required for motions to withdraw as counsel or for appointment of a guardian ad litem.

B. Witness Fees

The party subpoenaing witnesses shall post no money with the Clerk of Courts for witnesses within Gallia County. For each witness outside Gallia County, the party subpoenaing such witness shall make a check or certified funds payable to such witness plus an amount for mileage, round trip, at the rate of \$0.30 per mile to be attached to the subpoena to be issued by the Clerk.

C. Fees for Computer Research and Services

Pursuant to the authority of R.C. 2303.201 (A) it is determined that, for the efficient operation of the Domestic Relations Division of this Court, additional funds are required to obtain computerized legal research services.

1. The Clerk of this Court is directed and hereby authorized to charge and collect a fee of three dollars (\$3.00) upon the filing of each cause or appeal under R.C. 2303.20 (A), (Q) and (U). The fee is included in the appropriate security for costs sections listed above.

2. All funds collected pursuant to this rule shall be paid to the County Treasurer to be maintained by the County Auditor in a separate account for utilization of this Court in procuring and maintaining computerized legal research services.
3. Pursuant to the authority of R.C. 2301.031 (A) it is determined that, for the efficient operation of the Domestic Relations Division of this Court, additional funds are required to computerize the office of the Clerk of the Court of Common Pleas.
4. The Clerk of this Court is directed and hereby authorized to charge an additional fee of ten dollars (\$10.00) upon 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 R.C. 2303.20 (A), (P), (Q), (T), and (U). The fee is included in the appropriate security for costs sections listed above.
5. All funds collected pursuant to this rule shall be paid to the County Treasurer to be disbursed, upon an order of the Court of Common Pleas and subject to appropriation by the Board of County Commissioners, in an amount no greater than the actual cost of the court of procuring and maintaining computer systems for the office of the Clerk of the Court of Common Pleas.

RULE 4.03

PRE-TRIAL PROCEDURE

Either party, upon the filing of a written request, shall have the right to have a pre-trial of any domestic relations case.

The time, date, and Judge or Magistrate for the pre-trial shall be determined by the Assignment Commissioner.

Notice shall be given to opposing counsel as is now required by the Rules of Civil Procedure for service of pleadings other than the original complaint.

Trial counsel for both parties shall be required to be present with their clients, unless excused by the Court, and shall be prepared and have authority to discuss and settle, if possible, all issues involved in the case.

Failure of attorney and client to appear and be prepared to negotiate may result in dismissal of the pleadings of the defaulting party, or the Court may take other action to enforce compliance or may modify any existing temporary order as the Court deems appropriate.

Any agreement reached shall be immediately put on the record with both parties testifying under oath, reduced to writing, signed by both parties and their counsel and shall be filed with the Court and shall be binding on all parties in any subsequent hearing of the case.

RULE 4.05

ASSIGNMENT OF CASES FOR TRIAL

All contested actions for divorce, legal separation or annulment shall be assigned for trial by the Assignment Commissioner.

All uncontested actions for divorce, dissolution of marriage, legal separation or annulment shall be assigned for trial by the Assignment Commissioner upon the request of the party or attorney for the party or upon the Court's order.

I. SCHEDULING ORDERS – DOMESTIC CASES

- A. All dissolutions shall be filed with the Clerk of Courts with an entry setting forth a hearing date. Hearing dates may be obtained from the Assignment Commissioner. All dissolutions shall be scheduled no earlier than 31 days, nor later than 90 days from the date of filing.
- B. A scheduling order in divorce cases shall be entered 10 to 40 days after service is completed. The hearing date shall be at least 42 days after service is complete. If, after the scheduling order has been placed upon record, defendant files an answer and wishes to contest the divorce, counsel shall notify the Assignment Commissioner that the final hearing will be a status conference. If no such request is received, the Court will conduct a final hearing as in an uncontested matter. This is a procedural device for processing cases and will not result in denial of due process to the parties involved.
- C. In contested domestic cases the Court shall, at the status conference, set the following deadlines:
 - 1. asset and liability disclosure and custody conference
 - 2. discovery deadline

3. motion deadline
4. a final pre-trial
5. final hearing, and
6. or as otherwise ordered by the Court.

D. At the asset and liability disclosure and custody conference the Magistrate shall confer with counsel and obtain lists of all assets with their values and determine the need for appraisals. The Magistrate may also conduct an interview with the children and each of the parents concerning custody, shared parenting and visitation.

E.

1. At the pre-trial the Court shall be provided the following information:

- a. a list of all assets and values, both marital and separate assets
- b. a list of all debts or liabilities, both marital and separate debts
- c. a copy of appraisals which may be presented at trial
- d. any proposed custody/parenting plans and health insurance plans
- e. child support computation
- f. spousal support recommendations
- g. the parties' proposed offer of settlement of all issues. This shall be given to the Court in a sealed envelope and shall constitute the parties best offer of settlement, and
- h. a list of all witnesses who will testify and all documents which will be presented at the final hearing.

2. Any party not providing the requested information shall be subject to sanctions including dismissal of their complaint or default judgment or refusal to allow admission of documents or witnesses not disclosed in the final pretrial statement.
3. The final hearing shall be conducted before the Magistrate and cover all issues not resolved prior to trial.
4. All scheduled deadlines shall be set so as to finish all contested divorces with children in eighteen months, all contested divorces without children in twelve months, all change of custody in six months, and all other matters in three months.

No continuances shall be granted except by written motion filed no later than three days prior to the scheduled event. Absolutely no continuances will be granted over the phone.

Attorneys and parties shall submit a notice of their respective vacation schedules no later than 30 days in advance to preserve their right to seek a continuance for that person.

A motion for continuance shall also contain the written endorsement of the moving party, as well as the moving party's attorney, if represented. This requirement may be waived for good cause shown, provided that the motion states the reason why the attorney has been unable to obtain the endorsement of the party, and the reason why the requirement should be waived.

5. Each case record shall be identified as follows:

Divorce	Year – DR – Case No. (DIVORCE)
Divorce with Minor Children	Year – DR – Case No. (DIVORCE/ PARENTAGE)
Dissolution of Marriage	Year – DS – Case No. (DISSOLUTION OF MARRIAGE)
Dissolution of Marriage with Minor Children	Year – DS – Case No. (DISSOLUTION OF MARRIAGE/PARENTAGE)
Domestic Violence	Year – DV – Case No. (DOMESTIC VIOLENCE)
Annulment	Year – AN – Case No. (ANNULMENT)

RULE 4.07

HEARING

No action for dissolution, divorce, annulment or legal separation may be heard until the parties have resided separate and apart for at least 30 days. Only at the discretion of the Judge to whom such case has been assigned may this period of time be waived.

RULE 4.09

WITNESSES

Only one corroborating witness who has personal knowledge of the facts shall be required unless otherwise permitted by the assigned Magistrate or Judge.

RULE 4.10

COURT APPOINTMENT OF EXPERTS

- A. Whenever the value of an asset is in dispute, the Court may, upon motion of either party or upon the Court's own motion and for good cause shown, appoint an expert for the purpose of assigning a value.
- B. The Court may, upon motion of a party or on its own motion and for good cause shown, appoint a psychologist or physician for purposes of medical and/or psychological evaluations. The order of appointment shall specify the tests to be conducted and/or the evaluations to be had, the party (ies) to be evaluated, and the name of the expert. The order shall also state the parties are to cooperate fully with the expert.
- C. Upon motion of either party, or the Court's own motion, the Court may appoint a Guardian ad Litem. The motion shall be accompanied by a fee deposit of two hundred (\$250.00) dollars each. This deposit may be waived by the Court.

The order of appointment shall state the name and address of the guardian and state that the parties are to cooperate fully with the guardian.

- D. Reports of appraisers which are intended to be offered into evidence must be submitted to the Court and the opposing party or counsel at least 14 days prior to trial or hearing. Unless the opposing party or counsel files written objections at least 7 days prior to trial or hearing the written report (s) will be received into evidence.
- E. The parties shall be responsible for the expert fees. The final issue of responsibility for the entire cost of the expert fees shall be reserved for final hearing.

The parties shall have the opportunity, at the trial to examine the expert on the issue of the costs of services.

At the conclusion of the trial, if the costs of the expert's service exceed the amount deposited, the Court shall assess responsibility for payment of the balance. If the deposit exceeds the actual cost, the difference shall be credited or refunded to the party who made the deposit.

RULE 4.11

INVESTIGATIONS

A social investigation concerning the best interests of any child or children may be made in all actions for dissolution, divorce, annulment or legal separation, when ordered by the Court, and in contested cases involving children under the age of twelve in which the parties have been approved for mediation and the parties either elect not to attempt mediation or mediation is completed without resolution of the custody or visitation dispute.

RULE 4.13

MAGISTRATE HEARINGS

In all actions for divorce, annulment or legal separation, the Domestic Relations Magistrate shall hear and make recommendations to the Court in the following matters:

1. all motions, except motions for a new trial or to vacate and set aside any matter heard and decided by a Judge; motions directly related to the final hearing on the merits
2. contempt citations. As to these matters, the Magistrate shall have the authority to hear and recommend the appropriate sanctions
3. motions filed under Civil Rule 59 or 60 should be heard by the Judge or Magistrate who heard the matter originally, and
4. all hearings under 3113.21 of the Ohio Revised Code.

RULE 4.15

OBJECTIONS TO RECOMMENDATIONS OF THE MAGISTRATE

- A. A recommendation of a Domestic Relations Magistrate may be reviewed by the Judge of this Court by filing an objection in accordance with Rule 53 of the Ohio Rules of Civil Procedure with the Clerk and giving notice to the opposing party or his attorney of the date on which the matter is to be heard or submitted for decision.

- B. The objection should be accompanied by supporting memorandum. If a finding of fact or weight of the evidence is part or all of the basis for objection, a transcript of the testimony is necessary to support the objection to the Magistrate's Report and must be filed with the Court by the moving party within 14 days after the filing of the objections unless the assigned Judge, in writing, extends the time for inability of the reporter to complete the transcript of the testimony.
- C. The request and deposit for said transcript shall be submitted to the proper court reporter within three days after the filing of said objections. The cost of same shall be as the Court shall from time to time determine at a per page amount. At the time of ordering of a transcript, the ordering counsel or party shall arrange for payment to the Official Court Reporter. An advance deposit shall be posted with the court reporter by the ordering counsel or party, with the balance due prior to delivery of a copy or the filing of an original with the Court. All as provided in fee schedule for transcripts (see APPENDIX C).
- D. All original transcripts shall be filed by the Official Court Reporter with the Clerk of Courts and shall thereby become part of the official record of the case. A copy will be provided to the non-ordering party upon request. See Appendix C for fee.
- E. Requests for transcripts for the benefit of indigent parties shall be submitted to the Court and supported by affidavit for authorization by the Court prior to the court reporter's commencement of the transcribing.
- F. Memoranda contra objections may be filed by any party within 10 days of the filing of said objections.

RULE 4.17

NOTIFICATION TO THE GALLIA COUNTY CHILD SUPPORT ENFORCEMENT AGENCY OF ACTIONS INVOLVING MINOR CHILDREN

A copy of all complaints for divorce, dissolution of marriage, legal separation or annulment or any other motion where there are children involved under the age of 18 shall be sent to the Gallia County Child Support Enforcement Agency.

RULE 4.19

PLEADINGS

- A. All pleadings filed with the Court must contain the name of the Court, proper style of the case and number, the Judge to whom the case is assigned, and the Ohio Supreme Court registration number of the attorney filing the pleading. All initial pleadings which either commence an action or reopen an action must state whether there is knowledge of legal representation for the opposing party.
- B. All pleadings filed with the Court must be typed.
- C. All Separation Agreements filed with the Court must be on a separate paper (not included in the body of the pleadings) and styled as Separation Agreement.
- D. Upon the filing of an action for divorce, dissolution, legal separation, annulment or any post-decree motion, except motions for continuances, the party so filing shall file a certificate stating whether the action has or has not been previously filed and dismissed or withdrawn. If the action was previously filed and dismissed or withdrawn, the party shall state the Judge or Magistrate to whom the case was assigned, and the case number of the previous case. If another motion is currently pending, the party shall state the Judge or Magistrate to whom the motion is currently assigned.
- E. The certificate filed pursuant to this rule shall be on the form authorized by the Court or in a format consistent therewith.
- E. The Clerk of Common Pleas Court shall refuse to receive for filing any pleadings which do not conform to this rule.

RULE 4.21

ENTRIES

- A. Unless subject to the Uniform Judgment Entry and Magistrate Report forms promulgated by the Supreme Court, or unless the Trial Judge otherwise directs, counsel for the party in whose favor an order, decree, or judgment is rendered, or the party so directed by the Court, shall within five days thereafter prepare the proper journal entry, and submit it to the counsel for the adverse party, who shall approve or reject the same within three days after the receipt thereof. Name of the

counsel, counsel's Ohio Supreme Court registration number, and the Trial Judge shall be typed on the entry. When the entry is approved by counsel, it shall be so endorsed and presented to the Judge or Magistrate who made the decision for approval and if signed by him/her shall then be filed with the Clerk of the Common Pleas Court.

- B. If counsel are unable to agree upon the entry, each counsel shall prepare his/her version. Counsel who prepared the initial entry shall forthwith notify the other counsel of when he/she intends to submit the entry to the Trial Judge, which entries shall be submitted within 14 days after the decision is rendered. The Trial Judge shall direct which entry will be filed.

RULE 4.23

MOTIONS

The attorney should request a hearing date at the time of filing all motions, whether to be heard orally or on the affidavit or memorandum only. A Judge or Magistrate may waive this Rule for good cause shown.

RULE 4.24

EX PARTE MOTIONS: TEMPORARY RESTRAINING ORDERS, CUSTODY ORDERS AND VISITATION ORDERS

- A. The general policy of the Court is against ex parte orders. Exceptional circumstances, however may make an ex parte order necessary.
- B. How requested: A request for ex parte orders must be made by separate motion, and a request for such an order must be supported by an affidavit signed by the party stating the reasons for requesting the order. Orders will be granted on an ex parte basis only when they are legally sufficient and provided for by law. The person to be restrained must be a party to the action.

Procedure: A time stamped copy of any motion requesting an ex parte order, together with the supporting affidavit shall be presented to the Court by movant and his attorney. A separate journal entry granting the relief requested under the motion or pleading requesting the order must be presented with the motion. If necessary the party may modify the request for orders by interlineations to bring it within minimal legal requirements.

- C. Ex parte orders on property shall restrain all litigations mutually during the

pendency of the action.

- D. All requests not granted ex parte shall be set for full hearing.
- E. Ex parte orders shall be drafted so as to not close an ongoing business or prevent it from carrying on in its usual course. Ex parte orders shall specify the exact property action restrained, and shall not restrain checking accounts.
- F. The orders presented to the Court shall provide that objections to the temporary order may be filed within 28 days of service of the entry upon the respondent. The objections shall be heard by the Judge or Magistrate.
- G. **A PARTY AGAINST WHOM AN EX PARTE ORDER WAS GRANTED MAY FILE A MOTION, SUPPORTED BY AN AFFIDAVIT, REQUESTING THAT SUCH ORDER BE DISSOLVED. NO EX PARTE ORDER SHALL BE DISSOLVED, EITHER PARTIALLY OR IN FULL, UNLESS APPROVED BY THE OPPOSING PARTY OR COUNSEL. IN THE ABSENCE THEROF, THE MOTION SHALL BE SET FOR HEARING.**

RULE 4.25

MOTION TO SHOW CAUSE

- A. Any motion to show cause shall state with specificity, each provision of a prior Court order with which the party has failed to comply, the date of such order, the facts constituting the noncompliance. The motion shall be supported by an affidavit.
- B. If interest on unpaid periodic support is being sought the party requesting such interest shall file with the Court, at least 7 days prior to the hearing, a determination of how many weeks or months of support the computed arrearage constitutes and categorize the total weeks or months of arrearage based on the amount of weekly or monthly support ordered (if the amount of support increased or decreased over the period of the arrearage) and based on the change in rate of interest as follows:
 - (1) Prior to July 1, 1962. 4%
 - (2) From July 1, 1962 to July 29, 1980, 6%
 - (3) From July 30, 1980 to July 4, 1982, 8%
 - (4) From July 5, 1982 to May 31, 2004, 10%
 - (5) From June 1, 2004 forward, 4%

The interest awarded on arrearage and judgments on arrearage shall be simple interest and not compound interest.

C. A show cause motion for unpaid medical bills shall contain:

1. An “explanation of medical bills” form completed and attached to the motion.
2. An affidavit alleging as applicable: (a) movant has sent copies of the medical bills to the ex-spouse; dates sent (b) movant has sent copies of bills to the ex-spouse; dates sent and dates returned (c) movant has sent copies of bills to ex-spouse and ex-spouse has not paid or acknowledged receipt of the bills (d) movant has sent copies of the bills to the ex-spouse and the ex-spouse has refused payment (e) any other pertinent information.
3. Do not file copies of the medical bills with the motion. File the affidavit and completed “explanation of medical bills”.
4. Attorneys or moving parties shall have a copy set of all bills, proof of insurance paid and proof of the movant’s payment for opposing party and the Court at hearing, or mail a copy to opposing counsel in advance.
5. The moving party must be able to identify bills, dates of service, purpose for treatment, total bill, amount paid by insurance, amount paid by movant, and amount sought from the opposing party.
6. All motions to compel the payment of medical bills **shall be filed within 24 months** of the initial billing to the moving party.
7. Prior to any motion to show cause the moving party shall utilize a qualified domestic relations medical order, if applicable.

RULE 4.26

BROADCASTING, TELEVISION, RECORDING AND PHOTOGRAPHING BY NEWS MEDIA

Broadcasting, televising, recording, and photographing by news media during courtroom sessions, including recesses between sessions, shall be permitted under the following conditions:

A. Administration

1. Requests for permission to broadcast, televise, record or photograph in the courtroom shall be in writing to the Trial Judge or the Court of Domestic Relations as far in advance as reasonably practical, but in no event later than 24 hours prior to the courtroom session to be broadcast or photographed unless otherwise permitted by the Trial Judge. Request forms may be obtained from the Trial Judge's office.
3. The Trial Judge or Magistrate may grant the request in writing consistent with Canon 3 (A)(7), Code of Judicial Conduct, Superintendence Rule 11, and this local rule. Written permission shall be made a part of the record of the proceeding.

B. Pooling

1. Arrangements shall be made between or among media for "pooling" equipment and personnel authorized by this rule to cover the court sessions. Such arrangements are to be made outside the courtroom and without imposing on the Trial Judge or Court personnel to mediate any dispute as to the appropriate media "pool" representative or equipment authorized to cover a particular session.

C. Equipment and Personnel

1. Not more than one portable camera (television, video-tape or movie), operated by not more than one in-court camera person, shall be permitted without authorization of the Trial Judge or Magistrate.
2. Not more than one still photographer, utilizing not more than two still cameras of professional quality with not more than two lenses for each camera, shall be permitted without authorization of the Trial Judge or Magistrate.

3. Not more than one audio system for radio broadcast purposes shall be permitted without authorization of the Trial Judge or Magistrate.
4. If audio arrangements cannot be reasonably made in advance, the Trial Judge or Magistrate may permit one audio portable tape recorder at the bench which shall be activated prior to the commencement of the courtroom session.
5. Visible audio portable tape recorders may not be used by the news media without prior permission of the Trial Judge or Magistrate.

D. Light and Sound Criteria

1. Only professional quality telephonic, photographic and audio equipment which does not produce distracting sound or light shall be employed to cover courtroom sessions. No motor-driven still cameras shall be permitted.
2. No artificial lighting device other than that normally used in the courtroom shall be employed. However, if the normal lighting in the courtroom can be improved without becoming obtrusive, the Trial Judge or Magistrate may permit modification.
3. Audio pickup by microphone for all media purposes shall be accomplished from existing audio systems present in the courtroom. Microphones shall be located only at the Judge's bench, witness stand and jury rail. Microphones shall be visible and secured, but unobtrusive. If no technically suitable audio system exists in the courtroom, microphones and related wiring essential for all media purposes shall be unobtrusive and located in places designated by this rule or the Trial Judge or Magistrate in advance of any session.

E. Location of Equipment and Personnel

1. The television, broadcast and still camera operators shall position themselves in a location in the courtroom, either standing or sitting, and shall assume a fixed position within that area. Having established themselves in a shooting position, they shall act so as not to call attention to themselves through further movement. Sudden moves, pans, tilts or zooms by television or still camera operators are prohibited. Operators shall not be permitted to move about in order to obtain photographs or broadcasts of courtroom sessions, except to leave or enter the courtroom.

2. Television cameras, microphones and taping equipment shall not be placed in, moved during, or removed from the courtroom except prior to commencement or after adjournment of the session (the Trial Judge or Magistrate has not gavelled the proceeding to order or adjournment), or during a recess. Neither television, film magazines, rolls or lenses, still camera film, nor audio portable tape cassettes shall be changed within a courtroom except during recess.

F. Miscellaneous

1. Proper courtroom decorum shall be maintained by all media pool participants.
2. All media representatives shall be properly attired, in a manner that reflects positively upon the journalistic profession.

G. Limitations

1. There shall be no audio pickup or broadcast of conferences conducted in a courtroom between counsel and clients, co-counsel, or the Trial Judge and counsel.
2. The Trial Judge shall prohibit photographing or televising by any means victims of sexual assaults or undercover police officers. The Trial Judge shall retain discretion to limit or prohibit photographing or televising of any juror, victim, witness or counsel of his work product, upon objection.

H. Revocation of Permission

1. Upon the failure of any media representative to comply with the Conditions prescribed by the Trial Judge, the Rules of Superintendence of the Supreme Court, or this Rule, the Trial Judge may revoke the permission to broadcast, photograph or record the trial or hearing.

RULE 4.27

GUARDIAN AD LITEM

A Guardian ad Litem is a qualified person appointed by the Court to represent the best interests of a minor or incompetent person in a legal proceeding before this Court. The legal proceeding may be, but is not limited to a divorce, the allocation of parental rights and responsibilities, or uniform parentage action.

A Guardian ad Litem appointed by the Court shall be any individual who the Court feels is qualified to represent the best interests of a minor or incompetent person. The Court may appoint an attorney to act as the Guardian ad Litem for the minor party or incompetent person.

In actions for divorce, annulment, dissolution, or legal separation, modification of the allocation of parental rights and responsibilities, and uniform parentage actions the Court may appoint an attorney. The appointment will be determined and approved by the Judge or Magistrate and will be prepaid as provided below.

Attorneys appointed to serve as guardians ad litem will be entitled to compensation for services at the rate of \$30.00 per hour for out-of-Court time and \$40.00 per hour for in-Court time up to \$500.00 per case unless higher fees are approved by the assigned Judge. Non-attorneys appointed to serve as guardians ad litem will be reimbursed at a rate to be determined by the Court in each case. These fees shall be paid through the Gallia County Clerk of Courts and shall be distributed to the Guardian ad Litem upon order of the Court. A fee in the amount of \$100.00 to \$250.00 will be assessed as Court costs when a Family Relations Counselor from the Court's Family Services Department is appointed as guardian.

- A. If a Guardian ad Litem is requested by either party in a contested matter before the Court, unless otherwise ordered by the Court, the moving party shall deposit in his/her attorney's trust account the fee for the Guardian ad Litem as determined by the Court in the appointment entry, by the date specified in said entry. If the requesting party is not represented by counsel he/she shall deposit the fee in the Guardian ad Litem's trust account, or, if the Guardian ad Litem so designates, with the Clerk of Courts. Upon application and entry the fee deposited shall be released to the Guardian ad Litem.
- B. If a Guardian ad Litem is requested by an indigent party who has filed a proper poverty affidavit, the Guardian ad Litem fee will be assessed as the Court costs and shall be ordered paid by the opposing party in a manner specified in this rule, if said party has means to make said payment. In such case, if both parties are indigent and have filed proper poverty affidavits, the Guardian ad Litem position shall be filled by an attorney on the Court list as pro bono work.
- C. If a Guardian ad Litem is appointed by the Court on its own initiative or if said appointment is deemed a requirement of law, the fee, as set by Court, shall be paid by the party or parties the Court so designates in the Appointment Entry by a date specified in said Entry, unless both parties qualify as indigent pursuant to poverty affidavits filed with the Clerk, at which time the position shall be filled by an attorney on the Court list.

- D. When protracted litigation is anticipated the Guardian ad Litem may submit to the Court a request of an additional deposit, or a monthly affidavit of fees for approval and an order regarding payment from said deposit/fees. Said request shall be served on the parties, or their counsel if they are represented, and if there is no objection an order regarding payment of said deposit/fees may be issued after seven days.
- E. When a Guardian ad Litem requires fee arrangements inconsistent with those set forth in this rule, he/she shall so notify the Court prior to accepting an appointment.

Upon accepting an appointment, the Guardian ad Litem shall notify the Assignment Commissioner of his/her appointment. Thereafter, the Guardian ad Litem is entitled to notice of all proceedings the same as all parties to the action.

Prior to any final adjudication of the matter on which the Guardian ad Litem has been appointed, the Guardian ad Litem shall submit an affidavit of fees to the Court for approval. If approved by the Court, said fees shall be made a part of the final entry, to be paid before final journalization of said entry. Nothing herein shall delay the filing of said entries and they shall be filed in accordance with the Rules of the Supreme Court as to Civil Procedure and Superintendence.

In order to protect the fee for the services of the Guardian ad Litem, the Court shall have the discretion to issue a lump sum Judgment against the party or parties in the action for which the Guardian ad Litem was appointed for the guardian's fees due and owing at the time of the final adjudication.

RULE 4.29

TERMINATION OF INACTIVE CASES

An inactive case is a case which has been on the docket for six months and which (1) has not been tried, (2) is not awaiting trial assignment, and (3) is not stayed by order of the Judge to whom the case is assigned. Inactive cases shall be set for hearing to be tried or dismissed after written notice to counsel of record for failure to proceed, unless good cause is shown to the contrary.

RULE 4.31

FINANCIAL DISCLOSURE AFFIDAVIT REQUIRED AT TIME OF FILING

Upon the filing of an action for divorce, legal separation, or an answer or counterclaim thereto, a spouse so filing, in addition to any other affidavits, shall file an affidavit listing all income, assets and liabilities of the parties, whether jointly or separately held, together with any other relevant information concerning such listing that is within their knowledge.

Upon the filing of a petition for dissolution of marriage each spouse shall file an affidavit listing all income, assets and liabilities of the parties whether jointly or separately held, together with any other relevant information concerning such listing that is within their knowledge.

Such affidavits may be supplemented by further affidavits any time up to 15 days prior to the date set for hearing.

The affidavits filed pursuant to this Rule shall be on the form authorized by the Court or in a format consistent therewith.

RULE 4.32

REQUIRED LANGUAGE

- A. All Divorce Decrees, Dissolution Decrees, Legal Separation Decrees and other orders which contain an order of support for children or a spouse shall contain the following language:

(Both parties' names) are hereby ordered to notify the Gallia County Child Support Enforcement Agency in writing of your current mailing address, your current residence address, and of any changes in either address, immediately after such change occurs until further order of the Court.

YOU ARE HEREBY NOTIFIED THAT WILLFUL FAILURE TO SUPPLY A CORRECT ADDRESS OR RESIDENCE ADDRESS, OR TO PROVIDE THE GALLIA COUNTY CHILD SUPPORT ENFORCEMENT AGENCY WITH ALL CHANGES IN EITHER ADDRESS IS CONTEMPT OF COURT.

- A. Additionally, if there is support or children involved, the following language is to appear:

The residential parent is also hereby ordered to immediately notify the Gallia County Child Support Enforcement Agency of any reason for which the support order should terminate, including but not limited to, death, marriage, emancipation, incarceration, enlistment in the armed services, deportation, or change of legal or physical custody of the child.

YOU ARE HEREBY GIVEN NOTICE THAT A WILLFUL FAILURE TO NOTIFY THE GALLIA COUNTY CHILD SUPPORT ENFORCEMENT AGENCY IS CONTEMPT OF COURT.

- C. The parent who is not the residential parent may notify the Gallia County Child Support Enforcement Agency of any reason for which the support order should terminate, including but not limited to, death, marriage, emancipation, incarceration, enlistment in the armed services, deportation, or change of legal or physical custody of the child.
- D. All such decrees and orders shall also contain language requiring the notices required by this rule to be sent to the Gallia County Child Support Enforcement Agency, c/o Gallia County Job and Family Services, 848 Third Avenue, PO Box 449, Gallipolis, Ohio 45631.

- E. This Court has promulgated forms to meet the requirements of the Ohio Revised Code regarding entries and notices which must accompany any order for support. Complaints and/or movants for child support orders shall submit completed withholding and notice entries as required by Section 3113.21 prior to adjournment of the hearing wherein an order for support or a recommendation for an order of support has been made.

RULE 4.33

DOCKETING OF CASES

All actions for support for a child or spouse shall be docketed and heard so that the time limits can be met and priority shall be given to such cases for this purpose.

RULE 4.34

SUPPORT PAYMENTS THROUGH GALLIA COUNTY CHILD SUPPORT ENFORCEMENT AGENCY; APPLICATION FOR IV-D SERVICES

- A. To comply with the mandates of the Ohio Revised Code, all support orders issued after the effective date of these Rules shall be made through the Gallia County Child Support Enforcement Agency, Attention Cashier's Office, c/o Gallia County Job and Family Services, 848 Third Avenue, PO Box 449, Gallipolis, Ohio 45631 and this Rule shall act as a Court Order if such language is not specifically in any decree or judgment entry of this Court. Any payments made through the Gallipolis office shall be by cash only. Check or money order payments may be mailed to: Ohio Child Support Payment Center, at P.O Box 182372, Columbus, Ohio 43218-2372. All payments must include the Court case name and number, the child support enforcement agency sets case number, and the obligor's social security number.
- B. Whenever a support order is issued or modified the obligee shall complete and file with the Court, prior to the adjournments of the hearing, an Application for IV-D Services.

RULE 4.35

CHILD SUPPORT WORKSHEETS

A. Dissolutions and Divorces

1. Child support worksheets, as prescribed by the Ohio Revised Code, shall be filed with any petition for dissolution of marriage or divorce, contested or uncontested in which there are minor or otherwise unemancipated children who are issue of the marriage. If the child support provided for the separation agreement filed with the petition for dissolution deviates from the child support guidelines, the proposed judgment entry decree of dissolution or divorce shall contain findings of fact sufficient to substantiate the deviation. General recitals that the deviations are fair and equitable, or words of similar import, shall not be sufficient to substantiate deviation.
2. Child support worksheets in dissolutions or divorces shall be presented to the Court at the time of the hearing, along with a proposed judgment entry decree of dissolution or divorce containing findings of fact sufficient to substantiate any deviation from the guidelines.
3. The child support computation worksheet shall be signed by the parties, under oath.

B. Temporary Child Support, Motions to Modify Child Support and All Other Actions In Which Child Support Is an Issue

1. Proposed child support worksheets shall be filed by each party at or prior to the hearing before the Judge or Magistrate on motions for temporary child support along with other affidavits, memoranda or documents in support of or in opposition to the motions. For post decree motions, and in all other actions in which child support is an issue, whether in the Domestic or Juvenile Branches, the worksheets and other verification shall be filed on or before the date of the hearing before the Magistrate.
2. The Court may order that temporary order requests be reduced to sworn statement or affidavit form and the Court may rule on the temporary orders based upon said sworn statements until a full evidentiary hearing may take place.

RULE 4.36

MEDIATION

- A. At any time after service of summons in an action for divorce, annulment or legal separation, or at any time after filing of a post-decree motion to modify the allocation of parental rights and responsibilities, when it is determined that custody or visitation is at issue, the Court may order both parties to participate in mediation assessment. If mediation assessment determines that the case qualifies for mediation, the Court may permit and encourage both parties to participate in mediation for a period of time not to exceed ninety days.
- B. The parties may agree to mediate issues other than the allocation of parental rights and responsibilities. The costs of mediations shall be the initial subject of the mediation, and shall be paid by the parties pursuant to their fee agreement with the mediator.
- C. The mediator shall notify the Court upon the conclusion of mediation. Any agreement reached during mediation shall not be binding upon the parties until reviewed and approved by their counsel and the Court. Statements made during mediation shall be considered compromise negotiations and not admissible as evidence pursuant to Evidence Rule 408.
- D. To be accredited by the Gallia County Court of Common Pleas, Division of Domestic Relations, a mediator should possess the following qualifications:
1. completion of 40 hours of specialized family/divorce mediation training.
 2. adhere to the ethical guidelines as set by the Academy of Family Mediators.
 3. an undergraduate degree and at least two years of professional experience with families. "Professional experience with families" includes counseling, casework, mediation, legal representation in family law matters, or equivalent experience as is satisfactory to the Court. (The undergraduate degree requirement may be waived by the Court upon consideration of well-documented equivalent educational experience.)
 4. eligibility for membership in professional association.
 5. maintenance of appropriate liability insurance specifically covering the activities of the individual as a mediator.

6. adherence to the ethical standards of the mediator's profession.
7. a commitment to continuing education, and
8. awareness of the factors affecting the property of mediation in particular cases.

RULE 4.37

CHILD SUPPORT AND SPOUSAL SUPPORT MODIFICATIONS

- A. Upon the filing of a motion requesting modification (increase or decrease) of an existing child support or spousal support order based upon a change of financial circumstances, each party shall file an affidavit setting forth their current income and itemized expenses, as well as their income and itemized expenses at the time of the last order along with a copy of the specific language of the last order, date of such order and the reasons for requesting modification. If a party has remarried he shall also set forth his spouse's current income. Each party shall also present documentation of his or her current earnings at the time of hearing, as required by law.
- B. The affidavit of the moving party shall accompany the motion when filed. The affidavit of the responding party shall be filed and served on the opposing party or his counsel not less than fourteen days prior to hearing. The affidavits filed pursuant to this rule shall be on the form authorized by the Court or in a format consistent therewith.

RULE 4.39

HEALTH INSURANCE DISCLOSURE AFFIDAVIT

- A. In any petition for dissolution of a marriage or complaint for divorce or legal separation involving minor children, any complaint for custody, support, paternity, or motion for the establishment or modification of support, or motion for health insurance coverage, or answer or counterclaim thereto, the pleading shall be accompanied by a completed Child Support Enforcement Agency Health Insurance Disclosure Affidavit on a form prescribed by the Court. In any petition for custody and support in a domestic violence case, completed Child Support Enforcement Agency Health Insurance Disclosure Affidavit, on a form prescribed by the Court, shall be completed and filed by the petitioner as soon as possible after service on the respondent, but in any event no later than final hearing on the

petition.

RULE 4.41

ASSIGNMENT OF CASES

- A. Upon the original filing of a case, the case shall be assigned to the Judge of this Court. A case that is reactivated by motion shall be assigned to the original Judge.
 - 1. In any instance where a previously filed and dismissed case is refiled, that case shall be reassigned to the Judge.
 - 2. Once assigned to a case, the Judge becomes primarily responsible for the determination of every issue and proceeding in the case until its termination.
- B. None of the above language shall be construed to limit the reference of cases to a Magistrate pursuant to Civil Rule 53 or Local Rule 2.32.

RULE 4.43

STANDARD VISITATION ORDER

- A. The Ohio Revised Code requires the Court to adopt standard parenting time guidelines. There are two standard orders of visitation, one for local visitation and one for parents traveling over 90 miles one way. The Court shall have the discretion to deviate from the guidelines set forth in the Standard Parenting Time Order as circumstances dictate. The current Order is set forth in APPENDIX A.

RULE 4.45

NOTICE OF RELOCATION

A. Applicable Law

Ohio Revised Code Section 3109.051 (G)(1).

B. Procedure

1. When a residential parent intends to move, a form must be completed and returned to the Clerk of Courts indicating the new residential and/or mailing address as well as the new telephone number. The original document will be filed with the Clerk of Courts and a copy sent to the other parent. The file copy will be given to the Gallia County Child Support Enforcement Agency to correct its records.
2. A residential parent may request a hearing by filing a motion with the Court. Where a hearing is requested only an address where notification of the hearing date can be sent should be listed. The Assignment Commissioner will schedule a hearing before the assigned Magistrate or Judge and notify both of the parties of the hearing date.

RULE 4.47

SEMINAR FOR SEPARATING PARENTS

All parents in divorce, legal separation or dissolution actions in which there are any minor children may be required to attend an educational seminar for separating parents designated by the Court within 45 days after the filing of the action or service of process.

EXHIBIT A

SUMMONS FOR A PETIT JUROR

State of Ohio
Gallia County

Common Pleas Court

To:

I am commanded to summon you to appear before the Court of Common Pleas, at the Gallia County Courthouse on Wednesday, July 7, 2004 at 9:00 a.m. and so on from day to day until discharged, to serve as a Petit Juror.

Hereof fail not, under the penalty of the law.

*WITNESS my hand as Sheriff
of said County, this 25th day
of June 2004.*

David L. Martin, Sheriff

NOTICE

PLEASE CONTACT THE COMMON PLEAS COURT AT 446-4702 AFTER 4:00 P.M. ON TUESDAY, JULY 6, 2004 TO CONFIRM THAT THIS MATTER WILL STILL BE HELD. AN ANSWERING SERVICE IS PROVIDED FOR YOUR CONVENIENCE. IT IS YOUR RESPONSIBILITY TO CONTACT THE COURT. NO COURT OFFICIAL WILL CONTACT YOU.

THE JUROR SHOULD KEEP THIS SUMMONS SO THAT HE OR SHE WILL NOT FORGET WHEN TO APPEAR. FAILURE TO APPEAR FOR JURY DUTY MAY RESULT IN BEING SUMMONED BEFORE THE JUDGE FOR YOUR NON-APPEARANCE.

EXHIBIT B

SUMMONS FOR GRAND JUROR

State of Ohio
Gallia County

Common Pleas Court

To:

I am commanded to summon you to appear before the Court of Common Pleas, at the Gallia County Courthouse on Thursday, July 25, 2004, at 9:00 a.m. and so on from day to day until discharged, to serve as a Grand Juror.

Hereof fail not, under the penalty of the law.

*WITNESS my hand as Sheriff
of said County, this 5th day
of July 2004.*

David L. Martin, Sheriff

NOTICE

IF YOU HAVE ANY QUESTIONS CONCERNING THIS SUMMONS PLEASE CONTACT THE COURT AT 446-4702. THE JUROR SHOULD KEEP THIS SUMMONS SO THAT HE OR SHE WILL NOT FORGET TO APPEAR FOR JURY DUTY. FAILURE TO APPEAR FOR JURY DUTY MAY RESULT IN BEING SUMMONED BEFORE THE JUDGE FOR NON-APPEARANCE.

THANK YOU FOR YOUR COOPERATION

EXHIBIT C

IN THE COURT OF COMMON PLEAS, GALLIA COUNTY, OHIO

Plaintiff,

Case No. _____

-vs-

Defendant.

RECEIPT FOR SERVICE

I hereby acknowledge that on the _____ day of _____, 200__, I received a copy of the summons with a copy of the complaint attached thereto in the above-styled case.

Treasurer/Auditor of
Gallia County

By _____
Deputy

EXHIBIT D

IN THE COURT OF COMMON PLEAS OF GALLIA COUNTY, OHIO

CASE NO. _____

VS / AND

POVERTY AFFIDAVIT
AND PAYMENT PLAN

I, _____, BEING FIRST DULY SWORN, DEPOSE AND SAY THAT I DO NOT HAVE THE FUNDS NOR ASSETS TO PAY THE COST DEPOSIT IN THIS ACTION AND FURTHER SWEAR THE FOLLOWING INFORMATION TO BE CORRECT:

(1) PLACE OF EMPLOYMENT: _____

(2) EARNINGS PER WEEK: _____

(3) VALUE OF REAL ESTATE: _____

(4) AUTOMOBILES OWNED AND VALUE: _____

(5) OTHER SOURCES OF INCOME: _____

(6) AMOUNT OF ATTORNEY FEE PAID: _____

(7) AMOUNT TO BE PAID LATER: _____

I HEREBY AGREE TO THE FOLLOWING PAYMENT PLAN IN LIEU OF DEPOSIT:

1 PAYMENT OF _____ AND 2 PAYMENTS OF _____ EACH
BEGINNING WITH THE MONTH OF _____ 20____.

I ACKNOWLEDGE AND AGREE THAT THIS AMOUNT COULE BE INCREASED AND THAT I MUST PAY THE TOTAL COURT COSTS AT THE TIME THE FINAL ENTRY IS FILED.

SWORN TO BEFORE ME AND SIGNED IN MY PRESENCE THIS _____ DAY OF _____,
20____.

CLERK OF COURTS
BY _____
DEPUTY CLERK

APPENDIX A

IN THE COURT OF COMMON PLEAS, GALLIA COUNTY, OHIO

STANDARD ORDER OF VISITATION/PARENTING TIME

Visitation is a time for children to do things with the parent with whom they do not live. Activities you can do with them or skills you can teach them help the time be rewarding. Helping the children find friends in your neighborhood also helps make it like home for them.

Liberal visitation arrangements are encouraged, as contact with both parents is important to the children. Specific items in the Journal Entry take precedence over this schedule. Changes or modifications can be made by the Court if need for such is shown. This schedule does not affect support payments.

Please be advised that this schedule is merely a guideline for visitation. It is each party's responsibility to tailor this schedule as necessary to meet the best interests of their children. However, if parties are unable to agree, there is a specific schedule set forth.

VISITATION BETWEEN THE CHILDREN AND THE NON-RESIDENTIAL PARENT SHALL TAKE PLACE AT SUCH TIMES AND PLACES AS THE PARTIES MAY AGREE, BUT WILL NOT BE LESS THAN:

I. WEEKENDS

Alternate weekends from Friday at 6:00 p.m. until Sunday at 6:00 p.m. This alternating weekend schedule shall not change, even if interrupted by holiday and birthday, summer and/or vacation visitation.

II. WEEKDAYS

One weekday evening per week from 5:00 p.m. to 8:00 p.m.

III. EXTRACURRICULAR ACTIVITIES

Regardless of where the children are living, their participation in existing and renewed extracurricular activities, school related or otherwise, shall continue uninterrupted. The parent with whom they are residing at the time of the activity shall provide the physical and economic cost of transportation to these activities. The residential parent shall provide the non-residential parent with notice of all extracurricular activities, school related or otherwise, in which the children participate, schedules of all extracurricular activities (handwritten by the residential parent if no formal schedule is provided by the activity) and the name of the activity leader (including address and telephone number if reasonably available to the residential parent).

IV. PRE-SCHOOL AGERS

Pre-school children follow the same schedule as school age children in the school district where they live, regardless of whether or not other school age children live in the family.

V. HOLIDAYS (INCLUDES BIRTHDAYS)

In odd-numbered years, Mother has Spring Break, Memorial Day, Labor Day, and the first half of Winter Break. In odd-numbered years, Father has Martin Luther King Day, Fourth of July, Thanksgiving, and the second half of Winter Break. In the even-numbered years, the schedules are reversed.

- A. In the event of a conflict between regular visitation and holiday visitation, holiday visitation, holiday visitation prevails. The alternating weekend visitation shall be suspended as a consequence of the holiday schedule and shall recommence with the same rotation the first weekend immediately following. For example: If the weekend immediately preceding a holiday is Mother's weekend, the holiday weekend will be celebrated with the parent entitled to the holiday. The weekend rotation will recommence the weekend after the holiday as Father's weekend. This occurs even though one parent may have the children two weekends in a row.

For any holiday falling on a Monday or Friday, if the weekend immediately preceding or following the holiday visitation is spent with the same parent, there is no need for that parent to return the children that evening and then pick them up the next morning. For a holiday falling on a Friday, visitation commences Friday morning and continues to Sunday evening; or a holiday falling on a Monday, visitation commences Friday evening and continues to Monday evening.

- B. Mother's Day and Father's Day and the parents' birthdays, only when they fall on a Saturday or Sunday, are to be spent with the appropriate parent. These are as agreed or 10:00 a.m. to 7:00 p.m. These do not have to be made up.

- C. Other days of special meaning, such as religious holidays, etc. (i.e. New Year's Eve and Day, Kwanzaa, Passover, Easter, Rosh Hashana, Christmas Eve and Day) Should be decided together, as follows:

These do not have to be made up.

- D. Hours for parents who cannot agree are as follows:

Martin Luther King Day	-- 9:00 a.m. to 7:00 p.m.
Spring Break	-- 6:00 p.m. on the day school is out to 7:00 p.m. on the day before school recommences, to be coincidental with the days of the school vacation and not to interfere with school
Memorial and Labor Days	-- 6:00 p.m. Friday to 6:00 p.m. Monday
Fourth of July	-- 9:00 a.m. to 9:00 a.m. July 5
Thanksgiving	-- 6:00 p.m. Wednesday to 6:00 p.m. Sunday
Winter Break	-- first half commences at 6:00 p.m. the last day of school before Winter Break begins, until December 25 at 1:00 p.m.; second half commences at 1:00 p.m. December 25 until 6:00 p.m. the day before school recommences

- E. 48-hour notice should be given by the parent with whom the holiday is being spent for any arrangements for out of town travel on the holidays or of a change in pick-up/return times.
- F. The children's birthdays should be alternated per child, between the parents and on an annual basis. Hours for parents who cannot agree are 4:00 p.m. to 8:00 p.m. Brothers and sisters attend the birthday event. These do not have to be made up.

VI. TRANSPORTATION

The parties shall divide the transportation equally. The parent who is exercising his/her parenting/visitation rights shall pick up the children.

VII. WAITING

Neither parent shall be more than 30 minutes late picking up the children. If the non-residential parent has not arrived to pick up the children within the 30 minute period, visitation is forfeited and shall not be made up.

VIII. CANCELLATION

The non-residential parent should give 24 hour notice to cancel. The time canceled by the non-residential parent is forfeited.

IX. ILLNESS

If a child is ill, the residential parent should give 24 hour notice, if possible, so appropriate plans can be made. However, if more than one day of visitation, weekend, holiday/birthday, or vacation is missed due to non-emergency and/or critical illness, then any missed visitation shall be made up as soon as practicable.

X. SUMMER

The non-residential parent shall have visitation with the children for the last half of the summer each year. The summer school vacation commences the day after the children are out of school and continues until seven days before school begins. The number of intervening weeks (full and/or partial) shall be divided in half, and the non-residential parent shall have the last half of the summer visitation with the children.

XI. VACATIONS

Each parent may arrange an uninterrupted vacation of not more than two weeks with the children. Each parent shall schedule this vacation during his/her half of the summer. A general itinerary of the vacation shall be provided for the other parent, including dates, locations, addresses, and telephone numbers. Holiday and birthday celebrations with either parent shall *not* be missed, requiring scheduling of the vacation around these events or that the missed occasion be made up. Alternate weekends are missed during vacation and are, therefore, not required to be made up.

XII. MOVING

Upon either parent learning that he/she will be moving, he/she shall immediately notify the other parent except in those circumstances wherein notice is not required by R.C. 3109.051 (G), and provide the other parent with the moving date, new residence address and telephone number, and such other pertinent information necessary to effectuate a smooth move for the children. The parents shall attempt, in good faith, to renegotiate an appropriate and beneficial new visitation schedule.

XIII. TELEPHONE ACCESS.

A. As Between the Parents

Telephone communication by the children with the parent with whom they are not residing shall occur not less than three times per week for not less than 15 minutes. Children can call the other parent as often as the parent and child agree, at the reasonable times, so long as the call is collect if it is a long distance call. The non-residential parent shall be allowed to communicate with children not less than one time per week for not less than ½ hour by either calling or having the children call him/her. Residential parent shall not interfere with or stop the telephone communication.

B. At School, Day Care Facilities, Extracurricular Activities, or All Other Public Locations

Provision XIII A shall not in any way contravene the statutory directives granting equal access by both parents to their children at any and all times while the children are at school, at a day care facility, babysitter, attending extracurricular activities, etc.

XIV. MAKE-UP VISITATION

Any make-up visitation required by this schedule shall occur the first weekend of the other parent immediately following the missed visitation and shall continue during the other parent's weekends until made up in full, including partial weekends.

XV. CURRENT ADDRESS AND TELEPHONE NUMBER

Except as provided in the Court Order, each parent shall keep the other informed of his/her current address and telephone number at all times.

A. Emergency Contact

Both parents shall at all times, regardless of whether the children are with him/her, provide the other parent with a telephone number for contact in the event of an emergency.

XVI. CAR SEAT

For any and all children required by law to ride in a car seat, the parents shall transfer the car seat with the child as visitation exchanges occur.

XVII. CLOTHING

The parents shall cooperate in the exchange of the children's clothing prior to and following visitation.

IN THE COURT OF COMMON PLEAS, GALLIA COUNTY, OHIO

**STANDARD ORDER OF VISITATION/ PARENTING WHEN
PARENT TRAVELING OVER 90 MILES, DRIVING, ONE WAY**

Visitation is a time for children to do things with the parent with whom they do not live. Activities you can do with them or skills you can teach them help the time be rewarding. Helping the children find friends in your neighborhood also helps it like home for them.

Liberal visitation arrangements are encouraged, as contact with both parents is important to the children. Specific items in the Journal Entry take precedence over this schedule. Changes or modifications can be made by the Court if need for such is shown. This schedule does not affect support payments.

Please be advised that this schedule is merely a guideline for visitation. It is each party's responsibility to tailor this schedule as necessary to meet the best interests of their children.

**VISITATION BETWEEN THE CHILDREN AND THE NON-RESIDENTIAL PARENT
SHALL TAKE PLACE AT SUCH TIMES AND PLACES AS THE PARTIES MAY
AGREE, BUT WILL NOT BE LESS THAT:**

I. PRE-SCHOOL AGERS

Pre-school age children shall follow the same schedule as school age children in the school district where they live, whether or not a school-age child resides in the family.

II. WINTER BREAK

Winter Break will be divided in half and alternated annually, by half, between the parents.

III. SPRING BREAK

School vacation (the day school is out to the day before school recommences, to be coincidental with the days of the school vacation and not to interfere with school) in odd-numbered years.

IV. SUMMER

One-half of the school summer vacation. Summer school necessary for the child (ren) to pass to the next grade must be attended. The residential parent shall notify the non-residential parent by March 15 of when the summer vacation begins and ends. The non-residential parent must notify the residential parent as to his or her intentions by April 15.

- A. If the parties cannot agree which half of the summer they prefer, in the even-numbered years the first half of the summer shall be spent at the home of the non-residential parent, and in the odd-numbered years the second half.
- B. A general itinerary should be provided to either parent if more than two days will be spent away from either home when the children are in that parent's care.

V. VACATIONS

Each parent may arrange an uninterrupted vacation of not more than two weeks with the children. A general itinerary of the vacation shall be provided for the other parent, including dates, locations, addresses, and telephone numbers.

- A. Vacation is defined as a trip away from the parent's home. It does not include a parents' vacation time off from work where that parent spends it at home.
- B. Summer school necessary for the child to pass to the next grade must be attended.

VI. ADDITIONAL VISITATION

A. Weekend

A once-a-month, weekend visit to the non-residential parent's home will be permitted if the child's traveling time does not exceed three and one-half hours, one way. The residential parent must be notified at least one week in advance. The non-residential parent shall provide the transportation for weekend visitation.

B. Mother's Day and Father's Day can always be spent with the appropriate parent.

C. The non-residential parent shall notify the residential parent at least two days in advance of any time the non-residential parent will be in the area and wants a visitation period. Absent extraordinary circumstances, this visitation will occur.

- D. The residential parent must notify the non-residential parent at least two days in advance when the residential parent and child (ren) will be in the area of the non-residential parent, and visitation must be allowed.

VII. TELEPHONE ACCESS

- A. As Between The Parents

Telephone communication by the children with the parent with whom they are not residing shall occur not less than one time per week for not less than ½ hour. Children can call the other parent as often as the parent and child agree, at reasonable times, so long as the call is collect if it is a long distance call. The non-residential parent shall be allowed to communicate with the children not less than one time per week for not less than ½ hour by either calling or having the children call him/her. Residential parent shall not interfere with or stop the telephone communication.

- B. At School, Day Care Facilities, Extracurricular Activities, or All Other Public Locations

Provision 7A shall not in any way contravene the statutory directives granting Equal access by both parents to their children at any and all times while the Children are at school, at a day care facility, baby sitter, attending extracurricular Activities, etc.

VIII. TRANSPORTATION

Responsibility for transportation costs should be decided in advance and a plan written if not an Order of the Court. The costs of transportation in the appropriate case, may be a basis for deviation from the child support schedule.

IX. MOVING

Upon either parent learning or determining, whichever first occurs, that he/she will be moving, he/she will immediately notify the other parent and provide the other parent with the moving day, new residence address and telephone number, and such other pertinent information necessary to effectuate a smooth move for the children. The parents shall attempt, in good faith, to renegotiate an appropriate and beneficial new visitation schedule.

X. CURRENT ADDRESS AND TELEPHONE NUMBER

Except as provided in the Court Order each parent shall keep the other informed of his/her current address and telephone number at all times.

A. Emergency Contact

Both parents shall at all times, regardless of whether the children are with him/her, provide the other parent with a telephone number for contact in the event of an emergency.

XI. CAR SEAT

For any and all children required by law to ride in a car seat, the parents shall transfer the car seat with the child as visitation exchanges occur.

XII. CLOTHING

The parents shall cooperate in the exchange of the children's clothing prior to and following visitation.

APPENDIX B

IN THE COURT OF COMMON PLEAS, GALLIA COUNTY, OHIO

_____ ,

SSN

DOB

Plaintiff,

Case No. _____

-vs-

_____ ,

SSN

DOB

Defendant.

GROUP HEALTH INSURANCE
AFFIDAVIT

PLAINTIFF

DEFENDANT

Available through employment

_____ yes _____ no

_____ yes _____ no

Other group plan

_____ yes _____ no

_____ yes _____ no

Insurer's Name
Address

Policy Number

Monthly Premium of
Individual Plan
(employee share)

\$ _____

\$ _____

Monthly Premium of
Family Plan
(employee share)

(Indicate "0" if available at no cost to party)

\$ _____

\$ _____

Coverages

Summarize health care benefits, i.e., major medical only, deductible, co-payments, health maintenance organization, etc. Attach separate sheet where necessary.

Is Coverage Presently In Effect

_____ yes _____ no

_____ yes _____ no

Who Is Covered

self
 above named spouse
 dependent children

self
 above named spouse
 dependent children

Is Participant Card Available

_____ yes _____ no

_____ yes _____ no

Is Prescription Card Available

_____ yes _____ no

_____ yes _____ no

Employer's Ins. Coordinator

Name and Telephone Number

The Cost to Purchase COBRA Coverage

\$ _____

\$ _____

Plaintiff

Defendant

State of Ohio, County of Gallia

Sworn to before me and subscribed in my presence by
Plaintiff this _____ day of _____ 200____.

Notary Public

Sworn to before me and subscribed in my presence by
Defendant this _____ day of _____ 200 ____.

Notary Public

APPROVAL

The foregoing Local Rules of Practice and Procedure for the General Division and the Domestic Relations Division of the Gallia County Common Pleas Court are hereby approved and shall be effective on August 16, 2004.

D. DEAN EVANS, JUDGE

NOREEN M. SAUNDERS, CLERK

IN THE COURT OF COMMON PLEAS, GALLIA COUNTY, OHIO

**IN THE MATTER OF THE
ADOPTION OF RULES OF COURT**

JOURNAL ENTRY

It is ORDERED that the herein rules be and are hereby adopted for the governance of the practice and procedures in the Court of Common Pleas, General and Domestic Relations Divisions, Gallia County, Ohio until otherwise provided. All previous rules are hereby repealed.

Now, therefore, the following rules are adopted to be effective this 16th day of August 2004.

D. DEAN EVANS, JUDGE

The Clerk is directed to furnish a copy of the following Rules of the Gallia County Common Pleas Court to the Supreme Court of Ohio, 65 South Front Street, Columbus, OH 43215-3431; Court of Appeals of Ohio, Fourth Appellate District, 14 South Paint Street, Suite 18, Chillicothe, OH 45601; and All Members of the Gallia County Bar Association.