

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

**Amendments to MONT. CO. C.P.R. 2.01
Civil Case Management Plan**

The General Division of the Montgomery County Court of Common Pleas will accept public comments until October 26, 2021, on *proposed* amendments to the court's Local Rules of Practice and Procedure, specifically, amendments to **Mont. Co. C.P.R. 2.01**.

Comments Requested: Pursuant to Mont. Co. C.P.R. 1.03 of the Local Rules of Practice and Procedure for the Montgomery County Court of Common Pleas and Rule 5 of the Rules of Superintendence for the Courts of Ohio, the proposed amendments are being published for a sixty-day comment period commencing Friday, August 27, 2021 and ending Tuesday, October 26, 2021. Please see the proposed amendments beginning on page 3.

Comments Requested

Comments regarding the adopted amendments to Mont. Co. C.P.R. 2.01 can be submitted via email to Candace.Anderson@montcourt.oh.gov or in writing to:

Candace Anderson, Administrative Staff Attorney
Montgomery County Common Pleas Court
41 N. Perry Street
P.O. Box 972
Dayton, OH 45422

**Amendments to MONT. CO. C.P.R. 2.03
Court Costs and Special Fees**

The General Division of the Montgomery County Common Pleas Court *adopted* amendments to **Mont. Co. C.P.R. 2.03** effective **August 19, 2021**.

Comments Requested: Pursuant to Mont. Co. C.P.R. 1.03 of the Local Rules of Practice and Procedure for the Montgomery County Court of Common Pleas and Rule 5 of the Rules of Superintendence for the Courts of Ohio, the adopted amendments are being published for a sixty-day comment period commencing Friday, August 27, 2021 and ending Tuesday, October 26, 2021. Please see the adopted amendments beginning on page 6.

Comments Requested

Comments regarding the adopted amendments to Mont. Co. C.P.R. 2.03 G can be submitted via email to Candace.Anderson@montcourt.oh.gov or in writing to:

Candace Anderson, Administrative Staff Attorney
Montgomery County Common Pleas Court
41 N. Perry Street
P.O. Box 972
Dayton, OH 45422

Amendments to APPENDIX G Civil Filing Fees

The General Division of the Montgomery County Common Pleas Court ***adopted*** amendments to **Appendix G** to the Local Rules of Practice and Procedure for the Montgomery County Court of Common Pleas effective **August 19, 2021**.

Pursuant to Mont. Co. C.P.R. 1.03 of the Local Rules of Practice and Procedure for the Montgomery County Court of Common Pleas and Rule 5 of the Rules of Superintendence for the Courts of Ohio, the adopted amendments are being published for a sixty-day comment period commencing Friday, August 27, 2021 and ending Tuesday, October 26, 2021. Please see the adopted amendments beginning on page 10.

Comments Requested

Comments regarding the adopted amendments to Appendix G can be submitted via email to Candace.Anderson@montcourt.oh.gov or in writing to:

Candace Anderson, Administrative Staff Attorney
Montgomery County Common Pleas Court
41 N. Perry Street
P.O. Box 972
Dayton, OH 45422

PROPOSED AMENDMENTS

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
Amended 2/17/21; Effective 3/1/2021

A. PURPOSE:

To establish, pursuant to [Sup.R. 5](#), 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 and/or for filing of waiver of service of summons pursuant to Civ.-R. 4.7.
- b. 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 [fourteen](#) ~~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 [fourteen](#)~~14~~-day period, the Court may dismiss the action for failure to prosecute pursuant to Civ.-R. 41(B) and Mont. Co. C.P.R. 2.15(B).
- c. If a plaintiff has requested that a defendant waive service of summons, the plaintiff shall file with the Clerk the waiver of service signed and returned by the defendant. If the plaintiff fails to file the defendant's waiver of service within the time provided by Civ.-R. 4.7, the plaintiff shall be notified to either file the waiver of service or to issue service on the defendant within [fourteen](#) ~~14~~ days of the filing date of the notification to either file the waiver of service or to issue service. If ~~thea~~ plaintiff fails to file the waiver of service, to issue service on the defendant, or to notify the Court why neither can be done, the Court may dismiss the action for failure to prosecute pursuant to Civ.-R. 41(B) and Mont. Co. C.P.R. 2.15(B).

d. Service by Publication: If a party requests service by publication, and such request is granted by the Court, service of notice shall be made by publication in accordance with Civ.R. 4.4, unless otherwise provided by law. Publication shall be made in the Daily Law Journal published by Cox Media Group, which is the official law journal of the Court as authorized by R.C. 2701.09.

~~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. ~~After~~Once all defendants have been served or have waived service of summons pursuant to Civ.-R. 4.7, every civil action shall be monitored for the answer(s) to be filed within the applicable period required by the ~~Ohio~~ Rules of Civil Procedure, or any extension permitted by the Court.

i. If any defendant fails to timely 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 fourteen ~~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 fourteen~~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 in which ~~where~~ an answer is filed within the applicable period: ~~of time required by the Ohio Rules of Civil Procedure, or as provided by any extension permitted by the Court:~~

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. either the Magistrate or the assigned Judge, as the case may be, shall hold an initial scheduling g/pretrial 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 Pretrial Order journalizing the filing and discovery~~

deadlines shall be filed following the initial scheduling/pretrial conference in accordance with Mont. Co. C.P.R. 2.07.

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.

AS AMENDED EFFECTIVE 8/19/2021

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
Amended 8/18/21; Effective 8/19/21

A. FILING FEE:

1. Unless otherwise provided by law, No civil action or proceeding shall be accepted for filing unless there is deposited as security for costs the ~~amount~~applicable sums 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. The Clerk is authorized to accept payment for the sums set forth in Appendix G via certain credit cards approved by its financial transactions device processor. The Clerk is further authorized to collect a non-refundable convenience fees for the use of e-checks, credit cards, and debit cards. The convenience fee rate shall not exceed the rate set and actually charged by the Clerk’s financial transactions device processor. The current rate shall be posted on the Clerk’s website and the eFile System’s portal.

~~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 a party initiating a civil action is unable to pay the applicable deposit for security as provided under this Rule, then the party shall apply for a fee waiver by filing a Financial Disclosure/Fee Waiver Affidavit in the form approved by the Ohio Supreme Court along with the complaint or other filing requiring a filing fee. The action or proceeding shall be accepted by the Clerk for filing, and the Financial Disclosure Fee Waiver Affidavit shall be reviewed by the Court in accordance with R.C. 2323.311.

- a. If the application for a fee waiver is approved by the Court, the Clerk shall waive the security deposit required by this Rule, and the Court shall proceed with the civil action or proceeding.
- b. If the application for a fee waiver is denied, the Clerk shall retain the filing of the civil action or proceeding, and the Court shall issue an order granting the applicant thirty days to make the payment required by this Rule.
- c. In accordance with R.C. 2323.311, at any time during the pendency of a civil action or proceeding, the Court may conduct a hearing to inquire into the applicant's status as an indigent litigant.

~~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~~ make available computerized legal research services.
2. As authorized under R.C. ~~§~~2303.201(A)(1), the Clerk shall charge an additional fee of ~~the~~ \$6.00 on the filing of each cause of action or appeal under divisions (A), (Q), and (U) of R.C. ~~§~~2303.20.
3. Except as otherwise provided by R.C. 2303.201(A), Aall fees collected pursuant to this Subsection shall be used for procuring and ~~the~~ 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~~ and 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. Except as otherwise provided by R.C. 2303.201(B), ~~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. Except as otherwise provided by R.C. 2303.201(E), ~~All~~ fees collected pursuant to ~~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. Except as otherwise provided by R.C. 2303.201(E), Aall 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. Except as otherwise provided by R.C. 2303.201(E), Aall 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. Except as otherwise provided by R.C. 2303.201(E), Aall 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.

AS AMENDED EFFECTIVE 8/19/2021

Appendix G (referred to in Mont. Co. C.P.R. 2.03, Costs 2.13, Payment of Witness Fees & 2.33, Aid of Execution)

CIVIL FILING FEES **Effective 8/19/2021**

Pursuant to Mont. Co. C.P.R. 2.03(A)(2) a non-refundable convenience fee shall be added in **addition to** the filing fees set forth below for payments that are made by e-check, credit card, or debit card.

Civil Complaints	
Foreclosure Complaints	\$525.00
Official Public Sheriff Sale Website / Integrated Auction Management System License (all Foreclosure Complaints)	\$220.00
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	
Service by Publication	TBD
Motion to Revive Dormant Judgment	\$50.00
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

AS AMENDED EFFECTIVE 8/19/2021

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
Praecipe for Authenticated Judgment	\$5.00
Certified Copies (per page)	\$1.00
Photocopies (per page)	\$0.10