

# **RULES OF THE COURT OF COMMON PLEAS HOCKING COUNTY**

## **General Division and Domestic Relations Division**

**Effective January 28, 2010**

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It is Ordered that the following Rules be and they are hereby adopted for the governance of the practice and procedures in the General Division and Domestic Relations Division, Court of Common Pleas, Hocking County, Ohio, until otherwise provided, pursuant to Article IV, Section (5) of the Ohio Constitution, to Rule 83 of the Rules of Civil Procedure and to the Rules of Superintendence promulgated by the Supreme Court of Ohio.

### **1. TERMS OF COURT: HOURS OF SESSION**

(A) The Court shall be in continuous sessions for the transaction of judicial business but for the purpose of Chapter 2313 of the Revised Code each calendar year shall be divided into three (3) parts, Part One (1) commencing January 1 and ending April 30, Part Two (2) commencing May 1 and ending August 31, and Part Three (3) commencing September 1 and ending December 31.

(B) The sessions of the Court generally shall be daily Monday through Friday from 8:30 A.M. to 12:00 N. and from 1:00 P.M. to 4:00 P.M.

(C) The Court shall be in session at such other times and hours as the judge shall prescribe to meet special situations or conditions.

### **2. DOCKETS**

The Clerk of Courts shall prepare and maintain for the use of the judge the following dockets:

(A) A general Appearance Docket consisting of Civil and Criminal parts.

(B) A journal consisting of Civil and Criminal parts.

(C) An Execution Docket.

(D) A separate Court Docket for pending cases.

### **3. OFFICIAL REPORTER**

(A) In every case reported by the official reporter, the trial judge shall make an appropriate entry taxing the statutory fee for each day's such service to be collected as other costs in the case. The compensation of the reporter for making transcripts and copies shall be paid forthwith to the reporter by the party for whose benefit the same is made. No bill for any transcript ordered by the judge shall be approved unless the same bears a certificate by the reporter that the charge therefor is fair and in conformity with law. The reporter shall not be required to prepare a transcript for any attorney until satisfactory arrangements for payment have been concluded.

(B) A CD-ROM recording of any public proceeding taken in the electronic courtroom can be obtained by filling out a Request for CD-ROM Recording form with the Official Reporter, and paying a charge of \$15.00, per disc to the Clerk of Courts, which will be paid into the Special Projects Fund. You will be contacted when your CD-ROM is ready for pick up.

### **4. SECURITY FOR COSTS**

(A) No civil action or proceeding shall be accepted by the Clerk for filing unless the party or parties offering the same for filing shall have first deposited a sum to secure the payment of the costs that may accrue in such action or proceeding, except as otherwise provided by law. Such advance deposit shall be in accordance with the following schedule:

Pursuant to the authority granted by O.R.C. 2303.201(E)(1), the General Division of the Hocking County Common Pleas Court hereby determines that for the efficient operation of the Court additional funds are necessary to acquire and pay for special projects of the Court. It is therefore ORDERED, ADJUDGED AND DECREED that additional fees shall be charged against criminal causes, civil actions or proceedings, and judgment by confession in the following manner:

Answer & Counterclaim (if service required).....	\$25.00
Jury Demand Deposit - Shall be due and payable within 30 days of filing the jury demand. The deposit shall be \$400.00. Unless the deposit is timely made, the demand for jury trial is waived, and the matter shall be tried to the Court.	
Certificate of Judgments ..... filing	\$28.00
..... prepare	\$5.00
..... release	\$5.00
..... state release	\$25.00
Civil Action (5 or less defendants).....	\$170.00
Civil Action (6 or more defendants) .....	\$195.00
Foreclosure .....	\$700.00
Cognovit Action .....	\$105.00
Dissolution .....	\$180.00
Divorce with Children.....	\$205.00
Divorce without Children, alimony, annulment .....	\$180.00
Motion for home invest .....	\$100.00
Motion to modify .....	\$100.00
Reopen cases previously terminated with an agreed entry .....	\$100.00
PLUS an additional \$1.00 per page entry	
Expungements.....	\$50.00
Foreign judgment.....	\$15.00
Garnishment .....	\$58.00
Notice of Appeal (Court of Appeals).....	\$85.00
Proceedings in aid of execution .....	\$100.00
Replevin .....	\$155.00
Reparation Fee (criminal case).....	\$45.00
Judgment Debtor Exam .....	\$58.00
Treatment in Lieu of Conviction .....	\$100.00

On cases being transferred to the Common Pleas Court in which the prayer of the counter-complaint exceeds the monetary jurisdiction of the Municipal Court, the counter-claimant shall post security for costs in a sum equal to the amount required if the case was originally filed in this Court.

(B) In cases with multiple parties, the Clerk may require the party requesting service to advance an amount estimated by the Clerk to be sufficient to cover the cost thereof.

(C) a. The deposit of court costs shall be satisfied by an indigent person upon the filing of both of the following:

1. A poverty affidavit which states that the party is without funds or assets to pay the deposit.

- 2. A certification by the attorney, if any, that no attorney fees have been paid.
- b. The party is not relieved from liability for court costs, only the initial deposit requirement.
- c. The Court may order the party to pay the deposit at a later date if the Court determines that the party is no longer indigent.

A poverty affidavit filed in lieu of a cash deposit must state the reasons for the inability to prepay costs and is subject to court review at any time.

(D) In cases set for jury trial a cost to offset the expense of summoning the jury and that of all jurors summoned but not seated shall be assessed against the parties. The jury shall be summoned 10 days in advance of the trial unless the assignment commissioner is notified otherwise on the weekday immediately preceding the 10<sup>th</sup> day prior to trial.

In Re: Computerization Fund for the Office of the Clerk of Common Pleas Courts and raising the Computerized Legal Research Fund

Application is being made to establish the Computerization Fund for the Office of the Clerk of Courts as per Section 2302.201 (B)(1) of the Ohio Revised Code at \$15.00 and to raise the fee established in Section 2303.201 (A) to \$3.00 both effective May 1, 2002. The purpose of the Computerization Fund is to procure and maintain computer systems in the office of the Clerk of Common Pleas Courts. There presently being no fund established for said purpose of procuring and/or maintaining computer system for the office of the Clerk of Common Pleas Courts and funds being necessary for the efficient operation of the courts.

\_\_\_\_\_/s/\_\_\_\_\_  
Narcie Stahr, Clerk of Courts

Upon application of the Clerk of Common Pleas Courts, the court finds that for the efficient operation of the courts, additional funds are required for the Computerized Legal Research Fund and Computerization Fund for the office of the Clerk of Common Pleas Courts.

IT IS THEREFORE ORDERED that effective May 1, 2002, the Clerk of Common Pleas Courts is authorized and directed to charge a fee of \$3.00 for the Computerized Legal Research Fund per Section 2303.201 (A) and a fee of \$15.00 for the Computerization Fund for the Office of the Clerk of Common Pleas as per Section 2303.201 (B)(1). It is further ORDERED that the Hocking County Auditor and Hocking County Treasurer shall establish a separate fund for the Computerization Fund for the Office of the Clerk of Common Pleas Courts and that all fees collected and interest earned thereon from both the Computerized Legal Research Fund and the Computerization Fund for the Office of the Clerk of Common Pleas Courts shall be deposited in said funds. No monies shall be disbursed from the funds without the order of the court per Section 2302.201

**5. PLEADINGS AND MOTIONS**

(A) All pleadings and motions shall be legibly typewritten or printed on paper, securely bound at

the top and unfolded. Except as provided in (F) copies produced by facsimile machines and the like, if offered as the original, will, sua sponte, be ordered stricken from the files. The caption in every complaint shall state the name and address, if known, of each party. Subsequent pleadings and motions shall state the number of the case, the name of the judge to whom the case is assigned, the name of the first party plaintiff and the first party defendant on each side. Every pleading, motion, brief or other paper filed in a cause shall be identified by title and shall bear the name (written, typewritten, or printed) of the individual attorney, the firm, if any, office address, Supreme Court number and telephone number of counsel filing the same, or if there be no counsel, then of the party filing the same. This latter requirement shall also be applicable to the names of Notaries Public.

(A) 1. Protection of Personal and Private Information in Records of the Court

The following information is deemed "personal and private" and may not be included in a public record:

1. social security number;
2. full financial account number (it may be listed as e.g. "-----1234"); and any other information deemed personal and private by any federal or state statute, regulation, executive order, or court ruling.

It is the responsibility of the filing party and counsel to remove personal and private information from a document filed with the clerk of court's office. The responsibility of the filing party and counsel to remove personal and private information extends to and includes exhibits or addenda attached to filings, such as preliminary and final judicial reports which itemize state tax liens that use social security numbers as case numbers, or medical records.

The clerk of courts and deputy clerks shall have no responsibility for the removal of any personal and private information filed in a public document in the Hocking County clerk of court's office.

Personal and private information must be submitted in a separate filing which will be deemed by the court as a non-public record. The information will be kept in a separate envelope within the case filed marked as follows:

**The enclosed personal and private information has been deemed by the court as non-public. It is for the use of the court, attorneys of record listed in the case, and clerk of court's office only. Any other person must have a court order to view the contents of this envelope. Violation of this order shall be contempt of court.**

Journal entries that necessarily include personal and private information must be submitted to the clerk of court's office as follows: a copy that includes the personal and private information for placement in the non-public envelope and a copy with personal and private information redacted for placement in the public file. The copy not containing the personal and private information (for the public file) will have the notation "redacted" at all places in the document where such information was removed. The court will sign both journal entries.

The clerk of courts will not remove any personal and private information from a stamp-filed document, including records or transcripts transmitted to this court from another court, without a court order to do so. The clerk of courts may refuse to accept for filing any document that contains personal and private information that has not been redacted or submitted in accordance with this order.

Any personal and private information in documents filed prior to the implementation of this rule is considered public. Any personal and private information in records or transcripts transmitted to this court from another court is considered public. A party or an attorney in a case, or any other person whose personal and private information is contained in a public record of this court may petition the court for the removal of personal and private information, and if the request is granted, the personal and private information will be removed from a stamp-filed document and placed in a separate envelope and deemed a non-public record. The petition shall contain the caption of the particular case.

All public documents filed with the clerk of court's office will be imaged and may be placed on the clerk of court's website for viewing.

(B) In all pleadings, motions and the other papers hereafter filed, a blank space of at least two (2) inches shall be left at the top of the first page for endorsements therein by the Clerk. On the inside of each manuscript cover, at the foot thereof, the name, address and telephone number of counsel filing the same shall be typed, printed or stamped.

(C) The complaint shall state in the caption the general nature of the action. The Clerk is authorized to refuse to accept for filing any case that does not contain a Case Designation Form indicating the category of the cause and any related cases.

(D) Civil Rule 12, prescribing Rule Day for pleadings, will be strictly enforced. However, parties may obtain an extension of time, not to exceed thirty (30) days in which to answer, plead or otherwise move, when no such prior extension has been granted, by filing with the Clerk a written stipulation approved by all counsel providing for such extension. The stipulation shall affirmatively state that no prior extension has been granted. Neither the stipulation nor any entry to that effect need be submitted to the Court for the initial extension. If no such stipulation is obtained, or if an additional extension beyond the initial stipulated period is requested, the party desiring an extension must obtain approval of the Court.

(E) Pleadings and motions may be amended as provided in Civil Rule 15, but no pleading or motion shall be amended by interpretation or obliteration except upon leave of court first obtained; upon the filing of an amended pleading or motion the original or any prior amendment thereof shall not be withdrawn from the files except upon leave of the court.

In any dissolution wherein one party is represented by counsel and the other party is not, an acknowledgment of legal representation shall be included and filed with the petition.

In every dissolution and divorce a financial disclosure statements shall be signed by the parties, under oath or affirmation, and shall be filed with the petition in a dissolution, and with each party's pleadings in a divorce. It shall include a list of all real estate with the declaration "none" if no real estate is owned by either of the parties.

(F) In submitting interrogatories and requests for admissions, counsel shall file a facsimile copy with the court and shall mail the original copy and two other copies to opposing counsel leaving

sufficient space between each interrogatory or request for admission to permit opposing counsel to type the answer directly beneath the question. Opposing counsel shall type the answer or objection to each question on the original copy and file the same with the court within twenty-eight (28) days unless the court shortens the time. When interrogatories are filed simultaneously with the original complaint they shall not be annexed to the pleading and must be under separate cover. Counsel shall provide sufficient copies for each defendant in order that a copy may be served upon the defendant at the time of the service of the summons and the copy of the original complaint. It is the responsibility of counsel for the defendant upon being retained to request the original copy of the interrogatories and follow the procedure outlined in the preceding paragraph.

An objection to an interrogatory will be noted as such below the particular interrogatory but discussion thereof must be submitted on a separate page with appropriate caption as provided in Rule 8 (E) herein.

## **6. SERVICE OF COPIES AND NOTICE**

See Civil Rules 4 and 5.

## **7. MAIL SERVICE**

See Civil Rule 4.

## **8. HEARING AND SUBMISSION OF MOTIONS: OBJECTIONS TO INTERROGATORIES**

(A) Motions, in general, shall be submitted and determined upon the motion papers hereinafter referred to. Oral arguments of the motions will be permitted on application and proper showing.

(B) The moving party shall serve and file with his motion a brief written statement of reasons in support of the motion and a list of citations of the authorities on which he relies. If the motion requires the consideration of facts not appearing of record, he shall also serve and file copies of all affidavits, depositions, photographs or documentary evidence he desires to present in support of the motion.

(C) Each party opposing the motion shall serve and file within seven (7) days thereafter a brief written statement of the reasons in opposition to the motion and a list of citations of the authorities on which he relies. If the motion requires the consideration of facts not appearing of record, he shall also serve and file copies of all affidavits, depositions, photographs or documentary evidence which he desires to submit in opposition to the motion.

(D) Reply or additional briefs upon motions and submissions may be filed with leave of the court only upon a showing of the necessity therefor.

(E) Objections to interrogatories. Objections to interrogatories shall included, immediately preceding any discussions and citation of authority, the interrogatory in full to which objection is made.

(F) Counsel are encouraged to participate in pretrial discovery conferences to reduce, in every way possible, the filing of unnecessary discovery procedures. To curtail the undue delay in the

administration of justice, no discovery procedure filed under Rules 26 through 37 of the Rules of Civil Procedure to which objection or opposition is made by the responding party shall be taken under consideration by the Court, unless the party seeking discovery shall first advise the Court in writing that after personal consultation and sincere attempts to resolve differences they are unable to reach an accord. This statement shall recite those matters which remain in dispute, and in addition, the date, time and place of such conference, and in names of all parties participating therein. It shall be the responsibility of counsel for the party seeking discovery to initiate such personal consultation.

(G) Sanctions. The presentation to the Court of unnecessary motions, and the unwarranted opposition of motions, which in either case unduly delay the course of an action through the Courts, subject an offender to appropriate course of action including the imposition of costs and attorneys fees.

(H) All pleadings and briefs containing references to statutes or regulations shall have attached thereto a copy of the statute or regulation.

## **9. DEPOSITIONS**

See Civil Rules 26, 27, 28, 29, 30, 31, 32, 37 and 45 (D)

See Rule 13 of the Rules of Superintendence for the Courts of Ohio

In addition to the above the Court has an evidence presentation system for use at trial. It is the responsibility of the using party to:

- (A) Notify the court reporter of intended use at least three (3) working days prior to trial;
- (B) Ensure that the videotape or DVD is compatible with the Court's equipment.

## **10. ASSIGNMENT OF CIVIL CASES FOR TRIAL**

(A) The scheduling of civil cases for pretrial will be handled by the Assignment Commissioner

(B) The scheduling of a civil case for trial will be accomplished by the Judge. A trial date will be set as the Judge decides or at the conclusion of the pretrial when no settlement has been effected.

(C) Previously arranged commitments of attorneys in any state court of record, the U.S. District Court, or other branches of this Court shall be honored when considering the setting of trial dates.

(D) 1. If a plaintiff, either in person or by counsel, fails to respond, the Judge shall enter an order dismissing the action for want of prosecution. If a defendant, either in person or by counsel, fails to respond, and the plaintiff does respond, the Judge shall order the plaintiff to proceed with the case and decide and determine the matter ex parte.

2. If a party or counsel responds but shows good cause as to why he is not ready for trial, the Court shall make such order or orders it deems proper. If a party or counsel responds but indicates that he is not ready for trial without showing good cause for his unreadiness, the Court, if such party is a plaintiff, shall enter an order to dismissing the action for want of prosecution or, if a defendant, order the plaintiff to proceed with the case and determine all matters ex parte.

## **11. ADVANCING OF CASES**

No case shall be advanced for pretrial or trial out of its regular order except upon order of the Court. All motions to advance must be accompanied with a brief citing in detail the reasons for the request.

(A) No cases in which a date certain has been fixed for trial shall be passed without the authorization of the Court. For good cause shown the Court may allow a case awaiting trial to be passed once for a period not to exceed thirty (30) days, provided a written motion containing the consent of counsel for all litigants is submitted to the Court not later than seven (7) days before the trial date. If the motion is not approved by the Court, the case shall proceed as originally scheduled.

(B) Cases stayed by reason of a party being in the Military Service or by order of Bankruptcy or other Court shall not be deemed included with the operational the aforesaid rule.

## **13. GENERAL CALL OF THE DOCKET**

At least once each six (6) months the Court shall review all the actions on the civil docket, except cases awaiting trial assignment, pending and undisposed of in which no pretrial statements shall be been submitted or no steps or proceedings appear to have been taken within six (6) months.

Notice of calls of the docket shall be given to all attorneys of record in each case to be called. If none of the parties or their attorneys appear at the time and place stated for call and make answer when an action is called, the Court shall enter an order dismissing the action for want of prosecution.

The Court may make such orders as may facilitate the prompt and just disposition of any action. If an action is at issue, the Court may order a pretrial conference, or may order it set down for final disposition on a specified date, or may place it on a calendar for trial or hearing in due course.

## **14. JOURNAL ENTRIES**

(A) When ordered or directed by the Court, counsel for the party in whose favor a calendar entry, order, judgment or decree is entered in a cause in Civil or Domestic Relations Division shall, within ten (10) days thereafter unless the time be extended by the Court, prepare a proper journal entry and submit the same to counsel for the opposite party who shall approve or reject the same within three (3) days after its receipt by him and may, in case of rejection, file objections thereto in writing to the Court.

The judgment entry specified in Ohio Civil Rule 58 shall be journalized within thirty (30) days of the verdict, decree or decision. If such entry is not prepared and presented for journalization by counsel, then it shall be prepared and journalized by the Court.

The Court shall approve a journal entry deemed by it to be proper, sign the same and cause it to be filed with the Clerk, and notice of the filing of each journal for journalization shall be mailed to all counsel of record.

All support withholding orders in dissolutions shall be filed with the decree. The clerk is authorized to refuse the decree for filing if not accompanied by such orders.

In all other domestic cases the withholding orders attendant to an entry requiring support shall be filed within 7 days of the entry. The clerk is authorized to require any attorney who is habitually delinquent in complying with this rule to file withholding orders contemporaneously with entries.

**(B) REQUEST FOR FINDINGS BY THE COURT**

When a request for finding of fact and conclusions of law is made, the Judge may direct the party making the written request to prepare, within five (5) days, proposed findings of fact and conclusions of law and submit them to the opposing counsel. Within ten (10) days after its receipt by the opposing counsel, the proposed findings shall be submitted to the court with objections and counter proposals, if any, in writing; however only those findings of fact and conclusions of law made by the Court shall form part of the record.

Amendment. Upon motion of a party made within ten (10) days after the filing of the findings, the Court may amend the findings, make additional findings and may amend the judgment accordingly. The motion may be made with a motion for a new trial. When findings of fact are made in actions tried by the Court without a jury, the question of the sufficiency of the evidence to support the findings may thereafter be raised whether or not the party raising the question has made in the trial court an objection to such findings or has made a motion to amend or a motion for judgment.

**15. COURT FILES AND PAPERS**

No person without consent of the Judge shall remove any Court papers, files of the Court or parts thereof from the custody of the Clerk.

**16. PRETRIAL PROCEDURE**

For the purpose of insuring the readiness of cases for pretrial and trial the following procedure shall be in effect.

A pretrial conference shall be conducted in all civil cases prior to being scheduled for trial, except in actions for injunctions, foreclosures, marshaling of liens and partition. In addition, the Court may for good cause shown waive the pretrial requirements stated herein.

The Assignment Commissioner within sixty (60) days after filing will schedule a pretrial conference.

**PART I. PRETRIAL STATEMENTS**

(A) At least one week prior to the scheduled pretrial hearing, counsels for both sides shall completely executed and file with the Court a separate Pretrial Statement on behalf of their respective clients. Before the submission of such statements, counsel must confer with each other and the statements must reflect the results of their conference. In the event of any unnecessary delay or failure to cooperate as required herein the Court shall invoke the sanction authorized under Ohio Civil Rule 37.

Copies of the Pretrial Statements shall be provided by the Court. However, exact reproductions may be used.

The Pretrial Statements will recite a brief description of the case and the injuries involved, will list item by item, the ascertainable damages such as medical expenses, lost earnings, property

damage, etc., will indicate the status of depositions and physical examinations, and reflect the lowest demand and highest offer. Since Ohio Civil Rule 16 authorizes the Court to require counsel to exchange the reports of medical and expert witnesses expected to be called by each party, the Pretrial Statement shall indicate full compliance with this aspect of the rule. The provisions of this rule shall apply to the extent to which they are appropriate to cases other than for the recovery of damages for injury to person or property. A counter claimant shall be considered a plaintiff and shall comply with provisions applicable to plaintiffs.

## PART II. PRETRIAL CONFERENCE

(A) For the purpose of insuring this rule “pretrial” shall mean a court supervised conference chiefly designed to produce an amicable settlement. The term “party” or “parties” used hereinafter shall mean the party or parties to the action, and/or his or their attorney or attorneys of record.

(B) Notice of the pretrial conference shall be given to all counsel of record by mail and/or by telephone by the Assignment Commissioner not less than fourteen (14) days prior to the conference. Any application for continuance of the conference shall be addressed to the assignment Commissioner.

(C) Counsel attending the pretrial conference must have complete authority to stipulate on items of evidence and admissions and must have full settlement authority.

(D) The primary purpose of the pretrial conference shall be to achieve an amicable settlement of the controversy in suit. If the Court concludes that the prospect of settlement does not warrant further Court supervised negotiations, then the Court shall act on any other matters which come before it at that time and efforts shall be made to narrow legal issues, to reach stipulations as to the facts in controversy and, in general, to shorten the time and expense of trial. The Court may enter a pretrial order to become part of the record of the case embracing all stipulations, admissions and other matters which have come before it. The Court shall at that time determine whether or not trial briefs should be submitted and shall fix a date when they are to file.

(E) After the pretrial conference, counsel may engage in further discovery proceedings, provided they do not result in delay of the case. In the event counsel request discovery proceedings that would cause a delay of trial, the right to such discovery shall be determined by the Court. The Court, however, reserves the right to set the case for trial before the completion of any further discovery without additional pretrials.

(F) All questions relating to the listening, consolidating and severing of cases shall be submitted to the Court. The Court, however, on its own motion, may consolidate or sever cases at any time before the taking of testimony begins.

(G) The Judge presiding at a pretrial conference or trial shall have the authority:

1. To dismiss an action for want of prosecution on motion of defendant upon failure of plaintiff and/or his counsel to appear in person at any pretrial conference or trial.

2. To order the plaintiff to proceed with the case and to decide and determine all matters ex parte upon failure of the defendant to appear in person or by counsel at any

pretrial conference or trial as required in (H) (2) of this Rule.

3. To make such other order as the Court may deem appropriate under all the circumstances.

(H) At all pretrial conferences:

1. Plaintiffs must be present if within the jurisdiction of the Court. If not within the jurisdiction, plaintiff's counsel must have authority to discuss all phases of the case and power to settle the case.

2. If within the jurisdiction of the Court, the defendant must be present except where the real party in interest is an insurance company, common carrier, corporation or other artificial legal entity in which a representative thereof with authority to negotiate and power to settle the case must be present.

3. Counsel must have full authority to negotiate and must have conferred with each other prior to the pretrial conference.

## **17. TRIAL PROCEDURES**

(A) Under superintendence Rule 9 the Court may promote the use of any device or procedure which would tend to facilitate the earlier disposition of cases.

(B) The Court may provide for the selection of the petit jury outside the court room and establish the procedure for the examination of the prospective juror.

(C) On the trial of an issue of fact, only one attorney for each party shall examine or cross-examine any witness, unless otherwise permitted by the Court.

(D) No attorney connected with the trial of an action shall himself, or through any investigator or other person acting for him, interview, examine, or question any juror with respect to the verdict or deliberations of the jury in the action except on leave of Court granted upon good cause shown.

## **18. SHERIFF'S SALES**

In every Sheriff's sale of real property the purchaser, as soon as his bid is accepted, shall be required to deposit in cash or by certified check payable to the Sheriff ten percent (10%) of the amount of such accepted bid. Where the amount bid is \$3,000.00 or less, the minimum amount of such deposit shall be \$300.00; and the maximum amount of such deposit in any case shall be 10,000.00. The unpaid balance of the purchase price shall be due and payable to the Sheriff within thirty (30) days from the date of sale.

Where the purchaser is the lienholder after the lien of costs, taxes and assessments, the Court may order, if the first lienholder is the successful bidder at the sale, that the required deposit be waived, and that all costs, taxes and assessments are paid upon receipt of a statement from the Sheriff of Hocking County.

On the Monday following the Monday on which the sales are made the Sheriff shall make his return to the Court and have the sales confirmed and deeds ordered. On the Tuesday following

such return and conformation the Clerk shall notify the Sheriff to prepare his deed to the purchaser. Such deed shall be prepared in conformity with R.C. 2329.36 and shall be delivered to the purchaser upon payment of the full purchase price and interest, if any.

## **ORDERS OF SALE OF REAL PROPERTY**

### **FORECLOSURE SALE**

#### **A. DEFINITION:**

A foreclosure sale is the sale of real property belonging to a judgment debtor pursuant to judicial order.

#### **B. PROCEDURES OF THE SHERIFF**

##### **1. Order of Sale** – Received from the Clerk of Courts

- The order is time-stamped, logged and indexed.
- The order must contain an approved "red stamped" or comparable, original property description form, from the certifying agency in your county. (i.e. tax map office, engineer, auditor etc.)
- Three appraisers are summoned and sworn. The appraisers must be disinterested freeholders and residents of the county (ORC 2329.17). The appraisers shall actually view the property, with or without the Sheriff.
- Every effort should be made to gain permission of the occupant to view the inside. The order does not authorize forcible entry. The appraisers may wish to document their appraisals with photographs, auditor's cards, multiple listing comparables, etc. Disclaimer to be used in the advertising if not interior view.
- The appraisers shall return to the Sheriff a signed report of appraisal, with a jointly agreed upon dollar amount.

**Note:** Multiple parcels under the same case number may be appraised, advertised, and sold separately or as one unless otherwise directed by the court. For parcels in more than one county, see ORC 2329.07, .34, .36 – Master Commissioners.

- The Sheriff deposits the appraisal report to the clerk of courts (ORC2329.18).
- The Sheriff shall immediately advertise (ORC 2329.38).
- The Sheriff may elect not to advertise until publication fees are prepaid.

##### **2. Advertising** (ORC 2329.26, .27)

- The ad must contain:
  - Name of common pleas court
  - Case caption and case number
  - Place, date and time of sale
  - Address (ORC 2329.23)
  - Legal description or location where the description can be obtained if your county has a permanent parcel numbering system, and you choose to use just the address or parcel number. If the parcel number is used, you must include the road/street and what roads/streets it is located between and which side of the road it is located on.
  - Description of improvements (optional)
  - Order of the court

- Terms of sale
- Sheriff's name
- Plaintiff's attorney's name
- Any open house viewing (abandoned or vacant property only)
- Add may be posted for public inspection
- Generally accepted is publication for three consecutive weeks, on the same day of the week, in a newspaper of general circulation in the county (ORC 2329.26, .27).

### 3. SALE

- Public auction must be conducted by the Sheriff or a licensed auctioneer (ORC 2329.151; 2335.021).
- Sale must be public at a place, date and time as advertised.
- Must read the sale add and terms of sale for each order.
- Property is sold to the highest bidder for not less than two-thirds (2/3) of the appraised value. The officer conducting the sale and appraisers of the property may not purchase the property (ORC 2329.39).
- The purchaser is identified and money is collected per terms of the sale. Plaintiff or other secured lien-holder is not required to make payment on day of sale, but is required to make 2% deposit of appraised value plus \$75.00 associated costs to the Sheriff. A procedure to be adopted by each county. 3<sup>rd</sup> Party purchases may require a higher down payment at time of sale. The terms of the sale are an administrative action of the Sheriff.
  - Recording fees to be deducted from this deposit.
  - Checking with Auditor for conveyance fee amount Conveyance fee to be deducted from this deposit
  - Sheriff fees to be deducted from this deposit.
  - Any overages are returned to the plaintiff or applied to the cost of the sale. (see local rules for disbursements of overages)
- Return shall be made within 60 days (ORC 2329.53) and shall reflect the action taken and the Sheriff's fees, i.e.: (ORC 311.17)
- Fees to be included in return:
  - Service and Return
  - Mileage
  - Summoning and swearing appraisers
  - Preparing the ad for printer
  - Poundage – 1.5% of monies made and paid to the Sheriff

**Note:** No poundage is collected when the property is purchased by one who is entitled to the whole of the proceeds of the sale (ORC 311.17). Usually the Plaintiff

  - Deed to be prepared by the attorney but deed prep fee of \$50.00 is collected
- Purchaser information form to be completed at time of sale. This becomes a part of the suit and returned to the clerk.

### 4. CONFIRMATION / DISTRIBUTION / DEED

- Confirmation is an order of the court, which must be filed within 30 days of the day of sale, attesting the legality of the sale and ordering the plaintiff's attorney to prepare a deed to the purchaser (ORC 2329.31).
 

**Note:** The right of redemption ceases when confirmation is docketed. Redemption occurs through the court.
- Permission for the purchaser to request a 'writ of possession' is generally included.

**Note:** The distribution entry should be checked for accuracy of fund distribution.

- Upon receiving the confirmation of sale, the Plaintiff's Attorney shall prepare a deed containing the following information: (ORC 2329.36)
  - Names of the owners of the property sold
  - Name of new owner (grantee)
  - Prior deed references
  - Date and amount of judgment
  - Substance of officer's return
  - Order of confirmation
  - Legal Description of property
  - Sheriff's signature (two witnesses)
  - Notarization
- Sheriff required to review and approve new deed
- Conveyance form to be completed by plaintiff's attorney and submitted to the Sheriff with new deed
- Full monies should be collected before deed is delivered
- Funds are disbursed per distribution entry
- Deed to file with Recorder 14 business days from receiving payment.

**Timeline:**

- 30 calendar days from sale, Entry Confirming Sale is to be received
- 7 calendar days from Confirmation, the Deed is received by the Sheriff's Office (which is prepared by the Plaintiff's attorney)
- 30 calendar days from receiving Confirmation all payment received from purchaser
- 14 business days from receiving payment, deed must be filed.

A **two and a half month** process from date of sale.

Appraisal fees shall be based on appraised value and fees allowable shall be scaled as follows:

- (1) \$1.00 per thousand on amount up to \$50,000.00 with the minimum fee paid as \$35.00.
- (2) \$50.00 for first \$50,000.00 plus .50 per thousand up to \$100,000.00.
- (3) Over \$100,000.00 would be \$75.00 plus .10 per thousand over.
- (4) Minimum fee of \$35.00 on executions.
- (5) In case of detailed appraisals for good cause shown the Court may award fees in excess of the scale hereinbefore enumerated.

**Judicial sale of real estate**

I. *Certification:* In every action hereinafter filed in any division of the Common Pleas Court of Hocking County, Ohio wherein a judicial sale of real estate is contemplated by the Complaint or subsequent pleadings the party praying for said sale or the attorney for the party praying for said sale shall endorse thereon the following Certification:

“The undersigned hereby certifies that an examination of the public records of Hocking County, Ohio has been made to determine the ownership of subject real estate and all parties who may claim an interest therein, and that, in the opinion of the undersigned, all parties have been named as parties to this action,” stating as exceptions any interested party not so named.

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

“The undersigned hereby certifies that the examination of title to subject real estate has been extended to     (date)     to determine if any parties have acquired any interest therein subsequent to said previous examination and said examination discloses that, in the opinion of the undersigned, there are no such parties except parties to whom the doctrine of lis pendens applies,” also stating as further exceptions any such party not subject to lis pendens.

III. *Notice of Sale*: In every action in any division of the Common Pleas Court of Hocking County, Ohio wherein a judicial sale of real estate is ordered by the Court, the attorney for the plaintiff, or such other party requesting the sale, shall promptly mail notice of the time, date and location of the sheriff's sale to the record owner(s) of the subject real estate and to all other interested parties not in default for failure to appear, or their counsel of record, at their respective last known addresses. The record owner(s) of the real estate shall be noticed by mail in all cases whether or not in default for failure to appear, except when said owner(s) were originally served with summons solely by publication. No other parties to the proceeding in default of answer need be served with notice of sale except by publication as provided by R.C. Sections 2329.26 and 2329.27. Failure to provide timely notice to interested parties shall constitute grounds for denying confirmation of the sale.

IV. *Required Filing*: Not less than fourteen (14) days prior to the scheduled sale date, counsel for the party requesting the sale shall file with the Clerk of Courts a Certificate of Service of Notice of Sale Date specifying the date and manner of service and the names and addresses of all interested parties or their respective counsel of record who were sent notice. Failure to timely file the certificate of service required by this rule shall constitute grounds for denial of the confirmation of sale.

V. The Sheriff, deputy or party conducting the sale shall, prior thereto, announce that any purchasers shall have thirty (30) days from the date of sale to obtain an examination of title to said real estate. Should examination disclose the title so purchased to be unmarketable by reason of any defect in the proceedings or the existence of any interest not disclosed in either of the certifications described above, no liability shall be predicated on the certifications but said purchaser may, within the thirty (30) day period, notify the Court thereof by written motion requesting that said sale be set aside. If the Court, upon hearing thereof, finds said title to be unmarketable, the Court shall refuse to confirm said sale. The Court may, however, fix a reasonable time, not to exceed ninety (90) days, within which such defects may be corrected.

VI. *Waiver*: A purchaser may waive any part or all of the thirty (30) day period by signing the Confirmation Entry, but no Confirmation Entry not approved by the purchaser shall be filed until said period has expired.

VII. Section I of this Rule (Certification) shall not apply to proceedings under R.C. Section 5721.18.

## **19. APPEALS TO THE COMMON PLEAS COURT**

Except as may be otherwise provided by specific rules or statutes, all cases filed by way of appeal from administrative agencies, except Workers' Compensation cases, shall be governed by the same procedure, to-wit:

(A) Within twenty (20) days after the filing of a complete transcript (of all the original papers, testimony and evidence offered, heard and taken into consideration in issuing the order appealed from) with the Clerk of Common Pleas Court, appellant shall file his assignments of error and brief.

(B) Within fifteen (15) days after filing of appellant's brief, appellee shall file his brief in opposition, and assignments of error on his own behalf, if any.

(C) Within seven (7) days after filing of appellee's brief appellant may file reply brief.

(D) The Court shall for good cause shown have and exercise the power to extend or shorten the time within which assignments of error or briefs shall be filed.

## **20. ASSIGNMENT OF CRIMINAL CASES**

In every criminal case, after arraignment, the matter shall be set for pre-trial, jury conference, and trial, all within 90 days. The defendant, counsel for the defendant, and the prosecutor or his assistant shall attend all hearings. Failure to attend may result in sanctions, including contempt or revocation of bond. At the jury conference, the parties shall inform the assignment commissioner if the jury is not to be called. No negotiated plea shall be accepted, except in extraordinary circumstances, after the date of the jury conference. If a negotiated plea is agreed to, its terms must be reduced to writing and given to the Court on or before the jury conference date.

The purpose of this rule is to prevent the unnecessary calling of juries, the expense of summoning them, and the inconvenience to prospective jurors.

## **21. SELECTION OF JURORS**

The Jury Commissioners shall annually, prior to August 1, select at random by use of automated data processing from the records of the County Board of Elections a list of not less than fifteen hundred (1,500) prospective jurors for each calendar year.

Not less than twenty-five (25) prospective Grand Jurors and not less than one hundred (100) prospective Petit Jurors shall be selected in the same manner set out above once every three months during the calendar year.

All jury drawings will be in accordance with the provisions of Chapter 2313 of the Ohio Revised Code.

## **22. PROBATION OFFICER**

No defendant who has pleaded guilty or has been found guilty of a felony shall be placed on probation until his case has been referred to and reported on by the Probation Officer. The file of each case shall contain the action of the Court thereon and a record of subsequent steps taken in the case.

Upon a reference by the Court to the officer, an investigation of the defendant shall be immediately instituted and followed by a full and complete report in writing to the Court. Such written report of investigation shall not be made available to any person for inspection or otherwise after such submission without express authorization by such Judge.

If the Court refuses to grant probation, an appropriate entry shall be made on the officer's file which shall thereupon be marked "Closed". If the Court grants probation, the defendant shall be immediately placed under the control and supervision of the officer and it shall be a duty of the officer, when necessary, to obtain or aid in obtaining wholesome employment for such probationer.

Upon failure of any probationer to live up to the requirements and conditions imposed upon him or her, the officer shall forthwith report the fact to the Court.

### **23. ASSIGNMENT AND COMPENSATION OF COUNSEL TO DEFEND**

(A) Upon arraignment or subsequent thereto, where it appears to the Court that the defendant is without counsel and desires to have the Court assign counsel for him, the Court, before doing so, may require from the defendant receipt of a duly executed affidavit upon the form provided by the Court regarding his general background and financial status.

(B) Appointments of counsel will be made from a list of qualified attorneys who desire and are willing to undertake such defense. Any attorney desiring such appointment shall submit his or her name to the assignment commissioner. Refusal to accept any appointment, except for good cause, may subject an attorney to immediate removal from the appointment list.

(C) Such assigned counsel shall receive compensation for professional services and shall be reimbursed for expenses in accordance with R.C. 2941.51. In all such cases and upon completion of the service, it shall be the duty of such assigned counsel to submit an itemized statement of the services rendered a time spent in connection to such services in the preparation and trial or other disposition of the case and any out-of-pocket expenses incurred therein. The Court, after due consideration of such itemized statement, shall determine the amount of compensation in accordance with the schedule which has been established and approved by the Board of Commissioners. Pursuant to ORC 120.36, commencing October 1, 2005, any person for whom counsel is appointed shall pay \$25.00 to the Clerk of Courts within 7 days of the journalization of the appointment, unless waived by the court.

### **24. SELECTION AND GOVERNANCE OF PROSPECTIVE JURORS**

(A) The jury commissioners appointed by the Court pursuant to R.C. 2313.01 shall, on or before the first day of August of each year, select such number of prospective jurors as the Court may determine. Their names shall be placed in the jury wheel for service during the succeeding Court year.

(B) The names of such prospective juror shall be selected from the registration and polling lists of the city and the county according to a key number designed by the jury commissioners and in such number and manner that each ward of the city and each township in the county shall be represented in proportion to their respective populations.

(C) The jury commissioners shall cause an examination to be made in a form and manner approved by the Court as to assignment for jury service or exemption therefrom. They shall keep a separate record of all such prospective jurors who fail to respond and promptly send additional notice to such persons and any failure to respond to such second notice shall forthwith be reported to the Court for appropriate action. They shall keep a complete and accurate record of all persons examined for jury service and accepted or excused.

(D) When the required number of persons, competent to serve as jurors, have been chosen and the names approved by the jury commissioners, they shall prepare a list of such prospective jurors by name. One copy of this list shall be given to the Clerk of Courts and the other shall be retained by the jury commissioners. Each list shall bear the endorsement of both commissioners.

## **25. ATTORNEY FEES IN PARTITION ACTIONS**

In all partition actions the Court shall determine and tax as costs, reasonable counsel fees pursuant to Section 5307.25 of the Revised Code of the State of Ohio.

In no case shall the total of such fees be less than five hundred (\$500) nor exceed seven percent (7%) of the amount for which the estate partitioned sells, if it goes to sale, or upon the appraised value thereof if not sold.

## **26. CUSTODY AND VISITATION PROCEEDINGS**

(A) Ex parte orders of custody or visitation shall be granted on an emergency basis only, and shall take effect subject to the right of an immediate hearing on the issue (within 10 days).

(B) When temporary custody is disputed the procedure set out in the Temporary Custody and Visitation Guidelines adopted by the Court shall be followed. (See 3A)

## **27. SUPPORT AND/OR ALIMONY PENDENTE LITE ORDERS**

(A) Pleading. Any request for temporary support and/or alimony shall be by motion and affidavit on forms approved by the Court. The opposing party may file an answer affidavit on forms provided by the Court within 10 days from the date of service of the motion requesting temporary support and/or alimony.

(B) Order for support and/or alimony. An ex parte order form temporary support and/or alimony shall be issued based on the information provided to the Court through plaintiff's affidavit and in accordance with the provisions enumerated in the Temporary Support and/or Alimony Guidelines adopted by the Court. Such order shall be effective until further order of the Court.

(C) Objections. Either party may file objections to an ex parte temporary support and/or alimony order within 10 days from the date of its issuance. Failure of a party, however, to file answer affidavit shall preclude such party from objecting to the amount of income attributed to him by the moving party, unless good cause is shown for such failure. Objections shall be set for hearing within 14 days from date of filing.

(D) Suspension of order. The filing of objections to a temporary support and/or alimony order shall not suspend or delay the commencement of support and/or alimony payments previously ordered.

## **28. COMPANIONSHIP SCHEDULE FOR VISITATION**

There is hereby established and adopted as court rule Exhibit "A" and Exhibit "B", a companionship schedule for visitation, which shall be used in all contested visitation cases.

The schedule shall be rebuttably presumed to be fair and in the best interests of the children involved.

## **29. TITLE SEARCHES IN TAX FORECLOSURES**

In all tax foreclosure actions involving real estate instituted by the Prosecuting Attorney of Hocking County, Ohio, the Prosecutor shall cause a title search to be performed and a certificate of title issued to the Sheriff of Hocking County, Ohio or to the Prosecuting Attorney of Hocking County, Ohio and that the reasonable costs of said search and certificate shall be charged as costs in the cause. Said title certificate shall be filed with the Clerk of the Court of Common Pleas of Hocking County, Ohio in the foreclosure file but not as a pleading.

## **CASE FLOW MANAGEMENT**

### **30. SCOPE AND GOALS**

30.01 These case flow management rules shall apply to all civil cases filed in the General Division of the Court of Common Pleas Court, unless (1) the case by its very nature require a more rapid adjudication such as equity matters, habeas corpus, etc.; (2) the case, because of court-imposed stays, interlocutory appeals, removal to federal court and remand, etc., requires a different schedule; or (3) the Trial Judge, by written order, places the case on a different schedule for resolution based on good cause shown. Cases wherever possible will be resolved on the shortest time track under these rules. The deadlines set by the Ohio Rules of Superintendence for the Courts of Common Pleas shall be construed as maximums and shall not preclude the more rapid resolution of cases under these rules.

30.02 It shall be the goal of the case flow rules and the overall management of the docket by the Common Pleas Court that 90 percent of all civil cases should be settled, tried, or otherwise concluded within 12 months of filing; 98 percent within 18 months of filing and 100 percent within 24 months of filing, except for individual cases where the Court determines exceptional circumstances exist.

30.03 Failure to advise court of representation. Any attorney who advises a client to appear for a hearing or trial and request a continuance must first and immediately advise the court and opposing counsel, if any, of the attorney's representation and must fax to the court a motion for continuance and entry of appearance. Failure to do so shall subject the attorney and/or client to a record fee of \$25.00 plus attorneys fees for the other side's appearance.

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

31.01 All cases filed after January 1, 1991, shall be classified in the following categories, and the classification shall be reflected in the case number. Cases shall be resolved within the absolute time limits as set by the Ohio Rules of Superintendence for the Courts of Common Pleas. The classifications are:

Administrative Appeals	(F)
Foreclosures	(E)

BWC Appeals	(D)
All other cases	(H)
Personal Injury	(C)
Product Liability	(B)
Professional Tort	(A)
Complex Litigation	(G)

The time limits in these case flow management rules shall be calculated from the date of filing of the initial document invoking the jurisdiction of the Common Pleas Court.

### **32. GENERAL TIME LIMITS**

#### 32.01 Case Tracks

All civil cases, except Administrative Appeals (F), Mandamus, Habeas Corpus, Equity matters, or any other case which, by its nature, requires a more rapid adjudication as determined by the Trial Judge, shall be placed on the 12-month primary time track or the 24-month time track. Each time track consists of a planned sequence of events leading from filing to trial, assuming the case is not terminated earlier.

#### 32.02 Primary Track

The 12-month time track is the primary, standard track for the resolution of nearly all of the cases in the General Division of the Court of Common Pleas. It shall be presumed that the typical Personal Injury (C), Workers' Compensation Appeal (D), Other Civil (H), and Foreclosure (E) cases will be suitable for pleading, discovery, motions practice, and disposition within this time frame. The longer time track will be the exception to this standard operating procedure and used only for out of the ordinary cases within these classifications.

#### 32.03 Longer Tracks

The 24-month time track is for the Professional Tort (A) and the Products Liability (B) cases. No case shall be designated as Complex Litigation (G) until C.P. Sup. R. 8.02 (B) has been complied with. Cases filed which may later be designated as Complex shall be assigned to a track and given an Original Case Schedule based on their subject-matter classification. Such cases shall have an initial status conference as specified in the Original Case Schedule, or upon request of counsel. The Trial Judge shall order a specific Amended Case Schedule appropriate to that particular case, and may use the 12-month and 24-month tracks as models for proportionately longer track.

#### 32.04 Non Track Cases

In civil cases filed prior to July 1, 1991, which are not covered by the Case Schedule and are not currently assigned a time track, the Assignment Commissioner shall assign the case for trial with the concurrence of the Trial Judge. All cases shall be assigned a trial date consistent with the standards set forth in the Rules of Superintendence of the Courts of Common Pleas.

### **33. ORIGINAL CASE SCHEDULE**

#### 33.01 Original Case Schedule

When an initial pleading is filed and a new case file is opened, the Clerk of Court shall prepare

and file a paper entitled "Original Case Schedule" and shall provide one copy to the plaintiff or the plaintiff's agent. The Clerk shall serve a copy of the Original Case Schedule on the defendant(s) along with copies of the pleading and summons.

33.02 Service on Additional Parties Upon Joinder

A party who joins an additional party(s) shall be responsible for serving the additional party(s) with the current Case Schedule.

33.03 Form of the Original Case Schedule

The Original Case Schedule will be in the following form:

-----

ORIGINAL CASE SCHEDULE

Latest Date of

Occurrence of

the event  
(in weeks)

Case filed

\_\_\_\_\_

Initial Status Conference

\_\_\_\_\_

Initial Joint Disclosure of All Witnesses

\_\_\_\_\_

Supplemental Joint Disclosure of All Witnesses

\_\_\_\_\_

Trial Confirmation Date

\_\_\_\_\_

Dispositive Motions

\_\_\_\_\_

Discovery Cut-off

\_\_\_\_\_

Decisions of Motions

\_\_\_\_\_

Final Pre-Trial Conferences or

\_\_\_\_\_

Pre-Trial Order (or both)

\_\_\_\_\_

Trial Assignment

\_\_\_\_\_

NOTICE TO ALL PARTIES

All attorneys and parties should make themselves familiar with the Court's Local Rules, including those pertaining to this Case Schedule. In order to comply with the Case Schedule, it will be necessary for attorneys and parties to pursue their cases vigorously from the day the cases are

filed. Discovery must be undertaken promptly in order to comply with the dates listed in the right-hand column.

33.04 Amended Case Schedule.

The Trial Judge, either on motion of a party or sua sponte, may modify any date in the Case Schedule for good cause and on terms as are just, except that the trial date may be changed only as provided in Rule 35. A modification may consist of making the time for any event or the entire track longer or shorter. If the Case Schedule is modified on motion of a party, that party shall prepare and present to the Trial Judge for signature an “Amended Case Schedule”, which shall be promptly filed and served on all other parties. If the Case Schedule is modified on the Trial Judge’s own motion, the Court shall prepare, file, and promptly serve the “Amended Case Schedule” to all parties.

33.05 Time Limits

A. All civil cases, except as provided in subsections 33.01 and 33.03 of Rule 33, shall be placed on the primary track of 12 months with event and time intervals included in the “Original Case Schedule” as follows (measured in weeks from the date of filing):

12-MONTH TRACK

	Latest date of Occurrence (in weeks)
Case filed	0
Initial Status Conference	10
Initial Joint Disclosure of All Witnesses	20
Supplemental Joint Disclosure of All Witnesses	28
Trial Confirmation Date	30
Dispositive Motions	40
Discovery Cut-off	42
Decisions on all Motions	48
Final Pre-Trial Conference or Pretrial Order (or both)	50
Trial Assignment	52

B. All Professional Tort (A) and Product Liability (B) civil cases shall be placed on the 24-month track with time intervals included in the “Original Case Schedule” as follows (measured in weeks from date of filing):

24-MONTH TRACK

Latest date of

Occurrence of

(in weeks)

Case filed	0
Initial Status Conference	12
Initial Joint Disclosures of All Witnesses	44
Supplemental Disclosure of All Witnesses	56
Trial Confirmation Date	70
Dispositive Motions	88
Discovery Cut-Off	90
Decisions on all Motions	96
Final Pre-trial Conference or Pre-trial Order (or both)	100
Trial Assignment	104

C. SANCTIONS. For the purposes of these Local Rules, the Trial Judge shall have the power, coextensive with the inherent powers of the Court and the enumerated powers in the Revised Code and the Civil Rules, to impose sanctions on attorneys, parties, or both. Sanctions can be monetary, non-monetary, or a combination of monetary and non-monetary. No sanction shall be imposed without the offending party and/or attorney being given an opportunity to be heard, unless the conduct giving rise to the sanction amounts to a direct contempt.

i. "Monetary Sanction" means a monetary cost imposed upon a party and/or an attorney by the Trial Judge for violation of the Local rules and/or a case schedule and/or the Civil Rules. "Monetary sanction" includes, but is not limited to, a specific dollar amount payable to another parties or the Court, actual costs of discovery, extra attorney's fees incurred, court costs, or other liquidated sum.

ii. "Non-monetary sanction" means a legal ruling contrary to the interest of a party and/or attorney imposed by the Trial judge for violation of the Local Rules and/or a case schedule and/or the Civil Rules. "Non-monetary sanction" includes, but is not limited to, dismissal with or without prejudice of the case or any claim or counterclaim, or any part of the case or claim, default judgment, exclusion of evidence, issues, or testimony, an order that certain issues or facts be taken as established for the balance of the case, an order striking pleadings or parts of pleadings, and a stay pending compliance with a court order.

D. Enforcement and Monitoring. The Trial Judge, upon motion of a party or sua sponte may impose sanctions for failure to comply with the Local Rules and/or a case schedule and/or the Civil Rules. If the Trial Judge, finds that a party or attorney has failed to comply with the Local Rules and/or a case schedule and/or the Civil Rules without reasonable excuse or legal

justification, the Trial Judge may impose sanctions proportional to the extent or frequency of the violation(s). The Trial Judge and bailiff will monitor cases on an ongoing basis to determine compliance with the case schedule and these Local Rules.

### **34. CHANGE OF THE TRIAL ASSIGNMENT DATE**

#### **34.01 Modification of Trial Date**

In any case, any party may file a "Motion to Modify the Trial Assignment Date" with the Clerk of Court and shall provide the Trial Judge with a copy. The motion shall be in writing, signed by both the attorney and the moving party, setting forth good cause for modifying the Trial Assignment Date. A modification may make the track shorter or longer based on the circumstances of a particular case. The motion will not be granted unless it is supported by a showing of good cause. If the motion is made after the Trial Confirmation Date, the motion will not be granted except under extraordinary circumstances where there is no alternative means of preventing substantial injustice.

In all cases, a copy of the "Motion to Modify the Trial Assignment Date" shall be served upon all counsel and any party not represented by counsel. A certificate of service shall be filed with the motion. The Trial Judge sua sponte, may change the Trial Assignment Date, on reasonable notice to all counsel and parties.

**34.02 Notice of Change of Trial Assignment Date.** In all cases, if the Trial Assignment Date is changed by the Trial Judge, the party requesting the change shall within five (5) days file with the Clerk of Court an "Entry Modifying Trial Assignment Date" with copies served upon all counsel, any party not represented by counsel, and the Assignment Commissioner. If the modification of the Trial Assignment Date is initiated by the Trial Judge, the Court shall prepare and file the "Entry of Modifying Trial Assignment Date" and mail it within five (5) days to all parties.

**34.03 Amended Case Schedule.** When a party files an "Entry Modifying Trial Assignment Date", the moving party shall also prepare and file, if necessary, an "Amended Case Schedule", signed by the Trial Judge, with copies served on all counsel, parties not represented by counsel, and the Assignment Commissioner.

If the Trial Assignment Date is changed on the Trial Judge's own initiative, the Court shall prepare, file, and mail to all parties an "Amended Case Schedule".

### **35. DISCLOSURES OF POSSIBLE LAY AND EXPERT WITNESSES**

**35.01 Initial Joint Disclosure of All Witnesses.** Each party shall, not later than the date for disclosure designated in the case schedule, disclose all persons with relevant factual or expert knowledge whom the party reserves the option to call as a witness at trial.

**35.02 Supplemental Joint Disclosure of All Witnesses.** Each party shall, no later than the date for disclosure in the Case Schedule, disclose all persons, whose factual or expert knowledge did not appear relevant until the witnesses were initially disclosed, whom the party reserves the option to call as witnesses at trial.

**35.03 Scope of Disclosure.** Disclosure of witnesses under this rule shall include the following information:

(a) All witnesses. Name, addresses, business phone number (or home phone number, if no business number is available).

(b) Lay witnesses. A brief description of witness' relevant knowledge.

(c) Experts. A brief description of the expert's qualifications and summary of the expert's opinions and the basis or theory of that opinion.

### **36. DOMESTIC RELATIONS CASE SCHEDULING**

In all domestic relations cases, these time limits will be followed, after service of process upon the marital defendant:

a. Within 30 days all temporary orders hearings shall have been conducted.

b. Within 60 days all of the plaintiff's discovery notices shall have been served.

c. Within 90 days all of the defendant's discovery notices shall have been served.

d. Within 120 days a pretrial will be held pursuant to an order similar to Exhibit B attached.

e. Within 150 days a trial notice will issue.

f. Within 180 days trial shall commence.

g. An order of within specific dates will be prepared and filed by the assignment commissioner over the judge's signature when service is obtained. It shall be the responsibility of the plaintiffs counsel to regularly for service and advise the court.

h. Where no answer is filed within 28 days, the matter shall be set for final hearing forthwith, notwithstanding the remainder of this rule, unless leave is granted to plead.

SO ORDERED.

	:	
Plaintiff	:	CASE NO.
VS.	:	ORDER FOR CASE
	:	SCHEDULE
Defendant	:	(DOMESTIC RELATIONS)
	:	JUDGE GERKEN

The court hereby imposes the following time limits in this cause:

- a. An omnibus hearing on temporary orders is set for \_\_\_\_\_(30 day limit)
- b. All of plaintiff's original discovery notices shall have been served by \_\_\_\_\_(60 day limit)
- c. All of the defendant's original discovery notices shall have been served by \_\_\_\_\_(90 day limit)
- d. A pretrial will be held on \_\_\_\_\_(120 day limit)
- e. Trial will commence by order on no later than \_\_\_\_\_(180 day limit) with a trial notice issuing by \_\_\_\_\_(150 day limit).

\_\_\_\_\_  
Thomas H. Gerken, Judge

### 37. ACCEPTING FACSIMILE TRANSMISSION

#### FACSIMILE FILING RULE

The provisions of this local rule are adopted under [Civ.R.5(E)] [Civ.R.73(J)] [Crim.R.12(B)].

Pleadings and other papers may be filed with the Clerk of Courts by facsimile transmission to [area code and number of receiving machine] subject to the following conditions:

#### APPLICABILITY

- 1.01 These rules apply to [civil], [criminal], and [domestic relations], proceedings in the Hocking County Common Pleas Court.
- 1.02 These rules do not apply to [small claims], [probate], [juvenile], and [appellate], proceedings. In these proceedings no facsimile transmission of documents will be accepted.
- 1.03 The following documents will not be accepted for fax filing: [original wills and codicils]; [cognovit promissory notes], bonds of any type.

#### ORIGINAL FILING

- 2.01 A document filed by fax shall be accepted as the effective original filing. The person making a fax filing need not file any source document with the Clerk of Court but must, however, maintain in his or her records and have available for production on request by the court the source document filed by fax, with original signatures as otherwise required under the applicable rules, together with the source copy of the facsimile cover sheet used for the subject filing.
- 2.02 The source document filed by fax shall be maintained by the person making the **filing** until the case is closed and all opportunities for post judgment relief are exhausted.

#### DEFINITIONS

As used in these rules, unless the context requires otherwise:

- 3.01 A "facsimile transmission" means the transmission of a source document by a facsimile machine that encodes a document into optical or electrical signals, transmits and reconstructs the signals to **print** a duplicate of the source document at the receiving end.
- 3.02 A "facsimile machine" means a machine that can send and receive a facsimile transmission.
- 3.03 "Fax" is an abbreviation for "facsimile" and refers, as indicated by the context, to facsimile transmission or to a document so transmitted.

**COVER PAGE**

- 4.01** The person filing a document by fax shall also provide therewith a cover page containing the following information: [See appendix for sample cover page form.]
- (I) the name of the court;
  - (II) the title of the case;
  - (III) the case number;
  - (IV) the assigned judge;
  - (V) the title of the document being filed (e.g. Defendant Jones' Answer to Amended Complaint; Plaintiff Smith's Response to Defendants' Motion to Dismiss; Plaintiff Smith's Notice of Filing Exhibit "G" to Plaintiff Smith's Response to Defendants' Motion to Dismiss);
  - (VI) the date of transmission;
  - (VII) the transmitting fax number;
  - (VIII) an indication of the number of pages included in the transmission, including the cover page;
  - (IX) if a judge or case number has not been assigned, state that fact on the cover page;
  - (X) the name, address, telephone number, fax number, Supreme Court registration number, if applicable, and e-mail address of the person filing the fax document if available; and
  - (XI) if applicable, a statement explaining how costs are being submitted.
- 4.02** If a document is sent by fax to the Clerk of Court without the cover page information listed above, the Clerk may, at its discretion:
- (X) enter the document in the Case Docket and file the document;  
or
  - (XI) deposit the document in a file of failed faxed documents with a notation of the reason for the failure; in this instance, the document *shall not* be considered filed with the Clerk of Courts.
- 4.03** The Clerk of Court is not required to send any form of notice to the sending party of a failed fax filing. However, if practicable, the Clerk of Court may inform the sending party of a failed fax filing.

**SIGNATURE**

- 5.01** A party who wishes to file a signed source document by fax shall either;

- (I) fax a copy of the signed source document; or
- (II) fax a copy of the document without the signature but with the notation “/s/” followed by the name of the signing person where the signature appears in the signed source document.

**5.02** A party who files a signed document by fax represents that the physically signed source document is in his/her possession or control.

## **EXHIBITS**

**6.01** Each exhibit to a facsimile produced document that cannot be accurately transmitted via facsimile transmission for any reason must be replaced by an insert page describing the exhibit and why it is missing. Unless the court otherwise orders, the missing exhibit shall be filed with the court, as a separate document, not later than five (5) court days following the filing of the facsimile document. Failure to file the missing exhibits as required by this paragraph may result in the court striking the document and/or exhibit.

**6.02** Any exhibit filed in this manner shall be attached to a cover sheet containing the caption of the case which sets forth the name of the court, title of the case, the case number, name of the judge and the title of the exhibit being filed (e.g, Plaintiff Smith's Notice of Filing Exhibit "G" to Plaintiff Smith's Response to Defendants' Motion to Dismiss), and shall be signed and served in conformance with the rules governing the signing and service of pleadings in this court. [See appendix for sample exhibit cover sheet.]

## **TIME OF FILING**

**7.01** Subject to the provisions of these rules, all documents sent by fax and accepted by the Clerk shall be considered filed with the Clerk of Courts as of the date and time the Clerk time-stamps the document received, as opposed to the date and time of the fax transmission. The office of the Clerk of Court will be deemed open to receive facsimile transmission of documents on the same days and at the same time the court is regularly open for business.

**7.02** Fax filings may NOT be sent directly to the court for filing but may only be transmitted directly through the facsimile equipment operated by the Clerk of Courts.

**7.03** The Clerk of Court may, but need not, acknowledge receipt of a facsimile transmission.

**7.04** The risks of transmitting a document by fax to the Clerk of Courts shall be borne entirely by the sending party. Anyone using facsimile filing is urged to verify receipt of such filing by the Clerk of Court through whatever technological means are available.

## **FEES AND COSTS**

**8.01** No documents filed by facsimile that requires a filing fee shall be accepted by the Clerk for filing until court cost and fees have been paid. Documents tendered to the Clerk without payment of court cost and fees, or with incomplete information on the charge authorization or request, or which do not conform to applicable rules will not be filed.

**8.02** No additional fee shall be assessed for facsimile filings.

### **LENGTH OF DOCUMENT**

**9.01** Facsimile filings shall not exceed 10 pages in length. The filer shall not transmit service copies by facsimile.

### **EFFECTIVE DATE**

**10.01** These local rules shall be effective May 1, 2004, and shall govern all proceedings in actions brought after they take effect and also further proceedings in pending actions, except to the extent that, in the opinion of the court, their application in particular action pending on the effective date would not be feasible or would work an injustice, in which event, the former procedure applies.

### **APPENDIX**

- 1. Sample Facsimile Filing Cover Page**
- 2. Sample Exhibit Cover Page**
- 3. Sample Credit Card Payment Form**

**FACSIMILE FILING COVER PAGE**

RECIPIENT INFORMATION:

NAME OF COURT: \_\_\_\_\_

FAX NUMBER: \_\_\_\_\_

SENDING PARTY INFORMATION:

NAME: \_\_\_\_\_

SUPREME COURT  
REGISTRATION NO. (if applicable): \_\_\_\_\_

OFFICE/FIRM: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

TELEPHONE NO. \_\_\_\_\_

FAX NUMBER: \_\_\_\_\_

E-MAIL ADDRESS (if applicable): \_\_\_\_\_

CASE INFORMATION:

TITLE OF THE CASE: \_\_\_\_\_

CASE NUMBER: \_\_\_\_\_

TITLE OF THE DOCUMENT: \_\_\_\_\_

\_\_\_\_\_  
JUDGE: \_\_\_\_\_

FILING INFORMATION:

DATE OF FAX TRANSMISSION: \_\_\_\_\_

NUMBER OF PAGES (including this page): \_\_\_\_\_

STATEMENT EXPLAINING HOW COSTS ARE BEING SUBMITTED, IF APPLICABLE:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\*If a judge or case number has not been assigned, please state that fact in the space provided.

IN THE COURT OF COMMON PLEAS  
HOCKING COUNTY, OHIO

JOHN SMITH, Plaintiff,	:	Case No. 1234567
vs.	:	Judge _____(in the alternative a notation here that the case is not yet assigned)
BILL JONES, Defendant	:	
	:	

---

PLAINTIFF SMITH'S NOTICE OF FILING EXHIBIT "G"  
TO  
PLAINTIFF SMITH'S RESPONSE TO DEFENDANT'S MOTION TO DISMISS

---

Plaintiff Smith, through counsel, hereby files Exhibit "G" to Plaintiff Smith's Response to Defendant's Motion to Dismiss. The referenced pleading was filed by facsimile transmission with the Court on [date]. Exhibit "G" could not be accurately transmitted by fax and is therefore being timely filed as a separate document with the Court pursuant to Local Rule XXX.

Respectfully Submitted,

---

Attorney Name (Sup. Cr. Reg. No.)  
Office/Firm  
Address  
Telephone  
Facsimile  
E-mail

Counsel for Plaintiff John Smith

CERTIFICATE OF SERVICE

I certify that a copy of this Notice of Filing Exhibit "G" was sent by ordinary U.S. mail on [date] to counsel for the defendant Bill Jones, [name and address of recipient].

---

Attorney Name  
Counsel for Plaintiff John Smith

### **38. CRIMINAL CASE SCHEDULING**

In all criminal cases, these time limits will be followed, after service of process upon the defendant:

- a. All criminal cases filed after January 1, 1991 shall be set for a pre-trial two weeks after the date of arraignment.
- b. Any motions to dismiss or suppress shall be filed and scheduled for hearing no later than one month prior to trial.
- c. Within 20 days after the arraignment, the Prosecuting Attorney shall comply with the Motion For Discovery and provide such discovery to the defendant's attorney.
- d. A trial shall be scheduled no later than six months from the date of service of summons or arrest unless the defendant is being held in jail due to inability to post bond.
- e. If defendant is unable to post bond, a trial will be scheduled no later than 90 days from the date of service of summons or arrest.

- 1A -

COURT OF COMMON PLEAS  
COUNTY OF HOCKING

PLAINTIFF PRETRIAL STATEMENT

Date \_\_\_\_\_ Case No. \_\_\_\_\_  
Judge \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Plaintiff

vs.

\_\_\_\_\_

Defendant

1. Brief description of case (e.g. pedestrian struck while crossing the sidewalk).
2. Brief description of the injuries or damages (e.g. fractured leg or front end of vehicle)
3. List item by item ascertainable damages such as medical expenses, lost wages, property damages, etc.

NAME	AMOUNT
_____	\$ _____
_____	_____
_____	_____
_____	_____

TOTAL \$ \_\_\_\_\_

4. Report on the status of the following:
  - (1) Depositions \_\_\_\_\_
  - (2) Physical examination \_\_\_\_\_
  - (3) Exchange of medical reports \_\_\_\_\_
  - (4) Exchange of expert witness reports \_\_\_\_\_
5. State any special problems with respect to trial of case:
6. Lowest Demand \_\_\_\_\_ Highest offer \_\_\_\_\_
7. Stipulations (list on reverse side): \_\_\_\_\_

Counsel for Plaintiff

- 2A -

COURT OF COMMON PLEAS

COUNTY OF HOCKING

DEFENDANT PRETRIAL STATEMENT

Date\_\_\_\_\_

Case No. \_\_\_\_\_

Judge \_\_\_\_\_

\_\_\_\_\_

Plaintiff

vs.

\_\_\_\_\_

Defendant

- 1. Brief description of case, if known, (e.g. pedestrian struck while jaywalking):
- 2. Brief description of injuries or damages, if any:
- 3. List item by item from defense side ascertainable damages, such as medical expenses, lost wages, property damage, etc.:

NAME

AMOUNT

\_\_\_\_\_

\$\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

TOTAL \$\_\_\_\_\_

4. Report on status of the following:

(1) Depositions\_\_\_\_\_

(2) Physical examinations \_\_\_\_\_

(3) Exchange of medical reports \_\_\_\_\_

(4) Exchange of expert witness reports \_\_\_\_\_

5. State any special problems with respect to trial of case:

6. Lowest demand \_\_\_\_\_ Highest offer \_\_\_\_\_

7. Real party in interest (Insurance Co., common carrier, corporation, etc.):

\_\_\_\_\_

Name of representative \_\_\_\_\_

8. Stipulations (list on reverse side):

\_\_\_\_\_

Counsel for the Defendant

- 3A -

### TEMPORARY CUSTODY AND VISITATION GUIDELINES

The procedure hereinafter described shall be followed when temporary custody is disputed in a divorce.

#### (1) AFFIDAVITS

Upon the filing of a divorce the plaintiff shall file an affidavit concerning child custody. Within 10 days of service of summons the defendant may file same.

#### (2) CUSTODY UNTIL AFFIDAVITS ARE RECEIVED

Until both affidavits are received, and unless the Court receives an affidavit alleging either parent is unfit and providing detailed grounds to support the allegations of unfitness:

(a) The child, if 11 years of age or older shall be placed in the custody of the parent he elects;

(b) If the child is under age 11 years or has not signed an election in writing, the child shall remain in the custody of the parent who has actual custody at the time the divorce is filed;

(c) If there is no election filed and if both parents reside in the marital abode or have actual custody, and one of the parties is employed and the other is not, the unemployed party shall have custody;

(d) If there is no election filed, and if both parents reside in the marital abode; or if both parties have actual custody, and both or neither are employed, and a restraining order is sought and granted, custody shall be placed with the party obtaining the restraining order;

(e) If custody is not resolved under 2(a), (b), (c), or (d), then the plaintiff shall be granted custody, unless the Court in its discretion orders otherwise.

#### (3) AFTER RECEIPT OF BOTH CUSTODY AFFIDAVITS

After the receipt of both custody affidavits, if temporary custody is still disputed, the Court will render a temporary custody order based upon said affidavits.

If the defendant has filed no affidavit within 10 days of service of summons, temporary custody will remain in the party to whom it was originally granted.

#### (4) AFFIDAVIT OF UNFITNESS

At anytime during the pendency of the divorce before trial, a party may file an affidavit alleging that the parent with temporary custody is unfit. Such affidavit shall provide detailed grounds to support the allegation.

The Court shall review the affidavit, and may act thereon or set the question of temporary custody for hearing, in its discretion.

(5) GENERAL GUIDELINES

(a) If one parent has voluntarily left the last marital abode of the parties, custody should be granted to the parent living in the marital abode.

A parent has not left voluntarily if subjected to physical assaults by remaining parent, if in hospital, or the like.

However, if the parent voluntarily leaving the last marital abode took the children also, with the consent of the other parent and has been gone 30 or more days since the filing of divorce, custody should remain with the parent who has the children.

(b) If one parent does not live or does not intend to remain with the children within the school district in which the children are attending school at the time the divorce is filed, custody should be granted to the parent remaining in the district.

(c) Any child 11 years of age or older should be placed in the custody of the parent who the child elects.

A written election signed by a child who is at least 11 years of age may be filed by any party. If any party has cause to believe the election was coerced, that party may request an in camera examination of the child in question by the Court concerning the election.

(d) The affidavit of any employed party shall contain a description of that party's planned method of caring for the child while that party is working, unless the child is at least 16 years of age.

(e) The mere fact that one party has had temporary custody shall not in any way affect the Court's determination at final hearing. The nature and quality of the care given during the temporary custody may affect that determination.

(f) Siblings should not ordinarily be separated, unless with consent of the parties and in accord with the children's desires.

- 4A -

(6) Visitation

(a) Reasonable and liberal visitation shall be allowed temporary non-custodial parents, unless the Court orders otherwise.

(b) Should the child require babysitting or day-care, the custodial parent shall make reasonable attempts to obtain the non-custodial parent's assistance before engaging the services of a third party.

**39. Mediation**

Introduction

The Hocking County Common Pleas Court adopts Local Rule effective April 7, 2008. Through Rule 39 Hocking County Common Pleas Court incorporates by reference the R.C. 2710 "Uniform Mediation Act" (UMA) and Rule 16 of the Supreme Court of Ohio Rules of Superintendence.

### (A) Definitions

All definitions found in the “Uniform Mediation Act” (UMA) R.C. 2710.01 are adopted by this court through this local rule including, but not limited to the following:

1. “Mediation” means any process in which a mediator facilitates communication and negotiation between the parties to assist them in reaching a voluntary agreement regarding their dispute.
2. “Mediator” means an individual who conducts a mediation.
3. “Mediation Communication” means a statement, whether oral, in a record, verbal or non verbal, that occurs during a mediation or is made for purposes of considering, conducting, participating in, initiating, continuing, or reconvening a mediation or retaining a mediator.
4. “Proceeding” means either of the following:
  - a. Judicial, administrative, arbitral or other adjudicative process, including related pre-hearing and post-hearing motions, conferences, and discovery;
  - b. A legislative hearing or similar process.
  - c. Purpose

To promote greater efficiency and public satisfaction through the facilitation of the earliest possible resolution for Hocking County Common Pleas Court cases through the use of mediation. To accomplish this goal, Court Mediation Services has been established.

### (B) Scope

At any time any action under the jurisdiction of this court may be referred to mediation by the Judge or Magistrate.

### (C) Case Selection

#### 1. Referral Process

The court, on its own motion, or the motion of any of the parties may refer disputed issues to mediation in whole or in part by “Notice of Scheduled Mediation” which shall, at a minimum indicate the date, time, place and contact information of the mediation. All parties and counsel shall advise the assigned judge or magistrate of any domestic violence allegations known to them to exist or to have existed in the past, or which become known to them following entry of the order but before conclusion of all mediation proceedings, which allegations involve any two or more persons whose attendance is required by the referral order.

#### 2. Eligibility of Cases

The Court Mediation Services will determine the eligibility and appropriateness of each referral prior to the commencement of the mediation process and may decline any referral(s) deemed inappropriate.

#### 3. Mediator Selection and Assignment

- a. The court mediator may facilitate the mediation.

b. The court randomly assigns a mediator to the case from the court's roster of approved mediators.

c. Specific appointments may be made by the court taking into consideration the qualifications, skills, expertise, and caseload of the mediator in addition to the type, complexity and requirements of the case.

d. Parties may select a mediator from the court roster.

#### (D) Procedures

In accordance with all applicable provisions of this rule, if a case is deemed appropriate by the Court Mediation Services, mediation will be scheduled. A mediator may meet with the parties individually prior to bringing the parties together for any reason including, but not limited to further screening. A mediator may schedule multiple mediation sessions, if necessary and mutually acceptable for the resolution of the issues in part or in their entirety.

1. The court shall utilize procedures for all cases that will:

a. Ensure that parties are allowed to participate in mediation, and if the parties wish, that their attorneys and other individuals they designate are allowed to accompany them and participate in mediation.

b. Screen for domestic violence both before and during mediation.

c. Encourage appropriate referrals to legal counsel and other support services for all parties, including victims of and suspected victims of domestic violence.

d. Prohibit the use of mediation in any of the following:

e. As an alternative to the prosecution or adjudication of domestic violence;

f. In determining whether to grant, modify or terminate a protection order;

g. In determining the terms and conditions of a protection order; and

h. In determining the penalty for violation of a protection order.

2. Party/Non-Party Participation

a. Parties who are ordered into mediation shall attend scheduled mediation sessions. The court may order parties to return to mediation at any time in formal cases.

b. A judge, magistrate and/or mediator may require the attendance of the parties' attorneys at the mediation sessions if the mediator deems it necessary and appropriate.

c. If counsel of any party to the mediation becomes aware of the identity of a person or entity whose consent is required to resolve the dispute, but has not yet been joined as a party in the pleadings, they shall promptly inform the mediator as well as the assigned judge or magistrate.

d. If the opposing parties to any case are 1) related by blood, adoption, or marriage; 2) have resided in a common residence, or 3) have known or alleged domestic violence at any time prior to or during the mediation, then the parties and their counsel have a duty to disclose such information to the mediator and have duty to participate in any screening required by the court.

e. By participating in mediation a nonparty participant, as defined by R.C. 2710.01(D), agrees to be bound by this rule and submits to the court's jurisdiction to the extent necessary for enforcement of this rule. Any nonparty participant shall have the rights and duties under this rule attributed to parties except as provided by R.C. 2710.03(B) (3) and 2710.04(A) (2).

### 3. Confidentiality/Privilege

All mediation communications related to or made during the mediation process are subject to and governed by the "Uniform Mediation Act" (UMA) R.C. 2710.01 to 2710.10, R.C., the Rules of Evidence and any other pertinent judicial rule(s).

### 4. Mediator Conflicts of Interest

In accordance with R.C. 2710.08(A) and (B), the Mediator assigned by the Court to conduct a mediation shall disclose to the mediation parties, counsel, if applicable, and any nonparty participants any known possible conflicts that may affect the Mediator's impartiality as soon as such conflict(s) become known to the Mediator. If counsel or a mediation party requests that the assigned Mediator withdraw because of the facts so disclosed, the assigned Mediator should withdraw and request that the assigned Judge or Magistrate appoint another Mediator from the list of qualified Mediators that is maintained by the Court. The parties shall be free to retain the mediator by an informed, written waiver of the conflict of interest(s).

### 5. Termination

If the assigned Mediator determines that further mediation efforts would be of no benefit to the parties, he or she shall inform all interested parties and the Court that the mediation is terminated using the procedure required by this Court.

### 6. Stay of Proceedings

All remaining court orders shall continue in effect. No order is stayed or suspended during the mediation process except by written court order. Mediation shall not stay discovery, which may continue through the mediation process in accordance with applicable rules, unless agreed upon by the parties and approved by the judge or magistrate assigned to the case.

### 7. Continuances

It is the policy of this court to determine matters in a timely way. Continuances of scheduled mediations shall be granted only for good cause shown after a mutually acceptable future date has been determined. The case may be continued by the the Judge or Magistrate who referred the case. Except as authorized by the court, the existence of pending motions shall not be good cause for a continuance and no continuance will be granted unless the mediation can be scheduled prior to the final pretrial. If a continuance of a scheduled mediation is requested and the proposed new date is within 45 days of the initial referral to mediation, then the request shall be made to the Mediation Coordinator. If the requested date is more than 45 days after the referral to mediation, then the request must be made to the judge or magistrate assigned to the case.

### 8. Mediation Case Summary

Attorneys may, at their option, or must if required on a specific case by the judge and/or magistrate, submit a "Mediation Case Summary" to the mediator which shall contain the following:

- a. Summary or material facts.

- b. Summary of legal issues.
- c. Status of discovery.
- d. List special damages and summarize injuries or damages.

E. Settlement attempts to date, including demands and offers.

#### 9. Mediation Memorandum of Understanding

The assigned mediator, parties or counsel, if applicable, as agreed by the parties, may immediately prepare a written memorandum memorializing the agreement reached by the parties. The "Mediation Memorandum" may be signed by the parties and counsel (if the "Mediation Memorandum" is signed it will not be privileged pursuant to R.C. 2710.05 (A) (1)). The written "Mediation Memorandum of Understanding" may become an order of the court after review and approval by the parties and their attorney, if applicable. No oral agreement by counsel or with parties or an officer of the court will be regarded unless made in open court.

#### 10. Mediator Report

At the conclusion of the mediation and in compliance with R.C. 2710.06 the court shall be informed of the status of the mediation including all of the following:

- a. Whether the mediation occurred or was terminated;
- b. Whether a settlement was reached on some, all or none of the issues; and
- c. Attendance of the parties.
- d. Future mediation session(s), including date and time.

#### 11. Qualifications

- a. To be a court approved mediator the following qualifications apply:
- b. Commitment to Continuing Education,
- c. Completion of a mediation program approved by the Supreme Court of Ohio

#### 12. List of Qualified Mediators

The court maintains a list of qualified Mediators which shall be maintained by the Mediation Coordinator and a copy shall be distributed to all Judges and Magistrates of the Court.

a. All those on the list of qualified mediators shall submit to Hocking County Common Pleas Court, a regularly updated Curriculum Vitae (including a list of training related to the field of dispute resolution and professional or association memberships) which CV shall be provided by the Hocking County Common Pleas Court Mediation Services to those requesting information on an assigned Mediator's qualifications to mediate a dispute pursuant the requirements set forth in R.C. 2710.08(C).

b. The Court will review applications of person seeking to be added to the list of qualified Mediators in accordance with the procedures adopted by the Judges of the Court.

#### (G) Fees and Costs

All costs shall be determined by the court, if applicable. The parties may agree between themselves to apportion the costs of the mediation. Unless otherwise agreed by the parties, the mediation costs shall be shared equally. In the event that the parties cannot agree, the court shall determine the apportionment of the mediation costs to the parties. The court may waive costs for the parties who are unable to pay. Mediation shall not be ordered where a party is indigent unless the mediation is available at no cost to the party.

(H) Sanctions

If any individual ordered by the court to attend mediation fails to attend mediation without good cause, the court may impose sanctions which may include, but are not limited to, the award of attorney's fees and other costs, contempt or other appropriate sanctions at the discretion of the assigned Judge or Magistrate.

#### 40. GENERAL PROVISIONS

##### **FREE PRESS - FAIR TRIAL PROVISIONS**

(a) Disclosure of Information by Court Personnel

No employee of this court may disclose any information relating to a pending proceeding before this Court, which information is not part of the public records of this Court. This rule also specifically prohibits the disclosure of information concerning grand jury proceedings and proceedings held in chambers.

(b) Orders in Special Cases

This court may, in appropriate cases, issue special orders governing any conduct likely to interfere with the rights of the parties to a fair trial.

(c) Courtroom and Courthouse Decorum

No person may, without permission of the Court, operate a camera or other recording device on the third floor of this courthouse.

(d) Security - Weapons

No person, with the exception of any currently commissioned peace officer on official business who has completed the firearms certification from the Ohio Peace Officers Training Association, or who is an official probation and parole officer of the State of Ohio or an Ohio or Federal Court or a judge of said court, or a United States Marshal or Deputy Marshal, may enter this courthouse while in possession of a firearm or other deadly weapon. All other persons in possession of firearms or other deadly weapons shall leave such weapons in the care and custody of the Hocking County Sheriff's Office prior to entering the courthouse. This rule is applicable whether or not court is in session.

(e) Publicity and Disclosure

(1) No attorney may publically release any information or opinion which might interfere with a fair trial or otherwise prejudice the due administration of justice.

(2) No attorney participating in or associated with a grand jury or the investigation of any criminal

matter may make any public extra judicial statement that goes beyond the public record or that is not necessary to obtain assistance in the apprehension of a suspect, to warn the public of any dangers or otherwise to aid in the investigation.

(3) No attorney prior to the commencement of trial or disposition without trial may make any public statement concerning:

(a) The prior criminal record (including arrests, indictments, or other charges of crime), or the character or reputation of the accused, except that the lawyer or law firm may make a factual statement of the accused's name, age, residence, occupation, and family status and, if the accused has not been apprehended, an attorney associated with the prosecution may release any information necessary to aid in the accused's apprehension or to warn the public of any dangers the accused may present;

(b) Any statement or lack thereof by the accused;

(c) The performance or lack thereof of any examinations or tests upon the accused;

(d) The identity, testimony, or credibility of prospective witnesses, except that the attorney or law firm may announce the identity of the victim if the announcement is not otherwise prohibited by law;

(e) The possibility of a plea of guilty to the offense charged or a lesser offense;

(f) Any opinion as to the accused's guilt or innocence or as to the merits of the case or the evidence in the case.

(4) During a jury trial of any criminal matter, no attorney may publically give any extrajudicial statement that may interfere with a fair trial. An attorney may quote from or refer without comment to public records of the Court in the case.

(5) Nothing in this Local Rule shall preclude the lawful issuance of reports by investigating bodies, or preclude any attorney from replying to charges of professional misconduct that are publically made against the attorney.

#### **41. CONDITIONS FOR BROADCASTING AND PHOTOGRAPHING COURT PROCEEDINGS**

##### **A. Presiding Judge**

The judge presiding at the trial or hearing shall permit the broadcasting or recording by electronic means and the taking of photographs in court proceedings open to the public as provided in Canon 3A(7) of the Code of Judicial Conduct. The judge, after consultation with the media, shall specify the place or places in the courtroom where the operators and equipment are to be positioned. Requests for permission for the broadcasting, televising, recording, or taking of photographs in the courtroom shall be in writing and the written permission of the judge required by Canon 3A(7) shall be made a part of the record of the proceedings.

##### **B. Permissible Equipment and Operators**

(1) Use of more than one portable camera (television, videotape or movie) with one operator shall be allowed only with the permission of the judge.

(2) Not more than one still photographer shall be permitted to photograph trial proceedings without the permission of the judge. Still photographers shall be limited to two cameras with two lenses for each camera.

(3) For radio broadcast purposes, not more than one audio system shall be permitted in court. Where available, and suitable, existing audio pickup systems in the court facility shall be used by the media. In the event no such systems are available, microphones and other electronic equipment necessary for the audio pickup shall be as inconspicuous as possible but must be visible.

(4) Visible audio recording equipment may be used by news media reporters with the prior permission of the judge.

(5) Arrangements between or among media for “pooling” of equipment shall be the responsibility of the media representative authorized to cover the proceeding. Such arrangements are to be made outside of the courtroom and without imposing on the judge or court personnel. In the event disputes arise over such arrangements between or among the media representatives, the judge shall exclude all contesting representatives from the proceedings.

(6) The use of electronic or photographic equipment which produces distracting sound or light shall be prohibited by the judge. No artificial lighting other than that normally used in the courtroom shall be employed, provided, that if the normal lighting in the courtroom can be improved without becoming obtrusive, the judge may permit modifications.

(7) Still photographers, television and radio representatives shall be afforded a clear view but shall not be permitted to move about in the courtroom during the court proceedings from the places where they have been positioned by the judge, except to leave or enter the courtroom.

(8) The changing of film or recording tape in the courtroom during court proceedings is prohibited.

### **C. Limitations**

(1) There shall be no audio pickup or broadcast of conferences conducted in a court facility between attorneys and clients or co-counsel, or of conferences conducted at the bench between counsel and the judge.

(2) The judge shall inform victims and witnesses of their right to object to being filmed, videotaped, recorded or photographed.

(3) This rule shall not be construed to grant media representative any greater rights than permitted by law wherein public or media access or publication is prohibited, restricted or limited.

(4) Media representatives shall not be permitted to transmit or record anything other than the court proceedings from the courtroom while court is in session.

### **D. Revocation of Permission**

Upon the failure of any media representative to comply with the conditions prescribed by the judge, or the superintendence rules of the Supreme Court, the judge may revoke the permission to broadcast or photograph the trial or hearing.

## **42. ENTRIES**

All judgments or orders which are final appealable orders (FAO) shall contain a direction to the clerk of this court that, “The Clerk shall mail a copy of this Judgment/Order to all counsel of record and to each party not in default who is not represented by counsel and make note of the service in the Appearance Docket”. The Judgment/Order shall be accompanied by a separate form which shall be attached to said Judgment/Order and list the name and address of all parties to receive a copy.

Further, the appropriate number of copies of said Judgment/Order along with pre-addressed mailers shall be delivered to the clerk with the filing of the Judgment/Order indicating a return address of the Clerk.

**43. CALLING OF JURIES IN CRIMINAL CASES**

In all criminal cases, the assignment commissioner shall call the jury 14 days prior to the scheduled trial. Thereafter, no reduction of charges will be permitted. Once the jury is called, a minimum of \$250.00 will be added to court costs, to be assessed against the losing side.

SO ORDERED.

**44. CRIMINAL INTERVENTION AND SUPERVISION PLAN**

IN THE COMMON PLEAS COURT, GENERAL DIVISION

STATE OF OHIO,	:	CASE NO.
Plaintiff,	:	INTERVENTION AND SUPERVISION PLAN
vs.	:	ORC 2951.041
_____	:	
Defendant,	:	

Assessment

1. The defendant has been interviewed and assessed by the properly credentialed and licensed provider as required by ORC 2951.041, who has subscribed to this plan below. The provider has determined that drug and/or alcohol usage was a factor leading to the criminal offense of \_\_\_\_\_, in the following way: (Here describe how the drug and/or alcohol use was a contributing factor in the commission of the offense. Also, identify the types of substances used by the offender, the frequency of abuse, and the length of the defendant's involvement with each substance.

2. The following methods of treatment will be utilized by the provider to intervene and assist the defendant to not use drugs or alcohol: (e.g., group sessions, individual session, etc.)

3. The defendant shall be required to attend the following required treatment sessions: (Describe the name of the session, the purpose of session, the goal of the session, and the number and frequency of the sessions.)

4. The defendant agrees and recognizes that the law requires abstinence from the use of illegal drugs and alcohol for a least one year, and that the Court's Probation Department will conduct regular and random drug testing. Therefore, failure to report to the probation department as ordered will result in termination from intervention and sentencing. The defendant also agrees to obey all laws and to report to the probation department any conduct with law enforcement within 24 hours, and to abide by all regular and special probationary conditions imposed by the Court.

5. The defendant further consents and agrees that the provider shall report to the Court any illegal drug or alcohol use after the date of the Court order approving intervention.

6. The provider agrees to immediately report any illegal drug or alcohol usage by the defendant. The provider further agrees to file a monthly progress report until the Court, on an approved form.

Agreed to this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Provider Representative

\_\_\_\_\_  
Defendant

\_\_\_\_\_  
Representative's License  
and Credentials

\_\_\_\_\_  
 Agency  
 \_\_\_\_\_  
 \_\_\_\_\_  
 Agency Address  
 \_\_\_\_\_  
 Agency Telephone

IN THE COMMON PLEAS COURT, GENERAL DIVISION

STATE OF OHIO,	:	CASE NO.
Plaintiff,	:	ORC 2951.041
Vs.	:	JUDGMENT ENTRY GRANTING
	:	INTERVENTION AND ORDERING
	:	SUPERVISION
_____	:	
Defendant,	:	

This cause came on regularly on \_\_\_\_\_, \_\_\_\_ for hearing pursuant to division (A) of ORC 2951.041. Based upon the written request of the defendant and information provided at the hearing, the Court finds that the defendant is/is not eligible for intervention in lieu of conviction.

The Court, therefore granted/denied the defendant's request.

The Court further accepted the defendant's plea of guilty and waiver of speedy trial, and stayed all criminal proceedings.

It is therefore ordered that the defendant comply with all terms and conditions imposed by the Court, as follows:

- 1) The defendant is placed under the supervision and control of the adult parole authority for a period of 5 years, unless such period is later reduced by the Court, in writing. Such supervision terms shall be the same as if the defendant was subject to a community control sanction imposed under ORC 2925.15 or 2929.18, or 2929.51 and 2951.02. The intervention plan filed by the defendant is accepted and incorporated into this order and the terms and conditions of supervision.

2) The Court finds that this intervention in lieu of conviction will not demean the seriousness of the offense, and intervention will substantially reduce the likelihood of my future criminal activity.

3) Additional Conditions:

SO ORDERED THIS \_\_\_\_ DAY OF \_\_\_\_\_, \_\_\_\_.

\_\_\_\_\_  
Judge Thomas H. Gerken

In The Common Pleas Court of Hocking County, Ohio

Monthly Report - Intervention Defendant

To: The Hocking County Common Pleas Court

From: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_ Defendant's Name

\_\_\_\_\_ Reporting Agency

\_\_\_\_\_ Court Case Number

The defendant was scheduled to attend the following intervention sessions in the month of \_\_\_\_\_, \_\_\_\_\_. The defendant attended \_\_\_\_\_ sessions. (List each session missed by date, purpose, and reason for absence. The provider has determined that the defendant (is) (is not) making adequate progress toward treatment goals and (is) (is not) complying with the Intervention Plan:

The provider recommends that the defendant should (continue with) (be terminated from) that intervention plan. (If the provider recommends that the intervention plan be terminated, state specific reason):

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Provider Representative

(File this report the first day of each calendar month with the Court's Probation Department.)

IN THE COMMON PLEAS COURT, GENERAL DIVISION

STATE OF OHIO,	:	CASE NO.
Plaintiff,	:	REQUEST FOR INTERVENTION
	:	INTERVENTION IN LIEU OF
Vs.	:	CONVICTION; AND TIME WAIVER
_____	:	ORC 2951.041
Defendant,	:	

The defendant, hereby requests intervention lieu of conviction pursuant to ORC 2951.041. The defendant represents that drug and/or alcohol usage was a factor leading to the criminal behavior charged. The defendant, by signing below, also waives the right to a speedy, public jury trial as guaranteed by the United States Constitution, The Ohio Constitution, and ORC 2945.71 et seq. The defendant certifies that he has not previously been convicted of or pleaded guilty to a felony, that he has not previously been through intervention or treatment in lieu of conviction under this section of the revised code or any similar regimen, and is charged with a felony for which the Court, upon conviction, would impose sentence under division (B)(2)(b) of section 2929.13 of the Revised Code or with a misdemeanor.

The defendant further certifies that the offense charged is not a felony of the first, second, or third degree, is not an offense of violence, and is not a violation of division (A)(1) or (2) of section 2903.06 of the Revised Code, is not a violation of (A)(1) of section 2903.08 of the Revised Code, is not a violation of division (A) of section 4511.19 of the Revised Code or a municipal ordinance that is substantially similar to that division, and is not an offense for which a sentencing court is required to impose a mandatory prison term, a mandatory term of local incarceration, or a mandatory term of imprisonment in jail.

Furthermore, the defendant certifies that the offense charged is not a violation of 2925.02, 2925.03, 2925.04, 2925.06, or 2925.11 of the Ohio Revised that is a felony of the first, second, or third degree; nor a violation of section 2925.11 of the Revised Code that is a felony of the fourth degree, unless the prosecutor in the case has recommended that the defendant be classified as being eligible for intervention in lieu of conviction, in writing, which is attached as an exhibit hereto.

The defendant further certifies that he has been assessed by an appropriately licensed provider,

certified facility, or licensed and credentialed professional as set forth in ORC 2951.041 (B)(5).

The defendant admits that drug and/or alcohol usage was a factor leading to the criminal offense with which the offender is charged.

The defendant further states that the victim of the offense was not sixty-five years of age or older, not permanently and totally disabled, not under 13 years of age and not a peace officer engaged in the officer's official duties at the time of the alleged offense.

The defendant is willing to comply with all terms and conditions imposed by the Court pursuant to ORC 2951.041 (D).

I CERTIFY THAT I HAVE READ THIS ENTIRE REQUEST AND SWEAR THAT IT IS TRUE.

\_\_\_\_\_  
Defendant

SWORN TO BEFORE ME AND IN MY PRESENCE THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, \_\_\_\_\_.

SEAL

\_\_\_\_\_  
NOTARY PUBLIC  
STATE OF OHIO

\_\_\_\_\_  
Counsel for the defendant

“6A”

COMPANIONSHIP SCHEDULE

HOCKING COUNTY COMMON PLEAS COURT

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

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

1. AT SUCH TIMES AND PLACES AS THE PARTIES AGREE.

This Will Not Be Normally Less Than:

2. Weekends: Alternate weekends from Friday at 6:00 P.M. until Sunday at 6:00 P.M.

3. Holidays: In the odd-numbered years, mother has Easter, July 4<sup>th</sup>, Thanksgiving, Christmas Day and New Year's Eve; the father has Memorial Day, Labor Day, Christmas Eve and New Year's Day. In the even numbered years the schedule is reversed.

a) A holiday that falls on a weekend should be spent with the parent who is suppose to have the children for that holiday. The rest of the weekend is to spent with the parent who would normally have that weekend. These do not have to be made up.

b) 48 hour notice should be given by the non-custodial parent to the custodial parent of intentions about the holidays.

c) Mother's Day and Father's Day are to spent with the appropriate parent. These are agreed or 10:00 A.M. to 7:00 P.M.

d) Other days of special meaning, such as Religious Holidays, Martin Luther King Day, etc., should be decided together, written into the Court Order, and alternated as above.

e) Hours for parents who can not agree are as follows: Easter (10:00 A.M. to 7:00 P.M.), Memorial Day (9:00 A.M. to 9:00 A.M. the next day. Not to interfere with school), July 4<sup>th</sup> (9:00 A.M. to 9:00 A.M. the next day), Labor Day (9:00 A.M. to 9:00 A.M. the next day. Not to interfere with school), Thanksgiving (9:00 A.M. to 9:00 A.M. the next day), Christmas Eve (9:00 P.M. December 23 to 9:00 P.M. December 24), Christmas Day (9:00 P.M. December 24 to 9:00 P.M. December 25), New Year's Eve (9:00 P.M. December 30 to 9:00 P.M. December 31), New Year's Day (9:00 P.M. December 31 to 9:00 P.M. January 1).

4. Birthdays: The child shall celebrate his/her birthday in the home of the custodial parent, unless it falls on a visitation day, and the other parent can celebrate at another time if desired.

5. Waiting: The children and the custodial parent have no duty to await the visiting parent for more than 30 minutes of the visitation time. A parent who is late forfeits companionship of that period.

**Exhibit A - Page 2**

6. Cancellations: If a child is ill, the custodial parent should give 24-hour notice, if possible, so appropriate plans can be made. The non-custodial parent should give 24-hour notice to cancel. The time canceled by the non-custodial parent is forfeited.

7. Vacations: Four weeks of companionship each year are to be arranged with 60-day advance notice by the non-custodial parent. The custodial parent must give the non-custodial parent 60-day notice of vacations or special plans for the child to avoid planning conflicts.

a) Alternate weekends or holidays which normally would be spent with the custodial parent, and that fall during the non-custodial parent's vacation must be given to the custodial parent or made up at another time. Alternate weekends or holidays which normally would be spent with the non-custodial parent, and that fall during the custodial parent's vacation, must be given to the non-custodial parent or made up at another time. Holidays and alternate weekends that are to be made up must be given/taken within three (3) months.

b) Summer school necessary for the child to pass to the next grade must be attended.

c) A general itinerary should be provided for the custodial parent if vacation will be out of town.

8. Moving: For parents residing in different locations that make the above schedule impractical, they shall apply to the Court for modification.

9. If additional help is needed, contact your legal counsel.

“6B”

IN THE COURT OF COMMON PLEAS, HOCKING COUNTY, OHIO

GENERAL DIVISION

In re Rules

The following rules are adopted by the court as a part of Rule 29 Exhibit “B”:

**COMPANIONSHIP SCHEDULE**

**(For long distance travel- over 150 miles one way)**

1.) Companionship is to take place at such times and places as the parties may agree.

THIS WILL NOT NORMALLY MEAN LESS THAN:

2.) **Christmas**: School vacation in the even-numbered years or up to five days at Christmas for preschoolers with no school age children.

3.) **Easter**: School vacation in the odd-numbered years or up to five days for preschoolers with no school-aged siblings.

4.) **Alternative Holiday Plan**: Those who wish more frequent contact, and who develop a plan to pay for the transportation, can have half of Easter vacation, half the summer, alternate-year Thanksgiving, and half of Christmas vacation each year. The holidays themselves must be alternated, as the parties agree, or Easter and Thanksgiving in the odd-numbered years and Christmas in the even-numbered years for non-custodial parent.

5.) **Vacation**: One half of the school summer vacation. Summer school necessary for the child(ren) to pass to the next grade must be attended. The custodial parent shall notify the non-custodial parent by March 15 of when the summer vacation begins and ends. The non-custodial parent must notify the parent as to their intentions by April 15.

a.) If the parties cannot agree which half of the summer they prefer, in even-numbered years, the first half of the summer shall be spent at the non-custodial home, and in the odd-numbered years, the second half.

b.) Child(ren) and custodial parent must be allowed to communicate by telephone once a week. Calling party shall bear the expense.

c.) A general itinerary should be provided to the custodial parent if more than 2 days will be spent away from the non-custodial home.

**Page 2 - "6B"**

6.) **Additional Visitation:**

a.) **Weekend:** A once-a-month, weekend visit to the non-custodial home will be permitted if the child's traveling time does not exceed three hours one way. The custodial parent must be notified at least one week in advance.

b.) **Father's Day or Mother's Day** can always be spent with the appropriate parent.

c.) The non-custodial parent shall notify the custodial parent at least two days in advance of any time the non-custodial parent will be in the area and wants a visitation period.

d.) The custodial parent must notify the non-custodial parent and child(ren) of any time the custodial parent will be in the area of the non-custodial parent, and visitation must be allowed.

7.) **Transportation:** Responsibility for transportation costs should be decided in advance and a plan written into an Order of the Court.

8.) This schedule can be changed or modified by the Court if need for such is shown.

**NOTE TO CUSTODIAL PARENT:** Sufficient clothing and personal items must be sent with the child(ren).

SO ORDERED.

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Judge Thomas H. Gerken