

LOCAL RULES OF PRACTICE OF THE MONTGOMERY COUNTY COMMON PLEAS COURT, GENERAL DIVISION

Comments requested: The General Division of the Montgomery County Court of Common Pleas will accept public comments until February 29, 2024 on the court's newly proposed Local Rules of Practice. The Rules document in its entirety, as well as an Executive Summary, are set forth below.

The new Local Rules of Practice of the Montgomery County Common Pleas Court, General Division were approved for public comment by the Judges of the General Division at the regular Judges' Meeting held on December 20, 2023. 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 new Rules documents is being published for an extended comment period commencing January 5, 2024 and ending February 29, 2024.

Comments regarding the published rules can be submitted via email to Candace.Anderson@montcourt.oh.gov or in writing to:

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Comments must be received by 4:30 pm on Thursday, February 29, 2024. Please include your full name and regular mailing address in any comment submitted by email. Copies of all comments submitted will be provided to the Judges of the General Division for their review and consideration.



MONTGOMERY COUNTY

COMMON PLEAS COURT - GENERAL DIVISION

EXECUTIVE SUMMARY

Local Rules of Practice of the Montgomery County Common Pleas Court, General Division

At their regular monthly meeting on December 20, 2023, the Judges of the Montgomery County Common Pleas Court, General Division approved the publication of the Local Rules of Practice of the Montgomery County Common Pleas Court, General Division for public comment. This is a comprehensive re-write of the court's current local rules, which have been in effect since 1993. Since that date, the local rules have been reviewed and updated multiple times by amendment. The goal of the latest review of the local rules was not to merely amend those sections that need to be updated, but to create a rules document that is more easily read and navigable. For example, reference to statutory and rules of procedure remain in the proposed new rule to guide the reader to the appropriate authority, but the text is not repeated. In other cases, the proposed new rules have been rewritten for clarity, but without substantive changes. In drafting the new rules document, the court has ensured consistency with the Ohio Revised Code, the Ohio Rules of Civil Procedure, the Ohio Rules of Criminal Procedure, and the Rules of Superintendence for the Courts of Ohio.

While this Executive Summary cannot detail all of the specific language changes that the court is proposing in its new set of local rules, it provides a roadmap. Your comments are requested.

Section 1. Scope of Rules

Section 1. This Section concerns and provides introductory information regarding the published Rules (hereinafter "Rules") including the title of the Rules and their citation form. The current rules are entitled the Local Rules of Practice and Procedure for the General Division of the Montgomery County Common Pleas Court. Please note that Rule 1.01: Title changes the title and identifies the Rules as the Local Rules of Practice of the Montgomery County Common Pleas Court, General Division. In addition, this Section includes two new Rules that will be particularly helpful. Rule 1.06: Construction sets forth how to construe common words and phrases within the Rules, and Rule 1.07: Definitions defines certain terms that are used throughout the Rules. Other words are defined within a Rule if the use of that defined term is isolated to the specific Rule.

Section 2. Filing Requirements

This Section concerns and updates the Rules that govern the filing of documents with the court. The substance of many of the Rules in Section 2 is set forth in current Mont. Co. C.P.R. 1.15.

Rule 2.01. Filing of Court Documents

Generally, Rule 2.01 streamlines and reformats the language in various subsections of Mont. Co. C.P.R. 1.15. Certain defined terms contained in the current rule, such as Case Management System and Document Management System, were eliminated as unnecessary, and others (Clerk, Clerk Review, e-File System, e-File, and Public Access Terminal) were moved to Rule 1.07. Further, the exceptions to e-Filing found in Mont. Co. C.P.R. 1.15.J have been moved to this Rule.

In Subsection (B) of the new Rule, the language is edited to reflect the established practice regarding the confidential user name and password for each registered e-File user. Substantively, the concept found in Mont. Co. C.P.R. 1.15.D.3 that e-Filed documents are transmitted with the authorization of the signatory has been moved to Rule 2.02(E)(4).

Rule 2.02. Form of Court Documents

Generally, Rule 2.02 streamlines and reformats the language in Mont. Co. C.P.R. 1.15.F. Rule 2.02(D) is added to provide that e-Filed documents must have a title that matches the “Document Type Category” that is selected in the e-Filing System in an effort to avoid the misdirection of filings into the wrong judicial queues by the Clerk. The signature requirements for filings were modified to conform to changes made to Civ.R. 11, effective July 1, 2022.

Rule 2.03. Time, Effect, and Process of e-Filing

Rule 2.03 simply reformats Mont. Co. C.P.R. 1.15.G.1-4.

Rule 2.04. e-File System Errors

Rule 2.04 expands upon Mont. Co. C.P.R. 1.15(G)(5) and sets forth the Clerk’s responsibilities when there is a malfunction within the e-File System.

Rule 2.05. Personal Identifiers in Documents Filed with Clerk

Rule 2.05 rewrites Mont. Co. C.P.R. 1.15.I to conform to the language in Sup.R. 45(D) regarding personal identifiers in court filings. Substantively, the requirement that only a minor’s initials be used in civil filings is removed as such redaction is inappropriate without leave of court. In criminal filings, alleged victims must be identified only by initials to conform to HB 343.

Rule 2.06. Filing Sealed Documents

Generally, Rule 2.06 streamlines and reformats the language in Mont. Co. C.P.R. 1.41. Substantively, language is added to Rule 2.06(C) regarding the levels of access to provide for pro se filers, a filing category not addressed in the current rule. In addition, language is added to Rule 2.06(D)(3) to provide that the e-File System will not send a notice that a “Judge Access Only” document was filed if the Assigned Judge grants a motion under Crim.R. 12(C)(6)-(7) or Crim.R. 42(E)(2). These rules set forth the circumstances under which a request for the appointment of expert witnesses and investigators “may be made in camera and ex parte, and the order concerning the appointment shall be under seal.”

Rule 2.07. In Camera Documents

This Rule reformats Mont. Co. C.P.R. 1.41.C and makes no substantive changes.

Rule 2.08. Deposition Testimony

Generally, Rule 2.08 streamlines and reformats Mont. Co. C.P.R. 1.27. References to appropriate Civil Rules of Procedure and Rules of Superintendence for the Courts of Ohio are updated.

Rule 2.09. Removal of Papers from Custody of the Clerk

This Rule reformats Mont. Co. C.P.R. 1.15.L and eliminates the reference to the duplication of transcripts, as that topic is addressed in Section 10. Recording of Court Proceedings and Transcripts.

Section 3. Security Deposits and Fees

This Section concerns and updates the elements that comprise the security deposit required by the court upon the filing of an action. The Rules in this Section are contained in Mont. Co. C.P.R. 2.03, but have been reorganized into five separate rules.

Rule 3.01. Generally

Rule 3.01 is a new Rule that summarizes information currently set forth in various random rules. The last sentence of Rule 3.01, regarding the rejection of an electronically filed document if the filer has not complied with the mechanism established by the court for payment or waiver of the security deposit, is new language that complies with the requirements of Civ.R. 5(E)(3).

Rule 3.02. Security Deposits

Rule 3.02 reformats Mont. Co. C.P.R. 2.03.A.1 and makes no substantive changes.

Rule 3.03. Convenience Fee

Rule 3.03 reformats Mont. Co. C.P.R. 2.03A.2 and makes no substantive changes.

Rule 3.04. Indigent Litigant Application

Rule 3.04 reformats Mont. Co. C.P.R. 2.03A.3 and makes no substantive changes.

Rule 3.05. Additional Fees

Rule 3.05 identifies the special fees that have been authorized by the court to be assessed upon the filing of certain court proceedings in accordance with R.C. 2303.201.

Section 4. Service Requirements

This Section concerns and compiles all the Rules relating to service in one place. Under the current rules, service is referred to in Mont. Co. C.P.R. 1.15.H.1-6, Mont. Co. C.P.R. 2.01.B.1.d, and Mont. Co. C.P.R. 2.05.C.

Rule 4.01. Service

Generally, Rule 4.01 streamlines Mont. Co. C.P.R. 1.15.H.1-3 by referencing that service in civil cases will be accomplished as required by Civ.R. 4 through Civ.R. 5. This Rule also eliminates specific instructions regarding waiver of service, which are repetitive of Civ.R. 4.7. In addition, current Appendix A: “Notice of Lawsuit and Request to Waive Service of Summons” has been eliminated since it is identical to the form provided in Civ.R. 4.7.

Rule 4.02. Service of Filings Subsequent to the Original Complaint or Indictment

Rule 4.02 makes no substantive changes to Mont. Co. C.P.R. 1.15.H.4-6. It is reformatted and rewritten in parts for clarity.

Rule 4.03. Service by Publication

Rule 4.03 reformats Mont. Co. C.P.R. 2.01.B.1.d and makes no substantive changes.

Rule 4.04. Process Servers

Rule 4.04 makes non-substantive changes to Mont. Co. C.P.R. 2.05.C. It is reformatted and rewritten in parts for clarity.

Section 5. Case Assignment System

This Section concerns and updates the Rules regarding the court’s case assignment system. As written, this Section is reorganized and updated to comply with Sup.R. 36.01 through Sup.R. 36.019, which sets forth the individual assignment system established by the Ohio Supreme Court.

Rule 5.01. Case Assignment System

Rule 5.01 updates the language in the current rule to conform more closely to the language in Sup.R. 36.01(A) and Sup.R. 36.011.

Rule 5.02. Civil Dockets

Rule 5.02 reformats and reorganizes Mont. Co. C.P.R. 1.19.A. Subsection A.1 of the current rule provides that the administrative judge may be relieved of trial duties to utilize the time to manage the court’s docket. This concept is moved to Rule 5.04(B). Likewise, the self-recusal of an Assigned Judge is addressed in Rule 5.04(C). Finally, the current rule regarding the assignment of companion cases is deleted because this is not a concept normally utilized in the court, and it has caused confusion among practitioners.

Rule 5.03. Criminal Dockets

Rule 5.03 makes non-substantive changes to Mont. Co. C.P.R. 1.19.B relating to the assignment of criminal cases.

Rule 5.04. Reassignment of Cases

Rule 5.04 consolidates all of the rules relating to reassignment in one place. Rule 5.04(D) is a new rule. The exception for mortgage foreclosures is removed.

Rule 5.05. Unavailability of Assigned Judge

Rule 5.05 reformats Mont. Co. C.P.R. 1.19.A.7 with no wording changes.

Rule 5.06. Assignment of Cases to Newly Appointed or Elected Judges

Rule 5.06 reformats Mont. Co. C.P.R. 1.19.F with no wording changes.

Section 6. Civil Proceedings

This Section concerns and updates the Rules that are currently set forth in Mont. Co. C.P.R. 2.01 through 2.40 relating to civil practice in the court, with the exception of the current rule on civil mediation.

Rule 6.01. Civil Case Management Plan

Rule 6.01 affirmatively states that Section 6 establishes the court's civil case management plan in accordance with Sup.R. 5.

Rule. 6.02. Pretrial Procedures

Rule 6.02(A) makes non-substantive changes to the language of Mont. Co. C.P.R. 2.01.B.1.

Rule 6.02(B) combines the pretrial procedures that are currently in Mont. Co. C.P.R. 2.01.B.2 and Mont. Co. C.P.R. 2.07.B. In accordance with Civ.R. 16, this Rule instructs attorneys to consult with their clients in advance of the conference and to be prepared to discuss settlement, discovery, and other matters that may aid in the disposition of the case. Rule 6.02(B) also states that the court will issue a final pretrial order to establish the filing and discovery deadlines required by Civ.R. 16. In a change from Mont. Co. C.P.R. 2.07.B, Rule 6.02(B) simply refers to Civ.R. 16 rather than listing all of the dates to be included in the final pretrial order.

It should be noted that the service by publication rule set forth in Mont. Co. C.P.R. 2.01.B.1.d is moved to Rule 4.03, and the termination entry rule in Mont. Co. C.P.R. 2.01.B.3 is moved to Rule 6.08.

Rule 6.03. Pleadings and Pretrial Motions

Rule 6.03(A) streamlines the procedure in Mont. Co. C.P.R. 2.05.A for filing pleadings by eliminating detailed information contained in the current rule that is repetitive of other Rules and the applicable Rules of Civil Procedure.

Rule 6.03(B) streamlines the procedure in Mont. Co. C.P.R. 2.05.B for filing motions and related documents. The Rule adds a requirement that, unless a motion may be heard *ex parte*, the filing party must show proof of service. The Rule also contains a new provision that motions will not be automatically set for oral argument.

The section on process servers in Mont. Co. C.P.R. 2.05.C is moved to Rule 4.04.

Rule 6.04. Discovery

Rule 6.04 reformats and makes non-substantive language changes to Mont. Co. C.P.R. 2.09.A-E. The language in Mont. Co. C.P.R. 2.09.F regarding interrogatories is not transferred to Rule 6.04 because it is repetitive of Civ.R. 33.

Rule 6.05. Final Pretrial Statement and Conference

Rule 6.05 reformats and makes non-substantive language changes to Mont. Co. C.P.R. 2.07.C-D.

Rule 6.06. Dismissals

Rule 6.06 restates Mont. Co. C.P.R. 2.15 regarding voluntary and involuntary dismissals with two additions. The wording in Mont. Co. C.P.R. 2.15.B.4 is revised to reference Sup.R. 40 which requires cases to be dismissed for want of prosecution if no proceedings have been taken in six months. In addition, Rule 6.06(C) is added relating to the dismissal under Civ.R. 41(B)(1) of civil actions by inmates against government officials for failure to comply with R.C. 2969.25.

Rule 6.07. Judgment

Rule 6.07 makes several updates to Mont. Co. C.P.R. 2.17. As an initial matter, Rule 6.07(A) states that all motions for default judgment shall be submitted to the Assigned Judge and eliminates the extraneous references to “uncontested assessments of damages and statutory *ex parte* proceedings.” The filing party, not the Clerk or the court, remains responsible for serving a copy of the signed default judgment entry in accordance with Civ.R. 5. Substantively, language is eliminated in Mont. Co. C.P.R. 2.17.A.2.b, which requires that the proposed judgment entry include a certificate of service. Rule 6.07(A) states that service will be effected by the filer in accordance with Civ.R. 5.

Rule 6.07(B) relates to judgments by confession. Language is deleted from Mont. Co. C.P.R. 2.17.B that permits a judgment by confession to be granted by “any available Judge of the court . . .” in order to avoid any conflicts with the case assignment rules and procedures. This change makes irrelevant the language in the current rule that subsequent matters are to be referred to the Assigned Judge. The language regarding the certificate of service is also deleted to make the language consistent with that used in Subsection A as described above.

Rule 6.07(C) makes non-substantive language changes to Mont. Co. C.P.R. 2.17.C and adds a new sentence in compliance with Sup.R. 7, which requires the Assigned Judge to prepare and file a judgment entry if one is not submitted by the appropriate party within 30 days of a verdict, decree or decision.

Rule 6.07(D) restates the first sentence of Mont. Co. C.P.R. 2.21 regarding releases and assignments of judgments. The second sentence is unnecessary and has been deleted. It read: “No release, assignment or similar matter shall be written directly upon the appearance or execution dockets.”

Rule 6.07(E) reformats Mont. Co. C.P.R. 2.38 and makes no substantive changes.

Rule 6.08. Termination Entry

Rule 6.08 reformats Mont. Co. C.P.R. 2.02.B.3 and makes no substantive changes.

Rule 6.09. Judicial Sales of Real Estate

Rule 6.09 replaces Mont. Co. C.P.R. 2.23 – 2.25. In considering the applicable Revised Code sections, the distinction in the current rules between the sale of real estate by the Montgomery County Sheriff’s Office (“Sheriff’s Office”) and by a private selling officer is eliminated. *See, e.g.*, R.C. 2329.152(A)(2), (B) and (D); R.C. 2329.26; and R.C. 2329.27.

Rule 6.09(C) provides that judicial sales of real estate will be conducted through a Sheriff’s Sale, unless a private selling officer is requested. It further specifies that in order for a private selling officer to conduct the sale, a motion must be filed and a private selling officer must meet the requirements under R.C. 2329.152.

Rule 6.09(D) addresses “Form and Notice”. In comparing Mont. Co. C.P.R. 2.23.1.C with Mont. Co. C.P.R. 2.23.2.E, subsections (1), (2), (3) and (5) of each are identical and are merged at Rule 6.09(D). The additional requirements for the sale by a private selling officer at Mont. Co. C.P.R. 2.23.2.E.4, 6 are no different from the notice requirements for a sale by the Sheriff’s Office. R.C. 2329.152(A)(2) (a private selling officer “shall advertise and sell the real estate in conformity with applicable provisions of sections 2329.01 to 2329.61 of the Revised Code”). Thus, subsections (E)(4) and (E)(6) of the current rule are deleted and replaced by Rule 6.09(D)(1). Mont. Co. C.P.R. 2.23.1.D and Mont. Co. C.P.R. 2.23.2.F are identical and so are combined at Rule 6.09(D)(2). The “Writ for Appraisal” at Mont. Co. C.P.R. 2.23.2.C is deleted because this rule is included in the requirements at the last two sentences of R.C. 2329.152(A) and then at R.C. 2329.152(A)(2), and is included in the “Public Notice” section in Rule 6.09(D)(1) and the Sale by a private selling officer in Rule 6.09(C)(2).

Rule 6.09(E)(1) combines Mont. Co. C.P.R. 2.23.1.F and Mont. Co. C.P.R. 2.23.2.K, which are identical. Likewise, Rule 6.09(E)(2) combines the identical Rules Mont. Co. C.P.R. 2.23.1.G and Mont. Co. C.P.R. 2.23.2.J. The Rule does not list the deposit amounts for residential property sales and instead only refers to R.C. 2329.211(A)(1), the applicable statute, because the listed deposit amounts in the current rule merely repeat what is in the statute.

Rule 6.09(F) relates to “Property Appraisals”. Current rules Mont. Co. C.P.R. 2.23.1.H and Mont. Co. C.P.R. 2.23.2.L are identical and are consolidated at Rule 6.09(F)(2)-(3). Rule 6.09(F)(1) encompasses Mont. Co. C.P.R. 2.23.1.I, which addresses residential property appraisals for sales by the Sheriff’s Office and sales by a private selling officer, and keeps the distinction between the delivery of a residential appraisal for a sale by the Sheriff’s Office and a sale by a private selling officer.

Rule 6.09(G) includes the confirmation procedures explained in Mont. Co. C.P.R. 2.25 because it is the same for any public judicial sale, whether conducted by the Sheriff’s Office or by a private selling officer. Language requiring a hearing when the confirmation entry is not signed by all counsel of record is deleted.

Rule 6.09(H) encompasses the cancellation rules at Mont. Co. C.P.R. 2.23.1.E and Mont. Co. C.P.R. 2.23.2.G.

Rule 6.09(I) condenses Mont. Co. C.P.R. Rule 2.23.4 down to one sentence that restates the requirements in R.C. 2308.02. Rule 6.09(I) keeps the additional requirement that a motion for an expedited action must include the relevant factors found in R.C. 2308.02(C).

Rule 6.10. Special Remedies-Receiverships

Rule 6.10 replaces Mont. Co. C.P.R. 2.29. The proposed receiver rule is limited so that it applies only to cases in which a receiver is requested pursuant to R.C. 2735.01. This change has been made because under Mont. Co. C.P.R. 2.29.A.4 and 2.29.B.3, 4, a receiver must be qualified as specified in R.C. 2735.02 and R.C. 2735.03.

Rule 6.10(A) combines Mont. Co. C.P.R. 2.29.A.1-3 and Mont. Co. C.P.R. 2.29.B.1. The local rules supplement the Revised Code by requiring a hearing, at which the court determines whether it is proper under R.C. 2735.01 to appoint a receiver and whether the receiver is qualified. Mont. Co. C.P.R. 2.29.B.1.a is eliminated because it reads as if the parties choose a date, regardless of the court calendar. Rule 6.10(A)(2) requires that the court select the hearing date on all motions to appoint receivers, whether in foreclosure or non-foreclosure cases.

Rule 6.10(B)(1) and (2) specifies that any receiver appointed under R.C. 2735.01 must take the required oath and post the required bond. *See*, R.C. 2735.03. The bond amounts under Mont. Co. C.P.R. 2.29.B.4 are found at Rule 6.10(B)(2). The “Duties of Receivers” at Mont. Co. C.P.R. 2.29.A.5 and Mont. Co. C.P.R. 2.29.B.5 are included at Rule 6.10(B)(3), but are set forth in a more streamlined manner.

Rule 6.10(C) reorganizes and reformats Mont. Co. C.P.R. 2.29.C and makes no substantive changes.

Rule 6.10(D)(2) reorganizes and reformats Mont. Co. C.P.R. 2.29.D and makes no substantive changes.

Rule 6.11. Procedure After Remand

Rule 6.11 reformats Mont. Co. C.P.R. 2.18 and makes no substantive changes.

Rule 6.12. Appeal from Administrative Agencies

Rule 6.12 reformats Mont. Co. C.P.R. 2.37 and makes non-substantive language changes for clarity. The Rule specifies that any memoranda after a reply be filed only with leave of court.

Rule 6.13. Certification of Qualification for Employment

Rule 6.13 is rewritten to reflect the changes made to the CQE procedure in R.C. 2953.25 and Ohio Admin.Code 5120-15-01 since 2016.

Rule 6.14. Magistrate

Rule 6.14 reformats Mont. Co. C.P.R. 2.31 and makes non-substantive language changes for clarity. Substantively, a specific reference to the filing of objections under Civ.R. 65.1, which relates to civil stalking protection order cases, is added to Rule 6.14(C). This rule was rewritten with input from the court's Magistrates.

Section 7. Civil Mediation

This Section concerns civil mediation and rewrites Mont. Co. C.P.R. 2.39. Several changes were made to update the Rule under Sup.R. 16.21 and the Ohio Uniform Mediation Act.

Rule 7.01. Introduction

Rule 7.01 is a new Rule that incorporates by reference the Ohio Uniform Mediation Act into the Rule and addresses matters of confidentiality and privilege during the mediation process.

Rule 7.02. Scope of Mediation

Rule 7.02 sets forth the specific types of civil cases that cannot be mediated under Sup.R. 16.21, and clarifies the language in the current rule regarding the actions that need to be taken in the event of domestic abuse allegations between parties. Rule 7.02(A) sets forth that the Assigned Judge continues to manage the case throughout the mediation process.

Rule 7.03. Referral and Scheduling

Rule 7.03 updates the process for referrals and scheduling of mediations in accordance with current practice in the mediation office. Outdated language referring to the Chief Magistrate as the mediation liaison to settle disputes is eliminated. Pursuant to Rule 7.02(A), settling case disputes would now fall to the Assigned Judge. In keeping with current practice, Rule 7.03(D) describes the mediation scheduling order that will be issued after mediation is scheduled.

Language in Mont. Co. C.P.R. 2.39.B.2 relating to conflicts of interest on the part of the mediator is deleted due to the incorporation by reference of the Ohio Uniform Mediation Act, which establishes the standard for conflicts.

Rule 7.04. Mediation Status Conference and Rule 7.05. Mediation Conference Statement

Rule 7.04 and Rule 7.05 condense the instructions set forth in Mont. Co. C.P.R. 2.29.B.3 for the mediation status conference and statement, and conform to the current practice in the mediation office.

Rule 7.06. Mediation Conference

Rule 7.06 sets forth the attendance and continuance requirements for a mediation conference in a more complete and organized manner than as written in Mont. Co. C.P.R. 2.39.B.4. A requirement has been added that if more than one additional mediation conference is scheduled, it must be approved by the Assigned Judge. Likewise, language is added that more than one continuance, and any continuance that would affect the trial date, must be approved by the Assigned Judge.

Rule 7.07. Settlement Agreement

This Rule reformats Mont. Co. C.P.R. 2.39.B.9 and makes no substantive changes.

Rule 7.08. Cancellation of Mediation Conference

Rule 7.08 condenses Mont. Co. C.P.R. 2.39.D by deleting unnecessary language regarding the mediator's fee. The Rule provides that the mediator will be compensated \$600 for a full-day mediation conference and \$300 for a half-day conference. Notably, Rule 7.08 eliminates the reference in Mont. Co. C.P.R. 2.39.D that a mediator may seek additional compensation from the Assigned Judge. It also deletes Mont. Co. 2.39.D.1.c, which states 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."

Section 8. Criminal Proceedings

This Section concerns and updates the Rules that are currently set forth in Mont. Co. C.P.R. 3.01 through 3.16 relating to criminal practice in the court. Current rules were reorganized and separated into individual Rules to make them more logically sequenced and readable.

Rule 8.01. Criminal Case Management Plan

Rule 8.01 is a condensed re-write of Mont. Co. C.P.R. 3.01 to state the purpose of Section 8 and eliminate unnecessary language.

Rule 8.02. Grand Jury

Rule 8.02 revises Mont. Co. C.P.R. 3.07 by adding, "[t]he Grand Jury Judge shall handle all Grand Jury matters. Unless otherwise determined by the Grand Jury Judge, this includes all pre-indictment and pre-arraignment matters." In addition, Subsection (B) follows the language of Mont. Co. C.P.R. 3.07 but adds the last sentence, which clarifies that all Grand Jury continuances must be presented to and approved by the Grand Jury Judge.

Rule 8.03. Arraignment

Rule 8.03 is condensed to set forth the procedure at arraignment.

Rule 8.04. Discovery

Rule 8.04 condenses Mont. Co. C.P.R. 3.03.B by referencing the applicable sections of Crim.R. 16 rather than relisting the elements of required discovery in the Rule. Rule 8.04(B) makes the rule regarding reciprocal discovery more concise without making any substantive changes.

Rule 8.05. Court Conferences

Rule 8.05 revises Mont. Co. C.P.R. 3.03.C to set forth the current court practice for the setting of court conferences in criminal cases. Rule 8.05(D) is added regarding the production of materials to be read into evidence. The language in Mont. Co. C.P.R. 3.03.C.2 regarding when a change of plea should be made is deleted because this is a matter within the discretion of the Assigned Judge, and the instructions regarding pleas are explicitly set forth in Crim.R. 11 and R.C. 2943.03.

Rule 8.06. Witness Lists

Rule 8.06 reformats Mont. Co. C.P.R. 3.03.D and adds the requirement that the witness list include the name of any witness named in a Crim.R. 12.2 Notice of Self-Defense.

Rule 8.07. Continuance of a Criminal Case

Rule 8.07 reformats Mont. Co. C.P.R. 3.05 and makes non-substantive changes, as well as requiring counsel to provide a proposed order with a written request for a continuance.

Rule 8.08. Court Appointment of Counsel for Indigent Defendants

Rule 8.08 rewrites Mont. Co. C.P.R. 3.09. This Rule sets forth that appointed counsel must meet the qualifications and education requirements set forth in Ohio Adm.Code 120-1-10, whereas the current rule restates those qualifications and training requirements. See Rule 8.08(D). The Rule specifies that any attorney with the necessary qualifications who is in good standing with the Ohio Supreme Court and has attended the Dayton Bar Association Criminal Law Certification Seminar sponsored by the court may apply for inclusion on the court's Appointed Counsel List. See Rule 8.08(E).

In addition, the Rule requires that each attorney on the appointed counsel list to attend the Dayton Bar's Annual Criminal Law Update as part of the yearly CLE requirement under Ohio Admin. Code 120-1-10. See Rule 8.08(F).

Rule 8.08(H) requires that attorneys on the Appointed Counsel List comply with all applicable rules and subjects an attorney to an immediate suspension or reduction in cases whenever a grievance against the attorney is certified by the Board of Professional Conduct and made public.

Rule 8.08(I) contains language required by Sup.R. 8 regarding regular appointments in the court. Rule 8.08 deletes the Mentor List description set forth in Mont. Co. C.P.R. 3.09.F as the court no longer manages an appointed counsel mentor program.

Rule 8.09. Appointed Counsel Compensation

Rule 8.09 mirrors recently adopted Mont. Co. C.P.R. 3.11 with a few notable exceptions. Rule 8.09(A)(4)(c)-(d) further reduces compensation when appointed counsel fails to timely submit a pay packet to the court. The Rule states that compensation be reduced by 50% when a pay packet is submitted between 31 and 60 days late, and by 75% when the pay packet is submitted between 61 and 90 days late. Further, compensation is denied altogether when counsel submits the pay packet more than 90 days late. This section also specifically states the deadline for submitting a Pay Packet when an appointed attorney withdraws or is removed from a case. Finally, Subsection (D) sets forth the maximum amounts that will be authorized for expert expenses without additional court approval.

Rules 8.10-8.14. Specialized Docket Rules

The rules for the specialized docket courts were comprehensively reviewed and revised in October 2022. In addition, the new rule for Kushinda Court is included. This draft of the Rules makes no substantive changes, but does uniformly use the term “offender” when referring to a defendant on one of the specialty court dockets. In the current rules, offenders are referred to as defendants, offenders, or participants.

Section 9. Attorneys

This Section concerns and updates the Rules relating to the conduct of Attorneys practicing in the court. The following rules promulgated by the Ohio Supreme Court were reviewed as a guide to this Section: Gov.Bar. R. I; Gov.Bar.R. XII; Sup.R. 6; Sup.R. 6.01 and Sup.R. 41.

Rule 9.01. Notice of Appearance

Rule 9.01 is a new Rule that establishes that an attorney must enter a Notice of Appearance and sets forth the procedure for doing so in both civil and criminal cases.

Rule 9.02. Withdrawal of Appearance

Rule 9.02 reformats Mont. Co. C.P.R. 1.31.A and makes no substantive changes.

Rule 9.03. Conduct

Rule 9.03 reformats Mont. Co. C.P.R. 1.31.B and makes no substantive changes.

Rule 9.04. Trial Counsel

Rule 9.04 reformats Mont. Co. C.P.R. 1.31.D and makes no substantive changes.

Rule 9.05. Admission of Out of State Attorneys

Rule 9.05 reformats Mont. Co. C.P.R. 1.31.E and deletes the last sentence of that rule, which states that the Assigned Judge may require local counsel on the case.

Section 10. Recording of Court Proceedings and Transcripts

This Section concerns and rewrites Mont. Co. C.P.R. 1.29 and 1.30 to, among other things, clarify the different processes for obtaining recordings and transcripts of civil and criminal proceedings.

Rule 10.01. Official Recordings of Court Proceedings

Rule 10.01(A) reformats Mont. Co. C.P.R. 1.30. In addition, Subsection (A)(2) is added to address stenographic recordings in capital cases, as required by App.R. 9(A).

Rule 10.01(B) is a new Rule regarding the court's official transcribers.

Rule 10.01(C) is a new Rule that alerts the public as to where transcription rates may be found.

Rule 10.02. Requests for Preparation of Videos of Proceedings and Transcripts

Rule 10.02 rewrites Mont. Co. C.P.R. 1.29 to set forth the proper procedures for requesting video recordings and transcripts of court proceedings. The current rule, Mont. Co. C.P.R. 1.29, is confusing as written and does not thoroughly explain the processes for different types of cases. For example, there is no procedure in Mont. Co. C.P.R. 1.29 to obtain a transcript in a civil case. Rule 10.02 is revised to delineate between civil and criminal cases, as well as "appeal" and "non-appeal" requests. A definition for "appeal" has been added to clarify this distinction. The Rule further explains the different processes in criminal cases for appeal and non-appeal requests and those involving indigent defendants.

Section 11. Broadcasting and Photographing Court Proceedings

This Section concerns and updates the procedure for requests to broadcast and photograph court proceedings and to conduct interviews in the courthouse.

Rule 11.01. Authorization

Rule 11.01 reorganizes and clarifies the process set forth in Mont. Co. C.P.R. 1.25(A-C). Requests are to be made using the appropriate forms in Appendix F and G. Two appendices associated with Mont. Co. C.P.R. 1.25 that were the form of the orders signed by Judges when granting a request to broadcast a proceeding or interview under this Rule were eliminated. These orders remain available to judicial offices for use through Courtview, but were extraneous as appendices.

This Rule also prohibits livestreaming in the courthouse without the prior authorization of the appropriate judge.

Rule 11.02. Permissible Equipment and Operators

Rule 11.02 reorganizes and updates the rules for acceptable recording equipment in accordance with Sup.R. 12.

Rule 11.03. Limitations

Rule 11.03 reorganizes and streamlines the language on the limitations for recording in the courthouse. Rule 11.03(B) states that no livestreaming will be permitted in the courthouse without authorization the appropriate judge.

Rule 11.03(C), contains a prohibition on recording “conferences . . . between attorneys and clients, of conferences between co-counsel, or of bench conferences between counsel and the Grand Jury Judge or the Assigned Judge.” In addition, the language in Mont. Co. C.P.R. 1.25.C.3.c prohibiting recording in jury deliberation rooms at any time during the course of the trial or after the case has been submitted to the jury is removed because there is a prohibition on recording jurors “at any time” in Rule 11.03(C)(3).

Additional limitations on recordings set forth in the Rule 11.03 consist of juror and ethical considerations and requirements for new judicial authorization when a proceeding is continued.

Rule 11.04. Sanctions

Rule 11.04 reformats Mont. Co, C.P.R. 1.25.D, which provides that a judge may revoke approval to record or livestream a proceeding at any time and sets forth the sanctions for unauthorized recordings. The Rule adds a new Subsection (C) setting forth sanctions for unauthorized livestreaming

Section 12. General Rules

This Section concerns and updates various general rules relating to the conduct of court proceedings.

Rule 12.01. Sessions of the Court

Rule 12.01 reformats Mont. Co. C.P.R. 1.07 and makes no substantive changes, except to move the definition of “Court Day” to Rule 1.07.

Rule 12.02. Interpreters

Rule 12.02 is a new Rule written to demonstrate the court’s compliance with Sup.R. 88 through 89, which set the standards for the appointment of foreign language and sign language interpreters. Rule 12.02(D) directs the public to the court’s Language Access Plan on the court’s website.

Rule 12.03. Jury Management Plan

Sup.R. 5(D) requires that the court adopt a jury management plan that “addresses the provisions of the Ohio Trial Court Jury Use and Management Standards adopted by the Supreme Court on August 16, 1993, and procedures for conducting a trial by jury, whether in whole or in part, remotely.”

The Jury Management Plan set forth in Mont. Co. C.P.R. 1.23 does not directly address all of the matters set forth in the standards required by Sup.R. 5. The Jury Management Plan is revised to address all of the required topics. Further, the procedure for jury views set forth in Mont. Co.

C.P.R. 1.31(C) is moved to Subsection L of the Jury Management Plan. Because of the length and pro forma nature of the Jury Management Plan, it is included as an appendix to the Rules.

The language in Sup.R. 5(D) regarding remote jury trials was added last year in anticipation of the Ohio General Assembly adopting proposed changes to the Ohio Rules of Procedure regarding remote trials. Since those rules were not adopted, procedures for remote jury trials are not contained in the Rules. A modified proposal to the Ohio Rules of Procedure for remote judicial proceedings has been recommended. If adopted by the Ohio General Assembly, there may be a need to make additional changes to the Jury Management Plan.

Rule 12.04. Court Technology Plan

Sup.R. 5(E) requires that the court adopt a technology plan. This is the new rule that confirms adoption of such a plan by the court.

Rule 12.05. Use of Physical Restraints on Children Appearing in Court Proceedings

Rule 12.05 is new Rule required under Sup.R. 5.01.

Rule 12.06. Procedure for Adopting, Modifying, and Appealing Local Rules

Rule 12.06 reformats and generally makes non-substantive language changes to Mont. Co. C.P.R. 1.03 for clarity. A change, however, is made to the vote formula for the emergency passage of a local rule. Mont. Co. C.P.R. 1.03.B.2.b requires a three-fourths majority of the court, which mathematically is between eight and nine judges. Rule 12.05(B)(2) revises that to a firm number of eight judges required for emergency passage. The Rule also clarifies that all rules, whether adopted as an emergency provision or following a comment period, go into effect on the date directed by the court.

Rule 12.07. Effective Date

Rule 12.07 sets an effective date for the Rules.

Eliminated Rules

The following current rules are eliminated from the proposed rules document. Each rule listed below is unnecessary under applicable law and rules.

Mont. Co. C.P.R. 1.05. Terms of Court

Mont. Co. C.P.R. 1.09. Divisions of Court

Mont. Co. C.P.R. 1.11. Facilities

Mont. Co. C.P.R. 1.12. Court Security

Mont. Co. C.P.R. 1.13. Court Administrator

Mont. Co. C.P.R. 1.19(G). Foreign Executions and Other Ancillary Matters

Mont. Co. C.P.R. 1.21. Bail or Surety

Mont. Co. C.P.R. 2.13. Payment of Witness Fees

Mont. Co. C.P.R. 2.19. Ex Parte Orders

Mont. Co. C.P.R. 2.27. Attorney's Fees in Mechanic's Lien Cases



MONTGOMERY COUNTY

COMMON PLEAS COURT - GENERAL DIVISION

Montgomery County Common Pleas Court General Division

Local Rules of Practice

**LOCAL RULES OF PRACTICE OF THE MONTGOMERY COUNTY COMMON
PLEAS COURT, GENERAL DIVISION
MONTGOMERY COUNTY, OHIO**

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SECTION 1. SCOPE OF RULES

Rule 1.01 Title

These rules shall be known as the Local Rules of Practice of the Montgomery County Common Pleas Court, General Division (“Rules”).

Rule 1.02 Purpose

The purpose of these Rules is to promote the simplicity and fairness in procedure, the orderly management of cases, and the efficient administration of justice in all cases filed with the Montgomery County Common Pleas Court, General Division.

Rule 1.03 Authority

These Rules are promulgated pursuant to Article IV, Section 5 of the Ohio Constitution, Rule 83 of the Ohio Rules of Civil Procedure, Rule 57 of the Ohio Rules of Criminal Procedure, Rule 5 of the Rules of Superintendence for the Courts of Ohio, and all applicable sections of the Ohio Revised Code.

Rule 1.04 Applicability

These Rules shall apply to all documents filed with and all proceedings conducted before the court.

Rule 1.05 Citation

These Rules shall be cited as “Mont. Co. C.P.R. ____.”

Rule 1.06 Construction

These Rules shall be construed as follows:

(A) Shall, Must, May, and Should

“Shall” and “Must” are mandatory. “May” is permissive. “Should” is suggested or recommended.

(B) And

If the sense requires it, “and” may be read as “or” and “or” may be read as “and.”

(C) Common and Technical Use of Words and Phrases

Words and phrases shall be read in context and construed according to the rules of grammar and common usage. Words and phrases that have acquired a technical or particular meaning, whether by definition, by rule, or otherwise, shall be construed accordingly.

(D) Singular and Plural

The singular includes the plural, and the plural includes the singular.

(E) Gender

Words of one gender include the other genders.

(F) Tense

Words in the present tense include the future.

(G) Rule Presumed Prospective

A rule shall be presumed to be prospective in its operation unless expressly made retrospective.

(H) Specific Rule Prevails Over General

If a general rule conflicts with a specific rule, it shall be construed, if possible, so that effect is given to both. If the conflict between the rules is irreconcilable, the specific rule prevails as an exception to the general rule, unless the general rule is the later adoption and the manifest intent is that the general rule prevails.

(I) References to Rule and Statutes

References to a specific section of the Revised Code or Ohio Administrative Code, a specific Rule of Procedure, or a specific Rule of Superintendence for the Courts of Ohio, shall be read to mean as now in effect or hereafter amended.

Rule 1.07 Definitions

As used in these Rules:

- (1) “Administrative Judge” means the Judge elected by the court to serve in that position or otherwise determined pursuant to Sup.R. 4.
- (2) “Assigned Judge” means the Judge to whom a case is randomly assigned by lot and who is responsible for determining all matters in the case.
- (3) “Clerk” means the Montgomery County Clerk of Courts.
- (4) “Clerk Review” means a review of electronically-filed documents by the Clerk in accordance with these Rules, policies, procedures, and practice. The Clerk may review the data and documents electronically submitted to ensure compliance with these Rules, policies, procedures, and practices before creating a docket entry or before docketing the case.
- (5) “Court Day” means Monday through Friday, excluding the days set forth in Rule 12.01(B).
- (6) “e-File System” means the court’s authorized electronic filing system.

- (7) “e-File” means the electronic transmission, acceptance, and processing of a filing. An e-Filed submission may consist of data, one or more documents, and images. This definition of e-File does not apply to facsimile or email.
- (8) “Grand Jury Judge” means the Judge assigned by the court to supervise the Grand Jury and preside over arraignments.
- (9) “Judicial Assistant” means the judicial staff person responsible for audiovisual and other technology needs in the courtroom.
- (10) “Public Access Terminal” means a terminal located in the Clerk’s office for use by the public during regular business hours.

SECTION 2. FILING REQUIREMENTS

Rule 2.01 Filing of Court Documents

(A) e-Filing Generally

- (1) *Filing.* Unless otherwise set forth in this Rule, all documents filed with the Clerk must be submitted through the e-File System.
- (2) *Exceptions to e-Filing.* The following documents shall be submitted in paper form instead of through the e-File System:
 - (a) Documents filed under seal and designated “Judge Access Only,” as provided in Rule 2.06;
 - (b) Documents submitted for in camera review, as provided in Rule 2.07;
 - (c) Exhibits, attachments, or other documents that cannot be comprehensively viewed as a .pdf; and
 - (d) Documents related to Certificates or Executions of Judgment.
- (3) *Registration.* All attorneys must register with the e-File System. The e-File System shall be used to file, serve, receive, review, and retrieve copies of all e-Filed documents in civil or criminal cases, except as otherwise specifically provided in these Rules. Pro se parties may, but are not required to, register with the e-File System.
- (4) *Pro Se Parties.* Pro se parties who are not registered users of the e-File System may file documents in paper form by U.S. Mail, commercial carrier, or in person with the Clerk.
- (5) *Public Access Terminal.* All registered users of the e-File System may file a document using the Public Access Terminal. Registered users of the e-File System may electronically file documents through the Public Access Terminal. All users shall be charged for printed copies of documents at rates permitted by law.

(B) Confidential User Name and Password

An individual registered with the e-File System shall maintain a confidential user name and password that will be used to file, serve, receive, review, and retrieve e-Filed documents in a case. Each person registered with the e-File System shall be responsible for the security and use of such user name and password.

(C) Official Court Record

For documents that have been e-Filed or documents filed in paper form that have been scanned and uploaded to the e-File System by the Clerk, the electronic version constitutes the official court record.

Rule 2.02 Form of Court Documents

(A) Pagination Requirements

All pleadings, motions, briefs, and other documents shall be typewritten or printed, double spaced, on 8 ½ inches x 11 inches paper, not less than 11-point and not greater than 12-point regular type font, paginated sequentially. Filings prepared in a pleading format shall reserve a blank space of at least two and one-half inches at the top of the first page for endorsements and shall have appropriate side and bottom margins of not less than one inch. 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. An e-Filed document shall not contain external links.

(B) Filing Format

All e-Filed documents, pleadings, and papers shall be filed with the Clerk in .pdf format except that proposed orders and entries shall be submitted in Word [.doc] format.

(C) Size of e-Filed Documents

Individual documents included in a submission shall not exceed 10 megabytes in size. Any combination of documents e-Filed in one submission shall not exceed 30 megabytes in size.

(D) Title of Filing

All e-Filed documents must have an appropriate title that matches the “Document Type Category” that is selected in the e-File System.

(E) Signatures

(1) *Conformed Signatures.* e-Filed documents that require the signature of the attorney or filing party shall be signed with a conformed signature of “/s/ [name].”

(2) *Attorneys.* The correct format for an attorney’s conformed signature is as follows:

/s/Attorney Name
Attorney Name [name]
Bar Number 1234567
Attorney for [Plaintiff/Defendant] XYZ Corporation
ABC Law Firm
Address
Telephone Number
Facsimile Number (if any)
Business E-mail address (if any)

(3) *Pro Se.* The correct format for a pro se party's conformed signature is as follows:

/s/Party Name

Party Name [name]

Address

Telephone Number

Facsimile Number (if any)

Personal E-mail Address (if any)

(4) *Conformed Signature Meets Signature Requirements.* The conformed signature on an e-Filed document is deemed to constitute a signature on the document for purposes of signature requirements imposed by the Rules of Superintendence for the Courts of Ohio, the Ohio Rules of Civil Procedure, the Ohio Rules of Criminal Procedure, and any other legal authority. Any signature on an e-Filed document shall be considered that of the attorney or party it purports to be for all purposes. If it is established that a document was transmitted without authority, the court shall order the document stricken.

(5) *Documents Requiring Two or More 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) e-File the document, indicating the signatories, e.g., /s/ Paralegal Jane Doe, /s/ John Smith, etc.

(6) *Documents Requiring Original Signature.* Documents requiring an original signature, such as an affidavit or other notarized documents, shall be e-Filed as a .pdf. The filer shall maintain the signed document in the filer's records and have it available for production upon request of the court. The signed document shall be maintained until the case is closed and the time for appeal has expired, or the appeal has been heard or denied and all opportunities for post-judgment relief are exhausted.

(7) *Judicial Officer Signatures.* e-Filed documents may be signed by a Judge or other judicial officer via a digitized image of the Judge's or judicial officer's 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 or judicial officer had affixed a handwritten signature to a paper copy of the document and journalized it.

Rule 2.03 Time, Effect, and Process of e-Filing

(A) Submission

Any filing may be e-Filed with the Clerk 24 hours a day, seven days a week.

(B) Receipt

Upon receipt, the e-File 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.

(C) Clerk Review

After Clerk Review, a filer will receive notification from the Clerk that the submission has been rejected or accepted by the Clerk. If the submission is rejected, the document shall not become part of the official court record and the filer shall be required to resubmit the document to meet the requirements. The resubmitted document shall receive a new submission date and time. If the submission is accepted, the document shall be docketed and filed and become part of the official court record.

(D) Official Time Stamp

An accepted 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 e-File System as well as the unique confirmation number of the filing.

Rule 2.04 e-File System Errors

The Clerk shall notify the court and the public of any outage within the e-File System. When the e-File System is subject to an outage, the following provisions apply:

(A) Planned Outage

If an e-File System outage is planned or anticipated, the Clerk shall post advance notice on the Clerk's website and on the e-File System's portal to alert filers of a possible system outage.

(B) Unexpected Outage

If an e-File System outage is unexpected, the Clerk shall, as soon as practicable, but no later than one hour after the outage, post a message on the Clerk's website and on the e-File System's portal to alert filers of the outage.

(C) Paper Filing

In the event of an unexpected e-File System outage, documents may be filed in paper format to comply with jurisdictional deadlines.

Rule 2.05 Personal Identifiers in Documents Filed with Clerk

(A) Redaction of Personal Identifiers

Social security numbers and other personal identifying information shall be redacted from documents before the documents are filed with the court in accordance with Sup.R. 45(D). The responsibility for redacting personal identifying information rests solely with the parties who file the documents. The Clerk will not review the documents to confirm that personal identifying information has been excluded. If personal identifying information is redacted or omitted from a document, the information shall be provided to the court on a separate form that indicates what information has been redacted or omitted, and provides the location of the redacted or omitted information.

(B) Leave to Redact

A party may file a motion for leave to redact a previously filed document if personal identifying information was not omitted or redacted when the document was initially filed.

(C) Victims in Criminal Cases

In all criminal filings, an alleged victim shall be identified only as “alleged victim” or by initials.

Rule 2.06 Filing Sealed Documents

(A) Definitions

As used in this Rule, the terms “public access,” “direct access,” and “remote access” shall be defined as provided in Sup.R. 44.

(B) Motion to File Sealed Documents

The Clerk shall not accept any document to be filed under seal unless a party has filed a motion which has been approved by the Assigned Judge. The motion shall designate the requested level of access and must be filed pursuant to Rule 2.01. The filer shall also submit a proposed order, as provided in Rule 6.03, designating the level of access. The documents that are petitioned to be filed under seal shall not be attached to the motion, as the motion will not be sealed.

(C) Levels of Access

The following levels of access may be requested for the sealing of documents:

- (1) “*No Remote Access by Public*” means that access to documents via the Clerk’s Public Records Online system (“PRO”) and the e-File System will be limited to Judges, court staff, Clerk staff, counsel of record, and pro se parties who are registered users of the e-File System. For all other persons, access to documents will be available only through the Clerk’s office, during regular business hours;
- (2) “*No Remote or Direct Access by Public*” means that access to documents via PRO and the e-File System will be limited to Judges, court staff, Clerk staff, counsel of record, and pro se parties who are registered users of the e-File System. For pro se parties who are not registered users of the e-File System, access to documents will be available only through the Clerk’s office, during regular business hours. For all other persons, there will be no access to documents available through the Clerk’s office; and
- (3) “*Judge Access Only*” means that access to documents will be limited to the Assigned Judge. Only the docket will be available through PRO and the e-File System.

(D) Method of Filing

If a motion to file documents under seal is granted, the documents subject to the order shall be filed as follows, according to the level of access:

- (1) “*No Remote Access by Public*” means the documents shall be e-Filed pursuant to Rule 2.01.

(2) “*No Remote or Direct Access by Public*” means the documents shall be e-Filed pursuant to Rule 2.01.

(3) “*Judge Access Only*” means the documents shall be filed as set forth below:

- (a) The documents shall be filed with the Clerk, secured in a sealed envelope, with the following information on the face of the envelope: 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 documents to be sealed; and a conspicuous notation stating “DOCUMENTS UNDER SEAL – JUDGE ACCESS ONLY.”
- (b) The Clerk shall file stamp the face of the envelope, enter on the docket that the documents were filed under seal with “Judge Access Only,” and retain the envelope in the Clerk’s office.
- (c) Unless the Assigned Judge grants the filer’s motion under Crim.R. 12(C)(6), Crim.R. 12(C)(7), or Crim.R. 42(E)(2) to the contrary, the court’s e-File system shall send a notice that documents with “Judge Access Only” were filed. The filer shall notify pro se parties not registered with the court’s e-File system that documents with “Judge Access Only” were filed.

(E) Means of Restricting Public Access to Documents

This Rule shall not be construed to limit the means by which the court may restrict public access to documents pursuant to Sup.R. 45.

Rule 2.07 In Camera Documents

Unless otherwise ordered by the Assigned Judge, documents submitted for in camera review shall be submitted directly to the Assigned Judge and shall not be filed with the Clerk. If the Assigned Judge orders that documents submitted for in camera review be filed with the Clerk, the filer shall follow the procedures for “Judge Access Only” filings as set forth in Rule 2.06.

Rule 2.08 Deposition Testimony

(A) Filing of Written Deposition Transcript

- (1) *Deadline for Filing.* In addition to the requirements set forth in Civ.R. 30, 31, and 32, and in 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) *e-Filing and Redaction.* Except as otherwise provided in Rule 2.06, all written deposition transcripts, including attachments and exhibits, shall be filed through the court's e-File System in accordance with Rule 2.01 and Civ.R. 30. Pursuant to Rule 2.05, the filing party shall omit or redact all personal identifying information as defined under Sup.R. 44(H) from a written deposition transcript prior to filing.

(3) *Notice and Certification.* The Clerk shall not accept any written deposition transcript unless it is accompanied by a Notice of Filing Deposition Transcript and Certification of Compliance. The Notice of Filing Deposition Transcript shall identify the deponent and the date the deposition was taken and include the certification of the officer who took the deposition in compliance with Civ.R. 30. The Certification of Compliance shall include a certification from counsel that the written deposition transcript is being filed in compliance with this Rule and Rule 6.04(D).

(B) Use of Audio/Video Version of Deposition at Trial or Hearing

(1) *Submission to Court.* If an audio/video version of a deposition is to be presented at trial or a hearing, the 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 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 equipment; and (c) be able to operate the court's equipment.

(2) *Transcript Required to be Filed.* The court shall not accept or permit the audio/video version of the deposition transcript to be presented at trial or hearing unless a written transcript of the deposition has been filed in accordance with this Rule.

(3) *Certification Required.* The audio/video version of the deposition transcript shall include all necessary certifications of the officer who took the audio/video deposition in compliance with Sup.R. 13. The officer's log of the deposition shall be included with the certification.

(4) *Retention of Deposition.* 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 party 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. If the proceedings are recorded by a stenographer, 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 2.09 Removal of Papers from Custody of the Clerk

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. During regular business hours, upon request and unless subject to a court order restricting public access, the Clerk shall allow any person to examine, but not remove, any original document or case file that is maintained by the Clerk.

SECTION 3. SECURITY DEPOSITS AND FEES

Rule 3.01 Generally

All amounts advanced as security deposits for costs and fees required by these Rules for e-Filed documents, including any convenience fees, will be collected electronically via a valid user credit card, debit card, or e-check at the time the filing is processed by the Clerk. Alternatively, the e-File System can accommodate the filing of a Financial Disclosure/Fee Waiver Affidavit. Any document filed electronically that requires a security deposit shall be rejected by the Clerk unless the filer has complied with the mechanism established by the court for the payment or waiver of the security deposit.

Rule 3.02 Security Deposits

Unless otherwise provided by law, no civil action or proceeding shall be accepted for filing unless there is deposited as security for costs and fees the applicable sums set forth in **Appendix A**.

Rule 3.03 Convenience Fee

The Clerk is authorized to accept payment for the sums set forth in **Appendix A** via certain credit cards approved by its financial transaction device processor. The Clerk is further authorized to collect a non-refundable convenience fee 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 e-File System's portal.

Rule 3.04 Indigent Litigant Application

(A) Financial Disclosure/Fee Waiver Affidavit

If a party initiating a civil action is unable to pay the applicable security deposit as provided under this Rule, the party shall apply for a fee waiver by filing a Financial Disclosure/Fee Waiver Affidavit form approved by the Ohio Supreme Court, along with the complaint or other filing which requires 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. 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. 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 30 days to make the payment required by this Rule.

(B) Hearing on Indigency

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.

Rule 3.05 Special Project and Other Statutory Fees

(A) Computerized Legal Research Fee

As set forth in the court's Administrative Order, dated February ___, 2024, the court has authorized the Clerk to charge an additional fee on filings as permitted under R.C. 2303.201(A) to make available computerized legal research services to the court.

(B) Clerk Computerization Fee

As set forth in the court's Administrative Order, dated February ___, 2024, the court has authorized the Clerk to charge an additional fee on filings as permitted under R.C. 2303.201(B) to make technological advances in, or to computerize the office of the Clerk.

(C) Special Project Fees

As set forth in the Court's Administrative Order, dated February ___, 2024, the court has authorized the Clerk to charge additional fees on filings as permitted under R.C. 2303.201(E)(1) for special projects of the Court.

(D) Administrative Orders

A schedule of the fees and copies of all Administrative Orders referenced in this Rule are available on the court's website at _____.

SECTION 4. SERVICE REQUIREMENTS

Rule 4.01 Service

(A) Service of Copies and Notice in Civil Cases

All pleadings and other documents required to be served under the Ohio Rules of Civil Procedure shall be served in accordance with Civ.R. 4 through Civ.R. 5.

(B) Instructions for Service

When submitting any complaint, third-party complaint, or other filing requiring service of summons to the court's e-File System, the filing party must also submit Instructions for Service as a separate document. The Clerk will not accept Instructions for Service that do not designate the names and addresses of the parties to be served. If the address of a party to be served is unknown, the filer shall substitute "unknown" for the address. The default method of service by the Clerk is by commercial carrier. If service is to be made by any method of service permitted by the Ohio Rules of Civil Procedure other than commercial carrier, the Instructions for Service must so specify.

(C) Waiver of Service

Waiver of service of process may be requested and effected in accordance with Civ.R. 4.7. A party requesting waiver of service shall file Instructions for Service with the Clerk that indicate that service is waived.

(D) Indictments in Criminal Cases

Indictments in criminal cases shall be submitted for e-Filing in compliance with these Rules and shall be served on defendants according to the Ohio Rules of Criminal Procedure.

Rule 4.02 Service of Filings Subsequent to the Original Complaint or Indictment

(A) Filer Responsibility

It is the responsibility of the filing party to serve all documents filed subsequent to the original complaint or Indictment, except for those filings that require service of summons. The party must include a certificate of service in accordance with the applicable Rule of Civil Procedure or Rule of Criminal Procedure. Once a document is e-Filed, a Notification of Electronic Filing will be automatically served on all parties who are registered case participants in the e-File System. The Notification of Electronic Filing shall constitute service under Civ.R. 5 and Crim.R. 49.

(B) Service of Paper Copies

The filer shall serve a paper copy of any filing subsequent to the Indictment or original complaint on pro se parties who are not registered users of the court's e-File System, in accordance with Civ.R. 5 and Crim.R. 49.

(C) Judicial Filings

Subject to the provisions of these Rules, all filings signed by a Judge or other judicial officer shall be eFiled. The court's e-File System shall generate a Notification of Electronic Filing for all such judicial filings, which shall constitute service under Civ.R. 5 and Crim.R. 49, to parties who are registered users of the court's e-File System. If the court signs an entry or order submitted by a filer for signature, the filer, not the court or Clerk, shall serve the signed entry or order on pro se parties who are not registered users of the court's e-File System in accordance with Civ.R. 5 and Crim.R. 49.

(D) Certificate of Service

Proof of service of all documents filed subsequent to the Indictment or original complaint that are required to be served shall be made in compliance with Civ.R. 5 and Crim.R. 49. The Certificate of Service shall be signed in accordance with these Rules, and shall contain the following language for each party entitled to service:

I hereby certify that on [date] this document was e-Filed via the court's e-File system which shall send notifications of this filing to the following: [list parties or their counsel who are registered users of the court's e-File 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 e-File System].

(E) Service Date and Time to Respond or Act

For pro se parties who are registered users of the court's e-File System and counsel of record, service of all documents filed subsequent to the Indictment or original complaint shall be deemed complete at the time the Notification of Electronic Filing is generated by the court's e-File System. However, documents served in this manner after 5:00 p.m. local time shall be deemed served on the next day. The time to respond to the served documents or perform any right, duty, or act shall be strictly governed by the applicable Rules of Civil Procedure or Rules of Criminal Procedure.

(1) *Three-Day Extension.* In accordance with Civ.R. 6, pro se parties who are not registered users of the court's e-File System and who are served by regular U.S. mail or commercial carrier shall receive a three-day extension of time to respond or perform any right, duty, or act. Parties and counsel of record served via the Notification of Electronic Filing are not entitled to the three-day extension.

(2) *Failure of Service.* If the e-File System fails to generate a Notification 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.

Rule 4.03 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 may be made in the Daily Law Journal published by Cox Media Group, which has been designated as the journal of the court as authorized by R.C. 2701.09.

Rule 4.04 Process Servers

(A) Appointment

A person may be designated as a “Civil Process Server” for cases filed in the court by filing a combined affidavit and order in the form set forth in **Appendix B** to these Rules. The affidavit and order shall set forth the following information:

- (1) *Personal Information.* The name, address, and telephone number of the person to be appointed as a Standing Special Process Server;
- (2) *Age.* That the person is 18 years of age or older;
- (3) *Non-Party.* That the person agrees not to attempt service of process in any case in which the server is a party, related to a party to the proceeding, or has a financial interest in the outcome of the proceeding;
- (4) *Citizenship Status.* That the person is a citizen or legal resident of the United States;
- (5) *Identification.* That the person holds a valid government-issued identification card, passport, or driver’s license;
- (6) *Law-Abiding.* That the person has not been convicted in the last 10 years of any felony, offense of violence or offense involving dishonesty or false statement, and not currently under community control sanctions, probation, post-release control, or parole;
- (7) *No CPO.* That the person is currently not a respondent under any civil protection order;
- (8) *Knowledge.* That the person is familiar with the required procedure for service of process;
- (9) *Professionalism.* That the person will conduct themselves in a professional manner; and
- (10) *Compliance.* That the person agrees to follow the requirements of Civ.R. 4 through Civ.R. 4.6, any applicable local rule, and specific instructions for service of process as ordered by the court in individual cases.

(B) Appointments

An appointment can be for one-time or standing as a Civil Process Server. A standing appointment shall be for no more than a one-year period ending on December 31. Upon expiration of an appointment, a person must reapply in accordance with this Rule. If the person designated a standing Civil Process Server fails to satisfy the requirements set forth in Civ.R. 4.1(D) during the period of appointment, the authority to serve process shall cease.

(C) Authorization

All appointment orders for a one-time Civil Process Server shall be authorized by the Assigned Judge. All appointment orders for a Standing Civil Process Server shall be authorized by the Administrative Judge. If the Administrative Judge authorizes a person to be a Standing Civil Process Server, the order shall be captioned “In Re: The Appointment of [Name of Person Being Appointed] as Standing Civil 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. 4.04, [Name of Person Being Appointed] is hereby designated as a Standing Civil 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. If at any time during the period of this appointment [Name of Person Being Appointed] fails to satisfy the requirements set forth under Civ.R. 4.1(D), the authority to serve process under this Order shall cease.

(D) Filing

The Clerk shall record such appointment on the court’s journal 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(D) for designation by the court of a person to make service of process.

SECTION 5. CASE ASSIGNMENT SYSTEM

Rule 5.01 Case Assignment System

The individual assignment system set forth in Sup.R. 36.011 is the procedure adopted by the court for the assignment of cases. Pursuant to this system, except as otherwise provided in this Rule, each civil and criminal case shall be randomly assigned by lot to the Assigned Judge. The Assigned Judge is responsible for determining all matters in the case. Random assignment is the individual assignment of cases by lot and 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. The Clerk shall indicate on the docket of each case the name of the Assigned Judge and the nature or purpose of all filings as indicated in the caption.

Rule 5.02 Civil Dockets

(A) Timing of Assignment

All civil cases shall be randomly assigned to a Judge as provided in Rule 5.01 when a complaint or petition is filed with the Clerk.

(B) Re-filed Cases

In instances where a previously filed and dismissed case is re-filed, the case shall be reassigned to the original Assigned Judge unless, for good cause shown, the original Assigned Judge is precluded from hearing the case.

(C) 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 shall initially be decided by the Assigned Judge with the lowest case number. 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. 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. 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.

(D) Records

All changes in case assignments shall be noted in the records of the court's case management system and of the Clerk.

Rule 5.03 Criminal Dockets.

(A) Grand Jury Judge

Each term, one Judge will be assigned as the Grand Jury Judge. The Grand Jury Judge shall preside over central arraignments, including extraditions and habeas corpus actions pertaining to extraditions. The Grand Jury Judge handles all criminal matters that may arise in individual cases prior to indictment and arraignment, including the setting of bond. In certain cases, the Assigned Judge may arraign a defendant. 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.

(B) Assignment of Cases

Except as provided in this Rule, all criminal cases shall be randomly assigned by lot to the Judges of the court upon the approval of felony charges by the prosecuting attorney. Each day, the court's Case Management Department, Docket Support Services shall randomly assign by lot pre-indictment cases.

(C) Exceptions to Random Assignment

- (1) *One Defendant.* If the case involves one defendant, and the defendant: (a) is not assigned to a specialized docket; (b) is otherwise on community control that has not been terminated by entry; or (c) 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.
- (2) *Specialized Docket.* If the case involves one defendant, and the defendant is on community control and assigned to a specialized docket of this court, the case shall be assigned to the specialized docket Judge then supervising the defendant. If the specialized docket Judge determines that the case should be assigned to the Judge who referred the defendant to the specialized docket, the case shall be transferred to the original Assigned Judge upon the order of the Administrative Judge.
- (3) *Multiple Defendants.* If a case involves multiple defendants, and any defendant (a) is on community control that has not been terminated by entry or (b) has a prior indictment pending on active or inactive status in this county, the case shall be assigned to the Judge with the lowest case number.

(D) Capital Cases

Capital cases shall be assigned to a Judge who is qualified to hear the case in accordance with Sup.R. 36.013.

Rule 5.04 Reassignment of Cases

(A) Authority

Pursuant to Sup.R. 4.01, the Administrative Judge may take necessary action to assist with the case management of an Assigned Judge's individual docket.

(B) Administrative Judge

Pursuant to Sup.R. 4.03, the Administrative Judge may be relieved of a portion of the judge's case or trial duties in order to manage the calendar and docket of the court. Cases that need to be transferred shall be randomly reassigned by lot.

(C) Self-Recusal

Any Assigned Judge who needs to self-recuse from a case shall file a request to transfer the case with the Administrative Judge. If the request is approved by the Administrative Judge, the case shall be randomly reassigned by lot. The new Assigned Judge shall hear all motions and proceedings pertaining to the case.

(D) Assignment Transfers

If the Administrative Judge determines that a case must be reassigned for good cause other than the self-recusal of the Assigned Judge, the case shall be randomly reassigned by lot. The new Assigned Judge shall hear all motions and proceedings pertaining to the case.

Rule 5.05 Unavailability of Assigned Judge

When an Assigned Judge is not available, arrangements may be made by that Judge or by the Administrative Judge for another member of the court to handle urgent matters and sign entries.

Rule 5.06 Assignment of Cases to Newly Appointed or Elected Judges

(A) Succession of Cases

A new member of the court shall be assigned the cases previously assigned to the Judge whom the new Judge succeeds.

(B) Additional Judge

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 dockets of the other members of the court.

SECTION 6. CIVIL PROCEEDINGS

Rule 6.01 Civil Case Management Plan

The Rules in this Section establish a civil case management plan in accordance with Sup.R. 5 to ensure the readiness of cases for pretrial and trial and to maintain and improve the timely disposition of civil cases.

Rule 6.02 Pretrial Procedures

(A) Monitoring for Service and Answers and Scheduling

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.

(1) *Failure of Service.* If service fails on any defendant or party, the filing party shall be notified to reissue service within 14 days of the filing of such notification. If any party fails to reissue service or otherwise respond to the notice within the 14-day period, the court may dismiss the action for failure to prosecute pursuant to Civ.R. 41(B) and Rule 6.06.

(2) *Waiver of Service.* If a plaintiff has requested that a defendant waive service of summons, the plaintiff shall file the waiver of service that was 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 court shall notify the plaintiff to either file the waiver of service or to issue service on the defendant within 14 days of the filing of such notification. If a 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 Rule 6.06.

(3) *Failure to Answer.* Once all defendants have been served or have waived service of summons pursuant to Civ.R. 4.7, the court shall monitor every civil action for the answer(s) to be filed within the applicable period as required by the Ohio Rules of Civil Procedure, or by any extension permitted by the court.

- (a) 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.
- (b) If the party fails to file the motion for default judgment or notify the court why the motion is inappropriate within the 14-day period, the action may be dismissed pursuant to Civ.R. 41(B) and Rule 6.06.

(B) Initial Scheduling/Pretrial Conference

In any case where an answer is timely filed, an initial scheduling/pretrial conference call shall be held to establish all filing and discovery deadlines as provided in Civ.R. 16 and these Rules. Attorneys shall consult with their clients in advance of the conference and be prepared to confer practically and earnestly on settlement, discovery, and all other matters as may aid in the disposition of the action.

- (1) *Civ.R. 16.* At the initial scheduling/pretrial conference, the court shall consider and take appropriate action on all matters as provided for under Civ.R. 16.
- (2) *Final Pretrial Order.* Following the initial scheduling/pretrial conference and after consideration of any Civ.R. 26(F) Report filed by the parties, the court shall issue a Final Pretrial Order in compliance with Civ.R. 16.
- (3) *No Jury Demand.* If no jury demand was made, the Assigned Judge may refer the case to the Magistrate pursuant to Civ.R. 53 and Rule 6.14.

Rule 6.03 Pleadings and Pretrial Motions

(A) Pleadings

All pleadings must be filed in accordance with the applicable Ohio Rules of Civil Procedure and these Rules. No pleading shall include photographs or digital images of persons without prior court approval upon good cause shown.

(B) Motions

All written motions and opposing memoranda must be filed in accordance with the applicable Ohio Rules of Civil Procedure and these Rules.

- (1) *Moving Parties.* All motions shall be accompanied with the following:
 - (a) A brief written memorandum that (i) states with particularity the grounds in support of the motion, (ii) sets forth the relief or order sought, and (iii) specifies the citations of the authorities upon which the motion is based;
 - (b) All evidence in support of the motion if the motion requires the consideration of facts that do not appear in the record;
 - (c) A proposed order or entry ruling on the motion filed in accordance with these Rules. Substantive motions do not require a proposed order or entry to be filed unless otherwise ordered by the court; and
 - (d) Unless the motion may be heard *ex parte*, proof of service in accordance with Civ.R. 5 and Rule 4.02(D).
- (2) *Opposing Parties.* A party opposing a motion shall file and serve a memorandum in opposition to the motion with all appropriate evidence.

(3) *Replies and Additional Memoranda.* If the Ohio Rules of Civil Procedure permit the moving party to file a reply, a moving party may file a reply memorandum. No additional memoranda shall be filed without leave of the court.

(4) *Limitation upon Length of Memoranda.* Memoranda shall not exceed 20 pages in length, exclusive of the certificate of service, and otherwise shall comply with Rule 2.02. The page limitation may be modified by the court for good cause shown and upon such conditions as set by the court.

(5) *Oral Argument.* A motion will not be set for oral argument unless a written request is made by a party and is granted, or the Assigned Judge sua sponte orders oral argument.

Rule 6.04 Discovery

(A) Informal Discovery Policy

It is the policy of the court to encourage professional informal discovery in preference to formal discovery and to avoid judicial involvement in the discovery process. Informal discovery includes any discovery under the Ohio Rules of Civil Procedure that does not require judicial involvement. 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. Upon informal request, parties and counsel shall participate in pretrial discovery conferences and shall freely exchange discoverable information and documents.

(B) Informal Discovery Procedure

Counsel shall make every effort to comply with the court's informal discovery policy. Pro se parties or counsel shall employ informal discovery requests for necessary information or documents.

(1) *Initial Disclosures.* If applicable, pro se parties or counsel shall make the initial disclosures required by Civ.R. 26.

(2) *Compliance with Discovery Request.* If the party to whom an informal discovery request was made complies with the request, the participating parties 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) *Impasse.* If a party fails to respond within a reasonable period of time to an informal discovery request or makes objections thereto, the parties shall discuss the impasse and diligently attempt to resolve such impasse informally prior to seeking judicial involvement.

(C) Formal Discovery Request

If diligent efforts among the parties fail to resolve an impasse without judicial involvement, a party may file an application for protective order, objection to any form of discovery, motion to compel, motion for sanctions or the like pursuant to the Ohio Rules of Civil Procedure ("Formal Discovery Request").

(1) *Certificate of Impasse.* A certificate of impasse shall be affixed to or made a part of any Formal Discovery Request and shall include the specific times and methods of attempted informal resolution.

(2) *Possible Sanctions.* 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 attorney fees.

(D) Filing of Discovery Documents

(1) *Generally.* Except on the order of the court for use as evidence in consideration of a motion, or as otherwise provided in Subsection (D)(3) this Rule, depositions, initial disclosures pursuant to Civ.R. 26, interrogatories, requests for documents, requests for admission and answers and responses thereto (“Discovery Documents”) shall not be filed. If Discovery Documents are not accompanied by a certification by the party 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.

(2) *Service.* All Discovery Documents filed shall be served in accordance with Rule 4.02 and Civ.R. 5.

(3) *Depositions to be Used at Trial.* A copy of any deposition that may be used at trial shall be provided to the court in accordance with Rule 2.08.

Rule 6.05 Final Pretrial Statement Conference

(A) Joint Filing

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. The joint 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 that may be offered 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) Any deposition that may be used at trial, which shall be filed and provided to the court in accordance with Rules 2.08 and 6.04;

(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, which shall be filed separately; and

(15) Status of settlement negotiations.

(B) Final Pretrial Conference

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

(C) Written Materials 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 opposing counsel at the final pretrial conference.

(D) Notice of Possible Sanctions for Non-Compliance

The 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 6.06 Dismissals

(A) Voluntary

Any party 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

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

- (1) The plaintiff fails to prosecute;
- (2) A party fails to comply with these Rules;
- (3) A party fails to comply with any court order; or
- (4) The case has been pending for six months without any required action having been taken in accordance with Sup.R. 40.

(C) Inmate Civil Actions

If an inmate initiates a civil action against a government entity or employee, the inmate must comply with the provisions of R.C. 2969.25. Failure to comply with R.C. 2969.25 shall be grounds for dismissal of the action pursuant to Civ.R. 41(B)(1).

Rule 6.07 Judgment

(A) Default Judgment

Pursuant to Civ.R. 55, all motions for default judgment shall be submitted to the Assigned Judge. When a proposed default judgment entry is submitted to the Assigned Judge for signature pursuant to Rule 6.03(B)(1), the filing party, not the Clerk, is responsible for serving a copy of the signed default judgment entry in accordance with Civ.R. 5.

(B) Judgment by Confession

A judgment by confession shall be granted upon an attorney's original warrant or by the personal appearance of the defendant in court if the defendant has confessed judgment to the court and received the plaintiff's permission to obtain judgment by confession.

- (1) *Requirements.* All judgments by confession shall be in writing, shall state the debt or cause of action decided, and shall be filed with the Clerk.
- (2) *Judgment Entry.* When a proposed judgment entry is submitted to the Assigned Judge for signature via the court's e-Filing system, the filing party, not the Clerk, shall be responsible for serving a copy of the signed judgment entry in accordance with Civ.R. 5.

(C) Entry of Judgment

The Assigned Judge may approve or disapprove any proposed judgment entry. No oral arguments shall be heard on a proposed judgment entry unless ordered by the Assigned Judge. The judgment of the court shall be effective upon the filing and journalization of a judgment entry with the Clerk. If a proposed judgment entry under Civ.R. 58 or Crim.R. 32 is not prepared and presented by the appropriate party within 30 days of a verdict, decree or decision, the entry shall be prepared and filed by the Assigned Judge.

(D) Releases and Assignments

Releases and assignments of judgments or certificates of judgment shall be in writing and signed by a person authorized to execute the instrument.

(E) Motions to Revive Judgment

A party seeking to revive a dormant judgment shall file a motion to revive the dormant judgment on the case number under which the court's original judgment was rendered. Such motion shall be accompanied by Instructions for Service to the Clerk by the party seeking to revive the dormant judgment. Failure to file Instructions for Service with a motion to revive a dormant judgment shall result in the motion being rejected for filing by the Clerk. Summons of a motion to revive a dormant judgment shall be served in accordance with Civ.R. 4.

Rule 6.08 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 6.09 Judicial Sales of Real Estate

(A) Initial Certification

Other than proceedings under R.C. 5721.18, in every action filed in this court where a judicial sale of real estate is contemplated by the complaint or subsequent pleadings, the party requesting such sale 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].

(B) Order Certification

Upon any decree subsequently issued which orders the sale of real estate, the party 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].

(C) Sale of Real Estate

Prior to any judicial sale of real estate, a party requesting the sale must comply with Subsections (A) and (B) of this Rule.

(1) *Sheriff's Sale.* Unless otherwise requested, all judicial sales of real estate shall be conducted by the Montgomery County Sheriff's Office ("Sheriff's Sale") through a public auction.

(2) *Sale by Private Selling Officer.* As an alternative to a Sheriff's Sale, a party seeking a judicial sale of real estate may file a motion requesting that a private selling officer be authorized to sell the property at a public auction in accordance with R.C. 2329.152. The motion shall establish that the requested private selling officer is an Ohio resident licensed as both an auctioneer under Chapter 4707 of the Revised Code and a real estate broker or real estate salesperson under Chapter 4735 of the Revised Code. The property may only be sold by a private selling officer if the court files an order authorizing the private selling officer to sell the property. If the court declines to authorize the private selling officer sale, the property must be sold by Sheriff's Sale.

(D) Form and Notice of Judicial Sales

(1) *Public Notice.* Notice of any judicial sale of real estate shall comply with R.C. 2329.26, 2329.27, and 2329.152(A)(2). The public notice of judicial sales of real estate shall be by advertisement in a newspaper of general circulation in Montgomery County that meets the requirements of R.C. 7.12. The advertisement may be made in the Daily Law Journal published by Cox Media Group, which has been designated as the journal of the court as authorized by R.C. 2701.09. Each notice shall list the parcel(s) for sale for a particular case number. Neither the Sheriff nor a private selling officer may list parcels related to multiple case numbers in a single public notice.

(2) *Required Filing.* Not less than 14 days prior to the scheduled sale date, the party requesting the sale shall file a Certificate of Service of Notice of Sale Date specifying the date and manner of service of the notice required by R.C. 2329.26(A)(1)(a)(i), 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. Failure to timely file the Certificate of Service required by this Subsection shall constitute grounds for denial of the confirmation of sale.

(E) Procedure for Judicial Sales

(1) *Title Examination.* Prior to a sale, the Sheriff, deputy, or the private selling officer who is 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 the real estate.

- (a) If the title examination discloses that the title is unmarketable because of any defect in the proceedings or the existence of any interest not disclosed in the certifications described in Subsections (A) and (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 for the sale to be set aside.
 - (b) 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.
 - (c) The successful bidder(s) may waive any part or all of the 30-day title examination period by signing the confirmation of sale and distribution entry ("Confirmation Entry"). A Confirmation Entry not approved by the successful bidder(s) shall not be filed until the 30-day period has expired.
- (2) *Sale Deposits.*
- (a) The successful bidder(s) for the sale of residential property shall make a sale deposit as provided in R.C. 2329.211(A)(1).
 - (b) Unless the successful bidder(s) is the first lien holder, the successful bidder(s) for the sale of commercial property shall deposit 10% of the purchase price immediately following the sale.
 - (c) The successful bidder(s) must pay the unpaid balance of the purchase price to the Sheriff by certified or cashier's check within 30 days of the filing of the Confirmation Entry.
 - (d) If the successful bidder(s) fails to comply with these terms, the sale shall be invalidated, and the court may punish the successful bidder(s) in a manner the court considers appropriate, including a finding of contempt and forfeiture of the deposit paid.

(F) Property Appraisals

(1) *Deadline for Delivery of Residential Property Appraisals.* Appraisers shall return to the Sheriff a property appraisal within 21 days of the issuance of an Order of Appraisal. If a private selling officer has been appointed, the appraisers shall deliver a copy of the appraisal to the private selling officer contemporaneously with the delivery of the appraisal to the Sheriff. If an appraiser does not return the appraisal within the 21-day deadline, the following shall occur:

- (a) The cost of the appraisal shall not be payable to the appraiser or taxed as costs;

- (b) The appraised value of the property shall be the most recently appraised value of the property as shown in the records of the Montgomery County Auditor, unless for good cause shown, the court authorizes a separate property appraisal. If a separate appraisal is authorized, the cost of such appraisal shall be included as an expense of the sale as provided in R.C. 2329.152(D); and
 - (c) The advertisement and sale of the property shall proceed immediately in accordance with the Order of Advertisement and Sale issued by the Clerk.
- (2) *Appraisal Fees for Non-Commercial Real Estate/Single Unit Property.* For the sale of non-commercial/single unit property, the appraisal fee is \$60 per appraiser. See **Appendix C**.
- (3) *Appraisal Fees for Commercial Real Estate/Multiple-Unit Property.* For the sale of commercial real estate/multiple unit property:
- (a) The appraisal fee is \$40 per hour for every hour spent in research to establish a property value. Research to establish a property value does not include previous research on a previously evaluated property.
 - (b) A maximum fee of \$300 may be paid without court approval. If the fee exceeds \$300, a fee request must be submitted to the court for approval.
 - (c) Each fee request must include a certification with an accounting of all the time expended in determining the property value. See **Appendix D**.
 - (d) The appraiser shall notify the plaintiff in advance of any request for hourly fees.

(G) Confirmation of Sale

Confirmations of sales of real estate and applications for determining priorities of liens shall be submitted to the Assigned Judge. Where there is counsel of record other than counsel for the plaintiff or for the moving party, the Confirmation Entry shall be endorsed by all counsel who have appeared of record.

(H) Cancellation of Sale

In every action in this court, wherein a judicial sale of real estate by the Sheriff or a private selling officer is to be canceled due to a filed bankruptcy petition or for any other reason, the party canceling the sale shall file one of the following: (a) a copy of the filed bankruptcy petition; or (b) a proposed entry, in Word [.doc] format, canceling the sale. If the sale was to be conducted by the Sheriff, the party requesting the cancellation shall serve a copy of the file-stamped entry or bankruptcy petition on the Sheriff prior to the sale. Neither the Clerk nor the court shall notify the Sheriff of any cancellation.

(I) Expedited Foreclosure Actions

If a mortgagee files a motion with the court to proceed in an expedited manner, as provided in R.C. 2308.02, the mortgagee must list in its motion all applicable R.C. 2308.02(C) factors.

Rule 6.10 Special Remedies – Receiverships

(A) Appointment of Receivers

(1) *Motion.* In all cases in which a receiver is requested pursuant to R.C. 2735.01, the moving party must file a motion for the appointment of a receiver, which shall include a list of persons to be considered for the receivership.

(a) A 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.

(b) A moving party must show a right to equitable relief when a motion to appoint a receiver is based upon an open account or other claims not in judgment.

(2) *Procedure.* Upon the filing of a motion to appoint a receiver, the court shall set a hearing date on the motion. 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, unless the court finds that the time taken to give notice will result in irreparable harm to the plaintiff. If the hearing on the motion to appoint a receiver involves an action for the sale of real estate, the moving party shall serve notice of the hearing on the property owner no later than three days before the hearing.

(3) *Hearing.* The court shall determine after the hearing whether a receiver should be appointed as provided for in R.C. 2735.01 and whether the receiver is qualified according to R.C. 2735.02.

(4) *Consent by Defendant.* Whenever a defendant consents to the appointment of a receiver, the defendant shall file a verified statement of all current assets and liabilities, and a written Statement of Consent to the appointment.

(B) Duties and Powers of Receivers

(1) *Oath.* Before performing any duties, an appointed receiver shall take an oath as stated in R.C. 2735.03 in which the receiver swears to faithfully discharge the receiver's duties and to obey any orders of the court. The moving party shall file a certified copy of the receiver's oath.

(2) *Bond.* Before performing any duties, an appointed receiver shall execute a surety bond to a surety approved by the Assigned Judge. 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. The failure to post bond may result in the removal of a receiver.

(a) If the real property is vacant and it is anticipated that the receiver's duty will be that of a caretaker, bond shall be in the nominal sum of \$100.00, unless otherwise ordered by the court.

- (b) If rents and profits are to be collected and disbursements made in the management of the property during the pendency of the case, bond shall be in an amount sufficiently adequate to cover the costs of all the funds reasonably anticipated to be handled by the receiver during the course of the case.
- (3) *Duties and Powers.*
- (a) A receiver appointed pursuant to R.C. 2735.01(A)(6) shall, within 30 days:
 - (i) File an inventory;
 - (ii) Give notice by mail or by publication, as directed by the court, to all known creditors that the creditors must 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 are permitted to operate a business as a going concern shall file with the court the following within 30 days after the appointment, and monthly thereafter:
 - (i) A statement of the receiver's operation which shows a balance sheet for the period; and
 - (ii) An operating statement of income and expenditures that includes: necessary accruals that make a comprehensive statement of profit and loss for the period; a list of estimated inventory; peculiar conditions existing in the business; and a list of the expenses of operation, current interest accrued on loans during the reporting period, and depreciation on buildings, machinery, and equipment.
 - (c) A receiver appointed in a real estate foreclosure case shall have the following duties and powers:
 - (i) Take charge of the property pending litigation and preserve the property from waste or destruction; receive rents and profits; hold any income subject to order of the court; sue in forcible entry in the receiver's name and capacity; and every 90 days, file a report of receipts and disbursements.

- (ii) A receiver shall not 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, without prior court approval. Necessary outlays under \$200.00 may be made without court order, subject to the final approval of the receiver's account.
 - (d) Within 60 days after appointment, all receivers shall apply to the court for authority to cancel or reject unprofitable contracts.
 - (e) 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.
 - (f) 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.
- (4) *Appraiser.* If during the course of the performance of the receiver's duties the receiver determines that an appraiser is necessary, the receiver shall file a motion requesting that an appraiser be appointed. The receiver shall provide the court a list of persons to be considered for the appointment. Any person appointed as an appraiser must be a disinterested party and must take an oath to discharge the appraiser's duties faithfully. An appointed appraiser shall perform and be compensated as provided in R.C. 2115.06.
- (5) *Failure to Perform.* A receiver who fails to perform any duty or fails to timely prosecute a receivership, may be subject to the following: the removal of the receiver and/or the receiver's counsel from the receivership; and/or the withholding of fees from the receiver and/or the receiver's counsel.

(C) Receiver Sale of Property

- (1) *Notice.* When it becomes necessary to sell property, notice of such sale shall be given to all creditors who have filed claims and to all interested parties. The notice must include the time, place and terms of the sale.
- (2) *Property Sale.* No sale shall be made to a former owner or 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. Sales of property shall be for the best price obtainable. A receiver must file an affidavit to this effect within 10 days after the sale.

(D) Discharge of Receivership

- (1) *Settling Accounts.* A final inventory of a receivership estate shall be filed by the receiver upon the final discharge of the receivership duties. The court shall set a final hearing within 30 days of the filing of the receiver's final inventory. The receiver must serve notice of the hearing on any person who may have an interest in the receivership estate. The receiver, any witness, or any interested party may be examined under oath.
- (2) *Receiver Compensation.* A receiver or the receiver's counsel will not be compensated unless a written application is filed describing the services rendered, the time required, the amount requested for each service, and any amount previously received. A receiver or the receiver's counsel will be compensated after a final verified account has been filed.
 - (a) If a receiver has filed a monthly account during the operation of a receivership, the receiver or the receiver's counsel may be paid before the final verified account has been filed.
 - (b) In liquidating receiverships, the total allowance to both the receiver and the receiver's counsel shall not exceed 15 percent of the receipts, except if extraordinary services have been authorized by the court.
 - (i) A receiver requesting fees in excess of 15 percent for extraordinary services must file a motion with the court requesting authorization of the fees. The court shall then set a hearing on the motion.
 - (ii) After a hearing is set on a receiver's motion for fees in excess of 15 percent, the receiver shall mail to all known creditors or shareholders a notice of a hearing on the motion for extraordinary services and the nature of the request.
 - (c) In liquidating receiverships that require more than one year to liquidate, one-third of the probable total fees may be allowed and paid.

Rule 6.11 Procedure After Remand

(A) Remand from State Appellate Courts

In any matter appealed from any case in this court, the parties shall be responsible for monitoring the progress of the appeal and advising the court when a decision remanding the matter has been issued. To advise the court that a matter has been remanded, the parties shall file a Notice of Remand within 10 days after the appellate decision is issued, along with a copy of that decision. If any party intends to pursue further appellate proceedings that might prevent the court's jurisdiction from being fully restored, the Notice of Remand shall so advise.

(B) Remand from Federal Court

In any matter remanded to this court following removal of any case to federal court, the party who removed the action shall, within 10 days of the issuance of the remand order, file: (1) a complete copy of the case docket from the federal court, and (2) copies of all substantive decisions issued by the federal court while the matter was pending there.

Rule 6.12 Appeal from Administrative Agencies

(A) Notice

Unless otherwise provided in the Revised Code, any party appealing an order of an administrative agency shall file a Notice of Appeal with the court and the agency from which the appeal is taken.

(B) Procedure

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) *Timing.* The appellant shall file an assignment of errors, memorandum, and all other essential papers within 40 days of the filing of the transcript. Failure to file a memorandum and assignment of errors within the requisite period of time may result in dismissal of the appeal.
- (2) *Responses.* The appellee shall file a memorandum, if any, within 30 days after service of appellant's memorandum. The appellant may file any reply memorandum within 14 days after appellee's memorandum has been served. No additional memoranda may be filed without leave of the court.

Rule 6.13 Certification of Qualification for Employment

(A) Filing of Petition

All petitions for a certificate of qualification for employment ("CQE") shall be made on the form prescribed by the Division of Parole and Community Services under Ohio Adm.Code 5120-15-01 and filed through the designated website at <https://drccqe.com>.

(B) Fee

Unless waived by the Assigned Judge pursuant to R.C. 2953.25, no action shall be taken on the petition until the petitioner pays a fee in the amount of \$50, as set forth in **Appendix A** to these Rules.

(C) Assignment

If the conviction upon which a CQE petition is made originated in Montgomery County, Ohio, the case shall be assigned to the sentencing Judge or that Judge's successor. 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 Rule 5.02. The Assigned Judge may refer the petition to a Magistrate.

(D) Criminal History

The court shall obtain a criminal history for the petitioner in accordance with R.C. 2953.25.

Rule 6.14 Magistrate

(A) Appointment and Referral

Magistrates shall be appointed as provided by Civ.R. 53. Cases shall be referred to an appointed Magistrate in accordance with Civ.R. 53(D).

(B) Trial and Hearing Procedure

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

(C) Magistrate's Decision

In accordance with Civ.R. 53, after a hearing or trial, the Magistrate shall issue a Magistrate's Decision, including findings of fact and conclusions of law, unless otherwise ordered by the Assigned Judge. After the trial or hearing, and prior to issuing a Decision, the Magistrate may require that briefs, proposed findings of fact or other memoranda be submitted by the parties. No findings of fact and conclusions of law are required after a jury trial, but the Magistrate shall file a journalized entry reporting the actions of the jury.

(D) Filing of Objections

(1) *Timely Filing.* Objections and memoranda in support of objections shall be timely filed by any party in accordance with Civ.R. 53 or Civ.R. 65.1, as applicable. A memorandum in opposition to objections must be filed by a party within 14 days after objections are filed. A party may file a reply memorandum within seven days after the memorandum in opposition is filed. No additional memoranda shall be filed without leave of the Assigned Judge.

(2) *Filing the Record.* When objecting to findings of fact, an objecting party may file either a transcript or a video of the proceedings before the Magistrate in lieu of a transcript. If an objecting party files a transcript, it must be filed within 30 days from the filing of the objections. If an objecting party is using a video in lieu of a transcript, the video shall be filed in digital format. All requests for transcripts and videos of the proceedings shall be made in accordance with Rule 10.02.

(3) *Citations to Record.* All objections and memoranda supported by a video shall cite to a specific time designation on the recording. Failure to cite objections in this manner may result, at the discretion of the Assigned Judge, in the adoption of the Magistrate's findings of fact, and any review may be limited to the Magistrate's legal conclusions.

(4) *Form of Objections.* Objections and memoranda shall not exceed 20 pages in length, and shall otherwise comply with Rules 2.02 and 6.03.

(E) Final Entries

If no objections to the Magistrate's Decision are filed, the Magistrate shall prepare and submit a judgment entry to the Assigned Judge for approval.

SECTION 7. CIVIL MEDIATION

Rule 7.01 Introduction

(A) Purpose.

The court-sponsored civil case mediation program has been established to provide a mechanism to assist in the early and efficient resolution of civil cases.

(B) Incorporation of the Ohio Uniform Mediation Act

In accordance with Sup.R. 16.21, the Ohio Uniform Mediation Act (R.C. 2710.01 et seq.), is hereby incorporated by reference into this Rule. All civil case mediations shall be conducted in accordance with the Ohio Uniform Mediation Act. Parties participating in mediation are encouraged to familiarize themselves with the Ohio Uniform Mediation Act.

(C) Confidentiality and Privilege

All matters of confidentiality and privilege during the mediation process shall be governed by the Ohio Uniform Mediation Act. If the parties believe that confidentiality beyond the parameters of the Ohio Uniform Mediation Act is necessary, then the parties shall execute a written confidentiality agreement prior to the disclosure of such information. Confidentiality shall not be afforded to information that is statutorily mandated to be reported.

Rule 7.02 Scope of Mediation

(A) Restrictions

Any civil case may be referred for mediation unless prohibited by the Revised Code or involving a petition for a protection order under R.C. 2903.214. As set forth in Sup.R. 16.21(A)(4), mediation is expressly prohibited in domestic violence cases pursuant to R.C. 2919.25, 2919.26, 2919.27, and 3113.31. Throughout the mediation process, the Assigned Judge shall continue to manage the case.

(B) Domestic Abuse Allegations

In any case referred for mediation, all parties and counsel have a continuing duty to 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 whether at any time prior to or following the referral for mediation and before conclusion of the mediation process, any of the opposing parties have committed or are alleged to have committed domestic abuse or domestic violence as defined in R.C. 3113.31. Mediation will be prohibited in cases where domestic abuse or domestic violence is alleged, suspected or present among the parties, unless all of the conditions set forth in Sup.R. 16.24 are satisfied.

Rule 7.03 Referral and Scheduling

(A) Referral

After the court's pretrial scheduling conference, cases may be referred for mediation pursuant to a party's motion, by agreement of the parties, or at the discretion of the Assigned Judge.

(B) Initial Mediation Scheduling Conference

After a case is referred for mediation, the court's mediation staff will schedule an initial mediation scheduling conference with the parties to select a mediator pursuant to this Rule and to schedule a date for the mediation conference.

(C) Selection of Mediator

Prior to the initial mediation scheduling conference, the parties should review the list of mediators approved by the court found at <https://www.montcourt.oh.gov/mediation/>. The parties are encouraged to select at least one mediator from the list and inform the court's mediation staff during the initial mediation scheduling conference of their preferred mediator(s). If the parties fail to agree, or elect not to choose a mediator, a court-approved mediator shall be assigned on a rotating basis.

(D) Mediation Scheduling Order

Following the initial mediation scheduling conference, the court will issue an order appointing the mediator and setting all mediation deadlines. The parties shall direct all requests to reschedule a mediation deadline to the court's mediation staff. A continuance of a scheduled mediation conference shall be considered subject to Rule 7.06(D).

Rule 7.04 Mediation Status Conference

Unless otherwise directed by the mediator, all parties shall participate in a mediation status conference set by the court. The mediator may direct the parties to exchange additional information that the mediator believes will assist the mediation process.

Rule 7.05 Mediation Conference Statement

No later than 10 days prior to the mediation conference, a party shall submit its mediation conference statement directly to the mediator and the other parties to the mediation. Mediation conference statements shall not exceed three pages in length, unless otherwise approved 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. Mediation conference statements are not to be filed.

Rule 7.06 Mediation Conference**(A) Attendance Required**

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 conference. If a party becomes aware of a person or entity whose consent is required to resolve the dispute but who is not yet a party to the case, the party shall promptly inform the mediator and the Assigned Judge of the identity of the person or entity.

(B) Failure to Attend

The mediator shall report to the Assigned Judge any failure of a necessary party or counsel to attend a mediation session or to act in good faith, including but not limited to, failing to perform obligations expeditiously, and using mediation for the purposes of discovery or delay. The Assigned Judge may impose sanctions, including but not limited to, an award of attorney fees and other costs, contempt, or other appropriate sanctions.

(C) Additional Mediation Conferences

If the parties and mediator believe additional mediation sessions would be beneficial, the parties and mediator may schedule one additional mediation conference that will not negatively impact the scheduled trial date. The approval of the Assigned Judge is required for more than one additional mediation conference.

(D) Continuance of Mediation Conference

For good cause shown, the mediator may approve a continuance of a mediation conference if such continuance will not negatively impact the scheduled trial date. The approval of the Assigned Judge is required for more than one continuance of a mediation conference and for any continuance that would negatively affect the scheduled trial date.

Rule 7.07 Settlement Agreement

If a settlement agreement is reached as the result of mediation, the mediator may prepare a written memorandum memorializing all material terms of the agreement. Parties shall provide the notice of settlement to the Assigned Judge and shall file an agreed final dismissal entry for approval by the Assigned Judge within 30 days of the Notice. If the parties fail to file an agreed final dismissal entry within the specified time, the Assigned Judge may administratively dismiss the case.

Rule 7.08 Cancellation of Mediation Conference**(A) Settlement or Dismissal Prior to Mediation Conference**

If the case is settled or dismissed prior to a scheduled mediation, the parties shall promptly inform the mediator and the court's mediation department.

(B) Forty-Eight Hour Notice of Cancellation

Mediators shall not receive a fee for a mediation conference cancelled more than 48 hours prior to the scheduled session. If a mediation conference is cancelled with less than 48 hours notice, the cancellation fee shall be \$300 for a half-day mediation conference and shall be \$600 for a full-day mediation conference. 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. 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.

Rule 7.09 Termination of Mediation

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.

SECTION 8. CRIMINAL PROCEEDINGS

Rule 8.01 Criminal Case Management Plan

The Rules in this Section establish a criminal case management plan in accordance with Sup.R. 5 to ensure the readiness of cases for pretrial and trial and to maintain and improve the timely disposition of criminal cases.

Rule 8.02 Grand Jury

(A) Grand Jury Judge

The Grand Jury Judge shall handle all Grand Jury matters. Unless otherwise determined by the Grand Jury Judge, this includes all pre-indictment and pre-arraignment matters, extraditions, and habeas corpus actions relating to extraditions.

(B) Deadline for Action

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 for a definite period of time, and such continuance shall be noted in the report of the Grand Jury. Continuances must be presented to and approved by the Grand Jury Judge.

Rule 8.03 Arraignment

All arraignments shall be scheduled as ordered in the indictment on Tuesdays and Thursdays at 8:30 a.m., unless otherwise ordered by the Assigned Judge, and heard by the Grand Jury Judge. In certain cases, the Assigned Judge may arraign a defendant with notice to the defendant and the Grand Jury Judge. If applicable, bail shall be set at arraignment.

Rule 8.04 Discovery

(A) Demand

Upon demand by the defendant, the prosecuting attorney shall timely deliver an information packet ("Discovery Packet") to the defendant. A receipt for the Discovery Packet shall be executed by the prosecuting attorney and the defendant, and shall be filed of record. The Discovery Packet shall contain copies or photographs of the items listed in Crim.R. 16(B), except as provided in divisions (C), (D), (E), (F), or (J) of that rule.

(B) Reciprocal Discovery

The delivery and receipt of a Discovery Packet triggers the defendant's reciprocal discovery requirements set forth in Crim.R. 16. As set forth in Crim.R. 16, the prosecuting attorney and defendant have a continuing duty to supplement discovery.

Rule 8.05 Court Conferences**(A) Status Conference**

The first conference with the Assigned Judge following arraignment shall be a status conference, unless the Assigned Judge determines this conference is not needed.

(B) Scheduling Conference

The next conference, scheduled for at least a week after the status conference with the Assigned Judge, shall be a scheduling conference. The dates for hearing preliminary motions and for trial shall be fixed at this scheduling conference or as soon thereafter as is practicable, as determined by the Assigned Judge.

(C) Final Pretrial Conference

A final pretrial conference shall be held prior to trial, unless the Assigned Judge determines this conference is not needed.

(D) Written Materials 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 opposing counsel at the final pretrial conference, if one is held, but in any event at least seven days prior to trial.

Rule 8.06 Witness Lists

No later than seven days before trial, the prosecuting attorney and defendant shall each file a written list of witnesses. The lists need not include possible rebuttal witnesses, but shall include any witness named in a Crim.R. 12.2 Notice of Self-Defense. Failure to file a written list of witnesses may result in the exclusion of the testimony of any witnesses who were not so identified.

Rule 8.07 Continuance of A Criminal Case

Requests for continuance of a conference, hearing, or trial shall be in writing and filed in accordance with Rule 2.01 or made in open court before the Assigned Judge. If the request is made in writing, it shall be accompanied by a proposed order granting the request. 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 Rule 2.02 within three days. Any order granting a continuance shall set forth the date to which the conference, hearing, or trial is continued.

Rule 8.08 Court Appointment of Counsel for Indigent Defendants

(A) Indigent Representation

When it appears to the satisfaction of the court that a criminal defendant is indigent, the court shall order the appointment of an attorney from the Montgomery County Public Defender's Office or from the court's appointed counsel list in accordance with this Rule.

(B) Maintenance of Appointed Counsel List

The court maintains a master list of attorneys approved by the Judges to participate in the court's appointed counsel program ("Appointed Counsel List").

(C) Procedure

The court's Case Management Committee shall review and recommend to all the Judges whether to add attorneys to the Appointed Counsel List, remove attorneys from the Appointed Counsel List, or restrict the types of cases to which any particular attorney may be appointed. At their regular monthly meeting, a majority of the Judges must approve the Case Management Committee's recommendations regarding the Appointed Counsel List. The court shall annually review the attorneys on the appointed counsel list.

(D) Qualifications

Each attorney approved for the Appointed Counsel List and appointed to represent an indigent defendant shall meet the minimum continuing legal education and training requirements contained in Ohio Adm.Code 120-1-10 for each felony level for which the Judges determine that the attorney will be eligible to receive an appointment.

(E) Application

An attorney who meets the minimum continuing legal education and training requirements contained in Ohio Adm.Code 120-1-10, who is in good standing with the Ohio Supreme Court, and who has attended the Dayton Bar Association Criminal Law Certification Seminar sponsored by the court may submit an application to be included on the Appointed Counsel List. Applications can be found at <https://www.montcourt.oh.gov/attorneys/#appointed-counsel-program> and must be submitted to the court's Appointed Counsel Specialist.

(F) Ongoing Education

Each attorney on the Appointed Counsel List shall maintain the minimum continuing legal education requirements contained in Ohio Adm.Code 120-1-10. As part of the continuing legal education, an attorney on the Appointed Counsel List must attend the Dayton Bar Association Criminal Law Update on an annual basis. The court may further require any attorney to attend any additional training deemed necessary as a condition of remaining on the Appointed Counsel List.

(G) Updated Application

An attorney on the Appointed Counsel List whose qualifications and training have changed may request an increase in the felony levels of cases to which the attorney may be appointed. The request shall be made by submitting a new application, with supporting documentation, to the court's Appointed Counsel Specialist.

(H) Standards for Appointed Counsel

An attorney on the Appointed Counsel List is required to comply with Ohio Administrative Code Chapter 120-1, the Ohio Revised Code, the Ohio Rules of Superintendence, the Ohio Rules of Criminal Procedure, the Standards and Guidelines for Appointed Counsel Reimbursement, these Rules, and any other applicable rules or laws. Any failure to meet such minimum standards may result in loss of compensation, in whole or in part, for work on individual cases, and/or in suspension or permanent removal from the Appointed Counsel List. Without limitation on the foregoing, an attorney is subject to immediate suspension from the Appointed Counsel List, or an immediate reduction in the felony level and complexity of new case assignments, whenever a probable cause panel of the Board of Professional Conduct of the Supreme Court of Ohio certifies a grievance and makes the charges public, pursuant to Gov.Bar.R. V(8)(B). The court's Case Management Committee will consider the potential impact on the rights of individual defendants and public confidence in the appointed counsel program, and promptly make a recommendation on appropriate action to the Judges of the court.

(I) Appointment

When appointing an attorney from the Appointed Counsel List to represent an indigent defendant, the factors set forth in Sup.R. 8 shall be considered. An appointment to represent an indigent defendant shall be independent from individual influence or choice by any member of the judiciary, prosecution, or other elected official. All appointments shall be distributed as widely as possible among attorneys on the Appointed Counsel List on a rotating basis and in a manner designed to pair the indigent defendant's level of offense with an attorney who meets the training and qualifications of appointment set forth in this Rule. On rare occasion it may be in the interest of justice for the court to select an individual attorney whose expertise or experience is particularly well suited to a given case or client. No attorney on the Appointed Counsel List is assured to receive a substantially equal number of appointments as any other attorney on the list.

(J) Review

By January 31st of each year, the court's Appointed Counsel Specialist shall prepare a summary for the Case Management Committee which sets forth the distribution of cases to and compensation paid to each attorney on the Appointed Counsel List. The Case Management Committee shall review the summary and the Appointed Counsel List at least annually to ensure the equitable distribution of appointments from the list.

Rule 8.09 Appointed Counsel Compensation

(A) Billing and Payment Process

Compensation for counsel appointed by the court to represent indigent defendants ("Appointed Counsel") shall be permitted in accordance with the schedule of fees established and approved by the Montgomery County Board of County Commissioners for such purposes. The current fee schedule can be found at <https://www.montcourt.oh.gov/wp-content/uploads/2022/12/FeeResolution.pdf>. Appointed Counsel shall not be paid for services unless a request for payment is submitted in accordance with this Rule.

(1) *Ohio Public Defender Fee Forms.* A request for payment shall be made by submitting to the court a Motion, Entry and Certification for Appointed Counsel Fees (OPD-1026R) and, if necessary, and Itemized Fee Statement Continuation Sheet (OPD-1027R) (collectively, the “Pay Packet”).

(2) *Itemized Billing Statements.* Each Pay Packet shall include an itemized billing statement that describes the work completed for each increment of out-of-court time listed on the Itemized Fee Statement contained on page 2 of the Motion, Entry and Certification for Appointed Counsel Fees form. The itemized billing statement will not be filed with the Clerk.

(3) *Ohio Public Defender Financial Disclosure Form Required.* A Pay Packet must be accompanied by a Financial Disclosure Form (OPD-206R) (“Financial Disclosure Form”). Appointed Counsel must ensure that a completed and executed Financial Disclosure Form is submitted to the Court’s Appointed Counsel Specialist not later than the first scheduling conference in the case. Pay Packets will not be processed without a completed and executed Financial Disclosure Form.

(4) *Submission Deadline.* A Pay Packet must be submitted to the court’s Appointed Counsel Specialist (i) no later than the last day of the month following the month in which the case was finally disposed of or terminated, or (ii) if an attorney withdraws or is removed from a case, no later than the last day of the month following the month in which the attorney withdrew or was removed from the case (in either event, the “Submission Deadline”). For example, if a case is terminated on February 5th of a given year and the attorney has not withdrawn or been removed from the case, the Submission Deadline for a completed Pay Packet is March 31st of that year. Failure to submit a completed Pay Packet by such deadline will result in the reduction or denial of compensation as set forth below.

- (a) Compensation shall be reduced by 25% when a Pay Packet is submitted up to 30 days after the Submission Deadline.
- (b) Compensation shall be reduced by 50% when a Pay Packet is submitted between 31 and 60 calendar days after the Submission Deadline.
- (c) Compensation shall be reduced by 75% when a Pay Packet is submitted between 61 and 90 calendar days after the Submission Deadline.
- (d) Compensation shall be denied when a Pay Packet is submitted more than 90 calendar days after the Submission Deadline.

(B) Extraordinary Fees

The payment of extraordinary fees due to complex issues, multiple offenses, lengthy trials, or other reasons warranting compensation at a rate which exceeds the maximum fees established by the Montgomery County Board of County Commissioners may be permitted upon approval by the Assigned Judge. To request extraordinary fees, an attorney shall attach a letter explaining the fees to the Motion, Entry and Certification for Appointed Counsel Fees form as part of the attorney’s Pay Packet.

(C) Payment of Expenses

All requests for payment of expenses, including expert expenses, must comply with the Office of the Ohio Public Defender's Standards and Guidelines for Appointed Counsel Reimbursement. Appointed Counsel seeking reimbursement for expenses must provide receipts for all individual expenses in excess of \$1.00. The Assigned Judge's prior approval is not required for expenses totaling less than \$100. Prior approval by the Assigned Judge is required before incurring total expenses that exceed \$100. When submitting the appropriate form for reimbursement or payment of expenses (including any Motion for Court-Paid Expenses), the attorney shall include the signed court order approving such expenses.

(D) Expert Witness Costs

As set forth in Subsection (C) of this Rule, all expert witness expenses must be approved by the court prior to incurring such costs. The fees set forth below are the maximum amounts that will be authorized for specific expert expenses without additional court approval.

1) Private Investigator	\$1,500
2) Expert Witness:	
a) Handwriting	\$500
b) Ballistics	\$1,000
c) Polygraph	\$1,000
d) DNA	\$1,500
e) Forensics	\$1,500
f) Computer Forensics/Cell Phone Analysis	\$2,500
g) Psychological (examination)	\$2,500
h) Medical	\$3,500
3) Other Expert Witness	\$1,500

(E) Recordkeeping

In accordance with the Office of the Ohio Public Defender's Standards and Guidelines for Appointed Counsel Reimbursement, Appointed Counsel is required to prepare and maintain time records for each appointed case, showing the date of service, the nature of services rendered, and the hours worked. Appointed Counsel shall keep such records for a period of five years after the journalization of the termination entry of the case for which reimbursement was requested and shall provide such records to the court upon request.

(F) Review of Compensation

In accordance with the Rules of Superintendence, at least once every five years, the court shall review the compensation paid to Appointed Counsel to determine the compensation's adequacy and effect upon the availability of court appointments.

Rule 8.10 Men's Achievement Recovery Court

(A) Creation

"Men's Achievement Recovery Court." Men's Achievement Recovery Court ("MARC") is created pursuant to the specialized docket standards set forth in Sup.R. 36.20-36.28, including **Appendix I** thereto. The purpose of MARC is to facilitate efficient and effective treatment of drug addicted or drug abusing male offenders. Eligible male offenders as defined in Subsection (C) of this Rule shall be supervised by the Probation Services Department ("Probation Services") to ensure compliance with community control sanctions and to assist with criminogenic needs.

(B) MARC Team

The "MARC Team" shall consist of the Judge assigned to MARC ("MARC Judge"), Probation Services Manager and staff, Probation Officers, licensed treatment providers, community-based employment program personnel, an Assistant Prosecuting Attorney assigned to MARC, and defense counsel. The MARC 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 MARC Admission

- (1) *Method of Admission.* The original Assigned Judge may order a male offender to MARC 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) *Eligibility.* In order for a male offender to be eligible for MARC, the offender shall:
 - (a) Be amenable to community control;
 - (b) Be charged with a third, fourth, or fifth degree felony (cases involving first and second-degree felonies will be staffed on a case-by-case basis);
 - (c) Be a resident of Ohio;
 - (d) Have little or no history of violent behavior;
 - (e) Be abusing illegal chemicals or have a chemical abuse addiction in which the offender's current or past criminal behavior has been alcohol or drug driven;
 - (f) Have no acute health condition or severe mental health diagnosis; and
 - (g) Demonstrate a sincere willingness to participate in a long-term treatment process.

- (3) *OVI Track Eligibility.* In order for a male offender to be eligible for the OVI Track the following additional criteria shall be met:
- (a) The offender has current felony or misdemeanor OVI offenses;
 - (b) Alcohol and/or drugs were the underlying factors for which offense occurred;
 - (c) The offender is at risk for continued OVI related offenses;
 - (d) Offenses of violence (felony one, two and threes) must be staffed with the MARC Judge; and
 - (e) The offender cannot have a prior conviction for Aggravated Vehicular Homicide or Vehicular Assault.

(D) Referral to MARC

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

(E) Sentencing

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

(F) Treatment Phases

MARC offenders shall be required to complete phases of treatment as individually necessary and to complete all other requirements as identified in the MARC Participant Handbook and the MARC Participation Agreement. MARC offenders shall comply with all the rules indicated to them by the MARC Judge at their initial appearance. While in MARC, the offender shall receive services to assist in meeting criminogenic needs. Upon graduation from MARC, 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 MARC offender's non-compliance vary in intensity and may include, but are not limited to, the following:

- (1) Warning and admonition from the MARC Judge;
- (2) Increased frequency of drug or alcohol testing and court appearances;
- (3) Increased supervision contacts and monitoring;
- (4) Community service or work program;
- (5) Jail, electronic monitoring, or continuous alcohol monitoring;

- (6) Community control or ILC violation;
- (7) Termination from MARC;
- (8) Commitment to the MonDay Community Correctional Facility, or any other Community-Based Correctional Facility (“CBCF”) approved by the court;
- (9) Increased level of treatment care;
- (10) Referral to additional programming; and
- (11) Revocation of supervision, to include sentencing to local incarceration or the Ohio Department of Rehabilitation and Corrections.

(H) Unsuccessful Terminations

- (1) *Reasons.* Reasons for termination from MARC include, but are not limited to:
 - (a) Failure to abstain from the use of illegal substances or alcohol;
 - (b) Violation of the Probation Services General Conditions of Supervision and/or Special Conditions for OVI Offenders, if applicable;
 - (c) Violation of any community control or ILC sanctions; and
 - (d) Failure to comply with the MARC Participation Agreement or any other orders of the MARC Judge.
- (2) *Post-Termination Hearing.* If an offender is terminated from MARC for reasons stated in Subsection (H)(1) of this Rule, or for any other reason as determined by the MARC Judge, the offender may be subject to a community control or ILC revocation hearing. If a hearing is required pursuant to this Rule:
 - (a) The MARC Judge shall adjudicate the proceedings;
 - (b) The offender may have the offender’s community control or ILC sanctions modified. Modifications may include, but are not limited to, commitment to a CBFC, revocation of community control or ILC, or termination from MARC;
 - (c) The MARC 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 Ohio Supreme Court statistical reports, the case shall be considered disposed by the original Assigned Judge when the offender is sentenced to MARC or the offender is ordered into MARC as a condition of ILC.

Rule 8.11 Mental Health Court

(A) Creation

Mental Health Court is created pursuant to the specialized docket standards set forth in Sup.R. 36.20 – 36.28, including **Appendix I** thereto. The purpose of Mental Health Court is to offer intensive probation and targeted treatment for offenders who have been diagnosed with a serious mental illness and where such illness contributed to the offender’s involvement in the criminal justice system. Eligible offenders as defined in Subsection C of this Rule shall be supervised by the Probation Services Department (“Probation Services”) to ensure compliance with community control sanctions and to assist with criminogenic needs. The goals of Mental Health Court are as follows:

- (1) Improve offenders’ overall access to and compliance with treatment;
- (2) Reduce recidivism among offenders with a serious mental illness;
- (3) Establish stability, accountability for actions, and continued mental health;
- (4) Reduce homelessness of offenders of the specialized docket; and
- (5) Reduce offenders’ jail/prison/institutional bed days.

(B) Mental Health Court Team

The “Mental Health Court Team” shall consist of the Judge assigned to Mental Health Court (“Mental Health Court Judge”), the Program Coordinators, Probation Services Manager and staff, a designated Probation Officer, licensed treatment providers, community-based employment program personnel, the Assistant Prosecuting Attorney assigned to Mental Health Court, and defense counsel. The Mental Health Court Team shall convene bi-monthly to discuss the progress and status of individual offenders, apply sanctions or incentives as needed, and for any other matters.

(C) Eligibility for Mental Health Court Admission

- (1) *Method of Admission.* The original Assigned Judge may order an offender to Mental Health Court through a guilty or no contest plea, probation violation, judicial release, other early release options, or ILC.
- (2) *Criminal Background Review.* Prior to admission, each offender’s criminal background will be thoroughly reviewed. A history of serious or repetitive violence, including domestic violence convictions where physical harm or weapons were involved, will likely exclude an offender from Mental Health Court. Such a determination will be left to the discretion of the Mental Health Court Judge in accordance with the written policies governing the Mental Health Court. An offender’s criminal history will always be considered in assessing the offender’s risk to the staff and the community.
- (3) *Competency.* Any issues regarding competency shall be resolved before an offender can enter Mental Health Court.

(4) *Eligibility.* In order for an offender to be eligible for Mental Health Court, the offender must meet certain legal and clinical eligibility requirements.

(a) *Legal Eligibility:*

- (i) An offender must be a current resident of Montgomery County, Ohio;
- (ii) An offender must be charged with one or more felonies;
- (iii) An offender may be considered for admission to Mental Health Court pre-plea, post-conviction, or as a result of a probation violation;
- (iv) An offender is required to enter a guilty plea as charged prior to admission to Mental Health Court and acknowledge having a serious mental illness that requires treatment;
- (v) If eligible, an offender may complete Mental Health Court as a condition of ILC. Otherwise, offenders will be admitted on community control;
- (vi) An offender eligible for judicial release may also be considered;
- (vii) An offender who has a history of persistent reoffending that is unrelated to the offender's mental health diagnosis is ineligible;
- (viii) An offender who has a history of serious or repetitive violence is ineligible;
- (ix) An individual determined to be legally incompetent is ineligible;
- (x) Crimes involving child victims will likely render the offender ineligible; and
- (xi) Violent offenses involving a victim with a serious injury will likely disqualify an offender.

(b) *Clinical Eligibility.* To be admitted to Mental Health Court, offenders must have been diagnosed with a serious mental illness, including, but not limited to, the following:

- (i) Schizophrenia, Schizoaffective Disorder (bipolar or depressive), Bipolar Disorder, Major Depressive Disorder, Obsessive Compulsive Disorder, Panic Disorder, or Post-Traumatic Stress Disorder, each as diagnosed by a licensed provider and as described in the most current edition of the DSM (Diagnostic and Statistical Manual of Mental Disorders).

- (ii) Offenders must also have the cognitive ability to understand the expectations of Mental Health Court and to voluntarily enter into the program, as determined by a licensed provider.

(5) *Admission in Discretion of Mental Health Court Judge.* Meeting the aforementioned legal and clinical eligibility criteria does not result in automatic admission to Mental Health Court. Admission to the program is within the sole discretion of the Mental Health Court Judge in accordance with the written policies and procedures governing the program and based upon the recommendations of licensed providers.

(D) Referral to Mental Health Court

Entry into Mental Health Court shall be upon the referral from judges, attorneys, case managers, probation officers, or others. All referral information shall be immediately sent to the Mental Health Court Judge or Mental Health Court judicial staff. The Mental Health Court Judge shall have final discretion to decide if the offender is eligible for the Mental Health Court.

(E) Sentencing

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

(F) Treatment Phases

Mental Health Court offenders shall be required to complete four phases of treatment, as individually necessary, and to complete all other requirements as identified in the Mental Health Court Participant Handbook and Mental Health Participation Agreement. Mental Health Court offenders shall comply with all the rules and expectations set forth in the Participant Handbook and as indicated by the Mental Health Court Judge at each offender's initial appearance. While in Mental Health Court, the offender shall receive treatment services to attain stability of mental health symptoms and to assist in meeting criminogenic needs. Upon graduation, 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 Mental Health Court offender's non-compliance shall vary in intensity and may include, but are not limited to, the following:

- (1) Warnings and admonitions from the Mental Health Court Judge;
- (2) Preparation of essays or required readings to allow the Mental Health Court offender to reflect upon the offender's behavior;
- (3) Increased frequency of drug and alcohol screenings;
- (4) Increased frequency of status review hearings;
- (5) Increased monitoring;

- (6) Imposition of community service;
- (7) Imposition of previously suspended fines or costs;
- (8) Imposition of restrictions from an earlier phase of the Mental Health Court program;
- (9) Escalating periods of jail or out-of-home placement;
- (10) Filing of a probation violation;
- (11) Termination from Mental Health Court;
- (12) Commitment to the MonDay Community Correctional Facility, or any other CBFC approved by the Court;
- (13) Increased level of treatment care;
- (14) Referral to additional programming; and
- (15) Revocation of supervision, to include sentencing to local incarceration or the Ohio Department of Rehabilitation and Corrections.

(H) Unsuccessful Terminations

(1) *Reasons.* Reasons for termination from Mental Health Court include, but are not limited to:

- (a) Ongoing non-compliance with treatment or resistance to treatment;
- (b) New serious criminal conviction;
- (c) A serious infraction of the Mental Health Court program or a series of infractions;
- (d) A serious probation or ILC violation or a series of probation violations; and
- (e) Failure to comply with the MHC Participation Agreement, the Mental Health Court Participant Handbook, or any other orders from the Mental Health Court Judge.

(2) *Post-Termination Hearing.* If an offender is terminated from Mental Health for reasons stated in subsection (H)(1) of this Rule, or for any other reasons as determined by the Mental Health Court Judge, the offender may be subject to a community control or ILC revocation hearing. If a hearing is required pursuant to this Rule:

- (a) The Mental Health 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 Mental Health Court;

- (c) The Mental Health 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 Ohio Supreme Court statistical reports, the case shall be considered disposed by the original Assigned Judge when the offender is sentenced to Mental Health Court or the offender is ordered into Mental Health Court as a condition of ILC.

Rule 8.12 Recovery Is Empowering Court

(A) Creation

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

(B) RISE Court Team

The “RISE Court Team” shall consist of the Judge assigned to RISE Court (“RISE Court Judge”), the appropriate Probation Services Manager and staff, Probation Officers, licensed treatment providers, community-based employment program personnel, the Montgomery County Assistant Prosecuting Attorney assigned to RISE Court, and defense counsel. The RISE 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 RISE Court Admission

- (1) *Method of Admission.* The original Assigned Judge may order a female offender to RISE Court through a guilty or no contest plea, probation violation, judicial release, other early release options, or ILC.
- (2) *Eligibility.* In order for a female offender to be eligible for RISE Court, the offender shall:
 - (a) Be amenable to community control;
 - (b) Be charged with a third, fourth, or fifth degree felony (cases involving first and degree felonies will be staffed on a case-by-case basis);
 - (c) Be a resident of Ohio;
 - (d) Have little or no history of violent behavior;

- (e) Be abusing illegal chemicals or have a chemical abuse addiction in which the offender's current or past criminal behavior has been alcohol or drug driven;
 - (f) Have no acute health condition or severe mental health diagnosis; and
 - (g) Demonstrate a sincere willingness to participate in a long-term treatment process.
- (3) *OVI Track Eligibility.* In order for a female offender to be eligible for the OVI Track the following additional criteria shall be met:
- (a) The offender has current felony or misdemeanor OVI offenses;
 - (b) Alcohol and/or drugs were the underlying factors for which offense occurred;
 - (c) The offender is at risk for continued OVI related offenses;
 - (d) Offenses of violence (felony ones and twos) be staffed with the RISE Court Judge on a case by case basis; and
 - (e) The offender cannot have a prior conviction for Aggravated Vehicular Homicide or Vehicular Assault.

(D) Referral to RISE Court

RISE Court receives referrals from the original Assigned Judge. The RISE Court Team shall review the offender's case for legal and clinical eligibility as identified in Subsection (C)(2)(a)-(g) of this Rule. The RISE Court Judge shall have final discretion to decide if the offender is ordered to RISE Court.

(E) Sentencing

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

(F) Treatment Phases

RISE Court offenders shall be required to complete phases of treatment as individually necessary and complete all other requirements as identified in the RISE Court Participant Handbook and the RISE Court Participation Agreement. RISE Court offenders shall comply with all the rules indicated to them by the RISE Court Judge at their initial appearance. While in RISE Court, the offender shall receive services to assist in meeting criminogenic needs. Upon graduation from RISE 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 RISE Court offender's non-compliance vary in intensity and may include, but are not limited to, the following:

- (1) Warning and admonition from the RISE Court Judge;
- (2) Increased frequency of drug or alcohol testing and court appearances;
- (3) Increased supervision contacts and monitoring;
- (4) Community service or work program;
- (5) Jail, electronic monitoring, or continuous alcohol monitoring;
- (6) Community control or ILC violation;
- (7) Termination from RISE Court;
- (8) Commitment to the MonDay Community Correctional Facility, or any other CBCF facility approved by the court;
- (9) Increased level of treatment care;
- (10) Referral to additional programming; and
- (11) Revocation of supervision, to include sentencing to local incarceration or the Ohio Department of Rehabilitation and Corrections.

(H) Unsuccessful Terminations.

- (1) *Reasons.* Reasons for termination from Rise Court include, but are not limited to:
 - (a) Failure to abstain from the use of illegal substances or alcohol;
 - (b) Violation of the Probation Services General Conditions of Supervision and/or Special Conditions for OVI Offenders, if applicable;
 - (c) Violation of any community control or ILC sanctions; and
 - (d) Failure to comply with the RISE Court Participation Agreement or any other orders of the RISE Court Judge.
- (2) *Post-Termination Hearing.* If an offender is terminated from RISE Court for reasons stated in Subsection (H)(1) of this Rule, or for any other reason as determined by the Rise Court Judge, the offender may be subject to either a community control or an ILC revocation hearing. If a hearing is required pursuant to this Rule:
 - (a) The Rise Court Judge shall adjudicate the proceedings;
 - (b) The offender may have the offender's 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 RISE Court;

- (c) The RISE 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 Ohio Supreme Court statistical reports, the case shall be considered disposed by the original Assigned Judge when the offender is sentenced to RISE Court or the offender is ordered into RISE Court as a condition of ILC.

Rule 8.13 Veterans' Treatment Court

(A) Creation

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

(B) Veterans' Court Team

The "Veterans' Treatment Court Team" shall consist of the Judge assigned to Veterans' Treatment Court ("Veterans' Treatment Court Judge"), Probation Services staff, Probation Officers, licensed treatment providers, community-based employment program personnel, the Veterans' Justice Outreach Coordinator, the Assistant Prosecuting Attorney assigned to Veterans' Treatment Court, and defense counsel. The Veterans' Treatment 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' Treatment Court Admission

- (1) *Method of Admission.* The original Assigned Judge may order an offender to Veterans' Treatment Court through a guilty or no contest plea, probation violation, judicial release, other early release options, or ILC.
- (2) *Eligibility.* In order for an offender to be eligible for Veterans' Treatment Court the offender 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' Treatment 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 offender'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) Referral to Veterans' Treatment Court

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

(E) Sentencing

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

(F) Treatment Phases

Veterans' Treatment Court offenders shall be required to complete phases of treatment as individually necessary and to complete all other requirements as identified in the Veterans' Treatment Court Participant Handbook and the Veterans' Treatment Court Participation Agreement. Veterans' Treatment Court offenders shall comply with all the rules indicated to them by the Veterans' Treatment Court Judge at their initial appearance. While in Veterans' Treatment Court, the offender shall receive services to assist in meeting criminogenic needs. Upon graduation from Veterans' Treatment 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' Treatment 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' Treatment Court Judge;
- (2) Increased frequency of drug or alcohol testing and court appearances;
- (3) Increased supervision contacts and monitoring;
- (4) Community service or work program;
- (5) Jail or out of home placement;
- (6) Community control or ILC violation;
- (7) Termination from Veterans' Treatment Court;
- (8) Commitment to the MonDay Community Correctional Facility, or any other CBCF approved by the court;

- (9) Increased level of treatment care;
- (10) Referral to additional programming; and
- (11) Revocation of supervision, to include sentencing to local incarceration or the Ohio Department of Rehabilitation and Corrections.

(H) Unsuccessful Terminations

(1) *Reasons.* Reasons for termination from Veterans' Treatment Court include, but are not limited to:

- (a) Failure to abstain from the use of illegal substances or alcohol;
- (b) Violation of the Probation Services General Conditions of Supervision;
- (c) Violation of any community control or ILC sanctions; and
- (d) Failure to comply with the Veterans' Treatment Court Participation Agreement or any other orders of the Veterans' Treatment Court Judge.

(2) *Post-Termination Hearing.* If an offender is terminated from Veterans' Treatment Court for reasons stated in Subsection (H)(1) of this Rule, or for any other reason as determined by the Veterans' Treatment Court Judge, the offender may be subject to a community control or ILC revocation hearing. If a hearing is required pursuant to this of this Rule:

- (a) The Veterans' Treatment 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' Treatment Court;
- (c) The Veterans' Treatment 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 original Assigned Judge when the offender is sentenced to Veterans' Treatment Court or the offender is ordered into Veterans' Treatment Court as a condition of ILC.

Rule 8.14 Kushinda Court

(A) Creation

Kushinda Court is created pursuant to the specialized docket standards set forth in Sup.R. 36.20-36.28, including **Appendix I** thereto. The purpose of Kushinda Court is to facilitate efficient and effective, evidence-based treatment of 18 to 29-year-old African-American male offenders placed on intensive probation. Eligible male offenders as defined in Subsection (C) of this Rule shall be supervised by Probation Services to ensure compliance with community control sanctions and to assist with criminogenic needs.

(B) Kushinda Court Team

The “Kushinda Court Team” shall consist of the Judge assigned to Kushinda Court (“Kushinda Court Judge”), Probation Services Manager and staff, Probation Officers, licensed treatment providers, community-based employment program personnel, an Assistant Prosecuting Attorney assigned to Kushinda Court, and defense counsel. The Kushinda 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 Kushinda Court Admission

- (1) *Method of Admission.* The original assigned Judge may order a male offender to Kushinda Court through a guilty or no contest plea, probation violation, judicial release, other early release options, or ILC.
- (2) *Eligibility.* In order for an offender to be eligible for Kushinda Court, the offender shall:
 - (a) Be amenable to community control;
 - (b) Be charged with a third, fourth, or fifth degree felony (cases involving first and second-degree felonies will be staffed on a case-by-case basis);
 - (c) Be a resident of Ohio;
 - (d) Have little or no history of violent behavior;
 - (e) Be abusing illegal chemicals or have a chemical abuse addiction in which the offender’s current or past criminal behavior has been alcohol or drug driven;
 - (f) Have no acute health condition or severe mental health diagnosis; and
 - (g) Demonstrate a sincere willingness to participate in a long-term treatment process.

(D) Referral to Kushinda Court

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

(E) Sentencing

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

(F) Treatment Phases

Kushinda Court offenders shall be required to complete phases of treatment as individually necessary and to complete all other requirements as identified in the Kushinda Court Participant Handbook and the Kushinda Court Participation Agreement. Kushinda Court offenders shall comply with all the rules indicated to them by the Kushinda Court Judge at their initial appearance. While in Kushinda Court, the offender shall receive services to assist in meeting criminogenic needs. Upon graduation from Kushinda 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 Kushinda Court offender's non-compliance vary in intensity and may include, but are not limited to, the following:

- (1) Warning and admonition from the Kushinda Court Judge;
- (2) Increased frequency of drug or alcohol testing and Court appearances;
- (3) Increased supervision contacts and monitoring;
- (4) Community service or work program;
- (5) Jail, electronic monitoring, or continuous alcohol monitoring;
- (6) Community control or ILC violation;
- (7) Termination from Kushinda Court;
- (8) Commitment to the MonDay Community Correctional Facility, or any other CBCF approved by the Court;
- (9) Increased level of treatment care;
- (10) Referral to additional programming; and
- (11) Revocation of supervision, to include sentencing to local incarceration or the Ohio Department of Rehabilitation and Corrections.

(H) Unsuccessful Terminations

- (1) *Reasons.* Reasons for termination from Kushinda Court include, but are not limited to:
 - (a) Failure to abstain from the use of illegal substances or alcohol;
 - (b) Violation of the Probation Services General Conditions of Supervision;
 - (c) Violation of any community control or ILC sanctions; and
 - (d) Failure to comply with the Kushinda Court Participation Agreement or any other orders of the Kushinda Court Judge.
- (2) *Post-Termination Hearing.* If an offender is terminated from Kushinda Court for reasons stated in Subsection (H)(1) of this Rule, or for any other reason as determined by the Kushinda Court Judge, the offender may be subject to a community control or ILC revocation hearing. If a hearing is required pursuant to this Rule:
 - (a) The Kushinda Court Judge shall adjudicate the proceedings;
 - (b) The offender may have the offender's community control or ILC sanctions modified. Modifications may include, but are not limited to, commitment to a CBFC, revocation of community control or ILC, or termination from Kushinda Court;
 - (c) The Kushinda 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 Ohio Supreme Court statistical reports, the case shall be considered disposed by the original Assigned Judge when the offender is sentenced to Kushinda Court or the offender is ordered into Kushinda Court as a condition of ILC.

SECTION 9. ATTORNEYS

Rule 9.01 Notice of Appearance

All notices of appearance by counsel shall be in writing. Until a notice of appearance has been properly made and filed, an attorney shall not be entitled to appear at any proceeding.

(A) Civil Cases

In civil cases, a notice of appearance by counsel may be effected by signature of counsel on a pleading or motion. If the appearance is effected by the filing of a motion or by a pleading other than the original complaint or original answer to a complaint, the attorney shall also file a notice of appearance.

(B) Criminal Cases

In criminal cases, a notice of appearance by counsel shall be on a form provided by the court or by filing a notice of appearance.

Rule 9.02 Withdrawal of Appearance

(A) Civil Cases

No attorney who entered an appearance in any civil action shall withdraw the appearance, or have it stricken from the record, except upon written entry approved by the court.

(B) Criminal Cases

No attorney who entered an appearance for any defendant in a criminal case shall withdraw the appearance, or have it stricken from the record, except in open court in the presence of the defendant and upon written entry approved by the court.

Rule 9.03 Conduct

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

Rule 9.04 Trial Counsel

(A) Substitute Trial Attorney

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.

(B) Removal by Administrative Judge

If the trial attorney fails to provide a substitute trial attorney, the Administrative Judge shall remove the trial attorney as counsel in the case.

(C) Appointment of Substitute Trial Attorney

If the trial attorney was appointed by the court, the court shall appoint a substitute trial attorney.

(D) Sup.R. 41

All counsel are directed to familiarize themselves with and conform to Sup.R. 41.

Rule 9.05 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. Upon proper registration with the Supreme Court under Gov.Bar R. XII by an out-of- state attorney to appear pro hac vice, the Assigned Judge may grant permission for the attorney to appear in a proceeding.

SECTION 10. TRANSCRIPTS AND RECORDING OF COURT PROCEEDINGS

Rule 10.01 Official Recordings of Court Proceedings

(A) Recording Devices

(1) *Designation.* As provided in Sup.R.11, the Administrative Judge shall designate the method of recording for the court's courtrooms. The method of recording may include stenographic means, phonographic means, photographic means, audio electronic recording devices, or video recording systems. Any filing, exchange, transmission, or other transfer of the court's courtroom recordings shall be in a format produced by the court's designated recording systems.

(2) *Capital Cases.* In all capital cases, the proceedings must be recorded by a stenographic/shorthand reporter in addition to any other recording method used, as provided in App.R. 9(A).

(B) Designation of Court Transcribers

As set forth in the Court's Administrative Order, dated February ___, 2024, the court has designated official transcribers of courtroom recordings. All requested transcripts shall be prepared by the official transcribers, which the court has determined have the necessary qualifications and training to produce reliable transcripts that conform to the requirements of App.R. 9(B)(6). The Administrative Order referenced in this Rule is available on the court's website at _____.

(C) Transcription Rates

The current transcription rates are on file in the court's administration office and may be requested from the Director of Case Management.

Rule 10.02 Requests for Preparation of Videos of Proceedings and Transcripts

(A) Requests for Video of Proceedings

All requests for a video of any court proceeding shall be made as follows:

(1) *Request Form.* A completed Request for Video of Proceeding or Request for Paper Transcript ("Request Form" as set forth in **Appendix E**) must be sent to the Judicial Assistant for the Assigned Judge in person, by e-mail, or regular mail. The Request Form must indicate the specific date and type of all proceeding(s) being requested.

(2) *Delivery.* The Judicial Assistant shall transmit the requested video via secure file transfer to the requestor's email address provided on the Request Form. If the requestor does not have an email address, the Judicial Assistant shall provide the requested video in CD format. The Judicial Assistant 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.

(3) *Non-Attorney Requestors.* Videos requested by and provided to all non-attorneys shall not include any sealed, sidebar, in-chamber, or private events.

(B) Requests for Appeal Transcripts

(1) *Appeal.* As used in this Rule, "appeal" means a direct criminal appeal or a civil appeal.

(2) *Requests for Appeal Transcripts.* The party requesting a transcript for an appeal shall file a praecipe for transcript with the Clerk. A time-stamped copy of the praecipe, along with a completed Request Form, must be sent to the Judicial Assistant for the Assigned Judge in person, by e-mail, or regular mail. ***The Request Form must indicate the specific date(s) of the proceeding(s) to be transcribed.*** If the proceeding was recorded by a Judicial Assistant, the Judicial Assistant shall submit the video of the proceeding to the court's transcription provider ("Court's Transcriptionist"). If the proceeding was recorded by a stenographer, the Judicial Assistant shall submit the Request Form to the stenographer that recorded the proceeding for transcription.

(3) *Appeal Requests by Indigent Criminal Defendants.* If the party requesting the transcript is an indigent criminal defendant, the Court's Transcriptionist or the stenographer shall send an electronic copy of the completed transcript to the Judicial Assistant in .pdf format.

(a) The Judicial Assistant shall send the completed transcript to appellate counsel or the pro se defendant in .pdf format via e-mail. If the pro se defendant does not have an e-mail address, another delivery method will be used.

(b) The Judicial Assistant shall file an electronic copy of the transcript with the Clerk of the Second District Court of Appeals.

(c) The Court's Transcriptionist or the stenographer shall file a paper copy of the transcript with the Clerk of the Second District Court of Appeals.

(4) *Appeal Requests by Non-Indigent Parties.* If the party seeking the transcript is not an indigent criminal defendant, the non-indigent party is responsible for paying for and obtaining the transcript from the Court's Transcriptionist or the stenographer.

(a) Once payment for the transcript is received, the Court's Transcriptionist or the stenographer shall send an electronic copy of the completed transcript to the Judicial Assistant in .pdf format, via secure file transfer.

- (b) The Judicial Assistant shall file an electronic copy of the transcript with the Clerk of the Second District Court of Appeals.
- (c) The Court's Transcriptionist or the stenographer shall file a paper copy of the transcript with the Clerk of the Second District Court of Appeals.

(C) Requests For Non-Appeal Transcripts

(1) *Non-Appeal Requests by Indigent Criminal Defendants.* If the party requesting a transcript for non-appeal purposes is an indigent criminal defendant, the party shall file a motion and proposed order with the Assigned Judge.

- (a) If the Assigned Judge grants the motion and signs the order, a time-stamped copy of the order with a completed Request Form must be sent to the Judicial Assistant for the Assigned Judge in person, by e-mail, or regular mail. ***The Request Form must indicate the specific date(s) of the proceeding(s) to be transcribed.***
- (b) If the proceeding was recorded by a Judicial Assistant, the Judicial Assistant shall submit the video of proceedings to the Court's Transcriptionist. Upon completion, the Court's Transcriptionist shall send an electronic copy of the completed transcript to the Judicial Assistant in .pdf format.
- (c) The Judicial Assistant shall send the completed transcript to counsel or the pro se defendant in .pdf format via e-mail. If the pro se defendant does not have an e-mail address, another delivery method will be used.
- (d) If the proceeding was recorded by a stenographer, the Judicial Assistant shall attempt to submit the Request Form to the stenographer that recorded the relevant proceedings for transcription. If the stenographer is unavailable or deceased, the Judicial Assistant shall attempt to obtain the transcript by other means, if available. If a transcript is obtained, the Judicial Assistant shall send the completed transcript to counsel or the pro se defendant in .pdf format via e-mail. If the indigent defendant is pro se and does not have email, another delivery method will be used.

(2) *Non-Appeal Requests by Non-Indigent Individuals.* If the individual requesting a transcript for non-appeal purposes is not an indigent criminal defendant, a copy of the Request Form must be sent to the Judicial Assistant for the Assigned Judge in person, by e-mail, or regular mail. ***The Request Form must indicate the specific date(s) of the proceeding(s) to be transcribed.***

- (a) If the proceeding was recorded by a Judicial Assistant, the Judicial Assistant shall submit the video of proceedings to the Court's Transcriptionist. The individual requesting the transcript is responsible for paying for and obtaining the transcript from the Court's transcriptionist.

- (b) If the proceeding was recorded by a stenographer, the Judicial Assistant shall attempt to submit the Request Form to the stenographer that recorded the proceeding for transcription. If the stenographer is unavailable or deceased, the individual requesting the transcript may attempt to obtain the transcript by other means, if available. The individual requesting the transcript is responsible for paying for and obtaining the transcript from the stenographer.

SECTION 11. BROADCASTING AND PHOTOGRAPHING COURT PROCEEDINGS

Rule 11.01 Authorization

(A) Requirements

This section governs the broadcasting and photographing of hearings and trials held by the court under any circumstances and which are open to the public under Ohio law (“Proceedings”) and interviews in the courthouse of attorneys, witnesses, and all other persons who may be involved in a Proceeding. The rules in this section shall be applied in conjunction with Sup.R. 12. The court may grant requests to record Proceedings or interviews at the courthouse that are made in accordance with the following:

- (1) *Written Request.* All requests to record Proceedings or interviews in the courthouse must be made in writing, on the appropriate form. See **Appendix F** and **Appendix G**. If a request is approved, a journal entry which sets forth the conditions of the recording shall be made a part of the case record.
- (2) *Central Arraignments.* Requests to record central arraignments must be made to the Grand Jury Judge through the Grand Jury Judge’s Bailiff. The Grand Jury Judge may, on the Judge’s own motion, issue a general order permitting the recording of all central arraignments on a continual basis.
- (3) *Other Proceedings and Interviews.* Requests to record all Proceedings, other than central arraignments, and to record interviews in the courthouse must be made to the Assigned Judge through the Assigned Judge’s Bailiff.
 - (a) Any request to record all other Proceedings and interviews in the courthouse must be made as far in advance as is reasonably possible, but no later than 24 hours before the recording. The Assigned Judge may waive this advance notice requirement upon the showing of good cause.
 - (b) Interviews in the courthouse may only occur inside the courtroom unless otherwise permitted by the Assigned Judge.

(B) Livestreaming

Unless authorized by the appropriate Judge, no person shall use any device to livestream a Proceeding or an interview in the courthouse.

Rule 11.02 Permissible Equipment and Operators

The conditions for broadcasting and photographing Proceedings and interviews in the courthouse shall be in accordance with Sup.R. 12.

(A) Visible Equipment

Visible audio recording equipment may be used by news media reporters with the prior permission of the Assigned Judge.

(B) Pooling

“Pooling” of equipment shall be required in all Proceedings, unless otherwise provided by the Assigned Judge. It is the responsibility of those requesting permission to record a Proceeding to arrange for “pooling” of equipment.

(C) Set-up of Equipment

All non-portable recording equipment shall be set up and ready for operation prior to the commencement of a court session. No person shall be permitted to bring recording equipment into the courtroom while a Proceeding is in session unless such equipment can be easily carried by a single person without causing a distraction or a disturbance in the courtroom.

Rule 11.03 Limitations

(A) Written Approval to Record

No recording of Proceedings or interviews, or recording equipment, shall be permitted in the courthouse unless a written request is approved by the appropriate Judge as provided in these Rules.

(B) Authorization to Livestream

No livestreaming of Proceedings or interviews in the courthouse shall be permitted except as authorized by the appropriate Judge.

(C) Prohibitions

In no event shall any recording be made or livestreaming occur:

- (1) Of Proceedings in a Judge’s chambers without the express permission of the Judge;
- (2) Of conferences conducted anywhere in the courthouse between attorneys and clients, of conferences between co-counsel, or of bench conferences between counsel and the Grand Jury Judge or the Assigned Judge;
- (3) Of jurors at any time; or
- (4) Of victims or witnesses who object to being recorded.

(D) Juror and Ethical Considerations

No approval for any recording or livestreaming shall be interpreted to diminish the prohibition on jurors from discussing the case with any person until a trial is completed, or the ethical requirements for Judges and lawyers which prohibit them from releasing information about the case while the case is pending.

(E) Continuances for Recordings

If a Proceeding for which a written request to record has been approved is continued for a period of more than 30 days, a new written request shall be made in accordance with these Rules.

(F) Continuances for Livestreaming

If a Proceeding or interview in the courthouse for which a request to livestream has been authorized is continued for any period of time, new authorization by the appropriate Judge to livestream the continued Proceeding or interview must be obtained.

Rule 11.04 Sanctions

(A) Revocation

The appropriate Judge may revoke any approval to record or livestream a Proceeding or interview in the courthouse if any person fails to comply with the requirements of the appropriate Judge or of these Rules.

(B) Unapproved Recordings

If a recording of any Proceeding or interview in the courthouse is conducted without an approved written request, the Grand Jury Judge's or Assigned Judge's Bailiff, or any Deputy Sheriff, may impound the recording equipment, and the court may hold the equipment subject to future actions. If recording equipment is impounded, the court shall schedule a hearing at the earliest possible time. This provision does not apply to court employees using official court recording devices as provided in Rule 10.01.

(C) Unauthorized Livestreaming

If a Proceeding or interview in the courthouse is livestreamed by any person without an approved written request, the Grand Jury Judge's or Assigned Judge's Bailiff, or any Deputy Sheriff, may impound the livestreaming device, and the court may hold the device subject to future actions. If a livestreaming device is impounded, the court shall schedule a hearing at the earliest possible time. This provision does not apply to court employees using official court recording devices as provided in Rule 10.01.

SECTION 12. GENERAL RULES

Rule 12.01 Sessions of the Court

(A) Court Schedule

Unless otherwise ordered by the trial Judge, trial sessions shall be scheduled to start Monday through Friday between the hours of 8:30 a.m. and 4:30 p.m.

(B) Exceptions to Court Schedule

Unless otherwise ordered by the trial Judge, trial sessions shall not be scheduled on (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 or by order of a federal, state, or local governmental authority.

Rule 12.02 Interpreters

(A) Foreign Language Interpreter

Subject to the qualifications and pursuant to the process outlined in Sup.R. 88, the court shall appoint a foreign language interpreter in a case or court function when the court determines, either in its discretion or at the request of a party or witness, that a party or witness is limited English proficient or non-English speaking and the services of the interpreter are necessary for the meaningful participation of the party or witness.

(B) Sign Language Interpreter

Subject to the qualifications and pursuant to the process outlined in Sup.R. 88, the court shall appoint a sign language interpreter in a case or court function when the court determines, either in its discretion or at the request of a party, witness, or juror, that the party, witness, or juror is deaf, hard of hearing, or deaf blind, and determines the services of a sign language interpreter are necessary for the meaningful participation of the party, witness, or juror.

(C) Ancillary Services

Subject to the qualifications and pursuant to the process outlined in Sup.R. 89, the court shall ensure that individuals with limited English proficiency and individuals who are deaf, hard of hearing, or deaf blind have meaningful access to ancillary services outside the courtroom.

(D) Language Access Plan

The court has adopted a detailed “Language Access Plan,” which is available at <https://www.montcourt.oh.gov/interpreter-services/>.

Rule 12.03 Jury Management Plan

In accordance with Sup.R. 5(D), the court has adopted the Jury Management Plan set forth in **Appendix H** hereto, which addresses the provisions of the Ohio Trial Court Jury Use and Management Standards adopted by the Supreme Court on August 16, 1993.

Rule 12.04 Court Technology Plan

(A) Comprehensive Strategy

In accordance with Sup.R. 5(E), the court has adopted and maintains a Court Technology Plan which includes a comprehensive strategy for implementing and maintaining technology solutions for conducting remote hearings, electronic service, the acceptance of electronic signatures, and any other technology-related solution utilized by the court.

(B) Notification Procedures

The Court Technology Plan sets forth procedures for notifying and providing instructions to the public on how to use the technology solutions implemented by the court and how the solutions will comply with any accessibility accommodation requirements, including any applicable requirements of the "Americans with Disabilities Act."

Rule 12.05 Use of Physical Restraints on Children Appearing in Court Proceedings

(A) General Rule

No child appearing before the court in any proceeding shall be physically restrained unless the Assigned Judge makes an individualized determination on the record, and after a hearing, that there is no less restrictive alternative to the use of physical restraint and that the physical restraint of the child is necessary because either the child represents a current and significant threat to the safety of the child's self or other persons in the courtroom, or there is a significant risk the child will flee the courtroom.

(B) Filing

The Assigned Judge shall permit any party, as defined in Juv.R. 2, to be heard on the issue of whether the use of physical restraint is necessary for the particular child at the particular proceeding. Any such party may file a motion regarding the use of physical restraint on the child.

(C) Hearing on the Record

Upon the filing of a motion under this Rule, the court will schedule the matter for a hearing on the record prior to the commencement of the scheduled proceeding.

(D) Least Restrictive Means Required

If the Assigned Judge determines that physical restraint is necessary for the child, the restraint used during the particular proceeding will be the least restrictive necessary to meet the risk requiring the restraint and will be used in a manner that does not unnecessarily restrict the movement of the child's hands.

Rule 12.06 Procedure for Adopting, Modifying and Repealing Local Rules

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

(A) Presentation

Every proposed rule, proposed modification of an existing rule (“proposed modification”), or proposed repeal of an existing rule (“proposed repeal”) shall be presented to the court by (i) any Judge of the court, or (ii) any individual who sends a proposed rule, proposed modification, or proposed repeal to any Judge of the court.

(B) Introduction and Consideration

Every proposal that has been presented to the court pursuant to Subsection (A) of this Rule shall be introduced to and considered by the Judges of the court at their regular monthly meeting.

(1) *Action by Judges.* 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 promotes the use of any procedure to facilitate the expeditious disposition of cases and is consistent with the Ohio Revised Code, the Ohio Rules of Procedure, and the Rules of Superintendence for the Courts of Ohio.

(2) *Vote Formula.*

- (a) A simple majority of the 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 eight of the Judges of the court (“Emergency Status”), any rule (i) may be adopted, modified, or repealed by eight Judges of the court, and (ii) shall take effect as directed by such eight Judges of the court.

(C) Publication

All proposed rules, proposed modifications, or proposed repeals that have been presented, introduced, considered and approved by the Judges of the court shall be published for 30 days. During the 30-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 in the manner set forth in the publication of the proposal.

(D) Adoption and Amendment

(1) *Adoption.* If members of the local bar fail to comment on the published proposal(s), or if the comments submitted by members of the local bar during the 30-day publication period were given reasonable consideration by the Judges of the court at their regular monthly meeting and such Judges decide to leave the proposal unamended, then every proposed rule, proposed modification, and proposed repeal that has been presented, considered, approved, and published shall then take effect as directed by a simple majority of the Judges of the court.

(2) *Amendment to Proposed Rule or Proposed Modification.*

- (a) If, at their regular monthly meeting, the Judges of the court amend the proposed rule or proposed modification in response to comments submitted in accordance with this Rule, then the amendment to the proposed rule or proposed modification shall be republished for 20 days.
- (b) If members of the local bar fail to comment on the published amended proposals during the 20-day republication period, or if the comments submitted by members of the local bar during the 20-day republication period were given reasonable consideration by the Judges of the court at their regular monthly meeting, and such Judges decide to leave the proposal unamended, then each amendment to the proposed rule and proposed modification that has been presented, considered, approved, amended, and republished shall take effect as directed by a simple majority of the Judges of the court.

(3) *Rejection of Proposed Repeal.* If, at their regular monthly meeting, the Judges of the court reject a proposed repeal in favor of retaining the existing rule, then no further action will be taken, and the existing rule shall remain in effect. If, however, the Judges of the court reject the proposed repeal in favor of modifying the existing rule, then the proposed modification shall be published in accordance with this Rule.

(E) Filing

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 as provided in Sup.R. 5(B). Notice of every existing rule that is repealed in accordance with this Rule shall be filed as provided in Sup.R. 5(B).

Rule 12.07 Effective Date

These Rules shall take effect on -, 2024. They govern all proceedings in actions brought on or after -, 2024, 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 on-, 2024, would not be feasible or would work an injustice, in which event the former procedure applies.

APPENDIX A
(referred to in Mont. Co. C.P.R. 3.02, 3.03, and 6.13)

CIVIL FILING FEES

Effective --/--/2024

Pursuant to Mont. Co. C.P.R. 3.03 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 (non-foreclosure cases)	\$750.00
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
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

APPENDIX B
(referred to in Mont. Co. C.P.R. 4.04)

CIVIL PROCESS SERVERS

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:

I, _____
Name of Person Requesting Appointment
, am requesting appointment as a Civil
Process Server [in Case No. _____] [on a standing basis] and 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 the server is a party, related to a
party to the proceeding, or have a financial interest in the outcome of the proceeding;
4. I am a citizen or legal resident of the United States;
5. I hold a valid government-issued identification card, passport, or driver's license;
6. I have not been convicted in the last 10 years of any felony, offense of violence or offense
involving dishonesty or false statement, and am not currently under community control
sanctions, probation, post-release control, or parole;
7. I am not a respondent under any civil protection order;
8. I am familiar with the required procedure for service of process;
9. I will conduct myself in a professional manner; and
10. I agree to follow the requirements of Civ.R. 4 through Civ.R. 4.6, any applicable local rule,
and specific instructions for service of process as ordered by the court in individual cases.

A standing appointment shall be for no more than a one-year period ending on December 31. Upon
expiration of an appointment, I understand that I must reapply in accordance with this Rule. If I
fail to satisfy the requirements set forth in Civ.R. 4.1(D) during my period of appointment, my
authority to serve process shall cease.

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 Mont. Co. C.P.R. 4.04, [Name of Person Being Appointed] is hereby designated as a Standing Special Process Server authorized to make service of process in [Case No. ____][all cases filed in this court and to serve until December 31, _____, or further order of the court, whichever comes first]. If at any time during the period of this appointment [Name of Person Being Appointed] fails to satisfy the requirements set forth under Civ.R. 4.1(D), the authority to serve process under this Order shall cease.

APPROVED:

JUDGE

APPENDIX C
(referred to in Mont. Co. C.P.R. 6.09)

CIVIL REAL ESTATE APPRAISAL

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

CIVIL REAL ESTATE APPRAISAL

		GENERAL DIVISION CASE NUMBER(S)
V	PLAINTIFF	
	DEFENDANT	

PROPERTY ADDRESS (SEE ATTACHED LEGAL DESCRIPTION)

We, the undersigned, disinterested freeholders, residents of Montgomery County have been sworn by Rob Streck, 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.

Rob Streck
Sheriff, Montgomery County Ohio

By:

Deputy

Date

APPENDIX D
(referred to in Mont. Co. C.P.R. 6.09)

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

CIVIL REAL ESTATE APPRAISAL-HOURLY FEE CALCULATION

		GENERAL DIVISION CASE NUMBER(S)
V	PLAINTIFF	
		DEFENDANT

PROPERTY ADDRESS (SEE ATTACHED LEGAL DESCRIPTION)

We, the undersigned, disinterested freeholders, residents of Montgomery County having been sworn by Rob Streck, 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

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

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

Rob Streck Sheriff, Montgomery County Ohio			
By:		Date	
Deputy			

APPENDIX E
(referred to in Mont. Co. C.P.R. 10.02)

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"/> RE FILE <input type="checkbox"/> 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. _____ Date Requestor	Transcript will be provided at State expense for indigent defendant. _____ Judge Date
---	---

Order Preparation (FOR COURT STAFF ONLY)

CD-ROMS Duplicated	CD-ROMS/SFT Delivered To: <input type="checkbox"/> Req Requestor <input type="checkbox"/> Court Services Date	_____ Date 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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APPENDIX F
(referred to in Mont. Co. C.P.R. 11.01)

**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/Televisе/Record/Photograph) _____ any and all open
court proceedings in the case of _____ (Plaintiff) _____ -vs-
_____ (Defendant) _____, case number _____,
before Judge _____.

I certify that I am familiar with the contents of Mont. Co. C.P.R. 11.01 through Mont. Co.
C.P.R. 11.04 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: _____

APPENDIX G
(referred to Mont. Co. C.P.R. 11.01)

**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 Mont. Co. C.P.R. 11.01 through Mont. Co. C.P.R. 11.04 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: _____

APPENDIX H
(referred to Mont. Co. C.P.R. 12.03)

JURY MANAGEMENT PLAN

(A) Administration of the Jury

The responsibility for the administration of the court's jury system shall be vested in the court's Jury Services section of the Case Management Department, under the supervision of the Director of Case Management. The court shall endeavor to employ the services of prospective jurors so as to achieve optimum use with minimal inconvenience to jurors.

(B) Random Selection Procedures

- (1) *Random Selection.* Random selection procedures shall be used throughout the juror selection process. Software programs may be used to provide each eligible and available citizen with an equal probability of selection.
- (2) *Lawful Departures from Random Selection.* Departures from the random selection procedures will occur only when necessary to comply with lawful exceptions. If not enough jurors to make up a jury panel are present, talesmen then may be summoned for the panel until any deficiency is resolved.

(C) Jury Source List

- (1) *Annual Jury Source List.* The selection of jurors for the court shall be from the "Annual Jury Source List," which is comprised of the list of electors certified annually by the Board of Elections pursuant to R.C. 2313.06 and may include names from the list of qualified drivers' licenses and state identification cards certified annually by the Registrar of Motor Vehicles pursuant to R.C. 2313.06. Prior to December 1st of each year, the Montgomery County, Ohio Jury Commissioners shall certify the Annual Jury Source List and file it with the Clerk.
 - (a) To the extent feasible, the Annual Jury Source List shall be representative of, and be as inclusive as possible of, the adult population of Montgomery County, Ohio.
 - (b) The court shall review each Annual Jury Source List for its representativeness and inclusiveness of the adult population of Montgomery County, Ohio. Appropriate corrective action shall be taken if the court determines that improvement is needed in the representativeness or inclusiveness of the Annual Jury Source List.
- (2) *Jury Term List.* The court shall designate a random juror selection process based on the total number of electors, qualified drivers' licenses and state identification cards, 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 from the Annual Jury Source List in November for the January term, April for the May term, and August for the September term.
- (3) *Jury Year.* The annual jury year shall begin on January 1.

(D) Eligibility for Jury Service

All persons, regardless of race, national origin, gender, age, religious belief, income, occupation, disability, or any other factor that discriminates against a cognizable group, shall be eligible for jury service except those who (a) are less than 18 years of age; (b) are not citizens of the United States or residents of Montgomery County, Ohio; (c) have been convicted of a felony and have not had their civil rights restored; or (d) are not able to communicate in the English language.

(E) Notification and Summoning Procedures

- (1) *Summons.* The summons calling a person to jury service and the juror questionnaire eliciting essential information regarding that person may be combined in a single document and shall be phrased so as to be readily understood by an individual unfamiliar with the legal and jury systems. The summons shall clearly explain how and when the recipient must respond and the consequences of a failure to respond.
- (2) *Sent by Ordinary Mail.* The summons shall be sent by ordinary mail not more than three weeks prior to appearance.
- (3) *Consequences of Failing to Report.* A prospective juror who fails to report for service may be scheduled for a contempt hearing before a judicial officer to inform the judicial officer why the prospective juror did not appear. Sanctions may be imposed as warranted.

(F) Term of and Availability for Service

- (1) *Length of Term.* Persons called upon to perform jury service shall be available for five days or for the length of one trial if seated as a juror.
- (2) *Juror Information.* 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. Information related to jury service is also available on the court's website: <https://www.montcourt.oh.gov>.

(G) Excusal and Deferral

- (1) *Bases for Excusal of Juror.* Except as provided by R.C. 2313.15, the court shall not excuse a person who is eligible 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 in the State of Ohio 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 shall 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) *Excusal by Assigned Judge.* A person who is eligible 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 by Assigned Judge.* 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 deferral. If extraordinary circumstances exist, a deferral for more than six months may be granted.
 - (4) *Requests.* Requests for excusals and deferrals and their disposition shall be written or otherwise recorded.

(H) Jury Facilities and Compensation

- (1) *Juror Facilities.* The court shall provide an adequate and suitable environment for jurors. Facilities are easily identified and appropriately designed to accommodate the daily flow of prospective jurors to the courthouse. The court takes care to arrange juror facilities to minimize contact of jurors with parties, counsel, and the public. Jury deliberation rooms include space, furnishings, and facilities conducive to reaching a fair verdict. The safety and security of the deliberation rooms are ensured.
- (2) *Juror Responsibilities in the Jury Facilities.* Jurors shall comply with all building regulations, including, but not limited to, security and the no smoking policy.
- (3) *Juror Compensation.* All persons called for jury service shall receive a reasonable daily fee, which shall be paid promptly.

(I) Voir Dire

- (1) *Limited to Relevant Information.* 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) *Background Information.* Basic background information of the prospective jurors shall be made available to counsel for each party prior to trial.
- (3) *Preliminary Examination by Assigned Judge.* The Assigned Judge may conduct a preliminary voir dire examination. Counsel shall then be permitted to question panel members for a reasonable period of time.
- (4) *Juror Privacy.* The Assigned 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) *Held on Record.* In all criminal and civil cases, the voir dire process shall be held on the record.
- (6) *Collective Questioning.* Voir dire questions shall be asked collectively of the entire panel whenever possible.

(J) Removal from Jury Panel for Cause

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

(K) Peremptory Challenges

Peremptory challenges shall be consistent with existing Ohio law and the applicable Rules of Procedure. Peremptory challenges should be limited to a number no larger than necessary to provide reasonable assurance of obtaining an unbiased jury.

(L) Juror Orientation and Instruction

- (1) *Orientation.* The court has designed a juror orientation program to increase prospective jurors' understanding of the judicial system and prepare them to serve competently as jurors.
- (2) *Judicial Instructions.* In addition to juror orientation, the Assigned Judge may provide instructions consistent with Standard 16 of the Ohio Trial Court Jury Use and Management Standards set forth in **Appendix B** to the Rules of Superintendence for the Courts of Ohio.
- (3) *Judicial Communication with Jury.* All communications between the Assigned 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.

- (4) *Jury Views.* When permission is granted for a jury to visit a scene, only the Bailiff or the acting Bailiff shall communicate with the jury during the visit in accordance with R.C. 2315.02. Neither an attorney representing a party nor any other person shall communicate with the jury.

(M) Jury Deliberations

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.

- (1) *Reasonable Hour for Deliberations.* 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.
- (2) *Court Personnel.* All personnel who escort and assist jurors during deliberations shall have been trained to do so according to procedures approved by the court.

(N) Sequestering of Jurors

A jury shall be sequestered only for good cause, including, but not limited to, insulating its members from improper information or influences.

- (1) *Capital Cases.* In a capital case, the jury shall be sequestered after the case is submitted to the jury in conformity with existing Ohio law.
- (2) *Judicial Discretion Upon Motion.* 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.
- (3) *Procedures.* If sequestration is ordered, the court shall adopt procedures to achieve the purpose of sequestration and minimize the inconvenience and discomfort of sequestered jurors.
- (4) *Court Personnel.* All personnel who escort and assist jurors during sequestration shall have been trained to do so according to procedures approved by the court.

(O) Jury Size and Unanimity of Verdict

Jury size and unanimity of verdict in all criminal and civil cases shall conform with existing Ohio law.

(P) Monitoring the Jury System

The court shall collect and analyze information regarding the performance of the jury system on an annual basis.