

**PROPOSED AMENDMENTS TO LOCAL RULES OF PRACTICE AND PROCEDURE  
FOR THE GENERAL DIVISION OF THE MONTGOMERY COUNTY  
COURT OF COMMON PLEAS**

**COMMENTS DUE BY MAY 4, 2007**

COMMENTS REQUESTED: Pursuant to Loc. R. 1.03, Local Rules of Practice and Procedure for the General Division of the Montgomery County Court of Common Pleas, proposed amendments to **Loc. R. 2.31, Magistrate**, are being published for a sixty-day public comment period beginning **Wednesday, March 7, 2007, through Friday, May 4, 2007**.

Comments on the proposed amendments to the local rule can be submitted via email to [rulecom@montcourt.org](mailto:rulecom@montcourt.org) or in writing to:

James W. Drubert, Court Administrator  
Montgomery County Common Pleas Court  
41 N. Perry Street  
P.O. Box 972  
Dayton, OH 45422

**Comments must be received by 4:30 p.m. on Friday, May 4, 2007.**

**EFFECTIVE JUNE 11, 2007**

The proposed amendments to the local rule will take effect on **June 11, 2007**, unless prior to such date the Court in its discretion amends, modifies, or withdraws the local rule. In the event the Court amends, modified, or withdraws the local rule, the revision will be published for a thirty-day notice period.

Deletions are shown with the following attributes and color:

Strikeout, Blue.

Deleted text is shown as full text.

Insertions are shown with the following attributes and color:

Double Underline, Redline, Red.

## **RULE 2.31** **MAGISTRATE**

1 I. APPOINTMENT AND REFERENCE

2 A. Magistrates shall be appointed and cases referred in accordance with  
3 Rule 53 of the Ohio Rules of Civil Procedure.

4 II. PRETRIALS

5 A. The Magistrate may require a case to be pre-tried prior to the date of  
6 hearing and/or trial date. Such pretrials will be conducted according to the  
7 provisions of Local Rule 2.07.

8 III. TRIALS

9 A. Trials before the Magistrate will be conducted in accordance with the  
10 standard set out in applicable State and local rules.

11 B. A record shall be made of all proceedings before a Magistrate.

12 IV. MAGISTRATE'S DECISION

13 A. The Magistrate will issue the Magistrate's decision including findings of  
14 fact after the hearing in accordance with Rule 53 of the Ohio Rules of Civil  
15 Procedure, but the Magistrate may require that briefs, proposed findings  
16 or other ~~memorandums~~memoranda be submitted by counsel prior to the  
17 issuance of said Magistrate's decision. The Magistrate's decision does not  
18 have to include findings of fact if so specified in the order of reference.

19 V. OBJECTIONS TO MAGISTRATE'S DECISION

20 A. Objections to the Magistrate's decision may be filed by any party within  
21 fourteen (14) days in accordance with Rule 53(~~ED~~)(3) of the Ohio Rules of  
22 Civil Procedure.

23 VI. TRANSCRIPTS

24 A. When necessary as provided in Rule 53(~~E~~)(~~3D~~)(b)(~~iii~~), a transcript of the  
25 hearing must be filed with the Court by the moving party within thirty (30)  
26 days after the filing of objections to the Magistrate's decision unless the  
27 Magistrate, in writing, extends the time for inability ~~of the reporter~~ to  
28 complete the transcript of the testimony:

29 1. \_\_\_\_\_, or for other good cause.

30 1. The request for a transcript shall be a read only compact disk (CD-  
31 ROM) recording of the hearing or testimony.

32 2. The CD-ROM must be filed with the Court as part of the record.

33 3. A paper transcription of the CD-ROM contents may be prepared in  
34 accordance with Appellate Rule 9 with prior approval of the Court.

35 4. The request for a paper transcript or CD-ROM shall be submitted to  
36 the proper Court Reporterfiled within three (3) days after filing of  
37 objections.

38 VII. FINAL ENTRIES

39 A. If no objections to the Magistrate's decision are filed pursuant to [Section V](#)  
40 of the rule, the Magistrate shall prepare the judgment entry and submit the  
41 same to the Court for approval.

42 VIII. STIPULATIONS AND FINDINGS OF FACT

43 A. If the parties agree that the findings of fact of the Magistrate are to be  
44 final, as contemplated in Rule 53(ED)(3)(bii) of the Ohio Rules of Civil  
45 Procedure, they shall so indicate in a written entry to be filed with the  
46 Clerk of Courts.

47 B. The parties may enter stipulations of fact before or after the Magistrate's  
48 decision and no such stipulation would preclude any objections of errors  
49 of law.