

**Portage County  
Local Rules of Practice  
Court of Common Pleas General Division**

Effective February 1, 2020

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## GENERAL PROVISIONS

### RULE 1

#### **INTRODUCTORY PROVISIONS**

##### **1.1 Term of Court; Hours of Court Session**

- (A) The court will be in continuous operation for the transaction of judicial business. Each calendar year, beginning in January, will constitute a separate term of court designated by the calendar year in which the term lies. Each annual term of court will be divided into three sessions, with each session continuing for a period of four months. The sessions will be designated as the January Term, May Term and September Term. The January Term will commence on the first Monday following the first day of January of each calendar year. The May Term will commence on the first Monday of May of each calendar year. The September Term will commence on the first Monday following Labor Day. This Rule is adopted pursuant to the provisions of Section 2301.05 of the Ohio Revised Code.
- (B) The sessions of the court generally will be Monday through Friday from 8:00 a.m. to 4:00 p.m. The court will be in session at other times and hours as any judge prescribes.

##### **1.2 Scope and Applicability of Rules**

These rules apply to the General Division of the Court of Common Pleas of Portage County, Ohio, except as otherwise provided. Additional Local Rules of the court may be adopted by the Domestic Relations Court, Probate and Juvenile Courts, and other divisions of the court as may be created, governing practice and procedure in those divisions. The Court of Common Pleas of Portage County consists of four divisions: the General Division, the Probate Division, the Domestic Relations Division and the Juvenile Division.

##### **1.3 Interpretation**

These Local Rules will be interpreted to achieve the prompt, efficient, and fair resolution of cases. In the event that any portion of a rule is found to be ambiguous, the rule will be interpreted as follows:

- (A) To be consistent with the Ohio and United States Constitutions, and the Ohio Rules of Civil Procedure;
- (B) To be practical and efficient in its operation;
- (C) To be taken in context with the other portions of these rules.

##### **1.4 Citation**

These rules will be known as the “Local Rules of Practice of the Portage County Common Pleas Court, General Division.” These rules may be cited as “Loc.R. .”

##### **1.5 Subordination**

These rules are subordinate to the Ohio Rules of Criminal Procedure and the Ohio Rules of Civil Procedure.

**RULE 2**  
**ADMINISTRATIVE AND PRESIDING JUDGES**

**2.1 Administrative Judge**

The Judges in the General Division will select one judge to serve as Administrative Judge pursuant to the Rules of Superintendence 3(A). The Administrative Judge may also be the Presiding Judge.

**2.2** The Administrative Judge will exercise the powers set forth in Rule of Superintendence 3(B). The judges of the General Division will meet at the call of the Administrative Judge for the purpose of discussing and resolving administrative problems common to that division.

**2.3 Presiding Judge**

The Presiding Judge will be selected by the majority of the Judges of all Divisions and will serve at their pleasure pursuant to the Rule of Superintendence 2.

**2.4** The Judges of each Division will meet at the call of the Presiding Judge for the purpose of discussing and resolving administrative problems common to all Divisions. Such a meeting shall occur at least once annually. The Presiding Judge shall chair all meetings.

**RULE 3**  
**ELECTRONIC TRANSMISSIONS**

**3.1 Facsimile Filing**

- (A) There will be maintained in the office of the Clerk of this court a private telephone line and facsimile machine for purposes of accepting documents for filing in civil, criminal and domestic relations cases, and as limited by this rule.
- (B) A facsimile transmission will be accepted for filing as the original, and the signature contained thereon will be accepted as the original, in conformity with Rule 5(E) of the Ohio Rules of Civil Procedure. Following the acceptance of and filing of a document by means of facsimile transmission, the original "hard copy" shall not be tendered to the Clerk for purposes of filing, and the Clerk should not accept for filing the original "hard copy."
- (C) All filings subsequent to the original complaint/indictment may be filed by facsimile transmission.
- (D) The Clerk is not responsible for confirmation of receipt of facsimile transmission. Persons filing by facsimile transmission should contact the Clerk to confirm receipt of filing.
- (E) The date/time of filing is not determined by the facsimile machine date/time stamp, but is determined by the Clerk's time stamp. Although facsimiles may be transmitted 24 hours per day, seven days per week, regardless of whether or not the Clerk's office is actually open, any facsimile received by the Clerk after 4:00 p.m. on a regular business day or anytime on a weekend or holiday, will be deemed filed on the next regular business day. For purposes of any filing deadline

imposed by the Ohio Rules of Civil Procedure, the Ohio Rules of Criminal Procedure, these rules or court order, a pleading will be deemed filed on the date and time that the Clerk time stamps such document.

- (F) All facsimile transmissions tendered to the Court for filing pursuant to this rule must conform to the requirements of Rules 10 and 11 of the Ohio Rules of Civil Procedure and must include a cover page, which includes the following information:
  - (1) Name of forwarding attorney;
  - (2) Address of forwarding attorney;
  - (3) Ohio Supreme Court registration number of attorney;
  - (4) Telephone number of attorney;
  - (5) Facsimile number of attorney;
  - (6) Date and time of facsimile transmission;
  - (7) Number of pages of facsimile transmission.
  
- (G) The Clerk of this Court is expressly authorized to charge a transmission fee for this service, as well as a per page charge, in an amount or amounts as determined by the Clerk. Payment of fees must be arranged in advance of the sending of the telephonic facsimile transmission. The risk of facsimile filing remains with the sender, and the Clerk of this Court assumes no responsibilities or liabilities.

### **3.2 Electronic Filing**

#### **(A) Definitions**

- (1) Original Document: the electronic document received by the Court from the filer
- (2) PDF: portable document format
- (3) Word Document: word processing document created in Microsoft Word format
- (4) Source Document: document created and maintained by the filer which is then electronically transmitted to the court
- (5) Submission: a document or other data sent to a system or sent as a court filing
- (6) Effective Date and Time of Filing: means the date and time the filing has been time-stamped by the Clerk of Courts
- (7) Electronic Filing (i.e. e-filing): The process of transmitting a digitized source document electronically via the Internet to the Clerk's office for the

purpose of filing the document and refers, as indicated by the context, to the means of transmission or to a document so transmitted

- (8) Electronic Mail (i.e. e-mail): Messages sent by a user and received by another through an electronic service system utilizing the public Internet

**(B) Electronic Filing Policy\***

*\* (Portage County Clerk of Courts only accepts e-mail filing at this time. There is currently no "e-filing" available.)*

- (1) In conformity with Ohio Revised Code, Ohio Civil Rule 5(E) and Criminal Rule 12(B), pleadings and other papers may be filed with the Clerk of Courts electronically, subject to the provisions in this rule.
- (2) Application of Rules and Orders. Unless otherwise modified by approved stipulation or court order, all Federal Rules of Civil and Criminal Procedure, Ohio Rules of Civil and Criminal Procedure and Local Rules and orders of the court will continue to apply to all documents electronically filed.
- (3) All electronically filed pleadings must be signed by an attorney admitted to practice in the State of Ohio or by a party not represented by an attorney.
- (4) Deposition transcripts. All deposition transcripts must be filed in the hard format with the Clerk of Courts, pursuant to the local rules.
- (5) For each electronic document filed, the filer must include the following information in the e-mail:
  - (a) The title of the case;
  - (b) The case number, if known;
  - (c) The assigned judge, if known;
  - (d) The title of the document being filed;
  - (e) The date of transmission;
  - (f) The Name, Ohio Supreme Court number, if applicable, address, telephone number, fax number and email address, if any, of the attorney or party filing the document.
- (6) Any attorney, party or other person who elects to file any document electronically will be responsible for any delay, disruption, interruption of electronic signals and readability of the document and, accepts the full risk that the document may not be properly filed with the clerk of courts as a result.

**(C) Hours of Operation**

- (1) The Clerk of Courts receives electronic documents 24 hours per day, seven days per week, regardless of whether or not the Clerk's office is actually open. However, for purposes of any filing deadline imposed by these rules or by court order, a pleading will be deemed filed on the date that the Clerk time stamps the document.
- (2) Time at the Court (Eastern Standard) governs, rather than the time zone from which the filing is made.

**(D) Document Format.**

Documents must be submitted in either Microsoft Word or PDF format.

**(F) Fees**

- (1) The Clerk of Courts will assess normal filing fees, and case deposits will be collected via user credit card at the time the filing is processed. Under Section 301.28(E) and (F) of the Ohio Revised Code, a surcharge for credit card use may be assessed in an amount to be determined by the Clerk of Courts.
- (2) No personal checks will be accepted for lien releases or other filings that require immediate funds.
- (3) The Clerk's office will document the receipt of fees on the docket with a text-only entry.
- (4) The Court will not maintain electronic billing or debit accounts for lawyers or law firms.

**(G) Disposition and Maintenance of Source Documents**

- (1) A document electronically filed will be accepted as the original filing, consistent with Ohio Civil Rule 5(E) and Criminal Rule 12(B) if the person filing electronically complies with all of the requirements set forth in this Local Rule.
- (2) The person filing electronically shall not file a hard copy with the Clerk of Courts but must maintain in his or her records, and have available for production upon request by the Court, the Clerk of Courts or other counsel, the source document of any document electronically filed.
- (3) The filer must maintain this source document until the final disposition of the case and through any Notice of Appeal or, if appealed, appeal period.

**(H) Public Method of Access to Electronically Filed Public Documents**

- (1) Members of the public can obtain copies of, or review, electronically filed documents in the same manner as documents filed on paper via the Clerk of Courts website.
- (2) Public access to electronically filed public documents will be available via



the internet web site of the Clerk of Courts as soon as the clerk has processed the document.

- (3) If the internet website is unavailable or is not provided by the Clerk of Courts or, if the Clerk of Courts is prohibited by the Court or by any law from making the document available via the Internet website, the document will be available for review at the office of the Clerk of Courts, either by computer terminal, in paper form, in the case jacket, or on microfilm.
- (4) If, however, a document or case record is sealed, it is unavailable for public disclosure without a court order. Expunged documents are unavailable.

**(I) Service of Documents**

Documents filed electronically with the Clerk of Courts must be served in accordance with Ohio Civil Rule 5 and Ohio Criminal Rule 49.

**(J) Attachments and Exhibits**

Attachments and exhibits are to be filed electronically. Large attachments or exhibits over 30 megabytes cannot be filed electronically and must be submitted in hard copy and served on all other parties.

**(K) Orders**

A moving party, at the time of filing a motion, must submit a proposed order granting the motion and setting forth the requested relief.

**(L) Privacy**

- (1) Filing parties must omit or, where inclusion is necessary, partially redact the following personal data identifiers from all pleadings, documents and exhibits, whether filed electronically or on paper, unless the assigned judge orders otherwise:
  - (a) Social security numbers;
  - (b) Minors' names;
  - (c) Medical records, treatment and diagnosis;
  - (d) Employment history;
  - (e) Individual financial information; and
  - (f) Proprietary or trade-secret information.
- (2) With leave of the court, a party may file under seal a document containing the un-redacted personal data identifiers listed above. The party seeking to file an un-redacted document must electronically file a motion to file the document under seal. In granting the motion or application to seal, the assigned judge may require the party to file a redacted copy for the public record.

- (3) The responsibility for redacting personal data identifiers rests solely with counsel and the parties. The Clerk's office will not review the documents for compliance with this rule or redact documents, whether filed electronically or on paper.

**(M) Exhibits / Depositions**

- (1) In general, exhibits in support of motions filed electronically, should also be filed electronically.
- (2) A party shall submit hard copies of exhibits which are not available in electronic form or which are too lengthy to scan.
- (3) The Clerk's office will note on the docket the receipt of the document(s) or exhibit(s) with a text-only entry.
- (4) Depositions shall be bound and filed in hard copy for filing.

**(N) Interlineation and Obliteration**

- (1) No pleading or motion subsequent to filing shall be amended by interlineations or obliteration except by leave of the Court, as shown by a Journal Entry.
- (2) Upon filing of an amended pleading or motion, the original or any prior amendment thereof shall not be withdrawn from the files.

**3.3 Copies**

Upon request for copies of pleadings or other documents from a case file, the Clerk will furnish copies upon receipt of the appropriate copying fee.

**RULE 4**

**DEPOSIT AND PAYMENT OF COSTS**

- 4.1** No new or reactivated civil action or proceeding will be accepted by the Clerk for filing unless the appropriate deposit has been paid. Upon termination of the case, if costs remain unpaid, appropriate orders will be imposed to collect the costs. Except as otherwise provided by law, the cost schedule prominently displayed in the Clerk's office will dictate the required cost deposit in each case.
- 4.2** Final judgment entries must contain a provision for payment of costs. The Clerk of Courts will apply the deposit to the costs in the case, regardless of the party against whom the costs are assessed.
- 4.3** If the party initiating the action or proceeding is unable to pay the cost deposit, as set forth in Loc.R. 4.1, the party must file an affidavit, signed before a deputy Clerk of Court, reflecting the inability to post the required cost deposit. An affidavit of indigency filed in lieu of cash deposit must state the reasons for the inability to prepay costs and is subject to court review at any stage of the proceedings. The filing of an affidavit of indigency is not

determinative of whether a party will be assessed costs at the conclusion of the case. If the trial court should determine that a cash deposit should not be waived, the party initiating the action or proceeding will be permitted an opportunity to pay the required security deposit. If the deposit is not paid as ordered, then the proceeding may be dismissed by the trial court after notice of the impending dismissal.

- 4.4** If any judgment entry requires the Clerk of Courts to file or record any judgment entry or document in any office or department other than the Clerk of Courts, and if a cost or fee is required and money or funds sufficient to pay that cost or fee are not on deposit, the Clerk of Courts will file the entry in the Clerk's office but will not file or record it elsewhere. Instead, the Clerk of Courts will mail an uncertified copy of the judgment entry or document to the party on whose behalf the judgment entry or document was to be filed or recorded. The judgment entry or document will be accompanied by a cover letter stating that the Clerk of Courts was unable to file or record the judgment entry or document because funds on deposit with the Clerk of Courts were insufficient to cover the cost to file or record the judgment entry or document. The letter will also note that due to the lack of a sufficient deposit, the judgment entry or document is being provided to the party so that the party may, on his or her own, pay the cost or fee to file or record the judgment entry or document. Upon payment and request, a party may be issued a certified copy.

**RULE 5**  
**TRIAL PROCEDURE**

- 5.1** Trial procedure shall be in accordance with applicable statutes or Rules of the Supreme Court of Ohio.

**RULE 6**  
*(RESERVED)*

**RULE 7**  
**PLEADINGS AND MOTIONS**

- 7.1** Every pleading, motion, and memorandum filed must be legibly typed or printed on 8.5-inch by 11-inch paper, be securely bound and paginated, and have typed or printed the case name, the case number, and the name of the judge. If the action is for foreclosure or is otherwise an action requesting the sale of real property located in Portage County, Ohio and the Portage County Treasurer or the Portage County Auditor is a party to the action, each pleading, motion, and memorandum must list in the case caption beneath the trial judge's name each of the Portage County permanent parcel numbers of the real property or real properties that are the subject of the action.
- 7.2** Upon filing and where appropriate, complaints must have attached proof of assignment to the plaintiff from the original creditor or original party-in-interest to establish the plaintiff's standing and the jurisdiction of the court. The Court may dismiss the complaint without prejudice if the proof of assignment is not attached to the complaint.

- 7.3** All motions, where appropriate, must be accompanied by a memorandum in support of the motion, setting forth the specific grounds for the relief sought, along with citations to controlling authorities relied upon in requesting the relief. Unless otherwise ordered, counsel should not attach copies of any cases or statutes cited. Where appropriate, all memoranda (in support of, contra, and in reply) filed regarding a pending motion must include page and document references to evidentiary material for all factual assertions.
- 7.4** Except as otherwise ordered by the Court, all motions (except dispositive motions) must be accompanied by a proposed entry. Failure to submit a proposed entry may delay consideration of the motion or result in the Court denying the motion for failure to comply with this rule.
- 7.5** Once the initial motion has been filed, any memorandum contra to the motion must be filed and served upon opposing counsel no later than the fourteenth day following the filing of the motion, unless the Court orders otherwise. Failure to file and serve a memorandum contra may result in the Court granting the motion as filed and served. A reply memorandum may be filed and served upon opposing counsel within seven days after the date stated in the certificate of service in the memorandum contra. Motions will not be set for hearing unless the Court determines that a hearing is necessary. The dates and time periods set forth under this rule may be extended by the Court upon written application and for good cause shown. A request for an extension must be filed prior to the date the proposed filing is due. A late filing may be stricken by the Court if leave of court is not sought and granted to file the document outside of the time periods set forth in this rule. Where appropriate, the moving party must submit separately a proposed Judgment Entry.
- 7.6** No motion or memorandum may exceed 25 pages, exclusive of supporting documents. Reply memoranda are limited to 12 pages. The court may strike any motion or memorandum in excess of these page limits. Requests for leave to file memoranda in excess of the page limits must be made by motion no later than seven days prior to the time for filing the document, except for good cause shown.
- 7.7** Motions to appear by phone for status conferences will be considered by the Court for civil matters only. All motions to appear by phone for status conferences must be filed with the Court at least ten days prior to the status conference. Prior to filing a motion to appear by phone, the filing party must have received consent from all opposing parties to appear by phone. Any motion to appear by phone must acknowledge consent of all parties, state which parties wish to appear by phone and which party will establish the conference call as the Court will not establish any conference calls. All motions to appear by phone shall be accompanied by a proposed order. All motions to appear by phone will be reviewed and ruled upon individually.
- 7.8** To reduce undue delay, all motions in objection or opposition to a discovery procedure

under Civil Rules 26-37, shall not be considered by the Court unless the movant first demonstrates to the Court that after personal consultation and sincere attempts to resolve the differences the parties are unable to reach an accord. The memorandum attached to any discovery motion shall recite those matters that remain in dispute, the date, time, and place of the personal consultation, and the names of the parties participating therein. It is the movant's responsibility to initiate such consultation.

- 7.9** The filing of unnecessary motions and unwarranted opposition of motions, which in either case unduly delay the Court, may subject the offender to appropriate discipline, including the imposition of costs and fees.
- 7.10** No hearing, mediation, pretrial, trial or other court appearance will be removed from the schedule without proper motion to continue and signed journal entry.
- 7.11** Any dismissal filed shall state whether there are remaining parties, claims or issues before the Court.
- 7.12** All pleadings, motions and memoranda shall be direct, concise and be without personal opinions of counsel. Any pleading may be stricken by the Court if inappropriate narrative is included therein.
- 7.13** All motions for leave to file *Instanter* shall have a copy of the proposed filing attached to the motion for leave to file *Instanter* as an exhibit. If the motion for leave to file *Instanter* is granted by the Court, the attached exhibit shall not be removed from the motion for leave to file *Instanter* and shall not be filed. The original documents that were sought to be filed in the motion for leave to file *Instanter*, shall be given to the Clerk of Courts to hold until after the Court's ruling upon the motion for leave to file *Instanter*. If the Court grants a motion for leave to file *Instanter*, then the Clerk of Courts shall file the held original documents.

## **RULE 8** **FILING OF DISCOVERY MATERIALS**

### **8.1 Depositions.**

All filings of depositions must conform to the Ohio Rules of Civil Procedure.

## **RULE 9** **DUE DATES AND EXTENSIONS**

- 9.1** By agreement of opposing counsel, any party may be permitted two leaves to plead, provided that the total extension of time does not exceed 60 days. The agreement of counsel should be evidenced by a "Consent to Plead" that has been signed by all parties to the action.
- 9.2** Except as otherwise provided by these Local Rules, where a party needs additional time, beyond that provided in Loc.R. 9.1, or where the parties cannot agree upon an extension of time, the party desiring the extension must file a written motion, supported by an affidavit

that demonstrates good cause for another extension. The motion and affidavit must be filed on or before the expiration of the time to move or plead. The motion and affidavit must be served upon opposing counsel. The motion and affidavit will be required even though consent of opposing counsel is obtained if the extension is for a period of time beyond that permitted by Loc.R. 9.1. The moving party must submit separately a proposed judgment entry.

- 9.3** In all cases where the time for the filing of pleadings or amended pleadings is not fixed by law or other rule, the pleadings or amended pleadings must be filed on or before the seventh day after the date of the entry requiring or granting leave for the filing of pleadings or amended pleadings, unless otherwise specified in the entry. The opposing party must move or plead to the pleadings or amended pleadings so filed on or before the fourteenth day after the pleadings or amended pleadings are filed.

**RULE 10**  
(RESERVED)

**RULE 11**  
**GENERAL PROVISIONS FOR ATTORNEYS AND *PRO SE* LITIGANTS**

- 11.1** All pleadings and motions served and filed on behalf of any party represented by counsel must be signed by one attorney in that attorney's individual name as required by Rule 11 of the Ohio Rules of Civil Procedure. The signer should be the attorney who is to try the case. Following that attorney's signature, office address, telephone number, facsimile number, email address, and Supreme Court registration number, there must be set forth the designation "Attorney for Plaintiff" (or Defendant). Law firm names and the names of co-counsel or associate counsel may appear on the pleadings and motions. If filing by fax or electronically, refer to Loc. R. 3.
- 11.2** All pleadings and motions served and filed by an unrepresented party on behalf of himself/herself must be signed by that party, and the signature block should contain the following information, either typed or printed: the party's name, the designation that the party is *pro se*, the party's address, a telephone number where the party can be reached, and an email address (if available).
- 11.3** All counsel shall file a notice of appearance. In consolidated cases, all counsel shall file a notice of appearance in the consolidated case number.
- 11.4** If the trial attorney designated in accordance with Loc.R. 11.1 withdraws from the case, as provided in Loc.R. 13, and a new attorney is substituted in his place, a written notice of substitution of counsel must be filed.
- 11.5** Failure of any attorney or *pro se* litigant to comply with these rules or the Civil or Criminal Rules of Procedure regarding the proper filing of pleadings may result in the pleading being rejected by the Clerk or being stricken by the Court.

**RULE 12**  
**ADMISSION OF OUT-OF-STATE ATTORNEYS**

- 12.1** An attorney not licensed to practice law in the State of Ohio, but who is licensed to practice law in any other state or in the District of Columbia, may, at the discretion of the trial judge, be permitted to represent a party or parties in any pending action or in any action to be filed in Portage County, provided that the out-of-state attorney has done all of the following:
- (A) Provided proof that the out-of-state attorney has registered with the Ohio Supreme Court Office of Attorney Services in accordance with Gov.Bar R. XII;
  - (B) Certified in writing that he or she has familiarized himself or herself with these local rules and will familiarize himself or herself with the appropriate Ohio Rules of Criminal or Civil Procedure, the Ohio Rules of Evidence, and the Ohio Rules of Professional Conduct;
  - (C) Found an attorney licensed to practice law in Ohio to act as his or her sponsor. The sponsoring attorney must provide written notice of his or her sponsorship to the Court and certify the out-of-state attorney's compliance with this rule and the Rules for the Government of the Bar;
  - (D) The sponsoring attorney submits with the motion and certification an entry authorizing the approval of the motion;
  - (E) The sponsoring attorney, or any other attorney licensed to practice law in the state of Ohio, must be co-counsel with the attorney admitted *pro hac vice*.
- 12.2** The continuance of any scheduled trial or hearing date will not be permitted solely because of the unavailability of or inconvenience to the out-of-state attorney.
- 12.3** The continuance of any scheduled trial, pretrial, status conference, hearing or other court ordered hearing shall be made in accordance with the Rules of Superintendence.

**RULE 13**  
**WITHDRAWAL OF COUNSEL**

- 13.1** An attorney desiring to withdraw from representation of a client must file a motion to withdraw stating the reasons for the withdrawal (without divulging confidential client information). The motion must also include the last current address and phone number of the client and certification by the attorney that the following conditions have been met:
- (A) Notice has been given to the client advising the client of all orders and all upcoming assignment dates affecting the client;
  - (B) Notice has been given to all counsel, or if unrepresented, notice has been given to the parties.
  - (C) The client has been named as a recipient of the motion to withdraw in the certificate

of service.

- 13.2** No attorney will be permitted to withdraw from a case later than 20 days prior to a trial or dispositive hearing except for extraordinary circumstances.

**RULE 14**

**ASSIGNMENT, TRANSFER, AND CONSOLIDATION OF CASES**

**14.1 Assignment System**

Upon the filing of a complaint in a civil action, or of an indictment or bill of information in a criminal action, the Clerk will randomly assign the case to a specific judge. The Clerk will place the name of the trial judge to whom the case is assigned on the file. The assigned judge will retain the case until final disposition. All preliminary matters, including requests for continuances, will be submitted for disposition to the judge to whom the case has been assigned or, if the assigned judge is unavailable, to the administrative judge.

**14.2 Refiled Cases**

If a case is dismissed and subsequently refiled, Plaintiff's counsel must designate the refiled complaint as such. The refiled complaint must contain the following designation under the case number: "THIS IS A REFILED CASE. PREVIOUS CASE NUMBER ####" The trial judge to whom the case was previously assigned will be reassigned to the refiled case.

**14.3 Transfer and Consolidation of Cases**

- (A) When actions involving common questions of law or fact are pending before different judges, the court or a party in the highest numbered case may move to transfer the highest numbered case to the judge having the lowest numbered case. If the transfer is approved by the trial judges in both cases, a party in either case may file a motion with the judge who is transferring the cases for consolidation, subject to the provisions of Rule 42(A) of the Ohio Rules of Civil Procedure. The motion must be filed in each case that the movant seeks to consolidate.
- (B) Consolidated cases will be deemed assigned to the trial judge having the lowest numbered case.
- (C) The case schedule of the lowest numbered case will control the proceedings of consolidated cases unless otherwise ordered by the Court.
- (D) All counsels shall file a notice of appearance in the lowest case number after consolidation.
- (E) After the consolidation of cases, pleadings shall only be filed in the lowest numbered case and shall only have the lowest case caption. The Clerk of Courts may reject any pleadings not in conformity with this rule.

**14.4 Transfer to Municipal Court**

Each judge reserves the right to transfer, to the Portage County Municipal Court, appropriate civil cases where the amount in controversy does not exceed that Court's jurisdictional limit.



## 14.5 Criminal Cases

- (A) **Individual Assignment Method.** The system used by the General Division of this Court to assign cases is known as the “Individual Assignment Method” under Sup.R. 36.

The individual assignment method ensures all of the following:

- (1) judicial accountability for the processing of individual cases;
- (2) timely processing of cases through prompt judicial control over cases and the pace of litigation;
- (3) random assignment of cases to judges through an objective and impartial system that ensures the equitable distribution of cases among the judges.

- (B) **Assignments.**

When a criminal case naming an individual or entity as a defendant is filed with the Clerk of Courts, whether by referral from a Municipal Court or by direct indictment, each defendant will receive a case number. That case will be randomly assigned to an individual judge by a computer program designed to provide equitable and random distribution of cases among the General Division Judges of the Common Pleas Court. All subsequent transfers of cases between judges must be by entry.

- (C) **Co-defendants.**

If more than one defendant is indicted in a single indictment, each defendant’s case will be assigned a separate case number as required by (B) above. For example, if there are three co-defendants charged, each defendant will be assigned a separate number i.e., 2017 CR 00001 A, 2017 CR 00001 B, and 2017 CR 00001 C. All such cases will be assigned to the same judge. In accordance with Rule 14 of the Ohio Rules of Criminal Procedure, a judge may order separate trials for defendants who are charged in the same indictment.

- (D) **Modification (Transfer) of Assignment.**

A criminal case **may** be transferred if a defendant is determined to be either:

- (1) Under active community-control supervision in connection with a case that was heard in another court, or
- (2) The defendant has an open criminal case.

If condition (1) or (2) is met, and the case(s) does not involve co-defendants, the case **may** be transferred to the judge who placed the defendant on community control or to the judge who was assigned to the open case.

If both conditions (1) and (2) are met, and the case(s) does not involve co-defendants, both the newest case and the older open case **may** be transferred to the judge who placed the defendant on community control.

When a defendant is participating in a specialized docket at the court, then

the decision whether to transfer will be made on an *ad hoc* basis by the judge overseeing the specialized docket and the judge from whom the case would be transferred.

When an adjustment of judge assignment is made as a result of (1) and/or (2) above, a credit to the judge for the additional assignment will be made.

The purpose of Section (D) of this Rule is to ensure that a defendant who is under active community-control supervision or who has an open criminal case appears before the same judge previously assigned to hear that defendant's case.

Section (D) of this rule will not apply to cases in which the maximum possible sentence is life in prison or the death penalty.

The decision to transfer a case shall be decided by both the transferring and accepting judge.

(E) **Transfer Entries.**

All entries transferring cases under this rule must be signed by the transferring judge and the accepting judge.

#### **14.6 Magistrates**

(A) Magistrates may handle any matter allowed by law pursuant to Ohio Civil Rule 53 and Ohio Criminal Rule 19. Magistrates may also handle any matter submitted to him/her without further order, including, but not limited to civil status conferences, criminal status conferences, discovery hearings, all civil hearings, all criminal hearings, debtor examinations, hearings on administrative appeals, criminal arraignments, plea proceedings under Criminal Rule 11, bail proceedings under Criminal Rule 46, trials without a jury, trials with a jury where the parties consent in writing and any other matter referred by the Court.

(B) In addition to those orders or decisions included in the Civil and Criminal Rules, the Magistrates shall have the authority to enter the following interlocutory or final orders without approval of the assigned Judge:

- (1) An order transferring venue to another county when the parties mutually agree under Civil Rule 3;
- (2) An order naming a person to serve as a process server under Civil Rule 4;
- (3) An order permitting the filing of claims as described in Civil Rule 13;
- (4) An order permitting amended and supplemental pleadings under Civil Rule 15;
- (5) An order permitting actions to be taken as a result of status conferences and pre-trials under Civil Rule 16 and these rules;
- (6) An order appointing a guardian ad litem under Civil Rule 17;
- (7) An order permitting joinder under Civil Rule 18 and 19;
- (8) An order permitting joinder or separate trials under Civil Rule 20;

- (9) An order permitting the addition of a party or, when the parties mutually agree, an order permitting the dropping of a party under Civil Rule 21;
- (10) An order for the safekeeping of property pending disposition of the matter under Civil Rule 22;
- (11) An order permitting intervention under Civil Rule 24;
- (12) An order governing, administering, and supervising discovery;
- (13) An order imposing sanctions under Civil Rule 37;
- (14) An order permitting voluntary dismissal under Civil Rule 41;
- (15) An order consolidating or separating trials under Civil Rule 42;
- (16) An order granting or denying a temporary restraining order or preliminary injunction under Civil Rule 65;
- (17) An order regulating discovery under Criminal Rule 16;
- (18) An order under Criminal Rule 19;
- (19) An order entered at arraignment assigning counsel consistent with local practice and Criminal Rule 44;
- (20) An order ruling on interlocutory motions wherein the ruling does not serve to make any final determination of the rights of the parties.

## **RULE 15**

### **MOTION TO CONTINUE OR MODIFY TRIAL DATE**

**15.1** If a party seeks a continuance of a trial or hearing, the party must file a written motion and submit a proposed entry. All motions to continue in criminal cases must include the number of previous continuances and who sought the continuances, whether opposing counsel consents, if time is waived or not, the try-by date, and dates counsel and witnesses are available for trial.

#### **15.2 Conflicts**

- (A) Unless otherwise provided in these rules, when a continuance is requested for the reason that counsel is scheduled to appear in another case assigned for trial on the same date in the same or another trial court of this state, the case that was first set for trial will have priority and will be tried on the date assigned. The Court will not consider any motion for continuance due to conflict of a trial assignment date unless a copy of the conflicting assignment is attached to the motion and the motion is filed not less than 30 days prior to trial. When an attorney becomes aware of any assignment that might create a conflict, the attorney must advise the Court and opposing counsel as soon as practicable.

- (B) Criminal cases assigned for trial have priority over civil cases assigned for trial. Appellate proceedings take precedence over trial-court proceedings.
- 15.3** Any motion to continue or modify a trial date must be accompanied by a proposed entry. Failure to comply with this rule may result in denial of the motion.
- 15.4** If a party seeking affirmative relief fails to appear for trial, the trial judge may enter an order dismissing the claim for relief for want of prosecution. If a defendant fails to appear for trial, and the party seeking affirmative relief does appear, the court may order the party to proceed with the case and may decide and determine all matters *ex parte*.
- 15.5** If a party or counsel appears for trial but indicates that the party or counsel is not ready for trial, the court may: 1) enter an order dismissing the claim for want of prosecution if the unprepared party is the party seeking affirmative relief; or 2) order the party seeking relief to proceed with the case, determining all matters.
- 15.6** All civil trials scheduled with the magistrates are dates certain as they will be scheduled with all counsel of record. No continuances will be granted except for emergencies.
- 15.7** The continuance of any scheduled trial or hearing date will not be permitted solely because of the unavailability of or inconvenience to the out-of-state attorney.
- 15.8** The continuance of any scheduled trial, pretrial, status conference, hearing or other court ordered hearing shall be made in accordance with the Rules of Superintendence.
- 15.9** The filing of a motion to continue does not mean that the matter will be continued.

**RULE 16**  
**NOTICE OF SETTLEMENT AND DISMISSAL**

**16.1 Settlement.**

As soon as the parties have reached a settlement agreement prior to the trial date, Plaintiff's counsel must immediately notify the trial judge by telephone and file written notice of the settlement with the Court. Failure to do so may result in sanctions, including jury costs if notice of settlement is not given at least 24 hours prior to the trial date. If settlement is reached by mediation, the mediator should provide written notice to the Court.

**16.2 Dismissal.**

- (A) Notice must be provided to the Court of a partial dismissal. The notice must indicate which parties have settled, which parties remain, and which claims are still pending.
- (B) If a dispositive entry on a settled case is not filed within 30 days of notification to the Court, the Court may administratively dismiss the case.
- (C) All cases on the docket for over six (6) months without any proceedings taken therein may be dismissed by the Court.

**RULE 17**  
*(RESERVED)*

**RULE 18**  
**ENTRIES**

- 18.1** If requested by the trial judge, counsel for the party in whose favor a decision, order, decree, or judgment is rendered, should submit to the trial judge a proposed entry that has been reviewed by all counsel. If counsel are unable to agree upon the entry, the entry should be submitted to the trial judge for review.
- 18.2** If counsel fails to present any entry within the time prescribed after the decision, order, decree, or judgment is rendered, the trial judge may prepare and file the entry. The trial judge may impose sanctions for failure to comply with this rule.

**RULE 19**  
**PROCESS SERVER**

**19.1 Standing Special Process Server (Continuing Appointment)**

An individual or an agent of a legal organization may apply to be designated as a standing special process server. The applicant must submit a motion, an affidavit and an order for signature by the Administrative Judge.

**(A) Contents of Affidavit and Order.**

The affidavit and order must list the name, address, email address, and telephone number of the person to be appointed as a standing special process server, as well as an affirmation that the person:

- (1) is 18 years of age or older;
- (2) is not a party to any action for which the person will serve process;
- (3) has no familial relationship to any party in an action for which the special process server will serve process;
- (4) has no felony criminal record;
- (5) will carry out his or her duties in accordance with all applicable court rules.

**(B) Awarding of Order.**

After the Administrative Judge has signed the order, the individual or agent of the legal organization must file the affidavit and order with the Clerk of Courts. The Clerk of Courts will record the affidavit and order on the administrative journal. Thereafter, the Clerk of Courts will accept a time- stamped copy of the affidavit and order as proper designation of the process server until the order expires or is vacated by the Court.

**(C) Expiration of Order.**

All affidavits and orders appointing standing special process servers will expire two

years from the date of filing.

- (D) No legal organization whose agent is a standing special process server may represent or advertise that it is the Court's official process server.
- (E) The fee for filing the affidavit and order is \$50.

**19.2 Process Server (One-Time Appointment).**

An individual or an agent of a legal organization may apply to be designated as a process server in a particular case. The applicant must file a motion, affidavit, and order for signature by the judge assigned to the case.

(A) **Contents of Affidavit and Order.**

The affidavit and order must list the name, address, email address, and telephone number of the person to be appointed as a special process server, as well as an affirmation that the person:

- (1) is 18 years of age or older;
- (2) is not a party or counsel for a party in the action;
- (3) has no familial relationship to any party in the case;
- (4) has no felony criminal record;
- (5) will carry out his or her duties in accordance with all applicable court rules.

**RULE 20**

**JURIES AND JURORS**

**20.1 Opportunity for Service**

- (A) The opportunity for jury service will 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 or person.
- (B) Jury service is an obligation of all registered voters of Portage County, Ohio, who are not otherwise entitled to apply for a statutory excuse. (R.C. 2313.12 & 2313.14)
- (C) The Ohio Trial Court Jury Use and Management Standards as set forth in Appendix B to the Rules of Superintendence are incorporated by reference.

**20.2 Jury Source List**

- (A) As Section 2313.06 of the Ohio Revised Code provides, the Portage County Board of Elections will compile and file with the Commissioners of Jurors a certified current list containing the names, addresses, and dates of birth of all electors of Portage County as of the date the list is filed or as close to that date as possible.
- (B) The list should include all registered voters in Portage County, Ohio.

- (C) The Jury Commissioners should exclude from the annual jury list the names of jurors permanently excused under R.C. 2313.14 and jurors discharged under R.C. 2313.21.

**20.3 Random Selection Procedures**

- (A) As soon as practicable after receipt of an updated computerized elector list from the Portage County Board of Elections and after entry of the list into the court's Automated Data Processing Equipment and creation of an annual or supplemental jury source list, appropriate directions will be entered into the court's Automated Data Processing Equipment for purposes of randomly creating an annual jury list or supplemental annual jury list as contemplated by Section 2313.09 of the Ohio Revised Code. The method of selection will be documented.
- (B) The annual or supplemental juror lists must comport with R.C. 2313.09, and a duplicate will be certified and filed in the Clerk's office.

**20.4 Eligibility for Jury Service**

Eligibility for jury service must be in accordance with Standard 4 of the Ohio Trial Court Jury Use and Management Standards in Appendix B to the Rules of Superintendence and R.C. 2313.17.

**20.5 Term of and Availability for Jury Service**

- (A) Not less than 14 days prior to the random selection of prospective jurors for each part of the Annual Term of court, the Administrative Judge, by Judgment Entry, will designate the total number of prospective jurors to be randomly selected for the General Division of the Court of Common Pleas of Portage County, Ohio, and, for the Portage Municipal Court.
- (B) Not less than 14 days prior to the random selection of prospective jurors for each part of the Annual Term of court for service in the General Division of the Court of Common Pleas of Portage County, Ohio, the administrative judge, by Judgment Entry, will separate prospective jurors into panels of equal number and assign dates on which the jurors should first report for jury service.
- (C) At least 6 days prior to the random selection of prospective jurors for each part of the Annual Term of court, the Commissioners of Jurors will publish in a newspaper of general circulation in Portage County, Ohio, a Notice of Drawing of Jurors.
- (D) At least 6 days prior to the random selection of prospective jurors for each part of the Annual Term of court, Written Notice of the Drawing of Jurors will be served on the clerk of the Court of Common Pleas of Portage County, Ohio, and, the administrative judge of the General Division of the Court of Common Pleas of Portage County, Ohio unless a signed waiver is executed and filed in the Clerk of Courts office.
- (E) The first 2,340 persons, or such other number as the court may so designate in a Judgment Entry, who are randomly selected from the annual jury list for Part I, Part II, and Part III of each Annual Term of court will serve as Petit Jurors in the Portage

Municipal Court.

- (F) The next 500 persons, or such other number as the court may so designate in a Judgment Entry, whose names are randomly selected from the annual jury list for Part I, Part II, and Part III of each Annual Term of court will serve as Grand Jurors in the General Division of the Court of Common Pleas of Portage County, Ohio.
- (G) The last 7,200 persons, or such other number as the court may so designate in a Judgment Entry, whose names are randomly selected from the annual jury list for Part I, Part II, and Part III of each Annual Term of Court will serve as Petit Jurors in the General Division of the Court of Common Pleas of Portage County, Ohio.

## **20.6 Notification and Summoning Procedures**

- (A) In an adequate period of time before the date of jury service, allowing for mail and return mail time, the Jury Office will mail a Summons to Serve as a Juror with a return service including Juror Questionnaires, Juror Information Sheets, Report Dates, Maps, and a stamped self-addressed return envelope to each prospective juror selected for service in the General Division of the Court of Common Pleas of Portage County, Ohio.
- (B) The notice summoning a person to jury service will be set forth in a single document that is phrased in a manner that is readily understood by an individual unfamiliar with the legal and jury systems. The notice will be delivered by ordinary mail and will clearly explain how and when the recipient must respond. The notice will also explain the consequences of failure to respond.
- (C) Jurors who fail to report for service may be scheduled for a contempt hearing before a judge to inform the judge as to why they did not appear. Sanctions may be imposed as warranted.
- (D) Jurors will be provided with a pre-recorded jury service message, as well as a computerized web page (once available), for purposes of informing them as to whether their jury service is needed on a specific date. The jury service message will be activated at 4:00 p.m. each evening.

## **20.7 Statutory Excuse**

- (A) Except as provided by Sections 2313.14 and 2313.15 of the Ohio Revised Code, the Court of Common Pleas or the Commissioners of Jurors will not excuse a person who is eligible to serve as a juror and who is drawn and notified, unless it is shown to the satisfaction of the Judge or Commissioners of Jurors by either the juror or another person acquainted with the facts that one or more of the following applies:
  - (1) The interests of the public will be materially injured by the juror's attendance.
  - (2) The juror's spouse or a near relative of the juror or the juror's spouse has recently died or is dangerously ill.
  - (3) The juror is a cloistered member of a religious organization.



- (4) The prospective juror has a mental or physical condition that causes the prospective juror to be incapable of performing jury service. The Court or commissioners may require the prospective juror to provide the Court with documentation from a physician licensed to practice medicine verifying that a mental or physical condition renders the prospective juror unfit for jury service for the remainder of the jury year.
  - (5) Jury service would otherwise cause undue or extreme physical or financial hardship to the prospective juror or a person under the care or supervision of the prospective juror. A judge of the court for which the prospective juror was called to jury service will make undue or extreme physical or financial hardship determinations. The judge may delegate the authority to make these determinations to an appropriate court employee appointed by the court.
  - (6) The juror is over age 75 and the juror requests to be excused.
  - (7) The prospective juror is an active member of a recognized Amish sect and requests to be excused because of the prospective juror's sincere belief that as a result of that membership the prospective juror cannot pass judgment in a judicial manner.
- (B)
- (1) A prospective juror who requests to be excused from jury service under this section must take all actions necessary to obtain a ruling on that request by not later than the date on which the prospective juror is scheduled to appear for jury duty.
  - (2) A prospective juror who requests to be excused as provided in division (A)(6) of this section must inform the appropriate court employee appointed by the court of the prospective juror's request to be so excused by not later than the date on which the prospective juror is scheduled to appear for jury duty. The prospective juror must inform that court employee of the request to be so excused by appearing in person before the employee or contacting the employee by telephone, in writing, or by electronic mail.
- (C)
- (1) For purposes of this section, undue or extreme physical or financial hardship is limited to circumstances in which any of the following apply:
    - (a) The prospective juror would be required to abandon a person under the prospective juror's personal care or supervision due to the impossibility of obtaining an appropriate substitute caregiver during the period of participation in the jury pool or on the jury.
    - (b) The prospective juror would incur costs that would have a substantial adverse impact on the payment of the prospective juror's necessary daily living expenses or on those for whom the prospective juror provides the principal means of support.
    - (c) The prospective juror would suffer physical hardship that would

result in illness or disease.

- (2) Undue or extreme physical or financial hardship does not exist solely based on the fact that a prospective juror will be required to be absent from the prospective juror's place of employment.
- (D) A prospective juror who asks a judge to grant an excuse based on undue or extreme physical or financial hardship must provide the judge with documentation that the judge finds to clearly support the request to be excused. If a prospective juror fails to provide satisfactory documentation, the court may deny the request to be excused.
- (E) An excuse, whether permanent or not, approved pursuant to this section will not extend beyond that jury year. Every approved excuse will be recorded and filed with the Commissioners of Jurors. A person is excused from jury service permanently only when the deciding judge determines that the underlying grounds for being excused are of a permanent nature.
- (F) No person will be exempted or excused from jury service or be granted a postponement of jury service by reason of any financial contribution to any public or private organization.
- (G) The commissioners will keep a record of all proceedings before them or in their office, of all persons who are granted an excuse, and of the time of and reasons for each excuse.

## **20.8 Juror Questionnaires**

- (A) The juror questionnaire will be phrased and organized so as to facilitate quick and accurate screening and will request only that information essential for: (1) determining whether a person meets the criteria for eligibility; (2) providing basic background information ordinarily sought during voir dire examination; and (3) efficiently managing the jury system.
- (B) A numerical list of prospective jurors and copies of prospective jurors' questionnaires will be provided to counsel, upon request, one day prior to trial.
- (C) Questionnaires must be returned to the court immediately following trial; no copying of questionnaires is permitted.

## **20.9 Voir Dire**

- (A) At the outset, the trial judge will conduct a preliminary voir dire examination of the entire prospective jury panel called for jury service. Counsel for the parties will then be permitted to conduct an appropriate voir dire examination of the entire prospective jury panel or of a more limited panel.
- (B) Voir dire examination will be limited to matters relevant to determining whether to remove a juror for cause and to determine the juror's fairness and impartiality. The trial judge will ensure that the privacy of the prospective jurors is reasonably protected and that counsel's questions are consistent with the purpose of the voir dire process.

- (C) In both civil and criminal cases, the voir dire process will be held on the record.

**20.10 Removal from the Jury Panel for Cause**

- (A) If the judge determines during the voir dire process that any individual is unable or unwilling to hear the particular case at issue fairly and impartially, that individual will be removed from the panel. Such a determination may be made on motion of counsel or by the judge.
- (B) In civil cases, prospective jurors may be challenged for cause for those reasons specifically set forth in Section 2313.17 of the Ohio Revised Code.
- (C) In criminal cases, prospective jurors may be challenged for cause for those reasons specifically set forth in Rule 24(C) of the Ohio Rules of Criminal Procedure and R.C. 2945.25.

**20.11 Peremptory Challenges**

Procedures for exercising peremptory challenges will be in accordance with Rule 47(C) of the Ohio Rules of Civil Procedure and Rule 24(D) & (E) of the Ohio Rules of Criminal Procedure.

**20.12 Administration of the Jury System**

- (A) The responsibility for administration of the jury system will be vested exclusively in the judges of the General Division for the Court of Common Pleas of Portage County, Ohio. If the judges are not able to agree, then the administrative judge will be responsible.
- (B) All procedures concerning jury selection and service should be governed by these rules and other applicable statutes and the Ohio Rules of Criminal Procedure and Civil Procedure.

**20.13 Monitoring the Jury System**

The administrative judge will collect and analyze information regarding the performance of the jury system annually in order to evaluate the factors set forth in Standard 12 of the Ohio Trial Court Jury Use and Management Standards under the Rules of Superintendence.

**20.14 Juror Use**

The court will determine the minimally sufficient number of jurors needed to accommodate trial activity, taking into consideration the multiple assignment of criminal and civil cases on any given jury day. This information and appropriate management techniques will be used to adjust both the number of individuals summoned for jury duty and the number assigned to jury panels.

**20.15 Jury Facilities**

The Board of County Commissioners of Portage County will provide an adequate and suitable environment for jurors in accordance with Standard 14 of the Ohio Trial Court Jury Use and Management Standards under the Rules of Superintendence.

#### **20.16 Juror Compensation**

- (A) Persons called for jury service will receive a reasonable fee for their jury service, as determined by Resolution of the Portage County Board of Commissioners.
- (B) Grand Juror fees will be paid at the end of the juror's service.
- (C) Prospective jurors will receive \$15.00 for each day they report to the Portage County Courthouse for Jury Service. Jury fees will be paid within 60 days of actual jury service.

#### **20.17 Juror Orientation and Instruction**

Each trial judge will provide orientation and instruction to persons called for jury service that is in conformity with Standard 16 of the Ohio Trial Court Jury Use and Management Standards in Appendix B of the Rules of Superintendence.

#### **20.18 Jury Deliberations**

Each trial judge will provide for deliberations in accordance with Standard 18 of the Ohio Trial Court Jury Use and Management Standards in Appendix B of the Rules of Superintendence.

### **RULE 21**

#### **CASE-FLOW MANAGEMENT**

- 21.1** These case-flow management rules will apply to all civil cases filed in the General Division of the Common Pleas Court, unless (1) the case by its very nature requires a more rapid adjudication such as in equity matters, habeas corpus, etc.; (2) the case, because of court-imposed stays, interlocutory appeals, removal to federal court, and remand, etc., requires a different schedule; or (3) the trial judge, by written order, places the case on a different schedule for resolution based on good cause shown. Wherever possible, cases will be resolved on the shortest time track under these rules. The suggested deadlines set by the Ohio Rules of Superintendence for the Courts of Common Pleas will be construed as maximums and will not preclude the more rapid resolution of cases under these rules.
- 21.2** It will be the goal of the case-flow rules and the overall management of the docket by the Common Pleas Court that 90% of all civil cases should be settled, tried, or otherwise concluded within 12 months of filing; 98% within 18 months of filing; and 100% within 24 months of filing, except for individual cases where the court determines exceptional circumstances exist.

### **RULE 22**

#### **CLASSIFICATION OF CASES, DEADLINES, TIMING**

- 22.1** The time limits in these case-flow management rules will be calculated from the date of filing of the initial document invoking the jurisdiction of the Common Pleas Court.
- 22.2** In conformity with the Supreme Court Rules of Superintendence, categories of civil and criminal cases filed in the General Division of the Court of Common Pleas of Portage

County, Ohio will be as follows:

- A ----- PROFESSIONAL TORT
- B ----- PRODUCT LIABILITY
- C ----- OTHER TORTS
- D ----- WORKERS' COMPENSATION
- E ----- FORECLOSURES
- F ----- ADMINISTRATIVE APPEAL
- G ----- COMPLEX LITIGATION
- H ----- OTHER CIVIL
- I ----- CRIMINAL

- 22.3** The initial determination of the category of the case being filed will be made by the party filing the case at the time of filing. The classification/case designation form maintained by the Clerk's office must be fully completed by counsel or the party at the time of filing any new civil case and must be file-stamped and contained in the Official Court File. Copies of the classification form will be made available, without cost, at the Office of the Clerk of this Court.
- 22.4** Complex Litigation - G - will not be designated at the time of filing, and this classification will be made only by the trial judge at the appropriate time and as suggested by Rule 42 of the Rules of Superintendence.
- 22.5** Other changes in categories may be made only by the trial judge, *sua sponte*, or otherwise upon appropriate motion and judgment entry. The party requesting and receiving a change of category must notify all parties in the case by providing them with a copy of the signed judgment entry allowing the change of category.

## **RULE 23**

### **GENERAL TIME LIMITS**

#### **23.1 Case Tracks**

At the discretion of the trial judge, all civil cases, except Administrative Appeals (F), mandamus, habeas corpus, equity matters, or any other case which, by its nature, requires a more rapid adjudication as determined by the assigned trial judge, will be placed on the 12 month primary time track or the 24 month time track. Each time track consists of a planned sequence of events leading from filing to trial, assuming the case is not terminated earlier.

#### **23.2 Primary Track**

The 12-month time track is the primary, standard track for the resolution of nearly all of the cases in the General Division of the Court of Common Pleas. It will be presumed that the

typical Personal Injury (C), Workers' Compensation Appeal (D), Other Civil (H), and Foreclosure (E) cases will be suitable for pleading, discovery, motions practice, and disposition within this time frame. A longer time track will be the exception to this procedure and will be used only for out-of-the-ordinary cases within these classifications.

### **23.3 Longer Tracks**

The 24-month time track is for the Professional Tort (A) and Products Liability (B) cases. Cases filed which may later be designated as Complex will be assigned to a track and given a case schedule based on their subject-matter classification. These cases will have an initial status conference as specified in the case schedule, or upon request of counsel. The trial judge will order a specific amended case schedule appropriate to that particular case, and may use the 12-month and 24-month tracks as models for a proportionately longer track.

### **23.4 Failure to Prosecute**

- (A) In a civil action, if neither the plaintiff nor his/her counsel appears for a status conference, mediation, pre-trial, hearing, trial or any other court appearance, the Court may dismiss the case without prejudice.
- (B) In a civil action, any case that has had no activity for six (6) months may be dismissed by the Court for failure to prosecute.

### **23.5 Foreclosure Loss Mitigation**

In any foreclosure matter where a completed loss mitigation packet is under review by the home lender, Plaintiff's counsel shall file a motion for stay during the loss mitigation review and trial period. Plaintiff's counsel shall immediately notify the Court of a failure of loss mitigation and/or successful completion so that the case may be placed back on the active docket. If no loss mitigation is under review, Plaintiff's counsel shall file a dispositive motion within 60 days of service on all Defendants.

## **RULE 24** **CASE SCHEDULE**

### **24.1 Case Schedule**

Upon completion of service, the trial judge may either conduct a case scheduling conference or issue a scheduling entry.

### **24.2 Status Conference**

- (A) It will be the duty of all counsel to attend the status conference fully prepared and authorized to enter into a binding scheduling conference order and to begin negotiation toward settlement of the case. Counsel must have their calendars available to set deadlines. Failure to be prepared may result in dismissal of the case for want of prosecution, default judgment, or other sanctions as the trial judge deems appropriate.
- (B) In civil matters, parties represented by counsel are not required to be present for scheduling/status conferences unless ordered by the Court.

### **24.3 Service on Additional Parties Upon Joinder**

A party who joins an additional party or parties will be responsible for serving the additional party or parties with the case schedule.

### **24.4 Enforcing and Monitoring Time Limits**

The trial judge, upon motion of a party or *sua sponte*, may impose sanctions for failure to comply with the local rules and/or a case schedule and/or the Civil Rules. If the trial judge finds that a party or attorney has failed to comply with the local rules and/or a case schedule and/or the Civil Rules without reasonable excuse or legal justification, the trial judge may impose sanctions proportional to the extent or frequency of the violation(s). The trial judge and magistrate may monitor cases on an ongoing basis to determine compliance with the case schedule and these local rules.

### **24.5 Amended Case Schedule**

The trial judge, either on motion of a party or *sua sponte*, may modify any date in the case schedule for good cause and on terms as are just.

## **RULE 25**

### **PRETRIAL AND STATUS CONFERENCE PROCEDURE**

**25.1** A final pretrial conference will be held at the date and time specified in the case schedule, unless no date appears or the trial judge orders otherwise. When the trial judge determines that a case warrants a final pretrial, a date and time will be set. All parties named in the lawsuit must be present at the pretrial unless their presence is excused, in advance, by the trial judge. In that event, the parties must be available by telephone.

**25.2** It will be the duty of counsel to come to the pretrial fully prepared and authorized to negotiate toward settlement of the case. If the real party in interest is an insurance company, common carrier, corporation, or other legal entity, then the representative appearing must have full authority to negotiate the claim or claims to the full extent of plaintiff's demand. Failure to be prepared may result in dismissal of the case for want of prosecution, a default judgment, or other sanctions as the trial judge deems appropriate.

**25.3** In civil matters, parties represented by counsel are not required to be present for scheduling/status conferences unless ordered by the Court.

### **25.4 Failure to Appear**

In a civil action, if neither the plaintiff nor his/her counsel appears for a status conference, mediation, pre-trial, hearing, trial or any other court appearance, the Court may dismiss the case without prejudice.

### **25.5 Enforcement**

The trial judge has the power to impose sanctions for violations of this rule, including the failure of an attorney or party to appear on time without a valid excuse.

## **RULE 26**

### **DISCLOSURE OF POSSIBLE LAY AND EXPERT WITNESSES**

### **26.1 Initial Joint Disclosure of All Witnesses**

Each party must, not later than the date for disclosure designated in the case schedule,

disclose the names of all persons with relevant factual or expert knowledge whom the party reserves the option to call as witnesses at trial.

## **26.2 Scope of Disclosure**

Disclosure of witnesses under this rule must include the following information:

- (A) All Witnesses' name, address, and business phone number (or home phone number, if no business number is available).
- (B) Lay Witnesses' must include a brief description of the witness' relevant knowledge.
- (C) Experts must include a brief description of the expert's qualifications and summary of the expert's opinions and the basis or theory of that opinion.

## **26.3 Exclusion of Testimony**

Any witnesses not disclosed in compliance with this rule may not be called to testify at trial, unless the trial judge orders otherwise for good cause and subject to conditions as justice requires.

## **RULE 27** *(RESERVED)*

## **RULE 28** **DISCOVERY**

### **28.1 Informal Discovery**

Counsel will participate in discovery conferences with opposing counsel and freely exchange discoverable information and documents upon informal request. Counsel should make every effort to resolve discovery disputes by agreement prior to filing motions with the Court.

### **28.2 Discovery Motions**

Motions for protective orders or to compel discovery must be accompanied by a statement reciting efforts made to resolve the matter and must contain a request for a hearing in the caption, if a hearing is desired.

### **28.3 Discovery Cutoff**

The discovery cutoff date specified in the case schedule will be the last date for any party to seek the involvement of the trial judge in the discovery process by way of motion seeking a ruling, an order, sanctions, or other court action, absent extraordinary circumstances. Voluntary, mutually agreed-upon discovery, including perpetuation of trial testimony by video recording or otherwise, may continue after the discovery cutoff in a manner that does not delay any other event on the case schedule.

## **RULE 29** *(RESERVED)*



**RULE 30**  
**DISPOSITIVE MOTIONS**

**30.1** All motions that ask the court to determine the merits of any claim or defense as to any or all parties will be considered a dispositive motion. All dispositive motions must be filed no later than the date specified in the case schedule or court order. Counsel should file any dispositive motions at the earliest practical date in the course of litigation.

**RULE 31**  
**DEFAULT JUDGMENTS**

**31.1** When a party against whom a judgment is sought has been served and has failed to plead or otherwise defend as provided by the Civil Rules, the party entitled to a judgment by default should promptly apply in writing to the trial judge within 30 days after the date upon which the defaulting party should have pleaded or otherwise defended. The written motion must include where appropriate, if not previously submitted to the court, the following documents: proof of assignment from the original creditor or original party in interest to the plaintiff and the last billing statement from the original creditor sent to the defendant(s), or an affidavit explaining why the required documents are not available.

**31.2** In seeking a default judgment against a party, the moving party must certify by affidavit that the party against whom judgment is sought is not incompetent, a minor, or currently serving on active duty in the military. The affidavit must be filed no later than the day of filing the motion for default judgment.

**31.3** The court may deny the motion for default judgment and dismiss the complaint without prejudice for failure to comply with the requirements of this section.

**RULE 32**  
**SUMMARY JUDGMENT MOTIONS**

**32.1** Except as otherwise ordered by the trial judge, all motions for summary judgment filed pursuant to Civil Rule 56 will be considered ripe for decision on the twenty-eighth day following the filing of the motion. Any party seeking to alter that schedule must file a motion.

**32.2** All affidavits, depositions, and other evidentiary material permitted by Civ. R. 56(C) in support of or in opposition to the motion for summary judgment must be filed with the motion or response that those materials support.

**RULE 33**  
**ADMINISTRATIVE APPEALS**

- (A) At the discretion of the trial judge, all Administrative Appeals (F) will be placed on the appeals track.
- (B) The trial court shall set a briefing schedule for all administrative appeals.

**RULE 34**  
**TRIAL PROCEDURE**

**34.1** In all civil actions that are tried to the Court or to a jury, the following matters should be accomplished prior to trial, at a time that will be specifically designated in the Court's trial or pretrial order:

- (A) All exhibits must be exchanged by counsel.
- (B) All stipulations, except those necessarily arising in the course of the trial, must be in writing, approved by the parties and counsel, and filed with the Clerk.
- (C) If there are objections interposed during stenographic or audio-visual depositions to be offered at trial, the party offering the deposition should request a ruling upon each objection to allow its timely editing reflecting the rulings prior to trial. Counsel's objections, if any, should be indexed, and the grounds for the objections should be set forth clearly.
- (D) Counsel shall file and serve upon opposing counsel proposed jury instructions, which contain at least ten (10) days prior to the commencement of trial. The proposed jury instructions shall contain the following material:
  - (1) If applicable, the specific section(s) of Ohio Jury Instructions upon which the party requests the court to instruct, the complete text of the section(s) together with appropriate legal authority to support the instruction;
  - (2) The complete text of any special jury instruction, together with appropriate legal authority to support the instruction.
  - (3) The proposed jury instructions shall be in Microsoft Word format and be available in electronic version if requested by the Court. Photocopies of Ohio Jury Instructions shall not be accepted.
- (E) Counsel should file and serve upon opposing counsel proposed verdict forms, and, if applicable, proposed jury interrogatories.

**34.2 Pre-recorded Depositions**

- (A) Any pre-recorded deposition filed with the Clerk of Courts must be accompanied by a written transcript.
- (B) The judge may require a deposit when filing a pre-recorded deposition.
- (C) In the event a party wishes to present at trial a pre-recorded deposition as trial testimony, counsel should arrange with the Court to have the court's audio-visual playback system available for trial.

**34.3** Plaintiff's exhibits will be marked numerically and Defendant's exhibits will be marked alphabetically. The court reporter will be the official custodian of all exhibits offered during

the trial of any case, and will retain the exhibits.

- 34.4** After judgment or after appeal time has expired without appeal, counsel may file a motion for the release of exhibits and provide a proposed entry to the judge. The court reporter will provide a receipt for the exhibits in his/her possession upon their release. If no motion for release of exhibits is filed by either party, then the exhibits will be destroyed without notice after five years. If an appeal has been filed, all exhibits are retained with the file in the Clerk of Courts' office. Upon order from the judge to release exhibits for a case that had an appeal, the Clerk of Courts will provide a receipt for the exhibits in their possession upon the release.
- 34.5** After any hearing or trial, the trial judge or magistrate may require proposed findings of facts and conclusions of law be filed with the Court.
- 34.6** Prior to any hearing or trial, the trial judge or magistrate may require a trial brief be filed with the Court.
- 34.7** All cell phones and other forms of electronic devices shall not be in use during court proceedings without prior consent from the Court.
- 34.8** Proper court attire shall be maintained by all counsel and parties during court proceedings.
- 34.9** The official court record is maintained by the official court reporter. No outside recordings or photographs shall be taken or permitted without prior written consent from the Court.

**MISCELLANEOUS RULES  
OF PRACTICE AND PROCEDURE**

**RULE 35**

**CERTIFICATE FOR QUALIFICATION FOR EMPLOYMENT PETITIONS**

- 35.1** 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 Section 5120-15-01 of the Ohio Administrative Code promulgated by the Ohio Department of Rehabilitation and Corrections.
- 35.2** In order to request a CQE, the Petition for Certificate of Qualification for Employment (RC 2953.25) must be filed with the Clerk of Courts by the Petitioner.
- 35.3** All Petitions submitted through the DRC must include electronic access to the Department of Rehabilitation and Corrections CQE Summary.
- 35.4** Before any action is required to be taken on the Petition, the Petitioner must pay a deposit in the amount of \$75.00. Payment of this deposit may be made in any form typically accepted by the court. A judge may waive some or all of the deposit otherwise required by this Rule. The Petitioner may submit an Affidavit of Indigency or other relevant information for the court's consideration if requesting a reduction in the filing fee.

- 35.5** All social security numbers and other information that must be excluded from public records must 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, will retain their character as public or non-public records, as otherwise provided in law.
- 35.6** Upon receipt of a Notice of Petition and the required deposit, the Clerk of Courts will assign the Petition a miscellaneous case number and randomly assign the matter to a judge.
- 35.7** The Court will obtain a criminal history for the Petitioner, either through the investigation ordered in support of the Petition or otherwise.
- 35.8** The Court will attempt to determine all other courts in the state in which the Petitioner has been convicted of, or pleaded guilty, to an offense through review of the Petitioner's criminal history or other investigation. The Clerk of Courts will send a Notice to Court Regarding Petition for Certificate of Qualification for Employment to each court so identified. That Notice will be sent by ordinary US mail.
- 35.9** The Clerk of Courts must also send a Notice to Prosecutor Regarding Petition for Certificate of Qualification for Employment and Submission of Information Regarding Petition for Certificate of Qualification for Employment to the Prosecuting Attorney of Portage County.
- 35.10** The judge or magistrate will review the Petition, criminal history, all filings submitted by the prosecutor or victim, and all other relevant evidence.
- 35.11** The judge or magistrate may order any report, investigation, or disclosure by the Petitioner that it believes is necessary to reach a decision.
- 35.12** Once all information requested has been received, a judge will decide whether to grant or deny the Petition within 60 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.
- 35.13** The Clerk should provide a written notice to the Petitioner of the Court's decision and judgment entry. If denied, the notice should include conditions, if any, placed on subsequent filings, as well as language that a final appealable order has been filed. The clerk should 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.

## **RULE 36**

### **BROADCASTING, TELEVISIONING, AND RECORDING COURT PROCEEDINGS**

- 36.1** Broadcasting, televising, recording, and photographing by news media during courtroom sessions, including recesses between sessions, is permitted under the following conditions:
- 36.2 Administration**

- (A) Requests for permission to broadcast, televise, record, or photograph in the courtroom must be made in writing to the assigned trial judge as far in advance as reasonably practical, but in no event not later than one hour prior to the courtroom session to be broadcast, televised, recorded, or photographed unless otherwise permitted by the trial judge. Request forms may be obtained from the trial judge's office.
- (B) The trial judge may grant the request in writing consistent with Rule 11 of the Rules of Superintendence, and this rule. Written permission will be made a part of the record of the proceeding.

### **36.3 Revocation of Permission**

Upon the failure of any media representative to comply with the conditions prescribed by the trial judge, the Rules of Superintendence, or this rule, the trial judge may revoke the permission to broadcast, photograph, or record the trial or hearing.

**36.4** The official court record is maintained by the official court reporter. No outside recordings or photographs shall be taken or permitted without prior written consent from the Court.

### **36.5 Court Records**

- (A) The official court reporters for the Common Pleas Court General Division will retain their notes and make them available for transcription for five (5) years. At the end of the five (5) year period, all notes and records will be disposed of, with the exception of capital murder records. All capital murder records will be retained indefinitely or until otherwise ordered by the judge who presided over the capital murder trial or, if the judge who presided over the capital murder trial is unavailable, then by the Administrative Judge of the Portage County Common Pleas Court.
- (B) All exhibits in civil cases will be held for five (5) years from the date of the final entry of judgment. Parties desiring return of exhibits should apply to the Court within the one (1) year period. All exhibits will be disposed of after a five (5) year period, unless otherwise ordered by the Court.
- (C) A court reporter will not be required to prepare a transcript or copies for anyone until satisfactory arrangement for payment has been made. Prepayment may be required at the discretion of the court reporter.
- (D) The official record of any proceeding is the transcript prepared by the Court Reporter.

## **RULE 37** **RECEIVERSHIPS**

### **37.1 Applicability**

Unless otherwise ordered by the court in a specific case, this local rule governs practice and procedure in all receivership matters.

### **37.2 Motions for Appointment of a Receiver**

- (A) The court has no closed-panel or “approved” list of receivers. A party must suggest candidates, and must be prepared to document their experience and expertise relative to the matter at hand, and certify that they are disinterested persons.
- (B) Parties seeking appointment must fully advise the Court of the entire fee arrangement proposed to compensate the receiver, including all expense reimbursements and any commission contemplated for leasing or selling property. In addition, the Court must be advised of the approximate value of the business or property likely to be managed in the receivership (if granted), and of the scope of work likely to be required of the receiver.
- (C) Absent an emergency in which irreparable harm is likely to occur, the court will not grant a receivership on an *ex parte* basis. A hearing on the motion for appointment of a receiver will be set at the Court’s discretion.
- (D) The Court will set a bond commensurate with the anticipated size of the estate, having in mind the views of secured creditors and the debtor. Accordingly, counsel must be prepared to present sufficient facts for the court to make an informed judgment on bond.

### **37.3 Hearings and Requests for Procedural Orders**

- (A) Motions for a receivership, fee applications, hearing requests, or other procedural matters relative to a receivership must be submitted in writing, with proposed entry.
- (B) The party who submitted or approved a proposed order entered by the court is responsible for serving it upon the receiver or receiver's counsel and upon all parties who have appeared, or for who service of process remains underway. Proof of service must be filed by the party making service.
- (C) For good cause, the receiver or any party that has appeared may request an emergency hearing by contacting the court.
- (D) An evidentiary hearing at which the receiver or other witnesses are called to testify may be required by the court at any time.

### **37.4 Qualifications to Serve as a Receiver**

- (A) Every receiver appointed must be an individual who is a resident of Ohio, unless good cause is shown for an out-of-state receiver and such an appointment is permitted by R.C. 2735.02. An individual appointed as receiver may, with express court approval, work for an out-of-state business.
- (B) Every out-of-state business involved in a receivership must be represented by counsel having an office within this county or having familiarity with receivership practice in this court.

- (C) Upon accepting appointment, each receiver must affirmatively acknowledge in writing in the record that he or she will:
  - (1) act in conformity with Ohio law and these local rules;
  - (2) deposit all funds coming into the receiver's hands into a separate trust account for the estate, with full contemporaneous record-keeping for all funds;
  - (3) avoid any conflict of interest;
  - (4) not directly or indirectly pay or accept anything of value that has not been fully and timely disclosed and formally approved by the court;
  - (5) not directly or indirectly purchase, acquire, or accept any interest in property managed, appraised, or sold through the receivership; and
  - (6) otherwise act in the best interests of the estate.

### **37.5 General Duties of the Receiver**

Unless the court specifically authorizes a receiver to continue a business, the receiver must:

- (A) take control of the assets of the defendant debtor that are subject to the receivership;
- (B) give notice to all known creditors of the receiver's appointment;
- (C) afford reasonable opportunity for creditors to present and prove their claims, and, if deemed appropriate by the receiver or the court, publish in a newspaper of general circulation within the county a deadline for submitting claims;
- (D) cause the assets of the business to be preserved, inventoried, and, where appropriate, appraised;
- (E) determine the validity and priority of creditors' claims;
- (F) take such other appropriate steps as may be timely, reasonable, and necessary to reduce the assets of the business to cash on terms that maximize recovery for the benefit of creditors, including selling property free and clear of all liens, provided that the liens attach to the proceeds of the sale, and;
- (G) make recommendations for appropriate distributions of cash or property between the various classes of creditors according to their priority, after such notice as the court deems appropriate.

### **37.6 Receivership Plan and Progress Reports**

- (A) At the outset of the receivership, or as soon thereafter as information becomes reasonably available, the court must be provided with a written plan for the receivership. The plan must, thereafter, be updated as significant developments

warrant, or as part of ongoing periodic reporting to the court.

- (B) The initial receivership plan must identify:
  - (1) the nature of the debtor's business, and a concise statement of the circumstances leading to the receivership;
  - (2) whether the present goal is to preserve and operate a business, collect rent on property, liquidate assets, or take other action;
  - (3) the significant assets of the receivership, including real estate, tangible or intangible property, inventory, cash on hand, accounts receivable, and claims against insurers or other third parties;
  - (4) anticipated transaction costs predictably to be incurred, including upcoming financing or mortgage payments, government fees or taxes, receiver fees, accounting, appraisal or auction costs, and legal fees inherent in the plan (as best they can be estimated);
  - (5) the anticipated duration of the receivership;
  - (6) if an active business is to be operated, the minimum number of employees needed to do so, and the estimated aggregate payroll (including benefits) per month;
  - (7) if property is to be liquidated, the estimated date by which appraisal and sale by the receiver can occur, and whether public or private sale is contemplated;
  - (8) if litigation or administrative proceedings are underway or anticipated, the nature and expected cost of each such proceeding.
- (C) The first plan (and report of activity to date) must be submitted no later than two months after appointment of the receiver.
- (D) Copies of each receiver's plan and report must be filed with the Clerk, with service upon all parties who have made an appearance or for whom service remains pending.
- (E) Ordinarily, no approval of fees or other proposed action in a receivership will occur unless 14 days have elapsed following service of an updated plan or report, in order to allow interested parties to comment or object. However, for good cause the court may alter this notice period.
- (F) After consideration, the court will approve or disapprove the plan and report by court entry.
- (G) After filing the first plan and report, the receiver must file updated plans and reports no less often than semi-annually. Each should include a summary of action taken to date measured against the previous plan for the receivership; should set forth proposed future action; and should update previous estimates of costs, expenses, and the timetable needed



to complete the receivership.

**37.7 Failure to Act Timely**

Failure to timely prosecute a receivership, including delay in filing any plan or report required under this local rule, may result in:

- (A) Removal of the receiver and/or attorney for the receiver; and/or
- (B) Withholding of fees for the receiver and/or counsel.

**37.8 Applications to Employ Counsel or Professionals**

- (A) A receiver (or other party) requesting approval to retain an attorney or other professional (including appraisers, auctioneers, brokers, or real estate agents) whose compensation will be claimed against the estate or from proceeds of sale of estate property must apply to the Court. All such professionals must be disinterested persons with no business relationship with the receiver, unless otherwise expressly disclosed and approved in advance by the court. Unless the Court addresses the application during the initial hearing on whether to grant a receivership, written notice of all such applications must be given to the debtor, all parties that have appeared, and all those for whom service of process remains pending.
- (B) The retention agreement between a receiver and every professional must be in writing. Every professional whose retention is approved by the Court is, and will remain, subject to the jurisdiction of this court relative to approval of all professional fees and reimbursable expenses.
- (C) Applications for authority to retain professionals to assist a receiver should summarize the experience, current professional licensure, and other qualifications for every person sought to be retained. The application must affirmatively verify that:
  - (1) all necessary licenses are in good standing and not under suspension;
  - (2) appropriate conflict checks have been made by the professional;
  - (3) as to lawyers, professional liability insurance in an amount equal to the minimum coverage required by the Rule 1.4 of Ohio Rules of Professional Conduct is in force; and
  - (4) the contract retaining the professional will affirmatively state that the professional will avoid any conflict of interest in connection with work on the receivership; that gross proceeds of any sale or other transaction conducted by them will be immediately turned over to the receiver or placed in a separate trust account; and that they will not, under any circumstances, directly or indirectly purchase, acquire, or accept any interest in any property they manage, appraise, or sell through the receivership.

- (D) Applications to employ professionals must also set forth:
  - (1) the professional's usual and customary hourly rate or fee;
  - (2) the proposed fee, hourly rate, or other alternative method or formula for determining compensation in the receivership;
  - (3) whether any fees were paid to the professional during the one-year period preceding the filing of the application from, or involving, (a) the debtor in receivership, (b) a person or party closely related to the debtor, or (c) a person or party known to be adverse to the debtor and to have a material claim in the receivership, and;
  - (4) the amount, date paid, and source of any retainer or other compensation already received by the professional for preparatory work relative to the receivership.
- (E) No fee, commission, expense reimbursement, or other direct or indirect compensation of any nature may be accepted by any court-appointed professional that is not fully and timely disclosed to the court for prior approval.

### **37.9 Expenditure Authority of the Receiver**

- (A) A receiver appointed to take charge of property may expend funds without prior approval by the court to pay ongoing insurance premiums, fire safety and other security services, and utility bills. The receiver may also make emergency repairs essential to the safety and proper maintenance of the property and to preserve its value.
- (B) A receiver taking charge of an operating business must have authority to pay reasonable wages to employees and all reasonable and customary business-related expenses, subject to periodic accounting to the court.
- (C) All fees, compensation, or expense reimbursements to the receiver, counsel, or professionals require prior approval from the court. Such requests must be by motion, with notice given to all appropriate parties. A proposed order approving the request should be submitted to the court.
- (D) All expenses of the receivership, other than those specifically enumerated above, also require prior approval of the court if, in the aggregate, they exceed \$2,500 per month, or such other threshold as set by order in the specific receivership. Such request must be by motion, with notice given to all appropriate parties. A proposed order approving the request should be submitted to the court.

### **37.10 Disposition of Property**

- (A) With court approval after any notice that the court deems appropriate, a receiver may use, sell, or lease property other than in the ordinary course of business.
  - (1) Unless otherwise ordered, a receiver must serve notice of the receiver's intent to sell or lease receivership property and the terms of such

proposed sale or lease for all property. Notice must be given to all parties in the action and all persons known to have an interest in the property to be sold or leased.

- (2) If any party or person having an interest in the property to be sold or leased files an objection within 14 days of service of the notice, the court may set the receiver's request for hearing or may rule based on the material of record.
  - (3) The receiver has the burden of proving the commercial reasonableness of a proposed disposition of property.
  - (4) If the Court determines that a proposed disposition of property is commercially reasonable, the receiver will be authorized to proceed upon such terms and conditions as set by the Court.
  - (5) The Court may order that disposition of receivership property be effected free and clear of all liens and all rights of redemption regardless of whether the expected proceeds will be sufficient to satisfy all claims secured by the property. Upon any such disposition of receivership property free and clear of liens and rights of redemption, all mortgages, security interests, or other liens encumbering the property will attach to the proceeds of disposition (net of the reasonable expenses incurred in the sale of the property) in the same order, priority, and validity that the liens had immediately before the sale.
- (B) Unless otherwise provided by law, valuation and sale of real property by a receiver need not occur using ordinary foreclosure procedures. However, if a receiver is appointed in a foreclosure proceeding, the mortgaged property must be sold in accordance with R.C. 2323.07 et al., unless otherwise approved by the Court in accordance with the law.

### **37.11 Payment of Receiver and Professional Fees**

- (A) Fee applications must be made in writing, with notice to all parties that have appeared. The receiver or counsel for the receiver should attach to each fee application a brief, updated plan and progress report, together with a billing summary concisely reflecting:
- (1) the dates on which work was performed;
  - (2) a description of work performed;
  - (3) the name of each individual performing the work, and;
  - (4) the hourly rate(s) sought to be charged, or other method used to calculate proposed fee(s) and expenses.
- (B) Ordinarily, no approval of fees or other proposed action in a receivership will

occur unless 14 days have elapsed following service of an updated plan or report, in order to allow interested parties to comment or object. However, for good cause, the Court may alter this notice period. A proposed order approving any fees should be submitted to the Court.

- (C) Fees allowed for services by a receiver, counsel, and professionals employed by a receiver are within the sound discretion of the trial judge, giving due consideration to the complexity of the receiver's or professional's responsibilities, results achieved for creditors, and other relevant facts.
- (D) An attorney acting as a receiver must clearly differentiate between fees sought for work performed as a receiver and for work separately performed as an attorney.

### **37.12 Final Report to the Court and Creditors**

When the final fee application is submitted, it should be accompanied by a receiver's final report that includes all of the following information:

- (1)
  - (a) the total amount of money collected during the receivership,
  - (b) the total funds collected since the last interim fee awarded to the receiver (if any), and
  - (c) the source(s) of funds;
- (2) total funds previously disbursed to creditors;
- (3) the amount of money or any property remaining on hand;
- (4) the status of all known secured and unsecured creditors' claims;
- (5) the approximate number and admitted balances due creditors but remaining unpaid;
- (6) the approximate number and total of creditors' claims that remain open or unresolved;
- (7) proposed final distributions to creditors and the date by which the receiver proposes to make them and close out the case;
- (8) the total administrative expense incurred to date, including fees paid to the receiver, attorneys, and other professionals;
- (9) the amount of additional administrative expense sought to be paid in the final fee application, and;
- (10) any known objections or other positions taken by those having an interest in the receivership with respect to the receiver's final plan to wind up the case.

### **37.13 Trade Secret or Privileged Information**

If a receiver's report, motion, fee application, or other filing refers to trade secrets (such as a plan for operating an ongoing business, proposed sale prices, customer information, personnel matters, or other non-public information) or would necessarily reference attorney-client or work-product communications, then redacted documents may be filed in the public record and served upon all parties that have appeared. When that occurs, a complete un-redacted document should be submitted to the Court for *in camera* review. Upon application by the receiver or any party, the Court will re-examine the document and determine whether previously redacted information should be disclosed in the public case file or for attorney viewing only.

## **RULE 38** **JUDICIAL SALES**

**38.1** All judicial sales shall comport with all applicable Ohio Revised Code sections.

## **RULE 39** **SHERIFF'S SALES**

**39.1** On all judicial sales or sales upon execution of residential real estate, except where the judgment creditor is the purchaser at sale, the Sheriff will require the successful bidder as purchaser to present, at the time of the sale, in cash or by certified check or cashier's check payable to the Sheriff, a deposit in the amount applicable to the purchase price as required by Section 2329.211 of the Ohio Revised Code. If the judgment creditor is the purchaser at the judicial or execution sale of residential real estate, the purchaser will not be required to make a sale deposit.

On all judicial sales or sales upon execution of commercial real estate, the Sheriff will require the successful bidder as purchaser to present, at the time of the sale, in cash or by certified check or cashier's check payable to the Sheriff, a deposit in an amount not less than 10% of the amount of the appraised value or other percentage determined by the Court, but in no event shall the amount deposited be less than \$300.

- (A) The unpaid balance of the purchase price is due and payable to the Sheriff within 30 days from the date of confirmation. The purchaser must pay interest on the unpaid balance of the purchase price at the annual rate of interest provided in Section 1343.03 of the Ohio Revised Code from the date of confirmation to the date of payment of the balance unless the balance is paid within 30 days from the date of confirmation.
- (B) Any interest received will be distributed by the Sheriff to the parties entitled to distribution of the proceeds of sale in the proper order of priority. This rule does not apply when the purchaser is the plaintiff.

**39.2** Not later than the first Monday following the date of the sale, the Sheriff will file the return with the clerk. The plaintiff must prepare and deliver a proposed entry confirming the sale to the judge for signature and serve copies upon all parties or their attorneys of record by regular mail within seven days after the date of sale. It is not necessary to obtain the

approval of other parties or their attorneys prior to the filing of this entry. Failure to prepare the confirmation entry and present it to the judge within the time limits may result in sanctions being imposed.

- (A) Unless proper written objection to the proposed confirmation entry is presented to the court by a party or the party's attorney within 14 days after the date of sale, the proposed entry will be approved by the court and filed with the Clerk forthwith. If proper written objection is made, the court will determine the validity of the objection and make an order determining the issue.
- (B) On the day immediately following the filing of the Court's entry confirming the sale, the Clerk will cause a deed to be prepared for the purchaser. The deed must conform to the requirements of Section 2329.36 of the Ohio Revised Code and must be delivered to the purchaser upon payment of the full purchase price and interest, if any, unless the purchaser is the plaintiff.

**39.3** In the event a purchaser fails to pay the balance due on the purchase price, including all court costs, costs associated with preparation of the deed, and any other costs or fees, and complete the purchase within 30 days after the date of confirmation, the purchaser may be held in contempt of court, and any attorney of record in the case may cause a citation to issue commanding the defaulting purchaser to appear before the judge in charge of the matter and show cause why the purchaser should not be punished. Upon a finding of contempt, the court will proceed in accordance with Section 2329.30 of the Ohio Revised Code.

**39.4** Appraisers must be provided reasonable and proper fees, as determined by the Sheriff.

**RULE 40**  
*(RESERVED)*

**RULE 41**  
**MEDIATION**

**41.1 Reference to Mediation**

- (A) After completion of necessary pleadings or motions, cases may be referred by the Court for a mediation conference, upon request by a party or upon order of the Court.
- (B) The cases that may be referred for mediation include all cases eligible for reference to mediation pursuant to relevant provisions contained in the Ohio Revised Code and the Rules of Superintendence for the State of Ohio.
- (C) All references to mediation and the proceedings in mediation thereafter shall be conducted subject to the provisions of the "Ohio Mediation Act" under Ohio Revised Code Chapter 2710.

**41.2 Notification of Conference**

Notices of mediation conference will be docketed.

**41.3 No Stay of Proceedings**

All remaining court orders remain in effect. No order is stayed or suspended during the mediation process unless specifically ordered.

**41.4 Attendance at Mediation**

Trial counsel, all parties and, if applicable, the principle insurance adjuster(s), all with authority to settle, must personally attend all mediation sessions prepared to discuss all relevant issues, including settlement terms. Appearance by phone of a party, an insurance adjuster, loan officer, or other individual may be permitted upon prior approval by the Court. A party other than a natural person must be represented by a person other than counsel. Failure to appear at mediation may result in a dismissal of the case for failure to prosecute.

**41.5 Sanctions**

If any individuals required to attend mediation fail to attend mediation without good cause, the court may impose sanctions, including the award of attorney's fees and other costs, contempt, or other appropriate sanctions. Failure to appear at mediation may result in a dismissal of the case for failure to prosecute.

**41.6 Continuances**

If a continuance of mediation is necessary, the requesting party must file a motion with the court with a proposed order. The proposed order must contain an alternative date for the mediation, which is confirmed with all parties and the mediation department. The requesting party is responsible for establishing a conference call with the mediation department or other form of group communication to set a new mediation date.

**41.7 Mediation Case Summary**

Prior to the commencement of mediation, all parties shall complete and submit a mediation case summary form at least four (4) days prior to the commencement of mediation. All forms shall be submitted directly to the mediation department by mail, e-mail, facsimile at 330.296.1725, or in person.

**41.8 Settlement of Case**

(A) **Duties of Mediator.**

At the mediation conference the mediator will attempt to settle the entire case. The mediator may schedule, recess, or continue the conference; order monies held in trust by the Clerk; conduct a view of the scene, if applicable; recommend orders to the trial judge for approval; and exercise powers as are necessary and proper for the mediation of cases. The mediator is only required to file a report under Civ. R. 53 when orders are recommended for the trial judge's approval. The mediator must file a written report to inform the Court whether the mediation has been successful or unsuccessful.

(B) **Duties of Parties.**

If the parties fail to dismiss a settled case within 30 days of notifying the court of settlement, then the court may administratively dismiss the case.

**41.9 Statements of Evidence**

Statements made during a mediation conference are subject to Evid.R. 408 and Sections

2710.03 – 2710.05 of the Ohio Revised Code.

**41.10 Mediator’s Report**

At the conclusion of each mediation session and in compliance with Ohio Revised Code §2701.06, the Court shall be informed, by a report of the mediator, of the status of the mediation, including the following:

- (1) Whether the mediation occurred or was terminated
- (2) Whether a settlement was reached on some, all, or none of the issues
- (3) The attendance of the parties
- (4) The scheduling of further mediation sessions, if any.

**41.11 Confidentiality**

All mediation communications, as defined in Ohio Revised Code §2710.01(B), shall be privileged as set forth in Ohio Revised Code §§ 2710.03, 2710.04, 2710.05, 2710.06 and 2710.07.

**RULE 42**  
**ARBITRATION**

- 42.1** All arbitration cases in which there can be further evidentiary appeal, or a trial de novo, the Court upon objection duly made will exclude the testimony and exhibits, which were not made a part of the record in the arbitration proceedings in any subsequent appeal or trial.

**CRIMINAL RULES**  
**OF PRACTICE AND PROCEDURE**

**RULE 43**  
**GENERAL APPLICATION**

- 43.1** These rules supplement existing Rules Governing the Courts of Ohio. In any case where the Criminal Rules of Procedure or Local Rules do not resolve the issue before the court, the Rules of Civil Procedure are to be consulted.

**43.2 Withdrawal of Counsel**

A withdrawal of representation by counsel after a case is set for trial is discouraged. In order to withdraw as counsel of record, counsel must present a motion setting forth the reasons for requesting withdrawal and certifying that a copy was served on the client. The motion and proposed entry shall be presented to the trial judge. The request must be made no later than fifteen days before trial. An oral hearing shall be scheduled, with an order directing the client to be present.

**RULE 44**  
**GRAND JURY PROCEEDINGS**

- 44.1** The grand jury shall be presided over on an alternating basis of three-month sessions by the judges of the General Division of the Portage County Court of Common Pleas.

- 44.2** The court reporter or any other transcriber shall not prepare transcripts of testimony of



grand jury proceedings except upon order of the trial judge, prosecuting attorney, or Attorney General.

**44.3 Indictment - Dismissal**

Criminal cases bound over to this court on which no final action is taken by the Grand Jury within sixty days may be dismissed forthwith and without prejudice. If the witness' testimony or other critical evidence is not available, the case may be continued by the Court on motion of the prosecuting attorney for a definite period of time and the continuance noted in the report of the Grand Jury. Continuances must be presented to and approved by the judge who is responsible for the Grand Jury for that term of court.

**RULE 45**  
**ARRAIGNMENTS**

**45.1** In all cases in which the prosecuting attorney has requested service of process to be accomplished by means of a summons, the Sheriff of Portage County, Ohio, shall serve a copy of the judgment entry scheduling the arraignment and the notice of the right to appointed counsel upon the defendant at the time of the service of the indictment and summons.

**45.2** In all cases in which the prosecuting attorney has requested the service of process to be accomplished by means of a warrant, an arraignment shall be immediately scheduled, following the Sheriff's return of the warrant to the Clerk's office and the defendant's acquisition of counsel. The Sheriff's Department shall immediately notify the trial judge's office of the arrest.

**45.3** Subject to Crim.R. 10(B), all Defendants are required to personally appear at the arraignment and are required to be accompanied by and represented by an attorney.

**RULE 46**  
**TRANSPORT OF PRISONER TO COURT**

**46.1** Except as to arraignments, it is defense counsel's responsibility to confirm a prisoner's location and notify the Court prior to any scheduled court appearance.

**RULE 47**  
**BAIL FORFEITURE**

**47.1** Notice of bail forfeiture shall be sent by the Clerk to the Defendant and to the surety in a form as may be approved by the Court. The Defendant and surety, on or before the date set forth, shall show good cause why judgment should not be entered against them. The Clerk shall promptly present the affidavit to the trial judge. No oral hearing shall be held unless requested in writing and granted by the trial judge. After judgment is entered against the Defendant and surety, no surety shall be released nor shall any penalty be released or remitted, except upon the filing of a written verified application, setting forth in detail the reasons why a release or reduction should be granted. The Clerk shall bring the application to the attention of the trial judge.

**RULE 48**  
(RESERVED)

**RULE 49**  
**NOLLE PROSEQUI PROCEDURE**

**49.1** When the Prosecuting Attorney desires to enter a *nolle prosequi* in any criminal case pursuant to Crim.R. 48(A), a motion shall be filed, setting forth sufficient grounds for the requested relief, and a proposed judgment entry submitted with opposing counsel's signature; otherwise, an oral hearing will be scheduled.

**RULE 50**  
**MOTIONS**

**50.1 Motions**

- (A) The filing and consideration of motions in a criminal case is governed in general by Crim.R. 12. A party may request a hearing in advance of trial to consider a motion. Unless good cause is shown, no motions will be considered on the day of trial. The absence of a witness regarding the consideration of a motion will not be cause for continuance of the trial.
- (B) A courtesy copy of all motions and other written requests filed in criminal cases must be submitted to the trial judge. A courtesy copy of all motions, briefs, and memoranda (in support of, contra, and reply) must be submitted by the attorney or party filing the motion to the assigned Judge.

**50.2 Discovery**

Pursuant to Crim.R. 16, discovery is to be conducted in a manner that will eliminate delay and unnecessary expense. Upon demand for discovery, it shall be the duty of a party to promptly respond to the request. The failure of a party to timely and fully respond may lead to the exclusion of evidence at trial.

**RULE 51**  
**INDIGENT DEFENDANTS**

**51.1** Before counsel is appointed, a defendant must file a completed affidavit of indigency with the Portage County Public Defender's Office. The sole responsibility for determining the eligibility of a defendant for court-assigned counsel rests with the Portage County Public Defender Office. Eligibility will be determined according to the Ohio Public Defender Commission's standards.

**51.2 Appointments.**

- (A) Attorneys who wish to be appointed to represent indigent defendants must complete an Application For Appointment As Assigned Counsel and must meet the following criteria:
  - (1) Licensed to practice law in Ohio;

- (2) Good standing with the Supreme Court of Ohio;
  - (3) Maintains professional liability insurance as required by the Ohio Rules of Professional Conduct.
  - (4) Membership in the Portage County Bar Association is not required but is preferred so that attorneys have ready access to rule changes, local training seminars, and other updates from the court.
- (B) Appointments will be distributed as widely as possible among attorneys on a rotating basis designed to pair the defendant's level of offense with an attorney who meets the qualifications for assignment as established by the Ohio Public Defender Commission's standards.
- (C) Not more than one attorney per indigent defendant will be appointed, unless the trial judge otherwise orders.
- (D) Upon appointment, the attorney should perform all duties as warranted by the facts of the case and must act in a professional manner.
- (E) The attorney must personally represent the defendant for whom he or she was appointed and must not, absent an emergency, allow substitute counsel to represent the defendant.
- (F) The attorney must have a working phone with a secretary or voicemail in order to respond timely to calls from the court or the defendant.
- (G) Any court-appointed attorney who seeks to withdraw from representing a defendant must act in a manner consistent with the Ohio Rules of Professional Conduct.
- (H) The judges of the court will periodically review the list of attorneys approved for court assignments to ensure that the attorneys on the list remain qualified to represent felony defendants and that the work of those attorneys continues to meet the ethical standards set by the Ohio Rules of Professional Conduct. The judges of the court will also periodically review the appointments to ensure an equitable distribution of appointments. Per Rule 8 (F) of the Rules of Superintendence for the Courts of Ohio, persons pre-qualified to serve are not assured a substantially equal number of appointments. No person is granted a legal right or claim by virtue of this rule.
- (I) An attorney may be removed from the list for court-appointment assignments for good cause, including, but not limited to, the following reasons:
- (1) Failure to maintain licensure to practice law in the State of Ohio and to remain in good standing with the Supreme Court of Ohio.
  - (2) Failure to meet the criteria established above in Section 51.1 herein.

- (3) Routine failure to respond timely to the Court's attempts to assign cases or repeated refusal to accept assignment of cases without a valid reason, such as a conflicting interest.
  - (4) Routine failure to respond to attempts by a judge's staff to schedule hearings.
  - (5) Routine failure to attend scheduled court hearings or to arrive timely.
  - (6) Routine failure to adequately prepare for court hearings.
  - (7) Routine failure to maintain appropriate contact with clients.
  - (8) Routine failure to timely submit the Motion, Entry, and Certification for Court-Appointed Counsel Fees.
- (J) In making the appointments, the Court will comply with Rule 8 of the Rules of Superintendence for the Courts of Ohio.

**51.3** Any attorney appointed to provide legal representation for an indigent defendant will be compensated according to a schedule approved by the County Commissioners. Counsel must maintain itemized time records for each appointed case showing the dates of service, nature of services rendered, and hours worked. Counsel's itemized time records must be provided to the court upon request.

**51.4** A court-appointed attorney will be reimbursed for reasonable expenses of up to \$250.00 without prior approval of the trial judge. No allowance will be approved for fixed law-office overhead, daily copies of transcripts, or depositions, except as provided by law.

Expenses in excess of \$250.00 must be submitted to the trial judge for approval prior to their incurrence. All expenses must be documented with receipts.

- (A) Reasonable expenses include, but are not limited to, the fees paid to investigators or experts whose services are reasonably necessary for the proper representation of an indigent defendant charged with a felony. The factors to be considered by the trial judge are:
- (1) the value of the service to the defendant's proper representation at trial;
  - (2) the availability of alternatives that would fulfill the same functions as the service sought.
- (B) Upon motion and for good cause, the trial judge may order that the judgment entry authorizing the services be sealed and maintained by the clerk, along with all other original papers in the criminal case.

**51.5 Extraordinary Fees**

- (A) An attorney's fees in excess of those set forth above in Section 51.3 may be granted by the trial judge in a Complex Case or in other extraordinary circumstances.

- (B) “Complex Case” is a case designated by the trial judge as a Complex Case because it involves multiple counts dealing with multiple separate incidents and the case involves an extraordinary amount of trial preparation or trial time.

**51.6** Requests for compensation must be made by each appointed attorney on forms supplied by the Ohio Public Defender Commission. The requests for compensation and reimbursement must be filed within the time guidelines established by the Ohio Public Defender Commission. An attorney may be denied reimbursement for failure to meet the time deadlines or to comply with other reimbursement requirements. Attorneys should submit bills no later than 45 days after the last court date.

**RULE 52**  
**SPECIALIZED DOCKETS**

**52.1 Creation of Specialized Drug Court Docket.**

Recognizing that the drug and alcohol dependent offender poses special challenges to the criminal justice system, the Court has created the Drug Court Docket with the intent of protecting the community by reducing the recidivism of drug and alcohol dependent offenders by improving and expediting the delivery of services to the addicted criminal defendants through intense supervision and treatment.

**52.2 Eligibility for Admission to Recovery Docket.**

The Drug Court Docket is a program for individuals who have entered guilty pleas to felony offenses who have been determined to be drug or alcohol dependent and who are amenable to treatment. Individuals must meet the following criteria to be admitted to the docket:

(A) Clinical Eligibility Criteria

- (1) Diagnosed as substance dependent. The participant must have completed a drug/alcohol assessment by a certified licensed provider.
- (2) Must be able to understand and comply with program requirements.

(B) Other Eligibility Criteria

- (1) No physical health issues which might hinder participation in the program (will be reviewed on a case by case basis).
- (2) Score 15 or Higher on the Ohio Risk Assessment System as a result of the Presentence Investigation.
- (3) Must be a resident of Portage County.
- (4) The defendant is receptive to receiving treatment.
- (5) Judge has the sole discretion in the admissibility to Drug Court Docket.
- (6) Must be a case assigned or transferred to the judge handling the Drug Court Docket.

(C) Legal Criteria

- (1) Intervention in Lieu of Conviction, or;
- (2) Charged with a pending felony offense less serious than a felony of the second degree. Must not be a drug trafficking offense (F-1, F-2, F-3, or F-4), sex offense, felony OMVI and/or a sentence in which prison is mandatory, or;
- (3) The defendant is on Community Control with a Motion/Notice to Revoke the Community Control pending, or on agreement of the defendant, or on recommendation of the Probation Officer.
- (4) Sentenced to Drug Court Docket as part of Community Control placement and/or through Judicial Release.

**52.3** The victim notification provision of Revised Code Chapter 2930 shall be followed where applicable.

**52.4 Referral to Drug Court Docket.**

The judge, defense counsel, prosecuting attorney, or probation officer may make a referral to the Drug Court Docket.

**52.5 Screening and Assessment Process for Recovery Docket.**

Upon motion filed by the defendant, a case may be referred to the Drug Court Docket Probation Officer who will screen defendants for eligibility. Defendants must complete and sign releases of information to facilitate inter-agency communication on behalf of the defendant and Drug Court Docket Team. Upon completion of the eligibility screening and consideration of all applicable criteria and circumstances, the Drug Court Docket Probation Officer will provide a written recommendation to the court. Based upon the recommendation of the Drug Court Docket Probation Officer and all applicable criteria and circumstances, the Judge shall determine whether the defendant enters the Drug Court Docket as a condition of community control or intervention in lieu of conviction.

**52.6 Docket Assignment for Drug Court Docket.**

Cases shall remain on the regular docket of the originally assigned Judge until the Drug Court Docket Probation Officer has screened the defendant and determined that the defendant is eligible for admission to the Drug Court Docket. If the defendant is eligible, following sentencing or disposition, the case shall be transferred to the Drug Court Docket by Judgment Entry. If the defendant is not accepted into the Drug Court Docket, then the case shall remain with the originally assigned Judge. If the defendant is accepted into the Drug Court Docket, then a Judgment Entry Granting Transfer of the Case will be filed.

**52.7 Admission to the Drug Court Docket.**

Admission to the program is made only as a condition of community control or intervention in lieu of condition. The defendant will be required to sign an acknowledgement of understanding of the requirements of the Drug Court Docket prior to entering the docket.

**52.8 Docket Case Management**

The defendant will be referred to local agencies based on his/her needs for treatment. The

services to the defendant will be expedited pursuant to an agreement of understanding with the treatment agencies. The defendant will be provided the participant manual and copies of the signed participant agreement. The treatment team will continue to monitor the defendant's behavior through treatment team meetings and holding the defendant accountable to the participation agreement.

**52.9 Drug Court Docket Review Hearings.**

The court will schedule regular review hearings to monitor compliance with the original orders, including treatment, in accordance with the client program phases. The Drug Court Docket team is responsible for obtaining and presenting information at the docket hearings regarding defendant's progress. It is the responsibility of the Drug Court Docket team to monitor compliance through communication with the designated treatment providers, and through direct monitoring and meeting with the defendant. The Drug Court Docket team is comprised of the Judge, Drug Court Docket Probation Officers and treatment agencies.

**52.10 Unsuccessful Terminations**

(A) Common behaviors that can lead to unsuccessful termination include, but are not limited to, the following:

- (1) On-going noncompliance with treatment;
- (2) Resistance to treatment;
- (3) New serious criminal conviction;
- (4) A serious Drug Court Docket violation or series of violations;
- (5) A serious Community Control or Intervention in Lieu violation or a series of Community Control violations or Intervention in Lieu violations.

(B) The negative consequences of a termination include:

- (1) Loss of future eligibility for the Drug Court Docket;
- (2) Further legal action including revocation of Intervention In Lieu of Conviction, Notice/Motion to Revoke Community Control;
- (3) Depending on the circumstances, the defendant may be subject to prison, jail or other penalties.

**RULE 53**  
**CONTINUANCES OF CRIMINAL MATTERS**

**53.1** Any motion for continuance of a trial must be in writing and filed with the Clerk of Courts. A copy of the motion shall be presented to the judge's office with a proposed judgment entry containing language granting the continuance. The motion shall set forth: the reason(s) for the continuance, the number of previous continuances, whether opposing counsel consents to the continuance, the Defendant's try-by date, and the dates counsel are available for trial. Any order granting a continuance shall contain the date to which trial is continued.

**RULE 54**  
**NEGOTIATIONS**

- 54.1** For the purpose of adhering to the provisions of Rule 11(F) of the Ohio Rules of Criminal Procedure, a complete text of negotiations shall be: (1) reduced to writing; and (2) signed and dated by the Assistant Prosecuting Attorney in charge of the case, counsel for the Defendant, and the Defendant.
- 54.2** Failure to comply with Loc.R. 54.1 may result in the court's refusal to proceed with any Guilty Plea Hearing.

**RULE 55**  
**DAILY COPIES OF TRANSCRIPTS**

- 55.1** Daily copies of transcripts to counsel in criminal cases will not be ordered, provided for, or permitted except in those cases where the sound discretion of the trial judge would require it in the interest of justice. Requests for daily copies shall be made on the record.

**RULE 56**  
**DISCLOSURE OF PRE-SENTENCE REPORTS**

- 56.1 Presentence Investigation Reports**
- (A) All judges shall allow the Probation Department a minimum of thirty days between acceptance of a plea and the date set for sentencing to prepare a Pre-sentence Investigation Report.
  - (B) The Probation Officer who prepares the report shall have it completed no later than two court days prior to sentencing. When the report is completed, it shall be sent to the trial judge and made available for review by the Defendant's attorney (or by the Defendant if he is not represented by an attorney) and the Prosecutor.

**RULE 57**  
**CERTIFICATION OF ASSETS**

- 57.1** Any Defendant found guilty of a criminal offense in this court shall, on a form provided by this court, disclose assets of every kind for the purpose of assisting the trial judge, the Adult Probation Department, and the Sheriff, in the collection of the fines and court costs assessed in that case.

**RULE 58**  
*(RESERVED)*

**RULE 59**  
*(RESERVED)*

**RULE 60**  
**POST-CONVICTION PETITIONS**



- 60.1** Post-conviction petitions for a determination of a prisoner's constitutional rights shall be filed and docketed by the Clerk in the original case in which the defendant was sentenced. Upon the filing of a petition, the Clerk must issue written notice to the Prosecuting Attorney.
- 60.2** When a waiver or the return of the notice is filed, the Clerk will deliver all the papers in the case to the trial judge who originally handled the case. If the trial judge who originally handled the case is no longer a member of the court, the case will be assigned to a judge by the Administrative Judge.
- 60.3** The Clerk will deliver the post-conviction petition to the trial judge no later than two business days after it has been filed.

## **COURT RECORDS MANAGEMENT AND RETENTION**

### **RULE 61** **GENERAL GUIDELINES**

#### **61.1 Applicability**

- (A) This Rule and Loc. R. 62 to 63 are intended to provide minimum standards for the production, maintenance, preservation, and destruction of records within the court and to authorize alternative electronic methods and techniques. Implementation of this rule and Loc.R. 62 to 63 is a judicial governmental function.
- (B) This Rule and Loc.R. 62 to 63 will be interpreted to allow for technological enhancements that improve the efficiency of the court and simplify the production, maintenance, preservation, and destruction of court records.

#### **61.2 Definitions**

As used in this rule and in Loc.R. 62 to 63:

- (A) "Administrative record" means a record not related to cases of a court that documents the administrative, fiscal, personnel, or management functions of the court.
- (B) "Case file" means the compendium of original documents filed in an action or proceeding in a court, including the pleadings, motions, orders, and judgments of the court on a case-by-case basis.
- (C) "Index" means a reference record used to locate journal, docket, and case-file records.
- (D) "Journal" means a verbatim record of every order or judgment of a court.
- (E) "OHS" means the Ohio Historical Society, State Archives Division.
- (F) "Record" means any document, device, or item, regardless of physical form or characteristic, created or received by or coming under the jurisdiction of a court that serves to document the organization, functions, policies, decisions, operations,

or other activities of the court.

### **61.3 Combined records**

Notwithstanding any other provisions of the law, a court may combine indexes, dockets, journals, and case files provided that the combination contains the component of indexes, dockets, journals, and case files as defined in this rule and Loc.R. 62 to 63. A court may replace any paper documents with an electronic medium or microfilm in accordance with this rule.

### **61.4 Allowable record media**

(A) A court may create, maintain, receive, record, copy, or preserve a record on traditional paper media, electronic media, including text or digital images, or microfilm, including computer output to microfilm.

(B) A court may create, maintain, receive, record, copy, or preserve a record using any nationally accepted records and information management process, including photography, microfilm, and electronic data processing, as an alternative to paper. The process may be used in regard to the original or a copy of a record if the process produces an accurate record or copy and the process complies with the American National Standards Institute (ANSI) standards and guidelines, or, in the event that ANSI standards cease to exist, other nationally accepted records and information management process standards.

(1) If the court creates, maintains, receives, records, copies, or preserves a record using a records and information management process in accordance with 61.4(B) of this rule and the record is required to be retained in accordance with the schedules set forth in Loc. R. 62 to 63, the court must cause a back-up copy of the record to be made at periodic and reasonable times to ensure the security and continued availability of the information. If Loc.R. 62 to 63 requires the record to be retained permanently, the back-up copy must be stored in a different building than the record it secures.

(2) Records must be maintained in conveniently accessible and secure facilities, and provisions must be made for inspecting and copying any public records in accordance with applicable statutes and rules. Machines and equipment necessary to allow inspection and copying of public records, including public records that are created, maintained, received, recorded, copied, or preserved by an alternative records and information management process in accordance with division 61.4(B) of this rule must be provided.

(3) In accordance with applicable law and purchasing requirements, a court may acquire equipment, computer software, and related supplies and services for records and information management processes authorized by division 61.4(B) of this rule.

(4) Paper media may be destroyed after it is converted to other approved media in accordance with this rule.

### **61.5 Destruction of records**

- (A) Subject to the notification and transfer requirements of divisions 61.5(B) and (C) of this rule, a record and any back-up copy of a record produced in accordance with division 61.4(B) of this rule may be destroyed after the record and its back-up copy have been retained for the applicable retention period set forth in Loc.R. 62 to 63.
- (B) If Loc. R. 62 to 63 set forth a retention period greater than 10 years for a record, or if a record was created prior to 1960, the court must notify the OHS in writing of the court's intention to destroy the record at least 60 days prior to the destruction of the record.
- (C) After submitting a written notice in accordance with division 61.5(B) of this rule, the court must, upon request of the OHS, cause the record described in the notice to be transferred to the OHS, or to an institution or agency that meets the criteria of the OHS, in the media and format designated by the OHS.

**61.6 Exhibits, depositions, and transcripts**

At the conclusion of litigation, including time for direct appeal, a court or custodian of exhibits, depositions, or transcripts may destroy exhibits, depositions, and transcripts if all of the following conditions are satisfied:

- (A) The court notifies the party in writing that exhibits, depositions, or transcripts may be destroyed within 60 days from the date of the written notification;
- (B) The written notification required in division 61.6(A) of this rule informs the party that the exhibits, depositions, or transcripts may be destroyed if not retrieved within 60 days of the notification;
- (C) The written notification required in division 61.6(A) of this rule informs the party of the location for retrieval of the exhibits, depositions, or transcripts;
- (D) The party that tendered the exhibits, depositions, or transcripts does not retrieve the exhibits, depositions, or transcripts within 60 days from the date of the written notification.
- (E) Excluded from this rule are all capital murder records, which will be retained indefinitely or until otherwise ordered by the judge who presided over the capital murder trial or, if the judge who presided over the capital murder trial is unavailable, then by the Administrative Judge of the Portage County Common Pleas Court.

**61.7 Extension of retention period for individual case files**

A court may order the retention period for an individual case file extended beyond the period specified in Loc.R. 62 to 63.

**RULE 62**

**RETENTION SCHEDULE FOR ADMINISTRATIVE RECORDS**

The following retention schedule applies for the administrative records of the courts:

**62.1 Administrative journal**

Administrative journals that consist of court entries, or a record of court entries, regarding policies and issues not related to cases will be retained permanently.

**62.2 Annual reports**

Two copies of each annual report, if any, will be retained permanently.

**62.3 Bank records**

Bank transaction records, whether paper or electronic, will be retained for three years or until the issuance of an audit report by the Auditor of State, whichever is later.

**62.4 Cash books**

Cash books, including expense and receipt ledgers, will be retained for three years or until the issuance of an audit report by the Auditor of State, whichever is later.

**62.5 Communication record**

Communication records, including routine telephone messages on any medium where official action will be recorded elsewhere, may be destroyed in the normal course of business as soon as they are considered to be of no value by the person holding the records.

**62.6 Correspondence and general office records**

Correspondence and general office records, including all sent and received correspondence, in any medium, may be destroyed in the normal course of business as soon as they are considered to be of no value by the person holding the records.

**62.7 Drafts and informal notes**

Drafts and informal notes consisting of transitory information used to prepare the official record in any other form may be destroyed in the normal course of business as soon as they are considered to be of no value by the person holding the draft and informal notes.

**62.8 Employment applications**

Employment applications for posted or advertised positions will be retained for two years.

**62.9 Employee benefit and leave records**

Employee benefits and leave records, including court office copies of life and medical insurance records, will be retained by the appropriate fiscal officer for three years or until the issuance of an audit report by the Auditor of State, whichever is later.

**62.10 Employee history and discipline records**

Records concerning the hiring, promotion, evaluation, attendance, medical issues, discipline, termination, and retirement of court employees will be retained for 10 years after termination of employment.

**62.11 Fiscal records**

Fiscal records, including copies of transactional budgeting and purchasing documents maintained by another office or agency, will be retained for three years or until the issuance of an audit report by the Auditor of State, whichever is later.

#### **62.12 Grant records**

Records of grants made or received by a court will be retained for three years after expiration of the grant.

#### **62.13 Payroll records**

Payroll records of personnel time and copies of payroll records maintained by another office or agency will be retained for three years or until the issuance of an audit report by the Auditor of State, whichever is later.

#### **62.14 Publications received**

Publications received by a court may be destroyed in the normal course of business as soon as they are considered of no value by the person holding the publications.

#### **62.15 Receipt records**

Receipt and balancing records will be retained for three years or until the issuance of an audit report by the Auditor of State, whichever is later.

#### **62.16 Requests for proposals, bids, and resulting contracts**

Requests for proposals and/or bids received in response to a request for proposal, and contracts resulting from a request for proposal will be retained for three years after the expiration of the contract that is awarded pursuant to the request for proposal.

### **RULE 63**

#### **RETENTION SCHEDULE FOR THE JUDICIAL RECORDS OF THE COURT**

##### **63.1 Definitions**

- (A) As used in sections 63.2 to 63.6, "division" means the General Division of the Court of Common Pleas of Portage County, Ohio.
- (B) As used in this Rule, "docket" means the record where the clerk of the division enters all of the information historically included in the appearance docket, the trial docket, the journal, and the execution docket.

##### **63.2 Required records**

- (A) The division will maintain an index, docket, journal, and case files in accordance with Loc.R. 61.2, 63.1, and this section of Loc.R. 63.
- (B) Upon the filing of any paper or electronic entry permitted by the division, a stamp or entry will be placed on the paper or electronic entry to indicate the day, month, and year of filing.

##### **63.3 Content of docket**

The docket of the division will be programmed to allow retrieval of orders and judgments of the division in a chronological as well as a case-specific manner. Entries in the docket will be made as events occur, will index directly and in reverse the names of all parties to cases in the division, and will include:

- (A) Names and addresses of all parties in full;

- (B) Names, addresses, phone number, fax numbers, e-mail address (if any) and Supreme Court attorney registration numbers of all counsel;
- (C) The issuance of documents for service upon a party and the return of service or lack of return;
- (D) A brief description of all records and orders filed in the proceeding, the time and date filed, and a cross-reference to other records as appropriate;
- (E) A schedule for court proceedings for the division and its officers to use for case management;
- (F) All actions taken by the division to enforce orders or judgments and;
- (G) Any information necessary to document the activity of the clerk of the division regarding the case.

**63.4 Retention schedule for the index, docket, and journal**

The index, docket, and journal of the division will be retained permanently.

**63.5 Judge, magistrate, and clerk notes, drafts, and research**

Judge, magistrate, and clerk notes, drafts, and research prepared for the purpose of compiling a report, opinion, or other document or memorandum may be kept separate from the case file, retained in the case file, or destroyed at the discretion of the preparer.

**63.6 Retention schedule for case files**

- (A) **Death penalty cases.** Death penalty case files will be retained permanently.
- (B) **Real estate.** Matters that resulted in a final judgment determining title or interest in real estate will be retained permanently.
- (C) **Search warrant records.** Search-warrant records will be indexed and the warrant and returns retained in their original form for five years after the date of service or last service attempt.
- (D) **Voluntary dismissals.** Case files of matters that are voluntarily dismissed will be retained for three years after the date of dismissal.
- (E) **Other case files.** Any case file not listed in this Rule will be retained for 12 years after the final order of the General Division. Documents within a case file admissible as evidence of a prior conviction in a criminal proceeding will be retained for 50 years after the final order of the general division.

\*Forms referenced herein are available at:

[www.co.portage.oh.us/common-pleas-court/pages/portage-county-common-pleas-general-division-forms](http://www.co.portage.oh.us/common-pleas-court/pages/portage-county-common-pleas-general-division-forms)