

SANDUSKY COUNTY
COMMON PLEAS COURT
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TRACY M. OVERMYER
CLERK

LOCAL RULES OF PRACTICE

SANDUSKY COUNTY COMMON PLEAS COURT
Civil, Criminal & Domestic Relations Divisions

Judge John P. Dewey
Sandusky County Courthouse
100 N. Park Ave., Suite 311
Fremont OH 43420-2456

Fax 419-334-6122

Judge Barbara J. Ansted
Sandusky County Courthouse
100 N. Park Ave., Suite 310
Fremont OH 43420-5402

Fax 419-334-6171

Tracy M. Overmyer
Clerk of Courts
Sandusky County Courthouse
100 N. Park Ave, Suite 320
Fremont OH 43420-5403
Ph. 419-334-6161
Fax 419-334-6164

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SCHEDULE OF COURT COSTS DEPOSITS

(At end of Rules)

APPENDIX OF FORMS

(After Schedule of Court Costs Deposits)

RULE 1

Scope of Applicability; Purpose

- A. These rules shall apply to the Court of Common Pleas of Sandusky County, Ohio, Civil, Criminal and Domestic Relations Divisions, hereinafter referred to as "the Court". References hereto may be cited as "Local Rule ...". The Clerk of Courts may hereinafter be referred to as "the Clerk".
- B. The purpose of these rules is to define local practice and procedure of the Court, consistent with the Rules of Superintendance, the Rules of Civil and Criminal Procedure, and such other rules as may be promulgated or adopted by the Supreme Court of Ohio pursuant to Section 5(B) of Article IV of the Ohio Constitution.

RULE 2

Term of Court; Hours of Session; Judges

- A. The Court shall be in continuous session for the transaction of judicial business. Each calendar year shall be divided into three (3) parts, commencing on January 1, May 1, and September 1.
- B. The sessions of Court shall be daily, Monday through Friday, from 8:00 A.M. to 12:00 Noon, and from 1:00 P.M. to 4:30 P.M., and/or at such other times and hours as a Judge may prescribe to meet special situations and conditions.
- C. The Judges of the Court are set forth on the cover page of these rules

RULE 3

Jury Year

- A. The jury year shall commence on September 1 of each year (R.C. 2313.08).

RULE 4

Security for Costs; Application of Deposit

- A. The Clerk shall require a cash deposit to be made as security for court costs, in accordance with an established schedule, upon filing of every action, unless otherwise provided by law or these rules. A Poverty Affidavit may be filed in lieu of such deposit; however the filing of such an affidavit does not exempt a party from liability for payment of costs at the conclusion of the case or proceedings. During the pendency of a case the Clerk may require additional deposits to be made if it appears that the amount of the deposit then on file may not be sufficient security for the anticipated costs.
- B. The Clerk shall establish a Schedule of Court Cost Deposits. This schedule, and any amendments thereto, shall be subject to the approval of the Court.
- C. Upon final judgment, the Clerk shall apply all deposits to the costs in the case, regardless of the party against whom the costs have been assessed, and shall bill the party to whom costs have been assessed for the total costs of the case. The Clerk shall not be required to issue execution or other process except upon request of the party who recovered judgment for the costs. Any monies

collected by the Clerk, in excess of costs remaining due, after applying all deposits, shall be disbursed by the Clerk to the party whose deposit was applied to the costs.

RULE 5

Service by Publication

- A. Counsel for a party desiring service by publication shall submit a proposed legal notice for such publication to the Clerk, who shall promptly submit it to an appropriate newspaper. The Clerk may modify a proposed legal notice if a Poverty Affidavit has been filed and if the proposed notice appears to include excess language.
- B. The cost of publication of the legal notice shall be taxed as court costs, and the Clerk may require an additional deposit to cover the anticipated cost thereof prior to the commencement of publication.

RULE 5(a)

Service by Posting

- A. In divorce, annulment or legal separation proceedings where the residence of the defendant is unknown and the plaintiff is proceeding in *forma pauperis* by the filing of a Poverty Affidavit in lieu of a cost deposit, service of process shall be made by posting and mail, pursuant to Civil Rule 4.4(A)(2), and the required notice shall be posted by the Clerk in the following three (3) conspicuous places:
 1. A bulletin board in the front lobby on the first floor of the Sandusky County Courthouse in Fremont, Ohio.
 2. A bulletin board in a public area at County Court No. 1 in Clyde, Ohio.
 3. A bulletin board in a public area at County Court No. 2 in Woodville, Ohio.

In addition to the requirements of Civil Rule 4.4(A)(1), the date assigned for the final hearing in the case shall be noted in such notices, which shall be no sooner than ten (10) weeks after the date of posting. The date for the final hearing will be provided by the assignment commissioner for the Judge to whom the case has been assigned.

After the notices have been posted for six (6) weeks, the Clerk shall note on the docket of the case that posting has been completed in accordance with this rule. The notices may be removed from the bulletin board after the date of the final hearing.

RULE 6

Format of Pleadings; Amendments; Time Computation; Filing by Fax

- A. All pleadings, motions, memoranda and other papers filed with the Clerk shall be typewritten, or be neatly printed, and have a top margin of at least one and one-half (1.5) inches, and contain the following information in the caption:
 1. The name, address, telephone number, facsimile (fax) number, and Supreme Court registration number of counsel. If counsel is a firm, the attorney having the primary responsibility for the case shall be indicated thereon. Counsel shall promptly notify the Clerk of any change in this information

2. The current addresses of all parties to the action shall be included on all original pleadings. A post-judgment Motion which revives an action is considered as an original pleading for purposes of this rule. Counsel shall promptly notify the Clerk, in writing, of any change of address of any party.
 3. The name of the Judge to whom the case has been assigned.
 4. The case number assigned by the Clerk, which shall be noted on each page of every pleading.
 5. Social Security Numbers (SSN) shall not be included in the caption or body of any pleading or Entry, except in criminal proceedings. This rule does not preclude the use of a SSN where its purpose is to specifically identify a party or person, such as in a Qualified Domestic Relations Order or in a Precipe or a Subpoena. In the event a request for a copy of such a document is made by someone other than a party or their attorney, the Clerk shall redact the SSN before furnishing the copy.
 6. Self represented litigants (pro se) will file appropriate forms as instructed by the Clerk. The Clerk shall refuse for filing any incomplete or non-conforming forms.
- B. Pleadings and judgment entries may be amended as provided in Civil Rule 15; but no pleading or entry shall be amended by interlineations or obliteration.
- C. All motions, except in domestic relations cases, shall be accompanied by a memorandum setting forth the grounds therefore, and citing the authorities relied upon. (See Rule 23 for special rules in domestic relations cases.)
1. Unless the Court directs otherwise, upon the filing of a motion, any party opposing the motion shall file a Response by the 14th day after receipt of the motion, and the moving party may file a Reply by the 7th day after receipt of the Response. The motion shall thereupon be deemed submitted, and shall be decided by the Court, without oral argument, unless counsel has requested oral argument in conjunction with the filing of the Response or /Reply.
 2. This rule shall apply to all motions, including Motions for New Trial, Motions for Judgment Notwithstanding the Verdict, and Motions for Summary Judgment.
 3. An extra copy of every motion, except Motions for Temporary Relief filed in conjunction with a divorce complaint, shall be filed with the Clerk, and marked "Judge's copy". The Clerk shall file stamp such copy and place it in the Judge's box.
- D. Time in these rules is computed in accordance with Civil Rule 6.
- E. Any document (pleading, brief or other paper no greater than 8.5" X 11") may be filed with the Clerk by facsimile (fax) transmission, hereinafter referred to as "FAX". The Clerk's FAX number is 419-334-6164, and the voice number is 419-334-6161. A pleading received by FAX shall be considered filed when it has been imprinted with the Clerk's date-time filing stamp, in the same manner as a pleading received in person or by mail at the Clerk's office. It is the responsibility of the person transmitting a pleading by FAX to assure that it is timely and properly filed. page 3 of 63

considers a document illegible, the Clerk shall notify the party to file the original; and the original, when received, shall be considered filed as of the date and time the fax copy was received.

Any signature on a pleading filed by FAX shall be deemed to be that of the attorney or party it purports to be for all purposes. If it is established that the pleading was transmitted without authority, or that the pleading is not in conformity with the Civil Rules or these Local Rules, the Court shall order it stricken [see Civil Rule 5(E)].

No document in excess of ten (10) pages may be filed by FAX without the prior consent of the Clerk. The purpose of this provision is to make certain there is a sufficient supply of paper in the Clerk's FAX unit. It is suggested that if a brief or other document is substantially in excess of ten pages, and if time is of the essence, that counsel should contact the Court (not the Clerk), to request an extension of time to file the document by mail.

The Clerk may assess a fee of twenty-five cents (\$.25) per page for all pleadings, briefs, documents, or other papers filed by FAX, which shall be taxed to the party filing the document.

WHEN A PLEADING IS FILED VIA FAX, THE ORIGINAL SHALL NOT BE FILED UNLESS ORDERED BY THE COURT.

RULE 7
Case Designation Sheets

- A. A Case Designation Sheet (see Appendix of Forms) shall be presented to the Clerk upon the filing of every Complaint, Petition, post-judgment Motion reviving a case, Indictment, Information, or any other initial-filing document.
- B. It is the responsibility of trial counsel, rather than a secretary or paralegal, to assure that the Case Designation Sheet properly designates the nature of the filing so that the case is properly reported to the Supreme Court of Ohio by the Trial Court on its monthly statistical report.

RULE 8
Clerk Shall Reject Pleadings

- A. The Clerk shall not accept for filing any pleading which is not in conformity with these rules, or which is not accompanied by an appropriate Case Designation Sheet.

RULE 9
Certificate of Service

- A. Proof of Service of all pleadings, motions, briefs, memorandum and other writings filed with the Judge or Clerk shall be by a Certificate of Service, which shall state the names and addresses of the attorneys and/or parties served (rather than "all parties or counsel of record"). If such service is by FAX, the fax number to which it was sent shall be noted rather than an address.

RULE 10

Interrogatories and Production of Documents

- A. Counsel demanding/requesting discovery shall file a one-page Certificate of Service with the Clerk, bearing the case caption, the name and address of the party to whom it was directed, the name of the party required to respond, the type of discovery requested, and the date of mailing. **The discovery Demand/Request shall not be filed.**
- B. Counsel responding to discovery shall likewise file a one-page Certificate of Service with the Clerk, containing similar information, and the date of mailing the response. **The discovery Response shall not be filed.**

RULE 11

Depositions

- A. A deposition filed with the Clerk of Courts shall not be withdrawn except by leave of the Court.

RULE 12

Videotaped Testimony and Evidence

- A. The use of videotaped testimony and evidence is permitted in accordance with the provisions of Civil Rules and the Rules Superintendence. Note: Such testimony is now sometimes recorded on DVD disk rather than videotape.
- B. Objections may be made at the conclusion of the question and answer only. Counsel shall state the basis for the objection, and may read citations into the record at that time, if desired; however additional citations may be provided to the Court at a later time. Any objections made prior to the completion of an answer may, in the Court's discretion, be disregarded and overruled.
- C. Counsel shall notify the Court at least 14 days prior to the trial date, if there are any objections contained in the videotaped testimony, and shall provide the Court with a written transcript of the videotaped testimony, or such portion thereof as is necessary to rule on any objections; and the Court will promptly schedule a hearing to rule on the objections.
- D. After ruling on the objections, the proponent of the videotaped testimony shall have an edited or "clean" copy of the videotaped testimony prepared, so that it can be played to the jury, in an uninterrupted manner, without the objections and argument. A written transcript of the edited copy of the deposition shall also be presented to the Court, which will be made a part of the record, so that the Court Reporter is not required to transcribe the videotaped deposition testimony.
- E. Costs for videotaped testimony and evidence shall be assessed in accordance with the Rules of Superintendence. If an appeal is taken in a case in which videotaped testimony was presented, the party who presented the videotaped testimony shall present a written transcript of the original (unedited) videotaped testimony to the Court Reporter, to be included with the trial transcript, if it has not been previously filed with the Clerk.

RULE 13
Extensions and Continuances

- A. Upon written motion, any party may be permitted one extension of time to move or plead, provided that the total extension of time does not exceed thirty (30) days.
- B. If an additional extension of time beyond that provided by the foregoing paragraph is needed, the written motion shall set forth facts indicating the practical impossibility of pleading within the rule and demonstrating good cause for further extension.
- C. Continuances of assigned hearings shall be granted only upon written motion, except in cases of emergency. In the event an emergency continuance is granted upon oral request, a written motion shall thereafter be promptly submitted confirming the oral request. A Motion for a Continuance of an assigned hearing shall state the date of the hearing for which the continuance is requested.
- D. Motions for an extension of time to move or plead, and for a continuance, shall be accompanied by a proposed Entry, which shall contain a space for the Court to insert the date to move or plead, or the new date and time for the continued hearing.

RULE 14
Entry of Appearance; Official Notification of Assignment

- A. No attorney shall be considered of record in a case, other than plaintiff's counsel, until an Entry of Appearance has been filed. No attorney may withdraw from a case except upon written motion, and for good cause shown. The attorney of record **will appear** at all proceedings unless prior leave of Court is obtained by him/her allowing local counsel to appear on his/her behalf.
- B. The Assignment Commissioner shall send Assignment Notices to counsel by **email** at an email address provided by counsel. Counsel shall be under a continuing duty to provide updated email addresses to the Court. Written Assignment Notices shall be sent by ordinary mail to any unrepresented parties at their addresses as shown on the docket sheet. Such mailing, or emailing, as the case may be shall be deemed the official notification of the assignment of a case.

RULE 15
Case Management Procedure; Pre-trials; Mediation

CASE MANAGEMENT

(to ensure the readiness of cases for trial and maintaining their timely disposition)

- A. **Civil Cases**
 - 1. After a case is at issue, and at or after an initial pre-trial has been held, a Case Management Schedule will be issued.
 - 2. Counsel shall present a Pre-Trial Statement to the Judge and opposing counsel at the initial pre-trial, or as directed by the Judge. Final trial briefs will be filed if the Judge so requires.
 - 3. At the initial pre-trial conference, or at a later time, the trial judge will refer all appropriate cases to

mediation. If the case is not resolved at the mediation, counsel shall report to the assignment commissioner to confirm or schedule a status pre-trial and/or trial date.

4. If a jury trial is demanded, requesting counsel will deposit \$300.00 one week before the trial is to begin. If the money is **not** deposited, a jury will **not** be called.

B. Domestic Relations Cases

1. If a defendant fails to move or plead as required, or fails to appear at a scheduled temporary hearing, the case will be scheduled for an uncontested hearing.
2. If neither party requests a hearing for temporary Orders, the Court will schedule the case for an initial pre-trial. If a temporary hearing has been requested, such hearing will be considered as the initial pre-trial.
3. At the initial pre-trial conference, or at a later time, the trial judge will refer all appropriate cases to mediation. If a case is not resolved at the mediation, counsel shall report to the assignment commissioner to confirm or schedule a status pre-trial and/or trial date.
4. Counsel shall file trial briefs, if ordered to do so, as required by Local Rule 23(G) in contested cases.
5. In all cases for divorce or legal separation, upon the initial filing of the Complaint, the Court will automatically issue a MUTUAL RESTRAINING ORDER as set forth on this Court's standard Form H. Upon Plaintiff's filing of a Complaint, Plaintiff is deemed to have notice of and be bound by the MUTUAL RESTRAINING ORDER.

The Clerk of Courts shall attach a copy of the MUTUAL RESTRAINING ORDER to the Summons so that both documents shall be served simultaneously upon Defendant.

Any party may file a Motion and Supporting Affidavit to modify this standing MUTUAL RESTRAINING ORDER for good cause shown.

C. Criminal Cases

1. As soon as a criminal case is bound-over to the grand jury from a lower Court, the Clerk shall assign the case to a trial judge in order to facilitate assignment of hearings on pre-indictment motions, such as bond modification. In cases of direct indictment (secret cases), the Clerk shall assign the case to a trial judge as soon as the indictment is filed.
2. A case shall be assigned for trial at arraignment, or within ten (10) days thereafter, so as to be in compliance with the Ohio Speedy Trial Statutes (R.C. 2945.71 et seq.).
3. The Assignment Commissioner, in conjunction with the prosecuting attorney and defense counsel, shall assign all cases for a pre-trial conference after arraignment.
4. Pre-Trial Motions, and Requests for Discovery and a Bill of Particulars, shall be filed within the time limits set forth in the Criminal Rules; and if not timely filed, such requests may be summarily denied by the Court.
5. All plea negotiations shall be completed at least five (5) working days prior to the scheduled trial date. If a plea is agreed upon, the agreement shall be reduced to writing by the prosecuting attorney, and the defendant shall appear before the Court for the entry of a plea pursuant to Criminal Rule 11.

PRE-TRIALS (in all cases)

- A. Counsel who attend pre-trial conferences are encouraged to have conferred with each other prior thereto, and they shall have authority to discuss all phases of the case, to conduct good faith negotiations toward settlement of the case, and to enter into stipulations in preparation of trial.
- B. A pre-trial conference, except a final pre-trial, may, with leave of Court, be conducted by telephone. Arrangements for a telephone conference shall be made by counsel requesting the conference.
- C. If counsel for any party fails to appear at a pre-trial conference, the Court may, for good cause, dispose of the case as though counsel had failed to appear for trial.

MEDIATION

- A. **Chapter 2710 of the Revised Code** (the Uniform Mediation Act), **R.C. 3109.052** (Mediation of Differences in Allocation of Parental Rights and Responsibilities), and **Rule 16 of the Rules of Superintendence of the Supreme Court of Ohio**, including all subsequent amendments thereto, are hereby incorporated into this local rule as if fully re-written herein.
- B. In civil cases the trial judge, prior to making referral for mediation, shall inquire of the parties, through their counsel, regarding any domestic violence history.
- C. In domestic relations cases the mediator, prior to scheduling mediation, shall inquire of the parties regarding any domestic violence history.
- D. If a party ordered by the Court to attend mediation fails to attend without good cause, the Court may impose sanctions, including but not limited to an award of attorney's fees, costs, contempt, or any other appropriate sanction.

RULE 16 **Trial Briefs**

- A. Prior to trial counsel may, and upon request of the Court counsel shall, file trial briefs setting forth the issues of law involved in the case. All trial briefs shall be furnished to opposing counsel.

RULE 17 **View of Scene**

- A. All requests for a view of the scene shall be in writing and shall be filed with the Court at least seven (7) days prior to trial; and each request shall set forth the items the Bailiff is to point out to the jury.

RULE 18 **Exhibits**

- A. All exhibits shall be marked and copies thereof provided to opposing counsel **before** trial.
- B. Counsel shall provide the Court with a schedule of the proposed exhibits before trial.

RULE 19
Jury Questionnaires

- A. It is the practice of the Court to have jury questionnaires prepared and to make such questionnaires available to counsel. If jury questionnaires are used, the following procedure shall apply:
1. Prior to trial, the Assignment Commissioner shall provide counsel with copies of the questionnaires, which have been completed by prospective jurors.
 2. During voir dire, counsel shall not inquire of jurors as to matters satisfactorily and completely answered in the questionnaires, or argue the case or issues of law.
 3. Counsel may **not** make additional copies of the jury questionnaires, and shall **return** the jury questionnaires to the Bailiff promptly after voir dire.

RULE 20
Judgment Entries

- A. Unless the trial judge otherwise directs, counsel for the party in whose favor a decision has been rendered shall, within ten (10) days thereafter, prepare the proper Judgment Entry, and submit it to all opposing counsel, who shall approve or reject the same within five (5) days after the receipt thereof. The names of counsel and the trial judge shall be typed under the signature lines. When the entry has been approved by all counsel, it shall be presented to the trial judge for approval and filing with the Clerk of Courts. If counsel cannot agree upon the entry, they shall each submit proposed entries to the trial judge within 30 days who shall thereafter file one of the entries, or shall direct counsel to prepare the proper entry.
- B. If counsel fails to present an entry within twenty-five (25) days after a decision has been rendered, the trial judge may cause the proper judgment entry to be prepared and filed without prior submission or notice to counsel, or may take such other action as may be appropriate.
- C. Counsel shall promptly submit a Judgment Entry to the trial judge following settlement of a case. If counsel fails to present a Judgment Entry within twenty-five (25) days after representation to the court that a case has been settled, the case may be dismissed for want of prosecution.

RULE 21
Default Judgments; Military Affidavits

- A. Default judgments shall be granted in accordance with Civil Rule 55. Notice of filing of a Motion for default judgment must be given to the opposing party or counsel whenever there has been any communication by opposing party or counsel with plaintiff's counsel, or any filings with the Court; and in such instances judgment by default will not be granted without a hearing. Upon the Court's own discretion, a Default Hearing may be held prior to the signing of the judgment entry.
- B. All Motions for default judgment, and cases where judgment is confessed on a Warrant of Attorney, shall be accompanied by an Affidavit in compliance with the Service Members' Civil Relief Act, Title 50, U.S.C. App., Sections 501-596.

- C. Whenever a motion for default judgment is filed, or judgment is confessed on a Warrant of Attorney, plaintiff's counsel shall present a judgment entry to the Court.

RULE 22

Disposition of Depositions, Exhibits, etc.

- A. At the conclusion of a case, and after 60 days written notice to counsel by the Clerk and/or Court Reporter, the Clerk or Court Reporter may dispose of all exhibits, transcripts, depositions, audio and video materials, charts and drawings, and all other similar materials filed with the Clerk or Court Reporter.

RULE 23

Domestic Relations Procedure

- A. In cases in which there are minor children, the names and dates of birth of the minor children shall be set forth in the Complaint, or in any Motion reviving the case if the Motion pertains to the children. A IV-D Application **must** be delivered to the Clerk of Courts when such a pleading is filed. The Clerk shall not accept such a pleading for filing if the IV-D Application is not presented. See Rule 15 B.5 in Domestic Cases, a Mutual Restraining Order will be attached to the Summons.
- B. In the Appendix are Domestic forms G-1 to G-4 which include Affidavits of Income and Expenses and Property which shall be prepared and signed prior to a hearing for temporary support and/or a final hearing (forms G-3 and G-4 are only necessary when the parties have minor children together). Such Affidavits are available from the Clerk of Courts and their online site. A copy of such Affidavits shall be presented to the trial judge and to the opposing counsel/party before the hearing.
- C. The Court has adopted a Standard Order for Parenting Time, fka Visitation and Companionship (see Appendix of Forms) which shall be used unless the parties agree otherwise, or unless the evidence and the best interests of the children require otherwise. This Standard Order may be incorporated by reference into any Judgment Entry in lieu of being fully written therein; however, a copy of the Standard Order shall be attached to the copies of the Judgment Entry that are furnished to the parties.
- D. The Court has adopted a Standard Order for Medical and Health Care (see Appendix of forms) which shall be used unless the parties agree otherwise, or unless the evidence and the best interests of the minor children require otherwise. This Standard Order may be incorporated by reference into any Judgment Entry in lieu of being fully written therein; however, a copy of the Standard Order shall be attached to the copies of the Judgment Entry that are furnished to the parties.
- E. All Entries which contain a Child Support Order shall be accompanied by a Child Support Worksheet, whether or not support is actually ordered (ie. in shared parenting cases where support is waived). The Child Support Enforcement Agency (CSEA) will prepare all Withholding Orders, for both child support and spousal support. When the first Entry containing a support Order is filed in a case, a CSEA Information Sheet and Statutory Language of Notification (see Appendix of forms) shall be delivered to the Clerk, and the Clerk will deliver said form to the CSEA. The information required in this form, i.e., (1) the case number; (2) the social security numbers, dates of birth and current addresses of the parties and the minor children; and (3) the employment information of the parties, is necessary for the CSEA to prepare Withholding Orders and to enforce Support Orders: This form will not be filed in the case and is not a public record.

F. Each party, when a Guardian Ad Litem is appointed pursuant to Rule 30, shall deposit an initial sum of \$400.00 within 14 days prior to any work being commenced by said guardian. If the full deposit of \$800.00 has not been deposited, the parties shall be notified, and that either party may effectuate the appointment by paying the balance of the deposit owed by the other party. The balance shall be charged as a credit to be reimbursed in the final judgment upon the matter.

Upon application of the guardian ad litem when it appears necessary that additional funds have to be expended to complete the guardian's work on a case and upon allowance by the court, the parties shall each deposit with the clerk such additional sums as the court shall have directed within 30 days of receiving notice of the order.

G. In all contested divorce and legal separation actions, upon request of the Court, a trial brief shall be filed by each party, at least seven (7) business days prior to the final hearing, which shall contain the following information:

1. A list of all property of the parties, both marital and separate, including, but not limited to pension plans, 401(k) and IRA accounts, insurance policies, household goods and other personal property, motor vehicles, and bank accounts, together with the fair market value or cash value thereof; also, a statement as to the method of proof to be used for each item, i.e., expert witness, stipulation, accepted documentary source (NADA Blue Book, etc.), or testimony of a party. A copy of any appraisal or pension evaluation shall be attached to the trial brief.
2. A listing of every debt of the parties, both marital and individual.
3. A statement as to earnings and other sources of income of the parties for the year-to-date, and the three (3) prior years.
4. Any special or unusual issues in the case.

FAILURE TO TIMELY FILE A BRIEF, IF SO ORDERED, WITH A COPY TO OPPOSING COUNSEL, SHALL RESULT IN THE FACTS CONTAINED IN THE BRIEF FILED BY THE OPPOSING PARTY BEING DEEMED ADMITTED AS IF IT WERE AN UNANSWERED REQUEST FOR ADMISSIONS; AND THE COURT MAY CONTINUE THE HEARING UNTIL SUCH BRIEFS HAVE BEEN FILED.

H. All Motions which seek to modify or enforce a former Order, or which seek contempt sanctions, shall contain the following:

1. The exact language of the prior Order, either by insertion in the motion, or by a copy attached to the motion.
2. The relief requested, and the factual and legal basis for the motion.
3. The parties' current addresses (in the caption).
4. If the Motion involves a change of custody, the Affidavit required by R.C. 3109.27 must be filed.
5. If the Motion involves unpaid health care bills, copies of such bills shall be attached to the motion, with a certification that such bills were submitted to the opposing party at least 30 days prior to the filing of the Motion.

**ANY POST-JUDGMENT MOTION WHICH DOES NOT COMPLY WITH THIS
RULE MAY BE SUA SPONTE DISMISSED BY THE COURT.**

- I. Post-judgment modifications may be made to those provisions of a final Judgment Entry that are within the Court's continuing jurisdiction, by the filing of a "Consent Judgment Entry" approved by the parties, without the filing of a Motion. If the Entry involves a change of custody, the related issues of child support, healthcare expenses, income tax exemption, and visitation must be addressed in the "Consent Judgment Entry", and an R.C. 3109.27 Affidavit must be filed.
- J. If a party desires to be restored to a former name, pursuant to R.C. 3105.16, a separate Judgment Entry may be prepared for such purpose; a Motion shall not be required.
- K. If a Judgment Entry contains a provision for the transfer of title, to either real or personal property, by judicial decree upon the failure of a party to voluntarily comply with the provisions of the Entry, and if it becomes necessary to resort to such provision for the transfer of title, then a Judgment Entry particularly describing the property to be transferred shall be prepared and presented to the Court, and a certified copy thereof shall be delivered to the agency responsible for transferring title.
- L. In all divorce, dissolution of marriage, or legal separation actions in which the parties have children under 18 years of age, both parents shall be required to attend, at their own expense, a seminar for the purpose of increasing their awareness of the impact of their separation and the legal proceedings on their children. Attendance at such a seminar may also be required on a case-by-case basis in Post-Decree Motions for change of custody or visitation enforcement. The fee for such seminar shall be paid by each of the parties at the time of attendance at the seminar.

Informational brochures are available from the Assignment Commissioners. Counsel filing a divorce or legal separation action shall provide a copy of such brochure to the plaintiff, and shall also provide a copy thereof to the Clerk for service upon the defendant. Counsel filing a dissolution of marriage action shall provide a copy of such brochure to each of the parties.

A Final Judgment Entry of divorce, dissolution of marriage or legal separation shall not be granted until a Certificate of Attendance at such informational seminar has been filed with the Clerk of Courts. The non-attendance of a parent who does not enter an appearance or contest the action shall not delay the filing of the final Entry; however the Court may require attendance by such parent before allowing any visitation privileges; and the non-attending parent may also be cited for contempt. For good cause shown, the Court may waive such seminar attendance.

- M. A party filing an appeal from an administrative decision of the Sandusky County Child Support Enforcement Agency shall mail a copy of the Notice of Appeal to the opposing party by regular mail at their last known address. The Clerk **shall not** accept a Notice of Appeal for filing unless a Certificate of Service is attached thereto. A format for a Notice of Appeal and a Certificate of Service are available from the CSEA.

RULE 24 Partition

- A. Attorney fees shall be allowed in partition cases, which shall be taxed as costs, based upon the appraised value of the property involved if it is partitioned, or upon the gross proceeds from the sale of the property if it is sold, as follows:

1. Ten per cent (10%) of the first one thousand dollars (\$1,000); plus
 2. Six per cent (6%) of the next four thousand dollars (\$4,000); plus
 3. Four per cent (4%) of the next five thousand dollars (\$5,000); plus
 4. Two per cent (2%) of all over ten thousand dollars (\$10,000).
- B. If an action for partition is terminated other than upon the merits, attorney fees shall be allowed based upon the reasonable value of the services provided, commensurate with the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the service properly.
- C. Such attorney fees shall be awarded to counsel for the plaintiff, unless the Court finds that services were also performed by other counsel which accrued to the common benefit of all the parties, in which case a portion of such attorney fees may be awarded to such other counsel.

RULE 25 Judicial Sales of Real Estate
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- A. In every action wherein a demand is made for the judicial sale of real estate the party demanding such sale shall attach to the Complaint one of the following types of documents to certify the title to the premises which are the subject of the action: (1) a Preliminary Judicial Title Report, issued by a title company authorized to do business in the State of Ohio; or, (2) an Attorney's Certificate of Title. Such title document shall state substantially as follows:
- “This is to certify that an examination of the public records of Sandusky County, Ohio, has been made to determine the ownership of the subject real estate, and to identify all parties who might claim any interest therein; and that, in the opinion of the undersigned, all such parties have been named as parties to this action.” (or, stating as an exception, any interested party not so named).
- B. Upon any decree subsequently issued which orders the sale of the real estate, the party demanding such sale shall file an up-date to the prior title document, which shall state substantially as follows:
- “This is to certify that the prior title examination of the subject real estate has been extended to the current date, to determine if any parties have acquired any interest therein subsequent to the previous title examination; and that, in the opinion of the undersigned, there are no such parties except parties to whom the doctrine of **lis pendens** applies.” (or, stating as an exception, any party not subject to **lis pendens**).
- C. The expense of procuring such title documents shall be taxed as costs in the case.
- D. The County Auditor will not accept a Sheriff's Deed for transfer of record title for the property sold unless the real estate description has been approved by the G.I.S. (fka Tax Map) Office. Therefore it is recommended that, prior to filing the Complaint, counsel should present the real estate description to such office for approval, to save a delay in the approval of the Judgment Entry Confirming Sale. The real estate description that is contained in the Complaint, the Entry of Foreclosure, the Order of Sale, and the Entry Confirming Sale must be legible, with a font size no less than 12. The Clerk or Sheriff may reject any such pleading that does not comply with such requirement.
- E. An Order of Sale (form available from Clerk of Courts) shall be prepared by counsel for the party demanding the sale, and the following data shall be set forth immediately following the legal

description of the real estate: volume and page of the last recorded document of title (deed, not a mortgage); Auditor's permanent parcel number; the address or location of the premises being sold.

- F. The Sheriff shall have access to the interior of buildings for the appraisal required under an Order of Sale, if, prior to conducting the appraisal, the Sheriff receives a written request, from any person, for an appraisal of the interior of buildings **and** such person furnishes the Sheriff with a key to all locked buildings. If there is no such request received by the Sheriff, the appraisal of locked buildings shall be made from the exterior only; and the Legal Notice of Sale shall state that the appraisal was made from the exterior only. The purchaser always takes the premises "As Is", without any warranties.
- G. The Clerk may require the party demanding the sale to furnish an additional cost deposit, prior to publication of the Legal Notice of Sale, to secure the cost of publication thereof.
- H. Immediately following the first publication of the Legal Notice of Sale in the newspaper, counsel for the party demanding the sale shall mail a copy of such Legal Notice to all parties or their counsel of record, and file a Certificate of such mailing with the Clerk.
- I. The Sheriff, deputy, or party conducting the sale shall, prior to commencing the bidding, announce that the successful bidder shall have fourteen (14) days from the date of the sale to secure an examination of the title to said real estate, and to file a Motion to set aside the sale, in the event such examination discloses that the title so purchased is unmarketable by reason of any defect in the proceedings or the existence of any interest not disclosed in either of the title documents heretofore required. If the Court, upon hearing thereof, finds said title to be unmarketable, the Court may refuse to confirm the sale; however, no liability may be imposed on counsel or the title examiner for such defective proceedings or title documents. However, the Court may also fix a reasonable time, not to exceed ninety (90) days, within which any defects may be corrected, and thereafter confirm the sale.
- J. The successful bidder shall, upon acceptance of the bid, deposit with the Sheriff 10% of the bid; the remaining 90% thereof shall be paid upon confirmation of the sale and delivery of the deed. The purchaser shall not be required to pay the balance of the bid until thirty (30) days after the filing of the Entry confirming the sale; however the purchaser may waive such waiting period.
- K. The Judgment Entry ordering distribution of the sale proceeds shall provide for distribution by the Sheriff of the sale proceeds, in general terms, as follows:
 - 1. To the Clerk; the court costs, which shall include the Sheriff's fees, poundage and deed fee.
 - 2. To the Treasurer; all real estate taxes, including penalties and interest, due and payable to the date of distribution.
 - 3. To the Auditor; the conveyance fees levied by R.C. 319.54(F)(3) and R.C. 322.02.
 - 4. To the first lienholder, (*state name*); payment in full of its judgment, or, balance of sale proceeds to apply on its judgment lien
 - 5. To any additional lienholders, according to their priority (itemize)
 - 6. To the Clerk of Courts; any remaining funds, pursuant to R.C. 2329.44

Note 1. Occasionally the sale proceeds are not paid to the Sheriff in time to prevent the imposition of additional penalties and interest on the real estate taxes due as set forth in the Entry. In such instances, the Sheriff shall pay such additional penalties and interest, in addition to the amount stated in the Entry, and shall reduce the last amount to be distributed under the Entry by such additional amount.

Note 2. If the successful bidder is the first lienholder, and the bid is less than the amount due said lienholder, the Entry shall not require that the purchaser pay any funds to the Sheriff. Instead, the Entry shall require the purchaser to issue separate checks to the following entities: (1) the Clerk, for all costs of the case, including the Sheriff's fees; (2) the Treasurer, for all taxes due and payable; and (3) the Auditor, for the conveyance fee (\$1.00 per \$1,000) levied by R.C. 354.19(F)(3). The \$3.00 per \$1,000 fee levied by R.C. 322.02 is generally not required (see Opinions of the Attorney General, No. 82-102). The Sheriff will not issue the Deed until proof of payment of these items is provided.

RULE 26
Appraiser's Fees

A. Appraiser's fees, in actions relating to both real and personal property, shall be allowed as follows, without court approval:

1. Fifty cents per thousand dollars (\$.50 per \$1,000) of appraised value, with a minimum fee of twenty-five dollars (\$25.00).
2. Notwithstanding the foregoing paragraph, each appraiser of real estate shall be entitled to receive a minimum fee of fifty dollars (\$50.00) per parcel of real estate appraised.

RULE 27
Forcible Entry and Detainer

A. If a Writ of Restitution of Premises is issued to the Sheriff, by any Court, pursuant to R.C. 1923.13, the Sheriff shall be responsible for the execution of said Writ. However, the Sheriff shall require the plaintiff to provide the necessary man-power, at its own expense, to physically remove the defendant's property from the premises. If the defendant has vacated the premises, any property remaining thereon shall be deemed abandoned, and the plaintiff may dispose of it in any manner as it sees fit. If the defendant has not vacated the property, the Sheriff shall cause any property located thereon to be removed to a licensed storage facility, and the plaintiff shall pay the first month's storage fees. The plaintiff's actual expenses for such removal and storage may be taxed as costs. After removing the property from the premises into storage, the Sheriff shall provide the defendant with the following information: (1) the location of storage, (2) notice that the defendant shall be responsible for payment of all storage charges after the first month, and (3) notice that the storage facility may dispose of the property, in the manner provided by law, if the defendant fails to pay future storage charges.

RULE 28
Appeals from Administrative Agencies

A. Except as otherwise provided by specific rule, statute, or Order of Court, in all cases originating in administrative agencies and appealed to this Court, the following briefing schedule shall be followed:

1. The Appellant's Brief shall be filed within thirty (30) days after the record is filed by the administrative agency.
2. The Appellee's Brief shall be filed within fourteen (14) days after service of Appellant's Brief.
3. The appellant may file a Reply Brief within seven (7) days after Service of Appellee's Brief.

<p style="text-align: center;">RULE 29 Receiverships</p>
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A. In all cases where receivers are appointed by this Court, the following procedure shall apply:

1. Unless the Court by entry specifically authorizes the continuation of a business, the receiver shall promptly take control of the assets of the defendant debtor and cause the same to be inventoried and appraised; give notice to all known creditors by publication; afford the creditors an opportunity to present and prove their claims; determine the validity and priority of all claims presented; take such steps as may be necessary to reduce the assets to cash; and make distribution thereof to the creditors.
2. Within sixty (60) days after being appointed, the receiver shall file an inventory and appraisal of assets, and an account of receipts and disbursements to date. The several matters herein referred to shall be considered by the Court, and approval thereof shall be by entry, after due notice to the creditors.
3. Semi-annually thereafter, the receiver shall file consecutively numbered reports as to all activities of the receivership since the last report, and outline the plans of the receivership during the next six months.
4. In cases involving receivers appointed to take charge of property and to collect rents and other income, the receiver may expend funds, without first having obtained court approval thereof, to pay insurance premiums, utility bills, and such emergency repairs as are necessary for the preservation of the property. All other expenditures shall require prior approval of the Court.
5. In all receiverships in which the appraised value of the property is in excess of \$1,000, the receiver shall file a report in advance of any sale, either public or private, of the estimated expenses to be incurred in conducting the sale.
6. No payment of fees and expenses may be made to the receiver or Counsel for the receiver except upon written motion, accompanied by an itemized statement, setting forth the time spent on enumerated items since the last application for payment of fees, the amount of funds on hand, the current status of the receivership, and an estimate of the amount of time and expenses necessary to conclude the work of the receivership. Notice of hearing thereon and an opportunity to file objections shall be given to the creditors.
7. Failure to file an inventory and appraisal, accounts, or other reports as required by this rule shall constitute just cause for the removal of the receiver and/or counsel for the receiver, and/or for withholding of their fees.

RULE 30
Guardians ad Litem

- A. No person other than an attorney at law admitted to practice in the State of Ohio shall be appointed guardian ad litem or trustee for the suit in any matter or proceeding in this Court. The compensation of a trustee for the suit shall be at the discretion of the Court.

In certain circumstances wherein the parties are indigent and self-represented, the Court may appoint a non-attorney C.A.S.A. as a guardian ad litem however said C.A.S.A. may not act as attorney in the case. The fees for the C.A.S.A. will be determined on a case by case basis.

- B. A guardian ad litem shall be allowed a fee based on the following hourly rates:
1. Fifty-five dollars (\$55.00) per hour for in-court work;
 2. Forty-five dollars (\$45.00) per hour for out-of-court work.
 3. Necessary expenses (travel, long distance telephone, etc.), are reimbursable.
- C. Upon a Motion filed by the guardian ad litem (see Form J), the guardian reports shall not be considered a public record and access will be restricted. The reports will thereafter be maintained privately by the Court.

RULE 31
Notaries Public

- A. The Court may appoint a Notary Commissioner, or Commissioners, who shall be charged with the responsibility of requiring an applicant to complete a written application, and who shall evaluate or conduct an examination of the applicant to determine whether the applicant possesses the necessary qualifications as outlined in Chapter 147 of the Revised Code of Ohio. Such examination shall not be required of persons seeking a renewal of an active notary public commission in this state.
- B. An unsuccessful applicant may appeal directly to the Judge and shall be entitled to a prompt review, or may make application for a re-examination. Every unsuccessful applicant shall be notified by the Commissioner of the reason for rejection of the application.
- C. A person admitted to practice law in this State, or certified by a Judge of this Court as an official Court Reporter, shall not be required to take an examination for appointment as a notary.

RULE 32
Bail and Surety Bonds

- A. Attorneys and other officers of the Court shall not be accepted as bail or surety, and no bond shall be approved having the name of such persons thereon as surety. The Clerk shall have authority to determine what persons or corporate sureties are acceptable for filing bonds with the Court.

RULE 33
Mandatory Arbitration

- A. Arbitration is available under Rule 15 of the Rules of Superintendence.

RULE 34
Transcripts

- A. The furnishing of a transcript by the Official Court Reporter, and the compensation of the Reporter for such service, shall be as provided in R.C. 2301.21, et seq..
- B. No transcript, except in indigent criminal cases, shall be commenced by the Official Court Reporter until there has been deposited with the Reporter a sum equal to the estimated cost thereof. In the event the deposit is not sufficient to cover the actual cost of the transcript, the transcript shall not be delivered to the party requesting the same until the balance of the cost has been paid. In the event the deposit is greater than the actual costs of the transcript, the excess deposit shall be refunded upon the filing of the transcript.

The Official Court Reporter shall file and carefully preserve in his office all notes or other records of testimony, and items submitted as evidence, for a period of ten (10) years, or until final disposition of the case, whichever is later.

RULE 35
The Grand Jury

- A. The Court shall impanel a new grand jury for the four-month terms beginning on January 1, May 1, and September 1 of each year.
- B. All grand jury proceedings, except deliberations and voting, shall be recorded, as provided in Criminal Rule 22.
- C. An unintentional failure of any recording device to reproduce all or any portion of a proceeding shall not affect the validity of an indictment issued by the grand jury with respect to such non-recorded proceedings.
- D. The records of the grand jury proceedings, including transcripts of testimony, are not public records, and shall remain in the custody and control of the prosecuting attorney unless otherwise ordered by the Court in a particular case, and shall be kept for a period of ten (10) years.

RULE 36
Criminal Procedure

- A. Inasmuch as the Court does not have a general duty or arraignment Judge, the Clerk shall assign criminal cases to a Judge at the earliest opportunity, i.e., upon the filing of a bind-over transcript or the filing of an Indictment or Information.

- B. "Secret Indictments" returned by the grand jury are not public records; they shall be kept in the Clerk's safe, and shall not be entered in the index, until the defendant has been arrested or arraigned.
- C. The Court uses the assigned counsel system rather than a public defender for indigent defendants, and attorneys desiring to be appointed as counsel in criminal cases shall make such fact known to the Judges.
- D. Assigned Counsel shall file their Application for fees and expenses (original and 3 copies) with the Clerk no later than thirty (30) days after the date of their last legal services in the case. If counsel desires a file-stamped copy of the Application to be returned, an extra copy with a stamped self-addressed envelope must be provided. In the event a defendant is sentenced to an institution, and counsel intends to file a Motion for Judicial Release, the filing of the application for fees and expenses may be deferred until after the filing of and the ruling on such motion. In the event the Application for fees and expenses is not timely filed, and as a result thereof the County does not receive full reimbursement from the State Public Defender Commission, payment to counsel may be reduced in a like amount.
- E. The Court may create a Specialized Docket for drug addicted and/or mentally ill defendants. The dockets will comply with the rules promulgated by the Supreme Court governing such dockets.

<p>RULE 37 Civil Protection Orders</p>

- A. A Petition for a Civil Protection Order shall be verified and comply with the requirements of the Ohio Revised Code. It shall contain therein the names, dates of birth and social security numbers of the Petitioner, Respondent, and family or household members for whom protection is sought. Where protection is sought for a minor child, the Petition shall be accompanied by a UCCJA form.
- B. Petitioners not represented by counsel may obtain appropriate forms from the Clerk of Court. Forms may be filled out in longhand or typed, but all questions must be completely answered. Incomplete forms may be rejected for filing by the Clerk. Pro se Petitions must be reviewed by the Victim's Witness Advocate at the Sandusky County prosecutor's office before filing with the court.
- C. No Petitions will be accepted for filing with the Clerk after 2:00 pm. Such Petitions will be filed and accepted at the open of business on the next day.
- D. The assignment commissioner must be contacted to arrange for an *ex parte* hearing. Such hearing will be scheduled as soon as it can be reasonably scheduled on the same day the Petition is filed with the Clerk.

EFFECTIVE DATE: REPEAL

- A. This is a complete revision of the Local Rules of this Court. These revised rules shall be effective April 15, 2011, and shall govern all proceedings and actions brought thereafter, including proceedings in actions then pending, except to the extent that their application in a particular action then pending would not be feasible, or would work an injustice, in which event the former procedure shall apply.
- B. All former rules of this Court are repealed as of the foregoing revision date.