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**COURT OF COMMON PLEAS  
CLERMONT COUNTY, OHIO**

**RULES OF LOCAL PRACTICE**

JUDGE JERRY R. McBRIDE  
JUDGE VICTOR M. HADDAD  
JUDGE RICHARD P. FERENC  
JUDGE THOMAS R. HERMAN

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RULES OF LOCAL PRACTICE

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## RULE 1 ASSIGNMENT OF CASES

1.1 **PROCEDURE FOR RANDOM SELECTION.** The clerk shall cause the computer to randomly assign each new case to a judge, subject to a weighting by the computer for the sole purpose of ensuring that there is an equal distribution of cases among the judges.

1.2 **RECUSALS.** If a judge recuses himself/herself from hearing a particular case or a particular matter, the judge shall inform the Administrative Judge in writing of the disqualification. Upon the request of the Administrative Judge, the clerk shall randomly assign the case/matter to another judge, unless all of the judges self-disqualify themselves from hearing the case/matter in which event the Administrative Judge shall request the appointment by the Supreme Court of a visiting judge.

1.3 **UNAVAILABILITY OF A JUDGE.** In the event of the unavailability of a judge for trial or for hearing on any pretrial matter, the trial/matter shall be assigned by the assigned judge to another judge for hearing, or if the assigned judge is unavailable to make the assignment, the assignment shall be made by the Administrative Judge.

1.4 **REFILED CIVIL CASES.** If a case has been dismissed and is refiled, the refiled complaint shall contain the following designation under the new case number: "THIS IS REFILED CASE # [STATE PREVIOUS CASE NUMBER], PREVIOUSLY ASSIGNED TO [STATE THE NAME OF THE JUDGE TO WHOM THE CASE WAS PREVIOUSLY ASSIGNED]." The judge to whom the case was previously assigned shall be assigned the re-filed case.

1.5 **CONSOLIDATION OF CASES.** When cases involving common questions of law or fact are pending before different judges, a party may file a motion to consolidate the cases. The motion shall be filed in each case which the movant seeks to consolidate. The motion to consolidate shall be ruled upon by the judge to whom the lowest case number is assigned and must also be approved by the judge(s) assigned to the other case(s). If cases assigned to different judges are consolidated, the cases shall be assigned to the judge having the lowest numbered case.

1.6 **CONSOLIDATION ENTRIES.** Upon approval of consolidation, an entry shall be prepared which bears the complete case captions of all cases to be consolidated and signature spaces for all assigned judges. The entry shall be initially presented to the judge having the lowest numbered case. After signature by the judge having the lowest numbered case, the movant shall present the entry for signature by each judge whose cases are affected by the consolidation. A copy of the signed entry shall be filed in each case.

1.7 **FILING OF PAPERS IN CONSOLIDATED CASES.** Although cases have been consolidated, each case shall remain separate and distinct. All subsequent pleadings shall bear the complete captions of all consolidated cases and unless otherwise ordered by the assigned judge shall be filed in each case. The case schedule of the lowest numbered case shall control the proceedings in the consolidated cases unless otherwise ordered by the judge assigned the consolidated cases.

1.8 **RE-INDICTED CASES.** If a case has been terminated by nolle prosequi or other form of dismissal, the re-indicted case shall contain the following designation under the case number: "THIS

IS RE-INDICTED CASE # [STATE PREVIOUS CASE NUMBER], PREVIOUSLY ASSIGNED TO [STATE THE NAME OF THE JUDGE TO WHOM THE CASE WAS PREVIOUSLY ASSIGNED]." The judge to whom the case was previously assigned shall be assigned the re-indicted case.

**1.9 CO-DEFENDANTS IN CRIMINAL CASES.** Subject to Rule 1.12, all co-defendants indicted in a multiple defendant case(s) shall be assigned to the same judge, who shall be the judge with the lowest case number. At the time of the return of an indictment where there is (a) co-defendant(s), the prosecutor shall file a notice which provides that "THIS DEFENDANT HAS (A) CO-DEFENDANT(S) WHOSE NAME(S) AND DATE(S) OF BIRTH IS (ARE) [GIVE NAME AND DATE OF BIRTH OF EACH CO-DEFENDANT]."

**1.10 DEFENDANTS WITH ACTIVE PROBATION/COMMUNITY CONTROL/ INTERVENTION IN LIEU OF CONVICTION/DIVERSION CASES.** Subject to Rule 1.12, if a probationer is indicted on a new case, the new case shall be assigned to the judge who placed the defendant on probation or community control or before whom the defendant pleaded guilty and was placed on intervention in lieu of conviction or in a diversion program.

**1.11 CRIMINAL DEFENDANTS WITH PENDING CASES.** Subject to Rule 1.12, if a defendant is arraigned on a new case and the defendant has pending case(s) assigned to a judge, the new case shall be assigned to that judge.

**1.12 PRIORITY OF ASSIGNMENTS.** In the event that a case is subject to more than one assignment category, the following assignment priority applies:

- a. Re-indicted cases;
- b. Co-Defendant cases;
- c. Pending cases; and
- d. Active probation/community control/intervention in lieu of conviction/diversion cases.

**1.13 ASSIGNMENT OF AGGRAVATED MURDER CASES WITH DEATH PENALTY SPECIFICATIONS.** All aggravated murder cases with death penalty specifications will be assigned randomly by lot without regard to the assignment rules set forth above.

**1.14 THREE JUDGE AGGRAVATED MURDER CASES WITH DEATH PENALTY SPECIFICATIONS.** If a defendant in an aggravated murder case with death penalty specifications seeks to enter a plea of guilty to one or more death penalty specification(s) or waives a jury trial in writing and on the record, the case shall be submitted to a three judge panel. The assigned judge shall serve as the presiding judge over the trial of the case. The two additional judges shall be designated, pursuant to R.C. 2945.06, by the Presiding Judge of the Court and shall be selected at random by lot.

**RULE 2**  
**SECURITY FOR COSTS**

2.1 No civil action or proceeding shall be accepted for filing by the Clerk unless there is deposited as security for costs the amount required as set forth in Appendix A.

2.3 All entries ordering notice by publication shall bear the certification of the Clerk that the required additional cost deposit has been made.

2.4 An additional cost shall be deposited with the Clerk upon the request for jury view in any civil case, the expense of said view to be taxed as costs in the case.

2.5 When appraisals are filed with the Clerk, the Clerk shall pay to the appraisers such fees as are allowed by law or as set by court order.

2.6 No attorney or officer of this court shall be received as security for costs or as surety on a criminal recognizance.

2.7 An additional deposit in the amount set forth in Appendix A shall be deposited with the Clerk upon the request for an order of sale in any foreclosure or partition case.

**RULE 3  
PLEADINGS**

3.1 To practice in the Court of Common Pleas, an attorney must be admitted to practice in the State of Ohio. The assigned judge may admit counsel only upon a filed written motion for admission pro hac vice. An affidavit must be attached succinctly stating the attorney's qualifications. The assigned judge may require local counsel and may withdraw admission pro hac vice at any time.

3.2 All pleadings shall be filed flat, with no backing required, on 8-1/2" by 11" white paper with a minimum head margin of one and one half inches. In addition to the original, sufficient copies shall be filed with the Clerk to accomplish service of process, if required. No additional file copies shall be accepted by the Clerk.

3.3 No civil complaint shall be accepted for filing unless accompanied by a classification form that clearly designates the trial attorney.

3.4 The attorney or party completing the classification form upon the filing of a complaint shall certify as to whether the case had been filed previously and dismissed. If the case was dismissed under Civ. R. 41, then, under the case number, the re-filed complaint shall contain the statement: "This is a refiled case," and the name of the judge to whom the case was previously assigned.

## RULE 4 MOTIONS

4.1 Motions shall be submitted and determined upon the motion and a brief memorandum. Unless an extension of time is granted for good cause shown, any memorandum in opposition to a motion, or a co-party's memorandum in support of the motion, shall be filed within 14 days of the filing of the motion. The movant shall file any reply memorandum within 7 days of the filing of the last memorandum in opposition. Counsel shall deliver to the assigned judge a file stamped copy of the motion, reply or additional memoranda. Motions may be set for an oral hearing on the court's motion or on any party's written motion with consent of the court. This Rule shall not apply to motions filed under Ohio Civil Rules 22, 23, 24, 55, 56 and 65.

4.2 A response to a motion for summary judgment must be filed within 14 days of service, unless extended by court order. The movant shall serve and file any reply brief within 7 days of the service of the brief in opposition, but shall be limited to responding to issues raised in the brief in opposition. The court may grant leave for an oral hearing upon the Court's own motion or upon a written application filed with the motion or filed with any responsive pleading.

4.3 Upon filing any motion, counsel shall file a certificate of readiness with the Assignment Office stating whether leave of court has been obtained for oral argument. If no leave for oral argument has been obtained, the case shall be set upon the court's docket for "submission on the pleadings" at the expiration of the time allowed by civil rule for opposition and reply briefs. If motions for summary judgment, or other dispositive motions, are filed by multiple parties in succession, counsel filing the later motion shall reset the submission date to conform to time limitations for opposition and reply briefs of the later motion.

**RULE 5**  
**ENTRIES**

5.1 Unless the court designates otherwise, judgment entries shall be prepared by the counsel for the prevailing party. Entries shall contain a caption listing all parties, the judge to whom the case has been assigned and a certificate of the Clerk that all costs have been paid in full. The entry shall also contain an order for the Court requiring the Clerk of Courts to serve the judgment on parties in the action per Civil Rule 58(B).

5.2 Entries shall be submitted to opposing counsel for signature within 14 days of the court's decision, along with notice that the entry will be offered to the court on the 30<sup>th</sup> day after the decision issued. If opposing counsel rejects the form, he or she shall set the matter for hearing on entry through the Assignment Office. This request for a hearing must be filed on or before the 30<sup>th</sup> day following the court's decision.

5.3 Any entry presented to the court for signature without endorsement by all counsel or parties shall contain the certification that the entry was served upon opposing counsel or opposing parties and that the time for objection has expired.

5.4 If no entry or request for hearing is received by the court within 30 days of decision, then the court may dismiss the matter, order the Clerk to enter judgment in accordance with the decision rendered, or take other appropriate action.

5.5 Any entry affecting a pending matter that has been set for a hearing, arbitration, or mediation shall be delivered to the Assignment Office for cancellation of the hearing. Delivery of a copy of the entry satisfies this Rule.



**RULE 6  
PRE-TRIAL**

6.1 The assigned judge shall schedule pre-trial conferences.

6.2 All trial counsel, unless excused by the court, shall attend the pre-trial conference(s) with full authority and knowledge to adequately represent the client in the following matters:

- (1) Agreement on the final date for filing any pleadings or motions and any necessary responses thereto;
- (2) Establish schedule for completion of discovery;
- (3) Establish schedule of pre-trial conferences;
- (4) Establish necessity for trial memoranda and date of submission;
- (5) Determination of settlement discussions and appropriate ADR options;
- (6) Establish a trial date.

6.3 Counsel for either party may apply for a pre-trial conference at any time.

6.4 The failure of trial counsel to appear at a pre-trial conference may result in the continuance of the pre-trial and appropriate sanctions, including the costs and attorney fees of opposing litigants incurred as a result of the continuance.

**RULE 7**  
**DEFAULT HEARING**

7.1 A party seeking a default judgment under Civ. R. 55 shall file a written motion with the Clerk of Courts.

7.2 (A) Attorneys seeking default must be present at hearings on motions for default in which the damages sought by plaintiff are unliquidated. The hearing judge may consider the following:

- (1) Perfection of service of the complaint by plaintiff or counsel;
- (2) Defendant's failure to answer or appear within 28 days of service;
- (3) Evidence of damages either by verified pleadings by plaintiff, or testimony of plaintiff, together with any exhibits properly appended to pleadings or affidavit, or introduced and accepted at hearing;
- (4) Report from expert stating opinion as to proximate cause of injury.

(B) No hearing is required on a motion for default in which damages sought by plaintiff are liquidated. The assigned judge shall consider the following upon the filing of a motion for default:

- (1) Perfection of service as above;
- (2) Failure of defendant to answer as above;

Affidavit as to amount due and owing.

**RULE 8**  
**CONTINUANCES**

8.1 No continuances will be granted except upon written motion and entry approved by the assigned judge and reflected upon the court's docket. Requests for continuances shall be signed by counsel of record, and if requested by the court or required by this rule, by the parties.

8.2 Any motion to continue an assigned trial date must be signed by counsel and the moving party and set forth good cause for continuing the assigned trial date. No motion for modification of the assigned trial date will be granted without a showing of good cause. If the motion to continue the trial date is made after the final pre-trial conference, no continuance will be granted without a showing of extraordinary circumstances, and only then where there is no alternative means of preventing a substantial injustice.

**RULE 9**  
**JUDGMENTS UPON WARRANT OF ATTORNEY TO CONFESS**

9.1 Judgments by confession, upon a warrant of attorney, will not be entered in the absence of the defendant, except upon proof, satisfactory to the court, of the maker's signature on the warrant of attorney or other instrument upon which judgment is sought and presentation to the court of the original instrument. When confessing judgment, an attorney must produce the warrant of attorney to the court before which the attorney confesses. The original warrant shall be filed with the Clerk.

9.2 Immediately upon entering a judgment by confession, the plaintiff's attorney shall file a praecipe with the Clerk of Court requesting that a copy of the judgment entry be forwarded to the defendant at the address shown in the complaint by certified mail, return receipt requested.

**RULE 10**  
**APPOINTMENT OF SPECIAL PROCESS SERVER**

10.1 In addition to the requirements of Civil Rules 4.1 and 4.3, an application to be appointed as a special process server shall include the applicant's mailing address. All appointments of special process servers shall be made on a case by case basis by the Judge assigned to the case, or in his absence, the Administrative Judge. No blanket appointments of process servers will be permitted.

**RULE 11**  
**JUDICIAL SALES**

11.1 Where no exceptions have been filed, all sales made under court order shall be reported no later than the 3<sup>rd</sup> day following the sale and shall be subject to confirmation on the 4<sup>th</sup> day after the report. The parties may agree to a confirmation at any time. Where exceptions have been filed, the excepting party shall set the matter for hearing through the Assignment Office, with notice to all parties or their counsel.

## RULE 12 ARBITRATION

12.1 Except in appeals and in those cases involving title to real estate or equitable relief, any Judge may, at any time, by a general entry, order any case to be heard and decided by a Board of Arbitrators or a single arbitrator, provided the following conditions are satisfied:

- A. A pretrial has been held or waived by the parties with the consent of the court;
- B. The court determines that all dispositive motions have been ruled upon and the case is ready for trial setting; and
- C. The amount actually in controversy per each party (exclusive of interest and costs) as determined by the court does not exceed \$100,000 per case. A case where the amount in controversy exceeds \$100,000 may be referred to arbitration by consent of all parties and the court.

12.2 Arbitrators shall be attorneys at law who are members of the Clermont County Bar Association and other attorneys at law who regularly practice before the Bar in Clermont County, Ohio, as designated by the Administrative Judge of the Court of Common Pleas' General Division. The Assignment Office shall notify all attorneys so designated. Attorneys desiring to be eliminated from the list may notify the Administrative Judge in writing prior to October 1<sup>st</sup> of each year. Unless excused, they shall be subject to assignment for arbitration services during the following 12 months.

12.3.1 Objections to an order placing a case on the arbitration list shall be raised by motion filed within 10 days of the mailing of notice of the order and shall be heard by the assigned judge.

12.3.2 Objections to an assigned arbitrator shall be raised by motion filed within 10 days of mailing of notice of assignment and shall be heard by the assigned judge.

12.4.1 Manner of Appointment: The assignment office shall keep the list of arbitrators. This list shall be divided into three equal groups designated as Arbitration Group (A), (B) and (C). Group (A) shall consist of lawyers, listed alphabetically, who are selected from the list of arbitrators by the judges of the Court of Common Pleas. The balance of lawyers on the list shall be divided at random into Groups (B) and (C), listed alphabetically. Appointments to each Board of Arbitrators shall be made in alphabetical order, one from each group, by the Assignment Office.

No substitution of arbitrators shall be made without written entry of the Court and notification to counsel. No substitution shall be made within 10 days of the hearing date unless all counsel agrees and the substitution is ordered by the assigned judge.

12.4.2 Composition of Board: All arbitration cases will be heard by a panel of three arbitrators, unless the parties agree to the appointment of a single arbitrator. The lawyer from Group (A) shall be Chairperson of the Board.

12.4.3 Assignment of Cases: The Assignment Office shall assign a case to the Board Chairperson at the time of the Chairperson's appointment. These cases shall be taken in order from the arbitration list.

12.4.4 No settlement offers shall be disclosed to the Arbitrators before the report and award (See Section 12.16 of these Rules) are filed.

12.5 Once an arbitrator is chosen, he or she shall be stricken from the pool until all other persons in the pool have served as an arbitrator. The pool will be reassembled on the 1st of October each year, or earlier if the Administrative Judge so directs.

12.6 Neither counsel nor the parties shall communicate with the arbitrators concerning the merits of the controversy before the hearing commences.

12.7 The time and place of hearings shall be designated by the assigning judge at pretrial or by the Assignment Office after consultation with the Board Chairperson, the arbitrators, and the parties. A hearing shall not be scheduled more than 90 days after the appointment of the Board of Arbitration without leave of court. After the hearing is set, the arbitrators and the parties, or their counsel, shall be notified in writing of the time and place of the hearing.

12.8 Once a hearing date is set, the hearing shall proceed at the scheduled time unless the case is continued by the assigned judge. It shall be continued to a date on which the previously assigned panel can meet. Each panel member assigned to a specific case, unless removed for cause, will remain with that case until its completion. Arbitrators assigned to a case are expected to personally appear. No substitution may be made without a showing of good cause and an order of the assigned judge. Failure to appear as an arbitrator at the designated hearing date and time may result in contempt proceedings against the arbitrator and an award of the parties' expenses and costs.

12.9 When the arbitrators are assembled, they shall be sworn or affirmed to justly and equitably try all matters properly submitted to them. This oath or affirmation may be administered by any person having authority to administer oaths.

12.10 The arbitration shall proceed in the absence of any party who, after due notice, is not present or fails to obtain an adjournment. An award shall not be made solely on the default of a party; the Arbitrator or the Board of Arbitration shall require the other party to submit such evidence as the Board may require for making an award.

12.11 Although strict conformity to legal rules of evidence is not necessary, the Board shall receive only relevant and material evidence. All evidence shall be taken in the presence of the arbitrators and the parties, except where a party is absent after notice, is in default, or has waived the right to be present. The arbitrators shall receive evidence in the following forms:

- A. Sworn testimony by competent witnesses;
- B. The product of all discovery completed prior to the hearing; and



- C. Affidavits, depositions, documentary evidence and/or written reports, if such evidence has been served upon the adverse parties or their counsel at least 14 days before the arbitration hearing. Counsel may agree otherwise or the Court may provide otherwise by pretrial order.

Arbitrators may receive additional evidence as they deem proper and shall accord the evidence whatever weight they deem appropriate.

12.12 The arbitrators shall have the general powers of a court including, but not limited to, the following powers:

- A. Subpoenas. To issue subpoenas for witnesses to appear before arbitration and to request the issuance of an attachment for failure to comply.
- B. Production of Documents. To compel the production of all books, papers and documents which they deem material to the case; and
- C. To administer oaths or affirmations to witnesses, to determine the admissibility of evidence, to permit testimony to be offered by depositions and to decide the law and the facts of the case submitted to them.

12.13 A party intending to offer an estimate shall forward with the notice to the adverse party, a copy of the estimate, a statement indicating whether or not the property was repaired and, if it was repaired, whether the estimated repairs were made in full or part, attaching a copy of the receipted bill showing the repairs made and the amount.

12.14 Any judge of the General Division of the Court of Common Pleas shall have full supervisory powers for questions that arise in an arbitration proceeding and in the application of these Rules.

12.15 Arbitrators are not required to make a transcript of the proceedings. If a party wishes a transcript, that party shall provide a reporter and shall pay the costs thereof, which shall not be considered costs in the case. The reporter shall provide a copy of the transcript to any party desiring one upon payment, based upon the usual charges for a copy of a deposition.

12.16 Within 7 days after the hearing, unless otherwise agreed by the parties or extended by the assigned judge, the arbitrator or the Board Chairperson shall file a report and award with the Assignment Office. The Assignment Office then shall mail or otherwise forward copies to all parties or their counsel. An award for each party may not exceed one hundred thousand dollars (\$100,000) per case, exclusive of interest, unless such limitation is waived in writing by all parties. The report and award shall be signed by all of the Board's members.

12.16.1 If the 3 Board members do not agree on the finding and award, the dissenting member shall write the word "Dissents" before his or her signature. A minority report shall not be

required; however, an arbitrator may submit one. The Assignment Office shall file the original and any minority reports with the Clerk of Courts.

12.17 Compensation: Board of Arbitrators. Each Board member who has signed an award or filed a minority report shall receive compensation as set by a standing court order. When more than 1 case arising out of the same transaction is heard at the same hearing or hearings, it shall be considered as one 1 case for compensation purposes. In cases requiring hearing of unusual duration or involving questions of unusual complexity, the assigned judge, on motion of the Board members and for cause shown, may allow additional compensation. The Board members are not entitled to receive their fees until after filing the report and award with the Assignment Office. Fees paid to arbitrators shall not be taxed as costs or follow the award as other costs.

12.17.1 Compensation: Single Arbitrator. After filing the report and award, the arbitrator is entitled to compensation as set by a standing court order. In cases requiring a hearing of unusual duration or involving questions of unusual complexity, the assigning judge, on motion of the arbitrator and for cause shown, may allow additional compensation. Compensation paid the arbitrator shall not be taxed as costs or follow the award as other costs.

12.18 Any party may appeal from the action of the Board of Arbitration to the Common Pleas Court of Clermont County. The appeal must be filed within 30 days after the report of the award has been filed with the Clerk of Courts. No appeal can be withdrawn without consent of all parties. The filing of a single appeal shall be sufficient to require a trial de novo. Notice of filing the appeal shall be given by counsel to all other counsel of record on or before the date of filing the appeal, by ordinary mail.

12.18.1 The appellant shall pay an appeal fee of \$400 to the Clerk of Courts and shall file with the Clerk and the Assignment Office a notice of appeal accompanied by an affidavit by the appellant's counsel, or by appellant, that the appeal is not being taken for the purpose of delay. Copies shall be served upon opposing parties or their counsel.

12.18.2 The sum paid shall include the arbitrator's fees and shall be recoverable by the appellant only if:

- A. Upon a trial de novo, the appellant secures a judgment which reverses the decision of the arbitrators or which is more favorable than the arbitrators' award; or
- B. Before a trial de novo, the appellant secures a settlement which is more favorable than the Arbitrators' award and the settlement is evidenced by an entry of dismissal, signed by the assigning judge, which recites that the Court has been advised of the amount of the settlement and orders the Clerk of Courts to refund to the appellant the deposit of the arbitrators' fees.

12.19 The report and award, unless appealed, shall be final. If no appeal is taken, the court shall enter judgment of the award. Upon expiration of the time for appeal, the prevailing party shall prepare a judgment entry which shall be submitted to the assigning judge. If no entry has

been submitted to and accepted by the court within 30 days from the expiration of the time for appeal, the court may enter its own judgment entry.

## RULE 13 MEDIATION

This Rule incorporates by reference the "Uniform Mediation Act" (UMA), codified at R.C. 2710.01 et seq., and Rule 16 of the Supreme Court of Ohio Rules of Superintendence.

### (A) Definitions

All definitions found in the UMA, codified at R.C. 2710.01, are adopted by this court. The definitions include 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.

### (B) Purpose

To promote greater efficiency and public satisfaction through the facilitation of the earliest possible resolution of cases filed in the Clermont County Court of Common Pleas, General Division. To accomplish this goal, the Clermont County Court of Common Pleas, General Division mediation program has been established.

### (C) Scope

Any judge of the Court of Common Pleas, General Division, may, at any time, submit a civil action in this court to mediation. The mediation is to be conducted by the court-appointed mediator. There is no limit as to the amount in controversy of any case referred to mediation. All parties and insurance representatives are required to be present for mediation. Mediation shall not be used for any of the following:

- As an alternative to the prosecution or adjudication of domestic violence;
- In determining whether to grant, modify or terminate a protection order;
- In determining the terms and conditions of a protection order; and

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

**(D) 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). If the parties wish mediation communication to be confidential they will effect a written confidentiality agreement and present it to the mediator prior to the mediation.

**(E) 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).

**(F) 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.

**(G) 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 court appointed mediator, Judge or Magistrate who referred the case.

**(H) Mediation Case Summary**

Attorneys submit a “Mediation Case Summary” to the mediator which shall contain the following:

- Summary or material facts.
- Summary of legal issues.
- Status of discovery.
- List special damages and summarize injuries or

- damages.
- Settlement attempts to date, including demands and offers.

**(I) 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:

- Whether the mediation occurred or was terminated;
- Whether a settlement was reached on some, all or none of the issues; if the mediation results in settlement, counsel for the parties are responsible for submitting the necessary entry in accordance with Local Rule 5. If some, but not all, issues in the case are settled during mediation, then the parties shall submit a joint entry to the court listing the issues that remain for trial within 30 days of the termination of the mediation.
- Attendance of the parties.
- Future mediation session(s), including date and time.

**(J) 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.

**RULE 14**  
**NOTARY PUBLIC EXAMINATION AND**  
**NOTARY PUBLIC EXAMINATION FEES**

14.1 The Court shall appoint three or more members of the Ohio Bar, in good standing, who practice law in Clermont County, to the “Judges Committee on Notaries Public.” One member shall be designated as Chairperson. The Chairperson will report annual income and expenses associated with the notaries public program to the Administrative Judge before the 15<sup>th</sup> day of January. All disbursements, other than for normal operations, shall be upon a court order.

14.2 The Committee shall, at least once each month, examine all applicants for appointment as Notaries Public of the County to determine whether the applicant possesses the necessary qualifications. The Committee may hold special examinations at any time. This provision shall not apply to applicants who are admitted to the practice of law in Ohio.

14.3 Each application shall be accompanied by a fee set by separate court order. Each applicant will also pay recording fees and fees to the Clerk for the Governor. Along with the application, every applicant shall file a written statement as prescribed by the Committee. Each applicant shall receive, without charge, a copy of the “Manual for Notaries Public.”

14.4 Within 7 days of an examination, the Committee shall make a written report to one of the judges of this Court. The report shall contain either an approval or disapproval of the applicant.

14.5 An applicant who is deemed by the Committee to be unqualified for appointment may apply for re-examination after 30 days. If the Committee deems that applicant to be unqualified upon the second examination, then the applicant shall not be permitted to apply for another examination until 180 days after the second examination. If the Committee deems that applicant unqualified upon the third examination, then that applicant shall not be permitted to apply until 5 years after the date of the first examination. Each application shall be accompanied by a fee.

14.6 The Administrative Judge, or a judge designated by the Administrative Judge, shall hear any complaint filed by the Committee seeking to have a Notary removed, suspended, or disciplined, after notice to the Committee and to the persons against whom the complaint is filed.

14.7 If an applicant fails to appear for an examination within 30 days of filing the application, then the Committee shall notify the applicant by mail that the application will be cancelled and the fee forfeited unless that applicant appears for examination within the next 30 days. The Committee or a judge of this Court may authorize the reimbursement of the fee.

14.8 Persons who wish to have their commission as a Notary Public renewed shall file an application for renewal with the Committee. This application shall be in writing, shall set forth the facts required by the Committee and shall be accompanied by a fee. This application shall be examined by the Committee or a member thereof. If approved, the applicant will be qualified for a renewal of the commission without examination, unless otherwise ordered by the Court.

**RULE 15**  
**JURIES**

15.1 The Court approves the use of Automatic Data Processing Information storage and Information Retrieval Devices.

15.2 The Deputy Jury Commissioner shall instruct, personally or by mail, each prospective juror to call the Commission's office for examination and assignment to jury service, or exemption therefrom. The Administrative Judge shall review, or appoint another judge of this Court to review, jurors' requests to be excused.

15.3 All prospective jurors shall complete a "Juror Questionnaire" approved by the Court. The Court shall ensure that the privacy of prospective jurors is reasonably protected. Basic background information from the Questionnaire shall be provided to parties before trial begins and shall be used by them for voir dire purposes only. The parties shall not copy the background information in any manner. Upon completion of the voir dire, the background information forms shall be returned to the bailiff.

15.4 The Administrative Judge, the Clerk of Courts and the Commission shall each retain a copy of the annual jury list.

15.5 All members of the Jury Panel shall report each morning to the Jury Commissioner one half hour before the opening of court, unless otherwise ordered by the trial judge. The Jury Panel shall remain in the jury quarters during court hours and shall not leave except by permission of the Deputy Commissioner.

15.6 Any Jury Panel member who fails to answer the call of the Deputy Jury Commissioner shall be reported to the Administrative Judge.



**RULE 16**  
**CRIMINAL ARRAIGNMENT**

16.1 Arraignment of matters presented by the Grand Jury shall be held every Thursday, or as otherwise scheduled by the court. The defendant is not required to appear at arraignment if the amount of bail has been set, the defendant has furnished the required security, and a proper consent and waiver form is executed by the defendant and counsel and filed with the Clerk. The consent form shall appear substantially similar to Appendix B to these Rules. The Clerk shall present the required form to the assigned judge. An entry approving and continuing defendant's bond as previously set, endorsed by the prosecuting attorney, defendant's counsel, and the Clerk of Courts must also be filed.

**RULE 17**  
**FACSIMILE FILING**

**APPLICABILITY**

- 17.01 These rules apply to civil and criminal proceedings in the Court of Common Pleas, Clermont County, Ohio.
- 17.02 The following documents will not be accepted by the Clerk of Courts for fax filing:
- (1) Filings commencing an action;
  - (2) Filings that require a cost deposit or fee;
  - (3) Filings that require a judge's signature;
  - (4) Filings that exceed 30 pages, including exhibits;
  - (5) Service copies;
  - (6) Any document that is larger than 8 ½ x 11.
- 17.03 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 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 and the source copy of the facsimile cover sheet used for the filing.
- 17.04 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:

- 17.05 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.
- 17.06 A "facsimile machine" means a machine that can send and receive a facsimile transmission.
- 17.07 Fax" is an abbreviation for "facsimile" and refers, as indicated by the context, to facsimile transmission or to a document so transmitted.

**COVER PAGE**

- 17.08 The person filing a document by fax shall also provide cover page containing the following information:

- (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.
- 17.09 If a document is sent by fax to the Clerk of Court without the cover page information listed above, or if the transmission contains a filing that is not acceptable under 17.02 of these rules, the Clerk is authorized to reject the filing.
- 17.10 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

- 17.11 A party who wishes to file a signed source document by fax shall either:
- (I) fax the signed source document; or
  - (II) fax 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.
- 17.12 A party who files a signed document by fax represents that the physically signed source document is in his/her possession or control.

## EXHIBITS

- 17.13 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 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.
- 17.14 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.

## TIME OF FILING

- 17.15 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 fax transmission was received by the Clerk of Courts.
- 17.16 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.
- 17.17 The Clerk of Court need not acknowledge receipt of a facsimile transmission.
- 17.18 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.

**FACSIMILE FILING COVER PAGE****RECIPIENT INFORMATION:**

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

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

**SENDING PARTY INFORMATION:**

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

SUPREME COURT REGISTRATION NUMBER (if applicable): \_\_\_\_\_

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

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

TELEPHONE NUMBER: \_\_\_\_\_

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

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

**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.

**RULE 18**  
**MAGISTRATES**

18.1 Magistrates shall be appointed by the Court, serve as full-time employees of the Court, and exercise the legal authority provided by Civ. R. 53, and Crim. R. 19.

18.2 A magistrate shall preside over any trial or hearing which is referred to him or her by the assigned judge, by a general order of reference, or by this local rule. The following matters may be referred to a magistrate at the discretion of the assigned judge:

- (a) On any issue or issues as to which no jury right attaches, or as to which the jury right has been waived;
- (b) Trials or hearings as to any issues submitted by consent of the parties;
- (c) Jury trials where the parties have given unanimous written consent under Civ. R. 53(C)(1)(c).

18.3 The following matters shall be referred to the magistrates by operation of this local rule:

- (a) Civil Protection Orders;
- (b) Replevins;
- (c) Judgment debtor examinations;
- (d) Garnishments and attachments;
- (e) Proceedings for the forfeiture of contraband;
- (f) Default judgments where a damages hearing is scheduled;
- (g) Arraignments if directed by the judge before whom the arraignments have been scheduled;
- (h) Any other matters, including case management conferences or pre-trials, at the direction of the assigned judge.

Where practicable, the magistrate shall preside over matters on the docket of his or her assigned judge. The Administrative Judge may by separate order assign magistrates to preside over ex parte civil protection order hearings and other routine proceedings without regard to which judge is assigned to the case. All hearings for garnishment, attachment, replevin, forfeiture of contraband, and judgment debtor examinations shall be before the magistrates, unless the assigned judge orders otherwise, at such times and dates as the assignment commissioner designates.

18.4. Proceedings before the magistrate shall be recorded in the same manner as proceedings before a judge. The magistrate will issue his or her order or decision after the trial or hearing in accordance with Civ. R. 53, but he or she may require that briefs, proposed findings and conclusions or other memoranda be submitted by counsel prior to the issuance of his or her order or decision. No findings of fact and conclusions of law are required after a jury trial, but the magistrate shall report in writing the actions of the jury.

18.5 Objections and memoranda in support of objections to the magistrate's order or decision shall be timely filed by any party in accordance with Civ. R. 53. Memoranda contra objections may be filed by any party within 7 days of filing of the objections.

**RULE 19**  
**MISCELLANEOUS**

19.1 Other than court staff, no one, including attorneys, shall be permitted to take original papers from the files in the Clerk's Office.

19.2 The original notice of voluntary dismissal under Civ. Rule 41 shall be endorsed by the assigned judge and filed with the Clerk of Courts.

19.3 The compensation for transcripts furnished by the official Court Reporters shall be set by separate entry of the Court.

19.4 No persons, other than members of the Bar, officers of the court, litigants whose case is on trial, witnesses under examination, or jurors, shall be allowed to remain within the Bar during the sessions of the Court, except by leave of the presiding judge.

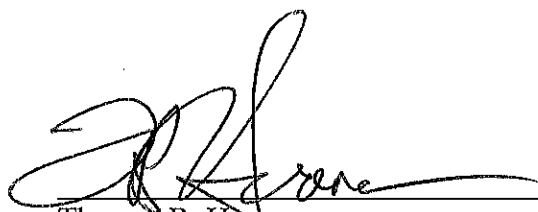



**RULE 20**  
**EFFECTIVE DATE OF RULES**

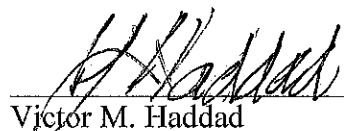
20.1 These rules are hereby adopted and shall take effect on May 20, 2011, after these rules are filed with the Supreme Court of Ohio in accordance with Civil Rule 83. They govern all further proceedings in actions then pending, except if the Court determines that their application in a particular case pending upon the effective date hereof would not be feasible, would work injustice, or would not conform with the Rules of Superintendence, or the Rules of Civil or Criminal Procedure.

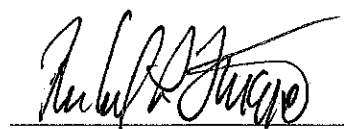
20.2 All former rules of this court are repealed as of the effective date hereof and these rules are ordered spread upon the journal of this court.

20.3 Amendments and additions may be made upon the majority affirmative vote of all of the judges in office of the General Division of this court, but such amendments shall not be effective until filed with the Supreme Court of Ohio in accordance with Civil Rule 83.

  
\_\_\_\_\_  
Thomas R. Herman  
Presiding Judge

  
\_\_\_\_\_  
Jerry R. McBride  
Administrative Judge

  
\_\_\_\_\_  
Victor M. Haddad  
Common Pleas Judge

  
\_\_\_\_\_  
Richard P. Ferenc  
Common Pleas Judge

## APPENDIX A

## Security for Costs

New Civil Case	\$200.00
Foreclosure	\$300.00
Appeal of Arbitration	\$400.00
Judgment Debtor Examination	\$100.00
Reclassification Challenge	\$100.00
Garnishment	\$50.00
Execution	\$100.00
Writ of Possession	\$100.00
Recording Certificate of Judgment	\$20.00
Cancellation of Certificate of Judgment	\$10.00
State of Ohio Certificate of Judgment	\$30.00
Foreign Certified Judgment	\$25.00
Jury Trial (Deposit)	\$300.00
Jury View	\$300.00
Cross Complaint	\$50.00
Appeal to the Twelfth District Court of Appeals	\$125.00
Foreign County Sheriff's Service (Per Defendant)	\$50.00
Expungement	\$75.00
State Reparation/Indigent Defense Support Fund	\$60.00
Bail Bond Surcharge	\$25.00
Indigent Defendant Application Fee	\$25.00
Copies (per page)	\$0.10
Witness Fee (All Day)	\$12.00
Mileage (Witness)	\$0.10 per mile round trip