

**LOCAL RULES OF PRACTICE AND PROCEDURE
COURT OF COMMON PLEAS, GENERAL DIVISION
MONTGOMERY COUNTY, OHIO
AMENDMENTS THROUGH MAY 10, 2017**

Amendments made to the following:

Significant amendments were made to Mont. Co. C.P.R. 1.01 through 1.41 and appendices related thereto. The amendments were effective March 21, 2014, and the comment period has passed.

Emergency Status – Mont. Co. C.P.R. 1.15 revised (**effective 8/29/14**) in response to comments received during the comment period following March 21, 2014 amendments to the rule.

Emergency Status – Mont. Co. C.P.R. 2.01 through 2.40 revised (**effective 8/29/14**)

Emergency Status – Mont. Co. C.P.R. 3.01 through 3.15 revised (**effective 8/29/14**)

Emergency Status – Mont. Co. C.P.R. Appendix E1 and E2 deleted (**effective 8/29/14**)

Emergency Status – Mont. Co. C.P.R. Appendix G – J revised (**effective 8/29/14**)

Emergency Status – Mont. Co. C.P.R. Appendix M-R deleted (**effective 8/29/14**)

Emergency Status – Mont. Co. C.P.R. 2.01, 2.07, 2.31 and 2.39 revised (**effective 12/15/14**) in response to comments received during the comment period following August 29, 2014 amendments to the rule.

Emergency Status – Mont. Co. C.P.R. 2.07 revised (**effective 12/14/15**)

Emergency Status – Mont. Co. C.P.R. 2.03 revised (**effective 3/7/16**)

Emergency Status – Mont. Co. C.P.R. Appendix G revised (**effective 3/7/16**)

Emergency Status – Mont. Co. C.P.R. 2.40 revised (**effective 6/13/16**)

Emergency Status – Mont. Co. C.P.R. 1.19 revised (**effective 8/10/16**)

Emergency Status – Mont. Co. C.P.R. 3.09 revised (**effective 9/20/16**)

Emergency Status – Mont. Co. C.P.R. 2.39 revised (**effective 1/17/17**)

Emergency Status – Mont. Co. C.P.R. 2.03 revised (**effective 3/1/17**)

Emergency Status – Mont. Co. C.P.R. 2.23, 2.23.1, 2.23.2, 2.23.3 & 2.23.4 revised (**effective 5/10/17**)

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Rule 1.01 – Rules of Construction

Amended 3/4/14; Effective 3/21/14

A. FOREWARD:

The General Division of the Common Pleas Court for Montgomery County, Ohio (“Court”) adopts the following rules for the conduct, government, and management of business operations, court proceedings, and other functions and services of the Court.

B. TITLE:

These rules shall be known as the Local Rules of Practice and Procedure for the General Division of the Montgomery County Common Pleas Court (“Rules”) and shall be cited as “Mont. Co. C.P.R. ____.”

C. SCOPE:

These Rules shall supplement and complement the Ohio Rules of Civil Procedure (“Civ. R.”), the Ohio Rules of Criminal Procedure (“Crim. R.”), the Rules of Superintendence for the Courts of Ohio (“Sup. R.”), the Ohio Revised Code (“R.C.”) and any other applicable authority.

D. CONSTRUCTION:

1. These Rules shall be interpreted and applied so as to avoid inconsistency with other governing authority.
2. These Rules shall be construed and applied to provide fairness and simplicity in procedure and to secure the just, expeditious and economical determination of all cases.

E. EFFECTIVE DATE:

These Rules shall take effect on July 1, 1993. They govern all proceedings in actions brought on or after July 1, 1993, and also all future proceedings in actions then pending, except to the extent that, in the opinion of the Court, their application in a particular action pending July 1, 1993, would not be feasible or would work an injustice, in which event the former procedure applies.

F. AMENDMENT:

These Rules may be amended and supplemented as needed and required by law. All amendments and rules shall be adopted as provided by Mont. Co. C.P.R. 1.03 of these Rules and shall govern all proceedings in actions brought after they take effect. For actions pending when amendments take effect, the amended Rules shall apply unless such application, in a particular pending action, would not be feasible or would work injustice, in which event the former procedure applies.

Rule 1.03 – Procedure for Adopting, Modifying, and Repealing Local Rules

Amended 3/4/14; Effective 3/21/14

Every Rule adopted pursuant to Sup. R. 5 shall be adopted, modified, or repealed by the following:

- A. PRESENTATION: Every proposed rule, proposed modification of an existing rule (“proposed modification”), or proposal to repeal an existing rule (“proposed repeal”) shall be presented to the Court by:
 - 1. any Judge of the Court or
 - 2. any individual who sends a proposed rule, proposed modification, or proposed repeal to any Judge of the Court.

- B. INTRODUCTION AND CONSIDERATION: Every proposed rule, proposed modification, or proposed repeal that has been presented to the Court pursuant to Subsection (A)(1) or (2) of this Rule shall be introduced to and considered by the Judges of the Court at their regular monthly meeting.
 - 1. During such meeting, the Judges may:
 - a. reject the proposed rule, proposed modification, or proposed repeal; or
 - b. approve or amend the proposed rule, proposed modification, or proposed repeal, so long as the resulting rule adoption, modification or repeal:
 - i. promotes the use of any device or procedure to facilitate the expeditious disposition of cases and
 - ii. is consistent with the rules promulgated by the Supreme Court of Ohio.
 - 2. Vote Formula:
 - a. A simple majority of the elected and appointed Judges of the Court shall be required to adopt a proposed rule, proposed modification, or proposed repeal as provided herein.
 - b. In case of an emergency, as determined by a three-fourths majority of the Judges of the Court (“Emergency Status”), any rule:
 - i. may be adopted, modified, or repealed by a three-fourths majority of Judges of the Court;
 - ii. shall take effect as directed by a three-fourths majority of Judges of the Court; and
 - iii. shall be filed in accordance with Sup. R. 5.

- C. PUBLICATION: All proposed rules, proposed modifications, or proposed repeals that have been presented, introduced, considered and approved in accordance with this Rule shall be published for 60 days. During the 60-day publication period, members of the local bar may respond to the proposed rule, proposed modification, or proposed repeal by submitting comments to the Court.

D. ADOPTION OR RE-PUBLICATION:

1. Adoption: If members of the local bar fail to comment on the proposed rule, proposed modification, or proposed repeal, or if the comments submitted by members of the local bar during the 60 day publication period were given reasonable consideration by the Judges of the Court at their regular monthly meeting and such Judges decide, at the end of the 60 day publication period, to leave the proposal unamended, then every proposed rule, proposed modification, and proposed repeal that has been presented, introduced, considered, approved, and published shall then take effect.
2. Re-publication:
 - a. Proposed Rule or Proposed Modification:
 - i. If the Judges of the Court, at their regular monthly meeting, in response to comments submitted by members of the local bar, amend the proposed rule or proposed modification, then the proposed rule or proposed modification, as amended, shall be re-published for 30 days.
 - ii. If members of the local bar fail to comment on the proposed rule or proposed modification, as amended, or if the comments submitted by members of the local bar during the 30 day re-publication period were given reasonable consideration by the Judges of the Court at their regular monthly meeting and such Judges decide, at the end of the 30 day re-publication period, to leave the proposal unamended, then every proposed rule and proposed modification that has been presented, introduced, considered, approved, amended, and re-published shall then take effect.
 - b. Proposed Repeal:
 - i. If the Judges of the Court, at their regular monthly meeting, in response to comments submitted by members of the local bar, reject the proposed repeal in favor of retaining the existing rule or modifying the existing rule, then the existing rule or proposed modification shall be re-published for 30 days.
 - ii. If a proposed repeal is rejected in favor of retaining the existing rule or modifying the existing rule pursuant to this Rule, and, if members of the local bar fail to comment on the proposed rule or proposed modification, or if the comments submitted by members of the local bar during the 30 day re-publication period were given reasonable consideration by the Judges of the Court at their regular monthly meeting and such Judges decide, at the end of the 30 day re-publication period, to adopt the existing rule or proposed modification, then the existing rule or proposed modification that has been presented, introduced, considered, approved, amended, and re-published shall then take effect.

E. FILING:

1. New Rule or Modification of an Existing Rule: Every proposed rule that has been adopted and every existing rule that has been modified or amended in accordance with this Rule shall be filed with the Clerk of the Montgomery County Common Pleas Court ("Clerk") and the Clerk of the Supreme Court of Ohio.

2. Repeal of Existing Rule: Notice of every existing rule that is repealed in accordance with this Rule shall be filed with the Clerk and the Clerk of the Supreme Court of Ohio.

Rule 1.05 – Terms of Court

Amended 3/4/14; Effective 3/21/14

The Court is in continuous session for the transaction of judicial business. The calendar year is divided into three terms of court, commencing on the first day of January, May and September. All causes and proceedings, civil and criminal, and other matters pending on the last day of a term are continued to the next term without further order of the Court.

Rule 1.07 – Sessions of the Court

Amended 3/4/14; Effective 3/21/14

- A. Unless otherwise ordered by the trial Judge, trial sessions shall be scheduled to start between the hours of 8:30 a.m. and 4:30 p.m.
- B. Unless otherwise ordered by the trial Judge, trial sessions shall not be scheduled on the following occasions:
 1. Days that by law or proclamation of the President of the United States or the Governor of this state are designated national or state holidays; and
 2. Days when the weather or other cause requires the Court to be closed as determined by the Administrative Judge.
- C. “Court Day” means Monday through Friday, excluding the days set forth in Subsection (B)(1) of this Rule.

Rule 1.09 – Divisions of the Court

Amended 3/4/14; Effective 3/21/14

The Court of Common Pleas of Montgomery County, Ohio, consists of four divisions: the General Division (“Court” as defined by Mont. Co. C.P.R. 1.01 (A)(1)), the Domestic Relations Division, the Probate Division, and the Juvenile Division. The Judges elected and appointed to each division shall be responsible for the business and administration of their respective division and may adopt rules for their respective division.

Rule 1.11 – Facilities

Amended 3/4/14; Effective 3/21/14

Passageways behind the courtrooms, related facilities and the service elevator will be used by jurors, grand jurors, and employees of the Court. Attorneys and others may use such facilities only upon obtaining permission from a Judge or a member of the Judge’s staff.

Rule 1.12 – Court Security

Adopted 6/19/95; Effective 7/1/95

Amended 3/4/14; Effective 3/21/14

A. COURT SECURITY ADVISORY COMMITTEE:

The Court shall appoint a Court Security Advisory Committee to implement the Ohio Court Security Standards promulgated by the Supreme Court of Ohio. The Committee shall be comprised of representatives of each division of the Court of Common Pleas of Montgomery County, Ohio; the Sheriff of Montgomery County; members of the board of County Commissioners or their designees; the bar; and other related groups. The Committee shall work with and assist other courts' Security Advisory Committees.

B. SECURITY POLICY AND PROCEDURE MANUAL:

The Court shall adopt, pursuant to this Rule, a Security Policy and Procedures Manual to ensure consistent, appropriate and adequate security procedures. The manual shall include a physical security plan, routine security operations, a high risk trial plan, and emergency procedures (fire, bomb, disaster, hostage, etc.). A copy of this manual shall be made available to all persons assigned to the Court so as to ensure understanding and compliance.

Rule 1.13 – Court Administrator

Amended 3/4/14; Effective 3/21/14

The Court may appoint an administrator who will function as the chief non-judicial officer of the Court and will provide general supervision of Criminal Justice Services (Probation Services), Court Services (Jury, Caseflow and Pretrial Services), and Court Administrative Services to include, but not limited to, computer, budgetary, and human resource services.

In addition, the Court Administrator will implement the administrative policy decisions of the Court and perform such other duties that may be assigned by the Court.

Rule 1.15 – Filing of Court Documents and Removal of Papers from Custody of the Clerk

Amended 8/7/07; Effective 8/13/07

Amended 5/3/11; Effective 8/8/11

Amended 3/4/14; Effective 3/21/14

Amended 8/12/14; Effective 8/29/14

Except as otherwise provided in Subsection (J) of this Rule, all civil and criminal cases, including all pleadings, motions, briefs, memoranda of law, deposition transcripts, transcripts of proceedings, orders or other documents, shall be filed electronically through the Court's authorized electronic filing system ("eFile system"). Paper courtesy copies of documents filed electronically shall not be delivered to the Court. The Court's authorized eFile system is hereby

appointed the agent of the Clerk for the purpose of filing, receipt, service and retrieval of electronic documents.

A. DEFINITION OF TERMS: The following terms in this Rule shall be defined as follows:

1. Document: A filing made with the Clerk in either electronic format or paper form, becoming the Court's official record.
2. Electronic Filing ("eFile"): The electronic transmission, acceptance, and processing of a filing. A submission consists of data, one or more documents, and images. This definition of eFile does not apply to facsimile or email.
3. Court Initiated Filings: Official Court documents entered into the docket or register of actions, such as notices or orders. The term "Court initiated filings" is a simplification to indicate that documents will be submitted as part of the electronic court record, but could be submitted using exactly the same process as external filings if the Court so desires.
4. Electronic Service ("eService"): The electronic transmission of an original document to all case participants who are registered users of the Court's eFile system via the eFile system. Upon the completion of any transmission to the eFile system, an electronic receipt shall be issued to the sender acknowledging receipt by the eFile system.
5. Case Management System ("CMS"): The Court CMS manages the receipt, processing, storage and retrieval of data associated with a case and performs actions on the data.
6. Document Management System ("DMS"): A DMS manages the receipt, indexing, storage and retrieval of electronic and non-electronic documents associated with a case.
7. Court Electronic Record: Any document that the Court receives in electronic form, records in the CMS and stores in its DMS. This includes Court initiated filings as well as pleadings, other documents and attachments created by parties or their counsel. It does not include physical exhibits brought into the courtroom for the Court or jury's edification that cannot be captured in electronic form.
8. Clerk Review: A review of Documents by the Clerk in accordance with Court rules, policies, procedures, and practice. The Clerk may review the data and documents electronically submitted to ensure compliance with Court rules, policies, procedures and practices before creating a docket entry or before docketing the case.
9. System Error: When the Court's eFile system is not operational.
10. Public Access Terminal: A terminal located in the Clerk's office for use by the public during regular business hours. Users shall be charged for printed copies of documents at rates permitted by law.

B. SERVICE OF COURT INITIATED FILINGS:

Subject to the provisions of this Rule, the Court shall eFile all Court Initiated Filings. Service of Court Initiated Filings shall be made via eService.

C. REGISTRATION IN eFILE SYSTEM:

1. All counsel of record shall register with the Court's eFile system to file, serve, receive, review, and retrieve copies of eFiled pleadings, orders and other documents in the case. *Pro se* parties may, but are not required to, register with the Court's eFile system.
2. The Court shall not accept or file any pleadings or instruments in paper form except as provided in Subsection (J) of this Rule.
3. If a party or counsel of record does not have internet access, the party or counsel of record may use the Clerk's Public Access Terminal to register to use the Court's eFile system and to eFile documents.

D. CONFIDENTIAL AND UNIQUE ELECTRONIC IDENTIFIER:

1. The Court's eFile system shall assign an individual who has registered pursuant to Subsection (C) of this Rule a confidential and unique electronic identifier that shall be used to file, serve, receive, review, and retrieve eFiled pleadings, orders, and other documents in the case.
2. Each person to whom a unique identifier has been assigned shall be responsible for the security and use of such identifier.
3. All eFiled documents shall be deemed to be made with the authorization of the party who is assigned the specific unique electronic identifier, unless the party proves to the satisfaction of the Court, by clear and convincing evidence, that the contrary is demonstrated.

E. OFFICIAL COURT RECORD: For documents that have been eFiled pursuant to Subsection (G) of this Rule or documents filed in paper format pursuant to Subsection (J) of this Rule that have been scanned and uploaded to the eFile system by the Clerk, the electronic version constitutes the Official Court Record. eFiled Documents have the same force and effect as those filed by traditional means.

F. FORM OF DOCUMENTS:

1. Format: All pleadings, motions, briefs, and other documents shall be formatted in accordance with the following:
 - a. Typewritten or printed, double spaced, on 8 ½" x 11" paper, not less than 11-point and not greater than 12-point regular type font, paginated sequentially.
 - b. Filings prepared in a pleading format shall reserve a blank space of at least 2 ½ inches at the top of the first page for endorsements and shall have appropriate side and bottom margins of not less than one inch.
 - c. Forms prescribed and approved by the Court shall reserve an adequate space in the top right-hand corner for endorsements or file stamps and shall have appropriate side and bottom margins proportional with the format of the form or document.
 - d. A filed document shall not contain links to other documents or references to the CMS, unless they are incorporated into the filed documents. External links are prohibited.
2. Portable Document Format (".pdf"):

- a. Except as provided in Subsection (F)(2)(b) of this Rule, all eFiled documents, pleadings, and papers shall be filed with the Clerk in .pdf.
 - b. A proposed order or proposed entry shall be submitted in Word [.doc] or WordPerfect [.wpd] format and reference the specific motion to which it applies.
3. Size of eFiled Documents:
- a. Individual documents included in a submission shall not exceed 10 megabytes in size.
 - b. Any combination of documents eFiled in one submission shall not exceed 30 megabytes in size.
4. Signatures:
- a. Attorney/Filing Party Signature: eFiled documents that require the signature of the attorney or filing party shall be signed with a conformed signature of “/s/ [name].” The correct format for an attorney’s conformed signature is as follows:
/s/Attorney Name
Attorney Name
Bar Number 1234567
Attorney for [Plaintiff/Defendant] XYZ Corporation
ABC Law Firm
Address
Telephone
Fax and/or E-mail address
 - b. The conformed signature on an eFiled document is deemed to constitute a signature on the document for the purposes of signature requirements imposed by the Ohio Rules of Superintendence, Rules of Civil Procedure, Rules of Criminal Procedure and any other law.
 - c. Multiple Signatures: When a stipulation or other document requires two or more signatures, the filer shall:
 - i. confirm that the content of the document is acceptable to all persons required to sign the document;
 - ii. indicate the agreement of other counsel or parties at the appropriate place in the document, usually on the signature line; and
 - iii. eFile the document, indicating the signatories, e.g., /s/ Jane Doe, /s/ John Smith, etc.
 - d. Original Signatures: Documents requiring an original signature, such as an affidavit or other notarized documents shall be eFiled as a .pdf.
 - i. The filer shall maintain the signed document in the filer’s records and have it available for production upon request of the Court.
 - ii. The signed document shall be maintained until the case is closed and the time for appeal has expired or the appeals have been heard or denied and all opportunities for post judgment relief are exhausted.

- e. Signature of Judge or Judicial Officer: eFiled documents may be signed by a Judge or judicial officer via a digitized image of his or her signature combined with a digital signature. All orders, decrees, judgments and other documents signed in this manner shall have the same force and effect as if the Judge had affixed his or her signature to a paper copy of the order and journalized it.

G. TIME, EFFECT AND PROCESS OF eFILING:

1. Submission: Any filing may be eFiled with the Clerk 24 hours a day, 7 days a week.
2. Receipt: Upon receipt, the Court's eFile system shall issue a confirmation that the submission has been received. The confirmation shall include the date and time of receipt and serve as proof of receipt.
3. Clerk Review: After Clerk Review, a filer will receive notification from the Clerk that the submission has been accepted or rejected by the Clerk.
 - a. If the submission is rejected, the document shall not become part of the Court record and the filer shall be required to re-submit the document to meet the requirements. The re-submitted document shall receive a new submission date and time.
 - b. If the submission is accepted, the document shall be docketed and filed.
4. Official Time Stamp: Upon acceptance, the submission shall be deemed filed and shall receive an electronic stamp that includes the date and time that the filer submitted the document to the Court's eFile system as well as the unique confirmation number of the filing.
5. System Errors: If a submission is not received by the Court because of a System Error, the Court may, upon satisfactory proof, enter an order permitting the document to be filed *nunc pro tunc* to the date it was submitted.

H. SERVICE:

1. Instructions for Service: For all documents that require service by the Clerk or documents for which a party is requesting that service be made by the Clerk, Instructions for Service shall be filed as a separate document. The Clerk shall not accept Instructions for Service that do not designate the names and addresses of the parties to be served. If the address of the party to be served is unknown, the filer shall substitute "unknown" for the address.
2. Complaint and Related Documents in Civil Cases:
 - a. Upon filing the original complaint or any counterclaim, crossclaim, or third party complaint, in addition to the Instructions for Service required by Subsection (H)(1) of this Rule, the filer shall include the address of the plaintiff(s) and defendant(s) in the caption of the document. If the address of any plaintiff or defendant is unknown, the filer shall substitute "unknown" for the address in the caption.
 - b. Unless an attorney or party has obtained permission signed by the assigned Judge to defer service of summons for a specific period of time, the Instructions for Service

- filed with the original complaint or any counterclaim, crossclaim or third party complaint shall indicate a method of service pursuant to Civ. R. 4.
- c. The Clerk shall issue a summons and process the method of service in accordance with the Ohio Rules of Civil Procedure.
3. Indictments in Criminal Cases: Indictments in criminal cases shall be filed through the Court's eFile system in compliance with these Rules and shall be served on defendants according to the Ohio Rules of Criminal Procedure.
 4. Documents Filed Subsequent to Complaint or Indictment:
 - a. In accordance with Civ. R. 5 and Crim. R. 49, unless the filer requests service by the Clerk and files the Instructions for Service required by Subsection (H)(1) of this Rule, the filer, not the Clerk, shall be responsible for serving all documents filed subsequent to the original complaint on all parties or their attorneys.
 - i. When a submission is deemed filed pursuant to Subsection (G) of this Rule, the eFile system shall generate a Notification of Electronic Filing to the filer and any other party who is a registered user of the eFile system. The Notification of Electronic Filing shall constitute service under Civ. R. 5 and Crim. R. 49.
 - ii. eService of documents subsequent to the complaint or indictment shall be considered valid and effective service and shall have the same legal effect as an original paper document.
 - iii. The filer shall serve a paper copy of the document on all *pro se* parties who are not registered users of the Court's eFile system in accordance with Civ. R. 5 and Crim. R. 49.
 - b. Entries and Orders:
 - i. The Court's eFile system shall generate a Notification of Electronic Filing for all entries and orders signed by the Judge. This Notification of Electronic Filing shall constitute service under Civ. R. 5 and Crim. R. 49.
 - ii. After the order or entry has been signed and filed, the filer, not the Court or Clerk, shall serve on all *pro se* parties who are not registered users of the Court's eFile system copies of all entries and orders submitted to the Court for signature in accordance with Civ. R. 5 and Crim. R. 49.
 - c. Certificate of Service:
 - i. Proof of service of all documents required or permitted to be served shall be made in compliance with Civ. R. 5(B)(3) and Crim. R. 49(C).
 - ii. The Certificate of Service shall be signed in accordance with applicable Ohio court rules and laws, including these Rules, and shall contain the following language for each party entitled to service:

"I hereby certify that on [date] this document was eFiled via the Court's eFile system which shall send notifications of this filing to the following: [list parties or their counsel who are registered users of the Court's eFile system].

I hereby certify that on [date] I served this document in accordance with [Civ. R. 5 or Crim. R. 49] on the following: [list *pro se* parties who are not registered users of the Court's eFile system]."

5. Service Date and Time to Respond or Act:
 - a. For *pro se* parties who are registered users of the Court's eFile system and counsel of record, service shall be deemed complete at the time the Notification of Electronic Filing is generated by the Court's eFile system. Documents served after 5:00 p.m. local time shall be deemed served on the next day.
 - b. The time to respond to the served documents or perform any right, duty, or act shall be strictly governed by the applicable Rules of the Court. *Pro se* parties who are not registered users of the Court's eFile system and who are served by regular U.S. mail shall receive a three-day extension of time to respond or perform any right, duty, or act. Parties and counsel of record served via eService **are not entitled to the three-day extension.**
6. Failure of eService: If the eFile system fails to generate the Notice of Electronic Filing, the party to be served may be entitled to an order extending the date for any response or the period within which any right, duty or act must be performed.

I. PERSONAL AND PRIVATE INFORMATION IN DOCUMENTS FILED WITH THE CLERK:

1. Definition: Personal and private information includes, but is not limited to, social security numbers, financial account numbers, names of minors, information protected by law from public disclosure, and driver's license or other personal identification numbers.
2. Exclusion: The filer shall not include personal and private information in any document filed with the Court unless such inclusion is necessary and relevant to the case. This requirement extends to and includes exhibits or addenda attached to filings, such as preliminary and financial reports which itemize state liens that use social security numbers as case numbers or medical records.
3. Redaction: If personal and private information is necessary and must be included in a document, the filer shall redact the personal and private information from the document in the following manner:
 - a. For social security numbers, financial account numbers, and drivers' license or other personal identification numbers, all but the last four digits of the number shall be redacted.
 - b. For minors, only the child's initials shall be included.
 - c. For any other personal or private information, the information shall be replaced with "[REDACTED]".
4. Responsible Party: The filer is responsible for redacting personal and private information. The Clerk shall not review each document for compliance with this Rule; however, the Clerk may refuse to accept any document that contains personal and private information that has not been redacted or submitted in accordance with this Rule.

5. Entries and Orders: Personal and private information required to be included in entries and orders shall be redacted in the manner set forth in Subsection (I)(3) of this Rule. In the event that the redacted information is insufficient for an entry or order, the entries and orders, including the unredacted personal and private information, shall be filed in accordance with Mont. Co. C.P.R. 1.41.

J. EXCEPTIONS TO eFILING:

1. Documents filed under seal or *in camera* shall be filed in accordance with Mont. Co. C.P.R. 1.41.
2. Exhibits, attachments, or other documents that may not be comprehensibly viewed in a .pdf shall be filed in their physical form with the Clerk.
3. All documents related to Certificates of Judgments and Executions of Judgment shall be filed in paper form with the Clerk in accordance with Subsection (J)(4) of this Rule.
4. *Pro se* parties who are not registered users of the Court's eFile system may file documents in paper form with the Clerk in person, by U.S. Mail, or by using the Clerk's Public Access Terminal. Documents filed in accordance with this Rule shall be deemed filed and shall become the Court's Official Court Record when they are entered by the Clerk in the Court's eFile system.

- K. COLLECTION OF FILING DEPOSIT AND FEES: Any document requiring payment of a filing deposit or fee to the Clerk in order to achieve valid filing status shall be filed in the same manner as any other eFiled document. The eFile system accepts payment of deposits and fees electronically. Alternatively, the eFile system can accommodate the filing of an affidavit of indigence.

L. REMOVAL:

1. No person, except a Judge or Magistrate of the Court or an authorized Court employee, shall remove any documents or case files from the Clerk's custody.
2. Examination: Upon request, during regular business hours, the Clerk shall allow any person to examine, but not remove, any original document or case file that is maintained by the Clerk.
3. Transcripts of Testimony: The inspection, examination, and duplication of transcripts of testimony shall be governed by Mont. Co. C.P.R. 1.29.

Rule 1.17 – The Appearance Docket

Amended 3/4/14; Effective 3/21/14

The Clerk shall indicate on the appearance docket the name of the Judge to whom the case is assigned and the nature or purpose of all filings as indicated in the caption.

Rule 1.19 – The Assignment System

Amended 7/9/04; Effective 7/9/04
Amended 3/9/06; Effective 3/13/06
Amended 11/4/08; Effective 11/7/08
Amended 3/4/14; Effective 3/21/14
Amended 8/2/16; Effective 8/10/16

The assignment system is the procedure adopted by the Court for the assignment of cases. Pursuant to this system, each civil and criminal case shall be randomly assigned to a Judge (“assigned Judge”) who will be responsible for determining all matters in the case. Random assignment is assignment of cases by chance.

A. CIVIL DOCKETS:

1. All civil cases shall be randomly assigned to the Judges of the Court. Subject to Sup. R. 4(C), the Administrative Judge may be relieved from part of the Administrative Judge’s trial duties and utilize the time to manage the calendar and docket of the Court.
2. Case assignments shall be made through the use of computer software and hardware systems that have been tested to ensure that case assignments are made in a random manner.
3. Companion cases shall be assigned to the Judge whose name was drawn for the case filed first, if that Judge so approves.
4. Withdrawal: A Judge who withdraws from a case shall report this to the Court Services Division, Caseflow Services, via a request for disqualification. The Administrative Judge shall reassign the case to another Judge pursuant to the Ohio Rules of Superintendence.
5. Re-filed Cases: In instances where a previously filed and dismissed case is re-filed, the case shall be reassigned to the originally assigned Judge unless it is a Mortgage Foreclosure or, for good cause shown, the Judge is precluded from hearing the case.
6. Consolidated Cases: Pursuant to Civ. R. 42, parties to civil cases may move the Court to consolidate cases. The motion shall be filed in each case for which consolidation is sought. The decision of whether to consolidate cases into a single trial shall initially be decided by the assigned Judge with the lowest case number.
 - a. If an entry is signed granting consolidation in the lowest case number, the party seeking consolidation shall then file a proposed entry in each additional case sought to be consolidated.
 - b. If consolidation is ordered by the assigned Judge in each case, the consolidated cases will be placed on the docket of the assigned Judge with the lowest case number, unless otherwise ordered by the Administrative Judge.
 - c. If cases are consolidated pursuant to this Rule, all subsequent filings shall identify all the case numbers in the caption and shall be entered on the docket for each case.
7. When an assigned Judge is not available, arrangement may be made by that Judge or by the Administrative Judge for another member of the Court to handle urgent matters and sign entries.

8. All changes in assignments shall be noted in the records of the Clerk and Court Services division, Caseflow Services, pursuant to Subsection (C) and (D) of this rule.

B. CRIMINAL DOCKETS:

1. Grand Jury Judge: Each term, one Judge will be assigned to supervise the Grand Jury ("Grand Jury Judge"). The Grand Jury Judge shall preside over central arraignments. The Grand Jury Judge shall handle criminal matters that may arise in individual cases prior to indictment and arraignment, including the setting of bonds. The Grand Jury Judge shall handle extraditions and habeas corpus actions pertaining to extraditions. The Grand Jury Judge and the assigned Judge may handle arraignments. Pleas of guilty and no contest shall be handled by the assigned Judge. The Judge assigned to the next Grand Jury term shall assist the Grand Jury Judge upon request.
2. Assignment of Cases:
 - a. Except as provided in Subsection (B)(2)(b) of this Rule, all criminal cases shall be randomly assigned to the Judges of the Court upon the approval of felony charges by the prosecuting attorney. Each day, the Court Services Division, Caseflow Services, shall randomly assign pre-indictment cases.
 - b. Exceptions:
 - i. If the case does not involve multiple defendants and the defendant (1) is on community control that has not been terminated by entry or (2) has a prior indictment pending on active or inactive status in this county, the case shall be assigned to the Judge who placed the defendant on community control or on whose docket the prior indictment is pending.
 - ii. If a case involves multiple defendants and any defendant (1) is on community control that has not been terminated by entry or (2) has a prior indictment pending on active or inactive status in this county, the lowest case number shall control the assignment.
 - iii. If an adjustment in the method of assignment is made as a result of this Subsection, then the assigned Judge shall receive credit(s) for the additional assignment(s).

C. THE CLERK SHALL:

1. Record the name of the Judge to whom each civil or criminal case is assigned on the appearance docket;
2. Record any subsequent change in assignment on the appearance docket and any other records; and
3. Provide all assignments and adjustments in assignments to the entity designated by statute for publication.

D. COURT SERVICES DIVISION, CASEFLOW SERVICES SHALL:

1. Maintain a case record of each pending case that includes:
 - a. A consecutive number;
 - b. The name of the Judge to whom the case is assigned; and

- c. One of the following case types: Administrative Appeal; Appropriation; Civil Action – Other; Civil Stalking Protection Order; Cognovit Note; Complex Litigation; Criminal; Declaratory Judgment; Disposal of Property; Forcible Entry; Foreclosure; Forfeiture of Property; Habeas Corpus; Injunction; Medical Malpractice; Other Tort (specify type); Personal Injury; Product Liability; Professional Tort; Replevin; Transfer from Other Court; Workers’ Compensation; or Writ of Mandamus.
2. Record the date:
 - a. The case was assigned;
 - b. Of any pretrial conference;
 - c. Notices were transmitted;
 - d. Of trial;
 - e. Of any continuance;
 - f. Of the verdict or decision; and
 - g. Of the final entry.
 3. Prepare reports required by Sup. R. 37;
 4. Prepare and approve separate reports for each Judge of the Court;
 5. Provide a monthly report on the status of each Judge’s docket to each Judge; and
 6. Identify cases that should be terminated and notify the appropriate Judges of the status of those cases. After the Judges have been notified, the Court Services Division, Caseflow Services, shall submit final termination entries for approval to each assigned Judge for cases that are eligible for dismissal.
- E. TRANSFER OF ASSIGNED CASE TO ALTERNATE JUDGE:
If a case is transferred from the assigned Judge to an alternate Judge, the alternate Judge shall hear all motions and proceedings pertaining to the case.
- F. ASSIGNMENT OF CASES TO NEWLY APPOINTED OR ELECTED JUDGES:
 1. A new member of the Court shall be assigned the cases previously assigned to the Judge whom the newly appointed or elected Judge succeeds.
 2. In the event an additional Judge is added to the Court, the additional Judge shall be assigned a proportionate share of the pending cases from the individual docket of the other members of the Court.
- G. FOREIGN EXECUTIONS AND OTHER ANCILLARY MATTERS:
When necessary to resolve any question arising on a foreign execution, certificate of judgment from another court or similar ancillary matter not otherwise assigned to a Judge under these Rules, counsel shall call the matter to the attention of the Administrative Judge.

Rule 1.21 – Bail or Surety

Amended 3/4/14; Effective 3/21/14

No attorney, officer or employee of the Court, the Clerk, or the Sheriff's Office shall be accepted as principal or as agent for bail or surety. This Rule applies to any immediate family member of such attorney, officer or employee.

Rule 1.23 – Jury Management Plan

Amended 5/10/94; Effective 7/1/94
Amended 10/10/97; Effective 11/1/97
Amended 4/10/01; Effective 4/10/01
Amended 7/23/04; Effective 9/1/04
Amended 11/10/04; Effective 5/1/05
Amended 5/4/05; Effective 5/16/05
Amended 5/1/12; Effective 5/2/12
Amended 3/4/14; Effective 3/21/14

A. ADMINISTRATION OF THE JURY SYSTEM:

The responsibility for administration of the jury system shall be vested in the Court's Jury Services Department under the supervision of the Court Administrator.

B. RANDOM SELECTION PROCEDURES:

1. Random selection procedures shall be used throughout the juror selection process. Computers may be used to provide each eligible and available citizen with an equal probability of selection.
2. Departures from the random selection procedures are appropriate only when, by reason of challenges or other causes, not enough jurors to make up a jury panel are present. Talesmen then may be summoned for said panel until any deficiency is resolved.

C. JURY SOURCE LIST:

The selection of jurors for the Court shall be from the list of electors certified by the Board of Elections pursuant to R.C. § 2313.06 and may include names from the list of qualified drivers' licenses certified by the Register of Motor Vehicles pursuant to R.C. § 2313.06. The Court shall designate a random selection process based on the total number of electors, qualified drivers' licenses, and the number of jurors needed for a four-month term of service. A term jury list, using the random selection process, shall be drawn in August for the September term, December for the January term, and April for the May term. The jurors' current addresses shall be periodically updated by submitting the jury source list to a National Change of Address (NCOA) processing service. The Montgomery County, Ohio Jury Commission shall certify the annual list and file it with the Clerk.

1. To the extent feasible, the jury source list shall be representative of, and be as inclusive as possible of, the adult population of Montgomery County, Ohio.
2. The Court shall annually review the jury source list for its representativeness and inclusiveness of the adult population of Montgomery County, Ohio.

3. Should the Court determine that improvement is needed in the representativeness or inclusiveness of the jury source list, appropriate corrective action shall be taken.
4. The annual jury year shall begin on September 1.

D. ELIGIBILITY FOR JURY SERVICE:

All persons shall be eligible for jury service except those who:

1. Are less than 18 years of age (except persons age 17 who are certified by the Board of Elections as eligible to vote);
2. Are not citizens of the United States and residents of Montgomery County, Ohio; or
3. Have been convicted of a felony, have not completed their jail time, probation, or community sanction, and have not had their civil rights restored.

E. NOTIFICATION AND SUMMONING PROCEDURES:

1. The summons calling a person to jury service and the questionnaire eliciting essential information regarding that person may be:
 - a. Combined in a single document;
 - b. Phrased so as to be readily understood by an individual unfamiliar with the legal and jury systems; and
 - c. Mailed by first class mail not more than three weeks prior to appearance.
2. The summons will clearly explain how and when the recipient must respond and the consequences of a failure to respond.
3. The questionnaire will be phrased and organized so as to facilitate quick and accurate screening and will request only that information essential for:
 - a. Determining whether a person meets the criteria for eligibility;
 - b. Providing basic background information ordinarily sought during *voir dire* examinations; and
 - c. Efficiently managing the jury system.
4. Policies and procedures shall be established for monitoring failures to respond to a summons and for enforcing a summons to report for jury service. Sanctions may be imposed as warranted.

F. TERM OF AND AVAILABILITY FOR JURY SERVICE:

1. Persons called upon to perform jury service shall be available for five days or longer, as deemed necessary due to the number of trials scheduled or the length of a trial.
2. The jurors shall be provided with a local number to call to hear a recorded message that informs them of specific details of their jury service.

G. EXCUSAL AND DEFERRAL:

1. Except as provided by R.C. § 2313.15, the Court shall not excuse a person who is liable to serve as a juror and who is drawn and notified unless it is shown to the satisfaction of the assigned Judge by either the juror or another person acquainted with the facts that one or more of the following applies:
 - a. The interests of the public will be materially injured by the juror's attendance;

- b. The juror's spouse or a near relative of the juror or the juror's spouse has recently died or is dangerously ill;
 - c. The juror has been called as a juror and has actually served as a juror for a trial in a court of record in any county of the state within the same jury year;
 - d. The juror is a cloistered member of a religious organization;
 - e. The juror has a mental or physical condition that causes the juror to be incapable of performing jury service. Documentation may be required from a physician licensed to practice medicine verifying that a mental or physical condition renders the juror unfit for jury service for the remainder of the jury year;
 - f. Jury service would cause undue or extreme physical or financial hardship to the juror or a person under the care or supervision of the juror;
 - g. The juror is over 75 years of age and requests to be excused;
 - h. The juror is an active member of a recognized Amish sect and requests to be excused because of the juror's sincere belief that, as a result of that membership, the juror cannot pass judgment in a judicial matter; or
 - i. The juror is on active military duty.
2. A person who is liable to serve as a juror may be excused only by the assigned Judge or a representative of the assigned Judge. After one year, a person excused from jury service shall become eligible once again for qualification as a juror unless the person was excused from service permanently. A person is excused from jury service permanently only when the deciding Judge determines that the underlying grounds for being excused are of a permanent nature.
 3. Deferrals for jury service up to six months may be permitted by the assigned Judge or a representative of the assigned Judge if the juror has not previously been granted a postponement. If extraordinary circumstances exist, a deferral for more than six months may be granted.
 4. An automatic deferral must be granted to a prospective juror if his or her employer has 25 or fewer employees and another employee of that business has been summoned during the same term.
 5. Requests for excusals and deferrals and their disposition shall be written or otherwise recorded.

H. JURY FACILITIES:

1. The Court shall provide an adequate and suitable environment for jurors and comply with all American with Disabilities Act regulations.
2. Facilities shall be easily identified and appropriately designed to accommodate the daily flow of prospective jurors to the courthouse.
3. Jury deliberation rooms shall include space, furnishings, and facilities conducive to reaching a fair verdict. The safety and security of the deliberation rooms shall be ensured.
4. To the extent feasible, juror facilities will be arranged to minimize contact of jurors with parties, counsel, and the public.

5. Jurors shall comply with all building regulations, including, but not limited to, security and the no smoking policy.

I. *VOIR DIRE*:

1. *Voir dire* examination shall be limited to matters relevant to determining whether to remove a juror for cause and the juror's fairness and impartiality.
2. To reduce the time required for *voir dire*, basic background information of the prospective jurors shall be made available to counsel for each party prior to trial.
3. The trial Judge may conduct a preliminary *voir dire* examination. Counsel shall then be permitted to question panel members for a reasonable period of time.
4. The trial Judge shall ensure that the privacy of prospective jurors is reasonably protected and the questioning is consistent with the purpose of the *voir dire* process.
5. In all criminal and civil cases, the *voir dire* process shall be held on the record.
6. *Voir dire* questions shall be asked collectively of the entire panel whenever possible.

J. REMOVAL FROM THE JURY PANEL FOR CAUSE:

If the Judge determines that a prospective juror is unable or unwilling to judge the particular case fairly and impartially, that prospective juror shall be excused.

K. JUROR ORIENTATION AND INSTRUCTION:

1. The Court shall have a juror orientation program designed to increase prospective jurors' understanding of the judicial system and prepare them to serve competently as jurors. It shall be presented in a uniform and efficient manner using a combination of written, oral and audiovisual materials.
2. The trial Judge may:
 - a. Give preliminary instructions to all prospective jurors;
 - b. Give instructions directly following empanelment of the jury to explain the jury's role and trial procedures;
 - c. Prior to the commencement of deliberations, instruct the jury on the law, the appropriate procedures to be followed during deliberations, and the appropriate method for reporting the results of its deliberations;
 - d. Make the Court's instructions available in the jury room during deliberations in a form which is readily understandable by individuals unfamiliar with the legal system; and
 - e. Advise jurors before dismissing the jury at the conclusion of a case concerning:
 - i. Release of the jurors from their duty of confidentiality;
 - ii. Their rights regarding inquiries from counsel or the press;
 - iii. Whether they are discharged from service or specify where they must report; and
 - iv. The Court's appreciation to the jurors for their service, but without approval or disapproval of the result of the deliberation;
3. All communications between the Judge and members of the jury panel, from the time of reporting to the courtroom for *voir dire* through discharge shall be in writing or on the

record in open court. Counsel for each party shall be informed immediately of such communications and given the opportunity to be heard.

L. JURY DELIBERATIONS:

1. In conjunction with Subsection (H) of this Rule, jury deliberations shall take place under conditions that are designed to ensure impartiality and to enhance rational decision-making and shall conform to existing Ohio law.
2. A jury shall not be required to deliberate after a reasonable hour unless the assigned Judge determines that evening, weekend or holiday deliberations would not impose an undue hardship upon the jurors and is required in the interests of justice.
3. Training shall be provided to personnel who escort and assist jurors during deliberations.

M. SEQUESTERING OF JURORS:

1. A jury shall be sequestered only for good cause, including, but not limited to, insulating its members from improper information or influences.
2. The jury shall be sequestered after a capital case is submitted to the jury in conformity with existing Ohio law.
3. The assigned Judge shall have the discretion to sequester a jury on the motion of counsel or on the Judge's own motion and shall have the responsibility to oversee the conditions of sequestration.
4. Procedures shall be promulgated to:
 - a. Achieve the purpose of sequestration and
 - b. Minimize the inconvenience and discomfort of sequestered jurors.
5. Training shall be provided to personnel who escort and assist jurors during sequestration.

N. MONITORING THE JURY SYSTEM:

The Court shall collect and analyze information regarding the performance of the jury system annually in order to evaluate:

1. The representativeness and inclusiveness of the jury source list;
2. The effectiveness of summoning and qualification procedures;
3. The responsiveness of individual citizens to jury duty summonses;
4. The efficient use of jurors; and
5. The cost-effectiveness of the jury management system.

Rule 1.25 – Recording of Court Proceedings

Amended 10/10/97; Effective 11/17/97

Amended 11/14/02; Effective 11/15/02

Amended 3/4/14; Effective 3/21/14

A. DEFINITIONS:

For purposes of this Rule, the term “proceeding” shall apply to any public hearing held by the Court and the term “record” shall include broadcasting, televising, recording, or photographing.

B. APPLICATION:

This Rule shall be applied in conjunction with Sup. R. 12 and shall govern the recording of proceedings and the recording of interviews of attorneys, witnesses, and all other persons that may be involved in a proceeding.

C. AUTHORIZATION:

The Court may grant requests to record proceedings that are made in accordance with the following:

1. Authorization for Central Arraignments:

a. All requests to record central arraignments shall be made:

- i. in writing to the Grand Jury Judge and
- ii. on the appropriate form available through the Bailiff of the Grand Jury Judge (Appendix A through Appendix D).

b. In the event the Grand Jury Judge decides to approve the request, the Grand Jury Judge shall sign a journal entry setting forth the conditions of recording. This entry shall be made part of the record of the case.

c. The Grand Jury Judge may, on his or her own motion, issue a general order permitting the recording of all central arraignments on a continual basis.

2. Authorization for All Other Proceedings:

a. All requests to conduct an interview in the courthouse and requests to record proceedings other than central arraignments shall be made:

- i. in writing to the assigned Judge;
- ii. on the appropriate form available through the Bailiff of the assigned Judge (Appendix A through Appendix D); and

iii. as far in advance as is reasonably possible, but no later than 24 hours prior to the proceeding to be recorded. Upon showing of good cause the Judge may waive the advance notice provision.

b. In the event the assigned Judge decides to approve the request, the assigned Judge shall sign a journal entry setting forth the conditions of recording. This entry shall be made part of the record of the case.

c. No interviews shall occur anywhere in the Courthouse other than inside the courtroom unless otherwise permitted by the assigned Judge.

3. Limitations for Recording a Proceeding:

- a. No recording of proceedings or interviews and no recording equipment shall be allowed anywhere in the courthouse in the absence of a written request and authorization.
- b. In the event that a proceeding that has been recorded is continued for a period in excess of 30 days, a new request shall be made in accordance with the procedures set forth in Subsection (C)(2) of this Rule.
- c. No recording shall be made:
 - i. of proceedings in the Judge's chambers without the express permission of the Judge;
 - ii. in jury deliberation rooms at any time during the course of the trial or after the case has been submitted to the jury;
 - iii. of victims or witnesses who object to being recorded; or
 - iv. of jurors.
- d. Permission granted for recording shall not be interpreted to diminish:
 - i. the requirement that jurors are forbidden to discuss the case with any person until after the trial is completed; and
 - ii. the ethical requirements that restrict judges and lawyers from releasing information pertaining to a case while the case is pending.
- e. The trial shall proceed in exactly the same manner as though there were no recording in process.
- f. Any equipment which is non-portable shall be set up and ready for operation prior to the commencement of morning or afternoon court sessions. No person shall be permitted to bring equipment into the courtroom while trial is in session unless such equipment can be easily carried by a single person without causing a distraction or a disturbance in the courtroom.
- g. "Pooling" of equipment shall be required in all proceedings, unless abrogated by the assigned Judge. It is the responsibility of those requesting permission to record the proceedings to arrange for "pooling" of equipment.

D. SANCTIONS:

1. Upon the failure of any person to comply with the requirements of the assigned Judge or these Rules, the assigned Judge may revoke the authorization to record the proceeding.
2. If a recording of any proceeding is conducted without completing a request and obtaining authorization, the Bailiff or any Deputy Sheriff may impound the recording equipment and the Court may hold the equipment subject to future actions. Upon such impoundments, the Court shall schedule an appropriate hearing at the earliest possible time. This provision does not apply to employees of the Court relating to the use of official recording devices or to recording devices used pursuant to the Rules of Superintendence for the Courts of Ohio.

Rule 1.27 – Deposition Testimony

Amended 1/10/96; Effective 2/15/96

Amended 11/4/08; Effective 11/7/08

Amended 8/3/10; Effective 8/9/10

Amended 11/1/11; Effective 1/9/12

Amended 3/4/14; Effective 3/21/14

A. FILING OF WRITTEN DEPOSITION TRANSCRIPT:

1. In addition to the requirements set forth in Civ. R. 30 - 32 and Sup. R. 13, unless otherwise ordered by the Court, written deposition transcripts shall be filed prior to the deadline for filing the pretrial statement(s) or seven days prior to trial, whichever is earlier.
2. Except as otherwise provided in Mont. Co. C.P.R. 1.15(J), all written deposition transcripts, including attachments and exhibits, shall be filed by the attorney of record through the Court's eFile system in accordance with Mont. Co. C.P.R. 1.15. Pursuant to Mont. Co. C.P.R. 1.15(I) and Sup. R. 45(D), the attorney of record shall omit or redact all personal and private information from the written deposition transcripts prior to filing.
3. The Clerk shall not accept any written deposition transcript unless it is accompanied by a Notice of Filing Deposition Transcript and Certification of Compliance.
 - a. The Notice of Filing Deposition Transcript shall identify the deponent and the date the deposition was taken and include a certification by the officer who took the deposition that the written deposition transcript being filed is a true record of the deposition and that the testimony has not been altered in any way.
 - b. The Certification of Compliance shall include a certification from counsel that the written deposition transcript is being filed in compliance with this Rule and Mont. Co. C.P.R. 2.09(IV).

B. USE OF AUDIO/VIDEO VERSION OF DEPOSITION AT TRIAL OR HEARING:

1. If an audio/video version of a deposition is to be presented during trial or a hearing, the attorney or *pro se* party presenting the audio/video version of the deposition shall submit the audio/video version of the deposition to the Court, not the Clerk, five Court Days prior to the trial or hearing, unless otherwise ordered by the Court. Additionally, the attorney or *pro se* party presenting the audio/video version of the deposition shall:
 - a. notify the Bailiff of the intended use within three Court Days prior to the trial or hearing;
 - b. ensure that the format of the audio/video version of the deposition is compatible with the Court's video equipment; and
 - c. be able to operate the Court's video equipment.
2. The Court shall not accept or permit the audio/video version of the deposition transcript to be presented during trial or hearing unless a written transcript of the deposition has been filed in accordance with Subsection (A) of this Rule.
3. The audio/video version of the deposition transcript shall include an attached written certification from the officer who took the audio/video deposition. The certification

shall state that the witness was fully sworn or affirmed by the officer and that the audio/video version of the deposition is a true record of the testimony given by the witness. The officer's log of the deposition shall be included with the certification.

4. If the audio/video version of the deposition is presented at trial or a hearing and the proceedings are digitally recorded by a Judicial Assistant, the audio/video version of the deposition will be returned to the attorney upon completion of the proceedings. The audio/video version of the deposition shall be destroyed after 30 days if not retrieved upon completion of the proceedings.
5. If the proceedings are recorded by a Court Reporter, the audio/video version of the deposition shall be marked as an exhibit of the party who presented the deposition and shall be retained as evidence from the trial or hearing.

Rule 1.29 – Requests for Preparation of Transcripts or Videos of Proceedings

Amended 11/4/08; Effective 11/7/08
Amended 3/4/14; Effective 3/21/14

A. REQUESTS FOR PREPARATION OF TRANSCRIPTS:

Any request for transcripts shall be made in accordance with the following procedures:

1. Proceedings Recorded by a Judicial Assistant (“JA”):

a. Appeals

i. Indigent Defendants with appointed Counsel or *Pro se*

- a) File a praecipe with the Clerk.
- b) Serve a time-stamped copy of the praecipe, with a Request for Video of Proceeding or Request for Paper Transcript (“Request Form”, Appendix F) attached, on the JA for the assigned Judge in person or by e-mail, fax, or regular mail. The Request Form must indicate the specific dates of the proceeding(s) to be transcribed.
- c) When completed, the JA shall send the transcript to appellate counsel in .pdf format via e-mail and shall file an electronic copy of the transcript with the Clerk of the Second District Court of Appeals.

ii. Non-indigent Defendants with Retained Counsel or *Pro Se*

- a) File a praecipe with the Clerk.
- b) Serve a time-stamped copy of the praecipe, with the Request Form attached, on the JA for the assigned Judge in person or by e-mail, fax, or regular mail. The Request Form must indicate the specific dates of the proceeding(s) to be transcribed.
- c) The JA shall submit the video of the proceeding(s) to the Court's transcription provider. Thereafter, appellate counsel is responsible for obtaining the transcript from the Court's transcription provider.

- d) When completed, the JA shall file an electronic copy of the transcript with the Clerk of the Second District Court of Appeals.
- b. Non-Appeal Requests
 - i. Indigent Defendants with Appointed Counsel or *Pro Se*
 - a) File a Motion and proposed Order with the Court.
 - b) If the Judge grants the Motion and signs the Order, serve a time-stamped copy of the Order, with the Request Form attached, including the specific dates of the proceeding(s) to be transcribed, on the JA for the assigned Judge in person or by e-mail, fax, or regular mail.
 - c) When completed, the JA shall send the transcript to counsel in .pdf format via e-mail.
 - ii. Non-indigent Defendants with Retained Counsel or *Pro Se* and Third Party Requestors
 - a) Serve a copy of the Request Form, including the specific dates of the proceeding(s) to be transcribed, on the JA of the assigned Judge in person or by e-mail, fax, or regular mail.
 - b) The JA shall submit the video of the proceeding(s) to the Court's transcription provider. Thereafter, defendant, counsel, or the third party requestor is responsible for obtaining the transcript from the Court's transcription provider.
- 2. Proceedings Recorded by a Court Reporter:
 - a. Appeals
 - i. Indigent Defendants with Appointed Counsel or *Pro Se*
 - a) File a praecipe with the Clerk.
 - b) Serve a time-stamped copy of the praecipe, with the Request Form attached, on the Court Reporter for the assigned Judge in person or by e-mail, fax, or regular mail. The Request Form must indicate the specific dates of the proceeding(s) to be transcribed.
 - c) The Court Reporter shall make a full and accurate transcript from the stenographic notes taken in the case, provide the transcript to counsel or defendant, and file a copy with the Clerk of the Second District Court of Appeals.
 - ii. Non-indigent Defendants with Retained Counsel or *Pro Se*
 - a) File a praecipe with the Clerk.
 - b) Serve a time-stamped copy of the praecipe, with the Request Form attached, on the Court Reporter for the assigned Judge in person or by e-mail, fax, or regular mail. The Request Form must indicate the specific dates in the proceeding(s) to be transcribed.
 - c) The Court Reporter shall make a full and accurate transcript from the stenographic notes taken in the case, notify defendant or counsel that the

transcript is available for pick-up, and file a copy with the Clerk of the Second District Court of Appeals.

- d) Defendant or counsel shall compensate the Court Reporter for making the transcript in an amount determined by the Judges of the Court. A copy of the fee schedule is available in the Court Administrator's Office.

b. Non-Appeal Requests

i. Indigent Defendants with Appointed Counsel or *Pro Se*

- a) File a motion and proposed order with the Court.
- b) If the Judge grants the Motion and signs the Order, serve a time-stamped copy of the Order, with the Request Form attached, on the Court Reporter of the assigned Judge in person, or by e-mail, fax, or regular mail. The Request Form must indicate the specific dates in the proceeding(s) to be transcribed.
- c) The Court Reporter shall make a full and accurate transcript from the stenographic notes taken in the case and notify defendant or counsel that the transcript is available for pick-up.

ii. Non-indigent Defendants with Retained Counsel or *Pro se* and Third Party Requestors

- a) Serve a copy of the Request Form, including the specific dates of the proceeding(s) to be transcribed, on the Court Reporter of the assigned Judge in person, or by e-mail, fax, or regular mail.
- b) The Court Reporter shall make a full and accurate transcript from the stenographic notes taken in the case and notify defendant, counsel, or the third party requestor that the transcript is available for pick-up.
- c) Defendant, counsel, or the third party requestor shall compensate the Court Reporter for making the transcript in an amount determined by the Judges of the Court. A copy of the fee schedule is available in the Court Administrator's Office.

iii. Duplicates

- a) Upon request made directly to the Court Reporter, the Court Reporter shall provide copies of any original transcript of testimony that the Court Reporter previously prepared.
- b) The requestor shall compensate the Court Reporter in an amount determined by the Judges of the Court. A copy of the fee schedule is available in the Court Administrator's Office.

B. REQUESTS FOR VIDEOS OF PROCEEDINGS:

1. In CD Format

- a. Complete a Request Form, including the specific dates of the proceeding(s) requested and indicating that the video is requested in CD format.
- b. Serve a copy of the Request Form on the JA of the assigned Judge in person or by e-mail, fax, or regular mail.

- c. The JA will notify the requestor when the CD is available for pick-up from Room 103 of the Montgomery County Courts Building. A fee of \$2.25, or a price to be determined by the Court, is due upon pick-up.
 - 2. Via E-mail
 - a. Complete a Request Form, including the specific dates of the proceeding(s) requested and indicating that the video is requested via e-mail. The Request Form must include the e-mail address of the requestor.
 - b. Serve a copy of the Request Form on the JA of the assigned Judge in person or by e-mail, fax, or regular mail.
 - c. The JA shall transmit the requested video via secure file transfer.
 - 3. Videos requested by and provided to non-attorneys shall not include sidebars and in-chamber conferences.
- C. TRANSCRIPTS FILED WITH THE CLERK:
- 1. Upon request, during regular business hours, the Clerk shall allow any individual to examine any transcript of testimony filed with the Clerk.
 - 2. Copies of transcripts shall be maintained and provided in accordance with the Ohio Rules of Civil Procedure, the Ohio Rules of Criminal Procedure, the Rules of Superintendence for the Courts of Ohio, the Ohio Revised Code, and any other applicable authority.

Rule 1.30 – Appeal Transcripts and Recordings

Effective 11/7/08
Amended 3/4/14; Effective 3/21/14

- A. The Administrative Judge shall designate the method of recording for the Court’s courtrooms as required by Sup. R. 11.
- B. Any filing, exchange, transmission, or other transfer of recordings produced in the Court’s courtrooms shall be in a format produced by recording systems designated by the Administrative Judge pursuant to Sup. R. 11.
- C. If a rule, practice, or other procedure designates a recording medium or format that is obsolete or not authorized by the required designations in Sup. R. 11 to be filed, the media format designated by the Administrative Judge shall be utilized for any such filing.

Rule 1.31 – Attorneys

Amended 3/4/14; Effective 3/21/14

- A. ATTORNEY WITHDRAWAL:
 - 1. No attorney who entered an appearance in any civil or criminal action shall withdraw the appearance, or have it stricken from the record, except by an entry of the Court.

2. An attorney who appears or enters an appearance for a defendant in a criminal case shall not be permitted to withdraw except in open court in the presence of the defendant and upon written entry approved by the Court.

B. CONDUCT:

At all times, attorneys shall conduct themselves with dignity and propriety and in accordance with the Ohio Rules of Professional Conduct.

C. COMMUNICATION WITH THE JURY:

When permission is granted for the jury to visit a scene, the Bailiff or acting Bailiff shall point out places or objects agreed to by counsel or ordered by the Court. Neither attorneys nor any other person shall communicate with the jury.

D. TRIAL COUNSEL:

1. If a designated trial attorney has a number of cases assigned for trial in courts of this state so as to cause undue delay in the disposition of such cases, the Administrative Judge may require the trial attorney to provide a substitute trial attorney.
2. If the trial attorney fails to provide a substitute trial attorney, the Administrative Judge shall remove the trial attorney as counsel in the case.
3. If the trial attorney was appointed by the Court, the Court shall appoint a substitute trial attorney.
4. All counsel are directed to familiarize themselves with and conform to Sup. R. 41.

E. ADMISSION OF OUT-OF-STATE ATTORNEYS:

Pursuant to Gov. Bar R. I, an attorney must be admitted to practice in the State of Ohio in order to practice in the Court. The assigned Judge may admit out-of-state counsel upon written motion for admission *pro hac vice* pursuant to Gov. Bar R. XII. The assigned Judge may require local counsel.

Rule 1.33 – Examination, Certification, Renewal and Removal of Notaries Public

Amended 1/10/96; Effective 2/15/96
Amended 12/16/02; Effective 1/1/03
Amended 5/5/09; Effective 5/11/09
Amended 8/2/11; Effective 8/8/11
Amended 3/4/14; Effective 3/21/14

A. JUDGES’ COMMITTEE ON NOTARIES PUBLIC:

1. A Judges’ Committee on Notaries Public (“Committee”), consisting of members of the Dayton Bar Association (“DBA”) appointed by the President of the DBA and approved by the Board of Trustees of the DBA, shall be formed.
2. The Committee, or its subcommittee, from time to time, but not less than once each month, shall conduct examinations of all applicants for the office of Notary Public to

determine whether an applicant possesses the qualifications necessary to properly discharge the office of Notary Public as set forth in R.C. § 147.02 and this Rule.

B. ORIGINAL EXAMINATIONS:

1. Applications: All applicants for Notary Public Commissions shall appear before the Secretary of the Committee and shall file:
 - a. an application with a sworn written statement in the form prescribed by the Committee and containing all the information requested by the Committee and
 - b. a fee of \$55.00 plus the statutory fee prescribed by the Revised Code.
2. The Secretary of the Committee (“Secretary”) shall conduct a background check of the applicant.
3. The Secretary shall:
 - a. Conduct an examination of the applicant.
 - b. Submit the applicant’s examination to a representative of the committee to be graded.
 - c. Submit a written report containing the names of applicants passing the examination, complete with applications, to the designated Judge of the Court (“Designated Judge”). The names of applicants contained in the report are recommended by the committee for certification for the office of Notary Public.
 - d. Notify applicants who have not passed the examination will receive written notification via U.S. Mail or electronic mail within seven days of examination.
4. Failure to Appear: If the applicant fails to appear for a scheduled examination, the Secretary shall:
 - a. Schedule an alternative examination date.
 - b. Notify the applicant by mail that, unless the applicant appears for the alternative examination date, the application shall be canceled and the fee shall be forfeited.
 - c. If the applicant appears for the examination, the Secretary shall proceed pursuant to Subsection (B)(3) of this Rule.
 - d. If the applicant fails to appear for the alternative examination date after proper notification, cancel the application and retain the applicant’s fee.
5. Certificate of Qualification:
 - a. Review by Designated Judge: Upon receipt of the Secretary’s written report, the Designated Judge shall review the application and statement in light of the Committee report and grant or deny the applicant a certificate of qualification as required by law.
 - b. The certificate of qualification shall indicate that the applicant is of good moral character; that the applicant is a resident of Montgomery County, Ohio; that the applicant possesses sufficient qualifications and abilities to discharge the duties of the office of Notary Public; and whether the applicant is an attorney at law qualified and admitted to practice in Ohio.

C. APPEAL FROM ADVERSE COMMITTEE REPORTS:

1. If the applicant's certificate of qualification is denied, the applicant may request a hearing on the application by providing written notice to the Secretary, within five days of receiving the notice of the report, of the applicant's desire for a hearing on the adverse report.
2. Upon receipt of the request for a hearing, the Secretary shall set a time and place for the hearing, and provide notice to the Committee.
3. After the hearing, by the Committee, the Designated Judge shall grant or deny the applicant a certificate of qualification as required by R.C. § 147.02 and this Rule.

D. RE-EXAMINATION:

If an applicant fails the original examination and the applicant does not appeal the adverse Committee report or the applicant's appeal is denied, the applicant may file an application for re-examination.

1. All applications for re-examination shall proceed in accordance with Subsection (B) and (C) of this Rule.
2. Fee: A fee of \$30.00 shall be paid with the application for re-examination.
3. Time period for application for re-examination:
 - a. Upon the unsuccessful completion of a first or second examination, an applicant may file an application for re-examination after 30 days have elapsed from the date of the last unsuccessful examination.
 - b. Upon the unsuccessful completion of a third examination, an applicant may file an application for re-examination after 60 days have elapsed from the date of the last unsuccessful examination.
 - c. Upon the unsuccessful completion of a fourth or subsequent examination, an applicant may file an application for re-examination after one year has elapsed from the date of the last unsuccessful examination.

E. RENEWAL:

A person who has been commissioned as a Notary Public in accordance with this Rule may seek renewal of the commission.

1. Application: A Notary Public seeking renewal of a commission shall file an application with the Secretary. The application shall be made in writing, under oath, and shall include:
 - a. The information required by the Committee and
 - b. A fee of \$55.00 plus the statutory fee prescribed by the Ohio Revised Code.
2. Examination and Approval: Every application for renewal shall be examined by the Secretary or a member of the Committee designated by the Chair for the purpose of reviewing renewal applications, and, except for good cause shown, the Chair or his or her designee shall approve the application for renewal. Upon approval, a certificate of qualification shall be issued in accordance with Subsection (B)(5) of this Rule.
3. Appeal: If an application for renewal is denied, the applicant may appeal the denial in accordance with the procedures set forth in Subsection (C) of this Rule.

F. REMOVAL:

The Committee may seek the removal, suspension, or discipline of any Notary Public by filing a complaint with the Clerk. Such complaint shall be heard and determined by the Committee after notice of the hearing is provided to the individual or individuals against whom the complaint is filed.

G. ACCOUNTING FOR FEES:

All fees set forth herein shall be paid to the DBA to cover the expenses of the Committee and the costs of the secretarial, clerical and accounting services rendered to the Committee. On or before September 1 of each year, the DBA shall present to the Court Administrator an accounting of all fees received pursuant to this Rule and all expenditures made by the Committee.

Rule 1.35 – Facsimile Filing

Adopted 4/2/05; Effective 5/1/05

Amended 5/3/11; Effective 8/8/11

Revised and Incorporated into Mont. Co. C.P.R. 1.15 3/4/14; Effective 3/21/14

Rule 1.37 – Electronic Filing of Court Documents

Effective 8/8/11

Revised and Incorporated into Mont Co. C.P.R. 1.15 3/4/14; Effective 3/21/14

Rule 1.41 – Filing Sealed and *In Camera* Documents

Effective 8/8/11

Amended 3/4/14; Effective 3/21/14

A. DEFINITION OF TERMS:

The terms “public access”, “direct access”, and “remote access” as used herein are governed by the definitions contained in Sup. R. 44(I), (J) and (K).

B. SEALED DOCUMENTS:

1. Motion

- a. The Clerk shall not accept any document to be filed under seal unless a motion to make the filing has been made and approved by the Court.
- b. The motion and proposed order shall designate the requested level of access.
- c. The motion and proposed order shall be filed pursuant to Mont. Co. C.P.R. 1.15.
- d. The documents that are petitioned to be filed under seal shall not be attached to the motion, as the motion will not be sealed.

2. Levels of Access

- a. No Remote Access by Public
 - i. Access to documents via the Clerk’s Public Records Online (“PRO”) is limited to Judge, Court staff, Clerk staff, and counsel of record.

- ii. Public access to documents will be available only through the Clerk's office, during regular business hours.
 - iii. The docket and access to documents will be available through the Court's eFile system, but only the docket will be available through PRO.
 - b. No Remote or Direct Access by Public
 - i. Access to documents via PRO is limited to Judges, Court staff, Clerk staff and counsel of record.
 - ii. No public access to documents through the Clerk's office.
 - iii. The docket and access to documents will be available through the Court's eFile system, but only the docket will be available through PRO.
 - c. Judge Access Only
 - i. No access is permitted by Court staff, Clerk staff, counsel of record, or the public. Access to the documents will be limited to the assigned Judge.
 - ii. Only the docket will be available through the Court's eFile system and the PRO system.
- 3. Method of Filing: If a motion to file documents under seal is granted, the documents subject to the order shall be filed as follows:
 - a. No Remote Access by Public: The documents shall be eFiled pursuant to Mont. Co. C.P.R. 1.15.
 - b. No Remote or Direct Access by Public: The documents shall be eFiled pursuant to Mont. Co. C.P.R. 1.15.
 - c. Judge Access Only
 - i. The documents shall be filed with the Clerk, secured in a sealed envelope, with the face of the envelope containing the case caption, a descriptive title of the document (unless such information has been included among the information sealed), the date of the order permitting the item to be sealed, and a conspicuous notation stating "DOCUMENTS UNDER SEAL – JUDGE ACCESS ONLY."
 - ii. The Clerk shall file stamp the face of the envelope, enter on the docket that the document was filed under seal with "Judge Access Only," and retain the envelope in the Clerk's office.
 - iii. The Court's eFile system shall send a notice that a document with "Judge Access Only" was filed. The filer shall notify *pro se* parties not registered with the Court's eFile system that a document with "Judge Access Only" was filed.
 - iv. The filer is required to serve paper copies of the sealed document on all parties in the case.

C. *IN CAMERA* DOCUMENTS:

- 1. Unless otherwise ordered by the assigned Judge, documents submitted for *in camera* review shall be submitted directly to the assigned Judge and not filed with the Clerk.

2. If the assigned Judge orders that documents submitted for *in camera* review be filed with the Clerk, the filer shall follow the procedures set forth in Subsection (B)(3)(c) of this Rule.

Rule 2.01 – Civil Case Management Plan

Amended 11/2/94; Effective 11/15/95
Amended 7/13/95; Effective 7/13/95
Amended 6/6/01; Effective 6/18/01
Amended 9/17/04; Effective 9/17/04
Amended 6/3/08; Effective 6/9/08
Amended 5/5/09; Effective 5/11/09
Amended 8/12/14; Effective 8/29/14
Amended 12/9/14; Effective 12/15/14

A. PURPOSE:

To establish, pursuant to Sup. R. 5(B)(1), an automated system for civil case management that will achieve the prompt and fair disposition of civil cases, provide the Court with an efficient means of controlling the flow of civil cases, and save time by providing members of the bar with information and case management facilities.

B. PROCEDURE UPON FILING CIVIL ACTION:

1. Service:

- a. Every civil action filed shall be monitored for return of service of summons. If service fails on any defendant or party named in a crossclaim, counterclaim, or third party complaint, the filing party shall be notified to reissue service within 14 days of the filing date of the notification to reissue service. If any party fails to reissue service or notify the Court why service cannot be reissued within the 14-day period, the action may be dismissed pursuant to Civ. R. 41(B) and Mont. Co. C.P.R. 2.15(B).
- b. Service by Publication:
 - i. If a party requests service by publication pursuant to Civ. R. 4.4 and such request is granted by the Court, it is the responsibility of the party seeking service by publication to forward a time-stamped copy of the Court order granting such service to the official law journal and to follow the journal's procedures for publication.
 - ii. The law journal is required to forward notarized proof of publication to the Court.
 - iii. The Court shall not forward notices to effect service by publication to the official law journal nor collect fees for the publication.

2. Answer:

- a. Upon completion of service, every civil action shall be monitored for the answer(s) to be filed within the 28-day period required by Civ. R. 12 or any extension permitted by the Court.

- i. If any defendant fails to answer, the case shall be monitored for the filing of motion(s) for default judgment. If a motion for default judgment is not filed within a reasonable time, as determined by the Court, the filing party shall be notified to file a motion for default judgment within 14 days.
 - ii. If the party fails to file the motion for default judgment or notify the Court why the motion is premature or otherwise inappropriate within the 14-day period, the action may be dismissed pursuant to Civ. R. 41(B) and Mont. Co. C.P.R. 2.15(B).
- b. In any case where an answer is filed within the 28-day period as required by Civ. R. 12:
- i. if no jury demand was made, the assigned Judge may refer the case to the Magistrate pursuant to Civ. R. 53 and Mont. Co. C.P.R. 2.31; and
 - ii. a pre-trial conference call shall be held to establish all filing and discovery deadlines pursuant to Civ. R. 16 and Mont. Co. C.P.R. 2.07. A final pre-trial order journalizing the filing and discovery deadlines shall be filed.
3. Termination Entry: When the case is completed, whether by default judgment, summary judgment, dismissal, settlement or trial, an entry terminating the case shall be indicated on the docket as a final judgment or dismissal entry.

Rule 2.03 – Court Costs and Special Fees

Amended 2/24/03; Effective 3/1/03
 Amended 5/8/03; Effective 6/1/03
 Amended 2/6/07; Effective 3/1/07
 Amended 11/4/08; Effective 1/1/09
 Amended 5/5/09; Effective 5/11/09
 Amended 11/3/09; Effective 11/9/09
 Amended 3/5/13; Effective 4/1/13
 Amended 8/12/14; Effective 8/29/14
 Amended 2/2/16; Effective 3/7/16
 Amended 2/7/17; Effective 3/1/17

A. FILING FEE:

1. No civil action or proceeding shall be accepted for filing unless there is deposited as security for costs the amount set forth in Appendix G.
 - a. Exceptions to security costs of Civil Complaints:
 - i. Notice of Filing Auxiliary Case/Issuance of Subpoena(s) pursuant to O.R.C. 2319.09 fee shall be \$50.00.
 - ii. Certificate of Qualification for Employment fee shall be \$50.00.
2. A convenience fee of 2.0% (“Conv. Fee”) shall be added to all eFiled cases and shall be paid at the time of filing, along with the deposit. This Conv. Fee applies to cases filed by *pro se* parties who are not registered users of the Court’s eFile system and file in accordance with Mont. Co. C.P.R. 1.15(J).

3. If the party initiating the civil action is unable to give security or a cash deposit as provided under this Rule, then said party shall file an affidavit of indigence along with the complaint or other filing requiring a filing fee as set forth in Appendix G.
 - a. The affidavit shall be accepted by the Clerk and the collection of costs shall be postponed until the case is terminated.
 - b. The Court may review the affidavit of indigence and make a determination whether the filer is, in fact, indigent. The Court may refer the affidavit of indigence to the Magistrate to make the determination.

B. COURT LEGAL RESEARCH/COMPUTERIZATION FEE:

1. Pursuant to R.C. § 2303.201(A)(1), the Court has determined that, for the efficient operation of the Court, additional funds are necessary to computerize the Court and to obtain legal research services.
2. As authorized under R.C. § 2303.201(A)(1), the Clerk shall charge an additional fee of \$6.00 on the filing of each cause of action or appeal under divisions (A), (Q), and (U) of R.C. § 2303.20.
3. All fees collected pursuant to this Subsection shall be used for procuring and maintaining computerization of the Court and computerized legal research services.
4. All fees collected pursuant to this Subsection shall be paid to the Montgomery County Treasurer (“Treasurer”), who shall place the funds from the fee in a separate fund to be disbursed upon an order of the Court.

C. CLERK COMPUTERIZATION/TECHNOLOGY ADVANCE FEE:

1. Pursuant to R.C. § 2303.201(B)(1), the Court has determined that, for the efficient operation of the Court, additional funds are necessary to make technological advances in order to computerize the office of the Clerk.
2. As authorized under R.C. § 2303.201(B)(1), the Clerk shall charge an additional fee of \$20.00 on the filing of each cause of action or appeal; on the filing, docketing, and endorsing of each certificate of judgment; or on the docketing and indexing of each aid in execution or petition to vacate, revive, or modify a judgment under divisions (A), (P), (Q), (T), and (U) of R.C. § 2303.20 and an additional fee of \$1.00 each for the services described in divisions (B), (C), (D), (F), (H), and (L) of R.C. § 2303.20.
3. All fees collected pursuant to this Subsection shall be used for procuring and maintaining technology and computer systems for the office of the Clerk.
4. All fees collected pursuant to this Subsection shall be paid to the Treasurer, who shall place the funds from the fees in a separate fund to be disbursed upon an order of the Court.

D. SPECIAL PROJECT FEES:

1. Dispute Resolution Fee:

- a. Pursuant to R.C. § 2303.201(E)(1), the Court has determined that, for the efficient operation of the Court, additional funds are necessary to pay for dispute resolution services.
 - b. As authorized under R.C. § 2303.201(E)(1), the Clerk shall charge, in addition to all other costs, a fee of \$45.00 on the filing of each criminal cause, civil action or proceeding, or judgment by confession.
 - c. All fees collected pursuant to this Subsection shall be used to implement any procedures established for the resolution of disputes between parties to any civil or criminal action that is within the jurisdiction of the Court.
 - d. All fees collected pursuant to this Subsection shall be paid to the Treasurer, who shall place the funds from the fee in a separate dispute resolution fund to be disbursed upon an order of the Court.
2. Electronic Filing and Storage of Case Records Fee:
- a. Pursuant to R.C. § 2303.201(E)(1), the Court has determined that, for the efficient operations of the Court, additional funds are necessary to pay for the costs of eFiling and storage of case records and related materials.
 - b. As authorized under R.C. § 2303.201(E)(1), the Clerk shall charge, in addition to all other costs, a fee of \$35.00 on the filing of each criminal cause, civil action or proceeding, or judgment by confession.
 - c. All fees collected pursuant to this Subsection shall be used for special projects related to eFiling and storage of case records and related materials.
 - d. All fees collected pursuant to this Subsection shall be paid to the Treasurer, who shall place the funds from the fee in a separate eFiling fund to be disbursed upon an order of the Court.
3. General Special Project Fee:
- a. Pursuant to R.C. § 2303.201(E)(1), the Court has determined that, for the efficient operations of the Court, additional funds are necessary to acquire and pay for special projects of the Court.
 - b. As authorized under R.C. § 2303.201(E)(1), the Clerk shall charge, in addition to all other costs, a fee of \$30.00 on the filing of each criminal cause, civil action or proceeding, or judgment by confession.
 - c. All fees collected pursuant to this Subsection shall be used for special projects consistent with R.C. § 2303.201(E)(1).
 - d. All fees collected pursuant to this Subsection shall be paid to the Treasurer, who shall place the funds from the fee in a separate general special project fund to be disbursed upon an order of the Court.
4. Special Project Fee for Court Technology Advancement:
- a. Pursuant to R.C. § 2303.201(E)(1), the Court has determined that, for the efficient operations of the Court, additional funds are necessary to acquire and pay for special projects (technology advancement) of the Court.

- b. As authorized under R.C. § 2303.201(E)(1), the Clerk shall charge, in addition to all other costs, a fee of \$50.00 on each civil action or proceeding. The fee will be charged as \$25.00 at the time of civil filing and a \$25.00 reduction in the returned deposit.
- c. All fees collected pursuant to this Subsection shall be used for technology advancement and technology special projects consistent with R.C. § 2303.201(E)(1).
- d. All fees collected pursuant to this Subsection shall be paid to the Treasurer, who shall place the funds from the fee in a separate general special project fund to be disbursed upon an order of the Court.

Rule 2.05 – Pleadings and Motions

Amended 9/3/98; Effective 9/3/98
 Amended 8/5/98; Effective 8/10/98
 Amended 11/1/96; Effective 12/1/96
 Amended 7/13/95; Effective 7/13/95
 Amended 6/6/01; Effective 6/18/01
 Amended 8/7/07; Effective 8/13/07
 Amended 8/12/14; Effective 8/29/14

A. PLEADINGS:

1. Initial Pleadings:

- a. The caption of all initial pleadings shall contain the information required by Civ. R. 10(A).
- b. The eFile system shall generate a Civil Case Information Form based on the information provided to the eFile system when the initial pleading is filed.

2. Pleadings Filed Subsequent to the Initial Pleading:

All pleadings filed subsequent to the initial pleading shall specify:

- a. the case number;
- b. the name of the assigned Judge or the name of the Judge who heard the case and the Magistrate, if applicable;
- c. the signature of the attorney who is making the filing, as required by Mont. Co. C.P.R. 1.15(F)(4)(a); and
- d. a Certificate of Service as required by Mont. Co. C.P.R. 1.15(H)(4).

3. Personal and Private Information in Pleadings and Exhibits:

- a. In accordance with Mont. Co. C.P.R. 1.15(I), a filer shall not include personal and private information in any document filed with the Court, unless such inclusion is necessary and relevant to the case.
- b. If personal and private information is necessary and must be included in a document, the filing party must file the document in accordance with Mont. Co. C.P.R. 1.15(I).

B. MOTIONS:

1. Moving Parties:
 - a. All moving parties shall file and serve their motions with the following:
 - i. A brief written memorandum that shall:
 - a) state with particularity the grounds in support of the motion;
 - b) set forth the relief or order sought; and
 - c) specify the citations of the authorities upon which the motion is based.
 - ii. Copies of all photographs or documentary evidence that will be used in support of the motion, if the motion requires the consideration of facts that do not appear in the record.
 - iii. A proposed order or entry filed in accordance with Mont. Co. C.P.R. 1.15(F)(2)(b). Substantive motions, *i.e.* motions for summary judgment in non-foreclosure cases, do not require a proposed order or entry to be filed unless otherwise ordered by the Court.
 - b. If a memorandum in opposition is filed in accordance with Subsection (B)(2) of this Rule, a moving party may file a reply memorandum within seven days from the date on which the memorandum in opposition is filed.
2. Opposing Parties: All parties opposing motions shall file and serve a memorandum in opposition to the motion that has been filed and served against them. All memoranda shall:
 - a. be accompanied by copies of all photographs or documentary evidence that will be used in opposition to the motion, if the motion requires the consideration of facts that do not appear in the record and
 - b. be filed and served within 14 days from the date on which the motion was served. If no memorandum is filed within this time limit, the motion may be decided forthwith.
3. Other Memoranda: No other memoranda shall be filed without leave of the Court.
4. Limitation upon Length of Memoranda:

Memoranda in support or in opposition to any motion or application to the Court shall not exceed 20 pages and otherwise shall comply with Mont. Co. C.P.R. 1.15(F)(1). The page limitation may be modified by the Court for good cause shown and upon such conditions as set by the Court.

C. PROCESS SERVERS:

1. One-time Appointment:

If a party desires personal service to be made by a special process server pursuant to Civ. R. 4.1, that party or counsel must file with the Clerk an entry of appointment providing:

- a. The name of the person to be appointed as process server;
- b. That the person to be appointed as process server is 18 years of age or older; and
- c. That the person to be appointed as process server is not a party in the action or counsel for a party in the action.

2. Standing Appointment:

- a. A person may be designated as a “Standing Special Process Server” for cases filed in the Court by filing a combined affidavit and order (Appendix I). The affidavit shall set forth the following information:
 - i. The name, address, and telephone number of the person to be appointed as a Standing Special Process Server;
 - ii. That the person is 18 years of age or older;
 - iii. That the person agrees not to attempt service of process in any case the server is a party or counsel for a party; and
 - iv. That the person agrees to follow the requirements of Civ. R. 4-4.6, any applicable local rule, and specific instructions for service of process as ordered by the Court in individual cases.
- b. A standing appointment shall be for no more than a two-year period ending on December 31. Upon expiration of an appointment, a person must reapply in accordance with Subsection (C)(2)(a) of this Rule.
- c. The Administrative Judge authorizes the appointment order for a Standing Special Process Server.
- d. The order shall be captioned: “In Re: The Appointment of [Name of Person Requesting Appointment] as Standing Special Process Server” and state the following:

“It appearing to the Court that the following person has complied with the provisions of Mont. Co. C.P.R. 2.05(C), [Name of Person Requesting Appointment] is hereby designated as a Standing Special Process Server authorized to make service of process in all cases filed in this Court and to serve until December 31, _____, or further order of the Court, whichever comes first.”

- e. The Clerk shall record such appointment on the Court’s general docket and shall retain the original affidavit and order. In any case thereafter, the Clerk shall accept a time-stamped copy of such affidavit and order as satisfying the requirements of Civ. R. 4.1(B) for designation by the Court of a person to make service of process.

Rule 2.07 – Pretrial Procedures in Civil Cases

Amended 8/12/14; Effective 8/29/14

Amended 12/9/14; Effective 12/15/14

Amended 12/8/15; Effective 12/14/15

A. STATEMENT OF INTENT:

This Rule implements Civ. R. 16. It designs the basic patterns and instructions for pretrial development of civil actions. Initiative, ingenuity, and industry on the part of attorneys in these actions will implement this Rule and will determine the quality of pretrial

proceedings. In the effective administration of this Rule, appropriate sanctions will be employed as may be necessary.

B. PRETRIAL CONFERENCE:

Attorneys shall consult with their clients in advance of the conference and be prepared to confer practically and earnestly on settlement and all other matters as may aid in the disposition of the action.

1. The Court, with counsel, may inquire into the status and possibility of settlement, discovery completed to date and anticipated prior to the time of trial, and establish the date for the delivery of a medical and special damages package.
2. The Court shall issue a pretrial order establishing the following dates, if applicable:
 - a. a date for the parties to reveal to each other the identities of expert witnesses;
 - b. a date for the filing of any memoranda on disputed issues of law or fact and a discovery cut-off date;
 - c. a date for the filing of all other motions deemed necessary, including motions for summary judgment;
 - d. a date for motions to add necessary parties;
 - e. a date for trial material exchange and objections to trial materials;
 - f. a date for completing Civ.R. 35 exams which shall be set 120 days following the scheduling conference, and the examiner's report shall be submitted to counsel within 21 days from the date of the examination;
 - g. a date for completing perpetuation depositions;
 - h. a date for filing a joint or individually prepared pretrial statements;
 - i. a date for a final pretrial conference; and
 - j. a trial date.

C. WRITTEN MATERIALS TO BE READ INTO EVIDENCE:

If written materials are to be read into evidence, copies of such materials shall be provided by the proponent to the Court and other counsel at least seven days prior to trial.

D. PRETRIAL STATEMENT:

In all cases, all parties shall prepare and file a joint final pretrial statement. The joint final pretrial statement shall be filed at least two business days prior to the date and time of the scheduled final pretrial conference held prior to trial.

The final pretrial statement shall include all of the following:

1. Identification of the chief trial counsel, who shall be fully authorized to act and negotiate on behalf of the party;
2. Those facts established by admissions in the pleadings, admissions by discovery, and stipulations of counsel;
3. The contested issues of fact;
4. The contested issues of law, together with citations of authority for the party's position;

5. Any stipulations of the parties, as well as proposed stipulations;
6. The names and addresses of any witnesses who may be called at trial, together with a brief summary of each witness' expected testimony;
7. The names, addresses and qualifications of any expert witnesses who may be called at trial, together with a brief summary of each expert witness' expected testimony;
8. A list of exhibits counsel may offer into evidence. Exhibits must be marked, prior to trial, as follows:
 - a. Joint exhibits with Roman numerals;
 - b. Plaintiff's exhibits with Arabic numerals;
 - c. Defendant's exhibits with letters;
 - d. Third-party exhibits identified as such.
9. All Motions in Limine;
10. A complete list of all pending motions upon which the court has not yet issued a decision;
11. A copy of any deposition that may be used at trial, for any purpose, shall be provided to the court electronically and in video form, if applicable, and separate from the Final Pre-Trial Statement;
12. A list of all special damages requested, if any;
13. The amount of trial time each party expects will be necessary to present that party's case;
14. Proposed jury instructions (also please provide the court with an electronic copy of proposed jury instructions);
15. Status of settlement negotiations.

Parties and counsel are required to attend the final pre-trial conference. The parties and counsel are notified that failure to appear at the final pre-trial conference may result in a sua sponte dismissal by the court of the action, monetary sanctions, or default judgment.

THE PARTIES AND COUNSEL SHALL TAKE NOTICE that failure appear at the final pre-trial, or failure to comply with this rule in any respect, particularly regarding providing the names and addresses of all potential witnesses, including expert witnesses, and identifying any potential exhibits, may result in appropriate sanctions, including, but not limited to, the exclusion of the witness or exhibit that was not identified, costs, and other sanctions.

Rule 2.09 – Discovery

Amended 7/13/95; Effective 7/13/95

Amended 1/10/96; Effective 2/15/96

Amended 8/12/14; Effective 8/29/14

A. INFORMAL DISCOVERY POLICY:

1. It is the policy of the Court to encourage professional informal discovery in preference to formal discovery and to avoid the Court's involvement in the discovery process.

- a. This policy is not intended to discourage the use of depositions to discover and record evidence as provided in the Ohio Rules of Civil Procedure.
 - b. Counsel shall make every effort to comply with this policy.
2. Upon informal request, parties and counsel shall participate in pretrial discovery conferences and shall freely exchange discoverable information and documents.

B. INFORMAL DISCOVERY PROCEDURE:

1. *Pro se* parties or counsel shall employ informal discovery requests for necessary information or documents.
2. If the party or counsel to whom an informal discovery request was made complies with the request, in order to preserve the fruits of discovery, the participating parties or counsel may enter a stipulation setting forth the discovery provided in response to the request. If otherwise admissible, the stipulation may be used in evidence as an agreed statement of fact.
3. If a party or counsel fails to respond within a reasonable period of time to an informal discovery request or makes objections thereto, the parties or counsel shall discuss the impasse and attempt to resolve such impasse informally.
4. No application for protective order, objection to any form of discovery, motion to compel, motion for sanctions or the like (“Formal Discovery Request”), pursuant to the Ohio Rules of Civil Procedure, shall be filed with the Court until diligent effort has been made to resolve the impasse without the involvement of the Court.

C. REQUIREMENTS AND EFFECT OF LOCAL RULE:

1. Certificate of Impasse:
 - a. A certificate of impasse shall be affixed to or made a part of any Formal Discovery Request.
 - b. The certificate of impasse shall include the specific times and methods of attempted informal resolution.
2. Any insufficient or unwarranted Formal Discovery Request and any unwarranted opposition or failure to respond to formal or informal discovery requests may subject the offender to sanctions under Civ. R. 37 and this Rule, including the imposition of costs, expenses, and reasonable counsel fees.

D. DISCOVERY DEADLINE:

The assigned Judge or Magistrate may order discovery to be completed at a fixed time prior to the trial date.

E. FILING OF DISCOVERY DOCUMENTS:

1. Except on the order of the Court or for use as evidence in consideration of a motion, deposition, interrogatories, requests for documents, requests for admission and

answers and responses thereto (“Discovery Documents”) shall not be filed with the Clerk.

2. If Discovery Documents are not accompanied by a certification by counsel that the Discovery Documents are being filed on order of the Court or for use as evidence in consideration of a motion, the Clerk shall not accept the Discovery Documents for filing.
3. All Discovery Documents filed with the Clerk shall be served in accordance with Mont. Co. C.P.R. 1.15(H) and Civ. R. 5.

F. INTERROGATORIES:

1. Total Number of Interrogatories: In the interest of facilitating discovery between litigants, and pursuant to Civ. R. 33, the total number of interrogatories submitted by any one party to another party shall not exceed 40, including sub-parts. For purposes of this Rule, each question or statement requiring a response shall be considered one interrogatory.
2. Additional Interrogatories: Additional interrogatories may be submitted by agreement of the party from whom such additional information is sought or upon leave of Court by motion filed by the requesting party showing good cause.
 - a. Either party may request a hearing or the Court may, on its own motion, assign the matter for hearing.
 - b. The Court may grant or deny the request for additional interrogatories and impose any conditions which the Court deems appropriate considering the circumstances and the nature of the case.
 - c. Pursuant to Subsection (A), (B) and (C) of this Rule, the parties shall attempt to resolve any disputes as to the number of interrogatories between themselves prior to involving the Court.

Rule 2.11 – Limitations on Initial Interrogatories

Revised and Incorporated into Mont Co. C.P.R. 2.09 8/12/14; Effective 8/29/14

Rule 2.13 – Payment of Witness Fees

Amended 8/12/14; Effective 8/29/14

A. METHOD OF PAYMENT:

If a witness fee as set forth in Appendix G is required to be paid in a civil case and the party or counsel has not paid said fee in advance, the party or counsel shall submit a check, payable to the witness, to the Clerk, to be served with the Subpoena.

B. EXCLUSIONS FROM PAYMENT OF WITNESS FEE:

Witness fees shall not apply to police officers and medical records librarians.

Rule 2.15 – Dismissal of Actions

Amended 8/12/14; Effective 8/29/14

A. VOLUNTARY DISMISSAL – NOTICE REQUIREMENT:

Any party or party's counsel who has filed a notice of dismissal or a stipulation of dismissal pursuant to Civ. R. 41(A)(1) shall promptly inform the assigned Judge of the voluntary dismissal.

B. INVOLUNTARY DISMISSAL – DISMISSAL FOR WANT OF PROSECUTION:

In accordance with Civ. R. 41(B)(1), the Court, upon its own motion or upon the motion of a defendant, may dismiss an action or a claim if notice is given to the plaintiff or plaintiff's counsel and any of the following conditions are met:

1. The plaintiff fails to prosecute;
2. The plaintiff fails to comply with these Rules;
3. The plaintiff fails to comply with any Court order; or
4. The case has been pending an unreasonable length of time without any required action having been taken.

Rule 2.17 – Judgment

Amended 5/3/11; Effective 8/8/11

Amended 8/12/14; Effective 8/29/14

A. DEFAULT JUDGMENT:

1. Motion: Pursuant to Civ. R. 55, all motions for default judgment, uncontested assessments of damages and statutory *ex parte* proceedings shall be submitted to the assigned Judge.
2. Judgment Entry:
 - a. If a proposed default judgment entry is submitted to the Court for signature via the Court's eFiling system, the filing party, not the Clerk, shall be responsible for serving a copy of the default judgment entry, by regular U.S. mail, on all parties that are not registered users of the eFiling system after the default judgment entry has been signed and filed.
 - b. The proposed default judgment entry shall include a certificate of service in accordance with Mont. Co. C.P.R. 1.15 and Civ. R. 5(B)(3). Failure to provide a certificate of service constitutes an irregularity and is grounds for vacation of judgment, unless the record establishes that the name or address of the party against whom judgment is entered is unknown.

B. JUDGMENT BY CONFESSION:

1. Issuance of Judgment: A judgment by confession shall be granted by any available Judge of the Court upon:
 - a. An attorney's warrant or,

- b. If the defendant has confessed judgment to the Court and received the plaintiff's permission to obtain judgment by confession, by the personal appearance of the defendant in court.
2. All judgments by confession shall:
 - a. Be in writing;
 - b. State the debt or cause of action decided; and
 - c. Be filed with the Clerk.
3. Judgment Entry:
 - a. If a proposed judgment entry is submitted to the Court for signature via the Court's eFiling system, the filing party, not the Clerk, shall be responsible for serving a copy of the judgment entry, by regular U.S. mail, on all parties that are not registered users of the eFiling system after the judgment entry has been signed and filed.
 - b. The proposed judgment entry shall include a certificate of service in accordance with Mont. Co. C.P.R. 1.15 and Civ. R. 5(B)(3). Failure to provide a certificate of service constitutes an irregularity and is grounds for vacation of judgment, unless the record establishes that the name or address of the party against whom judgment is entered is unknown.
4. Issues Arising or Pending Subsequent to Judgment by Confession:

All issues that arise or are pending in a case subsequent to the judgment by confession shall be referred to the assigned Judge.

C. ENTRY OF JUDGMENT:

The Court may approve or disapprove any proposed judgment entry. No oral arguments shall be heard on the judgment entries unless ordered by the Court. The judgment of the Court shall be effective upon the filing and journalization of a judgment entry with the Clerk.

Rule 2.19 – *Ex Parte* Orders

Amended 8/12/14; Effective 8/29/14

No *ex parte* applications, orders or entries shall be submitted unless expressly authorized by law. All motions for temporary restraining orders shall be made and proceed in compliance with Civ. R. 65(A).

Rule 2.21 – Cancellations and Releases

Amended 8/12/14; Effective 8/29/14

Releases and assignments of judgments or certificates of judgment shall be in writing and signed by a person authorized to execute the instrument. No release, assignment or similar matter shall be written directly upon the appearance or execution dockets.

Rule 2.23 – Judicial Sale of Real Estate

Amended 5/10/95; Effective 6/15/95
Amended 11/14/02; Effective 1/1/03
Amended 6/1/10; Effective 6/4/10
Amended 8/12/14; Effective 8/29/14
Amended 5/2/17; Effective 5/10/17

A. CERTIFICATION:

1. In every action filed in the Court or any other division of the Common Pleas Court of Montgomery 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 party's counsel shall endorse the following Certification upon the complaint or subsequent pleading:

“The undersigned hereby certifies that an examination of the public records of Montgomery 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 interested parties have been named as parties to this action, [state as exceptions any interested party not so named].”

2. Subsection (A)(1) of this Rule shall not apply to proceedings under R.C. § 5721.18.

B. ORDER: Upon any decree subsequently issued which orders the sale of real estate, the party or party's counsel who 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 the previous examination and the extended examination discloses that, in the opinion of the undersigned, there are no such parties except parties to whom the doctrine of *lis pendens* applies, [state as further exceptions any such party not subject to *lis pendens*].”

Rule 2.23.1 – Sheriff's Sale of Real Estate

Effective 5/10/17

A. DEFAULT PROCEDURE:

Unless the party requesting the sale or that party's counsel files a motion requesting the appointment of a Private Selling Officer, the county Sheriff shall conduct a public auction to sell the real property at issue in every foreclosure action demanding the judicial sale of property.

B. COMPLIANCE WITH RULE 2.23:

Prior to a Sheriff's sale of real estate, parties must comply with Mont. Co. C.P.R. 2.23.

C. NOTICE OF SALE:

1. In every action in any division of the Common Pleas Court of Montgomery County, Ohio, wherein a judicial sale of real estate by the Sheriff is ordered, the party requesting the sale or the party's counsel shall promptly mail notice of the time, date and location of the sheriff's sale to:
 - a. the record owner(s) of the subject real estate whether or not in default for failure to appear, or counsel for the record owner(s), unless service of summons on the record owner(s) was accomplished only by publication and
 - b. all other interested parties not in default for failure to appear or to counsel of record for interested parties not in default for failure to appear.
2. Said notice may be mailed to:
 - a. the last known address(es) of the record owner(s) and other interested parties not in default for failure to appear or
 - b. counsel of record for the record owner(s) and other interested parties not in default for failure to appear.
3. No parties to the proceedings in default of answer need be served with notice of sale except by publication as provided by R.C. §§ 2329.26 and 2329.27.
4. Failure to provide timely notice pursuant to this Subsection shall constitute grounds for denying confirmation of the sale.

D. REQUIRED FILING:

1. Not less than 14 days prior to the scheduled sale date, the party requesting the sale or the party's counsel shall file with the Clerk a Certificate of Service of Notice of Sale Date specifying the date and manner of service of the notice required in Subsection (C) of this Rule, the names and addresses of all record owner(s) and interested parties or counsel of record for the record owner(s), and interested parties who were sent the notice.
2. Failure to timely file the certificate of service required by this Subsection shall constitute grounds for denial of the confirmation of sale.

E. CANCELLATION OF SALE:

1. In every action in any division of the Common Pleas Court of Montgomery County, Ohio, wherein a judicial sale of real estate by the Sheriff that has been ordered is to be canceled due to a filed bankruptcy petition or for any other reason, the party canceling the sale or the party's counsel shall file a copy of the filed bankruptcy petition or an entry canceling the sale pursuant to Mont. Co. C.P.R. 1.15(F)(2)(b) and 2.05(B)(1)(a)(iii).
2. The party requesting the cancellation or the party's counsel shall serve a copy of the file-stamped entry or bankruptcy petition on the Montgomery County Sheriff prior to said sale.
3. Neither the Clerk nor the Court shall notify the Sheriff of any cancellation.

F. PROCEDURE:

1. Prior to the sale, the Sheriff, deputy or party conducting the sale shall announce that successful bidder(s) shall have 30 days from the date of sale to obtain an examination of title to said real estate.
2. Should examination disclose the title 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 in Subsection (A) or (B) of this Rule, no liability shall be predicated on the certifications. The successful bidder(s) may, within the 30-day period, notify the Court of the defect and move the Court to set aside the sale.
3. If the Court finds title to be unmarketable, the Court shall refuse to confirm the sale. The Court may fix a reasonable time, not to exceed 90 days, within which any defect may be cured.
4. Waiver: The successful bidder(s) may waive any part or all of the 30-day period by signing the Confirmation Entry, but no Confirmation Entry not approved by the successful bidder(s) shall be filed until the 30-day period has expired.

G. TERMS OF SALE:

1. Residential Property:
 - a. Unless the successful bidder is the first lien holder, the successful bidder(s) as to a judicial sale of residential property shall make a deposit in the following amount immediately following the sale:
 - 1) \$2,000, if the property's appraised value is less than or equal to \$10,000;
 - 2) \$5,000, if the property's appraised value is greater than \$10,000 but less than or equal to \$200,000; or
 - 3) \$10,000, if the property's appraised value is greater than \$200,000.
 - b. The unpaid balance of the purchase price shall be paid to the Montgomery County Sheriff by certified or cashier's check within 30 days of the filing date of the confirmation of sale and distribution entry.
 - c. The successful bidder's failure to comply with these terms shall invalidate the sale and may result in a finding of contempt and forfeiture of the deposit paid.
2. Commercial Property:
 - a. Unless the successful bidder is the first lien holder, the successful bidder(s) as to a judicial sale of commercial property shall deposit 10% of the purchase price immediately following the sale.
 - b. The unpaid balance of the purchase price shall be paid to the Montgomery County Sheriff by certified or cashier's check within 30 days of the filing date of the confirmation of sale and distribution entry.
 - c. The successful bidder's failure to comply with these terms shall invalidate the sale.

H. APPRAISERS' FEES:

1. Non-Commercial Real Estate/Single Unit Property: Pursuant to R. C. §§ 2335.01, 2335.02, and 311.19, the appraisers' fee for the judicial sale of non-commercial real estate and single unit property shall be \$60.00 per appraiser (Appendix K).
2. Commercial Real Estate/Multiple Unit Property: Appraisers' fees for commercial real estate or multiple unit property shall be \$40.00 per hour for every hour actually spent in research to establish a value for the subject property.
 - a. Research to establish a property value shall not include payment for previous research on previously evaluated property.
 - b. Each fee request pursuant to this Subsection shall include a certification with an accounting of all time expended in determining property value (Appendix L).
 - c. The plaintiff or plaintiff's attorney shall be notified in advance by the appraiser of any request for hourly fees.
 - d. The maximum fee that may be paid without Court approval is \$300.00. Any hourly fee request exceeding \$300.00 shall be submitted to the Court for approval.

I. RESIDENTIAL PROPERTY APPRAISALS:

1. The appraisers shall return to the Sheriff the appraisal within 21 days of the issuance of the order of appraisal.
 - a. If a Private Selling Officer has been appointed pursuant to Rule 2.23.2, the appraisers shall also deliver a copy of their appraisal to the PSO contemporaneously with their delivery of their appraisal to the Sheriff.
2. If the appraisers fail to deliver their appraisal within 21 days after the issuance of the order of appraisal, then the following shall occur:
 - a. The cost of the appraisal shall not be payable to the appraisers or taxed as costs in the case.
 - b. The appraised value of the property shall be the fair market value of the property as shown on the records of the county auditor, unless the Court authorizes a separate appraisal of the property for good cause shown.
 - i. If a separate appraisal is obtained, the cost of the separate appraisal shall be included as an expense of the sale pursuant to § 2329.152(D).
 - c. The advertisement and sale of the property shall proceed immediately in accordance with the order of advertisement and sale issued by the Clerk of Courts.

J. REMOTE BIDDING:

1. Pursuant to R.C. 2329.152(B), judgment creditors and lienholders may submit remote bids by using the facsimile number and/or email address established and maintained by the Sheriff's Office.
2. Each remote bid submitted shall be of a fixed maximum amount and shall be delivered to the Sheriff on or before 4:30 P.M. on the business day preceding the date of the sale.
3. Remote bidders will be notified of the results of the sale by no later than the close of business on the day of the sale.

4. If the Sheriff fails to place a remote bid on behalf of a judgment creditor or lienholder to the prejudice of the judgment creditor or lienholder, the judgment creditor or lienholder must file a motion to vacate the sale within 10 business days after the sale date, and the sale shall be vacated.

Rule 2.23.2 – Private Selling Officer’s (PSO) Sale of Real Estate

Effective 5/10/17

A. MOTION FOR PSO:

1. As an alternative to a Sheriff’s Sale of Real Estate, a party seeking a judicial sale of real property or the party’s counsel may file a motion requesting that a Private Selling Officer be authorized to sell the property at a public auction. Such motion shall state:
 - a. the name and address of the proposed PSO;
 - b. that the proposed PSO is an Ohio resident; and
 - c. that the proposed PSO is licensed as both an auctioneer and as a real estate broker or real estate salesperson under Ohio law.
2. Only if the Court grants the motion may the subject property be sold by a PSO.
3. If the motion is granted, the judgment creditor may choose to have the property sold by either a PSO or the County Sheriff.
4. If the motion is denied, the property must be sold at Sheriff’s sale and the procedures outlined in Rule 2.23.1 apply.

B. COMPLIANCE WITH RULE 2.23:

Prior to a Private Selling Officer’s sale of real estate, parties must comply with Mont. Co. C.P.R. 2.23.

C. WRIT FOR APPRAISAL:

1. If the Court authorizes a PSO sale and the judgment creditor chooses such a sale, the judgment creditor must file with the Clerk of Court a writ requesting the issuance of an order of appraisal to the County Sheriff and an order of sale to the Private Selling Officer.
2. Once an order of sale by the PSO is issued and an appraisal is returned, the PSO shall immediately advertise and sell the real property.

D. FORM OF SALE:

1. An authorized PSO may conduct a public auction of the real property either online or at any physical location within this County.
2. If the auction occurs online, bidding must be open for at least 7 days.
3. If the auction occurs at a physical location, the PSO must establish and maintain a facsimile number or e-mail address for judgment creditors and lienholders to submit remote bids.

- a. Each remote bid shall be of a fixed maximum amount and shall be delivered to the PSO on or before 4:30 P.M. on the business day preceding the date of the sale.
- b. Remote bidders will be notified of the results of the sale by no later than the close of business on the day of the sale.
- c. If the PSO fails to place a remote bid on behalf of a judgment creditor or lienholder to the prejudice of the judgment creditor or lienholder, the judgment creditor or lienholder must file a motion to vacate the sale within 10 business days after the sale date, and the sale shall be vacated.

E. NOTICE OF SALE:

1. In every action in any division of the Common Pleas Court of Montgomery County, Ohio, wherein a judicial sale of real estate by a PSO is authorized, the party requesting the sale or the party's counsel shall promptly mail notice of the time, date and location of the sale to:
 - a. the record owner(s) of the subject real estate whether or not in default for failure to appear, or counsel for the record owner(s), unless service of summons on the record owner(s) was accomplished only by publication, and
 - b. all other interested parties not in default for failure to appear or to counsel of record for interested parties not in default for failure to appear.
2. Said notice may be mailed to:
 - a. the last known address(es) of the record owner(s) and other interested parties not in default for failure to appear, or
 - b. counsel of record for the record owner(s) and other interested parties not in default for failure to appear.
3. No parties to the proceedings in default of answer need be served with notice of sale except by publication as provided by R.C. §§ 2329.26 and 2329.27.
4. The PSO shall give public notice of the sale:
 - a. If the sale is to be held at a physical location, notice must be given once a week for at least three consecutive weeks before the sale of the sale; or
 - b. If the sale is to be conducted online, notice must be given once a week for at least three weeks before the start date of the sale
5. The public notice shall be by advertisement in a newspaper of general circulation in the County and must meet the requirements of §§ 7.12 of the Revised Code.
6. The public notice shall include all of the following information:
 - a. The date, time, and place of the sale if the sale is to be held at a physical location;
 - b. The start date, the minimum duration, and website address of the sale if the sale is to be held online;
 - c. The deposit required by §§ 2329.211 of the Revised Code;
 - d. That the purchaser shall be responsible for those costs, allowances, and taxes that the proceeds of the sale are insufficient to cover; and
 - e. The provisional second sale date, if applicable.

7. Failure to provide timely notice pursuant to this Subsection shall constitute grounds for denying confirmation of the sale.

F. REQUIRED FILING:

1. Not less than 14 days prior to the scheduled sale date, the party requesting the sale or the party's counsel shall file with the Clerk a Certificate of Service of Notice of Sale Date specifying the date and manner of service of the notice required in Subsection (C) of this Rule, the names and addresses of all record owner(s) and interested parties or counsel of record for the record owner(s), and interested parties who were sent the notice.
2. Failure to timely file the certificate of service required by this Subsection shall constitute grounds for denial of the confirmation of sale.

G. POSTPONEMENT OR CANCELLATION OF SALE:

1. In every action in any division of the Common Pleas Court of Montgomery County, Ohio, wherein a judicial sale of real estate by a PSO has been authorized, the judgment creditor may instruct the PSO to postpone or cancel the sale.
2. If the sale was to be held at a physical location:
 - a. any postponement must be announced by the PSO at the place and time set for the sale, and must include the date, time and place of the rescheduled sale; or
 - b. any cancellation must be announced by the PSO at the place and time set for the sale.
3. If the sale was to be held online:
 - a. any postponement must be announced by the PSO on the auction website and must include the date of the rescheduled sale; or
 - b. any cancellation must be announced by the PSO on the auction website and must remain posted until the end of the 7-day bidding period.
4. After a postponement, any rescheduled sale date(s) must be within 180 days of the initial sale date.
5. If a sale is postponed or canceled, all prior bids are void.
6. If a judicial sale of real estate by a PSO is to be canceled due to a filed bankruptcy petition or for any other reason, the party canceling the sale or the party's counsel shall file a copy of the filed bankruptcy petition or an entry canceling the sale pursuant to Mont. Co. C.P.R. 1.15(F)(2)(b) and 2.05(B)(1)(a)(iii).

H. TITLE INSURANCE:

1. The authorized PSO may hire a title insurance agent licensed under Ohio law or a title insurance company authorized to do business in Ohio to perform title, escrow and closing services related to the sale.
2. Reasonable fees charged by the title agent or company shall be taxed as costs.
3. Fees up to \$500 are presumed to be reasonable.
4. Fees in excess of \$500 will be paid only if authorized by Court order.

I. COSTS AND REPORT:

1. If a sale is conducted by an authorized PSO, all of the following must be taxed as costs:
 - a. the cost of the appraisal;
 - b. the cost of the advertisement; and
 - c. the fee charged and all costs incurred by the PSO (excluding the appraisal and advertisement costs) up to 1.5 percent of the sale price of the real property.
2. Any amount exceeding 1.5 percent of the sale price must be paid by the judgment creditor or from the judgment creditor's portion of the sale proceeds, and cannot be taxed as costs.
3. After the sale, the PSO must file with the Court an itemized report of all appraisal, publication, marketing and other expenses of the sale and all fees charged by the PSO for marketing and/or conducting the sale, including fees charged by the title agent or title insurance company.

J. TERMS OF SALE:

1. Residential Property:
 - a. Unless the successful bidder is the first lien holder, the successful bidder(s) as to a judicial sale of residential property shall make a deposit in the following amount immediately following the sale:
 - 4) \$2,000, if the property's appraised value is less than or equal to \$10,000;
 - 5) \$5,000, if the property's appraised value is greater than \$10,000 but less than or equal to \$200,000; or
 - 6) \$10,000, if the property's appraised value is greater than \$200,000.
 - b. The unpaid balance of the purchase price shall be paid to the Montgomery County Sheriff by certified or cashier's check within 30 days of the filing date of the confirmation of sale and distribution entry.
 - c. These terms of sale shall be included by the PSO in the advertisement of the sale.
 - d. The successful bidder's failure to comply with these terms shall invalidate the sale and may result in a finding of contempt and forfeiture of the deposit paid.
2. Commercial Property:
 - a. Unless the successful bidder is the first lien holder, the successful bidder(s) as to a judicial sale of commercial property shall deposit 10% of the purchase price immediately following the sale.
 - b. The unpaid balance of the purchase price shall be paid to the Montgomery County Sheriff by certified or cashier's check within 30 days of the filing date of the confirmation of sale and distribution entry.
 - c. The successful bidder's failure to comply with these terms shall invalidate the sale.

K. PROCEDURE:

1. Prior to the sale, the Sheriff, deputy or party conducting the sale shall announce that successful bidder(s) shall have 30 days from the date of sale to obtain an examination of title to said real estate.
2. Should examination disclose the title 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 in Subsection (A) or (B) of this Rule, no liability shall be predicated on the certifications. The successful bidder(s) may, within the 30-day period, notify the Court of the defect and move the Court to set aside the sale.
3. If the Court finds title to be unmarketable, the Court shall refuse to confirm the sale. The Court may fix a reasonable time, not to exceed 90 days, within which any defect may be cured.
4. Waiver: The successful bidder(s) may waive any part or all of the 30-day period by signing the Confirmation Entry, but no Confirmation Entry not approved by the successful bidder(s) shall be filed until the 30-day period has expired.

L. APPRAISERS' FEES:

1. Non-Commercial Real Estate/Single Unit Property: Pursuant to R. C. §§ 2335.01, 2335.02, and 311.19, the appraisers' fee for the judicial sale of non-commercial real estate and single unit property shall be \$60.00 per appraiser (Appendix K).
2. Commercial Real Estate/Multiple Unit Property: Appraisers' fees for commercial real estate or multiple unit property shall be \$40.00 per hour for every hour actually spent in research to establish a value for the subject property.
 - a. Research to establish a property value shall not include payment for previous research on previously evaluated property.
 - b. Each fee request pursuant to this Subsection shall include a certification with an accounting of all time expended in determining property value (Appendix L).
 - c. The plaintiff or plaintiff's attorney shall be notified in advance by the appraiser of any request for hourly fees.
 - d. The maximum fee that may be paid without Court approval is \$300.00. Any hourly fee request exceeding \$300.00 shall be submitted to the Court for approval.

M. ADDITIONAL DUTIES AND AUTHORITY OF PSO:

A PSO shall have additional duties and authority as stated in R.C. 2329.01-2329.61.

Rule 2.23.3 – Motion for Sale of Residential Property by Prosecuting Attorney

Effective 5/10/17

- A. PROCEDURE TO OBTAIN MOTION FOR SALE:
1. If residential real estate has not been sold or the sale is not underway within twelve (12) months after the decree of foreclosure has been entered, pursuant to R.C. § 2329.071, the following may occur:
 - a. The political subdivision in which the residential real estate is located may request, by motion or other means, that the county Prosecuting Attorney file a motion with the court for the sale of the property;
 - b. Upon receipt of such request, or by its own motion, the Prosecuting Attorney of may file a motion with the Court for authorization to sell the property in the same manner as if the Prosecuting Attorney were the attorney for the party in whose favor the decree of foreclosure and order of sale was entered.
- B. MOTION FOR SALE OF PROPERTY:
1. The Prosecuting Attorney shall serve a copy of the motion on all parties who entered an appearance in the foreclosure action in accordance with the Rules of Civil Procedure.
 2. The Court shall decide the motion not sooner than 30 days after the filing of the motion.
 3. The Court shall grant the motion for sale unless the Court finds good cause as to why the property should not be sold.
 4. If the motion is granted, the Prosecuting Attorney shall issue a praecipe for order of sale and sell the property at the next available public auction with no set minimum bid and in accordance with the terms of the order of sale and applicable provisions of the Revised Code.
- C. REDEMPTION BY JUDGMENT CREDITOR:
1. The judgment creditor has the right to redeem the property within 14 days after the sale by paying the purchase price to the Clerk of Courts.
 2. Upon timely payment by the judgment creditor, the Court shall proceed as described in §§ 2329.31, with the judgment creditor considered the successful purchaser at sale.

Rule 2.23.4 – Expedited Foreclosure Actions – Vacant and Abandoned Residential Property

Effective 5/10/17

- A. MOTION FOR EXPEDITED FORECLOSURE:
1. A mortgagee who files a foreclosure action on a residential property may file a motion with the Court to proceed in an expedited manner where the property is vacant and abandoned.

- a. The mortgagee must be a person entitled to enforce the instrument secured by the mortgage pursuant to §§ 1303.31(A)(1) or (2) of the Revised Code, or a person with the right to enforce the obligation secured by the mortgage.
 2. Timing of Court's decision on motion:
 - a. If the motion is filed before the last answer period has expired, the Court shall decide the motion within 21 days after the last answer period has expired.
 - b. If the motion is filed after the last answer period has expired, the Court shall decide the motion within 21 days after the filing of the motion.
 3. In its motion, the mortgagee must list all applicable factors of R.C. 2308.02(C).
 4. If the court makes a preliminary finding that the residential real property is vacant and abandoned, but a government official has not verified the real property is vacant and abandoned, within 7 days of the preliminary finding, the court shall order the appropriate official of a county, municipal corporation, or township in which the property is located to verify the property is vacant and abandoned.
 - a. Court costs assessed in connection with this Court ordered inspection must not exceed \$50.00.
- B. PROCEDURE:
1. If the Court decides that the property is vacant and abandoned and that the mortgagee who filed the motion to expedite is entitled to judgment, the court shall enter a final judgment and decree of foreclosure and order the property to be sold.
 - a. The property shall be offered for sale not later than 75 days after the issuance of the order of sale. The sale of the property shall be conducted in accordance with the requirements in § 2329 of the Revised Code.
 2. If the court decides that property is not vacant and abandoned, the 75-day deadline shall not apply to the sale of the property.
 3. Nothing in this section shall supersede or limit other procedures adopted by the Court to resolve the residential foreclosure action, including foreclosure mediation.

Rule 2.25 – Confirmation of Public Sales

Amended 8/12/14; Effective 8/29/14

- A. Confirmations of sales of real estate and applications for determining priorities of liens shall be submitted to the assigned Judge.
- B. Where there is counsel of record other than counsel for the plaintiff or for the moving party, the confirmation of sale entry shall be endorsed by all counsel who have appeared of record. If the confirmation of sale entry is not endorsed by all counsel of record, then counsel for plaintiff or for the moving party shall submit a motion with a notice of a hearing, which shall be at least three days subsequent thereto, requesting confirmation of sale and

stating that the sale has been regular and proper in every respect and in conformity with the statutes provided.

- C. Insofar as is possible, all confirmation of sale entries shall distribute proceeds according to the priority of the liens and discharge all liens of record. Every effort shall be made by counsel for plaintiff or for the moving party for confirmation and distribution to secure and protect the title of the purchaser at the sale.

Rule 2.27 – Attorney’s Fees in Mechanic’s Lien Cases

Amended 8/12/14; Effective 8/29/14

- A. If (1) a fund has been created out of the sale of property subject to mechanics’ liens, (2) said fund is in excess of the amount needed to pay prior mortgage encumbrances, (3) said fund is applicable to amounts due to valid lien claimants, and (4) said fund has been brought into the Court by the plaintiff’s action to foreclose a mechanic’s lien, attorney’s fees may be allowed for plaintiff’s counsel.
- B. If plaintiff pays counsel a fee, the amount paid shall be considered in the allowance of any attorney’s fees.
- C. If, at the time of distribution to the lien claimants, all the liens other than that of the plaintiff have been adjusted and settled, no attorney’s fees shall be allowed for plaintiff’s counsel.

Rule 2.29 – Receiverships

Amended 8/12/14; Effective 8/29/14

- A. RECEIVERS IN NON-FORECLOSURE CASES:
 - 1. Procedure: The following procedures shall apply upon the filing of a motion for the appointment of a receiver in a non-foreclosure case:
 - a. The assigned Judge shall set a date for a hearing on the appointment of a receiver.
 - b. The moving party shall serve notice of the hearing on interested parties unless the Court finds that the time taken to give notice will result in irreparable harm to the plaintiff.
 - c. The moving party shall attach a schedule of secured and unsecured creditors to the motion unless otherwise ordered by the Court. If the moving party does not know the identities of the secured or unsecured creditors, the moving party shall so state in the motion for appointment of a receiver.
 - d. The moving party shall provide the Court with a list of persons to be considered for the receivership, unless otherwise ordered by the Court. The Court shall carefully

- consider all persons who are recommended for the receivership in relation to any unsecured creditors whose interest is threatened.
2. Restrictions on Motions:
 - a. A motion for the appointment of a receiver based upon an open account or other claims not in judgment shall be denied where there is no showing of a right to equitable relief.
 - b. No motion for the appointment of a receiver that has been denied by one Judge shall be renewed before another Judge.
 3. Consent by Defendant: Whenever a defendant consents to the appointment of a receiver, the defendant shall file the following with the Court:
 - a. A verified statement of all current assets and liabilities and
 - b. A written statement of consent to the appointment.
 4. Qualifications of Receivers:
 - a. Oath: Before a receiver appointed by the Court performs duties pursuant to Subsection (A)(5) of this Rule, the receiver must be sworn to perform the duties faithfully. The moving party shall file with the Court a certified copy of the receiver's oath.
 - b. Bond: The moving party shall execute a surety bond to the receiver, which must be approved by the assigned Judge, so that the receiver will faithfully discharge the duties of the receiver in the action and obey the orders of the Court. The payment of the bond shall be made to the Clerk to be placed in an interest bearing account, unless otherwise ordered by the Court.
 - c. Interested Persons: No party, attorney, or person who has an interest in the action shall be appointed receiver in the action without the consent of the parties.
 - d. Residency Requirements:
 - i. All receivers shall reside in Montgomery County, Ohio except, upon a showing of good cause, the Court orders otherwise.
 - ii. All receivers appointed to act as a receiver of a railroad or other corporation shall be a resident of Ohio.
 5. Duties of Receivers:
 - a. Within 30 days after the date of their appointment, all receivers shall:
 - i. file an inventory;
 - ii. give notice by mail or by publication, as directed by the Court, to all known creditors that the creditors are required to file any claims within a certain time and that, unless a creditor files its claims by the specified time, the creditor will not be permitted to file any claim without an order of the Court;
 - iii. provide written notification to all public authorities that may have claims against the receivership; and
 - iv. file a list of all claims with the Court after the specified time for filing has expired.

- b. All receivers who, upon application, are permitted to operate a business as a going concern shall file with the Court, 30 days after the application is granted and monthly thereafter, the following:
 - i. A statement of the receiver's operation which shows a balance sheet for the period;
 - ii. An operating statement of income and expenditures that includes:
 - a) Necessary accruals that make a comprehensive statement of profit and loss for the period;
 - b) A list of estimated inventory;
 - c) Peculiar conditions existing in the business; and
 - d) A list of expenses of operation; current interest accrued on loans during the period; and depreciation on buildings, machinery, and equipment.
 - c. Within 60 days after appointment, all receivers shall apply to the Court for authority to cancel or reject all unprofitable contracts.
 - d. Within 30 days after a receiver's duties are completed, the receiver shall file a final account and appropriate records, receipts, or vouchers. All accounts must be approved by the Judge who appointed the receiver.
 - e. All money coming into the hands of a receiver must be deposited into a federally insured local or national bank and the deposit shall be in the receiver's name.
6. Appraisers:
- a. All appraisers shall be suggested to and appointed by the Court.
 - b. Documentation: All appraisers shall be named in the entry of appointment.
 - c. Qualifications:
 - i. All appraisers shall take an oath to faithfully and accurately appraise all assets submitted to them by the receivers, including accounts receivable.
 - ii. All appraisers shall have the same qualifications as appraisers appointed in the Probate Division of the Common Pleas Court of Montgomery County, Ohio ("Probate Court") and may be one or more of the appraisers used in the Probate Court.
7. Claims:
- a. All claims arising out of judgments shall be accompanied by a certified copy of the final judgment.
 - b. All claims based upon an instrument for the unconditional payment of money or upon a written contract must be accompanied by a copy of the instrument or contract.
 - c. Whenever priority is claimed, attention should be specifically directed to the grounds of priority.
8. Objections:
- a. All objections to claims must be made in writing and filed by the interested party before distribution is ordered by the Court.

- b. All objections to the accounts of receivers or to any allowance made to them by the Court must be filed within 14 days after the accounts are filed or allowances made.
9. Vacancies in Receiverships: Any vacancy in a receivership shall be called to the attention of the Court by the receiver or plaintiff's counsel as soon as it occurs.
10. Settling Accounts: Unless otherwise provided, the procedure prescribed by the Ohio Revised Code for settling accounts in decedents' estates shall govern.

B. RECEIVERS IN REAL ESTATE FORECLOSURES:

1. Procedure: The following procedure shall be applied upon the filing of a motion for the appointment of a receiver in a foreclosure case:
 - a. The date for a hearing on the appointment of a receiver shall be stipulated on the motion;
 - b. The moving party shall serve notice of the hearing on interested parties either by attachment to the complaint and original summons or by certified mail in accordance with the Ohio Rules of Civil Procedure;
 - c. The moving party shall serve notice of the hearing on the owner of the property no later than three days before the hearing; and
 - d. The assigned Judge may continue hearings from time to time upon a showing of good cause.
2. Prerequisites: Before any receiver is appointed in a foreclosure case, the following must be demonstrated by affidavit, evidence or representation of counsel:
 - a. That legal or equitable grounds exist necessitating the appointment of a receiver and
 - b. That one or more of the following facts exists:
 - i. The property is insufficient to discharge the mortgage;
 - ii. The property is in danger of being vandalized, destroyed, or its value materially impaired;
 - iii. The premises has been abandoned by the mortgagor;
 - iv. The mortgage embraces the rents and profits in the security;
 - v. The property is income-producing; or
 - vi. The mortgage provides for appointment of a receiver without notice.
3. Oath: Before a receiver appointed by the Court performs duties pursuant to Subsection (B)(5) of this Rule, the receiver must be sworn to perform the duties faithfully. The moving party shall file with the Court a certified copy of the receiver's oath.
4. Bond: Upon appointment, a receiver shall qualify and give a bond in an amount required by the Court. If the receiver fails to qualify and give bond, the appointment is voidable.
 - a. When the property is vacant and it is anticipated in the motion that the receiver's duty will be that of a caretaker, unless otherwise ordered by the Court, bond shall generally be in the nominal sum of \$100.00.
 - b. Where there are rents and profits to be collected and disbursements made in the management of the property during the litigation, bond shall be in a sum sufficiently

adequate to cover the costs of all funds reasonably anticipated to be handled by the receiver during the pendency of the litigation.

5. Duties of Receivers:

a. All receivers shall:

- i. take charge of the property pending litigation;
- ii. preserve the property from waste or destruction;
- iii. receive rents and profits;
- iv. hold income subject to order of the Court; and
- v. have authority to sue in forcible entry in the receiver's name and capacity.

b. Within 90 days of the date of the appointment and every 90 days thereafter, receivers shall file a report of receipts and disbursements.

c. Without first procuring an order from the Court, no receiver shall lessen the funds coming into the receiver's hands by expenditures for: repairs; exempt real estate taxes and assessments; gas, light and water bills; trash pick-up; or insurance. Necessary outlays under \$200.00 may be made without Court order subject to the final approval of the receiver's account by the Court.

C. SALES BY RECEIVERS:

1. No receiver shall offer for sale any property, real or personal, until the receiver has established the receiver's right to sell the property.
2. When it becomes necessary to sell property, notice of the time, place, and terms of the sale shall be given to all creditors who have filed claims and to all interested parties.
3. Sales of all property by a receiver shall be for the best price obtainable, and the receiver shall file an affidavit to that effect within 10 days after the sale.
4. No sale shall be made to a former owner or to any person interested in the business or operation of the receivership until notice is served on all creditors fixing a date for confirmation of the sale.

D. COMPENSATION OF RECEIVER:

1. No compensation shall be allowed to a receiver or the receiver's counsel except upon written application describing the services rendered, the time required, the amount requested for each and the amounts, if any, previously received. The Court shall set the time for a hearing and determine the nature of the notice of the application to creditors.
2. Except in operating receiverships where an account has been filed monthly, no compensation shall be paid to or accepted by the receiver or receiver's counsel unless this Rule has been followed and the final verified account has been filed.
3. Liquidating Receiverships:
 - a. In liquidating receiverships requiring more than one year to liquidate, one third of the probable total fees may be allowed and paid. A violation of this Rule shall

- subject the offender to discipline, removal and forfeiture of compensation as determined by the Court.
- b. Total allowances to both receiver and the receiver's counsel shall not exceed 15% of the receipts in liquidating receiverships, except where extraordinary services have been authorized by the Court.
 - c. When fees in excess of 15% are requested for extraordinary services, the receiver shall mail to all known creditors or shareholders, if any, a notice of the hearing on the application, the nature of the request, and the date and place of the hearing.

Rule 2.31 – Magistrate

Amended 7/13/95; Effective 7/13/95
Amended 3/6/07; Effective 6/11/07
Amended 3/3/09; Effective 3/9/09
Amended 11/6/12; Effective 11/7/12
Amended 8/12/14; Effective 8/29/14
Amended 12/9/14; Effective 12/15/14

A. APPOINTMENT AND REFERRAL:

Magistrates shall be appointed in accordance with Civ. R. 53(A). Cases shall be referred to the appointed Magistrate in accordance with Civ. R. 53(D).

B. PRETRIALS:

The Magistrate may require a case to follow the pretrial provisions set forth in Mont. Co. C.P.R. 2.07 prior to the hearing or trial date.

C. TRIALS:

1. Trials before the Magistrate shall be conducted in accordance with the standard set forth in the Ohio Rules of Superintendence, these Rules and any other applicable rules or laws.
2. A record shall be made of all proceedings before a Magistrate.

D. MAGISTRATE'S DECISION:

1. In accordance with Civ. R. 53, after a hearing or trial, the Magistrate shall issue the Magistrate's decision, including findings of fact, unless otherwise ordered by the assigned Judge.
2. After the trial or hearing and prior to issuing a decision, the Magistrate may require that briefs, proposed findings or other memoranda be submitted by the parties or parties' counsel.

E. PROCEDURES FOR OBJECTING TO MAGISTRATE'S DECISION:

1. Objections, Cross Objections, Memoranda:

- a. Objections, if any, shall be filed within 14 days from the filing date of the Magistrate's decision.
 - b. If objections are filed by a party within the 14-day period, any other party may file cross objections within 10 days of when the objections were filed.
 - c. Any memoranda in opposition or reply briefs shall be filed in accordance with Mont. Co. C.P.R. 2.05(B).
2. All objections, cross objections or memoranda shall cite to a specific time designation on the recording of proceedings before the Magistrate. Failure to cite objections in this manner may result, at the discretion of the assigned Judge, in adoption of the Magistrate's factual findings, and any review may be limited to the Magistrate's legal conclusions.
 3. A party may file a brief in opposition to the objections or cross objections within 14 days of the filing of objections or cross objections. An extension of time for filing a brief in opposition may be obtained, for good cause shown, upon written motion.
 4. The objecting party may file a reply brief to a brief in opposition to the objections within 7 days from when the brief in opposition was filed. Should a party file cross objections, as allowed for in this Rule, and should a brief in opposition to the cross objections be filed, the party filing the cross objections may file a reply brief to a brief in opposition to the cross objections within 7 days from when the brief in opposition was filed.
 5. Objections, cross objections, and memoranda shall not exceed 20 pages in length, and shall otherwise comply with Mont. Co. C.P.R. 1.15(F).

F. STIPULATIONS TO FINDINGS OF FACT:

1. The parties may enter stipulations of fact either before or after the Magistrate's decision. Said stipulations shall not preclude any objections to errors of law.
2. If the parties agree that the findings of fact of the Magistrate are to be final, as contemplated in Civ. R. 53(D)(3)(iii), the parties shall file a written entry with the Court.

G. TRANSCRIPTS:

1. Pursuant to Civ. R. 53(D)(3)(b)(iii), if objections to the findings of fact of the Magistrate are made, the objecting party shall file a transcript of the hearing within 30 days from the filing date of the objections.
2. The transcript may be filed in CD or paper form. All requests for transcripts shall be made in accordance with Mont. Co. C.P.R. 1.29.

H. FINAL ENTRIES:

If no objections to the Magistrate's decision are filed pursuant to this Rule, the Magistrate shall prepare a judgment entry and submit the judgment entry to the assigned Judge for approval.

Rule 2.33 – Aid of Execution

Repealed 6/2/09; Effective 6/8/09

REPEALED

Rule 2.35 – Arbitration

Amended 11/2/94; Effective 11/15/94
Amended 1/26/96; Effective 3/1/96
Amended 1/20/98; Effective 3/1/98
Amended 4/9/99; Effective 4/15/99
Amended 9/7/99; Effective 9/8/99
Amended 5/9/00; Effective 5/15/00
Amended 7/1/03; Effective 7/1/03
Amended 11/6/03; Effective 1/1/04
Amended 6/2/04; Effective 7/1/04
Repealed 5/5/09; Effective 5/11/09

REPEALED

Rule 2.37 – Appeal from Administrative Agencies

Adopted 9/4/07; Effective 9/10/07
Amended 8/12/14; Effective 8/29/14

This Rule shall govern all appeals from administrative agencies to the extent that the appeals are not otherwise governed by statute or by the Ohio Rules of Superintendence.

A. NOTICE:

Any party desiring to appeal from an order of an administrative agency shall file the notice with the Court and the agency from which the appeal is taken.

B. MEMORANDA:

Unless otherwise ordered by the assigned Judge, or set by the governing statute or the Ohio Rules of Superintendence, all briefs shall be filed as follows:

1. The appellant shall file a claim of error, memorandum, and all other essential papers within 40 days after the notice of appeal has been filed or the filing of the transcript, whichever is later. Failure to file a memorandum and assignment of errors within the requisite period of time may result in dismissal of the appeal.
2. Counsel for appellee shall file a memorandum, if any, within 30 days after service of appellant's memorandum.
3. Appellants may file reply memoranda within 14 days after appellee's memoranda have been served.

Rule 2.39 – Civil Mediation

Adopted 7/14/99; Effective 7/15/99
Amended 12/16/02; Effective 1/1/03
Amended 9/7/05; Effective 10/31/05
Amended 3/9/06; Effective 3/13/06
Amended 3/6/07; Effective 6/11/07
Amended 5/5/09; Effective 5/11/09
Amended 11/1/11; Effective 1/9/12
Amended 8/13/13; Effective 9/3/13
Amended 8/12/14; Effective 8/29/14
Amended 12/9/14; Effective 12/15/14
Amended 1/10/17; Effective 1/17/17

A. REFERRAL FOR MEDIATION:

1. Except as set forth in Subsection (A)(1)(b)(i)-(iii) of this Rule, any civil case may be referred for mediation pursuant to a party's motion or by agreement of the parties. The assigned Judge, in his or her discretion, may refer any civil case for mediation.
 - a. After the Court's pre-trial scheduling conference, the Court shall issue its standard pre-trial order which shall establish a cutoff date of 90 days from the filing date of the pre-trial order, unless otherwise ordered by the Court, for the parties to request mediation through the Court's mediation program. After a case is referred for mediation, the mediation staff will conduct an initial telephone conference with the parties to select a Mediator pursuant to Subsection (C)(2)(a) of this Rule and to schedule a mediation date.
 - b. Domestic Relations and Protective Orders:
 - i. The Court shall not refer cases for mediation in the following circumstances:
 - a) As an alternative to the prosecution or adjudication of domestic violence;
 - b) In determining whether to grant, modify, or terminate a protection order;
 - c) In determining the terms and conditions of a protection order; and
 - d) In determining the penalty for violation of a protection order.
 - ii. Exception: Nothing in Subsection (A)(1)(b)(i) of this Rule shall prohibit the use of mediation in a subsequent divorce or custody case in another division of the Common Pleas Court for Montgomery County, Ohio or any other court, even if such case may result in the termination of the provisions of a protection order issued by the Court.
 - iii. Allegations of Domestic Abuse:
 - a) In any case referred for mediation, all parties and counsel have a continuing duty to and shall disclose to the assigned Judge, the Mediator, and the mediation staff whether any of the opposing parties have resided in a common residence or are related by blood, adoption, or marriage, and, at any time prior to or following the referral for mediation and before

conclusion of the mediation process, have committed or are alleged to have committed domestic abuse.

- b) The party who committed or is alleged to have committed the act of domestic abuse shall participate in any screening required by Sup. R. 16 prior to the mediation session(s). The Mediator may order additional screenings, at the Mediator's discretion, throughout the duration of mediation.

B. PROCEDURE AFTER REFERRAL FOR MEDIATION:

1. The Chief Magistrate shall serve as "Mediation Liaison" to settle disputes that arise during the mediation process. The Mediation Liaison may refer a dispute to the assigned Judge.
2. Selection of Mediator:
 - a. Pursuant to Subsection (C)(2) of this Rule, the Court shall maintain a list of Court approved Mediators ("Mediator List"). Parties, by agreement, may select a Mediator from the Mediator List. If the parties fail to agree or elect not to choose a Mediator, the Court shall assign a Mediator from the Mediator List on a rotating basis.
 - b. Conflicts of Interest:
 - i. In accordance with R.C. 2710.08(A) and (B), the Mediator selected by the parties or assigned by the Court shall disclose to counsel, the parties, and any nonparty participants any known potential conflicts that may affect the Mediator's impartiality as soon as such conflict(s) become known to the Mediator.
 - ii. Withdrawal and Removal:
 - a) If a party or counsel requests that the Mediator withdraw because of the potential conflict(s), the Mediator may withdraw and request that the assigned Judge appoint a new Mediator.
 - b) If the Mediator determines that withdrawal is not warranted, the Mediator may elect to continue.
 - a) If the Mediator elects to continue, any party may request the Mediator's removal by submitting a request to the assigned Judge to remove the Mediator.
 - 1) The assigned Judge may remove the Mediator and appoint another Mediator from the Mediator List.
 - 2) If the assigned Judge decides that the request for removal is unwarranted, the Mediation process shall proceed from the point where the objection was first raised, with events rescheduled as necessitated by any delay.
3. Telephone Conference: The Mediator shall conduct a telephone conference prior to the date of the scheduled Mediation session.
 - a. The Mediator shall set the time for the telephone conference.

- b. All counsel and *pro se* parties shall make themselves available for the scheduled telephone conference.
 - c. During the telephone conference, the Mediator shall inquire of the parties or counsel of their readiness for the mediation, including any additional information needed to be obtained or exchanged. The Mediator shall determine if the parties are required to submit a mediation statement. Mediation statements may be requested at the discretion of the Mediator. If a mediation statement is required, the following shall apply:
 - i. The Mediator shall instruct the parties how to submit the mediation statement.
 - ii. Mediation statements shall not exceed three pages in length, unless otherwise ordered by the Mediator, and shall set forth the relevant positions of the parties concerning factual issues, issues of law, damages, and the settlement negotiation history of the case, including a recitation of any specific demands and offers that have been conveyed.
 - iii. Mediation statements shall not be filed with the Clerk. Mediation statements shall be submitted to the Mediator and all parties or counsel no later than 10 days prior to the mediation session, unless otherwise requested by the Mediator.
 - d. Confidential Information:
 - i. If a party or counsel believes it is necessary or desirable to convey confidential information to the Mediator, the party or counsel may submit the information to the Mediator. The confidential information shall not be filed with the Clerk.
 - ii. The party submitting the information shall clearly mark the information as confidential and indicate that the information shall not be shared with the opposing party without consent of the party submitting the information.
4. Mediation Conference:
- a. Timing: Unless otherwise ordered by the assigned Judge, the mediation session shall be scheduled to take place no later than 90 days prior to the scheduled trial date.
 - b. If the parties and Mediator believe additional mediation sessions would be beneficial, the parties and Mediator shall schedule additional sessions on a schedule that shall not negatively impact the scheduled trial date.
 - i. For good cause shown, the parties may seek a continuance of the trial date from the assigned Judge to continue to explore mediation.
 - ii. The Mediator may direct the parties to exchange additional information that the Mediator believes will assist the Mediation process.
 - c. If the case is settled or dismissed prior to a scheduled Mediation, the parties shall promptly file a settlement and conditional dismissal entry with the Court and inform the Mediator.
5. Continuance:
- a. For good cause shown, the Mediator may grant a continuance of a mediation session.

- b. A mediation session shall not be continued more than once without the approval of the Mediation Liaison or assigned Judge.
6. Attendance:
 - a. Unless otherwise directed by the Mediator, any party or person whose presence is required in order to supply authority to settle the case, as well as counsel for all parties and an adjuster for an insurer, are required to be present at the mediation session(s).
 - b. If counsel or parties become aware of a person or entity whose consent is required to resolve the dispute but who is not yet a party to the case, counsel or parties shall promptly inform the Mediator and the assigned Judge of the identity of the person or entity.
 - c. The Mediator shall report to the assigned Judge any failure of a necessary party or counsel to attend a mediation session or act in good faith, including but not limited to, performing obligations expeditiously and not using mediation for the purposes of delay or discovery. The assigned Judge may impose sanctions, including but not limited to, an award of attorneys' fees and other costs, contempt, or other appropriate sanctions.
7. Location: Unless otherwise agreed by the Mediator and the parties, the mediation session(s) shall take place at the Court.
8. Procedure:
 - a. All mediation shall be governed by the Ohio Uniform Mediation Act, R.C. §§ 2710.01 – 2710.10, as amended from time to time.
 - b. Confidentiality:
 - i. "Mediation Communications", as defined in R.C. § 2710.01(B), in addition to the privileges set forth in R.C. § 2710.07, shall not be disclosed by parties, counsel, the Mediator or the Court without consent of the other participants.
 - ii. The parties shall execute a written confidentiality agreement prior to the beginning of the mediation session. If new or additional persons attend a subsequent mediation session, the new or additional persons shall sign the confidentiality agreement prior to proceeding.
 - iii. Exceptions to Confidentiality requirements: Information that is:
 - a) Statutorily mandated to be reported;
 - b) Not privileged pursuant to R.C. § 2710.05; and
 - c) Permitted to be reported pursuant to R.C. § 2710.05.
9. Settlement: If a settlement agreement is reached:
 - a. The Mediator may prepare a written memorandum memorializing all material terms of the agreement ("Settlement Agreement").
 - b. Parties or counsel shall provide the Notice required pursuant to Mont. Co. C.P.R. 2.15(A) to the assigned Judge.
 - c. Parties or counsel shall file an agreed Termination Entry for approval by the assigned Judge within 30 days from the date the parties or counsel provide Notice pursuant

to Subsection (B)(9)(b) of this Rule. If the parties or counsel fail to file an agreed Termination Entry within the specified time, the Court may administratively dismiss the case.

10. Termination: If the Mediator determines that further mediation efforts would be of no benefit to the parties, the Mediator shall inform all interested parties and the assigned Judge that the mediation is terminated.
11. Throughout the mediation process, the assigned Judge shall continue to manage the case pursuant to Mont. Co. C.P.R. 2.07.

C. COURT APPROVED MEDIATORS:

1. Prospective mediators shall submit an application pursuant to a process established by the Court, as amended from time to time.
 - a. The Court shall review all applications in accordance with the procedures adopted by the Court.
 - b. Prospective mediators shall be approved at the sole discretion of the Judges of the Court.
 - c. Prospective mediators approved by the Court shall participate in an orientation session conducted by the Court.
2. The Court shall maintain a list of Court approved Mediators (defined as "Mediator List" in Subsection (B)(2)(a) of this Rule).
 - a. All persons whose names are placed on the Mediator List shall submit a regularly updated Curriculum Vitae (including a list of professional or association memberships) which, along with the Mediator's application, shall be provided to those requesting information on the assigned Mediator's qualifications to mediate a dispute, as required by R.C. § 2710.08(C).
 - b. Mediators serve at the pleasure of the Judges of the Court and may be terminated from the Mediator List at any time for any or no cause.

D. MEDIATOR FEE:

1. Mediators shall be paid a fee in an amount set by the Court, as amended from time to time.
 - a. Upon petition by the Mediator and for good cause shown, the assigned Judge may allow additional compensation.
 - b. Except as provided in Subsections (D)(1)(c) and (D)(2)(b) of this Rule, Mediators shall be paid, upon proper warrant, from the funds of Montgomery County, Ohio, allocated for the operation of the Court.
 - c. The Judges of the Court may determine that, in order to provide effective mediation services, it is necessary for mediating parties to pay a portion of the Mediator Fee or other costs of mediation.

- i) If the Judges of the Court make the determination referred to in Subsection (D)(1)(c) of this Rule, a schedule of mediation costs shall be provided to all parties upon request or upon referral for mediation.
 - ii) Upon motion of a party for good cause shown, the Mediation Liaison or the assigned Judge may waive mediation costs imposed pursuant to Subsection (D)(1)(c) of this Rule.
2. Cancellation of Mediation Session:
 - a. Mediators shall not receive a fee for a mediation session canceled more than 48 hours prior to the scheduled session.
 - b. If a mediation session is canceled with less than 48 hours' notice, the Court may assess costs.
 - i) If a cancellation is the result of a settlement resulting in termination of the case, the cancellation fee shall be divided equally between the parties. In addition to informing the Mediator, parties shall provide the Notice required pursuant to Mont. Co. C.P.R. 2.15(A) to the assigned Judge.
 - ii) If a cancellation is the result of a requested continuance or other reason, the fee shall be assessed against the party requesting the continuance or causing the cancellation.
 - iii) Cancellation fees may be assessed in all cases, including mediation scheduled before a Magistrate or other Court employee. Magistrates and other Court employees shall not receive additional compensation for mediation services.
 - iv) Cancellation fees shall be deposited with the Clerk, shall not be taxed as costs in the case, and shall be paid to the Special Project Fund for Dispute Resolution established by Mont. Co. C.P.R. 2.03(D)(1).
 - v) Upon motion and for good cause shown, the Mediation Liaison or the assigned Judge may waive any cancellation fees assessed pursuant to Subsection (D)(2)(b) of this Rule.

Rule 2.40 – Certificate of Qualification for Employment (CQE)

Adopted 4/2/13; Effective 4/8/13
Amended 5/6/14; Effective 5/12/14
Amended 8/12/14; Effective 8/29/14
Amended 6/7/16; Effective 6/13/16

This Rule defines the specific requirements and processes that support a petitioner's application for a Certificate of Qualification for Employment ("CQE") as set forth in R.C. § 2953.25 and related rules established by the Ohio Department of Rehabilitation and Corrections ("ODRC").

- A. In order to request a CQE, a petitioner shall follow the ODRC procedures to complete a petition, obtain ODRC approval and obtain an ODRC petition number.

- B. The Court shall not take action on the petition until the petitioner pays a deposit in the amount of \$50.00.
- C. ASSIGNMENT:
 - 1. If the conviction upon which a CQE Petition is made originated in Montgomery County, Ohio, the case shall be assigned to the sentencing Judge.
 - 2. If the conviction upon which a CQE Petition is made did not originate in Montgomery County, Ohio, the case shall be randomly assigned pursuant to Mont. Co. C.P.R. 1.19.
 - 3. The assigned Judge may refer the petition to a Magistrate.
- D. The Court shall obtain a criminal history for the Petitioner.
- E. Records or information received by the assigned Judge to assist in making a decision on the CQE Petition, including information from the Petition, shall remain public or non-public records as otherwise provided by law.

Rule 3.01 – Criminal Practice

Amended 8/12/14; Effective 8/29/14

- A. The purpose of these rules of practice for criminal cases (“Criminal Rules”) is to provide the fairest and most expeditious administration of criminal justice possible within the requirements of the Ohio Rules of Criminal Procedure and the provisions of the Ohio Revised Code, the Ohio Constitution and the United States Constitution.
- B. The rules of practice and procedure of the Court set forth in Mont. Co. C.P.R. 1.01 *et. seq.* and the rules of practice and procedure for civil cases set forth in Mont. Co. C.P.R. 2.01 *et. seq.* apply to all criminal proceedings, except where clearly inapplicable.
- C. The Criminal Rules shall be constructed and applied to eliminate delay, unnecessary expense, and all other impediments to a just determination of criminal cases. The disclosure and discovery requirements placed upon both the prosecution and the defense by the Criminal Rules are intended to fully implement Crim. R. 16 and the requirements of *Brady v. Maryland*, 373 U.S. 83 (1963).

Rule 3.03 – Arraignment, Pretrial and Scheduling Conference

Amended 10/6/98; Effective 10/12/98

Amended 8/12/14; Effective 8/29/14

- A. ARRAIGNMENT
 - 1. Schedule: All arraignments shall be:

- a. Scheduled as ordered in the indictment on Tuesdays and Thursdays at 8:30 a.m., unless otherwise ordered by the assigned Judge; and
 - b. Heard by the Grand Jury Judge or the assigned Judge.
2. Explanation of Rights: If a defendant not represented by counsel is brought before the Court and called upon to plead, the Judge shall:
- a. Inform the defendant of the charge and the defendant's rights as required by R.C. § 2937.02 and Crim. R. 10;
 - b. If the defendant expresses a desire to consult with an attorney, continue the case for a reasonable time to obtain counsel; and
 - c. If the defendant is unable to obtain counsel, order the assignment of an attorney for the defendant from the Appointed Counsel List as set forth in Mont. Co. C.P.R. 3.09(A) or from the Public Defender's Office.
3. Joint Arraignment:
If there are multiple defendants to be arraigned, the Judge may, by general announcement, advise all defendants of their rights.
4. Pleas Made During Arraignment:
- a. Guilty:
 - i. Felony Offense:
If the defendant enters a guilty plea to a felony offense, a disposition date shall be set before the assigned Judge.
 - ii. Misdemeanor Offense:
If the defendant enters a guilty plea to a misdemeanor offense, the Grand Jury Judge may make an immediate disposition.
 - b. Not Guilty or Not Guilty by Reason of Insanity: If the defendant enters a not guilty plea or a not guilty by reason of insanity plea, the following provisions shall apply:
 - i. The defendant must be present, except that the Grand Jury Judge or the assigned Judge, with the written consent of the defendant and the approval of the prosecuting attorney, may permit arraignment without the presence of the defendant.
 - ii. The Grand Jury Judge shall set a date and time for a scheduling conference before the assigned Judge. The Grand Jury Judge shall order defense counsel to meet with the prosecutor for a pretrial conference prior to the scheduling conference.
 - iii. If a not guilty by reason of insanity plea is entered, the Grand Jury Judge shall notify the assigned Judge so that the appropriate referrals for evaluations may be made to determine the defendant's mental condition at the time of the commission of the offense.
5. Bail:
If the charged offense is aailable offense, the Grand Jury Judge shall set bail.

B. DISCOVERY:

1. Upon demand by the defendant, if *pro se*, or defense counsel (“Demand”), the prosecutor shall deliver an information packet (“Discovery Packet”) to the defendant or defense counsel (“Discovery Recipient”). A receipt for the Discovery Packet shall be executed by the prosecutor and the Discovery Recipient (“Receipt”). The Receipt shall be filed of record. The Discovery Packet shall contain:
 - a. Copies of all police reports, including the defendant’s prior criminal record;
 - b. Copies of all witness statements;
 - c. All statements made by the defendant and co-defendant(s), if any;
 - d. Copies of all reports of examinations and tests made in connection with the particular case that are available to or within the possession, custody, or control of the State;
 - e. The names and addresses of all witnesses; and
 - f. Copies of all documents and a list of all tangible objects which are available to or within the possession, custody, or control of the State and are material to the preparation of a defense; are intended for use by the prosecuting attorney as evidence at trial; or were obtained from or belong to the defendant.
2. Execution of a Demand and Receipt for a Discovery Packet and acceptance of the Discovery Packet by the Discovery Recipient triggers the reciprocal discovery requirements set forth in Crim. R. 16, and the defendant, if *pro se*, or defense counsel is required to submit to the prosecutor discovery as defined in Subsection (B)(1) of this Rule. As set forth in Crim. R. 16(A), the prosecutor and defendant, if *pro se*, or defense counsel have a continuing duty to supplement discovery.
3. Police reports included in the Discovery Packet shall not be used for cross examination of any witness unless properly qualified under Crim. R. 16(B)(6) and Evid. R. 613.

C. SCHEDULING CONFERENCE:

1. The dates for hearing preliminary motions and for trial shall be fixed at the scheduling conference or as soon thereafter as is practicable, as determined by the assigned Judge.
2. Change of Plea:
 - a. If, during the arraignment, the defendant entered a not guilty or not guilty by reason of insanity plea and the defendant later decides to enter a guilty or no contest plea, the defendant or defense counsel shall inform the assigned Judge of the guilty or no contest plea before or during the scheduling conference.
 - b. The defendant may enter a guilty or no contest plea at any time following the scheduling conference to the charge or charges against the defendant set forth in the indictment or bill of information, but, after the scheduling conference, the defendant may not enter a guilty or no contest plea to reduced charges, unless approved by the assigned Judge for good cause shown.

D. WITNESS LIST:

1. At the final pretrial conference, or if there is no scheduled final pretrial conference, no later than seven days before trial, the prosecutor and defendant, if *pro se*, or defense counsel shall file a written list of witnesses. The list need not include possible rebuttal witnesses.
2. Failure to comply with Subsection (D)(1) of this Rule may result in the exclusion of the testimony of any witnesses who were not so identified.

Rule 3.05 – Continuance of a Criminal Case

Amended 8/12/14; Effective 8/29/14

Requests for continuance of a conference, hearing, or trial shall be in writing and filed in accordance with Mont. Co. C.P.R. 1.15 or made in open court before the assigned Judge. If the request is made in open court before the assigned Judge and the request is granted, the party making the request shall file a proposed order in compliance with Mont. Co. C.P.R. 1.15 within three days. Any order granting a continuance shall set forth the date to which the conference, hearing, or trial is continued.

Rule 3.07 – Grand Jury

Amended 8/12/14; Effective 8/29/14

Criminal cases bound over to the Court on which the Grand Jury takes no final action within 28 days shall be dismissed forthwith and without prejudice. However, if the complaining witness' testimony is not available within the 28-day period, the case may be continued by the Court for a definite period of time, and such continuance shall be noted in the report of the Grand Jury.

Rule 3.09 – Court Appointment of Counsel

Amended 11/5/13; Effective 12/9/13

Amended 8/12/14; Effective 8/29/14

Amended 9/13/16; Effective 9/20/16

A. APPOINTED COUNSEL LIST:

1. The Judges of the Court shall specify the qualifications for participating in the appointed counsel program. The Court shall create a master list of attorneys approved to participate in the appointed counsel program ("Appointed Counsel List").
2. Placement on the Appointed Counsel List is a privilege, not a right, and an attorney may be removed by the Court at any time, with or without cause pursuant to approval by the full bench.
3. The Court may reserve the right to require an attorney to attend the Court Criminal Trial Seminar or any other training deemed necessary.

B. ELIGIBILITY FOR APPOINTED COUNSEL LIST:

1. Any attorney not included on the Appointed Counsel List may apply by submitting an application to the Court Services Division.
2. The purpose of the application process is to allow the Court to determine whether counsel qualifies under this Rule and the Administrative Code and is in compliance with the Ohio Public Defender Standards and Guidelines for Reimbursement prior to the submission of a bill.
3. An attorney on the Appointed Counsel List whose qualifications and training as set forth in Subsection (C) of this Rule have changed may request reclassification on the Appointed Counsel List by submitting a new application, with supporting documentation, to the Court Services Division. The attorney's request shall be reviewed by the Court's Criminal Practice Committee and a recommendation will be submitted to the Judges of the Court for decision.

C. QUALIFICATIONS AND TRAINING:

1. In all felony cases, attorneys appointed to represent indigent clients must meet the following training requirements:
 - a. Within two years prior to the appointment, completion of a minimum of twelve hours of continuing legal education, certified by the Ohio Supreme Court Commission on continuing legal education, in criminal practice and procedure.
 - b. Prior to the appointment to a felony OVI case, completion of a minimum of six hours of continuing legal education, certified by the Ohio Supreme Court Commission on continuing legal education, focused on OVI practice and procedure.
2. Where the defendant is charged with a felony of the fourth or fifth degree, counsel must have:
 - a. At least one year of experience as an attorney practicing in the area of criminal law; and
 - b. Prior experience as trial counsel or co-counsel in at least one criminal jury trial, felony or misdemeanor.
3. Where the defendant is charged with a felony of the third degree, counsel must have:
 - a. At least one year of experience as an attorney practicing in the area of criminal law; and
 - b. Within six years preceding the appointment, prior experience as lead trial counsel in at least one criminal jury trial, or as co-counsel in at least two jury trials.
4. Where the defendant is charged with a felony of the first or second degree, counsel must have:
 - a. At least three years of experience as an attorney practicing in the area of criminal law; and
 - b. Within ten years preceding the appointment, prior experience as lead trial counsel in two criminal jury trials, at least one of which involved felony charges, or as lead counsel in one felony jury trial and as co-counsel in two additional jury trials.

5. Where the defendant is charged with any felony that carries a potential sentence of life imprisonment, whether eligible or ineligible for parole, counsel must have:
 - a. At least five years of experience as an attorney practicing in the area of criminal law; and within ten years preceding the appointment, prior jury trial experience as lead counsel in five felony jury trials, at least three of which were felonies of the first or second degree; or lead counsel in three jury trials, at least one of which was a felony of the third degree, and
 - b. Co-counsel in an additional five jury trials, at least three of which were felonies of the first or second degree.
6. Where the defendant is charged with aggravated murder with death penalty specifications, or has been convicted and sentenced to death, any attorney appointed for trial, appellate, post-conviction, or habeas corpus representation must meet the qualifications set forth in the Ohio Supreme Court Rules of Superintendence and must appear on the list of attorneys qualified to accept appointments in capital cases promulgated by the Ohio Supreme Court Commission on Appointment of Counsel in Capital Cases, or have a waiver of pre-qualification issued by the Commission. Counsel must possess:
 - a. Lead Trial Counsel must have at least five years of criminal litigation experience; and experience as lead counsel for the defense in the jury trial of at least one capital case, or experience as co-counsel for the defense in the jury trial of at least two capital cases; and within ten years preceding the appointment, experience as lead counsel in the jury trial of at least one murder or aggravated murder case; or within five years preceding the appointment, experience as lead counsel in three aggravated or first or second degree felony jury trials.
 - b. Trial Co-Counsel must have at least three years of criminal litigation experience; and within ten years preceding the appointment, experience as co-counsel in one murder or aggravated murder jury trial; or within five years preceding the appointment, experience as lead counsel in one first or second degree felony jury trial; or within five years preceding the appointment, experience as lead or co-counsel in at least two felony jury or civil jury trials.

D. ASSIGNMENT:

1. When it appears to the Court that the defendant in a criminal case is indigent, and if the Public Defender's Office is not representing the defendant pursuant to Mont. Co. C.P.R. 3.03(A)(2)(c), the Court shall utilize and appoint an attorney from the Appointed Counsel List.
2. Assignment shall be independent from individual influence or choice by any member of the judiciary, prosecution, or other elected official and distributed as widely as possible among attorneys on the Appointed Counsel List on a rotating basis, designed to pair the defendant's level of offense with an attorney who meets the training and qualifications of assignment set forth in Subsection (C) of this Rule. On rare occasion it may be in the

interest of justice for a court to select an individual attorney whose expertise or experience is particularly well suited to a given case or client.

E. COMPLIANCE:

Attorneys on the Appointed Counsel List are required to comply with the Ohio Administrative Code 120-1, the Ohio Revised Code, the Ohio Rules of Superintendence, the Criminal Rules of Practice and Procedure, the State Public Defender's Commission, these Rules and any other applicable rules or laws.

F. MENTOR LIST:

1. Attorneys on the Appointed Counsel List whose experience exceeds the requirements in Subsection (C)(1)-(6) of this Rule, as determined by the Court, may apply to be placed on the Court's Mentor List ("Mentor List").
2. Assignment of Mentor
 - a. When an attorney applies to be included on the Appointed Counsel List, the Court may require assignment of a mentor from the Mentor List.
 - b. An attorney on the Appointed Counsel List may request that the Court assign a mentor from the Mentor List.
3. Attorneys on the Mentor List will be volunteers and will meet with the mentee on an "as needed" basis, as determined by the mentor.

Rule 3.11 – Appointed Counsel Fees

Amended 3/5/96; Effective 3/5/96

Amended 5/9/00; Effective 5/15/00

Amended 8/12/14; Effective 8/29/14

Counsel appointed by the Court to represent indigent defendants ("Appointed Counsel") shall be paid by Montgomery County, Ohio as provided herein.

A. REQUEST FOR PAYMENT:

Appointed Counsel shall not be paid for services unless request for payment is submitted in accordance with this Rule. All requests for payment shall be:

1. Made by completing a Criminal Appointed Counsel Pay Packet ("Pay Packet") using the prescribed forms provided in OPD-1026R, Appointed Counsel Fee Form Program Software created by the Ohio Public Defender's Commission ("Fee Software"). Appointed Counsel is required to obtain a copy of the Fee Software from the Ohio Public Defender's Office. If Appointed Counsel is unable to use the Fee Software, a special exemption must be requested, in writing, to the Administrative Judge;
2. Accompanied by a Financial Disclosure and Affidavit of Indigence Form completed by the indigent defendant or Appointed Counsel on forms prescribed by the Ohio Public Defender's Commission; and

3. Presented to Court Administrative Services within 30 days after filing of the termination entry of the case for which reimbursement is requested.

B. COMPENSATION AND EXPENSES:

1. No compensation shall exceed the following amounts:
 - a. A flat fee as established by the Ohio Public Defender's Commission and set forth in Appendix J ("Basic Fee") per felony case for basic legal services. As defined in this Rule, basic legal services includes: arraignment, pretrial conference with prosecutor, initial client interview, scheduling conference, and final disposition; all telephone calls; all appearances for continuances; basic legal research; and review of the nature of the charge(s), routine criminal procedures, and the Discovery Packet.
 - b. An hourly rate as established by the Ohio Public Defender's Commission and set forth in Appendix J ("Hourly Rate") for special research and writing; field investigation; court conferences, hearings, and trial beyond those set forth in the Basic Fee; witness conferences; and other activities approved in advance by the assigned Judge.
 - c. Compensation shall not exceed the maximum fee permitted in trial level proceedings for the case type as established by the Ohio Public Defender's Commission and set forth in Appendix J ("Maximum Fee").
 - d. Pursuant to Sup. R. 20, death penalty specification cases require the appointment of two attorneys. The Maximum Fee shall be paid on the combined bills of both attorneys appointed to the case.
 - e. Additional compensation: If a trial continues beyond the time frames set forth in this Subsection, Appointed Counsel may seek approval of additional compensation from the assigned Judge. If approved by the assigned Judge, compensation in excess of the Maximum Fee shall be at the Hourly Rate if a trial continues beyond the following periods:
 - i. For Aggravated Murder, 13 days;
 - ii. For Murder, 8 days; or
 - iii. For all other felonies, 4 days.
2. Expenses:
 - a. Reimbursement and payment for reasonable expenses associated with providing representation shall be made when submitted with the Appointed Counsel's Pay Packet and approved by the assigned Judge.
 - b. Reasonable expenses include expert witness fees, polygraph examination costs, long distance phone calls, photocopying, certain travel expenses, and other necessary items as approved at the discretion of the assigned Judge.

Rule 3.12 – Drug Court

Approved 9/27/13; Effective 1/1/14

Amended 8/12/14; Effective 8/29/14

A. CREATION OF SPECIALIZED DOCKET – “DRUG COURT”:

Drug Court is created pursuant to the specialized docket standards set forth in Sup. R. 36.20-36.28, including Appendix I. The purpose of Drug Court is to facilitate efficient and effective treatment of drug addicted or drug abusing offenders. Eligible offenders as defined in Subsection (C) of this Rule shall be supervised by the Montgomery County Adult Probation Department (“Probation Department”) to ensure compliance with community control sanctions and to assist with criminogenic needs.

B. DRUG COURT TEAM:

The “Drug Court Team” shall consist of the Judge assigned to Drug Court (“Drug Court Judge”), Adult Probation Department Manager and staff, Probation Officers, licensed treatment providers, community based employment program personnel, the Assistant Prosecuting Attorney, and Defense Counsel. The Drug Court Team shall convene weekly to discuss the progress and status of individual offenders, apply sanctions as needed, and for any other matters.

C. ELIGIBILITY CRITERIA FOR DRUG COURT ADMISSION:

1. The assigned Judge may order a defendant to Drug Court through a guilty or no contest plea, probation violation, judicial release, other early release options, or Intervention in Lieu of Conviction pursuant to R.C. § 2951.041 (“ILC”).
2. In order for a defendant to be eligible for Drug Court the defendant shall:
 - a. Be amenable to community control;
 - b. Be charged with a third, fourth, or fifth degree felony;
 - c. Be a resident of Ohio;
 - d. Have little or no history of violent behavior;
 - e. Have a chemical abuse addiction in which the defendant’s current or past criminal behavior has been alcohol or drug driven;
 - f. Have no acute health condition; and
 - g. Demonstrate a sincere willingness to participate in a long term treatment process.

D. REFERRING DEFENDANTS TO DRUG COURT:

1. Drug Court receives referrals from the assigned Judge. The Drug Court Team shall review the case for legal and clinical eligibility as identified in Subsection (C)(2)(a)-(g) of this Rule.
2. The assigned Judge shall have final discretion to decide if the defendant is ordered to Drug Court.

E. SENTENCING:

After a defendant is ordered to Drug Court as a community control or ILC sanction, along with any other appropriate sanctions, the case shall be transferred to the Drug Court Judge for any and all further court proceedings. The Drug Court Judge shall have the authority to conduct arraignments, accept pleas, enter findings and dispositions, revoke community control or ILC, and order or modify community control or ILC sanctions.

F. TREATMENT PHASES:

Drug Court offenders shall be required to complete phases of treatment as individually necessary and complete all other requirements as identified in the *Drug Court Participant Handbook* and the *Drug Court Participation Agreement*. Drug Court offenders shall comply with all the rules indicated to them by the Drug Court Judge at their initial appearance. While in Drug Court, the offender shall receive services to assist in meeting criminogenic needs. Upon graduation from Drug Court, the offender may be required to remain under community control or ILC sanctions to ensure continued compliance and success.

G. SANCTIONS FOR NON-COMPLIANCE:

Sanctions for a Drug Court offender's non-compliance vary in intensity and may include, but are not limited to, the following:

1. Warning and admonition from the Drug Court Judge;
2. Demotion to an earlier Drug Court phase;
3. Increased frequency of drug or alcohol testing and court appearances;
4. Increased supervision contacts and monitoring;
5. Community service or work program;
6. Jail or out of home placement;
7. Community control or ILC violation;
8. Termination from Drug Court; and
9. Commitment to the Secure Transitional Offender Program ("S.T.O.P."), the MonDay Community Correctional Facility, or any other community based facility approved by the Court.

H. UNSUCCESSFUL TERMINATIONS:

1. Reasons for termination from Drug Court include, but are not limited to:
 - a. Failure to remain clean from illegal substances or alcohol;
 - b. Violation of the *General Conditions of Supervision*;
 - c. Violation of any community control or ILC sanctions; and
 - d. Failure to comply with the *Drug Court Participation Agreement* or any other orders of the Drug Court Judge.
2. If an offender is terminated from Drug Court for reasons stated in Subsection (H)(1) of this Rule, or for any other reason as determined by the Drug Court Judge, the offender may be subject to a community control or ILC revocation hearing.

3. If a hearing is required pursuant to Subsection (H)(2) of this Rule:
 - a. The Drug Court Judge shall adjudicate the proceedings;
 - b. The offender may have his or her community control or ILC sanctions modified. Modifications may include, but are not limited to, commitment to a Community Based Correctional Facility (“CBCF”), revocation of community control or ILC, or termination from Drug Court;
 - c. The Drug Court Judge shall have the sole discretion to refer an offender to the original assigned Judge for further proceedings; and
 - d. The laws governing revocation apply, and the offender has a right to counsel.

I. STATISTICAL REPORTS:

For purposes of Supreme Court statistical reports, the case shall be considered disposed by the assigned Judge when the defendant is sentenced to Drug Court or the defendant is ordered into Drug Court as a condition of ILC.

Rule 3.13 – Veterans’ Court

Approved 9/27/13; Effective 1/1/14
Amended 8/12/14; Effective 8/29/14

A. CREATION OF SPECIALIZED DOCKET – “VETERANS’ COURT”:

Veterans’ Court is created pursuant to the specialized docket standards set forth in Sup. R. 36.20-36.28, including Appendix I. The purpose of Veterans’ Court is to facilitate efficient and effective treatment of eligible veterans suffering from drug addiction or mental health issues. Eligible offenders shall be supervised by the Probation Department to ensure compliance with community control sanctions and to assist with criminogenic needs.

B. VETERANS’ COURT TEAM:

The “Veterans’ Court Team” shall consist of the Judge assigned to Veterans’ Court (“Veterans’ Court Judge”), Adult Probation Department staff, Probation Officers, licensed treatment providers, community based employment program personnel, the Veterans’ Justice Outreach Coordinator, the Assistant Prosecuting Attorney, and Defense Counsel. The Veterans’ Court Team shall convene bi-weekly to discuss the progress and status of individual offenders, apply sanctions as needed, and for any other matters.

C. ELIGIBILITY CRITERIA FOR VETERANS’ COURT ADMISSION:

1. The assigned Judge may order a defendant to Veterans’ Court through a guilty or no contest plea, probation violation, judicial release, other early release options, or ILC.
2. In order for a defendant to be eligible for Veterans’ Court the defendant shall:
 - a. Be amenable to community control;

- b. Be charged with a third, fourth, or fifth degree felony (Felonies of the first and second degree will be determined on a case by case basis by the Veterans' Court Judge);
- c. Be a resident of Ohio;
- d. Have received an Honorable or General (Under Honorable Conditions) discharge from the United States Military;
- e. Have a chemical abuse or mental health condition in which the defendant's current or past criminal behavior has been alcohol or drug driven; and
- f. Demonstrate a sincere willingness to participate in a long-term treatment process.

D. REFERRING DEFENDANTS TO VETERANS' COURT:

1. Veterans' Court receives referrals from the assigned Judge. The Veterans' Court Team shall review the case for legal and clinical eligibility as identified in Subsection (C)(2)(a)-(f) of this Rule.
2. The assigned Judge shall have final discretion to decide if the defendant is ordered to Veterans' Court.

E. SENTENCING:

After a defendant is ordered to Veterans' Court as a community control or ILC sanction, along with any other appropriate sanctions, the case shall be transferred to the Veterans' Court Judge for any and all further court proceedings. The Veterans' Court Judge shall have the authority to conduct arraignments, accept pleas, enter findings and dispositions, revoke community control or ILC, and order or modify community control or ILC sanctions.

F. TREATMENT PHASES:

Veterans' Court offenders shall be required to complete phases of treatment as individually necessary and complete all other requirements as identified in the *Veterans' Court Participant Handbook* and the *Veterans' Court Participation Agreement*. Veterans' Court offenders shall comply with all the rules indicated to them by the Veterans' Court Judge at their initial appearance. While in Veterans' Court, the offender shall receive services to assist in meeting criminogenic needs. Upon graduation from Veterans' Court, the offender may be required to remain under community control or ILC sanctions to ensure continued compliance and success.

G. SANCTIONS FOR NON-COMPLIANCE:

Sanctions for a Veterans' Court offender's non-compliance vary in intensity and may include, but are not limited to, the following:

1. Warning and admonition from the Veterans' Court Judge;
2. Demotion to an earlier Veterans' Court phase;
3. Increased frequency of drug or alcohol testing and court appearances;
4. Increased supervision contacts and monitoring;

5. Community service or work program;
6. Jail or out of home placement;
7. Community control or ILC violation;
8. Termination from Veterans' Court; and
9. Commitment to S.T.O.P., the MonDay Community Correctional Facility, or any other community based facility approved by the Court.

H. UNSUCCESSFUL TERMINATIONS:

1. Reasons for termination from Veterans' Court include, but are not limited to:
 - a. Failure to remain clean from illegal substances or alcohol;
 - b. Violation of the *General Conditions of Supervision*;
 - c. Violation of any community control or ILC sanctions; and
 - d. Failure to comply with the *Veterans' Court Participation Agreement* or any other orders of the Veterans' Court Judge.
2. If an offender is terminated from Veterans' Court for reasons stated in Subsection (H)(1) of this Rule, or for any other reason as determined by the Veterans' Court Judge, the offender may be subject to a community control or ILC revocation hearing.
3. If a hearing is required pursuant to Subsection (H)(2) of this Rule:
 - a. The Veterans' Court Judge shall adjudicate the proceedings;
 - b. The offender may have his or her community control or ILC sanctions modified. Modifications may include, but are not limited to, commitment to a CBCF, revocation of community control or ILC, or termination from Veterans' Court;
 - c. The Veterans' Court Judge shall have the sole discretion to refer an offender to the original assigned Judge for further proceedings; and
 - d. The laws governing revocation apply, and the offender has a right to counsel.

I. STATISTICAL REPORTS:

For purposes of Supreme Court statistical reports, the case shall be considered disposed by the assigned Judge when the defendant is sentenced to Veterans' Court or the defendant is ordered into Veterans' Court as a condition of ILC.

Rule 3.14 – Felony Non-Support Court

Approved 9/27/13; Effective 1/1/14
Amended 8/12/14; Effective 8/29/14

- A. CREATION OF SPECIALIZED DOCKET – “FELONY NON-SUPPORT COURT” (“FNS COURT”):

FNS Court is created pursuant to the specialized docket standards set forth in Sup. R. 36.20-36.28, including Appendix I. The purpose of FNS Court is to supervise felons who are convicted of criminal non-support, who owe support to dependent children, and who are required to complete community control sanctions. Offenders shall be supervised by the

Probation Department to ensure compliance with community control sanctions and to assist with criminogenic needs.

B. FNS COURT TEAM:

The “FNS Court Team” shall consist of the Judge assigned to the FNS Court (“FNS Court Judge”), Adult Probation Department supervisor and staff, Probation Officers, Case Manager/Employment Liaison, CSEA Representative, the Assistant Prosecuting Attorney, and Defense Counsel. The FNS Court Team shall convene bi-weekly to discuss the progress and status of individual offenders, apply sanctions as needed, and for any other matters.

C. ELIGIBILITY CRITERIA FOR FNS COURT ADMISSION:

1. The assigned Judge may order a defendant to FNS Court after a felony conviction for criminal non-support, probation violation, judicial release, or as a result of a preliminary hearing held by the Probation Department.
2. In order for a defendant to be eligible for FNS Court the defendant shall:
 - a. Owe current child support for dependent children;
 - b. Be amenable to community control;
 - c. Be a resident of Ohio; and
 - d. Demonstrate a sincere willingness to participate in a long-term treatment process.

D. REFERRING DEFENDANTS TO FNS COURT:

1. FNS Court receives referrals from the assigned Judge.
2. The Pre-sentence Investigator, or his or her designee, shall review the case for legal and clinical eligibility as identified in Subsection (C)(2)(a)-(d) of this Rule and as in the *FNS Court Program Description*. Written eligibility information is then sent to the assigned Judge.
3. The assigned Judge shall have final discretion to decide if the defendant is ordered to FNS Court.

E. SENTENCING:

After a defendant is ordered to FNS Court as a community control or ILC sanction, along with any other appropriate sanctions, the case shall be transferred to the FNS Court Judge for any and all further court proceedings.

F. FNS COURT PHASES:

FNS Court offenders shall be required to complete FNS Court phases as well as all other requirements as identified in the *FNS Court Program Description*, the *FNS Court Participant Handbook*, and the *FNS Court Participation Agreement*. FNS Court offenders shall comply with all the rules indicated to them by the FNS Court Judge at their initial appearance. While in FNS Court, the offender shall receive services to assist in obtaining employment and meeting criminogenic needs. Upon graduation from FNS Court, the offender may be

required to remain under community control or ILC sanctions to ensure continued compliance and success.

G. SANCTIONS FOR NON-COMPLIANCE:

Sanctions for a FNS Court offender's non-compliance vary in intensity and may include, but are not limited to, the following:

1. Warning and admonition from the FNS Court Judge;
2. Demotion to an earlier FNS COURT phase;
3. Increased frequency of drug or alcohol testing and court appearances;
4. Increased supervision contacts and monitoring;
5. Community service or work program;
6. Jail or out of home placement;
7. Community control or ILC violation;
8. Termination from FNS Court; and
9. Commitment to S.T.O.P., the MonDay Community Correctional Facility, or any other community based facility approved by the Court.

H. UNSUCCESSFUL TERMINATIONS:

1. Reasons for termination from FNS Court include, but are not limited to:
 - a. Failure to remain clean from illegal substances or alcohol;
 - b. Violation of the *General Conditions of Supervision*;
 - c. Violation of any community control or ILC sanctions; and
 - d. Failure to comply with the *FNS Court Participation Agreement* or any other orders of the FNS Court Judge.
2. If an offender is terminated from FNS Court for reasons stated in Subsection (H)(1) of this Rule, or for any other reason as determined by the FNS Court Judge, the offender may be subject to a community control or ILC revocation hearing.
3. If a hearing is required pursuant to Subsection (H)(2) of this Rule:
 - a. The FNS Court Judge shall adjudicate the proceedings;
 - b. The offender may have his or her community control or ILC sanctions modified. Modifications may include, but are not limited to, commitment to a CBCF, revocation of community control or ILC, or termination from FNS Court;
 - c. The FNS Court Judge shall have the sole discretion to refer an offender to the original assigned Judge for further proceedings;
 - d. The laws governing revocation apply, and the offender has a right to counsel; and
 - e. Termination from FNS Court does not preclude re-admission at a later date.

I. STATISTICAL REPORTS:

For purposes of Supreme Court statistical reports, the case shall be considered disposed by the assigned Judge when the defendant is sentenced to FNS Court or the defendant is ordered into FNS Court as a condition of ILC.

Rule 3.15 – Women’s Therapeutic Court

Approved 5/6/14; Effective 5/12/14

Amended 8/12/14; Effective 8/29/14

- A. CREATION OF SPECIALIZED DOCKET – “WOMEN’S THERAPEUTIC COURT” (“WTC”):
WTC is created pursuant to the specialized docket standards set forth in Sup. R. 36.20-36.28, including Appendix I. The purpose of WTC is to facilitate efficient and effective treatment of drug addicted or drug abusing offenders. Eligible offenders as defined in Subsection (C) of this Rule shall be supervised by the Probation Department to ensure compliance with community control sanctions and to assist with criminogenic needs.
- B. WTC TEAM:
The “WTC Team” shall consist of the Judge assigned to WTC (“WTC Judge”), Adult Probation Department Manager and staff, Probation Officers, licensed treatment providers, community based employment program personnel, the Assistant Prosecuting Attorney, and Defense Counsel. The WTC Team shall convene weekly to discuss the progress and status of individual offenders, apply sanctions as needed, and for any other matters.
- C. ELIGIBILITY CRITERIA FOR WTC ADMISSION:
1. The assigned Judge may order a defendant to WTC through a guilty or no contest plea, probation violation, judicial release, other early release options, or ILC.
 2. In order for a defendant to be eligible for WTC the defendant shall:
 - a. Be amenable to community control;
 - b. Be charged with a third, fourth, or fifth degree felony;
 - c. Be a resident of Ohio;
 - d. Have little or no history of violent behavior;
 - e. Have a chemical abuse addiction in which the defendant’s current or past criminal behavior has been alcohol or drug driven;
 - f. Have no acute health condition; and
 - g. Demonstrate a sincere willingness to participate in a long term treatment process.
- D. REFERRING DEFENDANTS TO WTC:
1. WTC receives referrals from the assigned Judge. The WTC Team shall review the case for legal and clinical eligibility as identified in Subsection (C)(2)(a)-(g) of this Rule.
 2. The assigned Judge shall have final discretion to decide if the defendant is ordered to WTC.
- E. SENTENCING:
After a defendant is ordered to WTC as a community control or ILC sanction, along with any other appropriate sanctions, the case shall be transferred to the WTC Judge for any and all further court proceedings. The WTC Judge shall have the authority to conduct

arraignments, accept pleas, enter findings and dispositions, revoke community control or ILC, and order or modify community control or ILC sanctions.

F. TREATMENT PHASES:

WTC offenders shall be required to complete phases of treatment as individually necessary and complete all other requirements as identified in the *WTC Participant Handbook* and the *WTC Participation Agreement*. WTC offenders shall comply with all the rules indicated to them by the WTC Judge at their initial appearance. While in WTC, the offender shall receive services to assist in meeting criminogenic needs. Upon graduation from WTC, the offender may be required to remain under community control or ILC sanctions to ensure continued compliance and success.

G. SANCTIONS FOR NON-COMPLIANCE:

Sanctions for a WTC offender's non-compliance vary in intensity and may include, but are not limited to, the following:

1. Warning and admonition from the WTC Judge;
2. Demotion to an earlier WTC phase;
3. Increased frequency of drug or alcohol testing and court appearances;
4. Increased supervision contacts and monitoring;
5. Community service or work program;
6. Jail or out of home placement;
7. Community control or ILC violation;
8. Termination from Drug Court; and
9. Commitment to S.T.O.P., the MonDay Community Correctional Facility, or any other community based facility approved by the Court.

H. UNSUCCESSFUL TERMINATIONS:

1. Reasons for termination from WTC include, but are not limited to:
 - a. Failure to remain clean from illegal substances or alcohol;
 - b. Violation of the *General Conditions of Supervision*;
 - c. Violation of any community control or ILC sanctions; and
 - d. Failure to comply with the *WTC Participation Agreement* or any other orders of the WTC Judge.
2. If an offender is terminated from WTC for reasons stated in Subsection (H)(1) of this Rule, or for any other reason as determined by the WTC Judge, the offender may be subject to a community control or ILC revocation hearing.
3. If a hearing is required pursuant to Subsection (H)(2) of this Rule:
 - a. The WTC Judge shall adjudicate the proceedings;
 - b. The offender may have his or her community control or ILC sanctions modified. Modifications may include, but are not limited to, commitment to a CBCF, revocation of community control or ILC, or termination from WTC;

- c. The WTC Judge shall have the sole discretion to refer an offender to the original assigned Judge for further proceedings; and
- d. The laws governing revocation apply, and the offender has a right to counsel.

I. STATISTICAL REPORTS:

For purposes of Supreme Court statistical reports, the case shall be considered disposed by the assigned Judge when the defendant is sentenced to WTC or the defendant is ordered into WTC as a condition of ILC.

**IN THE COMMON PLEAS COURT OF MONTGOMERY COUNTY, OHIO,
REQUEST TO RECORD/PHOTOGRAPH COURT PROCEEDINGS**

_____ (Name) of _____ (Media affiliation, if applicable)
hereby requests permission to _____ (Broadcast/Televise/Record/Photograph) any and all open
court proceedings in the case of _____ (Plaintiff)
_____ (Defendant) -vs-
_____, case number _____,
before Judge _____.

I certify that I am familiar with the contents of Rule 1.25 of the Rules of Practice and Procedure for the Montgomery County Court of Common Pleas and Rule 12 of the Rules of Superintendence for the Courts of Ohio.

PLEASE NOTE: This request should be submitted no later than 24 hours prior to the courtroom session to be recorded.

Representative

Received By: _____

Date: _____

Time: _____

**IN THE COMMON PLEAS COURT OF MONTGOMERY COUNTY, OHIO,
REQUEST TO CONDUCT INTERVIEW WITHIN THE COURTHOUSE**

_____ (Name) of _____ (Media affiliation, if applicable)
hereby requests permission to conduct an interview _____ (Person to be interviewed/location of interview)
with _____ (Plaintiff) -vs- _____ (Defendant)

I certify that I am familiar with the contents of Rule 1.25 of the Rules of Practice and Procedure for the Montgomery County Court of Common Pleas and Rule 12 of the Rules of Superintendence for the Courts of Ohio.

PLEASE NOTE: This request should be submitted no later than 24 hours prior to the interview.

Representative

Received By: _____

Date: _____

Time: _____

IN THE COMMON PLEAS COURT OF MONTGOMERY COUNTY, OHIO

Plaintiff Case No. _____

-VS-

Defendant ENTRY OF PERMISSION TO RECORD COURT PROCEEDINGS

(Representative)

Upon written request by _____

of _____ (Media affiliation, if applicable) for permission to _____ (Broadcast/Televise/Record/Photograph)

any and all OPEN court proceedings in the above entitled case before Judge _____.

COURT HEREBY:

_____ Grants permission in accordance with Rule 12 of the Rules of Superintendence for the Courts of Ohio Common Pleas and Rule 1.25 of the Rules of Practice and Procedure for the Montgomery County Court of Common Pleas.

_____ Grants permission in accordance with Rule 12 of the Rules of Superintendence for the Courts of Ohio Common Pleas and Rule 1.25 of the Rules of Practice and Procedure for the Montgomery County Court of Common Pleas, and with the following additional stipulations or restrictions:

_____ Denies permission for the following reasons:

_____ Waives the twenty-four hour notice requirement for recording court proceedings.

This order may be modified at any time the Court deems necessary. "Pooling" of equipment is required for all proceedings.

JUDGE

IN THE COMMON PLEAS COURT OF MONTGOMERY COUNTY, OHIO

Plaintiff

Case No. _____

-vs-

Defendant

**ENTRY OF PERMISSION TO CONDUCT
INTERVIEW**

(Representative)

Upon written request by _____

of _____ (Media affiliation, if applicable) for permission to _____ (Name/location of interview)

in the above entitled case before Judge _____.

COURT HEREBY:

_____ Grants permission in accordance with Rule 12 of the Rules of Superintendence for the Courts of Ohio Common Pleas and Rule 1.25 of the Rules of Practice and Procedure for the Montgomery County Court of Common Pleas.

_____ Grants permission in accordance with Rule 12 of the Rules of Superintendence for the Courts of Ohio Common Pleas and Rule 1.25 of the Rules of Practice and Procedure for the Montgomery County Court of Common Pleas, and with the following additional stipulations or restrictions:

_____ Denies permission for the following reasons:

_____ Waives the twenty-four hour notice requirement for recording court proceedings.

This order may be modified at any time the Court deems necessary. "Pooling" of equipment is required for all proceedings.

JUDGE

**REQUEST FOR VIDEO OF PROCEEDINGS OR REQUEST FOR PAPER TRANSCRIPT
Montgomery County Common Pleas Court, General Division**

Case Caption	Case Numbers
Judge / Courtroom	Judicial Assistant

It is requested that a copy of the following designated proceedings be prepared:

Date(s) of All Proceedings Requested	Type of Proceeding(s)	
Copy for Requestor <input type="checkbox"/> CD-ROM <input type="checkbox"/> PDF TRANSCRIPT <input type="checkbox"/> SECURE FILE TRANSFER	Transcript for Appeal <input type="checkbox"/> TRANSCRIPT TO BE FILED AS RECORD FOR APPEAL <input type="text"/> DATE NOTICE OF APPEAL WAS FILED	
Requestor's Name	Address	City, State, Zip
Telephone: () -	Fax: () -	E-Mail: (Mandatory for PDF Delivery)

Payment

I am requesting that the above CD-ROM record be prepared. I will be responsible for costs.	Transcript will be provided at State expense for indigent defendant.
_____ Requestor _____ Date	_____ Judge _____ Date

Order Preparation (FOR COURT STAFF ONLY)

CD-ROMS Duplicated	CD-ROMS/SFT Delivered To:	_____ Date	_____ Date
	<input type="checkbox"/> Requestor <input type="checkbox"/> Court Services		Judicial Assistant

Total Amount Due \$	Amount Received \$	<input type="checkbox"/> Cash <input type="checkbox"/> Check ----- Check #	Received By	Make check payable to: Montgomery County Treasurer 41 N. Perry Street, Room 402 P.O. Box 972 Dayton, OH 45422 Acceptable forms of payment: Cash, Cashier's Check and Money Orders
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CIVIL FILING FEES*
Effective 3/1/17

*Pursuant to Mont. Co. C.P.R. 2.03(A)(2) a Conv. Fee of 2.0% shall be paid at the time of filing for all eFiled cases and proceedings *in addition to* the filing fees set forth below.

Civil Complaints	
Foreclosure Complaints	\$525.00
Other Civil Complaints	\$325.00
Certificate of Qualification for Employment	\$50.00
Notice of Filing Auxiliary Case/Issuance of Subpoena(s) Pursuant to O.R.C. 2319.09	\$50.00
Second District Court of Appeals – Notice of Appeal	\$100.00

Certificates of Judgment	
Filing of Certificate of Judgment	\$30.00
Prepare Certificate of Judgment for Foreign County	\$5.00
Prepare Certificate of Judgment for Montgomery County	\$35.00
Foreign Certificate of Judgment	\$40.00
Release of Certificate of Judgment (Note: If a party filing for release of a certificate of judgment has an execution case pending against the party on an Ohio state lien, there may be additional fees. Please contact the Clerk to calculate any additional fee.)	\$5.00

Executions	
Order in Aid Proceedings (Debtor Exams)	\$50.00
Order in Aid Proceedings (Bank Attachment) (Note: In addition to the filing fee, the filing party must include a \$1 check made payable to the bank (“Bank Charge”). A separate Order in Aid Proceeding, including the filing fee and Bank Charge, is required for each bank attachment.)	\$50.00
Order in Aid Proceedings (Garnishment)	\$50.00
Executions Against Chattels	\$50.00

Miscellaneous	
Filing of Ohio state lien	\$40.00
Order of Sale	\$500.00
Writ of Restitution	\$65.00
Witness Fee – full day (Note: See Mont. Co. C.P.R. 2.13, Method of Payment and Exclusions from Payment; add mileage fee of \$0.10/mile, round trip, for non-residents of Montgomery County, Ohio)	\$12.00
Witness Fee – half day (Note: See Mont. Co. C.P.R. 2.13, Method of Payment and Exclusions from Payment; add mileage fee of \$0.10/mile, round trip, for non-residents of Montgomery County, Ohio)	\$6.00
Notarial Certificate	\$1.00
Registration of Notary Public Commission	\$15.00
Certified Copies (per page)	\$1.00
Photocopies (per page)	\$0.10

MONTGOMERY COUNTY COMMON PLEAS COURT, GENERAL DIVISION

CIVIL CASE INFORMATION

_____ Case Number _____

_____ Main Plaintiff _____

_____ Main Counsel for Plaintiff _____ Attorney Registration Number _____
 (If Pro Se, include telephone number)

_____ Jury Demand _____ Yes _____ No

_____ Main Defendant _____

_____ Prayer Amount \$ _____

_____ If Known, Counsel for Defendant _____ Deposit Amount \$ _____

TYPE OR RESOLUTION

_____ Mediation _____ Magistrate _____ Trial

TYPE OF ACTION

- | | |
|----------------------------------|-------------------------------------|
| _____ AA - Administrative Appeal | _____ OT - Other Torts |
| _____ A - Appropriation | _____ PI - Personal Injury |
| _____ DJ - Declaratory Judgment | _____ PL - Product Liability |
| _____ HC - Habeas Corpus | _____ PT - Professional Tort |
| _____ I - Injunction | _____ WC - Workers' Compensation |
| _____ MM - Medical Malpractice | _____ AO - All Others - State Type: |
| _____ MF - Mortgage Foreclosure | _____ |
| _____ # _____ | _____ |
| (Parcel or Lot Number) | |

REFILING INFORMATION

Is this a refiling of a previous related case? _____ Yes _____ No

If yes, please complete the following:

Case Number _____ Assigned Judge _____

Parties _____ -vs _____

Copy - Counsel _____
 Original - Clerk _____ Signature of Attorney or Party Filing Suit

**IN THE COMMON PLEAS COURT OF MONTGOMERY COUNTY, OHIO
GENERAL DIVISION**

IN RE: The Appointment of _____ Judge _____

(Name of Person
Requesting Appointment) As Standing
Special Process Server

AFFIDAVIT AND ORDER

STATE OF OHIO)
COUNTY OF MONTGOMERY) SS:

 Name of Person Requesting Appointment
I, _____, being duly sworn and cautioned according
to law, depose and state that:

1. I am _____ Name of Person Requesting Appointment _____ my address is _____,
telephone number _____.
2. I am eighteen (18) years of age or older.
3. I agree not to attempt service of process in any case in which I am a party or counsel for a party.
4. I agree to follow the requirements of Ohio Rules on Civil Procedure 4 – 4.6, and any applicable
local rules, and specific instructions for service of process as ordered by the Court in individual
cases.

FURTHER AFFIANT SAITH NAUGHT:

(Name of Person Requesting Appointment)

Name of Person Requesting Appointment

Sworn to before me and subscribed in my presence, _____, this
_____ day of _____, 20__.

(Notary Public)

ORDER

It appearing to the Court that the following person has complied with the provisions of Local
Rule 2.05, (Name of Person Requesting Appointment) is hereby designated as a Standing Special
Process Server authorized to make service of process in all cases filed in this Court to serve until
December ___, 200_, or further order of the Court, whichever comes first.

APPROVED:

JUDGE

APPOINTED COUNSEL FEE SCHEDULE*

*Basic Fee, Hourly Rate, and Maximum Fee are defined in Mont. Co. C.P.R. 3.11(B)

Basic Fee		\$400.00
Hourly Rate		
	Trial Level work in Death Penalty Specification Cases	\$95/hour
	Post-Conviction and State Habeas Corpus Proceedings in Death Sentence Cases (in-court and out-of-court)	\$60/hour
	All other Court appearances (trial level and post-conviction or habeas corpus proceedings)	\$60/hour
	All other out-of-court work (trial level and post-conviction or habeas corpus proceedings)	\$50/hour
Maximum Fee – Trial Level Proceedings		
	Aggravated Murder	
	Death Penalty Specifications (subject to Sup. R. 20 and Mont. Co. C.P.R. 3.11(B)(1)(D))	\$75,000
	No Death Penalty Specifications – 2 attorneys	\$10,000
	No Death Penalty Specifications – 1 attorney	\$8,000
	Murder	\$5,000
	Felony	
	Possible Life Sentence	\$5,000
	Repeat Violent Offender Specification	\$5,000
	Major Drug Offender Specification	\$5,000
	All other Felonies	
	First, Second, or Third Degree Felony	\$3,000
	Fourth or Fifth Degree Felony	\$2,000
	Misdemeanors	\$1,000
	Contempt of Court	\$300
	Parole, Probation, and all other proceedings	\$500
Maximum Fee – Post-Conviction and Habeas Corpus Proceedings		
	Post-Conviction Proceeding	
	With Evidentiary Hearing	\$1,500
	No Evidentiary Hearing	\$750
	Habeas Corpus Proceeding	
	With Evidentiary Hearing	\$1,500

		No Evidentiary Hearing	\$750
	Aggravated Murder		
		Death Sentence	\$12,500
		Non-Death Sentence	\$5,000
	Murder		\$5,000
	Felony		
		Life Sentence	\$5,000
		Repeat Violent Offender Conviction	\$5,000
		Major Drug Offender Conviction	\$5,000
	All other Felonies		
		First, Second, or Third Degree Felony	\$3,000
		Fourth or Fifth Degree Felony	\$2,000
	Misdemeanors		\$1,000
	Contempt of Court		\$300
	Parole, Probation, and all other proceedings		\$500

Montgomery County Common Pleas Court
 General Division
 41 N. Perry St. P.O. Box 972
 Dayton, OH 45422
 www.montcourt.org

CIVIL REAL ESTATE APPRAISAL

	GENERAL DIVISION CASE NUMBER(S)
<input type="checkbox"/> PLAINTIFF	
<input type="checkbox"/> DEFENDANT	

PROPERTY ADDRESS (SEE ATTACHED LEGAL DESCRIPTION)

We, the undersigned, disinterested freeholders, residents of Montgomery County have been sworn by Phil Plummer, Sheriff of Montgomery County, to appraise impartially upon actual view, the above described real estate. We certify that we have each personally inspected this property upon actual view. After such view, we estimate the real value in money of said property as follows.

PROPERTY VALUE:

Appraiser				\$60.00
		Signature of Appraiser	Date	Fee
Appraiser				\$60.00
		Signature of Appraiser	Date	Fee
Appraiser				\$60.00
		Signature of Appraiser	Date	Fee

I certify that the above named appraisers are disinterested freeholders, residents of Montgomery County and were duly sworn to appraise impartially the above described premises, upon actual view.

Phil Plummer			
Sheriff, Montgomery County Ohio			
By:		Date	
	Deputy		

Montgomery County Common Pleas Court
 General Division
 41 N. Perry St. P.O. Box 972
 Dayton, OH 45422
 www.montcourt.org

CIVIL REAL ESTATE APPRAISAL-HOURLY FEE CALCULATION

	GENERAL DIVISION CASE NUMBER(S)
<input type="checkbox"/> PLAINTIFF <input type="checkbox"/> DEFENDANT	

PROPERTY ADDRESS (SEE ATTACHED LEGAL DESCRIPTION)

We, the undersigned, disinterested freeholders, residents of Montgomery County having been sworn by Phil Plummer, Sheriff of Montgomery County, to appraise impartially upon actual view, the above described real estate, after such view, estimate the real value in money of said property as follows.

PROPERTY VALUE: _____

We certify that this property is commercial or multiple unit property. We request that the appraisal fee be calculated on an hourly basis. We certify that the following hours were expended in determining the value of the property for the purpose of a Sheriff's Sale. Further, we certify that the Plaintiffs or Plaintiffs Attorney have been notified of this request to exceed the minimum fee.

Appraiser	ON-SITE INSPECTION AND EVALUATION HOURS	RESEARCH HOURS	TOTAL HOURS	FEE=TOTAL HOURS X \$40	
Signature of Appraiser					Date
Signature of Appraiser					Date
Signature of Appraiser					Date

I certify that the above named appraisers are disinterested freeholders, residents of Montgomery County and were duly sworn to appraise impartially the above described premises, upon actual view.

Phil Plummer			
Sheriff, Montgomery County Ohio			
By:		Date	
	Deputy		