

**RULES OF PRACTICE
COMMON PLEAS COURT
Madison County, Ohio**

The following Revised Rules are adopted, and incorporated in the present Rules, until otherwise provided, pursuant to Section 5(B), Article IV of the Ohio Constitution and Rule 83 of the Ohio Rules of Civil Procedure. All previous Rules are abrogated by adoption of these Rules. The Court reserves judgment to make subsequent modifications by journal entry.

These Rules are entered on the Journal, _____, pp. 1 effective _____. Copies have been filed with the Clerk of the Supreme Court of Ohio.

Rule 1. Terms of Court; Jury Management

- 1.1 The Court of Common Pleas shall be in continuous session from January 1 through December 31 of each calendar year.
- 1.2 All procedures concerning the drawing and impaneling of grand and petit juries are governed by R.C. 2313.01, et seq. The jury source list of registered voters will be obtained from the Madison County Board of Elections annually in electronic form or as otherwise ordered by journal entry.
- 1.3 For judicial economy and good cause, the Madison County grand jury terms be and hereby are divided into two six-month sessions: January 1 through June 30, and July 1 through December 31. Crim. R. 6 (G).
- 1.4 For purposes of R.C. 2313.08, the jury year shall begin December 1 preceding the calendar year of jury service.
- 1.5 The calendar year, the single term of court, shall be divided into four three (3) month parts for petit jury service. Jurors shall be drawn for the first two yearly parts (quarters) in December and for the last two yearly parts (quarters) in June and in accordance with instructions by journal entry.
- 1.6 No attorney or agent of an attorney connected with a trial shall interview, examine, question or initiate contact with a juror with respect to a verdict or with regard to deliberations of the jury in the action, except by leave of court.

Rule 2. Process and Notice

- 2.1 **General.** Service of process shall be in accordance with the Rules of Civil Procedure (Rules IV and V) or as otherwise required by statute.

- 2.2 **Domestic Relations.** In original domestic relation cases where the Defendant resides at a known address in the State of Ohio, service of process shall be by personal service only.
- 2.3 **Service by Publication.**
- (A) Where service by publication is required by law, except in foreclosure and sheriff sales, counsel for the party seeking service of process shall be responsible for effectuating each step under Civil Rule 4.4(A). No case shall be set for hearing until a copy of the publisher's affidavit of publication is filed with the Clerk of Courts. In domestic relations cases, where the defendant's residence is unknown or where the defendant is temporarily absent from the state at an unknown location, service of process shall be pursuant to R.C. 3105.06 which incorporates the Rules of Civil Procedure.
- (B) In a divorce, annulment or legal separation proceeding in forma pauperis where service of process by publication is required, such service shall be by posting and mail. Posting, if appropriate, shall be in the office of the Clerk of Courts, the office of the Sheriff and the London City Police Department.

Rule 3. Filings

- 3.1 **General.** In general, all filings are to be made in accordance with the Rules of Civil Procedure unless specifically modified hereafter.
- 3.2 **Procedure.** All pleadings shall be kept on file in the Clerk's office and may be temporarily removed from the Clerk's office with authorization by the Clerk or Court Administrator. Litigants may have access to review files in the Clerk's office but may not remove them from the office for any purpose.
- 3.3 **Format for Pleadings.** Pleadings, Entries and Briefs shall be written on 8 ½" x 11" paper, with sufficient margin at top, bottom and side of page, and must be double spaced except for real property description or quoted material. All papers hereafter filed shall have a **three inch blank space** at the top of the first page for the Clerk's endorsements. A flat filing system is in use. Manuscript covers are not wanted. On the last page of each filing, the name, address, zip code, telephone and attorney registration number of counsel filing the same shall be typed, printed or stamped.
- 3.4 **Time.** Rule VI prescribing time is to be strictly enforced. Any requests for extensions of time in which to move or plead shall be presented before

rule day with notice served upon opposing counsel according to law. Ex parte extensions shall not be granted.

Rule 4. Cost Deposits

4.1 Domestic Security Deposits.

- (A) A security deposit of \$450.00 shall be required in all alimony or divorce actions. A security deposit of \$300.00 shall be required in all dissolution of marriage proceedings.
- (B) A security deposit of \$400.00 shall be required with the filing of motions to modify decrees, motions for change of custody, or motions for citations for contempt other than contempt proceedings initiated by the Child Support Enforcement Agency.
- (C) Pursuant to R.C. 3109.04, a guardian ad litem or home investigation may be ordered by the court or requested by a party. A party moving for an appointment of a guardian ad litem shall secure the cost thereof by filing with the motion \$400.00. In the case of appointment of a guardian ad litem, the movant's security costs will be deposited in the guardian ad litem's trust account. Within fourteen days of the appointment, the respondent shall deposit \$400.00 in the guardian's trust account. In disparate circumstances, equities will be weighed in apportioning costs.

4.2 Civil Security Deposits.

- (A) A cost deposit of \$450.00 will be required upon the filing of original civil complaints, counterclaims and appeals other than foreclosure.
- (B) Proceedings in aid of execution, garnishment attachment, execution, and petition to revive or modify judgment or any special matter not otherwise described, \$250.00 must be deposited plus any additional reasonable sum the Clerk may prospectively find necessary.
- (C) A cost deposit of \$900.00 will be required in the filing of an original action in foreclosure. A cost deposit of \$900.00 shall be filed with motions to reinstate foreclosure actions after bankruptcy stays are dissolved. A writ of possession shall issue upon appropriate request together with an additional \$100.00 filing fee.

- 4.3 **Insufficient Deposit.** In any section under this rule, on notice from the Clerk that the deposit for costs is insufficient, an order sua sponte, will or may be made requiring additional cost deposit. Further, this rule is augmented by the procedures set forth in R.C. 2323.30, 2323.31, and any other applicable statutes.
- 4.4 **Affirmative Relief.** A party to a case who by counterclaim, motion, application or otherwise seeks affirmative relief from the Court, in manner not constituting a general denial, confession and avoidance, admission and prayer for protection of lien or other interest, is deemed to be a complainant or counter-complainant.
- 4.5 **Special Projects Fund.**
- (A) For the efficient operation of the General and Domestic Divisions of the Court of Common Pleas, a Special Projects Fund is hereby created. In January 2009, the Madison County Board of Commissioners reported an \$885,000 operating deficit incurred by the county during calendar year 2008. Each elected office within the structure of county government has been required to reduce spending by 11.6%. Such a reduction will adversely affect the administration of justice and limit the court in its ability to perform necessary functions.
- (B) A SPECIAL PROJECT FUND for the Court of Common Pleas shall be established by the Madison County Auditor to serve as a depository for funds collected. A FEE OF \$100.00 PER CIVIL ACTION OR PROCEEDING shall be collected from the cost deposit upon filing, AND FOR EACH CRIMINAL CASE, to be collected upon payment of costs, and shall be deposited in Court of Common Pleas Special Project Fund MONTHLY. It shall be drawn upon by court order for the payment of the projects deemed necessary and that fall within the descriptions set forth hereafter.
- (C) The Court, in the exercise of discretion, may utilize the fund to pay for necessary court functions, pay reasonable salaries, fund special programs and services needed to augment community control sanctions, acquire equipment, and rehabilitate and maintain facilities. The Court reserves jurisdiction to utilize said funds to augment line items in the Court's annual budget. Any funds dedicated to a line item but not expended at the end of any calendar year shall be returned to the special project fund on or before December 31 of each calendar year.
- (D) The special project fund shall not be considered as anticipated revenue by the Madison County Budget Commission for the

following year. The Court reserves jurisdiction to modify this rule by journal entry if exigent circumstances dictate.

Rule 5. Motions in Non-Domestic Civil Cases

- 5.1 **General.** Motions shall be decided on the filings without oral argument fourteen days or more after service of the motion on the opposing party. Oral hearings on motions shall be set only where the party seeking same demonstrates such a need in writing prior to the expiration of fourteen days.
- 5.2 Such motions will not be assigned for oral argument unless written request is made before expiration of fourteen days except as hereafter established.
- (A) Oral hearings on motions for summary judgment will only be granted upon showing good cause. Oral hearings on motions for summary judgment shall be granted only if the respective parties request same upon the filing of their appropriate affidavits. If requests are not received for oral hearings, motions for summary judgment shall be heard on the pleadings on or after fourteen days of the filing of said motions. The adverse parties shall file all responsive pleadings, depositions, answers to interrogatories, written admissions, affidavits, transcripts of evidence, and written stipulations of facts, if any, within fourteen days of service upon them of the motion for summary judgment.
- (B) Movant shall attach a notice to his motion for summary judgment that states in essence “The within motion will come on for decision on the filings on or after the expiration of fourteen days from the date of service of the motion upon opposing parties and without further notice from the Court.” The court traditionally added the additional notice. That practice will not normally be utilized.

Rule 6. Domestic Relations Cases.

- 6.1 **General.** All domestic relations matters provided for in Revised Code Section 3101.01 through 3125.60 be and hereby are referred to a magistrate to be heard on all issues joined. By this section, specific referrals are dispensed with. The Court retains jurisdiction to hear all such matters without a magistrate.
- 6.2 **Magistrate’s Duties.** Subject to modification by the Court through a journal entry, the magistrate shall have the following specific powers and duties in addition to those powers conferred upon him by **Civil Rule 53 (C)**:

- (A) To hear and determine the issues in all original actions in dissolution, alimony and divorce, and custody or residential parenting;
- (B) To hear and determine all motions for temporary relief in domestic relations cases;
- (C) To hear and determine all motions for post decree relief including but not limited to:
 - (1) Motions for modification of decrees;
 - (2) Contempt for violation of decrees; and,
 - (3) Motions for enforcement of decrees.
- (D) To hear and determine all other issues pertaining to domestic relations cases, domestic violence civil protection orders, and stalking orders.

6.3 **Temporary Orders.**

- (A) Motions for temporary support, alimony and custody shall be decided on the respective parties' motions, affidavits, child support worksheets and memoranda not less than fourteen days after service of process and at the Court's earliest convenience. Temporary support will not be established without a worksheet completed and filed. Oral hearings contemplated under Civil R. 75(M)(2) shall not be granted on temporary orders unless the need for same is demonstrated by affidavit showing new facts which have arisen since the original affidavit was filed. Upon written request and after temporary orders issue, motions to modify such orders will be reconsidered at oral hearing within twenty-eight days by the Court or magistrate. Within five days of issuance of temporary spousal or child support, the party receiving such support must file a wage assignment with the Child Support Enforcement Agency (CSEA).
- (B) **Parenting.** Each party to a parenting proceeding, in their first pleading or affidavit attached to that pleading shall give information required pursuant to R.C. 3109.27. Failure to comply deprives the Court of jurisdiction to allocate temporary or permanent parental rights and responsibilities, and will result in dismissal after notice.

6.4 **Temporary Relief.** The magistrate shall have the power to approve all motions for temporary relief contemplated in Civ. R. 75 or by statute on affidavits without arguments ex parte. Relief

granted shall be endorsed “approved” by the magistrate and made enforceable by journalizing of an entry signed by a judge of the Court of Common Pleas.

- (A) All reply motions and affidavits should be filed within seven days of service upon the opposing party or counsel.
- (B) All affidavits for temporary child support, spousal support and for allocation of parental rights shall be on the form provided by the Clerk of Courts. All other affidavits for temporary relief contemplated within Civ. R. 75 shall be positively verified and shall set forth the operative facts including dates and times, which give rise to the relief sought. Should it appear that temporary restraining orders have been improvidently granted without legal or factual basis, the offending party shall be punished in contempt and taxed reasonable attorneys’ fees for the party defending such action. Temporary restraining orders shall not be granted for alleged conduct which is remote in time or place. Motions to vacate premises shall not be granted ex parte.

- 6.5 **Magistrate’s Order.** To regulate proceedings, the magistrate may issue orders without judicial approval to the extent that such orders are not a final disposition of a claim or defense. Said orders must be signed by the magistrate and filed with the Clerk to be enforceable and subject to review, on motion, within ten days.
- 6.6 **Magistrate’s Decision.** The magistrate shall issue a general written decision, subject to requests for findings of fact and conclusions of law, within ninety days of the last court proceeding or the filing of the last post-trial memorandum. Should circumstances dictate an extension of the ninety-day rule, the matter will be assigned for a status conference so that the parties will have a reasonable expectation of when the case will be decided.
- 6.7 **Pre-Trial Conferences.** In original divorce or alimony only actions in which responsive pleadings have been filed, the Court or magistrate, upon request, will conduct a pre-trial conference to explore settlement. Counsel or parties will be required to agree on a firm trial date consistent with the Court’s docket and within nine months of the filing of the original complaint. Once a date has been set, continuances will not be favored.
- 6.8 **Guardians ad litem.** Motions and fees for guardians ad litem are established in Rule 4.1(C). Upon motion, the Court has no discretion to appoint a guardian ad litem when the request is coupled with a motion for an in camera interview of minor children. Counsel should make sure that

motions to appoint a guardian ad litem are made far enough in advance of trial that the guardian has sufficient time to investigate, interview and report. In the event of untimely motions, the case will proceed to trial as scheduled subject to review of the guardian ad litem's report post trial and further proceedings, if necessary.

- 6.9 **Sup.R. 48.** Sup. R. 48 establishes standards for the appointment of guardians ad litem, their responsibilities, training requirements, contents of reports and responsibilities of the Court. Motions for appointment must include the name of a proposed qualified guardian ad litem, be accompanied by one-half the fee established in Rule 4.1(C) and designation whether the scope of the guardian will be to serve only as guardian ad litem or serve as guardian ad litem and attorney for the child or children. A proposed entry should contain the same information. The Court Administrator shall maintain a registry of qualified guardians ad litem and review annually, maintain resumes, conduct relevant background checks, review compliance with continuing education requirements and respond to performance complaints.
- 6.10 **Continuances.** Continuances on post-decree motions will only be granted in accordance with Sup. R. 41: “No party shall be granted a continuance of a trial or hearing without written motion from the party or counsel stating the reason for the continuance, endorsed in writing by the party as well as counsel, provided that the magistrate or judge may waive this requirement upon a showing of good cause. No court shall grant a continuance to any party at any time without first setting a definite date for the trial or hearing.”
- 6.11 **Post-Decree Motions.** Motions to modify decrees shall be accompanied by affidavits positively sworn to which set forth the decree which is to be modified and operative facts which give rise to a substantial change in the circumstances entitling movant to the relief sought.
- 6.12 **Contempt.** Citations in contempt for failure to abide a decree shall be accompanied by a positively verified affidavit that sets forth operative facts which give rise to the relief sought and a summons and order to appear.
- 6.13 **Objections to Magistrate’s Decision.** Civil Rule 53(D)(3)(b) governs objections. Objections must be filed within fourteen days after filing of the Magistrate’s Decision. The objecting party thereafter must file a transcript or affidavit within thirty days in support of said objections. Upon the filing of a transcript or affidavit, the non-objecting party is given leave to file a memorandum contra within fourteen days. Thereafter, the objections will be decided at the earliest convenience of the Court on the filings, if appropriate, or after hearing.

6.14 **Judicial Action on Magistrate’s Decision.**

- (A) A magistrate’s decision is effective upon adoption by the Court. The Court may modify, reject or adopt a magistrate’s decision by interim order or judgment.
- (B) The Court may enter a judgment within or after the time of objections. The filing of objections results in an automatic stay of execution on the judgment until the objections are resolved.
- (C) Where immediate relief is justified, the Court may enter an interim order based on a magistrate’s decision in the form of a judgment entry, journalized and properly served. Such interim order shall not be stayed by the filing of objections, shall be effective for not more than twenty-eight days and may be extended for twenty-eight day increments for good cause shown.

6.15 **Divorce Decrees.** Adoption of a magistrate’s decision by the Court, absent a judgment entry issued in accordance with Civ. R. 54(A), is not a final appealable order. Within twenty-eight days of the granting of a contested or uncontested divorce, the final judgment decree of divorce shall be filed with the Clerk of Courts for judicial approval. “A judgment shall not contain a recital of pleadings, the magistrate’s decision in a referred matter, or the record of prior proceedings.” An appealable order is one that affects a substantial result made in a special proceeding. Divorce and ancillary proceedings are special statutory proceedings.

6.16 **Pro Se Filings.**

- (A) All pro se filings of divorces and dissolutions must comply with Rule 3.3. Preprinted fill-in and blank forms containing check-off provisions will not be accepted for filing. Such preprinted matters must be reduced to material allegations; all surplusage must be removed.
- (B) Pro se divorce complaints and petitions for dissolutions should be accompanied by a proposed decree so that the Court may scrutinize it for context and compliance. In the absence of an appropriate decree, the case will not be assigned for hearing.

6.17 **Visitation Schedule.** In compliance with R.C. 3109.051, standard visitation shall apply to all visitation or companionship rights where

shared parenting has not been ordered. The following standard visitation shall be applicable to all orders hereinafter entered:

- (A) PARENTS' BIRTHDAYS, MOTHER'S/FATHER'S DAY. The children shall be with the appropriate parent on these days from 10:00 A.M. to 8:00 P.M. or, if a school day from 5:00 P.M. to 8:00 P.M.
- (B) CHILD/REN'S BIRTHDAYS.
 - (1) Companionship shall be exercised on the child/ren's birthdays from 10:00 A.M. to 8:00 P.M. or, if the birthday falls upon a school day, from 5:00 P.M. to 8:00 P.M. If this schedule affects more than one child, all the children shall attend each birthday companionship. If there is one child, the child and the nonresidential parent shall exercise this birthday companionship in odd-numbered years. The child and the residential parent shall exercise this birthday companionship in even-numbered years.
 - (2) If there is more than one child, the children and the nonresidential parent shall exercise this birthday companionship upon the birthdays of the first and other odd-numbered children in odd-numbered years, and upon the birthdays of the second and other even-numbered children in even-numbered years. The children and the residential parent shall exercise this birthday companionship upon the reverse birthdays of the children.
- (C) CHRISTMAS. In odd-numbered years the child/ren and the nonresidential parent shall exercise companionship from 7:00 P.M. on the last day of school (or, if none of the children attend school, from 7:00 P.M., 16 December) to Noon, 25 December; and the child/ren and the residential parent shall exercise companionship from Noon, 25 December to 7:00 P.M., 1 January. In even numbered years this companionship shall be reversed.
- (D) SPRING BREAK. In odd-numbered years the child/ren and the nonresidential parent shall exercise companionship from 7:00 P.M. on the last day of school before Spring Break to 7:00 P.M. the day before school reconvenes. In even-numbered years, the child/ren and the residential parent shall exercise this Spring Break Companionship.
 - (1) If Good Friday-Easter Weekend does not occur during the child/ren's Spring Break, then in even-numbered years the

child/ren and the nonresidential parent shall exercise companionship from 7:00 P.M. the Thursday before Good Friday to 7:00 P.M., Easter. In odd-numbered years the child/ren and the residential parent shall exercise this Good Friday-Easter Weekend companionship.

- (2) If the child is not or none of the children are attending school, then the child/ren and the nonresidential parent shall exercise companionship from 7:00 P.M. the Thursday before Good Friday to 7:00 P.M. the following Friday in odd-numbered years. In even-numbered years the child/ren and the residential parent shall exercise this companionship.

(E) OTHER HOLIDAYS.

- (1) MEMORIAL DAY. In odd-numbered years the child/ren and the nonresidential parent shall exercise companionship from 7:00 P.M. the Friday preceding Memorial Day to 7:00 P.M., Memorial Day. The child/ren and the residential parent shall exercise this companionship in even numbered years.

- (2) INDEPENDENCE DAY. In even-numbered years the child/ren and the nonresidential parent shall exercise Independence Day companionship. In odd-numbered years the child/ren and the residential parent shall exercise this companionship. If Independence Day falls upon a Tuesday, Wednesday, or Thursday, then this companionship shall be from 7:00 P.M. Independence Day Eve to 7:00 P.M., Independence Day. If Independence Day falls upon a Friday or Saturday, then this companionship shall be from 7:00 P.M. the preceding Thursday to 7:00 P.M. Sunday. If Independence Day falls upon Sunday or Monday, then this companionship shall be from 7:00 P.M. the preceding Friday to 7:00 P.M. Monday.

- (3) LABOR DAY. In odd-numbered years the child/ren and the nonresidential parent shall exercise companionship from 7:00 P.M. the Wednesday preceding Thanksgiving to 7:00 P.M., Sunday. In odd-numbered years the child/ren and the residential parent shall exercise this companionship.

- (F) SUMMER. The child/ren and the nonresidential parent shall exercise companionship for six consecutive weeks during the

Summer Vacation of the school district in which the children reside. This companionship shall commence on a Friday at 7:00 P.M. and end on the sixth following Friday at 7:00 P.M. In odd-numbered years the nonresidential parent shall choose the commencement date of summer visitation and notify in writing the residential parent, and, if one or more of the child/ren can read, the child/ren at least sixty days before this commencement date. In even-numbered years the residential parent shall choose the commencement date of summer visitation and notify in writing the nonresidential parent and, if one or more of the child/ren can read, the children at least sixty days before the commencement date of summer visitation. During this summer companionship the children and the residential parent shall exercise weekend companionship as described below.

- (G) WEEKENDS. The child/ren and the nonresidential parent shall exercise companionship on alternate weekends 7:00 P.M., Friday to 7:00 P.M., Sunday commencing the second Friday following journalization of any order or decree of which this schedule is a part. During the child/ren and nonresidential parent's summer companionship the child/ren and the residential parent shall exercise a like weekend companionship beginning the second Friday and the fourth Friday following the commencement of summer companionship.
- (H) OTHER COMPANIONSHIP. By agreement, the parents may arrange other and additional companionship, especially to account for days of special significance to the child/ren and one of the parents: for example, family reunions.
- (I) If a conflict between two or more of the preceding companionship provisions occurs, then the first listed shall be exercised.
- (J) CANCELLATION, MAKE UP.
 - (1) If the nonresidential parent must cancel a companionship period, he or she shall notify the residential parent and the child/ren as soon as possible. The nonresidential parent shall cancel companionship only for an emergency such as a change in his or her work schedule or an illness in his or her household. The nonresidential parent shall not cancel companionship because he or she does not feel like exercising it.
 - (2) An illness or injury sufficiently serious to keep the child/ren in bed through the companionship period shall be

the only reason the residential parent may cancel companionship. If the residential parent must cancel a companionship period, he or she shall notify the nonresidential parent as soon as possible. The nonresidential parent may, at his or her election, spend up to one hour beginning at the usual commencement time of the companionship period with the ill or injured child. The child/ren who are not ill or injured shall exercise companionship with the nonresidential parent. The parent who cancels a companionship period shall explain it to the child/ren. The canceled companionship period shall be made up within sixty days at the nonresidential parent's option.

- (K) **PICK-UP, RETURN.** The residential parent shall have the child/ren physically and emotionally ready to go at the commencement of each companionship period. The nonresidential parent shall pick up the child/ren on time or within one-half hour or forfeit that companionship period. The nonresidential parent shall not return the child/ren from companionship early without prior notice and consent of the residential parent, and shall only do so in the event an emergency arises. The residential parent shall pick-up the child/ren at the conclusion of the companionship period. If the parent is unavailable to pick-up the child/ren, an adult well known to the child/ren may do so. Only licensed drivers may transport the child/ren. No person transporting the child/ren may be under the influence of alcohol or drugs.
- (L) **CLOTHING.** The residential parent shall send sufficient appropriate clothing with the child/ren each companionship period. The nonresidential parent shall return all such clothing when returning the child/ren. At the conclusion of any companionship period which lasts more than three days (72 hours) the parent returning the child/ren shall return the child/ren's clothing cleaned and folded or hangered ready to be put away. For the purpose of this clothing provision the nonresidential parent is deemed to be the residential parent during Summer Companionship.
- (M) **COMMUNICATION.** All mail from one parent to the child/ren shall be confidential and shall not be opened or read by the other parent without the child/ren's prior voluntary consent. Neither parent shall impede reasonable telephone communication between the child/ren and the other parent.
- (N) **CHILD/REN'S RECORDS AND ACTIVITIES.** The nonresidential parent shall have access to the child/ren at all times,

to all the child/ren's activities, and to all records related to the child/ren on the same terms and conditions as the residential parent. OHIO LAW REQUIRES THIS ACCESS.

- (1) This provision is made a part of this Order pursuant to Sections 3109.051(H)(1) and 3109.051(I) and 3109.051(J)(1) and 5104.001(C)(3)(a) of the Ohio Revised Code. The Keeper of any record related to the child/ren is hereby put on notice that failure to comply with this order is contempt of court pursuant to Section 3109.051(H)(2). Any school which sponsors a student activity in which the child/ren participate is hereby put on notice that failure to comply with this Order is in contempt of court pursuant to Section 3109.052(J)(2).
- (2) By separate notice, record holders, schools, day care centers and health care providers may be put on notice with regard to this provision of this Order.
- (O) LOVE AND RESPECT, NO CRITICISM. Each parent shall encourage the child/ren to love, respect, and obey the other parent. Neither parent shall criticize the other parent before the child/ren nor permit the children to associate with any person who criticizes the other parent.
- (P) ADDRESS, TELEPHONE. Each parent shall provide the other parent a current residence address and mailing address, if different, and telephone number. Each parent shall immediately notify the other of any change in this information. The residential parent shall file with the court a notice of his or her intent to relocate with the child/ren to a new residence and provide the complete address of that new residence at least thirty days in advance of such move. The Court shall notify the non-residential parent and the CSEA of the intended move.

Rule 7. Journal Entries

- 7.1 **Preparation.** When the Court does not file its own entry and counsel for the party in whose favor an order, judgment or decree is rendered is ordered or directed to prepare an entry, he shall within ten days thereafter, unless further time is allowed, prepare an entry and submit it to counsel for the adverse party, who shall endorse, note submission or reject it within twenty-four hours after receipt thereof. If counsel endorses it or notes submission, it shall be submitted to the Court and when approved by it shall be filed with the Clerk for entering on the Journal. If counsel are

unable to agree on the entry, it shall be submitted to the Court, who shall direct what entry shall be filed. Failure to file a final entry within thirty days after decision or hearing will be considered sufficient basis to dismiss the case without prejudice absent a demonstrated justifiable reason.

- 7.2 **When In Default.** No entry need be submitted or a copy thereof sent to any party who is default and for whom an appearance by counsel has not been entered, except in domestic relations cases, warrant of attorney judgments (R.C. 2323.13), or when the Court may otherwise direct the same to be done. Attention is directed to Civ. R. 55(A) regarding notice of default.
- 7.3 **Distribution.** Within three working days of the filing of a final Journal entry, the Clerk shall serve the parties or their counsel of record copies of the Journal entry endorsed “Final Appealable Order.” All other Journal entries shall be distributed by counsel who prepared them. The Court shall distribute its own orders that are not final appealable orders.

Rule 8. Case Management Rule

- 8.1 **General.** All cases filed with the Clerk of Courts shall be classified according to designations established by the Ohio Supreme Court. Each case shall be disposed of by trial, settlement, stay or dismissal within the time prescribed by the Ohio Supreme Court: professional tort, twenty-four months; product liability, twenty-four months; other tort, twenty-four months; workers compensation, twelve months; foreclosure, twelve months; administrative appeal, nine months; complex litigation, thirty-six months; other civil, twenty-four months; and criminal, six months. Time begins to run upon the filing of a complaint or indictment. The guidelines established for disposition of domestic relations cases are: divorce with children, eighteen months; divorce without children, twelve months, dissolution, three months; change of custody, nine months; visitation, three months; support enforcement/modification, eighteen months; parenting, nine months and U.I.F.S.A., three months. Time begins to run upon filing.
- 8.2 **Procedure.** The purpose of case management is to expedite the orderly disposition of pending cases by the establishment of a binding case management schedule. The goal of this section is to improve the quality of trial through more thorough preparation and to facilitate case settlement.
- (A) In cases involving professional torts, product liability and other torts, two hundred ten (210) days after the complaint is filed counsel shall join all necessary parties, amend pleadings, if

necessary, file motions and complete discovery.

Extensions to the time limitation herein established must be made by motions filed within the time stated and only for good cause shown. Parties may informally agree to continue discovery beyond the stated time, but the Court will not consider or decide motions to compel or for protective orders filed in relation to discovery that has been extended beyond said time limit.

At the conclusion of two hundred ten (210) days, the matter will automatically be assigned for trial unless a one or more parties requests a scheduling conference.

- (B) In worker compensation cases, all discovery must be completed within six months from date of filing of complaint. The case will automatically be assigned for jury trial in the fourth month after filing. Because of time constraints, continuances will not be favored. However, in the event that a continuance is required, the case must be set within the six month limitation.
- (C) In all other civil cases, other than administrative appeals, one hundred fifty days after the complaint is filed, counsel must join all necessary parties, amend pleadings, file motions and complete discovery. Extensions will not be permitted. If a jury trial has been demanded, upon request the matter will be assigned for a scheduling conference and informal pre-trial conference as described hereinafter. If the matter is to be tried to the Court, the matter will be assigned for a date specific without consultation.

8.3 **Pre-trial Conference.** Upon request of any party and no earlier than forty-five days before jury trial, a formal pre-trial conference will be scheduled. Trial counsel shall prepare and file pre-trial statements, not less than three days before the scheduled conference, covering each of the following items as are appropriate to the litigation:

- (A) Discovery is expected to be complete by the time of pre-trial and, if not completed, counsel shall advise the Court of the additional discovery anticipated to be informally completed.
- (B) **Status of Settlement Negotiations.** Trial counsel shall advise the Court of demands for, or offers of, settlement to date or the current status of settlement negotiations.
- (C) **Exchange of Medical Expert Reports.** Trial counsel for each of the parties shall advise the Court of the expert or medical witnesses that he or she expects to testify at trial. A copy of each expert's

written report or a summary of such expert's report shall be available to counsel and the Court pre-trial.

- (D) **Special Damages.** Where appropriate, trial counsel shall list all special damages and shall furnish to opposing counsel verification of these damages. Where lost wages or impairment of earning capacity are claimed, the basis on which the claim will be proven (i.e. testimony of the party, employer, etc.) shall be set forth.
- (E) **Exhibits.** Trial counsel shall list those exhibits in existence which he or she expects to introduce during the trial of the case, such as photographs, plots, deeds, medical bills or expenses, etc. Except for medical, drug and hospital expenses covered in Part 3 hereof, all listed documents shall be available to the Court at pre-trial. Counsel shall also list those exhibits not in his possession that he expects to introduce at trial, such as x-rays, diagrams, etc.
- (F) **Other matters.** Trial counsel shall set forth those additional items or requests which may aid in or affect the trial of the case such as:
 - (1) Request for a view of the scene.
 - (2) Any anticipated delay of trial because of a problem in scheduling a witness.
 - (3) Pending motions that must be resolved prior to trial,
 - (4) Request for sanctions pursuant to Civ. R. 37.
- (G) **Pre-trial Orders.** At the completion of a pre-trial conference, the Court may prepare and file a pre-trial order as set out in Civ. R. 16.
- (H) Not less than ten days before commencement of a jury trial, trial counsel are directed to file proposed jury instructions, proposed interrogatories, a concise memorandum on novel issues of law and motions in limine, if any, that anticipate issues of admissibility. The Court will not hear arguments on motions in limine filed on the day of trial.
- (I) Not less than ten days before commencement of a court trial, trial counsel are directed to file trial briefs containing a statement of material facts, a memorandum on applicable law and a concise memorandum on novel issues of law.

Rule 9. Procedural Matters

- 9.1 **Request for Assignment.** Requests for assignment prior to pre-trials or Court initiation shall be made in writing, with notice to opposing counsel

or the opposing party, to Court Administrator, Madison County Court of Common Pleas, P.O. Box 527, London, OH 43140-0527.

- 9.2 **Jury Demand.** Any party demanding a jury trial in a civil case shall secure the cost thereof by filing a deposit of \$100.00 not less than ten days from the date said demand has been filed. Failure to comply herewith shall be deemed a waiver of trial by jury.
- 9.3 **View of the Scene.** View of the scene shall only be granted if requested in writing at least ten days prior to the commencement of trial. The party seeking a view shall be responsible for making all arrangements for transporting jury and securing the costs thereof. Failure to make such arrangements and to notify the Bailiff accordingly at least two days prior to trial shall cause the Court to overrule the request for view. Parties shall not be granted views unless their original request amply demonstrates a need therefore.
- 9.4 **Subpoena.** Requests to the Clerk of Courts to issue subpoena shall be filed with the Clerk's office no less than four working days prior to the commencement of trial. The Clerk shall issue a subpoena, or a subpoena for the production of documentary evidence, signed and sealed but otherwise in blank, to a party requesting it, who shall fill it in and file a copy thereof with the Clerk before service.

Requests for subpoena filed within four days of trial shall only be issued by the Clerk with leave of Court upon motion and entry. The motion must demonstrate cause why a request was not timely filed.

If a case is continued, settled or dismissed after subpoenas have issued, counsel are responsible for contacting all witnesses not to appear in accordance with the subpoena. If counsel fail to notify witnesses and they appear, counsel shall be personally responsible for the witness fee plus mileage. The Clerk shall not pay witnesses who appear under this provision out of the Court's appropriation.

Rule 10. Continuances

- 10.1 **Motions for Continuances.** Consistent with domestic case continuances (Rule 6.10), all continuances are governed by Sup. R. 41(A). Motions for continuances will only be considered after notice to opposing counsel or parties and after a reasonable time to reply. The fourteen day motion rule (Rule 5.1) is not applicable to continuances. Said motions will be decided on the filings without arguments.
- 10.2 **Absent Witness.** If the continuance be on the ground of inability to procure the testimony of an absent witness, the party making the

application must state in writing what he or she expects to prove by such witness, and also by what acts of diligence he or she has endeavored to procure the testimony of such witness. If the Court finds the testimony material, and that due diligence has been used, such cause may be continued, unless the opposite party consents to the reading of such affidavit or a stipulation in evidence, in which case the trial may proceed. Such affidavit or stipulation may be read on the record and treated as the testimony of the absent witness.

Rule 11. Dismissals

- 11.1 **General.** Cases which have been on the docket for six months or more without any proceeding taken therein or without apparent action in the file shall be dismissed without prejudice, after notice to counsel of record unless good cause is shown.
- 11.2 **Sanction.** Cases in which dismissal is an appropriate sanction will be dismissed with or without prejudice, as circumstances dictate, upon notice to counsel of record.
- 11.3 **Settled or Decided.** Cases which have been settled or decided and awaiting entry will be dismissed without prejudice on or after twenty-eight days thereof and after actual notice to counsel of record.

Rule 12. Arguments

- 12.1 **Argument.** In the argument of questions incidentally arising in the trial of a case, but one counsel on each side will be heard.
- 12.2 **Examination of Witness.** One counsel only on a side will be permitted to examine or cross examine a witness, except in a trial for a capital offense.
- 12.3 **Closing Arguments.** Except by special permission of the Court, only two counsel on a side will be permitted to make closing arguments to the jury.

Rule 13. Depositions

A deposition filed with the Clerk shall not be withdrawn except by leave of the Court granted upon motion, and due notice to the proper party or his attorney.

Rule 14. Agreements of Counsel or Parties

No agreement between parties or attorneys in respect to any proceedings, continuance, trial or settlement of a case shall be binding unless reduced to

writing and signed by the proper parties or attorneys and consented to by the Court.

Rule 15. Sureties

- 15.1 **General.** No attorney or officer of the Court or close relative shall be received as bail or surety, directly or indirectly, in any matter cause or proceeding pending in this Court.
- 15.2 **Approval of Bonds.** All bonds must be approved by the Court, before filing with the Clerk. In case real estate is offered as security, the value of said real estate is to be considered as the duplicate value divided by 40 x 100. A legal description of such real estate must be furnished with the volume and page of the Recorder's deed book where recorded must also appear, together with liens of record.
- 15.3 **Preparation of Bonds.** Counsel shall prepare the bond and surety forms and the Clerk shall not do so.

Rule 16. Criminal Procedure.

- 16.1 **Bill of Information.** In accordance with Crim. R. 7(A), defendants may be prosecuted by a bill of information. However, no plea shall be accepted by the Court to charges contained within a bill of information until and unless the defendant has been served a copy thereof at least twenty-four hours prior to the plea being entered.
- 16.2 **Indigent Criminal Defendants.** Counsel shall be appointed to represent indigent criminal defendants and be paid in accordance with the fee schedule approved by the Board of County Commissioners.
- 16.3 **Retained Counsel.** Counsel retained by criminal defendants will not be permitted to withdraw from representation for nonpayment of attorney fees within two weeks of trial.
- 16.4 **Reimbursement.** Indigent criminal defendants who are assigned counsel are directed to file a \$25.00 fee with the Clerk of Courts within fourteen days of arraignment. This rule does not apply to indigent defendants who are imprisoned in the Department of Corrections. Reimbursement for costs of appointed counsel, based on ability to pay, may be made a condition of community sanctions.
- 16.5 **Pre-trial Motions.** Pre-trial criminal motions are governed by Crim. R. 12 except that they must be filed prior to the formal pre-trial conference so that the motion can be heard on such date as part of the pre-trial procedure. Motions must be accompanied by a memorandum which states

with particularity the grounds upon which it is made and shall set forth the relief or order sought. It shall be supported by case and statutory authority.

16.6 Discovery.

- (A) All discovery shall be conducted in accordance with applicable criminal rules and case law within the time frames required by law. Continuances will not be favored because counsel have waited until the last day to request discovery. All discovery and supplements thereto must be exchanged not less than three working days before trial is to commence.
- (B) Defendants who seek representative samples of drugs of abuse for independent testing must request them at a time far enough in advance of trial not to interfere with the trial date. Defendants, through retained or appointed counsel, must arrange for drug testing and analysis through experts of their choosing. Because of the time-lag between submission and report from B.C.I. & I., the Prosecutor is directed to notify defendant of submissions of evidence and to exchange reports upon receipt but not less than three working days before trial.
- (C) Motions for pleadings of not guilty by reason of insanity, incompetent to stand trial, other mental evaluation and treatment in lieu of conviction must be timely filed so as not to interfere with scheduled trial.
- (D) All motions for discovery, notification of intent to use evidence in chief and for bills of particular shall be deemed sustained upon filing, pursuant to the arraignment order, unless the Prosecutor files a motion for protective order or otherwise objects within five working days.
- (E) Discovery should be provided within ten days of motion. Failure to provide discovery in accordance with this rule or Crim.R. 16 shall cause evidence to be excluded at trial. Failure to provide all discovery required shall render inadmissible such evidence offered by the offending party. The Prosecutor shall be responsible for gathering all matters subject to discovery from police agencies. It shall not be a defense to a motion for sanction or a motion in limine that the police agency did not timely provide the information to the Prosecutor.

- 16.7 **Subpoena.** Subpoena shall not issue to the Sheriff by the Clerk of Courts unless a request therefore has been filed by the Prosecuting Attorney or the defendant at least four working days before trial.

Rule 17. Counsel Fees

17.1 **Partition.**

- (A) In partition for the benefit of all coparceners or co-tenants taxed pursuant to R.C. 5307.25, there may be allowed:
- (1) Minimum Fee, unless fee would exceed fifty percent of the amount involved, Court then specifically fixes the fee at \$150.00,
 - (2) Plus Amounts between \$2,500.00 and \$50,000.00 (valuation or sale), at 6%;
 - (3) Plus Amounts between \$50,000.00 and \$100,000.00 (valuation or sale), at 4%;
 - (4) Plus Amounts in excess of \$100,000.00 (valuation or sale), at 2%.
- (B) In partition where the interests of the coparceners or co-tenants are in dispute, attorneys' fees are to be established by individual free agreements or hourly rates.
- (C) Where one coparcener or co-tenant elects to take real estate at the appraised value, the Court will adjust the fee based on the actual services performed by the attorneys and on the reasonable value of these services.

- 17.2 **Cognovit Note.** There shall be taxed a fee of at least \$25.00 when counsel enters an appearance and confesses judgment on a cognovit note. Any such fee is to be taxed in and disbursed as costs in the case.

- 17.3 **Domestic Relations Attorney Fees.** In domestic relations matters, the Court may fix counsel fees prior to final hearing of the case, if it appears from the record that without an allowance for counsel fees a party may be unable to prosecute his or her action.

- 17.4 **Other Fees.** All other attorneys' fees awarded by the Court and consistent with the "American Rule" shall be set at usual and customary hourly rates and based on written application.

Rule 18. Publication of Court Calendar.

[The Court reserves judgment to further order on whether to designate a journal to publish all calendars of the Madison County Court of Common Pleas and its divisions.]

Rule 19. Alternative Dispute Resolution.

The Court will not provide personnel for alternative dispute resolution. Parties who wish to voluntarily enter into mediation may do so privately at their cost. If the parties seek to voluntarily engage in mediation, counsel or the parties should file a motion requesting that proceedings be stayed for 120 days to attempt resolution of issues. If the case is resolved by mediation, counsel or the parties should submit an appropriate entry. Otherwise, counsel or the parties shall report the status of the case in writing at the expiration of 120 days.

Rule 20. Foreclosure.

20.1 **Background.** The negative economic conditions at both the national and state levels have dramatically increased the rate of mortgage and tax foreclosures. That increase has placed a substantial burden on the Clerk of Courts and the civil staff of the Madison County Sheriff. In particular, plaintiffs, in good faith, attempt to negotiate settlements and other alternatives to public sale. Good faith resolutions often fail because of unanticipated circumstances. Sales are withdrawn in contemplation of settlement only to be requested again a short time later necessitating re-advertising and reprocessing. Often public sheriff sales are completed only to have the plaintiff and defendant reach a post sale settlement before confirmation. Rather than employing statutory redemption, plaintiffs simply dismiss the case resulting in damage to the buyer and confusion in an orderly sales process. Moreover, too often confirmation entries are held beyond any reasonable period of time in a protracted effort to find some other resolution. There is no predictability, certainty or finality in the process. To correct the matters outlined, the General Assembly adopted H.B. 138. The procedures set forth therein shall govern foreclosures in this county.

20.2 **Service by publication.** Publication shall be made once a week for three (3) consecutive weeks instead of as provided by Civ. R. 4.4. The parcel in such publication shall be described by a metes and bounds legal description if the land is in the unincorporated areas of the county. Within incorporated cities and villages, the parcel may be advertised by legal description or by listing the complete street address and the permanent

parcel number where the complete description is available on a county web-site.

20.3 **Evidence of title.** Subject to modification by journal entry:

- (A) **Preliminary Judicial Report.** Pursuant to R.C. 2329.191, within fourteen days of filing its complaint for the foreclosure or marshalling of liens, plaintiff shall procure and file with the Clerk a preliminary judicial report, effective within thirty (30) days prior to the filing of its complaint, prepared by a title company not associated with any party or counsel of a party.
- (B) **Final Judicial Report.** Prior to a judgment being rendered or sale being ordered, plaintiff shall file with the Clerk a final judicial report that updates the state of the record title, includes relevant information from the court's docket, and bears a certification clearly stating that "All necessary parties are properly before the court, and all proceedings are in conformity to the applicable law and Civil Rules."
- (C) **Costs.** Examination fees for preliminary and final judicial reports shall be allowed at \$75.00 per hour not to exceed \$400.00 without leave of Court.
- (D) Purchasers at sale may procure title insurance at their cost and option.

20.4 **Case management.** Answers are filed in less than 10% of the foreclosure cases that are filed. No pre-trial proceedings will be used in those cases where answers are not filed. The court employs no "in-house" mediation. Where answers are filed and the parties seek mediation, the case will be stayed for 120 days to allow the parties to engage in private mediation. The status of the case will be determined at the conclusion of the stay. In the event that trial is required, a pretrial conference will be conducted at the request of any necessary party.

20.5 **Post Judgment Practice.** After the Court enters judgment of foreclosure and the Clerk issues an order of sale, the sale will proceed as scheduled unless a bankruptcy intervenes or the case is dismissed with or without prejudice. Between the order of sale and the date of sale there often are efforts to settle the case through satisfaction: loan pay off, deed in lieu of foreclosure or short sale. If any such satisfaction is reached the underlying debt is extinguished, and the case should be dismissed with prejudice. However, if satisfaction is simply being negotiated, the sale will go forward. Experience shows that such settlements fail and re-advertising

and additional costs are incurred. Such cases shall be dismissed without prejudice or the sale shall go forward.

Between order of sale and sale, plaintiff may reinstate the loan: accepting past due amounts to cure the default, enter a repayment plan or modify the loan. Any such reinstatement vitiates the underlying judgment and the case shall be dismissed.

- 20.6 **Post Sale Practice.** A defendant debtor may exercise his or her right of redemption in accordance with R.C. 2329.33. The debtor may redeem the subject real estate by depositing with the Clerk of Courts: The amount of the decree or judgment upon which the lands were sold; costs; poundage of 1%; interest at 8% on the purchase money from the date of sale to date of deposit unless the purchaser is the judgment creditor.
- 20.7 **Sheriff's Sale.** All sales of real estate on order of this Court shall be conducted under the direction of the Madison County Sheriff. Statutory timelines for purchase price payments and confirmation shall be followed. Plaintiff shall be responsible for deed preparation. The Sheriff shall collect a fee of \$50 for deed preparation and \$75 for recordation thereof to be disposed of according to law.

Rule 21. Alternative Filing Methods

- 21.1 **General.** The filing by facsimile transmission of pleadings and other documents contemplated by the civil rule shall be made by filing them with the Clerk of Court pursuant to Civ.R. 5(E).
- 21.2 Filing by electronic means should be limited to filings of an emergency or time critical nature.
- 21.3 A pleading or other document filed by facsimile shall be accepted as an original on the date and at the time it is stamped by the Clerk's facsimile machine. All risks of transmission are borne by the sender. Complaints or other pleadings that require service of process must be followed within five (5) working days with an original pleading, a cost deposit and copies for service. Failure to file the original pleading and costs shall result in the filing being stricken sua sponte.
- 21.4 The person or party filing a pleading or document shall provide therewith identification information on the cover page, including the document caption. The cover page shall indicate the number of pages included in the transmission.
- 21.5 Final journal entries requiring signature of the judge will not be accepted in facsimile form.

- 21.6 The Court reserves judgment over whether fees should be charged by the Clerk on a per page basis to further order.

Rule 22. Notary Public Commissions

22.1 **General.** For the purpose of assisting this Court in the performance of its duty pursuant to Chapter 147 of the Ohio Revised Code, the members of the Madison County Bar Association are appointed members at large of a committee to receive applications, conduct examinations and to certify qualifications of residents applying to this Court for appointment to the office of Notary Public for Madison County, Ohio. The names of those members of the Madison County Bar who wish to receive applications, conduct examinations and certify qualifications of applicants applying for notary public commissions shall be furnished on a list to the Public, by the Clerk of the Court of Common Pleas.

- (A) The Bar Association shall provide to the Clerk of the Court of Common Pleas an application packet including, but not limited to, an instruction sheet, study guide, the local application, and forms prescribed by the Ohio Secretary of State for attorney and non-attorney applicants, change of address forms, as well as any other information the Committee may from time to time deem relevant.
- (B) The Clerk of the Court of Common Pleas shall be designated as the Secretary-Treasurer of the Committee for the purpose of collecting fees and maintaining records relative to the position of notary public.
- (C) The Bar shall provide the test and answer key as prescribed by the Association to its members who wish to receive applications, conduct examinations and certify qualifications of applications of applicants applying for notary public commissions.
- 22.2 All members and officers now or hereafter appointed shall serve at the pleasure of the Court.
- 22.3 All persons applying for the first time or for a renewal of notary public commissions shall obtain the required forms from the Clerk of Courts, Madison County, Ohio.
- (A) Applicants must submit a completed application form subscribed to by the applicant and certificate of qualification by a member of the committee. First time

applicants or a person whose previous commission has expired more than six months prior to the date of their application shall be required to take an examination, along with the following fees that the State of Ohio or Committee may increase from time to time:

- (1) \$25.00 payable to the Secretary-Treasurer (cash, check or money order),
 - (2) \$15.00 payable to the Secretary of State Notary Commission (check or money order only).
- (B) Attorneys admitted to the practice of law in the state of Ohio and in good standing with the Supreme Court of Ohio are not required to take the examination and are not subject to the \$25.00 fee to the Secretary-Treasurer.
- (C) For the renewal of a Notary Commission, non-attorney applicants must submit a completed renewal application, along with the following fees:
- (1) \$5.00 payable to the Secretary-Treasurer (cash, check or money order),
 - (2) \$15.00 payable to the Secretary of State Notary Commission Clerk (check or money order only).
- (D) A Notary needing to make a change of name and /or address can obtain the required forms from the Secretary of State of Ohio or the Clerk of Court of Madison County, along with the following fees:
- (1) \$2.00 payable to the Secretary of State Notary Commission Clerk.

22.4 **Distribution of Fees.**

- (A) The fees required shall be accounted for, held and disbursed on the last day of March, June, September and December by the Clerk of Court/Secretary-Treasurer of the Madison County Bar Association to the Bar Association coordinator for general deposit. Said funds are to be used at the discretion of the Association.
- (B) The Bar Association shall reimburse the County for supplies, stationary, postage, or other expenses and fees, to the members of the committee for their services, and to the Secretary-Treasurer who shall perfect, maintain and preserve a registry of applications, examinations, and

complaints against such Notary Public's past or present conduct in office.

22.5 Complaints.

- (A) Complaints, if any, shall be referred to a member of the committee for investigation by the Court who shall report his findings and recommendations to the Court.
- (B) If deemed proper and necessary, the Court shall conduct a hearing, upon notice to the party against whom such a complaint has been filed, who shall have the right to introduce such testimony or evidence deemed necessary to fully inform the Court in the premises. The Court upon consideration shall make such orders and findings as are just and proper in the circumstances.
- (C) Should the Court revoke an individual's notary commission for misconduct, it shall notify the Secretary of State in writing, in accordance with the Ohio Revised Code.

Rule 23. Court Security.

Confidential, not available for public review.

Rule 24. Civil and/or Temporary Protection Orders.

- 24.1 **Forms:** The Ohio Supreme Court has adopted C.P. Sup. R. 10.01 and 10.02 to standardize forms used in obtaining and granting civil protection orders granted under R.C. 3113.31 and temporary protection orders granted under R.C. 2919.26. All forms established under the rule making authority of the Supreme Court, including standardized instruction packets, shall be made available on demand to pro se parties through the Clerk of Courts and the office of the Prosecuting Attorney.
- 24.2 **Filings.** Filings by retained counsel should approximate the language and follow the format established in the Supreme Court rules.
- 24.3 **LEADS.** All reporting to the Law Enforcement Automation Data Systems shall be on Form 10-A established under the rule making authority of the Supreme Court.

**Rule 25. Habeas Corpus
Post Conviction Remedy—Mandamus—Extra-Ordinary Writs**

- 25.1 **Commencement of an Action.** An inmate confined in a state penal institution who commences an action in habeas corpus, mandamus, post

conviction remedy or any civil action or appeal against a governmental entity or employee shall file with the Court an affidavit that contains a description of each civil action or appeal of a civil action that the inmate has filed in the previous five years in any state or federal court. If none, the affidavit should so state.

If the inmate has made such filings as aforesaid, the affidavit should contain the following:

- (A) A brief description of the nature of the previous civil action or appeal;
- (B) The case name, case number, and the court in which the civil action was brought;
- (C) The name of each party to the civil action or appeal;
- (D) The outcome of such filings including whether they were found frivolous or malicious and whether an award was made against the inmate's account pursuant to R.C. 2323.51.

25.2 **Multiple Filings Within a Year.** If an inmate confined in a state penal institution commences more than three civil actions or appeals within a twelve month period, the Court reserves the right to order independent legal review to determine whether the action is frivolous.

25.3 **Waiver of Costs.** If an inmate commences a civil action for any reason set forth in Section 1, supra, and seeks waiver of prepayment of costs, the inmate must file an affidavit of indigency which:

- (A) Sets forth the balance in the inmate's account for each of the preceding six months, as certified by the institutional cashier; and
- (B) Sets forth a statement of each and other things of value owned by the inmate at the time of filing.

25.4 In the absence of an affidavit of indigency, a cost deposit of \$50.00 must be filed with the Clerk of Courts at the time an inmate commences an action set forth in Section 1, supra.

25.5 **Compliances.**

- (A) A petition for habeas corpus must substantially comply with the requirements of R.C. 2725.04 and particularly subsection (D).

- (B) The facts of any denial or infringement of rights referred to in R.C. 2953.21. must be clearly and definitely stated.
- (C) The verification following petitioner's signature, **must** appear at the end of the petition and not following any brief or memorandum. The facts must be verified **not** argument or opinion.
- (D) A motion for suspension of sentence and probation under R.C. 2947.061 heard, without personal appearance of defendant, on the matters contained in the motion or supplementary matters if requested by the Court.
- (E) An original and one copy of papers filed are sufficient. Papers should be typewritten, if possible, and double spaced.

26.6 **Dismissal.** Where it appears from the petition, commitment, indictment or certified papers that no cause of action is stated a writ of habeas corpus or a hearing under R.C. 2953.21 will be denied and the petition dismissed sua sponte.

26.7 **Brief or Memorandum.**

- (A) In accord with the object of the statutes petitioners are encouraged to file with their petition a brief or memorandum containing statutes or cases relied on which reasonably apply to issues raised by the petition.
- (B) Briefs or memorandums are for the purpose of enabling the Court to determine if there are questions of fact requiring a hearing or research by the Court. Hearings are not automatic upon filing of papers which do not meet statutory requirements or fail to raise any controverted question of fact.

26.8 **Rule and Forms.** A supply of this rule and form of indigency affidavit is supplied to the offices of the several superintendents of penal institutions.