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# Local Rules



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Approval Date July 1, 2019

## **Introduction: Courts of Common Pleas**

The court of common pleas, the only trial court created by the Ohio Constitution, is established by Article IV, Section 1, of the Constitution, and its duties are outlined in Article IV, Section 4. Although Adams County has only one elected Judge for the Court of Common Pleas, the Court is divided into different divisions. Each division is subject to Rules of Court established by the Ohio Supreme Court. The Supreme Court maintains the rules on their website which can be accessed at <https://www.supremecourt.ohio.gov/LegalResources/Rules/> . In addition, the local Court may establish Local rules of procedure. There are also [Rules of Evidence](#) that provide guidelines on the introduction of evidence in the Court.

**General Division:** The general division has original jurisdiction in all criminal felony cases and in all civil cases in which the amount in controversy is more than \$15,000. General divisions also have appellate jurisdiction over the decisions of some state administrative agencies. General Divisions also conduct hearings regarding [Stalking and Sexually Oriented Offenses Protection Orders](#). General divisions are subject to the [Rules of Civil Procedure](#) and the [Rules of Criminal Procedure](#).

**Domestic Relations Division:** Domestic relations courts have jurisdiction over all proceedings involving divorce or dissolution of marriages, annulment, legal separation, spousal support and allocation of parental rights and responsibilities for the care of children. The Domestic Relations Division also conducts hearings regarding [Domestic Violence Protection Orders](#). The Domestic Relations Division is subject to the [Rules of Civil Procedure](#).

**Juvenile Division:** Juvenile courts hear cases involving persons under 18 years of age who are charged with acts that would be crimes if committed by an adult. They also hear cases involving unruly, dependent and neglected children. Juvenile courts have jurisdiction in adult cases involving paternity, child abuse, nonsupport, contributing to the delinquency of minors and the failure to send children to school. The Juvenile Division is subject to the [Rules of Juvenile Procedure](#), although the Juvenile Rules also incorporate many of the [Rules of Civil Procedure](#).

Both the Domestic Relations Division and the Juvenile Division address the allocation of parental rights and responsibilities including parenting schedules and child support. Many of the applicable statutes, forms, and case law apply to both courts.

**Probate Division:** The Ohio Constitution of 1851 provided that probate courts were to be established as separate independent courts with jurisdiction over the probate of wills and supervision of the administration of estates and guardianships. In 1968, under the Modern Courts Amendment of the Ohio Constitution, the probate courts became divisions of the courts of common pleas. Probate courts also have jurisdiction over the issuance of marriage licenses, adoption proceedings, determination of sanity or mental competency and certain eminent domain proceedings. Probate judges can perform marriages and may charge a fee for the service. The [Rules of Civil Procedure](#) apply. Probate law is very form driven and the Supreme Court provides standard [Probate Forms](#) for Courts to use. In addition, local courts may adopt and use their own forms to address local needs.

Where possible, rules, forms, and procedures have been consolidated across all divisions to simplify practice and procedure. Rules specific to each division will be presented separately, although there may be overlap. Application of the local rules are at the sole discretion of the Court based upon the requirements of a specific case.

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## **Rules Applying to all Divisions**

### Rule 001: Effective Date

- A. These Rules shall take effect July 1, 2019 and after such Rules are filed with the Supreme Court of Ohio, in accordance with Civil Rule 83 and Criminal Rule 57, they govern all proceedings in actions brought after they are in effect, and also all proceedings in action then pending, except in a particular action that in the opinion of the Court, their application would not be feasible, would work injustice, or would be inconsistent with the Rules of Superintendence or the Rules of Civil or Criminal Procedure.
- B. All former Rules of this Court are repealed as of the effective date hereof.

### Rule 002: Term of Court

- A. The Court shall be in continuous session for the transaction of judicial business. Each calendar year shall be divided into three (3) terms of Court, designated as the January term; the May term; and the September term. The day of commencement of each term shall be the first Monday of January, first Monday of May, and the first Monday of September of each year, or at such other time as may be provided by law or subsequent order of the Court.

### Rule 003: Online Resources and Updates

- A. The Court website is located at [www.adamscountycourts.com](http://www.adamscountycourts.com). Forms and Checklists are maintained on the website and not in the printed version of the local rules. Changes to forms and checklists do not require the amendment of the local rules and attorneys/parties are encouraged to check the website for the most up to date forms and checklists before filing with the Court.

### Rule 004: Court Costs

- A. No civil or juvenile action or proceeding shall be accepted by the Clerk for filing, unless the party or parties offering the same for filing shall have first deposited a sum to secure the payment of the costs that may accrue in each action or proceeding, except as otherwise provided by law. Such advance deposit shall be in accordance with the schedules in this Rule, Rule 005:, Rule 200:, Rule 300:, Rule 400: and the provisions of R.C. 2303.20.1(E)(1).
- B. The Court may issue an order for an additional cost deposit to be paid at any time during the case.
- C. If Court costs are owed for prior proceedings, and unless otherwise ordered by the Court pursuant to an Affidavit of Indigency filed by the person expressing an inability to pay the costs or other order of the Court, no new filings in the case will be accepted until the outstanding court costs are paid.
- D. In cases where service other than certified mail is requested, the Clerk may require the party requesting such service to advance an additional amount estimated by the Clerk to be sufficient to cover the increased costs thereof.
- E. In lieu of a cash deposit, costs may be secured by bond with surety approved by the Clerk, provided, however, that no member of the bar shall be accepted as such surety.
- F. A poverty affidavit filed in lieu of cash deposit must state the reason for the inability to pre-pay costs, and is subject to Court review at any stage of the proceedings. Court costs WILL be assessed and assigned to be paid at the conclusion of the proceedings. The Court,

at its sole discretion, may conduct a hearing regarding the affidavit and require the applicant to submit verification of information related to the affidavit.

- G. No waiver of Court costs deposit pursuant to poverty affidavit will be accepted where a litigant is represented by private paid counsel. A deposit will be required prior to the Court accepting any filing and Court costs WILL be assessed and assigned to be paid at the conclusion of the proceedings.
- H. Clerk Copy Fees
  - (1) \$ .25 per page for copies made in the clerk of courts office.
  - (2) \$ 1.00 per document for certified copies.
  - (3) NOTE: IF YOU WISH TIME STAMPED COPIES OF PLEADINGS RETURNED BY MAIL, SEND A SELF-ADDRESSED STAMPED ENVELOPE.

**Rule 005: Court of Appeals: Court Costs**

Amount	Description
\$220.00	Deposit for filing Notice of Appeal in Trial Court or sworn affidavit of inability to secure costs
\$220.00	Deposit for filing Complaint in original action or sworn affidavit of inability to secure costs
\$450.00	Medical Malpractice Arbitration

**Rule 006: Adams County Mediation Fund**

- A. The Court has determined for the efficient operation of the Court, and pursuant to Article 4, Section 5 of the Ohio Constitution, that additional funds are necessary to acquire and pay for Mediation Services for the Civil Division of the Court. Therefore, the Court hereby institutes an additional \$50.00 fee to be paid upon the filing of each Civil Division and/or Juvenile Division action or proceeding, which shall be collected by the Clerk of Courts, and paid to the County Treasurer for deposit into the Adams County Mediation Fund.

**Rule 007: Operating Funds – Special Projects**

- A. Civil, domestic, juvenile, or criminal action or proceeding
  - (1) The Court has determined for the efficient operation of the Court, and pursuant to R.C. 2303.201(E), that additional funds are necessary to acquire and pay for special projects of the Court. This includes, but is not limited to, the acquisition of additional facility or the rehabilitation of existing facilities, the acquisition of equipment, the hiring and training of staff, juvenile delinquency deterrent(s), mediation or dispute resolution services, indigent Guardian ad Litem appointments, Court security, the employment of magistrates, acting judges or other related services. Therefore, the Court hereby institutes a fee of \$50.00 on the filing of each civil, domestic or criminal action or proceeding, which shall be collected by the Clerk of Courts, and paid to the County Treasurer for deposit into a General Special Projects Fund. As well as an additional \$50.00 on the filing of case in the Juvenile Division of the Court of Common Pleas, which is to be collected by the Clerk, and paid into the County Treasurer for deposit into a General Special Projects Fund.
- B. Probate Proceeding
  - (1) The Court has determined for the efficient operation of the Court, and pursuant to R.C. 2303.201(E), that additional funds are necessary to acquire and pay for special



projects of the Court. This includes, but is not limited to, the acquisition of additional facility or the rehabilitation of existing facilities, the acquisition of equipment, the hiring and training of staff, mediation or dispute resolution services, indigent Guardian ad Litem appointments, juvenile delinquency deterrent(s), Court security, the employment of magistrates, acting Judges and other related services. The fee is \$75.00 on each Estate; and \$85.00 on Civil actions filed in Probate Division of this Court, which shall be collected by the Clerk of Probate Court, and paid to the County Treasurer for deposit into a General Special Project Fund.

Rule 008: Pleadings

- A. All pleadings, motions, applications and other filings presented to the Court shall be correctly captioned and shall either be in typeface or written legibly in ink. **All pleadings, filed by an attorney shall be typed or computer generated.** Applicants appearing pro se are encouraged to type all filings. Any information interlined on pleadings, motions, applications and other filings shall be in typeface or written legibly in ink. The Court reserves the right to reject or strike any pleadings in which the text or the signatures are illegible. Pleadings shall be printed on 8 ½" x 11" paper securely bound at the top and unfolded.
- B. All pleadings shall have a margin of 1 ½ inches at the top of the first page to ensure space for the Clerk to stamp the pleading.
- C. All pleadings, motions, and other filings must include the attorney's or self-represented party's mailing address, telephone number, and email address.
- D. Nothing, including pleadings, motions, other papers, and any amendments, may be removed from any file without a court order. No person may remove a court file from the court premises without a court order.
- E. The Court has prepared checklists to assist in the filing of various matters. If a checklist is available, the filing must contain all of the required documents or the filing may not be accepted by the Clerk. Any filing that is submitted that is later determined to be insufficient by the Court may be returned or dismissed. Self-represented parties must also file a completed checklist with the filing.
- F. All filings, entries and orders which bear an endorsement of counsel per telephone or electronic authorization shall state the date of said authorization and shall also contain a certificate of service by the attorney who obtained authorization that a copy of the filing, entry or order has been delivered to the consenting counsel.
- G. Unless otherwise specified by the clerk, only one original copy of a pleading need be submitted to the Court. Documents are scanned. Additional certified or non-certified copies may be requested from the clerk.

Rule 009: Process

- A. Service of process shall be made as required by Rule 4.2 through 4.6 of the [Rules of Civil Procedure](#), or Rule 15 and 16 of the [Rules of Juvenile Procedure](#).
- B. Publication in a Newspaper: For purposes of Publication pursuant to the Civil Rules, the following shall be considered Newspapers of general circulation in Adams County.
  - (1) People's Defender, 25 Rice Dr, West Union, OH 45693, (937) 544-2391
  - (2) The Manchester Signal, 414 E 7th St, Manchester, OH 45144, (937) 549-2800
  - (3) The Informer, 25 W 8th St, Manchester, OH 45144, (937) 549-0005

- C. In the event that service by publication is necessary, the party requesting such service shall make necessary arrangements with the newspaper for publication, pay the costs thereof to the newspaper, and direct the publisher to file proof of publication with the Clerk of Courts.
- D. Publication in Juvenile Court Cases Only
  - (1) In accordance with Rule 16(A) of the Ohio Rules of Juvenile Procedure, service by publication shall be made in all cases by posting and mail.
  - (2) Requests for service by publication shall be made as soon as is reasonably practicable.
  - (3) An affidavit of the party requesting service or that party's counsel shall be filed with the court. The affidavit shall contain: A statement that service cannot be made because the current residence of the party to be served is unknown to the affiant AND a statement of all of the efforts made on behalf of the party to ascertain the residence of the party to be served, including a statement of prior successful attempts, and that the current residence of the party to be served cannot be ascertained with reasonable diligence AND the last known address of the party to be served.
  - (4) Alternatively, the posting may be made on the website designated by the Juvenile Court clerk of courts, if available, in a section designated for such purpose.
- E. Posting
  - (1) The Notice to be posted shall contain the name and address of the court, the case number, the case caption name, and the name and last known address, if any, of the person or persons whose residence is unknown. The Notice also shall contain a summary statement regarding the notice to the party whose residence is unknown and shall notify the party of a time after the publication that is set as the time to appear. The Notice shall be posted for seven consecutive days.
  - (2) As outlined in Rule 4.4 of the [Rules of Civil Procedure](#), or Rule 16 of the [Rules of Juvenile Procedure](#), the service notice is to be made by posting in the Courthouse; and the bulletin board at the Department of Job and Family Services, 482 Rice Drive, West Union, Ohio 45693, and the bulletin board at the West Union Village Offices at 33 Logans Lane West Union, Ohio 45693 and these three locations are those designated pursuant to Rule 4.4(A)(2) of paragraph 2 of the Rules of Civil Procedure and Rule 16(A) of the Rules of Juvenile Procedure.

**Rule 010: Facsimile Filings**

- A. Pleadings and other papers may be filed by fax subject to the following conditions:
  - (1) A document filed by fax with the Clerk of Courts is accepted as the original filing provided that the party who is sending the fax complies with all of the requirements set forth in this local rule. The party filing a fax must maintain in his/her records, and have available for production upon request of the Court, the original document filed by fax, with original signatures as required under the applicable rules. The party transmitting the document represents that the signed document is in his/her possession.
- B. The following telephone numbers are to be used for filing These are the only numbers that may be used for filing. This number is available to receive faxes 24 hours per day seven days per week.
  - (1) General and Domestic Relations Division: (937) 544-8271
  - (2) Juvenile Division: (937) 544-2365
  - (3) Probate Division: (937) 544-2365

- C. Documents sent by fax and accepted by the Clerk of Courts are considered filed as of the date and time the Clerk of Courts received the fax. The sender bears the risk of transmission.
- D. Exhibits may *not* be submitted by fax except by court order.
- E. The party filing a document by fax must also include a cover page containing the following information:
  - (1) case caption;
  - (2) the case number;
  - (3) a description of the document being filed;
  - (4) the date and time of the transmission;
  - (5) the transmitting fax number; and
  - (6) the number of pages being transmitted.
- F. The following documents may NOT be filed by fax:
  - (1) ANY FILING FOR A COURT OF APPEALS CASE
  - (2) any filing which requires the Clerk of Courts to collect a filing fee deposit against costs;
  - (3) any filing which requires the Clerk of Courts to effectuate service and summons; any entry requiring the Court's signature; and
- G. This local rule is adopted solely for the convenience of those filing documents with the Court. The Court does not assume any obligation or liability by virtue of this rule. The sender assumes all responsibility, obligation, and liability for filing by fax.

Rule 011: Notice of Appearance

- A. Any attorney entering a case must file a notice of appearance within seven days of being retained containing the name of the client being represented and all contact information, including email address, for the attorney. Except for good cause shown, a final hearing date will not be continued due to the entry of appearance.
- B. Hearing Notice via Electronic Mail. Upon the written consent of a party or counsel if represented, the Court may send all hearing notices via electronic mail. Written consent shall be in a format provided by the Court.

Rule 012: Appointed Counsel

- A. In cases where appointed counsel is authorized by law, parties who are unable to retain private counsel, qualify financially, and who wish to be represented by counsel may request counsel to be appointed. The party shall provide any and all necessary information, pay any indigent application fee, and complete such forms as are necessary to determine eligibility. Generally, Counsel will not be appointed in matters dealing with paternity, custody, or visitation.

Rule 013: Withdrawal and Substitution of Attorney

- A. Except for good cause shown, a final hearing date will not be continued due to the withdrawal or substitution of an attorney. An attorney of record will be relieved of his/her responsibility under the following circumstances:
  - (1) Without the client's consent.
    - (a) The attorney must file a motion stating the grounds for withdrawing and the date of the next hearing. The attorney must give the Court a file stamped copy of the

motion. The Court will schedule a hearing on the motion. The attorney must file proof of service of the motion and hearing notice on his/her client and the opposing party.

- (2) With the client's consent.
  - (a) The client and the attorney must sign an entry allowing the attorney to withdraw. The entry must state the date of the next hearing. The attorney must submit the entry to the Court.
- (3) Substitution of attorney of record.
  - (a) The new attorney must file a Notice of Substitution of Attorney and a Notice of appearance pursuant to Rule 010:. The new attorney must file proof of service of the Notice and Notification Form on the opposing party.

Rule 014: Motions, Memoranda and Procedure

A. Motions

- (1) All motions shall be accompanied by a memorandum in support of the motion, which shall be a brief statement of the grounds for the same, and may include citations of authorities relied upon.
- (2) The Clerk of Courts will not be required to accept a motion unless accompanied by a memorandum as set forth.
- (3) Motions not requiring a hearing will be held for a period of 14 days, in order to allow memoranda in opposition to be filed by opposing counsel. Thereafter reply memoranda is due within 7 days. At the conclusion thereof, the motion and any response will be given to the Judge for consideration and a decision.
- (4) It is the responsibility of the attorney filing the motion to SECURE a date and time for a hearing from the Assignment Commissioner. Motions requiring a hearing, shall be accompanied by a Judgment Entry with blanks for a hearing date to be filled in. The hearing will be set to accommodate the docket of the Court, on the first available date after the filing thereof. Hearings will be set to a specific date and time. Hearings on each motion shall be conducted in the order in which they are set.
- (5) On the date of hearing, unless otherwise ordered by the Court, counsel and the client must appear ready to proceed. All negotiations and discussions between counsel and their client, as well as counsel and opposing counsel should be held prior to time for the hearing, in order to not cause a delay in the hearing, and to permit the Court's Docket to remain on schedule.
- (6) In the event any motion shall require in excess of 15 minutes before the Court, counsel SHALL be required to notify the Court of such fact, and shall be responsible for obtaining adequate time from the Assignment Commissioner, in order to allow sufficient time to permit proper presentation of the motion. The Assignment Commissioner cannot be expected to know the amount of time you will require for a hearing.

Rule 015: Continuances

- A. No case which has been set for a pretrial, report, or hearing will be continued without the Court's authorization.
- B. A motion and memorandum SHALL be required to obtain a continuance of any matter pending before the Court and SHALL BE SUBMITTED AT LEAST 14 DAYS PRIOR

TO TRIAL OR HEARING, except for emergency or other cause deemed sufficient by the Court. The memorandum attached to the motion MUST verify the grounds for the continuance AND SHALL INCLUDE COPIES OF ANY ASSIGNMENT NOTICES OR OTHER PROOF OF CONFLICT. MOTIONS MUST FIRST BE FILED WITH THE CLERK, AND GIVEN TO THE ASSIGNMENT COMMISSIONER, ALONG WITH A PROPOSED ENTRY. THEY ARE NOT TO BE TAKEN DIRECTLY TO THE JUDGE OR MAGISTRATE FOR APPROVAL WITHOUT FIRST BEING FILED WITH THE CLERK.

- C. A motion for continuance must state the following:
  - (1) the reason for a continuance;
  - (2) how long the case has been set for hearing;
  - (3) how long the case has been pending;
  - (4) the number of previous continuances granted; and
  - (5) at whose request any previous continuance was granted.
- D. If a continuance is requested due to a scheduling conflict in another Court, the motion shall include the name of the Court, the assigned Judge, the case caption, the date and time of the conflicting case, the date that the conflicting case was assigned for Trial, AND A COPY OF THE ASSIGNMENT NOTICE OF THE CONFLICT;
- E. IT IS THE RESPONSIBILITY OF THE MOVING PARTY TO OBTAIN DATES FROM THE ASSIGNMENT COMMISSIONER, AND TO COORDINATE THE SAME WITH OPPOSING COUNSEL, SO AS TO CONTINUE THE MATTER TO A DEFINITE DATE. THIS DATE AND TIME SHALL BE INCLUDED IN AN ENTRY GRANTING THE CONTINUANCE AND MUST BE SIGNED OFF BY THE MOVING PARTY, WITH TELEPHONE AUTHORITY FROM OPPOSING COUNSEL, AND THEN MUST BE APPROVED BY THE COURT.
- F. Should opposing counsel object to a continuance, movant shall so state in the motion, and an entry should be proffered containing a blank space for re- assignment, if the Court sees fit to grant such continuance.
- G. Any motion for a continuance made at any time, on a basis other than a prior scheduled hearing or Trial, SHALL contain the signature of the client of the moving attorney. If the client is not available for signature at the time of the filing of the motion, his/her permission must be verbally obtained at the time of the filing of the motion, and written permission for continuance shall be supplied to the Court within ten days.
- H. IT IS THIS COURT'S STANDARD PROCEDURE TO ONLY PERMIT ONE CONTINUANCE PER CASE TO EACH SIDE, AND THE COURT WILL CONSIDER FURTHER REQUESTS FOR CONTINUANCE ONLY IN THE EVENT OF EXTREME CIRCUMSTANCES.

**Rule 016: Dismissals**

- A. A stipulation of dismissal or notice of voluntary dismissal of an action, complaint, or motion, must be filed with the Clerk of Courts and a copy delivered to the Court. An agreed entry of dismissal of an action must be delivered to the Court. All Court Costs must be paid before the Case will be dismissed.
- B. The stipulation, notice, or entry must be stamped costs paid or waived by the Clerk of Courts prior to its filing or submission to the Court.
- C. Dismissals of Domestic Violence Civil Protection Orders must comply with R.C. 3113.31.

Rule 017: Failure to Appear

- A. If a party seeking relief fails to appear for the scheduled hearing, the Court may dismiss the action for lack of prosecution. If the opposing party fails to appear for the scheduled hearing and the party seeking relief does appear, the hearing may proceed as scheduled.
- B. If the attorney for a party fails to appear at the scheduled time for the hearing and the party whom he/she represents is present, the hearing may proceed as scheduled.
- C. In cases involving contempt proceedings for failure to pay child support filed by ACCSEA, Obligors may not be excused of their attendance at a hearing by ACCSEA unless they make payment as requested AND the Obligor has made full or partial payment of any court costs as ordered by the Court.

Rule 018: Discovery

- A. It shall be the policy of this Court to minimize judicial intervention in the discovery process in all civil actions. It is also intended that interrogatories and requests shall not be filed with the Court, except in those cases when informal, out-of- Court attempts at discovery are ineffective, and it becomes necessary to file a motion to compel discovery under the provisions of Rule 37A, Ohio Rules of Civil Procedure.
  - (1) Consultation Among Counsel - No objections, interrogatories, motions, applications or requests related to discovery shall be filed under the provisions of Civil Rules 27 to 37 in this Court, unless counsel have exhausted all extrajudicial means for resolution of the differences.
  - (2) It will be incumbent upon the moving party compelling the requests and interrogatories to provide the Court with a face-sheet (cover sheet only) of the particular discovery being used.
- B. Interrogatories - Interrogatories submitted to a party shall be limited to forty interrogatories, including sub-parts. Additional sets of interrogatories may be permitted after a party has received responses to previously submitted interrogatories. Only the face-sheet of the interrogatories are to be filed with the Clerk of Courts, and the face-sheet of the answers are also to be filed with the Clerk of Courts.
  - (1) Motion to Compel Discovery - To the extent that extra judicial means have not disposed of the matter, the party seeking discovery may then proceed with the filing of a Motion to Compel Discovery, under Rule 37. The motion shall be accompanied by supporting memorandum which will state the movant's legal basis which would warrant an Order compelling discovery. The memorandum filed should be concise, addressing only those relevant issues and should not generally exceed ten pages. The motion and memorandum shall be accompanied by:
    - (a) An affidavit of counsel setting forth what extra judicial means have been attempted to resolve the differences, and;
    - (b) A copy of the interrogatories, application, request, etc., which have been previously served pursuant to Ohio Rules of Civil Procedure. No interrogatories, applications or request shall be filed in the Court, except in connection with a Motion to Compel Discovery.

Rule 019: Case Management

- A. Purpose - The goal of this Rule is the prompt, but fair disposition of litigation. This goal can only be accomplished by early and continuing judicial control and management of each



case assigned to the Judge's docket. This Rule will establish a general framework for management of cases, leaving to the discretion of the individual Judge the use of additional procedures to accomplish the goal of this Rule.

B. Scheduling Order -

(1) At any time after service of the complaint, the Judge assigned to the case may make a scheduling order. The Judge shall make the order only after consulting with all counsel of record at a scheduling conference, which may be conducted in person or by phone, or at an informal Pretrial conference under Local Rule 9.

(2) The scheduling order shall limit the time:

(a) To join new parties & amend pleadings

(b) To file and the hearing of motions

(c) To complete discovery

It may also include:

(d) FIRM dates for Pretrial and Trial, provided that the formal Pretrial conferences shall be set no more than 14 days before the Trial date. Pretrial conferences will be scheduled pursuant to Local Rule 9

(e) Any other matters appropriate to the particular case

(3) THE DEADLINES AND SCHEDULE SO ESTABLISHED, AND ORDERED SHALL NOT BE MODIFIED, EXCEPT BY ORDER OF THE COURT.

Rule 020: Pre-Trial Procedure

A. The Court may, on its own motion, or at the request of any attorney appearing in a matter, fix a date for a limited informal Pretrial conference, case management conference, or status report. The purpose of said conference is to resolve a particular issue, explore the possibility of an early settlement, and to fix deadlines for the completion of discovery procedures, and set FIRM dates for Trial.

B. In lieu of an appearance before the Court, the Court may request a written status report from the attorneys in the cause, covering in-depth the matters into which the Court has inquired in the request for written status report. No pretrial statement, as defined in Rule 020:C. (2) below, will be required for a limited pretrial conference, unless the Court specifically orders the contrary. Informal pretrials may be conducted by telephone conference with prior consent of the Court.

C. The Court may also schedule a formal pretrial prior to Trial. Additional pretrial conferences may also be set at the request of counsel, or by the Court on its own motion. All contested issues will be discussed in depth at the pretrial conference.

(1) All attorneys appearing in the pleadings in an action are expected to be present at any pretrial conference, fully authorized to act and negotiate on behalf of the parties they represent. Since the amicable disposition of the case by settlement will be seriously considered, the attorney should appear at the formal pretrial conference prepared to discuss the subject in depth. The parties need not be present unless specifically ordered by the Court. At the request of any attorney, or upon its own motion, the Court may order parties or their respective sureties, indemnitor insurers or authorized representatives of State agencies to be present at the Pretrial conference.

(2) Upon order of the Court, all parties shall file and serve upon all other attorneys appearing in the action, not less than two days prior to the date of the formal Pretrial conference, a PRETRIAL STATEMENT:

- (a) advising the Court, in detail, of the factual and legal issues which the case presents;
  - (b) outlining the expected testimony of witnesses on controverted factual issues, as indicated above;
  - (c) setting forth the party's position on legal issues, including any significant evidentiary questions, with a citation of authorities in support thereof;
  - (d) as to a plaintiff or plaintiffs, attaching an itemized list of special damages and expenses, if applicable; and
  - (e) attaching copies of available opinions of all persons who may be called as expert witnesses, including physicians, which shall not constitute a waiver of privilege granted under ORC 2317.02, as set forth in Civil Rule 16.
- (3) Upon the failure of any party to the action or their attorney - either to serve and file the Pretrial Statement required by Rule 020:C. (2) above, after notice of formal pretrial conference has been sent, the Court may impose sanctions as authorized by Civil Rule 37 B.
  - (4) The Court may, and at the request of any party or his attorney, prepare or cause to be prepared a written order which recites the action taken at a pretrial conference. The Court shall enter the order and submit copies to the attorneys for the respective parties. The order, subject to Civil Rule 60A, shall control the subsequent course of the action, unless modified at the Trial to prevent manifest injustice.
  - (5) The Court may order Trial counsel to prepare and submit to the Court Trial briefs, motions *in limine*, and proposed jury instructions (if applicable). In such event, the Court shall establish a schedule for the submission of said documents.

Rule 021: Telephone Pre-trials

- A. The Court may permit an attorney/self-represented party to appear for pretrial conferences and reports by telephone. If the attorney/self-represented party wishes to appear by telephone, the attorney/self-represented party must contact the assignment commissioner and provide the following information at least two business days prior to the scheduled pretrial conference or report:
  - (1) the phone number where he/she can be reached;
  - (2) the case name and number;
  - (3) the name of the Judge/Magistrate; and
  - (4) the date and time of the pretrial or report.

Rule 022: Trial Procedure

- A. Trial procedure shall be in accordance with Statute or Rules of the Supreme Court of Ohio.
- B. All parties and their counsel shall appear fully prepared to proceed no later than 30 minutes prior to the scheduled time of the commencement of any Trial.

Rule 023: Exhibits in Evidentiary Hearings

- A. Plaintiff's (Petitioner's) exhibits must be marked with numbers. Defendant's (Respondent's) exhibits must be marked with letters. Exhibits should be tabbed and indexed, and multiple exhibits should be bound or placed in a binder.



- B. An attorney/self-represented party must exchange a copy of the exhibits on the opposing party as ordered. Exchanges made be made electronically, however, a party must supply a hard copy of exhibits to the opposing party upon written request.
- C. Each party must bring to the hearing a set of exhibits for:
  - (1) The Court
  - (2) A witness
  - (3) The opposing Party (unless already delivered to the opposing party)
  - (4) Any other party, such as a Guardian *ad Litem*
- D. The Court will not accept any exhibits prior to the hearing.

Rule 024: Interpreter

- A. If a party requires an Interpreter, the attorney/self-represented party must file a Request for Interpreter and submit a copy to the Court at least two weeks prior to the scheduled court appearance. The Court will appoint an Interpreter and pay the Interpreter's fee.
- B. If an Interpreter is no longer needed or the hearing time is shortened, the attorney/self-represented party must advise the Court no later than 48 hours prior to the scheduled court appearance. Failure to do so may result in the Court assessing additional court costs for the Interpreter's fee for unneeded services.
- C. The Ohio Supreme Court has additional information on interpreters at <https://www.supremecourt.ohio.gov/JCS/interpreterSvcs/default.asp>.

Rule 025: Media in the Courts

In order to accommodate the request of the media, the Court establishes the following procedure in regard to media coverage in the Courtroom. This rule does not apply to the Juvenile or Probate Court.

- A. Procedure:
  - (1) Requests for permission to broadcast, televise, photograph or otherwise record proceedings in the Courtroom shall be made in writing to the Trial Judge. Such applications should be made as far in advance as is reasonably possible, but in no event later than thirty (30) minutes prior to the Courtroom session to be recorded. The Trial Judge may waive the advance notice provision for good cause. All applications shall become part of the record of the proceedings. Applications may be obtained from the Clerk of Courts Office.
  - (2) Consistent with the Code of Judicial Conduct, and Superintendence Rule 11, the Trial Judge shall grant the request and record that permission in writing. In the event that a question arises as to whether the requested coverage is consistent with Canon 3(A)(7), interested representatives of the media shall select one of their number to represent them, and shall be granted an opportunity to be heard.
  - (3) All media representatives interested in recording Courtroom proceedings shall do so through the pooling of their respective resources. Media representatives shall select a pool coordinator who shall take responsibility for:
    - (a) placing and operating stationary camera inside the Courtroom;
    - (b) placing and operating all audio equipment;
    - (c) making the technical arrangements necessary for feeding output from the equipment to all participating stations at a location outside the Courtroom. When

- possible, the pool coordinator shall consult with the Court in advance about possible camera and/or microphone locations inside the Courtroom.
- (4) Unless otherwise directed by the Trial Judge, no more than one video camera shall be used in the Courtroom. Each camera shall have one operator. No artificial lighting other than that normally used in the Courtroom shall be used without expressed permission by the Trial Judge. No more than one still photographer, utilizing not more than two still cameras, with not more than two lenses for each camera, shall be permitted. Recording of documents or exhibits are prohibited, except those clearly visible to spectators (i.e., maps, charts, etc.).
  - (5) Media representatives shall be afforded a clear view of proceedings in the Courtroom, but shall not be permitted to move about in the Courtroom during the Court proceedings, except for reasonable ingress to and egress from the Courtroom. No interview shall be conducted inside the Courtroom during such proceedings.
  - (6) All equipment needed for the pool shall be located, when possible, outside the Courtroom. Changes of cassettes or film SHALL NOT be made inside the Courtroom during proceedings. No equipment shall be used inside the Courtroom which produces distracting sounds. All equipment in the Courtroom must be set-up fully and be operational before the beginning of the Court proceedings.
  - (7) If the Courtroom has an existing audio system that is technically satisfactory for broadcast purposes, the media pool shall utilize this system. If no such system is available, the pool shall place microphones and wiring as unobtrusively as possible after initial consultation with the Trial Judge. Only one audio system is permitted in each Courtroom. Where time does not permit the set-up of an audio system, the pool may utilize a recording device with built-in microphone, provided the Trial Judge gives permission for this equipment.
  - (8) There shall be NO pick-up of conferences conducted in a Court facility between attorneys and clients, or co-counsel, or of conferences conducted at the bench between counsel and the Judge. The filming, videotaping, recording or taking photographs of victims or witnesses who object thereto shall not be permitted. The filming, videotaping, recording or taking photographs of jurors shall NOT be permitted in any circumstances. Proper Courtroom decorum shall be maintained by all in the Courtroom.

**Rule 026: Communications with Judge and Magistrate**

- A. No attorney or party may discuss the merits, either orally or in writing, of any litigation with the Judge or a magistrate without the presence of the opposing attorney or self-represented party.

**Rule 027: Juvenile/Probate/Domestic Courtroom Decorum and Conduct**

- A. All Courtrooms
  - (1) Any person entering the Courtroom is subject to search.
  - (2) No person carrying a bag, case or parcel shall be permitted to enter or remain in any Courtroom, without first submitting item to security personnel for inspection.
  - (3) No tape recorders, cameras, video cameras, recording or photograph-capable cellular telephone, personal computers, or any other device capable of recording sound or pictures shall be permitted to be used in any Courtroom, or upon entering the second

floor of the Courthouse, absent expressed written consent of the Court, and in accordance with [Rule 025:Media in the Courts](#)

- (4) No portable telephones, pagers, or beepers shall be permitted to be utilized in any Courtroom, unless said devices are silent in operation, and the Court consents to the utilization of the same.
- (5) Attorneys may bring their cellular and electronic devices into the Courtroom, however, they are to be used solely for the scheduling of hearings while an attorney is in the Courtroom. They should be turned off and in silent mode at all other times while in the courtroom, including in between hearings, unless otherwise ordered by the Court. Failure to abide by this procedure, may result in confiscation of their phone or cellular device and/or an appropriate fine.
- (6) All persons attending proceedings shall deactivate any and all electronic, cellular, or digital devices in their possession prior to entering any Courtroom. Any such device which emits an audible signal during any proceeding in this Court, may be confiscated.
- (7) Persons committing any violation of proper conduct shall be removed from any Courtroom, waiting area, hallway, entryway or any location in the Courthouse by security personnel charged with the enforcement of this Rule.
- (8) Except for those who are witnesses, victims, or subjects of the proceeding, children are not permitted in the Courtroom, unless by consent of the Court. Children who are permitted in the Courtroom must be accompanied by an adult, who will be solely responsible for their safety, care and behavior.
- (9) All counsel shall wear business attire when appearing before the Court. All parties and witnesses shall wear appropriate attire.
- (10) Hearings shall commence promptly at the designated time on the assigned date. Counsel and parties shall be present and before the Court at the assigned hearing time. If counsel is going to be late for a hearing, counsel must make a reasonable effort to notify the Judge or Magistrate as soon as is practical to explain the reason for his/her tardiness. If counsel or a party is not present in Court at the assigned time, the case may commence in the absence of counsel or a party, the case may be continued, or the case may be dismissed, as determined by the Judge or Magistrate.

B. Magistrate Courtroom:

- (1) Public access to hearings shall be governed by Ohio Revised Code Section 2151.35, applicable Civil Rules, and Juvenile Rule 27.

C. Sanctions: Failure to abide by the Ohio Rules of Civil Procedure, the Ohio Rules of Juvenile Procedure, Ohio Rules of Criminal Procedure, or the Rules of Practice of the Adams County Court of Common Pleas may result in the imposition of sanctions. Sanctions that may be imposed include but are not limited to the following:

- (1) A case may commence without counsel, be continued, or be dismissed, as the Court deems appropriate.
- (2) The Court may order security personnel to remove persons from the courtroom, hallway, or building.
- (3) The Court may impose fines and/or incarceration pursuant to a finding of contempt.
- (4) The Court may remove a person's name from the list of those eligible for appointment as counsel or Guardian Ad Litem.

Rule 028: Criminal Background Checks and Ohio Court Network (OCN) Reports

- A. The Court may require one or both of the following reports in matters involving the allocation of parental rights and responsibilities or other matters involving the placement or supervision of children and in Guardianship proceedings in Probate Court.
  - (1) OCN Report: The Supreme Court maintains a resource for Courts to conduct background checks in cases such as custody/placement matters, Domestic Violence, Emergency hearings, and other matters before the Court. There is no charge for the report, however, unless otherwise ordered, the report is not for distribution to the parties or their counsel and will not be admitted as evidence in the proceeding. The Court may require that a party fill out a form with personal information in order to run the report. Such form will be confidential and will not be included in the case file.
  - (2) Criminal Background Check – At the time of filing of a Motion for Change of Custody; Petition for Custody; or other pleadings regarding the placement of children with anyone other than the parent of the child, the party with whom the child/children are to be placed, and their spouse, or other person if requested by the Court, must first have a Criminal Background Check run through the Ohio Bureau of Criminal Investigations. A copy of the investigation shall be filed with the pleadings requesting the change in custody. This includes filings in both the Domestic Relations and Juvenile Divisions of this Court.
- B. The reports listed above will not be public record, and are not to be made a part of the public case file of the proceedings. The Clerk of Courts for the Domestic Relations Division and/or Juvenile Division shall retain the records of the background check in a confidential file.

Rule 029: Special Statutory Proceedings for Protection Orders

- A. Civil Rule 65.1 applies to special statutory proceedings under R.C. 3113.31, R.C. 2151.34, and R.C. 2903.214 providing for domestic violence, stalking, and sexually oriented offense civil protection orders.
- B. Pursuant to Civil Rule 65.1(F) the Assignment Commissioner shall assign all CPO cases, including those under ORC 2903.214 to be heard by the Magistrate, or if unavailable by the Judge. All hearings, (ex parte and full) shall be referred to the Magistrate.
- C. The provisions of Civil Rule 65.1(F) apply to proceedings referred to a magistrate for hearings.
- D. The Victim Advocate SHALL be present in the Courtroom with the petitioner at all hearings.
- E. Filing a petition
  - (1) An action seeking an ex parte Civil Protection Order is initiated by filing a Petition for a Domestic Violence Civil Protection Order in accordance with R.C. 3113.31. Petitions may be filed with the Clerk of Courts from 8:00 a.m. to 2:30 p.m., Monday through Friday when the Court is in session. The Clerk of Courts will not accept the filing of a Petition for a Domestic Violence Civil Protection Order after 2:30 p.m.
- F. Ex Parte Hearings
  - (1) Pursuant to local [Rule 028](#); an OCN report will be generated so that the Court may determine if conflicting orders may exist pursuant to Supr. R. 10.06.

- (2) If the Petitioner requests an ex parte order, the Magistrate shall hold an ex parte hearing as soon as possible after the petition is filed, but no later than the next day that Court is in session after the petition is filed.
- (3) The Magistrate may issue ex parte ordered under Ohio Civil Rule 53, without judicial approval with or without bond, for the safety and protection of the petitioner (person to be protected by the order).
- (4) A magistrate's denial or granting of an ex parte protection order does not require judicial approval, shall otherwise comply with the statutory requirements relating to an ex parte protection order, shall be effective when signed by the magistrate and filed with the clerk, and shall have the same effect as an ex parte protection order entered by the court without reference to a magistrate.
- (5) A magistrate's denial or granting of an ex parte protection order without judicial approval under this division does not constitute a magistrate's order or a magistrate's decision under Civ.R. 53(D)(2) or (3) and is not subject to the requirements of those rules.
- (6) The court's approval and signing of a magistrate's denial or granting of an ex parte protection order entered under this division does not constitute a judgment or interim order under Civ.R. 53(D)(4)(e) and is not subject to the requirements of that rule.

G. Full Hearing

- (1) A full hearing must be held no later than seven (7) to ten (10) Court days, after the ex parte hearing, or as provided by statute. Continuances shall be granted as necessary pursuant to the statute.
- (2) If the petitioner fails to appear, the Court will dismiss the petition. If the petitioner appears at the full hearing, and requests a dismissal, the Court MAY dismiss the petition.
- (3) It is the responsibility of the Petitioner, and not the Court, to perfect service upon the Respondent. The Petitioner must provide contact information sufficient for service to the Clerk when filing the petition. Failure to do so may result in dismissal of the Petition or the Clerk may not accept the Petition for filing. The Court CANNOT proceed until the Respondent is served and CANNOT "track down" the Respondent for the Petitioner. The Petitioner may request Service by posting and mail pursuant to Civil Rule 4.4(A)(2)(b) by filing an affidavit of the party requesting service or that party's counsel.
- (4) A magistrate's denial or granting of a protection order after full hearing under this division does not constitute a magistrate's order or a magistrate's decision under Civ.R. 53(D)(2) or (3) and is not subject to the requirements of those rules.

H. Fees and Costs

- (1) Court costs may be assessed against the Respondent pursuant to RC 3113.31(J)(2), 3113.31(K)(2), or 3113.31(E)(8)(e). Court costs may not be assessed against the Petitioner except as set forth in 3113.31(K)(2).

Rule 030: Magistrates

A. Appointment

- (1) The Court may appoint a Magistrate to conduct the business of the Court. All magistrates have the powers set forth in Ohio Rule of Civil Procedure 53, Ohio Rule of Juvenile Procedure 40, and/or Ohio Rule of Criminal Procedure 19 and all other

powers as set forth in the journal entries of this Court and state statutes. A written magistrate's decision is not required if there is an agreed entry and all parties execute a Waiver of Magistrate's Decision and 14 Day Objection Period

B. Orders and Decisions

- (1) Magistrate's Decisions must be accompanied by a Judgment Entry approving and adopting the Decision, and is to be signed by the Judge.
- (2) Any motion to set aside a magistrate's order or objections to a magistrate's decision based on a factual finding must be supported by a complete transcript.
- (3) If a transcript is required, the party filing the motion or objections must order the transcript from the Court Reporter by filing a Praecipe for Transcript with the Clerk of Courts at the time of filing the motion or objections. The complete transcript must be filed within 30 days after filing the motion or objections. Failure to file the complete transcript timely may result in dismissal of the motion or objections unless the Court extends the time.
- (4) A party has 14 days following the filing of the complete transcript to file an amended motion to set aside, supplemental objections, or a brief in support.
- (5) An opposing party has seven days to file a brief in opposition following the filing of a motion to set aside, objections, transcript, an amended motion to set aside, supplemental objections, or a brief in support.

Rule 031: Process Servers

- A. An individual or a legal organization, through an authorized agent, may apply to be appointed as a Special Process Server.
- B. The Applicant shall file an Application for an Appointment as a Special Process Server
- C. With each Application, the Applicant shall file an Affidavit which shall aver all of the following:
  - (1) The Applicant is 18 years of age or older;
  - (2) The Applicant will not serve any process in which he or she may be a party in the action;
  - (3) The Applicant has no familial relationship to any party in any action for which he or she may serve process;
  - (4) The Applicant has no felony criminal record in Ohio, in any other state, or the United States;
  - (5) The Applicant will carry out his or her duties in accordance with all applicable Court Rules and the laws of Ohio.
  - (6) If the Applicant is an authorized agency of any legal organization and more than one employee of the organization may serve process for the organization, each additional employee shall be identified and shall satisfy the requirements set forth above as fully as if that person had submitted his or her own signed Affidavit.
  - (7) With each Application and Affidavit, all Applicants shall present an order which shall be reviewed and signed by the Judge or Magistrate.
  - (8) The Clerk shall record the Application and Affidavit when submitted by an Applicant as a miscellaneous civil case filing. When the order is signed, it shall also be entered on the Clerk's docket and a copy then provided to the Applicant. No Applicant may serve process until a signed order has been filed with the Clerk and provided to the Applicant.



D. Term for a Special Process Server

- (1) An Applicant may request to be appointed as a one-time Special Process Server for a particular matter. In this instance, the Applicant's term shall terminate when the case is terminated by a final entry or as otherwise ordered by the Judge or Magistrate.
- (2) An Applicant may request to be appointed as a Standing Process Server. The term for a Standing Process Server is one year from the date the signed order granting the Application is journalized. A Standing Process Server may serve process in any action pending in this Court during this term.
- (3) No duly appointed Special Process Server may represent or advertise to the public, in any manner, that he or she is the official Process Server for the Court.
- (4) After the Applicant is duly appointed as a Special Process Server under this Rule, he or she shall present a time-stamped copy of the signed order to the Clerk to verify his or her appointment.
- (5) If any Standing Process Server seeks to continue any term, he or she shall, not later than 30 days prior to the expiration of the current term, file an Application, Affidavit, and proposed order as herein required seeking to be reappointed for another term.

Rule 032: Electronic Signatures

- A. Electronic signatures of the judge, magistrate and clerks of this court may, at the sole discretion of the signatory, be affixed to documents, entries, decisions, and orders issued by this court. The judge and magistrates may affix their electronic signature or direct a clerk of the court to affix their electronic signature. Electronic signatures issued in accordance with this rule shall have the same force and effect as a manual signature by the signatory.
- B. Attorneys for the Adams County Child Support Enforcement Agency may submit complaints, entries, and all other court filings to the Clerk of Courts with their electronic signatures.
- C. "Electronic Record" means a record created, generated, sent, communicated, received, or stored by electronic means.
- D. "Electronic signature" means an electronic sound, symbol, image, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record. Electronic signatures utilized by this court shall be subject to the following procedure:
  - (1) The electronic signature creation data shall at all times be under the control of the signatory.
  - (2) The electronic signature created by the electronic signature creation data shall be capable of verification as authentic by the court. The case management system will receive the electronic record. The electronic record will be created within the case management system or from an application outside of the court. The login will involve a user name and password which are unique to the sender. A secure register of the user name and password for each authorized user shall be kept. The user name and/or password shall be approved by the administrator of the court application. Secure password procedures shall be utilized.
  - (3) The electronic signature shall be linked to the data in the electronic document to which it pertains in such a manner so as to assure that, if the data are changed after the electronic signature is entered, the electronic signature shall be invalidated. Such

invalidation shall be readily detectable in both the electronically stored signed document and in any paper copy of that document generated from the electronically stored data.

- (4) An electronic signature in an electronic record filed with the court in accordance with this Local Rule shall be presumed to be authentic. If established upon motion of the signor or the signor's personal representative that an electronic signature was transmitted without authority or modified from the signor adopted, the court may order the filing stricken.
- (5) The electronic record shall demonstrate that the electronic signature is associated with the electronic record. Any electronic or paper output from the case management system shall indicate that the record was signed electronically and identified by name the person who electronically signed the electronic record.

Rule 033: NOTARY PUBLIC

- A. Application fee - . \$ 2.00
- B. Examination fee - \$ 3.00
- C. Effective September 20, 2019, Applicants will no longer apply at the local clerk. They must apply through the Ohio Secretary of State.



## **General Division Rules**

### Rule 100: Table of Court Costs and Fees Deposit

Amount	Description
\$300.00	Deposit for filing all Civil cases including Foreclosures.
\$750.00	Deposit for Jury Trial - to be paid to Clerk when Trial dates are established
\$250.00	Deposit for Order of Sale
\$100.00	Deposit for all motions to reactivate case
\$100.00	Deposit for filing Counter-Claim, or Cross-Complaint, if service is requested
\$100.00	Deposit for Third Party Complaint
\$100.00	Deposit for all Executions (Foreign Judgment, Judgment Debtor Exam)
\$80.00	Deposit for Wage or Bank Garnishment. (Additional \$1 required for bank attachment, payable to Garnishee Bank)
\$100.00	Deposit for Judgment Debtor Exams
\$30.00	Fee for filing Certificate of Judgment
\$5.00	Fee for making Certificate of Judgment
\$5.00	Fee for release of Creditor Lien
\$40.00	Fee for release of Certificate of Judgment, State of Ohio Department of Taxation
\$40.00	Deposit for Foreign Sheriff fee, for service of papers required

- A. In cases transferred to the Common Pleas Court in which the prayer of the counter-claim exceeds the monetary jurisdiction of County Court, the counter-claimant shall post security for costs in a sum equal to the amount required had the case been originally filed in this Court.
- B. In cases where a counter-claim is filed without the posting of the additional security required by this Rule, the Clerk shall immediately notify the person filing such pleadings of the additional security required herein together with a date certain for payment of the deposit and, on the failure of such person to post such additional security for costs as ordered, such counter-claim or cross-claim shall be subject to dismissal by the Court on its own motion.

### Rule 101: Motions, Memorandum and Procedure

- A. Motions for Summary Judgment shall be scheduled for non-oral hearing, unless counsel specifically requests oral argument at the time of the filing of the motion. No motions in civil cases, except motions for new Trial, motions for judgment notwithstanding the verdict will be set for oral argument, unless requested by movant, opposing party, or the Court.
- (1) Motions for Summary Judgment shall be in accordance with Civil Rule 56, and shall be decided WITHOUT oral hearing, unless oral argument is specifically requested, in writing at the time of the filing of the motion, or by defendant immediately upon receipt of the motion, and if determined necessary by the Court. Upon the filing of the motion, the Court will fix a non-oral hearing date, as required by Civil Rule 56C, notice of the date shall be mailed to parties or counsel, or otherwise served by the Clerk of Courts.

- B. Motions for default must contain information regarding proof of service on all defendants and/or counsel. Judgment Entries granting the motions should be provided for consideration of the Court.
- C. Upon receipt of such request from counsel, and at his discretion, the Court may make whatever disposition it feels is proper or may set the matter for oral argument.
- D. Any party who may be adversely affected by such motion may file a memorandum opposing same, and if deemed necessary, the Court may permit the filing of additional memoranda by any interested party. Responsive pleadings must be filed within fourteen days after the initial motion is filed, with reply pleadings due seven days thereafter.
- E. If no request for oral argument is made by any interested party, the same shall be transmitted to the Judge for decision at the conclusion of the time frames as outline hereinbefore.
- F. Memoranda opposing any such motion shall be filed before the same is transmitted to the Court for decision. Failure to file responsive pleading within the time frame above, will require leave of Court for filing such memoranda outside the time frame, and/or after the motion has been transmitted to the Court.
- G. If a decision on the motion has not been made within 30 days after transmitted to the Court, any interested party may request the Judge to set the case for decision on the motion, who shall notify any counsel of record of such setting.
- H. Any motion and memorandum which is not promptly served on opposing counsel after the filing thereof shall be subject to being stricken from the files.
- I. To assure compliance with Rule 56C, depositions, answers to interrogatories, written admissions, affidavits, transcripts of evidence, and written stipulations of fact to support, or oppose a motion for summary judgment shall be
  - (1) separately filed with the Clerk or,
  - (2) if attached to the motion or memorandum, the caption shall so state, i.e. ". . . including affidavit of \_\_\_\_\_". Documents which are not expressly mentioned in Civil Rule 56C shall be attached to an affidavit and filed. Failure to file any document as provided herein may result in its exclusion by the Court.

Rule 102: Journal Entries

- A. Unless the Court otherwise directs, COUNSEL FOR PARTY IN WHOSE FAVOR AN ORDER, DECREE OR JUDGMENT IS RENDERED, SHALL, WITHIN SEVEN (7) DAYS prepare the proper journal entry, and submit it to counsel for the adverse party, who shall approve or reject the same. When the entry is approved by counsel, it shall be so endorsed and returned to the Court for approval within FOURTEEN (14) DAYS and if signed, then be filed with the Clerk.
- B. If counsel to whom a journal entry is submitted does not agree with the entry as submitted, such counsel shall request a hearing before the Court, within seven (7) day after the proposed entry is mailed or otherwise submitted to him. At such hearing, the Trial Judge shall direct what entry shall be made. On the failure of opposing counsel to request a hearing as provided herein, the Trial Judge may approve the entry as originally submitted without the endorsement of such opposing counsel and, if signed by him, such entry shall be then filed with the Clerk.
- C. Notwithstanding the above, the Trial Judge may cause a proper entry to be prepared and filed without submission or notice to counsel, or take such other action as Trial Judge

deems appropriate under the circumstances and, in the event counsel fail to present an entry within fourteen days after the order, decree or judgment is rendered (no request for a hearing as provided in sub-paragraph B of this Rule having been made), the Trial Judge shall cause the proper entry to be prepared and filed without submission or notice to counsel.

- D. All entries shall contain the signature of counsel preparing and/or approving said entries.
- E. The Clerk shall serve upon all parties, or their counsel, a copy of all entries approved by the Court which do not include the signature thereon of the party or his counsel. Such entries shall be mailed by the Clerk no later than three days after approval by the Court.
- F. All final judgment entries shall provide for the payment of Court costs of the matter to be taxed to one or both parties; entries shall not provide that the costs be taxed to deposit.
- G. ALL "AGREED ENTRIES" MUST BE SIGNED BY ALL PARTIES AND COUNSEL INVOLVED IN THE LITIGATION. Further, this Court REQUIRES a short hearing, on record on all agreed Entries.

Rule 103: Mediation

- A. Cases for Mediation
  - (1) Any civil cases filed in the Court of Common Pleas may be referred to Mediation.
- B. Referral to Mediation
  - (1) The Judge or Magistrate may, by appropriate entry, refer a case to Mediation;
  - (2) Any party may request, in writing to the Judge, that the case be considered for referral to Mediation;
  - (3) Referral of a case to Mediation shall not operate as a stay of the discovery proceedings, unless otherwise ordered by the Court.
- C. Mediation Conferences
  - (1) The mediator may direct the parties and/or their attorneys to attend the Mediation Conference in person. Such a conference shall be conducted by the Mediator, to consider the possibility of settlement, the simplification of issues, and any other matters which the mediator and the parties determine may aid in the handling or disposition of the proceedings
  - (2) Mediation shall continue until the parties have reached a settlement, until they are unwilling to proceed further, or until the mediator determines that further Mediation efforts should cease. The mediator may schedule such sessions as may be necessary to complete the process
  - (3) The mediator may request that the parties bring documents and witnesses, including expert witnesses, to the sessions, but has no authority to order such production.
- D. Mediation Fees
  - (1) No fees shall be charged for civil cases referred to the Adams, Pike and Scioto County Mediation Services;
  - (2) If the case is referred to a mediator, other than Adams, Pike and Scioto County Mediation Services, the parties shall share in the costs of the Mediation in such proportions as they may agree.
- E. Confidentiality
  - (1) The provisions of ORC Section 2317.023 shall control;
  - (2) All communications and information not otherwise discoverable presented during Mediation are confidential;

- (3) The mediator shall not disclose to the Court, or to any Judge of the Court, the contents of the Mediation discussions, unless agreed to by all parties;
  - (4) No party to Mediation shall call the mediator as a witness for any purpose.
- F. Reporting to the Court
- (1) The mediator shall notify the Court promptly when a case is not accepted for Mediation;
  - (2) At the conclusion of the Mediation, the mediator will also report that the Mediation process has ended;
  - (3) If a case is settled during Mediation, the attorney for one of the parties shall prepare and submit to the Court an Entry reflecting the fact of settlement, as in any other case. If both parties are unrepresented, one of the parties shall present the Mediation agreement to the Court.

Rule 104: Partition of Real Estate, Attorney Fees & Election

- A. The attorney (or attorneys collectively) for plaintiff(s) in an action in this Court for partition of real estate, pursuant to ORC 5307.01 to 5307.25, inclusive, who have rendered complete services in connection with such partition litigation shall be allowed and receive full compensation for all ordinary services as fee (as counsel fee) in accordance with ORC 5307.25, predicated either upon the value of the property based on the true value indicated by the Auditor's last tax appraisal as shown by his duplicate, if partitioned, or upon proceeds of sale (by either Sheriff Sale or by election), if sold:

On the first	\$10,000	6%
On the next	\$10,000	4%
On the next	\$10,000	2.5%
Minimum Fee		\$750.00

- B. In the event an allowance for actual and necessary expenses, additional compensation, or compensation for extraordinary services is sought by such attorney(s) in such partition action (over and above counsel fee contemplated in A above), the request for an allowance therefore must be made in writing to the Judge to whom the case is assigned, and shall be fixed by such Judge in such amount as is just and reasonable for actual and necessary expenses, and for extraordinary services.
- C. If an action for partition is terminated other than upon the merits, the Court may allow and may apportion among the parties a counsel fee for the attorney for the plaintiff, to be taxed as costs in the action. Such fee shall be for the reasonable value of such attorney's services, commensurate with the time and labor required, and expenses, the novelty and difficulty of the questions involved, and the skill requisite to perform the service properly through the date of such termination.
- D. Election in partition cases shall be filed with the Clerk within seven days of the date of the return of the sheriff, and report of the commissioners. No election filed after such date shall be considered, and the Court will not act on any election prior to the expiration of such seven day period, unless the consent of all parties to the action is obtained.

## Rule 105: Foreclosure Proceedings

### A. Initial Filing

- (1) Complaint:
  - (a) No "John Does" without an address.
  - (b) Adams County Treasurer must be named a party. Correct parcel number(s) stated in the caption.
  - (c) Mortgage & Assignment, if any, must be attached as exhibits. (If the name of the plaintiff does not correspond with the name of the lender on the note and mortgage, the subsequent assignment indicating that the plaintiff is, in fact, the party of interest must be attached as an exhibit. If the assignment has not yet been recorded, plaintiff may file a Notice of Filing with the Clerk at a later date to bring the case file current).
  - (d) ALL LEGAL DESCRIPTIONS MUST BE FIRST APPROVED BY THE COUNTY TAX MAP DEPARTMENT, PRIOR TO BEING PLACED IN A NEWSPAPER FOR ADVERTISEMENT FOR SALE. If not approved, an appropriate motion should be filed with the Court to address the issue presented.
- (2) *Praecipe* for Service:
  - (a) In the event that service by publication is necessary, the party requesting such service shall make necessary arrangements with the newspaper for publication, pay the costs thereof to the newspaper, and direct the publisher to file proof of publication with the Clerk of Courts. Exception, see ORC 2323.31.
- (3) Preliminary Judicial Report (PJR), Final judicial Report & Title Commitment (R.C. 2329.191)
  - (a) Plaintiff shall file a PJR from an independent, disinterested attorney addressed to the Adams County Court of Common Pleas.
  - (b) NO TITLE INSURANCE COMMITMENTS will be accepted or bills for same paid. The designation of the Attorney appointed to certify the proceedings is to be filed with the complaint.
- (4) Initial Court Costs:
  - (a) Deposit is to be included at the time of the initial filing.
- (5) Duplicate Foreclosures:
  - (a) The Court is experiencing foreclosure actions being filed on behalf of the same plaintiff, regarding the same real property by two or more separate law firms. Plaintiff's counsel is to check the Court's docket prior to filing, for duplicate cases pending on behalf of plaintiff on the same property.

### B. Interim Matters:

- (1) Case Management: The case will be administratively dismissed, with no further notification where either of the following applies:
  - (a) Service is complete, and defendant is in default for longer than 40 days with no further action taken by plaintiff; or
  - (b) Plaintiff's attorney is notified of failure of service of summons for 30 days with no further action to advance the case appearing on record.
- (2) In the event a case is placed on a "drop list", the action may be saved from dismissal only by presentation of a proper motion, and order, APPROVAL BY THE COURT prior to the date set for the dismissal. Such motion and order must address the

deficiency in the case file, and state a reasonable date certain for compliance. Such requests will be granted at the sole discretion of the Court.

C. Notice of Appearance/Substitution of Counsel:

- (1) Any attorney appearing in a case after the initial documentation has been filed, shall file a Notice of Appearance identifying the party on whose behalf the attorney is appearing.

D. Motions:

- (1) Any motion requesting action by the Court, shall be accompanied by a "PROPOSED ENTRY".

E. Entries:

- (1) ALL entries presented to the Court for signature, shall contain the approval of all representatives of parties, the attorney, and the prosecuting attorney, or his/her assistant - NOT simply saying "submitted" or "circulating for approval" on the signature line - BUT bearing the actual signature of the approval individual. The attorney requesting the Court's approval of the entry must obtain the approval(s) of those required to sign.
- (2) It is NOT the responsibility of Clerk of Courts, Foreclosure Facilitator or the Court's staff to obtain signatures on entries.

F. Buyers Premium

- (1) A buyers premium shall not be permitted in foreclosure actions.

G. Order of Sale:

- (1) After an Entry for Order of Sale is entered, plaintiff's attorney must file a *Praecipe* for Order of Sale with the Clerk, to obtain issuance of the requested order.

H. Contested Matters -

(1) Bench Trial:

(a) If an Answer or other responsive pleading is timely filed in response to the summons/complaint, the case will be set for a Bench Trial at the earliest date convenient with the Court's schedule.

(b) Plaintiff's attorney shall appear in person at any scheduled proceeding, unless said appearance is waived by the Court. Once a case has been set for Trial, only an AGREED ENTRY and Decree of Foreclosure bearing all requisite signatures presented to AND APPROVED BY THE COURT by 4:00 P.M. on the preceding business day will be accepted in lieu of Trial. Absent the appearance of such Entry on the docket by the time prescribed above, the failure of plaintiff to appear at Trial will result in dismissal of the case for want of prosecution.

(2) Evidence:

(a) Evidence in support of the allegation must be presented at Trial. Affidavits will not be accepted in place of real evidence.

(3) Motions for Summary Judgment:

(a) As is the procedure of this Court, a Pretrial order establishing deadlines for filing motions, discovery, and Trial are set. The Court WILL NOT accept motions for summary judgment filed after the deadline date, unless counsel files special request and has the prior approval of the Court.

(b) Motions for Summary Judgment are set for NON-ORAL hearing, unless counsel specifically requests, in writing, that oral argument be scheduled.



Rule 106: Sheriff's Sales

- A. In every Sheriff's Sale of real property in this County, the purchaser, except where the first lien holder (after the lien of costs, taxes and assessments, is the purchaser as soon as his bid is accepted, - shall be required to deposit, in cash or by check payable to the Sheriff, a sum as set forth in R.C. 2329.211. The unpaid balance of the purchase price shall be due and payable to the Sheriff within thirty (30) days from the date of the sale.
- B. In the event a purchaser fails to pay the balance due on the purchase price within said thirty (30) days after the date of sale, he shall be in contempt of this Court, and the Sheriff shall forthwith cause a citation to be issued commanding such default purchaser to appear before a Judge of this Court, and show cause why he should not be punished. Upon a finding of guilt or contempt, the Court proceeds in accordance with ORC 2327.04.
- C. In the event that a party shall register a bid at a Sheriff's Sale, and such bid is accepted by the Sheriff as the successful bid, and said party offering said bid fails to deposit in cash or by check payable to the Sheriff ten percent (10%) of the amount of such accepted bid, he shall be in contempt of this Court, and the Sheriff shall forthwith withdraw said parcel from sale, and return the order of sale without execution and shall forthwith commence the same action as related to purchasers failing to pay the balance due on a purchase as set forth in paragraph B herein.
- D. Sheriff's Sales of real property shall be routinely conducted on Mondays, unless special arrangements are made with the Sheriff in advance of the first publication. Not more than one week from the date of sale, the Sheriff shall make his return to the Court, and have the sale confirmed and deed ordered. Motions for confirmation of sale shall normally be considered ex parte in nature, and no hearing shall be had on the confirmation, unless a request for hearing is filed by any interested party within one week from the date of sale.
- E. Following confirmation of sale, the Sheriff shall cause his deed to the purchaser to be prepared, usually by Plaintiff's Attorney. Such deed shall be prepared in conformity to ORC 2329.36, and shall be delivered to the purchaser upon payment of the full purchase price. In the event that the purchaser is the first lien holder, after the lien of costs, taxes, and assessments, such deed shall be delivered upon payment to the Sheriff of all costs, taxes and assessments, providing the purchase price bid at sale, allows for costs, taxes and assessments is equal to or less than the amount to which such first lien holder would be entitled to receive on distribution of sale proceeds.
- F. Appraisal Fees
  - (1) Appraisal fees for property situated in this County shall be taxed as court cost in the amount of \$50.00 per appraisal for each appraiser submitting a return.
  - (2) On all appraisals where the appraised value exceeds \$50,000.00, each appraiser shall receive \$1.55 for each \$5,000.00, or fraction thereof, in excess of said amount, provided that in considering appraisals on commercial property the Court may for good cause shown, award fees in excess of the scale hereinbefore enumerated.
- G. Preliminary Judicial Report (PJR) or Final judicial Report & Title Commitment (R.C. 2329.191) set forth below for convenience.
  - 2329.191 (A) As used in this section, "title insurance company" has the same meaning as in section [3953.01](#) of the Revised Code.
  - (B) In every action demanding the judicial sale of residential real estate consisting of one to four single-family units, the party seeking that judicial sale shall file with the clerk of the court of common pleas

within fourteen days after filing the pleadings requesting relief a preliminary judicial report on a form that is approved by the department of insurance that is prepared and issued by a duly licensed title insurance agent on behalf of a licensed title insurance company or by a title insurance company that is authorized by the department of insurance to transact business in this state. The preliminary judicial report shall be effective within thirty days prior to the filing of the complaint or other pleading requesting a judicial sale and shall include at least all of the following:

- (1) A legal description of each parcel of real estate to be sold at the judicial sale;
- (2) The street address of the real estate or, if there is no street address, the name of the street or road upon which the real estate fronts together with the names of the streets or roads immediately to the north and south or east and west of the real estate;
- (3) The county treasurer's permanent parcel number or other tax identification number of the real estate;
- (4) The name of the owners of record of the real estate to be sold;
- (5) A reference to the volume and page or instrument number of the recording by which the owners acquired title to the real estate;
- (6) A description of the record title to the real estate; however, easements, restrictions, setback lines, declarations, conditions, covenants, reservations, and rights-of-way that were filed for record prior to the lien being foreclosed are not required to be included;
- (7) The name and address of each lienholder and the name and address of each lienholder's attorney, if any, as shown on the recorded lien of the lienholder.

Prior to submitting any order or judgment entry to a court that would order the sale of the residential real estate, the party submitting the order or judgment entry shall file with the clerk of the court of common pleas a final judicial report that updates the state of the record title to that real estate from the effective date of the preliminary judicial report through the date of lis pendens and includes a copy of the court's docket for the case. The cost of the title examination necessary for the preparation of both the preliminary judicial report and the final judicial report together with the premiums for those reports computed as required by the department of insurance, based on the fair market value of the real estate, or in the case of a foreclosure, the principal balance of the mortgage or other lien being foreclosed on or any other additional amount as may be ordered by the court shall be taxed as costs in the case.

- (C) In every action demanding the judicial sale of residential real estate consisting of more than four single-family units or of commercial real estate, the party seeking that judicial sale shall file with the clerk



of the court of common pleas within fourteen days after filing the pleadings requesting relief either a preliminary judicial report or a commitment for an owner's fee policy of title insurance on the form approved by the department of insurance that is prepared and issued by a duly licensed title insurance agent on behalf of a licensed title insurance company. Division (B) of this section applies if the party seeking the judicial sale files a preliminary judicial report. If the party seeking the judicial sale files a commitment for an owner's fee policy of title insurance, the commitment shall have an effective date within fourteen days prior to the filing of the complaint or other pleading requesting a judicial sale and shall contain at least all of the information required in divisions (B)(1) to (7) of this section. The commitment shall cover each parcel of real estate to be sold, shall include the amount of the successful bid at the judicial sale, shall show the purchaser at the judicial sale as the proposed insured, and shall not expire until thirty days after the recordation of the deed by the officer who makes the sale to that purchaser. After the officer's return of the order of sale and prior to the confirmation of the sale, the party requesting the order of sale shall cause an invoice for the cost of the title insurance policy, commitment cost related expenses, and cancellation fees, if any, to be filed with the clerk of the court of common pleas. The amount of the invoice shall be taxed as costs in the case. The purchaser at the judicial sale may, by paying the premium for the title insurance policy, obtain the issuance of title insurance in accordance with the commitment.

- H. THIS RULE SHALL NOT APPLY TO ANY FORECLOSURE BROUGHT BY THE STATE OF OHIO, ADAMS COUNTY, A MUNICIPAL CORPORATION OR ANY GOVERNMENTAL AGENCY.

Rule 107: Procedure on Executions

- A. Upon the filing of a *praecipe* for writ of execution, pursuant to ORC 2923.09.1(A), the Clerk shall issue to the Sheriff a notice of the proceeding, for service on the defendant. Such notice shall be in proper form in accordance with ORC 2329.091(B).
- B. The notice of the proceeding required by division A of this Rule, and the request for hearing form required by 2329.091(B), shall be served on the defendant in duplicate by the Sheriff at the time of the first levy of execution, if the defendant is present at the place of execution at such time or can otherwise be found. If the defendant is not at the place of the first levy of execution or cannot otherwise be found, the Sheriff shall leave a copy of the notice of the proceeding and the request for hearing at the place of the first levy of execution.
- C. Not later than 4:00 P.M. of the next business day following the first levy of execution, the Sheriff shall make return of his service of the notice of the proceeding, and the request for hearing form to the Clerk of Court from which such execution was issued. If the return of the Sheriff indicates a failure of service, the Clerk of Court shall thereafter cause the notice of the proceeding and the request for hearing form to be served on the defendant at his last known address by ordinary or regular mail service. The defendant shall be deemed to have been served on the date of mailing.

- D. A defendant may receive a hearing on an execution proceeding by delivering a written request for hearing to the Clerk of Courts within five (5) business days after service of the notice of the proceeding upon him. If a written request for a hearing is not received by the Clerk within the prescribed time, the defendant shall be deemed to have waived his right to a hearing as set forth herein.
- E. If a defendant requests a hearing as set forth in division D. of this Rule, the Court shall schedule a hearing within ten (10) business days of the receipt by the Clerk of Court of the request for hearing from the defendant, and shall cause notice of such hearing to be sent to both the defendant and the plaintiff by ordinary mail at least seven days prior to the scheduled hearing.
- F. The provisions of this Rule shall be in addition to, and not in lieu of, all other requirements and procedures contained in the Ohio Revised Code on the subject of executions against property. As of the effective date of any conflicting procedures on execution which may hereafter be enacted into law in this State, this Rule shall be deemed to have been impliedly repealed.

Rule 108: Medical Malpractice Arbitration

- A. Cases for Arbitration shall be those cases defined as Medical Malpractice Cases as set forth in 2305.113 of the Ohio Revised Code.
- B. Selection of Arbitrators and Manner of Appointment:
  - (1) Pursuant to provision 2711.21 of the Ohio Revised Code, the three members of the panel shall be appointed by the Judge as follows:
    - (a) The Judge shall designate, within 45 days after the filing of the complaint, the arbitration panel chairman. The plaintiff(s) or defendant(s) shall have the right to object to the designated chairman, upon motion, within 10 days after the receipt of the designation herein provided.
    - (b) The names of the remaining two members of the panel to be appointed by plaintiff(s) and defendant(s) respectively, shall be submitted to the assigned Judge within 10 days after receipt of the designation provided for above.
  - (2) If there is a failure of one or more parties to appoint one or more arbitrators as in above, the Judge shall, upon motion, appoint an arbitrator or arbitrators for the party or parties failing to comply. Such appointment shall be made within 5 days of the filing of such motion.
  - (3) The Court may require the Assignment Commissioner to maintain a list of medical malpractice arbitration panel chairmen who have been approved by the Court, after consent to serve.
  - (4) No party appointed as an arbitrator shall have any interest in the case being heard.
  - (5) No disclosure shall be made to the arbitrator prior to the filing of the report, and award referred to in paragraph M of this Rule, infra, of any offers of settlement made by any party. Prior to the delivery of the Court file to the chairman of the board of arbitrators, the Judge shall remove from the file and retain all papers or notations referring to demands, or offers for settlement. Such file shall be forwarded to the chairman at the time of the assignment of the case.
- C. Discovery - The assignment of a case to an arbitration board shall not limit the right of parties to continue discovery, pursuant to the Rules of Civil Procedure.
- D. Hearings - When and Where Held, Notice:

- (1) Hearings shall be held at a place scheduled by the Court's Assignment Commissioner. This provision shall not, however, limit the right of the arbitration panel to hold hearings in an appropriate place of their own choosing. A hearing shall be scheduled not more than 45 days after the appointment of the board of arbitration, and the Assignment Commissioner shall notify the arbitrators, parties or their counsel, in writing, at least 15 days before the hearing of the time and place of the hearing. No hearing shall be fixed for Saturdays, Sundays, legal Holidays, or evenings, except upon written agreement of all parties and the arbitrators.
  - (2) Since sufficient time is available to the parties prior to the hearing date to settle or compromise a dispute, once a hearing date is set, the hearing shall proceed forthwith at the scheduled time. There shall be no communications by counsel or the parties with the arbitrators concerning the merits of the controversy prior to the commencement of the hearing.
- E. Inability of Party to Proceed - In the event that a party is unable to proceed with the case as scheduled, and such date is agreed to by all parties, the Assignment Commissioner may mark the case continued, and may assess a \$25.00 continuance fee against such party.
- F. Oath of Arbitrator - When all the arbitrators are assembled, they shall be sworn or affirmed justly, and equitably to try all matters properly at issue submitted to them. Such oath or affirmation may be administered to them by any person having authority to administer oaths.
- G. Default by Party - The arbitration may proceed in the absence of any party who, after due notice, fails to be present or fails to obtain an adjournment. An award shall not be made solely on the default of the party. The panel shall require the other party to submit evidence as they may require for making of an award.
- H. Conducting Hearing - General Powers:
- (1) The three members of the panel shall be the judges of the relevancy and materiality of the evidence offered and conformity to legal rules of evidence shall not be necessary. All evidence shall be taken in the presence of the arbitrators, all parties, except where any of the parties are absent, in default or has waived the right to be present. In addition to oral testimony, the panel may receive the evidence of witnesses by affidavit, deposition, video-taped deposition, interrogatories, or written report, and shall give it such weight as the panel deems is justified after consideration of any objections which may be made to such evidence. In the instance of affidavits and written reports, copies shall be furnished to counsel for all parties not less than one week in advance of the hearing.
  - (2) Counsel shall request and whenever possible, produce a party or witness at the hearing without the necessity of subpoena.
- I. Specific Powers - The panel shall have the general powers of a Court, including but not limited to:
- (1) Subpoena: To cause the issuance of subpoenas for witnesses to appear before the board, and to request the issuance of an attachment according to the practice of the Court's for failure to comply therewith. Issuance of subpoenas will be done in the same manner as is used in other type of cases.
  - (2) Production of Documents: To compel the production of all books, papers and documents which are deemed material to the case.

- (3) Administering Oaths - Assembly of Evidence: To administer oaths or affirmations to witnesses, to determine the admissibility of evidence, to permit testimony to be offered by depositions and to decide the law, and the facts of the case submitted to the panel.
- J. Supervisory Powers Of The Court - The Judge shall have full supervisory powers with regard to any questions that arise in all arbitration proceedings, and in application of these rules.
- K. Witness Fees - Witness fees shall be in the same amount as now or hereafter provided for witnesses in trials in the Court of Common Pleas of Adams County, which shall be taxed as costs.
- L. Transcript Of Testimony - The Court shall provide, at the request of any party, an official Court Reporter for each medical malpractice arbitration hearing. The costs shall be assessed pursuant to 2301.21 of the Ohio Revised Code.
- M. Report And Award - Within 30 days after the hearing, the chairman of the panel shall file a written report and award with the Clerk of the Common Pleas Court, with a copy to the Judge, and on the same day shall mail or otherwise forward copies thereof to all parties or their counsel. In the event that all three members do not agree on the finding and award, the dissenting member shall submit a written dissenting opinion to be filed with the majority report.
- N. Legal Effect of Report and Award, Entry of Judgment - The report and award, unless rejected pursuant to law, shall be final. If no rejection is made within the manner specified by statute, the Court shall enter judgment in accordance therewith. After entry of such judgment, execution process may be issued as in the case of other judgments. Subsequent to the time for rejection, the judgment entry and submission to the Judge shall be in accordance with Rules of this Court regarding judgment entries.
- O. Compensation to Arbitrators -
- (1) Each member of a panel who has signed an award or filed a dissenting opinion, unless he waived in writing his right to compensation prior to the hearing, shall received as compensation for his services in each case a fee of \$300.00 for the first day, plus \$150.00 for each fractional half-day thereafter. When more than one case arising out of the same transaction is heard at the same hearing, or hearings, it shall be considered as one case insofar as compensation of the arbitrators is concerned. The members of the board shall not be entitled to receive their fees until after the filing of the report and award with the Clerk of Courts. Fees paid to the arbitrators shall be assessed pursuant to ORC 2711.21, and shall be taxed as costs, one-half to plaintiff(s) and one-half to defendant(s). In addition to the deposit required for Civil Actions by Rule 100:, plaintiff(s), at the time of the filing of the complaint in a medical malpractice action shall deposit \$450.00 to guarantee the fees of the arbitrators, and within 40 days of the filing of the complaint the defendant(s) shall deposit \$450.00 as a like guarantee. But in no event shall the full deposit guarantee be deposited later than five days before the date of the arbitration hearing. If there are multiple defendants, and they cannot agree as to their proportionate share of the deposit, upon proper motion, the Judge to whom the case is assigned shall order the apportionment. When it appears proper, the Court may order additional deposits.

- (2) In cases which require additional deposits for payment to the arbitrators due to the arbitration hearing lasting more than one day, the deposit to cover the additional costs shall be made not later than five days after the completion of the arbitration.
  - (3) The chairman of the arbitration panel shall determine not less than four days prior to, and not more than five days following completion of the arbitration hearing, that the proper deposit was made. If no deposit has been made by one or both sides, the chairman shall, through the Assignment Commissioner, schedule a show cause hearing before the Judge to determine why the plaintiff(s) and/or defendant(s) should not be held in contempt for failure to file the required deposit.
  - (4) Payment of fees shall be authorized by the Judge by Entry.
  - (5) In all cases in which the plaintiff(s) have filed a poverty affidavit, or in which an insufficient deposit has been made to pay the plaintiff(s) portion of the compensation due to the arbitrators, and in which an award, settlement or judgment has been made in favor of the plaintiff(s), defendant(s) shall first pay the Clerk of Court out of such award, settlement or judgment, and before making any payment to plaintiff(s), an amount equal to the undeposited plaintiff(s) portion of the compensation due the arbitrators. Otherwise, all compensation for arbitrators not paid from costs shall be paid upon proper warrant from the funds of Adams County, Ohio.
  - (6) In all cases in which settlement is reached or arbitration is waived fewer than 60 days prior to the scheduled arbitration hearing, the panel members shall be paid \$100.00 each from the deposit hereto fore required.
- P. Time Limit to Amend Pleadings - If the decision of the arbitrators is rejected pursuant to ORC 2711.12, pleadings shall be amended and filed with the Clerk of Courts within 30 days. The parties making such pleading amendments shall serve other parties pursuant to the Ohio Rules of Civil Procedure.

Rule 109: Criminal Cases

A. Indigent Defendants -

- (1) Pursuant to an agreement to participate in the multi-county branch of the Office of the Public Defender entered into between the Adams County Commissioners and the Office of the Ohio Public Defender, the appointment of counsel for indigent defendants will be made to the Office of the Public Defender.
- (2) In the event of a conflict, and the Office of the Public Defender is unable to represent the indigent defendant, appointment of private counsel for the defendant will be made to qualified attorneys who desire and are willing to undertake such defense. Any attorney desiring such appointments shall so indicate to the Assignment Commissioner of the Court. Before counsel is appointed, each alleged indigent defendant must file an affidavit of indigency setting forth the facts thereof, and the amount of any payment made and to who, for legal representation in the matter to date.
- (3) A schedule of fees for the defense of indigent persons, not amenable to defense by the Office of the Public Defender, has been established by resolution of the Board of County Commissioners.
- (4) All requests by counsel for payment of fees on indigent defendant cases shall be made within 30 days after the filing of the final entry.

- B. Disclosure of Assets: All defendants shall make full disclosure of all assets of said defendant to the probation department during the pre-sentence investigation. The disclosure of such assets shall be provided to the Prosecuting Attorney to use in collecting fines.
- C. Criminal counsel shall be present in Court no later than 15 minutes prior to the scheduled commencement of any hearing for purposes of entering a plea, and no later than 30 minutes prior to the commencement of Trial, whether to the Court or to Jury.
  - (1) It is a requirement of this Court, that ALL defendants be drug tested prior to any hearing. For this reason, defendants are to appear 30 minutes prior to hearing, in order that said testing be complete prior thereto.
- D. Defendants shall follow conditions of bond set forth by this court. A copy of said conditions shall be filed with each bond.
- E. All criminal defendants shall be present at all proceedings before the Court, whether Pretrial, informal or formal hearings, or Trials. All defense counsel shall notify their clients of this requirement.
- F. Case Management
  - (1) When a summons is issued on an indictment, the Clerk of Court shall contact the Assignment Commissioner to obtain a date and time for an arraignment, which date and time shall be placed on the summons. Should there be a failure of service upon the defendant of the summons, the Prosecutor's Office shall request alternative service or provide better address to the Clerk of Court within a reasonable time.
  - (2) When a defendant is arrested on a warrant on indictment, the Sheriff's Department, as soon as possible, shall notify the Prosecutor's Office, and the Prosecutor shall in turn contact the Assignment Commissioner to obtain an arraignment date for the defendant. Said hearing should be within 72 hours of arrest of the defendant, if possible, or the next available Court date close to that period of time.
  - (3) If a guilty plea is entered at arraignment, a pre-sentence investigation (if applicable) shall be ordered and the bailiff, or in his absence, the court reporter, shall complete a Court Referral form, and deliver same to the Probation Department, informing them of the same. The case file should then be delivered to the Assignment Commissioner to set for sentencing, if one has not already been scheduled.
  - (4) If a not guilty plea is entered at arraignment, the case file shall be delivered to the Assignment Commissioner for scheduling of future hearings.
  - (5) If the defendant is found to be indigent, and counsel is appointed at the arraignment, the bailiff shall notify the counsel so appointed. The Clerk's office shall make a copy of the pleadings and provide same to counsel as soon as possible.
  - (6) At the initial Pretrial conference, counsel shall inform the Court whether or not this case should be set for a change of plea or will proceed to Trial. If the same is to be set for Trial, time limits shall be established for filing of motions, etc..
  - (7) Following the initial Pretrial conference, the case file shall be delivered to the Assignment Commissioner for appropriate assignment of hearings, unless same have been previously established. If a Trial has been scheduled, the Assignment Commissioner will try to schedule the final Pretrial three weeks prior to the Trial.
  - (8) All plea bargain negotiations MUST be accomplished no less than three weeks prior to Trial, in order to determine whether or not a jury is to be called in. If no plea bargain is struck, the defendant must proceed to Trial or plead as charged.



- (9) IT IS THE RESPONSIBILITY OF COUNSEL TO ADVISE THE ASSIGNMENT COMMISSIONER IF A TRIAL WILL TAKE MORE THAN TWO DAYS
- (10) If a person held in jail charged with an indictable offense is not indicted at the term of Court at which he is held to answer, the Court may dismiss such case on it's own motion, unless ORC 2939.24 (A)(B)(C)(D) and (E) apply. When the accused is out on bond and has been bound over to a grand jury, and no final action is taken by the grand jury within 60 days after the date of bindover, the Court may dismiss the charge unless for good cause shown the Prosecuting Attorney is granted a continuance for a DEFINITE period of time. (Superintendence Rule 8).

Rule 110: Judgments Upon Warrant of Attorneys to Confess

- A. Judgments by confession, upon a warrant of attorney, will not be entered in the absence of the defendant, except upon proof, satisfactory to the Court, of the signature of the maker upon the warrant of the attorney, or other instrument upon which judgment is sought to be taken. As a condition precedent to the entering of the judgment, the original warrant of attorney shall be produced in open Court, and the Court shall satisfy itself that the warning required by 2323.13 of the Ohio Revised Code appears on the instrument upon which judgment is sought to be taken, if such instrument was executed on or after January 1, 1971. Immediately upon entering a judgment by confession, upon a warrant of attorney, the Court shall cause to be sent to the defendant a certified letter, return receipt requested, mailed to him at the address set forth in the complaint, notifying the defendant of the entry of judgment against him, in accordance with ORC 2323.13.C.

Rule 111: Jury Service and Management

- A. Opportunity for Service
  - (1) The opportunity for jury service shall not be denied or limited on the basis of race, national origin, gender, age, religious belief, income, occupation, disability or any other factor that discriminates against a cognizable group in the jurisdiction.
  - (2) Jury service is an obligation of all qualified citizens of Adams County.
- B. Jury Source List
  - (1) Pursuant to Court order, the jury source list shall be obtained from the Board of Elections' list of registered voters. The Court shall designate a key number based on the total number of registered voters and the number of jurors needed for a year of service. The Jury Commissioners shall then receive a digital file from the Board of Elections, pursuant to ORC 2313.06. Due to the fact that the annual jury list must be compiled by the first Monday of August of each year, the Board of Elections shall deliver the list to the Jury Commissioners by no later than May 15th of each year (ORC 2313.08).
  - (2) The jury source list shall be representative, and should be as inclusive of the adult population in the jurisdiction as is feasible.
  - (3) The Court shall annually review the jury source list for its representativeness and inclusiveness of the adult population as is feasible.
  - (4) Should the Court determine that improvement is needed in the representativeness or inclusiveness of the jury source list, the appropriate corrective action shall be taken.
- C. Random Selection Procedures

- (1) The jury source list from the Board of Elections shall be uploaded and populated into the Common Pleas Court Computer System and arranged in alphabetical order by voting precinct. In accordance with the key number, names shall be selected from each voting precinct and entered in the Court computer system. Said persons shall be mailed questionnaires to determine their eligibility for jury duty during the next year. If the Jury Commissioners personally know that any of said persons would be ineligible for jury duty due to death, relocations, etc., they may list them as executed and not send a questionnaire in the interest of cost- effectiveness.
  - (2) Departures from the principle of random selection are appropriate only to comply with lawful exceptions.
- D. Eligibility for Jury Service
- (1) All persons 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;
    - (c) Are not residents of the jurisdiction in which they have been summoned to serve, to wit: ADAMS COUNTY, OHIO
    - (d) Are not able to communicate in the English language;
    - (e) Have been convicted of a felony, and have not had their civil rights restored.
- E. Term of and Availability for Jury Service
- (1) The time that persons are called upon to perform jury service and to be available should be the shortest period consistent with the needs of justice.
  - (2) Jurors shall be "on call" for the entire four (4) month term. They do not report every day; notification shall be for a specific date and jurors shall be called on rotating basis by number, i.e., call 40 to 60, OR sufficient number as indicated by the Court, at a time. The Common Pleas Court has implemented a telephone system whereby jurors call to hear a message which informs them of any changes in jury service.
- F. Exemption, Excuse and Deferral
- (1) All automatic excuses or exemptions, with the exception of statutory exemptions, from jury service should be eliminated.
  - (2) Prospective jurors are excused for the following reasons:
    - (a) over the age of 80, and request to be excused
    - (b) financial hardship
    - (c) personal or family illness
    - (d) childcare hardship
    - (e) full-time college student
    - (f) military service
  - (3) Exemptions are as Follows:
    - (a) Military service, full-time college student; Relocated residence outside county; Doctor certificate for illness
    - (b) Prospective jurors are to be rescheduled for the following reasons



- (i) Vacation
- (ii) Employment hardship
- (iii) Part-time student

G. *Voir Dire*

- (1) *Voir Dire* examination shall be limited to matters relevant to determining whether to remove a juror for cause and to determine the juror's fairness and impartiality.
- (2) To reduce the time required for *Voir Dire*, basic background information regarding panel members should be made available to counsel in writing for each party on the day on which the jury selection is to begin.
- (3) The Trial Judge shall conduct a preliminary *Voir Dire* examination. Counsel shall then be permitted to question panel members for a reasonable period of time.
- (4) The Judge should ensure that the privacy of prospective jurors is reasonably protected, and the questioning is consistent with the purpose of the *Voir Dire* process.
- (5) In criminal cases, the *Voir Dire* process shall be held on the record. In civil cases, the *Voir Dire* process shall be held on the record, unless waived by the parties.
- (6) Rules of *Voir Dire*:
  - (a) The case may not be argued in any way while questioning of jurors
  - (b) Counsel may not engage in efforts to indoctrinate jurors instructions
  - (c) Jurors may not be questioned concerning anticipated or theories of law. This does not prevent general questions concerning the validity and philosophy of reasonable doubt or the presumption of innocence
  - (d) Jurors may not be asked what kind of verdict they might return under any circumstances
  - (e) Questions are to be asked collectively of the entire panel whenever possible.

H. Removal from the Panel for Cause

- (1) If the Judge determines during the *Voir Dire* process that any individual is unable, or unwilling to hear the particular case at issue fairly and impartially, that individual shall be removed from the panel. Such a determination may be made on motion of counsel or by the Judge.

I. Peremptory Challenges

- (1) Rules determining procedure for exercising peremptory challenges shall be in accordance with the Ohio Civil and Criminal Rules adopted by the Supreme Court of Ohio, and applicable statutory authority.

J. Administration of the Jury System

- (1) The responsibility for administration of the jury system shall be vested exclusively in the Adams County Common Pleas Court.
- (2) All procedures concerning jury selection and service should be governed by Ohio Rules of Court, and ORC Chapter 2313.

K. Notification and Summoning Procedures

- (1) The notice summoning a person to jury service should be:
  - (a) Phrased so as to be readily understood by the individual who may be unfamiliar with the legal and jury systems
  - (b) Delivered by ordinary mail initially and subsequent notification may be by phone or letter from the Court, or the Sheriff's Department

- (c) A summons should clearly explain how and when the individual must respond, and the consequences of a failure to respond.
  - (2) The jury questionnaire should be phrased and organized so as to facilitate quick and accurate screening, and should request only that information essential for:
    - (a) Determining whether a person meets the criteria for eligibility
    - (b) Providing a basic background information ordinarily sought during *Voir Dire* examination, and
    - (c) Efficiently managing the jury system
  - (3) Policies and procedures should be established for monitoring failure to respond to summons and for enforcing a summons to report for jury service.
  - (4) A notification letter is delivered to prospective jurors via ordinary mail. Jurors who fail to report after being summoned are scheduled for a contempt hearing to inform the Judge as to why they did not appear. Sanctions are imposed as warranted.
- L. Monitoring the Jury System
- (1) The Court shall collect and analyze information regarding the performance of the jury system annually in order to evaluate:
    - (a) The representativeness and inclusiveness of the jury source list
    - (b) The effectiveness of qualification and summoning procedures
    - (c) The responsiveness of individual citizens to jury duty summons
    - (d) The efficient use of jurors, and
    - (e) The cost-effectiveness of the jury management system
- M. Juror Use
- (1) The Court shall employ the services of prospective jurors so as to achieve optimum use with a minimum inconvenience to jurors.
  - (2) The Court shall determine the minimally sufficient number of jurors needed to accommodate Trial activity. This information and appropriate management techniques should be used to adjust both the number of individuals summoned for jury duty and the number assigned to jury panels.
- N. Jury Facilities
- (1) The Court shall provide an adequate and suitable environment for jurors.
  - (2) The entrance and registration area shall be clearly identified and appropriately designed to accommodate daily flow of prospective jurors to the Courthouse.
  - (3) Jury deliberation rooms shall include space, furnishings and facilities conducive to reaching a fair verdict. The safety and security of the deliberation rooms shall be ensured.
  - (4) To the extent feasible, juror facilities should be arranged to minimize contact between jurors, parties, counsel and the public.
- O. Juror Compensation
- (1) Persons called for jury service should receive a reasonable fee for their services, pursuant to statutory authority.
  - (2) Such fees shall be paid promptly.
  - (3) Employers SHALL be prohibited from discharging, laying-off, denying advancement opportunities, or otherwise penalizing employees who miss work because of jury service. ORC - 2313.19

P. Juror Orientation and Instruction

- (1) The Court shall provide some form of orientation or instructions to persons called for jury service.
- (2) The Trial Judge should -
  - (a) Give preliminary instructions to all prospective jurors
  - (b) Give instructions directly following empanelment of jury to explain the jury's role, and Trial procedures, including note taking, questioning by jurors, the nature of evidence, and its evaluation, the issues to be addressed and basic relevant legal principles
  - (c) Prior to commencement of deliberations, instruct the jury on the law, the appropriate procedures to be followed during deliberations, and on the appropriate method of reporting the results of the deliberations. Such instructions should be made available to the jurors during deliberations
  - (d) Prepare and deliver instructions which are readily understood by individuals unfamiliar with the legal system
  - (e) Utilization of written instructions is preferable
- (3) Before dismissing a jury at the conclusion of a case, the Trial Judge should:
  - (a) Release the jurors from their duty of confidentiality
  - (b) Explain their rights regarding inquiry from counsel or the press
  - (c) Either advise them that they are discharged from service, or specify where they are to report
  - (d) Express appreciation to the jurors for their service, but not express approval or disapproval of the result of deliberation

Q. Jury Size and Unanimity of Verdict

- (1) Jury size and unanimity in civil and criminal cases shall conform with existing Ohio law.

R. Jury Deliberations

- (1) Jury deliberations should take place under conditions and pursuant to procedures that are designed to ensure impartiality and to enhance rational decision making, and shall conform with existing Ohio law.
- (2) The Judge should instruct the jury concerning appropriate procedures to be followed during deliberations.
- (3) A jury should not be required to deliberate after a reasonable hour, unless the Trial Judge determines that evening or weekend deliberations would not impose an undue hardship upon the jurors, and are required in the interest of justice.
- (4) Training should be provided to Court personnel who escort and assist jurors during deliberation.

S. Sequestration of Jurors

- (1) A jury should be sequestered only for good cause, including but not limited to insulating its members from improper information or influence.
- (2) **THE JURY SHALL BE SEQUESTERED AFTER A CAPITAL CASE IS SUBMITTED TO THE JURY IN CONFORMITY WITH EXISTING OHIO LAW.**
- (3) The Trial Judge shall have the discretion to sequester a jury on the motion of counsel, or on the Judge's initiative and shall have the responsibility to oversee the conditions of sequestration.
- (4) Standard procedures should be promulgated to -

- (a) Achieve the purpose of sequestration and jurors
  - (b) Minimize the inconvenience and discomfort of the sequestered
- (5) Training shall be provided to personnel who escort and assist jurors during sequestration.
- T. Adoption of These Rules by the Adams County Court
  - (1) The Adams County Court is hereby permitted to adopt and incorporate this Jury Services and Management Plan of the Adams County Court of Common Pleas into its Rules of Court, as it uses the venues of the Adams County Common Pleas Court in its jury Trials, and in the interest of cost-effectiveness and simplification.

## Domestic Relations Division Rules

### Rule 200: Court Costs and Fees Deposit

Amount	Description
\$300.00	Initial deposit for filing Divorce, Dissolution, or Annulment cases (without children).
\$350.00	Initial deposit for filing Divorce, Dissolution, Custody, or Annulment cases (with children).
\$100.00	Initial deposit for all post-decree motions to reactivate case
\$100.00	Initial deposit for filing Answer, Reply, or other responsive pleading, if service is requested
\$40.00	Deposit for Foreign Sheriff fee, for service of papers required
\$500.00	Initial deposit to be paid by REQUESTING party, <i>at the time of filing the request</i> for divorce investigation on all contested custody matters, if both parties are residents of Adams County. If either party is a non-resident, the costs shall be determined by the Court. If an investigation is required by the Court, each party is required to deposit ½ of the required amount.
\$750.00	Initial deposit, <i>at the time of filing Motion &amp; Entry</i> for the appointment of a Guardian Ad Litem (GAL). The Court may allocate all, none, or part of the fees of the GAL to either party. An investigation will not proceed until the initial deposit is made to the Clerk.

- A. Prior to entering the Courtroom for final hearings on a dissolution or uncontested divorce, the parties must contact the Clerk of Courts and ensure that the Court Costs are enough to cover the entries being submitted at the hearing. The Clerk shall stamp the decree as COSTS PAID. A final decree in these matters will not be issued until the Court Costs have been paid. The Court, at its discretion, may continue the final hearing until such time as the Court costs are paid.
- B. Court costs not paid from prior litigation must be paid before any new motion may be filed.

### Rule 201: Change of Venue

- A. Before the Court will consider a request to accept venue from another Ohio court where a final decree has not been filed, the moving party must provide the following:
  - (1) filing of a certified copy of the entry from the original court authorizing the transfer of venue; and
  - (2) transfer of the entire file from the Clerk of Courts in the original county to the Adams County Clerk of Courts.
- B. Before the Court will consider a request to accept venue from another Ohio court after a decree has been filed, the moving party must provide the following:
  - (1) a certified copy of the entry from the original court authorizing the transfer of venue; and
  - (2) a certified copy of the final decree and any subsequent entries modifying the final decree from the Clerk of Courts in the original county to the Adams County Clerk of Courts.

- C. If a party seeks to change venue from this Court to another Ohio court, he/she must file a motion with this Court requesting change of venue and setting forth the reasons for the request.

Rule 202: Motions, Memoranda, and Procedure

- A. The Court maintains checklists for the filing of initial and post decree matters. All parties and counsel shall provide all filings requested by the checklist. Failure to do so may result in the Clerk not filing the submitted documents and/or dismissal by the Court.

Rule 203: Continuances

- A. In the event a request for continuance is made in a Domestic Relations matter where a motion has been filed for temporary custody, support, and/or alimony, , the Court may grant temporary orders in such matter upon proper affidavits filed by the parties pending the scheduling of a full hearing on the motion.

Rule 204: Dismissals and Inactive Cases

- A. Dismissals of a Domestic Violence Civil Protection Order must comply with R.C. 3113.31.
- B. A complaint for Divorce, Legal Separation, and Annulment, and a post decree motion will be set for dismissal if service is not made on the opposing party within six months. The complaint or motion will be dismissed without prejudice after six months unless the filing party can show good cause why service was not made within six months and that service can be made within a reasonable period.

Rule 205: Mediation

- A. Mediation shall be as set forth in Rule 103:

Rule 206: Ex-Parte Orders

- A. Ex-parte orders for temporary custody, support, alimony or for restraining orders SHALL NOT BE GRANTED by the Court, except on the showing by affidavit of extreme emergency.
- B. Such affidavit shall describe the emergency with specificity. Whenever an ex-parte order is requested, should the Court deem necessary, the party making such request shall be available to the Court for examination under oath, on the record, regarding the emergency. In the event the Court finds there is an emergency which warrants the ex-parte orders, the matter shall be set for further hearing no later than 72 hours after the order is issued, or the next available Court date as close to the 72 hour period as is possible. Counsel SHALL adjust their calendars to accommodate the ex-parte hearing.

Rule 207: Emergency Hearings

- A. On rare occasion, and under extreme circumstances a request for an emergency hearing may be requested. A motion must be filed, accompanied by an affidavit stating with specificity the allegations which would warrant an Emergency Hearing. Counsel must also provide a Notice of Hearing, with blanks to be filled in with the date of hearing. Thereafter, an emergency hearing will be scheduled as quickly as the Court's Docket will accommodate, but must allow for sufficient time for service of the motion and notice of the hearing upon opposing party and their counsel. Counsel SHALL adjust their calendars to accommodate the emergency hearing.



- B. A motion for an emergency hearing, and a motion for ex-parte order are separate pleadings, and will be addressed as outlined above. Either motion should be filed only under extreme conditions, and after careful and diligent review of the circumstances with clients. Neither of which are to be used as a "back door" attempt for temporary custody and/or other temporary relief.

Rule 208: Temporary Orders

- A. All motions requesting temporary orders, including, but not limited to motions for temporary custody, support, alimony, occupancy of marital residence, and restraining orders shall be scheduled for hearing on the first date available with the Court's Docket, and schedule of counsel. No temporary orders shall be granted without a hearing being held thereon, except under extreme circumstances. (see Rule 207: above and Rule 206: above)
- B. In any case involving a minor child(ren) where child support is requested, a child support worksheet completed according to the best knowledge of the party shall be attached to any motion for temporary orders. The Court reserves the right to sanction any party for failure to file the worksheet without good cause shown.
- C. All entries granting temporary child support shall include the date which the first payment is due.

Rule 209: 75(N) Procedure

- A. Any requests for a temporary order pursuant to Civil Rule 75(N) must be filed when the complaint, answer, or counterclaim is filed.
- B. The party requesting a temporary order pursuant to Civil Rule 75(N) must file a Notice of Perfection of Service advising the Court that the other party has been served.
- C. The Court will set for hearing any requests for a temporary order not filed with the complaint, answer, or counterclaim.
- D. The Court will set for hearing all requests for attorney fees.

Rule 210: Parties in the Same Household

- A. The Court will not grant temporary spousal support, child support, or allocation of parental rights and responsibilities when the parties reside in the same household. The Court may, however, allocate payment of household expenses.

Rule 211: Exclusive Occupancy

- A. If a party has been absent from the marital residence for 30 days or more, the Court may, upon motion and affidavit, issue an *ex parte* order awarding the other party exclusive occupancy of the marital residence.
- B. If both parties are residing in the marital residence, a motion for exclusive occupancy may be granted after a hearing if the party requesting exclusive occupancy establishes that the other party:
  - (1) attempted to cause or recklessly caused bodily injury;
  - (2) placed the party requesting exclusive occupancy, by threat of force, in fear of imminent serious physical harm;
  - (3) committed any act with respect to a child that would result in the child being an abused child as defined in R.C. 2151.031; or

- (4) engaged in conduct that creates an environment which causes or is likely to cause emotional and/or mental stress to the party requesting exclusive occupancy and/or to the minor child/ren of the parties.

Rule 212: Temporary Restraining Orders

- A. The Court will issue a Temporary Restraining Order upon the filing of a Complaint for Divorce or Legal Separation unless a Separation Agreement is filed with the Complaint. No separate motion is required.

Rule 213: Mandatory Parenting Seminar

- A. All parents in divorce, legal separation, dissolution or other custody/visitation motions in which there are minor children, SHALL register for, attend and successfully complete the "HELPING CHILDREN COPE WITH FAMILY SEPARATION" Program which the Domestic Relations Division of this Court has adopted.
- B. This seminar must also be attended on matters filed in the Juvenile Division of this Court for visitation and custody.
- C. The moving party for any divorce, whether complainant or counter-complainant, must complete the program prior to their final hearing being held, and BOTH parties to any dissolution must attend the program prior to their hearing being held.
- D. Failure to attend by any party will be a factor considered by the Domestic Relations Court in awarding residential parenting status and/or parenting time/visitation privileges.
- E. No action shall proceed to final hearing until there has been a compliance with this Rule, provided, however, that non-compliance by a parent who enters no appearance and does not contest the action, shall not delay the final hearing.
- F. This requirement may be waived by the Court for good cause.
- G. This Rule does not apply to contempt proceedings or support enforcement actions initiated by the Adams County CSEA.
- H. IT IS ONLY MANDATORY TO ATTEND THE PROGRAM ONCE. The exception to this Rule is where grandparents or other relatives have stepped in to take temporary custody of children, during a period of time when the parent is unable to care for the child(ren).
- I. Upon the filing of a complaint for divorce or petition for dissolution of marriage, or filing of post-decree motion, the attorney filing the case, SHALL submit a completed Form AC-203 Notice of Helping Children Cope With Family Separation Seminar for each parent involved in the action, and shall cause a Registration Form (AC-204 Helping Children Cope With Family Separation Registration Packet) to be served upon the non-filing party, together with the summons, (copy of registration packet attached & incorporated therein). This registration form may be amended from time to time by the Court, or by Lifespan Solutions, the Program Administrator, or any successor administrator. The Clerk of Courts shall note delivery/service of these forms to the party in the Case Docket. The Clerk shall not accept for filing any case that does not have the Notice Included with the pleadings.
- J. The Clerk of Courts shall forward a copy of the Notice (Form AC-203) to Lifespan Solutions, who shall schedule a seminar attendance and issue notice of the date and time to the parties.
- K. IT IS THE responsibility of each party, not the Court or the Administrator, to arrange scheduling and to attend and meaningfully participate in and satisfactorily complete the program session.

- L. Should either party fail to attend the seminar within sixty (60) days after the commencement of the action, notice of non-attendance shall be forwarded to the counsel of record or the party, if unrepresented. Failure by the parent to reschedule and attend a subsequent seminar within ninety (90) days of the original action shall be reported to the Court by Lifespan Solutions.
- M. Seminar attendance may also be required by order of the Court in connection with motions for post-decree relief concerning custody or visitation with minor children.
- N. Failure by any party to comply with this Rule prior to the scheduled final hearing may result in the imposition of appropriate sanctions, including, but not limited to dismissal of a pending motion or complaint.

**Rule 214: Discovery and Mandatory Disclosure**

- A. **Mandatory Disclosure :** Within 30 days of the filing of an answer or counterclaim, each party to a pending divorce or legal separation must disclose to the opposing party the following information and documents:
  - (1) all pension, retirement and/or profit-sharing plans including copies of the most recent plan summary and statement;
  - (2) all available COBRA benefits;
  - (3) copies of all real estate deeds and vehicle titles and registrations;
  - (4) all appraisals of real estate or personal property in which the party holds an interest;
  - (5) copies of individual income tax returns for the last three years;
  - (6) documentary proof of current income from all sources;
  - (7) copies of the most recent statements for all bank accounts, IRAs, stock accounts, mortgages, credit accounts, and all other debt; and
  - (8) verification of the marginal cost of medical insurance for the minor children.
- B. Notice of noncompliance must be raised prior to scheduling the final hearing date. The Court will not reschedule the final hearing for noncompliance with this Rule.
- C. Failure to comply with this Rule may result in sanctions, including but not limited to a contempt citation, possible dismissal of claims, or restrictions on the submission of evidence.

**Rule 215: Allocation of Parental Rights and Responsibilities**

- A. **Shared Parenting**
  - (1) If one party seeks shared parenting and the other party seeks to be sole residential parent and legal custodian, the party seeking shared parenting must file a motion for shared parenting and a proposed Shared Parenting Plan at least 30 days prior to the final hearing on allocation of parental rights and responsibilities.
  - (2) All motions for shared parenting and proposed shared parenting plans must comply with the requirements of R.C. 3109.04.
- B. **Parenting Time**
  - (1) The form AC-206 standard parenting orders and Form AC-207 standard parenting schedules are provided on the Court's website. These documents are guidelines only and are subject to deviation after consideration of the best interest factors set forth in R.C. 3109.051.
  - (2) A guideline order is composed of two parts.

- (a) The first part (AC-206 standard parenting orders) contains the standard parenting orders regarding exchange procedures, parenting rules, and other parenting issues. These are required to be included in any parenting order even if the parties adopt their own schedule.
  - (b) The second part (AC-207 standard parenting schedules) contains the relevant parenting schedule from the website. Various schedules are provided for local and long distance parenting time as are schedules where there is phased in parenting for a parent.
- (3) Unless the parties specifically agree otherwise or the Court finds that the facts of a case warrant a modification, all parenting time orders must contain the following language:
- 1) **RELOCATION NOTICE PURSUANT TO R.C. 3109.051(G):**
    - a. **Relocation under 75 miles:** If **either** parent intends to move to a residence other than the last residence of court record, he/she must file a notice of intent to relocate, Form AC-211, with the Court Clerk. Except as provided in R.C. 3109.051(G)(2), (3) and (4), the Clerk of Courts will mail a copy of the notice to the other parent. On receipt of the notice, this Court, on its own motion or on the motion of the other parent, may schedule a hearing with notice to both parents to determine whether it is in the best interest of the child/ren to revise the parenting schedule.
    - b. **Relocation over 75 miles:** If **either** parent intends to move to a residence other than the last residence of court record, and that residence is outside of a 75 mile radius of the residence address of the residential parent (sole custody) or the other residential parent (shared parenting) at the time of the last parenting time order he/she must file a notice of intent to relocate, Form AC-210, with the Court Clerk. Neither parent/legal custodian may relocate the child/ren outside of a 75 mile radius of the residence address of the residential parent (sole custody) or the other residential parent (shared parenting) at the time of the last parenting time order without first obtaining a modified parenting time order. The parents may submit a motion and an agreed entry, modifying parenting time, with a provision for allocation of transportation expenses, for adoption by the Court as an order. If the parents are unable to agree, the parent filing the Notice to Relocate must, prior to relocation, 1) file a motion asking the Court to modify the parenting time schedule, 2) set a hearing, and 3) obtain a modified parenting time order. The motion must include the new residence address unless not required under R.C. 3109.051(G)(2). Because relocating a child can be harmful to the parent/child relationship, the Court will not continue hearings to address a modification of the parenting schedule due to an imminent relocation except in extreme circumstances.
  - (4) Long Distance Parenting
    - (a) When the parents reside 75 or more miles apart, the parties may utilize their own parenting schedule or a long distance parenting order provided by the Court. Any Long distance parenting order must address the logistics of transporting the child and any associated costs with transporting the child.

C. Parenting Investigations

- (1) Subject to Court staffing and availability, a parenting investigation may be requested by either party, or may be required by the Court, in any action for divorce, dissolution, annulment or alimony or post- decree action, where one or more minor children are involved. The Report is an investigation of each party's character, family relations, and past conduct to assist the Court in allocating parental rights and responsibilities. Fees for the investigation are to be paid by the requesting party AT THE TIME THE INVESTIGATION IS REQUESTED, unless other payment is ordered by the Court.
- (2) An investigation MAY BE required by the Court in any contested custody matters. The fees for the investigation are to be paid at the time it is found that an investigation is necessary to the Clerk of Courts.
- (3) In all actions for divorce, annulment or spousal support, or post-decree action, when an investigation is requested, the party requesting the investigation shall deposit with the Clerk the required amount of costs for the investigation. If an investigation is required by the Court, each party to the action shall be required to deposit with the Clerk one-half of the required amount as costs for the investigation, unless a poverty affidavit is filed.
- (4) In all contested motions for change of custody, the moving party shall include in such motion a request for an investigation, (if one is desired), on behalf of the minor children, and shall deposit with the Clerk the required amount as costs for the investigation.
- (5) If both parties to an action for divorce, annulment or alimony where minor children are involved, or if both parties to a motion for change of custody are residents of Adams County, the cost of such investigation shall be \$350.00.
- (6) If either of such party is a non-resident of Adams County, the cost of the investigation shall be in such amount as may be set by the Court, and the Court shall determine what amount shall be required as a deposit therefore.
- (7) The Court may require a parenting questionnaire or other form to be filed by the parties. These forms will be available on the Court's website. Each party must return the requested documents to the Parenting Investigator as ordered. If a party fails to return a document or fails to cooperate in the investigation, he/she may be subject to a contempt action by the Court. The Parenting Investigator may prepare the report without the information of any party who fails to return documents, attend appointments, or return telephone calls.
- (8) The Parenting Investigator's report is admitted as the Court's exhibit and may not be included in either party's exhibits. The report is direct evidence. The Parenting Investigator is subject to cross examination. If a party desires to cross examine the Parenting Investigator, it is that party's responsibility to issue a subpoena to the Parenting Investigator pursuant to Civil Rule 45. The subpoena should be issued as soon as possible, but it must be served no later than three weeks prior to the final hearing.

D. Medical/Psychological/Psychiatric Evaluations

- (1) Evaluations. The Court may order a party, both parties, and/or the minor child/ren to submit to medical, psychological, and/or psychiatric examinations. The Court will send the Entry of Appointment to the physician or psychologist. It is a party's responsibility to contact the physician or psychologist.

- (2) Costs. The cost of the examination will be allocated between the parties at the time the examination is ordered, subject to reallocation at the final hearing.
- (3) Medical, Psychological or Psychiatric Evaluations as Evidence. A medical, psychological, or psychiatric evaluation may not be entered as direct evidence without testimony of the performing physician or psychologist or consent of the parties. It is a party's responsibility to issue a subpoena to the physician or psychologist pursuant to Civil Rule 45. The cost of the testimony of the physician or psychologist is subject to reallocation between the parties in the final hearing.

E. Child Support

- (1) In all matters in which child support is to be determined, counsel for the parties shall provide to the Court, child support worksheet completed as fully as counsel can complete, with the information available to him/her. The most current form can be accessed at the website maintained by the Ohio Department of Job and Family Services. <https://ohiochildsupportcalculator.ohio.gov/home.html>
- (2) Attorneys may file short form worksheets as generated by third party software programs.

Rule 216: Decisions and Entries

A. Requests for Findings of Fact and Conclusions of Law

- (1) When a party requests findings of fact and conclusions of law, the party making the request must submit proposed findings of fact and conclusions of law within 14 days from filing his/her request. Failure to do so may result in the Court denying his/her request without further notice.

B. Decrees, Entries and Orders Establishing or Modifying Child Support Orders

- (1) The child support provisions set forth below must be included in the Decree/Entry or in the Shared Parenting Plan/Separation Agreement. Sample language that complies with this rule is on the Court's website.
- (2) Shared Parenting –divorce, dissolution, or custody proceedings. If the parties submit a Shared Parenting Plan, the provisions listed below must be included in the Shared Parenting Plan. It is not necessary to repeat this language in any Decree being submitted with the plan.
  - (a) Child Support Worksheets. A child support worksheet must be attached, to any decree/entry where child support is at issue, even if child support is not ordered.
  - (b) Deviations. In shared parenting, the obligee's child support obligation will be deviated to zero. The Obligor's child support obligation may be deviated by agreement of the parties or pursuant to Court order based upon statutory factors. A party's annual deviation must be reflected in the worksheet and the child support order must include a statement that the actual annual obligation is "unjust or inappropriate and not in the best interest of the child/ren" and the reasons for the deviation in accordance with R.C. 3119.23 and 3119.24. Failure to list the deviation factors will result in the inability of ACCSEA to make administrative modifications to the order in the future. The monthly child support and cash medical support in the child support order must match the child support and cash medical support on the worksheets.
  - (c) Amount of Support. If private health insurance is provided, the child support order must include the name of the parent providing insurance and a copy of the



- insurance card Cash medical must also be included in the order. If private health insurance coverage is not provided, the child support order must state the reason why insurance is not provided and the amount of cash medical support.
- (d) Requirements for Acceptance. The child support provisions must include the language required under R.C. Chapters 3119 and 3121. The monthly child support and cash medical support in the child support order must match the child support and cash medical support on the worksheets. A proposed child support order Form AC-208 standard support order is available on the Court's website.
  - (e) Health Care Orders. The child support provisions must include health care language required under R.C. 3119.30 and 3119.31. If there is no change from a prior order, it is sufficient to state that the health insurance order is not modified. A proposed child support order Form AC-208 standard support order is available on the Court's website.
  - (f) Tax Exemption Orders. The child support provisions must include the designation of the party entitled to the tax exemption pursuant to R.C. 3119.82. If there is no change from a prior order, it is sufficient to state that the order allocating the tax exemption is not modified.
- (3) Shared Parenting – Post Decree/Custody. If the parties submit a post decree entry modifying an existing Shared Parenting Plan, and a revised Shared Parenting Plan is not submitted with the Entry, then the provisions of Rule 216:B. (2) above must be followed.
  - (4) Sole Residential Parent and Legal Custodian – divorce, dissolution, custody. If one party is designated the sole residential parent and legal custodian in a Decree of Dissolution or a Decree of Divorce, the provisions listed below must be included in either the Separation Agreement, Agreed Entry, or the Decree.
    - (a) Child Support Worksheet. A child support worksheet must be attached to any decree/entry where child support is at issue, even if child support is not ordered.
    - (b) Deviations. A party's deviation must be reflected in the worksheet and the child support order must include a statement that the actual annual obligation is "unjust or inappropriate and not in the best interest of the child/ren" and the reasons for the deviation in accordance with R.C. 3119.23 and 3119.24. Failure to list the deviation factors will result in the inability of ACCSEA to make administrative modifications to the order in the future. The monthly child support and cash medical support in the child support order must match the child support and cash medical support on the worksheets.
    - (c) Amount of Support. If private health insurance is provided, the child support order must include the name of the parent providing insurance and a copy of the insurance card Cash medical must also be included in the order. If private health insurance coverage is not provided, the child support order must state the reason why insurance is not provided and the amount of cash medical support.
    - (d) Requirements for Acceptance. The child support provisions must include the language required under R.C. Chapters 3119 and 3121. The monthly child support and cash medical support in the child support order must match the child support and cash medical support on the worksheets. A proposed child support order Form AC-208 standard support order is available on the Court's website.

- (e) Health Care Orders. The child support provisions must include health care language required under R.C. 3119.30 and 3119.31. If there is no change from a prior order, it is sufficient to state that the health insurance order is not modified. A proposed child support order Form AC-208 standard support order is available on the Court's website.
- (f) Tax Exemption Orders. The child support provisions must include the designation of the party entitled to the tax exemption pursuant to R.C. 3119.82. If there is no change from a prior order, it is sufficient to state in the entry that the order allocating the tax exemption is not modified.

Rule 217: Preparation of Decrees, Entries, and Orders

- A. When an attorney/self-represented party is ordered to prepare a decree, entry, or order, he/she must prepare the document and submit it to the opposing attorney/self-represented party with a cover letter, instructing him/her to review, sign, and return the document to the preparer within 14 days. If the opposing attorney/self-represented party does not respond within 14 days, the document may be submitted to the Court without the signature of the opposing attorney/self-represented party, but with a copy of the cover letter sent to the opposing attorney/self-represented party.
- B. The decree, entry, or order must be stamped "costs paid" or "costs waived" by the Clerk of Courts prior to its submission to the Court.
- C. Any Decree, separation agreement, or other entry transferring real estate or licensed property must contain the following language and information.
  - (1) "If either party fails to convey all of his or her right, title, and interest in and to any and all property, including real estate, motor vehicles, or other licensed property as required herein, a certified copy of this Decree shall be constituted and operate as such conveyance, and the County Auditor and Recorder are hereby authorized and directed to transfer and record same for public record of such conveyance.
  - (2) Counsel and/or the parties must also include the appropriate legal description for real estate, and the year/make/model and VIN number for any licensed vehicle.

Rule 218: Agreed Entries

- A. If a case has been closed, a motion must be filed with the appropriate filing fee prior to the submission of an agreed entry. If a case is open, agreed entries may be submitted without a motion. If there are Court Costs remaining from prior litigation, those costs must be paid before the Agreed Entry will be approved.
- B. If the parties reach an agreement but do not have sufficient time to submit a signed agreed entry prior to the hearing, then all parties and attorneys must appear in court at the scheduled time in order to read the agreement into the record.
- C. The Court may adopt agreed entries without a hearing provided that at least one party is represented, no further documentation is needed, the unrepresented party's signature is notarized, and the Court determines that a hearing was not necessary. The proposed agreed entry should be submitted to the Court for review and the Court will notify the attorney(s) and any unrepresented party whether a hearing is required.
- D. The agreed entry must be stamped "costs paid" or "costs waived" by the Clerk of Courts prior to its submission to the Court.

Rule 219: Electronic Signatures

- A. The signature of the Judge or a magistrate on any document may be executed manually, by electronic signature, or other method approved by the Rules of Superintendence and/or the Civil Rules.

Rule 220: Attorney Fees

- A. Procedure. A motion for attorney fees may be included in the body of the motion or other pleading that gives rise to the request for fees. If the motion for attorney fees is by separate motion, it must be served on the opposing attorney/self-represented party at least seven days prior to the hearing.
- B. Reasonable Fee. Unless otherwise determined by the Court and absent formal evidence, \$500 is a reasonable attorney fee. In determining the necessity for and the reasonableness of attorney fees, the Court may rely on the following:
  - (1) the Court's knowledge and observations of time and effort expended;
  - (2) the tactics used and results obtained;
  - (3) whether the parties cooperated in discovery;
  - (4) settlement efforts made by each party;
  - (5) compliance with Court orders; and
  - (6) the amount of attorney fees the opposing party has incurred in the same matter.
- C. Formal Evidence in Support of Motion. If a party is seeking an award for attorney fees in excess of \$500, the attorney must present the following evidence at the hearing:
  - (1) an itemized statement describing the services rendered, the time for such services, the requested hourly rate, and necessary expenses and cost for litigation;
  - (2) testimony as to whether the case was complicated by any factor which necessitated extra time being spent on the case;
  - (3) testimony regarding the attorney's years in practice and experience in domestic relations cases; and
  - (4) evidence of the defending party's ability to pay, and of the moving party's need for an award of attorney fees, if not otherwise disclosed during the hearing.

Rule 221: Existing Orders

- A. If there is a child support order or child custody order in effect through another court at the time a Complaint for Divorce or Legal Separation or a Petition for Dissolution is filed, the filing party must attach a copy of the other court's most recent order, including the child support worksheet, to the Parenting Proceeding Affidavit (Form DR 604).
- B. The applicable CSEA Support Enforcement Tracking System (SETS) number must be supplied to the Court, as well as the full name of the Obligor and Obligee.
- C. This Court will request the termination of any Adams County Juvenile Court order and the transfer of any child support balance.
- D. The parties are responsible for seeking the termination of any child support or child custody order in effect from any other county.
- E. If another court's child support order is terminated, this Court's decree or entry must include the case number and effective date of the termination of the other court's order and whether CSEA will transfer the balance from the other court. The following is sample language that complies with this rule:

Obligor was ordered to pay child support under \_\_\_\_\_ County \_\_\_\_\_ Court Case Number \_\_\_\_\_. The \_\_\_\_\_ County \_\_\_\_\_ Court child support order was terminated effective \_\_\_\_\_. CSEA will transfer the balance from the \_\_\_\_\_ County \_\_\_\_\_ Court order to the Adams County Domestic Relations Court, Case Number \_\_\_\_\_. Effective \_\_\_\_\_, Obligor will pay child...

Rule 222: Qualified Domestic Relations Orders, Division of Property Orders, and Court Order Acceptable for Processing

- A. A Qualified Domestic Relations Orders (QDRO), Division of Property Order (DOPO), and Court Order Acceptable for Processing (COAP) must meet the following requirements:
- (1) Unless otherwise required by the plan administrator, only the attorneys/self-represented parties must sign the original;
  - (2) The original with all personal identifiers and a redacted copy of the original must be submitted to the Court. The copy must redact all personal identifiers, such as Social Security numbers (except for the last four digits), financial account numbers, and employee identification numbers.
  - (3) If the opposing party or his/her attorney fails or refuses to sign the order, the attorney or party may still present the order provided the attorney or party submitting the order complies with Rule 217:.
  - (4) The order must be stamped “costs paid” or “costs waived” by the Clerk of Courts prior to its submission to the Court.
  - (5) A preapproval letter from the plan administrator is not required. It is, however, the filer’s responsibility to draft an order acceptable to the plan administrator.
  - (6) The Clerk of Courts will file the redacted copy in the public Court file. The Clerk of Courts will keep the original in a separate folder unavailable for public viewing. The Clerk of Courts will send a certified copy of the original to the plan administrator.
- B. The Decree of Divorce, Dissolution, or Legal Separation must reserve jurisdiction to approve, amend, and/or modify any properly accepted QDRO, DOPO, or COAP to comply with the requirements of the plan administrator.

Rule 223: Children at the Courthouse

- A. A party may bring a minor child to the courthouse if:
- (1) the child is testifying in the case;
  - (2) the Court is conducting an *in camera* interview; or
  - (3) the child is interviewing with a Parenting Investigator.
- B. All child/ren must be supervised at all times. The Court does not provide babysitting services.
- C. The recording and transcript of an *in camera* interview is sealed.
- D. If a child is testifying or the Court is conducting an *in camera* interview, the Court will not use physical restraint of the child in the court proceeding unless the following occurs.
- (1) The Judge or Magistrate before whom the child is appearing makes a specific determination on the record that:
    - (a) there is no less restrictive alternative to the use of physical restraint;

- (b) the physical restraint of the child is necessary because the child represents a current and significant threat to the safety of the child or other persons in the courtroom; and
  - (c) there is a significant risk the child will flee the courtroom.
- (2) If the Court receives a written or verbal request to use a physical restraint on a child, the child, child's parents, custodian, guardian, guardian ad litem, the state, court security staff, detention personnel, probation officers, and any other person specifically designated by the Court will be heard on the issue of whether the use of physical restraint is necessary.
  - (3) If the Judge or Magistrate determines that physical restraint is necessary, the restraint must be the least restrictive means necessary to meet the risk as determined by the Judge or Magistrate. The restraint should not unnecessarily restrict the movement of the child's hands. This rule does not prohibit the use of restraints during transportation to and from the Court or in the court buildings either before or after hearings.

Rule 224: Guardian ad Litem (GAL)

A. Appointment

- (1) In any action over which this court has jurisdiction, the court may appoint a guardian ad litem ("GAL") to protect the best interest of the child/ren pursuant to Sup.R. 48, upon its own motion or the motion of either party. GAL's must be licensed attorneys in the State of Ohio in good standing. When necessary, the court may also appoint an attorney to represent the child, or may appoint an attorney in the dual capacity of attorney and guardian ad litem for the child, so long as those roles do not conflict.
- (2) The Court shall appoint guardians ad litem from a rotating list of eligible candidates (preserving Individual privacy) as maintained by the Court so that the workload is equitably distributed among the eligible candidates. At times, variables such as professional conflict, availability and the specific nature of a of case may take priority over the rotating procedure at the sole discretion of the Court.
- (3) An order appointing the GAL will be issued by the Court. The Court, at its discretion, may require the moving party to provide an entry to the Court for signature. The Order Appointing GAL is available on the Court's website.
- (4) The Court will order the parties to pay the GAL's appropriate fees. The GAL's fees may exceed the deposit. All GAL fees, including fees paid through the deposit, are subject to reallocation between the parties in the final hearing. An additional fee deposit to the Clerk may be required as deemed necessary by the Court.
- (5) Unless otherwise agreed between the parties, or ordered by the Court, the moving party will generally be responsible for the initial GAL deposit to the Clerk. Final allocation of the entire GAL fee is reserved by the Court at final hearing.
- (6) In actions for divorce, dissolution, alimony, modification of custody and/or parenting-time, the GAL FEE MUST BE PRE-PAID PRIOR TO THE APPOINTMENT OF THE GUARDIAN AD LITEM TAKING EFFECT. THE APPOINTMENT OF THE GUARDIAN AD LITEM DOES NOT TAKE EFFECT, OR BIND THE GUARDIAN TO ANY DUTY OR LEGAL OBLIGATION UNTIL SUCH TIME AS THE FEE HAS BEEN DEPOSITED WITH THE CLERK.

- (7) REPEATED REQUEST FOR CONTINUANCES, DUE TO FAILURE OF A PARTY TO MAKE A TIMELY DEPOSIT OF THE GAL FEES, OR FAILURE TO MAKE AN APPOINTMENT TO MEET WITH THE GAL, MAY RESULT IN A DENIAL OF THE CONTINUANCE.
  - (8) If a GAL is requested by an indigent party who has filed a proper poverty affidavit, the GAL fee will be assessed at the conclusion of the case, and shall be ordered paid pursuant to order of the Court in its final entry. In such case, that both parties are indigent and have filed proper poverty affidavits, the GAL position shall be filled by an attorney appointed by the Court.
  - (9) The GAL will be paid \$75.00 per hour for his/her billable time. When requesting an order for payment of GAL services, the GAL must file a motion and an itemized statement of all services rendered and costs incurred.
  - (10) The GAL must file a report with the Court as required under Sup.R.48.
  - (11) The GAL appointment is terminated automatically with the filing of the final decree or final entry. Whenever feasible, the same guardian ad litem shall be appointed for a specific child in any subsequent case relating to the best interest of the child.
  - (12) All filing fees and court costs are waived as to Guardians Ad Litem.
- B. Role of the GAL
- (1) The GAL must gather and assess all information necessary to allow the GAL to make an informed recommendation as to the best interest of the child/ren. Sup.R. 48 provides guidelines to the GAL.
  - (2) Upon request the Court will provide the GAL with a copy of the Ohio Courts Network (OCN) report on each party. The public record information contained in the report may be used by the GAL in the GAL report submitted to the Court.
  - (3) The Court will notify the GAL of all hearings and proceedings. As provided in Sup.R. 48, the GAL must attend all hearings in the case that involve parenting issues and any in camera interviews. The attorneys/self-represented parties must serve the GAL with all pleadings, motions, notices, and other documents filed in the case related to parenting issues.
  - (4) In representing the best interest of the child/ren and providing the Court with relevant information, the GAL may review all confidential records involving the child/ren by request, subpoena, and deposition, subpoena and examine independent witnesses, and cross examine all witnesses called by the parties to the case.
  - (5) Unless otherwise ordered by the Court, at the conclusion of the parties' parenting evidence the GAL will testify on direct. The GAL will be subject to cross examination by both parties at the conclusion of the GAL's direct testimony.
  - (6) The Court may appoint an attorney for the child/ren when there is a conflict between the GAL's recommendation and the child/ren's wishes. The cost of such appointment shall be allocated to the parties.
- C. Complaints Regarding Guardians ad Litem; Motions to Remove Guardian ad Litem
- (1) Comments or complaints regarding the performance of a guardian ad litem appointed pursuant to this rule shall be in writing and shall be directed to the Common Pleas Court Administrator. A copy of comments and complaints submitted to the court shall be provided to the guardian ad litem who is the subject of the complaint or comment. The Common Pleas Court Administrator may forward any comments and complaints to the Judge of the court for consideration and appropriate action. The



Common Pleas Court Administrator shall maintain a written record in the guardian ad litem's file regarding the nature and disposition of any comment or complaint and shall notify the person making the comment or complaint and the subject guardian ad litem of the disposition.

- (2) Motions to remove a guardian ad litem shall be scheduled for hearing before the judge or magistrate assigned to adjudicate the allocation of parental rights and responsibilities.

D. Annual Certification

- (1) The court shall annually conduct a review of its list to determine that all individuals are in compliance with the training and education requirements of this rule, that they have performed satisfactorily on all assigned cases during the preceding calendar year and are otherwise qualified to serve.
- (2) All individuals on the guardian ad litem list shall certify annually they are unaware of any circumstances that would disqualify them from serving.

E. Responsibilities of the Court

- (1) Pursuant to Rule 48(G), the Court Administrator or, with Court approval, the Court Administrator's designee is authorized and directed to do the following:
  - (a) Maintain and update a public list of Court approved guardians ad litem, while maintaining their privacy under Rules 44 through 47 of the Rules of Superintendence.
  - (b) Coordinate and maintain the application/resume process for individuals wishing to serve as guardians ad litem.
  - (c) Maintain files for all applicants and individuals who are approved to serve as guardians ad litem. Within the file of each applicant, a copy will be included of each applicant's training, experience, expertise, background check and qualifications.
  - (d) Conduct or cause to be conducted at least annually a review of the guardian ad litem list to determine that all listed individuals are in compliance with the training and education requirements of this Local Rule, that all listed individuals have performed in a satisfactory manner on all assigned cases during the preceding year and that all individuals are otherwise qualified under this Local Rule and Rule 48 of the Rules of Superintendence to serve. Written evidence of this review shall be maintained in each individual's file.
  - (e) Require each individual on the list to certify annually, by the first day of each year, that he or she is unaware of any circumstances that would disqualify him or her from serving and to report training he or she has attended. The Judge, Magistrate or Court Administrator shall complete the "Guardian Ad Litem Annual Review Form", available on the Court's website.
  - (f) The Common Pleas Court Administrator shall serve as the person designated by the Court to accept and consider comments regarding the performance of guardians ad litem appointed by the Court. A copy of the comment shall be provided to the guardian ad litem in question and shall be forwarded to the Judge assigned to the subject case. A written record of the nature and disposition of any comment shall be kept in the guardian ad litem's file. The person making the comment or complaint and the guardian ad litem shall be notified in writing of the disposition of such complaint or comment.

Rule 225: Domestic Relations Jurisdiction – Transfer from Juvenile Court.

- A. Pursuant to R.C. 2151.235, Custody proceedings for Parents who are married but have not yet been divorced will be heard by the Domestic Relations Court.
- B. Upon motion in the Adams County Juvenile Court by a parent or other party, who participated in a prior Juvenile Court proceeding which is subject to R.C. 2151.235, and is now initiating further litigation in the Domestic Relations Court, the Juvenile Court proceeding will be transferred to the Domestic Relations Court. The Juvenile Court Clerk will certify the record in the action to the Domestic Relations Court. The Movant will pay any outstanding Court Costs in the Juvenile Court Case and a \$25.00 fee for certifying and transferring the record to the Domestic Relations Court.

## **Juvenile Division Rules**

### Rule 300: Court Costs and Fees Deposit

<b>Amount</b>	<b>Description</b>
\$127.00	Delinquent Child
\$158.00	Delinquent Felony
\$98.00	Unruly Child
\$25.00	Sealing / Expungement Application
\$ 93.00	Traffic Moving
\$ 62.00	Traffic Non-moving
\$ 62.00	Seat Belt Driver
\$ 62.00	Seat Belt Passenger
\$ 25.00	Driving Privileges
\$125.00	Deposit for Support
\$ 50.00	Support Modification
\$ 50.00	Support Review
\$ 90.00	Adult Cases
\$125.00	Custody New
\$125.00	Paternity New
\$ 50.00	Deposit for motion to reopen case
\$50.00	Unmarried Mother Custody Order
\$ 25.00	Jury Fee (to call)
\$ 6.00	Issuing Summons, subpoena, entering attendance and certifying fees, each name
\$ 0.25 per page	Copies
\$ 2.00	Certified Copies
\$ 2.00	Entering on Journal, indexing, and posting Certificate of fact under seal of Court
\$25.00	Fee for certifying record transfer pursuant to R.C. 2151.235

The following fees may vary:

- Certified mail or regular mailing
- Court Appointed Counsel Fees
- Witness Fees
- Sheriff's Fees
- Foreign Sheriff's Fees
- Fines

### Rule 301: Hours

- A. The Juvenile Court will be open for the transaction of business from 8:00 A.M. until 4:00 P.M., Monday through Friday, except for legal holidays and other occasions as may be deemed by the Court.

### Rule 302: Forms and Checklists

- A. Forms and checklists are maintained on the Court's website.

Rule 303: Case Management

- A. Pursuant to Sup. R. 5, the following case management plan establishes time frames for the timely disposition of cases. The time frames include time for service. Deviation from the established time frames is permissible to assure a just result.
- B. Delinquency, Unruly, and Traffic Cases
- (1) Complaint Filed and Youth Held in Detention
    - (a) A detention hearing will be held not later than 72 hours, or the next court day, whichever is earlier, after a child is placed in detention. Either a determination to set the matter for possible relinquishment of jurisdiction or a plea to the charges will be taken at this hearing [Juv. R. 7(F)(1)].
    - (b) If the charge was filed at the same time the child entered detention and the child denies the allegations, a trial will be held no later than 15 days after placement in detention. If the child is detained after the charge is filed, the trial will be held no later than 15 days after placement in detention. If a charge is filed and the child is already detained on other charges, the trial will be held within 15 days of the filing of the charge. The prosecuting attorney's filing of either a notice of intent to pursue or a statement of an interest in pursuing a serious youthful offender sentence shall constitute good cause for continuing the adjudicatory hearing date and extending detention or shelter care.
    - (c) Final disposition for any child in detention will be completed within 90 days of the child entering into custody.
  - (2) Complaint Filed and Child Not in Detention
    - (a) A plea hearing will be held within 30 days of a complaint being filed, and if possible, within 15 days.
    - (b) If the child admits to the charge, the Court will proceed to immediate disposition; or if appropriate, a dispositional hearing will be held within 21 days.
    - (c) If the child denies the allegations, a trial will be held within 30 days of the plea hearing, and if possible, within 15 days.
    - (d) Final disposition will be completed within 6 months of the adjudication [Juv. R. 29 (F)(2)].
    - (e) Continuances of any of the above stages may be granted upon a showing of good cause, but continuances should be for no longer than the period necessary to resolve the good cause.
- C. Parentage and Child Support Cases
- (1) Service of process will be sent as expeditiously as possible after the filing of the complaint.
  - (2) A hearing will be scheduled in a timely fashion to allow completion of service of process on the parties following the filing of the complaint.
  - (3) If a defendant admits the allegations in the complaint, the Court may proceed immediately to determination of a support order.
  - (4) If a defendant denies the allegations, the Court, at the pretrial hearing, may set the date for genetic testing. The date of the testing will be scheduled as soon as practicable following the pretrial hearing. The next pretrial will be scheduled as soon as practicable to allow for completion of the genetic testing.
  - (5) If genetic tests show exclusion, the Court may entertain a motion to dismiss.
  - (6) If genetic tests show inclusion:

- (a) If a defendant changes his/her plea to admit, the Court may proceed immediately to a determination of a support order;
- (b) If a defendant continues to deny, a trial will be scheduled as soon as practicable.
- (7) Continuances may be granted upon a showing of good cause, but the continuances should be for no longer than is necessary to resolve the good cause.

D. Abuse, Neglect, and Dependency Cases

- (1) Absent a voluntary agreement for care, when a child is removed from the home, a hearing will be held the next court date or within 72 hours, whichever is earlier.
- (2) When a private agency files a request for permanent commitment based on a permanent surrender, a hearing will be held within 30 days from the filing.
- (3) In all other cases, a hearing will be held no later than 21 days after the complaint is filed.
- (4) An adjudicatory hearing will be held within 60 days of the complaint being filed.
- (5) Disposition will occur no later than 90 days from the date a complaint was filed, unless the parties waive such period.
- (6) Continuances may be granted upon a showing of good cause, but the continuances should be no longer than is necessary to resolve the good cause.

Rule 304: Rules applying to both Domestic Relations and Juvenile Court

A. Many of the same forms rules and procedures regarding the allocation of parental rights and responsibilities in the Domestic Relations Division also apply to the proceedings in the Juvenile Court. The Rules listed below are incorporated into the Juvenile Rules.

- (1) Rule 206: Ex-Parte Orders
- (2) Rule 207: Emergency Hearings
- (3) Rule 208: Temporary Orders
- (4) Rule 210: Parties in the Same Household
- (5) Rule 213: Mandatory Parenting Seminar
- (6) Rule 215: Allocation of Parental Rights and Responsibilities
- (7) Rule 216: Decisions and Entries
- (8) Rule 217: Preparation of Decrees, Entries, and Orders
- (9) Rule 218: Agreed Entries
- (10) Rule 219: Electronic Signatures
- (11) Rule 220: Attorney Fees
- (12) Rule 221: Existing Orders
- (13) Rule 223: Children at the Courthouse
- (14) Rule 224: Guardian ad Litem (GAL)
- (15) Rule 225: Domestic Relations Jurisdiction – Transfer from Juvenile Court.

Rule 305: Actions Involving Minors

A. Actions for parentage, child support, and contempt for failure to pay child support in which a parent or an alleged parent is a minor require the attendance of the minor parent's parent or legal guardian or custodian at all hearings

Rule 306: Parentage/Paternity Cases

A. The Ohio Rules of Civil Procedure apply to all matters regarding the establishment of parentage and orders for and modification of child support.

- B. Genetic Testing
  - (1) Advance payment for genetic testing is the responsibility of the requesting party. Repeat genetic testing may be ordered in the Court's discretion. At the conclusion of the case, the Court may assess the costs of genetic testing against the non-prevailing party. When the Child Support Enforcement Agency has advanced the costs of genetic testing, the Court may order reimbursement by the non-prevailing party.
- C. Motions to set aside a finding of parentage filed pursuant to Rule 60(B) of the Ohio Rules of Civil Procedure shall set forth the specific reasons for the requested relief and contain a copy of the order being sought to set aside.
- D. Pursuant to Ohio Revised Code Section 3109.042, an unmarried female who gives birth to a child is the residential parent and legal custodian of the child until a court of competent jurisdiction issues an order designating another person as the residential parent and legal custodian. Upon proper application with the Court, including payment of the Court Costs, an unmarried mother may be issued a custody order from the Court without a hearing.

Rule 307: Abuse/Neglect/Dependency Cases

- A. A separate complaint shall be filed with respect to each child alleged to be abused, neglected and/or dependent. Such complaint must comply with the requirements of R.C. 2151.27 and the Juvenile Rules. Initial Complaints in Abuse/Neglect/Dependency cases may be filed only by Adams County CSB. Non-agency cases involving parties seeking custody should be filed as a complaint for custody. The complaint must contain the relevant number of the O.R.C. Section(s) being alleged AND the text description of the alleged offense(s).
- B. Birth Record and Paternity issues. A copy of the child's birth certificate, of the JFS 07038, also known as the "Acknowledgment of Paternity Affidavit", Putative Father search, or other document addressing paternity, shall be filed with the complaint, or within 60 days, if unavailable at the time of filing. If no such document is available, the complainant is to initiate an appropriate action or administrative procedure to establish paternity. In all cases, no case shall proceed to final disposition until such time as Due Process issues related to notice and summons as set forth in the Juvenile and Civil Rules has been accomplished regarding a parent or other person with such status that requires that notice be given.
- C. Related Cases. Upon filing a complaint, the complainant shall have determined if there are any Related Cases and shall identify any Related Cases to the Clerk. "Related Cases" are:
  - (1) Cases filed at the same time regarding children who have a common biological or adoptive mother;
  - (2) Cases which meet both of the following criteria:
    - (a) children who have a common biological or adoptive mother; and
    - (b) with respect to any of such mother's children in a previously filed abuse, neglect or dependency case, the Court has not made disposition under R.C. 2151.353 (A)(3-5) of legal custody, permanent custody or planned permanent living arrangement; or
  - (3) Cases concerning children who have the same legal custodian.
- D. Case Numbers and Case Files. The Clerk shall:
  - (1) Assign consecutive case numbers to Related Cases which are filed simultaneously;



- (2) Ensure that identification of any one Related Case in the Court's computerized docketing system also identifies all other cases related thereto.
  - (3) On the outside of each case file of Related Cases, note the case number(s) of any other Related Cases.
- E. Consolidation.
- (1) Related Cases are hereby consolidated for purposes of hearings and trials. Such consolidation need not occur if the Court determines that the interests of justice or efficiency warrant otherwise. Separate Decisions, Orders, Entries, Summonses and other notices shall issue under each Related Case number, unless otherwise determined by the Court.
  - (2) Motions and other filings by parties or other interested persons shall be filed separately under each Related Case number unless otherwise directed by the Court.
- F. Guardian ad Litem (GAL) Appointments
- (1) The appointment of a GAL is mandatory in complaints alleging Abuse and/or Neglect and is discretionary in cases involving Dependency.
- G. GAL Reports:
- (1) Pursuant to Rule 48(F) of the Rules of Superintendence for the Courts of Ohio, inspection of the report of the guardian ad litem shall constitute a party's attorney or an unrepresented party being permitted to read the report and make handwritten notations on separate paper, however, unless otherwise ordered by the Court, the report shall not be copied whatsoever, except by Court personnel, or be removed from the Courthouse.
  - (2) Any copies of the report provided by the Court for the purpose of inspection shall be collected and destroyed at the conclusion of the inspection process.
- H. GAL Fees:
- (1) Rates of compensation shall be \$60.00 in court and \$50.00 out of Court in accordance with the reimbursement rates set by the Ohio Public Defender and approved by the Adams County Commissioners.
  - (2) Expenses shall be submitted within 10 days of the final disposition in the case and shall be submitted on the approved forms so that the Court and County can file a claim for state reimbursement. Failure to file the expense report within 30 days will result in no payment.

**Rule 308: Child Support Cases**

- A. An Affidavit of Income and Expenses and an Affidavit of Health Care Expenses are required from each parent.
- B. Motions for modification of a child support order shall state the specific reason for the request and attach a copy of the most recent order that the party seeks to modify.
- C. Motions to set aside an order for child support filed pursuant to Rule 60(B) of the Ohio Rules of Civil Procedure shall set forth the specific reasons for the requested relief and contain a copy of the order being sought to set aside.

**Rule 309: Delinquency and Unruly**

- A. A GAL may be appointed to assist the Court in determining placement at disposition or other orders where the investigation of a GAL may assist the Court. A parent or legal custodian may be ordered to pay the GAL fee at the discretion of the Court.

- B. The complaint must contain the relevant number of the O.R.C. Section(s) being alleged AND the text description of the alleged offense(s).

Rule 310: Juvenile Traffic Cases

- A. Except as otherwise provided below, a juvenile cited for a traffic violation is mandated to personally appear in Court on the assigned date and time with a parent or legal guardian.
- B. A formal court appearance is not mandatory for the following offenses: Failure to wear a seatbelt; failure to display tags or expired tags; muffler violations; no headlights or taillights; window tint violations; bumper height violations; vehicle lighting violations, loud amplifier violations; other equipment violations (ORC 4513) as approved by the Court; and other violations as may be added by the Court.
- C. The complaint must contain the relevant number of the O.R.C. Section(s) being alleged AND the text description of the alleged offense(s).
- D. In cases where a mandatory court appearance is not required, the case may disposed of as follows:
  - (1) the juvenile and his/her parent or legal guardian must appear at Juvenile Court during regular business hours prior to the Court date listed on the traffic citation; the juvenile and his/her parent or legal guardian will enter an admission in writing to the offense charged by signing the appropriate Admission and Waiver form supplied by the Court;
  - (2) a fine and/or court costs will be imposed by the Court in accordance with cost schedules adopted by the Court and applicable traffic laws;
  - (3) the Court will not accept the admission and a Court appearance shall be required if the imposed fine and/or court costs are not paid at the time of the entry of admission.
- E. The use and filing of a traffic ticket that is produced by computer or other electronic means is hereby authorized pursuant to Traffic Rule 3(F). The electronically produced traffic ticket shall conform in all substantive respects to the Ohio Uniform Traffic Ticket. If an electronically produced traffic ticket is issued at the scene of an alleged offense, the issuing officer shall serve the defendant with the defendant's paper copy of the ticket as required by division (E) of Traffic Rule 3. The court record of the ticket shall be filed with the Juvenile Court on paper of sufficient quality to allow the court record copy to remain unchanged for the period of the retention schedule for the various traffic offenses as prescribed by the Rules of Superintendence for the Courts of Ohio. The court record of the ticket may also be filed electronically with the court in lieu of the paper court record. A law enforcement officer who files a ticket with the court and electronically affixes the officer's signature thereto shall be considered to have certified the ticket and shall have the same rights, responsibilities and liabilities as with all other traffic tickets issued pursuant to the authority granted by the Rules of Superintendence for the Courts of Ohio.

Rule 311: Diversion

- A. Pursuant to Juvenile Rule 9(A), if the best interests of the child and of the public require, a matter may be referred to unofficial status and the child subject to the complaint referred to diversion, in lieu of formal Court action.
- B. Unofficial cases considered by the Court shall not be subject to the other provisions of these rules.

- C. Unofficial cases shall not be part of the permanent record of the child and shall be removed from the child's file when he/she is no longer subject to the jurisdiction of the Juvenile Court.
- D. No person, except for Court staff, shall have access to records of unofficial matters, without the consent of the Court.
- E. Cases that might otherwise qualify for diversion may remain in an official status where there are multiple offenders not all of whom are eligible for diversion or where family or other circumstances indicate that the best interests of the child and the public are not served by a referral to diversion and unofficial status.

Rule 312: Appointed Counsel

- A. The Court shall maintain a list of attorneys willing to accept appointments for Juvenile Court cases. The Court appointment list shall consist of the following individuals:
  - (1) Attorneys who will represent children in delinquency, traffic and unruly cases, and indigent adults in criminal matters and contempt actions other than those specified herein;
  - (2) Attorneys who will serve as counsel for indigent parties in abuse, neglect, and dependency cases; and
  - (3) Attorneys who will represent children charged with a Category One or Category Two delinquency offense and in cases where relinquishment of jurisdiction for the purpose of criminal prosecution is requested.
- B. Attorneys desiring to be placed on any or all appointment lists shall submit a written application provided by the Court along with a certificate of good standing directed to the Court Administrator.
- C. All attorneys appointed by the Court in unruly, truancy, violation of court order, OVI, delinquency, bindover, serious youthful offender, and appellate cases related thereto and adult criminal cases, shall meet the minimum qualifications for training and experience established by the Ohio State Public Defender in order to qualify for State reimbursement. All CLE hours must be certified by the Ohio Supreme Court Commission on Continuing Legal Education. Proof of education and training shall be submitted with the application and shall be provided annually thereafter. Failure to submit proof of continuing education and training requirements will result in the removal of the attorney from the appointment list. An attorney may request removal from the appointment list by submitting a written request directed to the Administrative Assistant to the Judge.
- D. The Court shall maintain an individual file for each appointed counsel. Attorneys will be assigned on a rotating basis from the graduated list that pairs the seriousness, complexity and type of case with the qualifications and experience of the person to be appointed. Appointments shall take into account all of the following:
  - (1) The anticipated complexity of the case in which appointment will be made;
  - (2) Any educational, mental health, language, or other challenges facing the party for whom the appointment is made;
  - (3) The relevant experience of those persons available to accept the appointment, including proficiency in a foreign language, familiarity with mental health issues, and scientific or other evidence issues;
  - (4) The avoidance of conflicts of interest or other situations that may potentially delay timely completion of the case;

- (5) Intangible factors, including the Judge or Magistrate's view of a potential appointee's commitment to providing timely, cost-effective, quality representation to each prospective client.
- E. The Court Administrator will review the number of appointments for each counsel twice per year. The equitable appointment of counsel shall be determined by type of case and shall not be aggregated from all types of cases. The appointment of counsel for children in abuse, neglect and dependency cases shall be counted as only one appointment for all children of a family for purposes of determining the equal distribution of appointments.
  - (1) Rates of compensation for appointed counsel shall be \$60.00 in court and \$50.00 out of Court in accordance with the reimbursement rates set by the Ohio Public Defender.
- F. Necessary and reasonable expenses may be allowed for such items as expert witness fees, polygraph exams, long distance telephone calls, photocopying, and certain travel expenses, so long as prior approval of the Court is obtained. The Court will not allow for any fixed office overhead expenses, Court transcripts or depositions, except as provided by law. Expenses shall be submitted within 10 days of the final disposition in the case and shall be submitted on the approved forms so that the Court and County can file a claim for state reimbursement. Failure to file the expense report within 30 days will result in no payment.
- G. Requests for extraordinary fees must be made by written motion and should be submitted with supporting information, including all regular billing documents. An award for extraordinary fees will be made only with the approval of the Court.

**Rule 313: Record Retention**

- A. Judge, Magistrate, and clerk notes, drafts and research prepared for the purpose of compiling a report, opinion, or other document or memorandum may be kept separate from the case file, retained in the case file, or destroyed at the discretion of the preparer.
- B. Delinquency and adult records shall be retained for two years after the final order of the juvenile division or one year after the issuance of an audit report by the Auditor of State, whichever is later. Documents admissible as evidence of a prior conviction in a criminal proceeding shall be retained for fifty years after the final order of the juvenile division.
- C. Juvenile by-pass records shall be maintained in two separate and secure files.
  - (1) The first file shall contain the first page of the form complaint and other relevant documents and the second file shall contain the second page of the form complaint bearing the signature of the complainant.
  - (2) Each file shall be retained for two years after the final order of the juvenile division or, if an appeal is sought, for two years after the filing of the appeal.
- D. Permanent custody, custody, parentage, visitation, support enforcement, abuse, neglect, dependency and URESA/UIFSA records shall be retained for two years after the child who is the subject of the case obtains the age of majority. If post-decree motions have been filed, records shall be retained for one year after the adjudication of the post-decree motion or for two years after the child who is the subject of the motion obtains the age of majority, whichever is later.
- E. Search warrant records shall be indexed and the warrants and returns retained in their original form for five years after the date of service or last service attempt.
- F. Unruly and marriage consent records shall be retained for two years after the final order of the juvenile division or one year after the issuance of an audit report by the Auditor of State, whichever is later. Minor misdemeanor traffic records shall be retained for five years

after the final order of the juvenile division. Misdemeanor traffic records shall be retained for twenty-five years after the final order of the juvenile division. All other traffic records shall be retained for fifty years after the final order of the juvenile division.

**Probate Division Rules**

Rule 400: Court Costs and Fees Deposit

Amount	Description
<b>ADOPTIONS</b>	
\$150.00	Preplacement prior to Adoption – per child (does not include adoption fee)
\$150.00	Private Adoptions <sup>1</sup> Court Costs – per child
\$500.00	Assessor Home study Fee – per household (paid directly to assessor)
\$150.00	Agency Adoptions - per child – Agency provides Assessor reports
\$150.00	Adult Adoptions
<b>ESTATES</b>	
\$125.00	Full Administration
\$125.00	Release from Administration
\$60.00	Summary Release
\$10.00	Claims against Estate
\$10.00	Motion & Entry to re-open Estate (Plus costs of additional documents)
<b>GUARDIANSHIPS</b>	
\$125.00	Person & Estate (Each Case)
\$125.00	Estate only (Each Case)
\$125.00	Person only (Each Case)
\$125.00	Emergency Guardianships (Each Case)
<b>MINOR SETTLEMENT</b>	
\$185.00	Over \$10,000.00 requires guardianship
\$60.00	Without Guardianship
\$28.00	Authenticated copies from another County
\$28.00	Will with non-taxable return filed
\$33.00	Will with taxable return filed
<b>CIVIL ACTIONS</b>	
\$25.00	All Complaints
\$2.00	Subpoenas
<b>OTHER FEES</b>	
\$10.00	Application to correct birth record
\$105.00	Change of Name (additional cost for each case - \$105.00)
\$18.00	Copies of Court Record
\$25.00	Deposit of Wills
\$50.00	Marriage License
\$2.00	Certified Copy of marriage record
\$250.00	Publication Deposit

<sup>1</sup> Includes Relative, step parent, and all other non-agency adoptions



Rule 401: Standard Probate Forms

- A. The applicable Standard Probate Forms provided by the Ohio Supreme Court and as provided by this Court shall be used for all filings in this Court, except that Attorneys may generate pleadings and affidavits in order to present additional relevant information to the Court. The current versions of all Probate Forms are available on this Court's website.
- B. Specific requirements and instructions for the filing of Probate Matters will be maintained on the Court's Web Site.

Rule 402: Specifications for Printing Probate Forms (Computer-Generated Forms)

- A. This Court may accept computer-generated forms created by third party providers, forms as adopted by this Court, or forms prepared by lawyers or others, provided the following conditions are met:
  - (1) Such forms shall comply with the provisions of Rule 51 and Rule 52 of the [Rules of Superintendence](#) for the Probate Division of the Court of Common Pleas.
  - (2) Such forms shall be in the same format as those provided by this Court.
- B. The individual presenting forms to this Court shall be responsible to ensure that such forms are in full compliance with the [Rules of Superintendence](#) and the Local Rules of this Court. All printed material shall be in the same words, sequence and location on the page as the standard probate form. In the event of multiple page forms or two-sided forms, the printed material shall be on the same side or same page as the standard probate form. Any interlineated information shall be in typeface or written legibly in ink.
- C. The Court may reject forms that deviate from the format of the Standard Probate Forms. Such forms may be rejected prior to filing or stricken from the record upon discovery.

Rule 403: Motions and Entries

- A. Motions must comply with [Rule of Superintendence](#) 57. Motions shall be accompanied by a memorandum that includes a brief statement of the grounds for the motion with citations to authorities. Motions alleging facts specific to the case shall be supported by an affidavit.
- B. All motions shall be served pursuant to [Civil Rule](#) 5.
- C. All entries and orders presented to the Court for approval should include the date of the hearing, the names of those present, and the specific motion or application heard by the Court on that date. The caption shall state the subject matter of the Court's decision with reasonable specificity. The use of the terms "entry" or "order" without more specificity may cause such proposed entry to be rejected. Decisions should be captioned as "Magistrate's Decisions" and should also include a separate Judgment Entry for signature by the Judge and should include appropriate statutory language. Orders should be captioned as "Magistrate's Order" and include appropriate statutory language. Samples are available on the Court's website.
- D. All filings, entries and orders which bear an endorsement of counsel per telephone or electronic authorization shall state the date of said authorization and shall also contain a certificate of service by the attorney who obtained authorization that a copy of the filing, entry or order has been delivered to the consenting counsel.
- E. Application for leave to withdraw as counsel shall be made by written motion filed with the Court, with copies served upon the fiduciary and all other attorneys or parties of record in accordance with [Civil Rule](#) 73. If such Application is granted and the fiduciary does not appear at such hearing, the withdrawing attorney shall notify such fiduciary or other party

in accordance with [Civil Rule 73](#). Proof of compliance with [Civil Rule 73](#) shall be filed with the Court.

Rule 404: Filing by Mail

- A. Pleadings, motions, applications and other filings as set forth below may be filed with the Court by U.S. Mail or other delivery services subject to the conditions set forth by the Local Rules or by the Court.
- B. Any filing commencing a proceeding for which the Court must collect an initial case deposit against costs and all estate tax returns must be filed in person. Any pleading referenced below will be accepted for filing through the U.S. Mail or other delivery services. However, a filing that requires the payment of a fee will only be accepted if the correct filing fee is enclosed or has been paid. If there is a deficiency in the proposed pleadings, motions, applications, filings or payment of costs, such items will be returned to the sender without being filed.
- C. If a file-stamped copy of the pleadings, motions, applications and other filings is desired to be returned to the sender, a copy of such pleadings and a self-addressed, postage pre-paid envelope must be enclosed or clear written instructions must be given to place such file-stamped copies in the sender's mailbox at the Court.
- D. Any pleading, motion, application or other filing which is to be set for hearing must be accompanied by the appropriate entry setting the matter for hearing. The Court will set such matters for hearing at its sole discretion. A proposed entry for the Court's consideration must accompany any pleading, motion, application or other filing that requires an entry.
- E. The Court will accept by U.S. Mail or other delivery services only the following pleadings, motions, applications and other filings set forth as follows:
  - (1) Decedent's Estates.
    - (a) Inventories, Amended Inventories, entries setting such matters for hearing and proposed entries approving the same
    - (b) Certificates of Service of Notice of Probate of Wills
    - (c) Waivers of Notice of Hearing
    - (d) Affidavits of Service with Proofs of Service attached
    - (e) Attorney Fee Applications, consents and Waivers of Notice of Hearing
    - (f) Appointments of Appraisers
    - (g) Applications to Transfer Motor Vehicles
    - (h) Applications for Certificates of Transfer, entries approving such Applications, and the proposed Certificates of Transfer
    - (i) Claims against the Estate
    - (j) Exceptions to Inventories and Accounts
    - (k) Consents to sell Real Estate
    - (l) Fiduciary Bonds
    - (m) Motions and entries setting such Motions for hearing
    - (n) Suggestions of Death
    - (o) Affidavits and Entries Finding that a Person is One and the Same
    - (p) Notification of Change of Address
    - (q) Initial Application to Extend Time of Administration
    - (r) Certificates of Fee Agreement

- (s) Estate Tax Form 22<sup>2</sup> where no Ohio estate tax return is required.
- (2) Guardianships.
  - (a) Inventories and Amended Inventories
  - (b) Applications to Release Funds
  - (c) Guardian's Reports
  - (d) Expert Evaluations
  - (e) Attorney Fee Applications
  - (f) Guardian Fee Applications
  - (g) Guardian Bonds on SPF 15.3
  - (h) Notifications of Change of Address
  - (i) Motions and entries setting such Motions for hearing
  - (j) Applications to Extend Time
- (3) Trusts.
  - (a) Inventories
  - (b) Lists of Beneficiaries
  - (c) Attorney Fee Applications
  - (d) Trustee Fee Applications
  - (e) Trustee Bonds
  - (f) Notifications of Change of Address
  - (g) Motions and entries setting such Motions for hearing
  - (h) Requests for Notification
- (4) Adoptions. Because adoption proceedings are sealed by statute, subject to the conditions as set forth in this Local Rule, the Court will accept the following filings relating to adoptions through the U.S. Mail or other delivery services provided that the pleadings are sealed in an envelope, that is prominently labeled —ADOPTION – FILE UNDER SEAL
  - (a) Home Studies
  - (b) Pre-Finalization Reports
  - (c) Proofs of Service of Notice
  - (d) Petitioners Final Account
  - (e) Petitions for Identifying Information
  - (f) Social and Medical History Updates
  - (g) Motions, Responsive Pleadings and Entries Setting Hearings

**Rule 405: Probate restrictions on Fax Filings**

- A. Filing by facsimile shall be pursuant to Rule 010: above. Filings Not Accepted. The following documents may NOT be filed by facsimile transmission:
  - (1) Any filing commencing a proceeding for which the Court must collect an initial case deposit against costs or a specific filing fee and/or for which the Court is required to effectuate service of summons;
  - (2) Any pleading or form associated with an adoption.
  - (3) Estate tax returns<sup>2</sup>;
  - (4) Any entry not requiring the Court's signature but for which a party is obligated to pay costs to the Court.

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<sup>2</sup> Only required for Estates with a date of death prior to January 1, 2013

- (5) Notices of dismissal, stipulated entries of dismissal and other filings not requiring a Judge's signature and not requiring payment of costs to the Court may be filed by facsimile subject to the other provisions of this Local Rule;
- (6) Pleadings, motions, applications or other filings in matters involving an adoption;
- (7) Applications for Certificates of Transfer.

Rule 406: Case Management and Pre-Trial Procedure in Civil Actions

- A. Procedure shall be as set forth for the General Division of the Adams County Court of Common Pleas.

Rule 407: Case Management in Decedent's Estate, Guardianships, and Trusts

- A. A Certificate of Service of Notice of Probate of Will, Form 2.4, shall be filed no later than two months after the appointment of the fiduciary, unless the Court grants an extension of that time.
- B. Attorneys must provide a copy of "Form AC-403 Citation Notice" to the fiduciary that they represent prior to filing with the Court.
- C. The guardian of an estate shall file an account at least once each year. The guardian of an incompetent adult shall file a Guardian's Report, Form 17.7, with the Court no later than two years after the date of the issuance of the Guardian's Letters of Appointment and biennially thereafter.
- D. If an estate is not fully administered within two years, the magistrate will determine whether court intervention is necessary. If the Court schedules a status conference, the parties may participate telephonically with prior approval of the Court.
- E. The trustee of a testamentary trust shall file an account with the Court no later than two years after the date of the issuance of the Trustee's Letters of Authority and biennially thereafter. A list of the current beneficiaries of the trust shall be filed with the account.
- F. The fiduciary shall sign all applications, including a continuance to extend the time for filing an inventory, account, or Guardian's Report.
- G. Upon citation to the attorney of record for a fiduciary who is delinquent in filing an inventory, account, or Guardian's Report, the Court may bar the attorney from opening any new cases in any new proceeding until all delinquent pleadings are filed.
- H. Upon filing exceptions to the inventory or an account, the exceptor shall set said exceptions for a scheduling conference. The Court may dispense with the scheduling conference and proceed directly to trial for good cause shown.

Rule 408: Adoptions

- A. At the time of filing a petition for Adoption by a private party, a deposit shall be required.
- B. A checklist is available on the Court's website.
- C. The Petitioner(s) MUST be represented by an attorney. The attorney for the petitioner shall be responsible for preparing and supplying to the Court the forms and entries for required notices in adoption proceedings.
- D. Unless the Father's name is on the birth certificate, JFS 07038, also known as the "Acknowledgment of Paternity Affidavit", Petitioner or Petitioner's counsel shall request a search of the Putative Father's Registry and shall file the certified response to that request. The Court reserves the right to order additional notice to the putative father as deemed necessary.

- E. Except in step-parent adoptions, there must be a lawful placement before the filing of the Petition for Adoption. Lawful placement means a pre-placement by the Probate Court, Legal Custody by a Court with Competent Jurisdiction, and/or a Guardianship in Probate court.
- F. In any adoption where the Domestic Relations Court, Juvenile Court or the Child Support Enforcement Agency has a pending or existing case for child support, petitioner(s) or counsel, and not the Court, is responsible to notify such court or agency of the child's adoption to allow the support order to be terminated or reduced to a lump-sum judgment.
- G. Surrogacy actions shall be presented to the Court as declaratory judgment actions. The plaintiff shall be the intended parent(s). The necessary party defendants shall be the surrogate and the surrogate's husband. The complaint must be accompanied by an affidavit from the physician rendering the retrieval of genetic material and implantation of the embryo. Counsel shall present a proposed entry approving gestational surrogacy when the complaint is filed. A copy of the surrogacy contract shall be attached as an exhibit to the complaint. After birth, counsel shall present a proposed entry registering the child's birth with a certificate of registration.
- H. The Court shall provide a list of qualified assessors upon request. Petitioner's counsel shall inform the Court of the assessor so selected. Private parties must pay the assessor directly for their fee for the home study and report, pursuant to ORC 3107.031, which shall be filed with the Court pursuant to law.
- I. All contested adoptions shall be set for a scheduling conference before the Magistrate, and any adoption may be set before the Magistrate if it is determined that an issue must be addressed prior to final hearing. Uncontested adoptions and Agency Adoptions shall be set before the Judge for final hearing upon approval of the pleadings filed. The Judge or the Magistrate may conduct any pre-trial or final hearings in any adoption.
- J. For all adoptions finalized out of state on children born in Ohio, where the consent hearing is performed by this court, the petitioners shall file ODHS Forms 1693 and 1616 (Release of Identifying Information and Social Medical History Forms). Petitioners shall provide the Court with the date of finalization of the adoption in the foreign court, the name of the foreign court and the name of the adoptee after the adoption.
- K. When multiple children are being adopted, a Petition is required for each child, however, only one assessor need be appointed per household.
- L. Adoption Procedure: No adoption petition will be filed without the appropriate checklist being properly executed and attached. (A copy of the checklist available on the Court's website).
  - (1) A copy of the Court's Adoption Checklist must be signed by Petitioner(s) and/or their counsel, and submitted at the time of filing of the Petition for Adoption.
  - (2) Except in step-parent adoptions, Prior to filing any adoption petition with the Probate Court, petitioner(s) shall contact the Adoption Assessor to schedule and complete the required 36 hour pre- service training, and receive adoption approval by the Adams County Children's Services Agency.
  - (3) The petitioner(s) shall follow all requirements, including completion of local, state and federal criminal background checks and Bureau of Motor Vehicle checks, as well as provide the names, addresses and phone numbers of their personal references, all of which shall be submitted to the Adoption Assessor, along with their training certificates.

- (4) Petitioner(s) shall submit to a site and safety audit by the assessor, complete a fire marshal inspection and pay the fee for same, and have medical statements completed on all household members, by their family physician.
  - (5) Upon completion of all requirements, the Adoption Assessor shall submit a letter to the Probate Court, the petitioner(s) and/or their counsel, advising that all requirements have been met.
- M. Birth Certificates:
- (1) The Court will send for the new Birth Certificate from the Department of Health. The petitioner(s) must provide the birth certificate fee (currently \$21.50) to the Probate Clerk and must have ensured that all other remaining Court Costs have been paid before the Court will proceed with obtaining the new certificate.
- N. Attorney Fees:
- (1) Attorney fees shall be governed by RULE 1.5 of the Rules of Professional Responsibility. The Court has the ultimate authority to set fees in any matter, and may require an attorney to provide a copy of their fee agreement and/or time records used in calculating the attorney fee.

Rule 409: Estate Administration: General Information

- A. The caption for the Estate must match the name of the decedent as set forth in the will. If there is no will, the name of the decedent on the death certificate and/or any deed of property should be used. If there is a variation in the name that the decedent used, an Affidavit of One and the Same should be filed in the case listing all variations of the decedent's name. Unless otherwise approved by the Court, the case caption should NOT contain "AKA" or "FKA" information.
- B. An Affidavit of One and the Same should be filed for any beneficiary that may have multiple variations of the spelling of their name. Examples include beneficiaries who may have changed their name through marriage after the drafting of the will.
- C. All claims against a decedent's estate must be presented in accordance with RC §2107.06. If no fiduciary has been appointed, the Court cannot accept the claim and the claimant should follow the procedure set forth in RC §2107.06(A)(1)(c).
- D. Fees to a prior guardian of a decedent or fees to an attorney representing a prior guardian must be submitted as claims against the Estate and not as fiduciary or attorney fees in an Estate.
- E. Unless specifically set forth in the Will, the Court will not appoint co-executors. Co-administrators will not be appointed in intestate estates.

Rule 410: Estate Administration: Wills

- A. Before an application is filed to admit a will to probate, to appoint an estate fiduciary, or to relieve an estate from administration, the applicant or the applicant's attorney shall examine the index of wills to determine if the decedent has deposited a prior will with the Court for safekeeping. Prior wills so deposited shall be filed in the estate proceedings for record purposes only.
- B. Upon presentation of a will, the Magistrate shall make the initial determination as to whether the purported will shall be admitted to probate.



- C. If a will presented to probate contains alterations, interlineations or extraneous markings, or if the original will is not available, the admission of the will may be set for hearing pursuant to RC §2107.26.
- D. All persons listed on Form 1.0 whose addresses are known shall be given Notice of Probate of Will by certified mail unless such notice is waived. Notice by publication shall be required if the identity and/or address of any next of kin and/or beneficiary is unknown, unless the Court otherwise orders.
- E. If a will specifies a spouse or other beneficiary who is deceased, the Form 1.0 should reflect the person's name and indicate that the beneficiary is deceased. Proof of death in the form of a death certificate (preferred), obituary, or other official document containing sufficient information to verify the identity of the deceased beneficiary.
- F. Certificates of Service of Notice of Will (Form 2.4) may be filed subject to approval by the Court.
- G. Where the will names a living trust as a beneficiary, a copy of the trust shall be submitted to the Court for review, but the trust agreement will not be filed with the Court. Except for good cause shown, this requirement must be met before the inventory or entry relieving the estate from administration is filed with the Court.

Rule 411: Estate Administration: Attorney Fees

- A. Attorney fees in all matters shall be as set forth herein. The Court has the ultimate authority to set fees in any matter. Attorneys represent the Fiduciary and not the Estate. Communications with heirs and/or beneficiaries should reflect this.
- B. Counsel shall enter into a dated written fee agreement with the fiduciary prior to or upon the filing of the Inventory with the Court. The fee agreement shall contain an estimate of the total fee for the administration of the decedent's probate estate. A copy of the fee agreement shall be provided to any residuary beneficiary of the probate estate upon request. If the attorney for the estate is also the fiduciary or if the fiduciary is an attorney associated with the attorney for the estate, a copy of the fee agreement shall be provided to all residual beneficiaries of the probate estate upon its execution. Counsel shall file with the Court a Certificate of Fee Agreement on HC Form 210.09 prior to or upon the filing of the Inventory with the Court.
- C. Attorney Fees for the administration of a decedent's probate estate ordinarily shall be paid at the time the fiduciary's final account or certificate of termination is prepared for filing with the Court, and such fees shall not be paid prior to two weeks before the filing of the fiduciary's final account or certificate of termination.
- D. The Court may, upon application and for good cause shown, approve an Application for Partial Payment of Attorney Fees without a hearing prior to the time the fiduciary's final account is filed with the Court. The grounds for approving partial payment of attorney fees may include, for example, that the payment of attorney fees provides an income tax benefit to the estate, that the estate is involved in protracted litigation, or that the administration of the estate is extended beyond twelve months from the date the fiduciary is appointed because of circumstances beyond the fiduciary's and the attorney's control. In all such cases, the application must state the total amount of the attorney fees and any anticipated extraordinary fees estimated to be requested for the complete administration of the decedent's probate estate. Ordinarily, partial attorney fee requests should not exceed 50%

of the total amount of the attorney fees estimated to be requested for the complete administration of the decedent's probate estate.

- E. When multiple attorneys have been retained by the fiduciary or fiduciaries for the probate estate, or when it is anticipated that attorney fees will be paid to more than one attorney or law firm, all fee requests shall be considered by the Court simultaneously.
- F. Fees to an attorney who is performing work related to an Estate, but not required for the administration of the Estate, shall be documented and submitted as a separate claim against the Estate.
- G. A written fee application shall not be required and the fiduciary may pay such fees to counsel if counsel's fee is within the guideline set forth in Rule 411:I. below, the amount is under \$2,000, and the fiduciary, all residuary beneficiaries of the probate estate and all other parties affected by the payment of said fees have consented in writing to the payment of the attorney fees and such consent is filed with the Court. If counsel's fee exceeds \$2,000 and the other terms outlined above have been met, the Magistrate shall be provided with the attorney's time records and the Magistrate shall review and approve counsel's fee prior to payment. Notwithstanding the foregoing, the Court may require an application for attorney fees be filed with the Court for review and approval.
- H. If counsel requests a fee that is within the guideline set forth below but all of the residuary beneficiaries of the probate estate and all other parties affected by the payment of said fees have not consented in writing to the payment of such fee, a written application signed by the fiduciary or attorney and supported by the attorney's time records shall be filed with the Court. It is within the discretion of the magistrate assigned to the case whether such application will be formally set for hearing. If a hearing is set, notice of the hearing shall be given to all residuary beneficiaries of the probate estate and all other parties affected by the payment of said fees. A Waiver of Notice of Hearing and Consent to Payment of Attorney Fees may be filed.
- I. Attorney fees for the administration of a decedent's probate estate as set forth below may serve as a guide in determining fees to be charged to the probate estate for legal services of an ordinary nature rendered as attorney for the fiduciary in the administration of a decedent's probate estate. The Court does not have, nor is there recognized, any minimum or maximum fees that will automatically be approved by the Court. Misrepresentation of this guideline may result in sanctions, including the disapproval of or partial or total disgorging of attorney fees. Attorney fees calculated under this guideline shall be rebuttably presumed to be reasonable.
  - (1) No application for fees or consents from the residuary beneficiaries of the probate estate or all other parties affected by the payment of said fees are required where counsel's fee is \$2,000 or less.
  - (2) On all property subject to administration (Inventory value in addition to ordinary income) and for which the fiduciary is charged as follows:
    - (a) For the first \$50,000 at a rate of 5.5%;
    - (b) All above \$50,000 and not exceeding \$100,000 at the rate of 4.5%;
    - (c) All above \$100,000 and not exceeding \$400,000 at the rate of 3.5%;
    - (d) All above \$400,000 at the rate of 2.0%.
  - (3) For Real Estate Sold by Judicial Proceedings:
    - (a) 6% for the first \$10,000 of the purchase price
    - (b) 2% for the balance

- J. Except for good cause shown, attorney fees shall not be allowed to attorneys representing fiduciaries who are delinquent in filing the accounts required by ORC Section 2109.30, et seq.
- K. Attorney fees for services rendered in an estate relieved from administration shall be disclosed as a liability of the estate.
- L. In cases involving both probate and non-probate assets, an attorney must follow the procedures set forth in this rule to approve the amount of fees charged for work done handling the administration of the probate assets. If the attorney desires to waive fees for such work, a written waiver of such fees shall be filed with the Court and as such, shall not be collected from any other source.
- M. Unless otherwise authorized by the Court, attorney fees should not be awarded for that portion of any time spent traveling to and from the Court that would not have been incurred but for the fact that the attorney has an office located outside Adams County or counties contiguous thereto.
- N. If an attorney is both attorney and fiduciary for the Estate, only attorney fees shall be granted pursuant to the schedule herein, except by prior approval of the Court upon application by the attorney/fiduciary.

Rule 412: Estate Administration: Executors and Administrator's Commissions

- A. Unless otherwise authorized by the Court, extraordinary fiduciary commissions should not be awarded for travel expenses that would not have been incurred but for the fact that the fiduciary resides outside of Adams County or counties contiguous thereto.
- B. The Court will consider reasonable extraordinary fiduciary commissions upon the filing of an application supported by a list of the extraordinary services provided by the fiduciary. The list should include all hours spent doing all work (ordinary and extraordinary) and the dates the work was performed.
- C. In cases where extraordinary executor or administrator's fees are requested involving multiple fiduciaries and separate fee applications will be filed by more than one fiduciary, all fee requests shall be considered by the Court simultaneously.
- D. Unless otherwise authorized by the Court, the payment of a fiduciary commission shall not be made before two weeks of the filing of the final account or certificate of termination in the estate.

Rule 413: Estate Administration: Application for Authority to Administer Estate and Notice of Appointment

- A. Any person filing an Application for Authority to Administer Estate shall give notice to the decedent's surviving spouse and to all next of kin unless such notice is waived. This requirement shall not apply to applicants who are named in the decedent's will.
  - (1) The notice shall contain the date, time and place of the hearing, and it shall be served in accordance with Civil Rule 73 at least seven (7) days prior to the date set for hearing.
  - (2) For good cause shown, the Court may permit notice to be served by ordinary mail. Evidence of such notice shall be documented by the filing of an —Affidavit of Service.
  - (3) All Applications shall be set for hearing before the Magistrate unless all waivers of notice have been obtained.

- (4) Where the Application is for the appointment of a Special Administrator pursuant to RC §2113.15, the Court in its discretion may waive or modify the notice requirements. Furthermore, the Court in its discretion may set or waive a bond, it may limit the Special Administrator's powers, and it may require the filing of expedited status report(s).
- B. Before filing an Application for Authority to Administer Estate, the attorney or the proposed fiduciary shall determine if there is a will of the decedent on deposit with the Court by checking the index of wills. Prior wills so deposited shall be filed in the estate proceedings for record purposes only.
- C. Upon the filing of an Application for Authority to Administer Estate,
  - (1) The applicant shall display a copy of the decedent's death certificate or other evidence of death acceptable to the Court.
  - (2) A certificate of death or other evidence of death acceptable to the Court is also required for any beneficiary named in the decedent's will that pre-deceased the decedent. A certificate of death may be required in intestate estates upon request of the Court. This requirement may be waived by the Court for good cause shown.
  - (3) Any named beneficiary who pre-deceased the decedent should be listed on the Form 1.0 filed with the Court.
- D. Any applicant who is not represented by an attorney may be required to display photographic identification.
- E. Whenever an applicant resides outside Adams County, all estate assets shall remain in Adams County. This restriction shall not apply to an applicant who resides in an Ohio County contiguous to Adams County.
- F. Whenever an applicant resides outside of the state of Ohio, all estate assets, including financial accounts, real estate, vehicles, and other property shall remain in Adams County. Upon motion, for good cause shown, the Court may dispense with this requirement.
- G. Upon motion of any interested person, or *sua sponte*, the Court may order that all intangible property be held in joint control and possession of the fiduciary and counsel for the estate or such other suitable person or entity as the Court may approve.
- H. All Executors/Administrators and their attorneys are required to inform the Court, in writing, within 30 days of a change of their address and/or telephone number.

Rule 414: Estate Administration: Inventory and Appraisal

- A. Prior to filing an Inventory, counsel shall examine record title to the decedent's real estate for the sole purpose of confirming the decedent's ownership interest.
- B. Upon filing an Inventory, the executor or administrator shall serve notice of the hearing upon the decedent's next of kin (intestate) and all beneficiaries of the estate (testate) listed on Form 1.0 and their attorneys of record, unless such notice is waived. Notice may be served by ordinary mail or by personally delivering a copy of the notice to the person entitled to receive it. Evidence of notice shall be documented by the filing of an —Affidavit of Service which sets forth the manner of service.
- C. In addition to notice, the executor or administrator shall send a copy of the Inventory and Appraisal to the decedent's next of kin and all beneficiaries of the estate listed on Form 1.0 and their attorneys of record. This requirement may be modified or waived by the Court for good cause shown.

- D. Where the name or address of an interested party is unknown, and where a prior notice by publication for that person or class of persons has not already been made in the estate proceedings, the fiduciary shall publish notice of the hearing once each week for three consecutive weeks.
- E. Upon discovering one or more new probate assets, the fiduciary or his attorney shall file a Report of Newly Discovered Assets. Unless otherwise ordered by the Court, Reports of Newly Discovered Assets shall not be set for hearing, and notice to interested parties shall not be required. Real estate and tangible personal property that are included in a Report of Newly Discovered Assets shall be valued pursuant to Rule 425:D. below.
- F. Upon discovering that the Inventory contains any other error which can not be corrected by filing a Report of Newly Discovered Assets, the fiduciary shall file an Amended Inventory. At the discretion of the assigned magistrate, the Amended Inventory may be approved upon filing, or may be set for hearing. If set for hearing, notice shall be given to all interested parties unless waived.
- G. Sale of Real Estate
  - (1) Pursuant to R.C. 2127.01, where the executor has testamentary power of sale, and the executor may proceed with sale under the will.
  - (2) Sale of Real Estate may be by motion in the Probate Case only Pursuant to R.C. 2127.011, which states that

(A) In addition to the other methods provided by law or in the will and unless expressly prohibited by the will, an executor or administrator may sell at public or private sale, grant options to sell, exchange, re-exchange, or otherwise dispose of any parcel of real property belonging to the estate at any time at prices and upon terms that are consistent with this section and may execute and deliver deeds and other instruments of conveyance if all of the following conditions are met: (1) The surviving spouse, all of the legatees and devisees in the case of testacy, and all of the heirs in the case of intestacy, give written consent to a power of sale for a particular parcel of real property or to a power of sale for all the real property belonging to the estate. Each consent to a power of sale provided for in this section shall be filed in the probate court. (2) Any sale under a power of sale authorized pursuant to this section shall be made at a price of at least eighty per cent of the appraised value, as set forth in an approved inventory. (3) No power of sale provided for in this section is effective if the surviving spouse or any legatee, devisee, or heir is a minor. No person may give the consent of the minor that is required by this section. (B) A surviving spouse who is the executor or administrator may sell real property to self pursuant to this section.

- (3) Pursuant to R.C. 2127.15, any actions to sell real estate not listed above shall be initiated by the Fiduciary initiating a civil action in Probate Court.
- (4) Consents to Power to Sell Real Estate shall not be filed prior to the filing of an Inventory.

Rule 415: Estates of Minors Not Exceeding Twenty-Five Thousand Dollars

- A. An application relating to funds of a minor shall be captioned in the name of the minor.
- B. Unless otherwise ordered by the Court, funds of a minor shall be deposited in the sole name of the minor, with principal and interested compounded, until the minor attains the age of majority.
- C. When the funds due to the minor originate from a bequest under a will, an inheritance, or a distribution from a trust, the funds may be transferred into an Ohio Transfers to Minor Act (OTMA) account. No Verification of Receipt of Deposit is required when funds are being transferred into an OTMA account.
- D. Except for funds referred to in Rule 415:C. the attorney for the minor, or in case the applicant is not represented, the attorney for the payor, shall be responsible to immediately deposit said funds and thereafter file a completed Verification of Receipt of Deposit (Form 22.3) within seven (7) days of the issuance of the entry.

Rule 416: Settlement of Claims for Injuries to Minors

- A. An application for settlement of a minor's claim that exceeds twenty-five thousand dollars (\$25,000) shall be brought by the guardian of the estate. If the gross amount of the claim for injuries does not exceed twenty-five thousand dollars (\$25,000), the application shall be brought by the parent(s) of the child or the person having custody of the child. Attorney fees for completing probate work in having a minor settlement approved shall be paid from the contingent fee, unless the fee is paid for by a third party.
- B. The application for settlement shall be set for hearing before the magistrate. The applicant as well as the minor shall personally appear at the hearing unless otherwise waived by the Court.
- C. An application for approval of settlement of claim for injuries to a minor shall be accompanied by a current statement of the examining physician with respect to the injuries sustained, the extent of the recovery, and the physician's prognosis. Said statement shall be dated within ninety (90) days of the filing of the application for approval. If the gross amount of the settlement for injuries does not exceed twenty-five thousand dollars (\$25,000) then the requirement of a physician's statement is waived.
- D. A copy of the proposed release of claims shall be attached to the application for approval of settlement of claims for injuries to a minor.
- E. If the net amount of the claim for injuries does not exceed one thousand dollars (\$1,000), then the Court has the discretion to order the delivery of the funds to the minor's parents or custodian.

Rule 417: Structured Settlements

- A. If the parties involved in claims desire to enter into a structured settlement, defined as a settlement wherein payments are made on a periodic basis, the following rules shall also apply:
  - (1) The application shall include an affidavit from an independent certified public accountant or other competent professional, specifying the present value of the settlement and the method by which that value was calculated.
  - (2) If the settlement is to be funded by an annuity, the annuity shall be provided by an annuity carrier who meets or exceeds the following criteria:



- (a) The annuity carrier must be licensed to write annuities in Ohio and, if affiliated with the liability carrier or the person or entity paying the settlement, must be separately capitalized, licensed and regulated and must have a separate financial rating.
  - (b) The annuity carrier must have a minimum of \$100,000,000.00 of capital and surplus, exclusive of any mandatory security valuation reserve.
  - (c) The annuity carrier must have one of the following four ratings from the following rating organizations:
    - (i) A.M. Best Company: A++, A+, or A.
    - (ii) Moody's Investors Service (Financial Strength): Aaa, Aa1, or Aa2.
    - (iii) Standard & Poor's Corporation (Claims Paying/Solvency): AAA or AA.
    - (iv) Fitch Ratings: AAA, AA+, or AA.
  - (d) An annuity insurer must meet any other requirement the Court considers reasonably necessary to assure that funding to satisfy periodic- payment settlements will be provided and maintained.
  - (e) A qualified insurer issuing an annuity contract pursuant to a qualified funding plan under these rules may not enter into an assumption reinsurance agreement for the annuity contract without the prior approval of the Court, the owner of the annuity contract and the claimant having the beneficial interest in the annuity contract. The Court will not approve assumption reinsurance unless the re-insurer is also qualified under these rules.
  - (f) The annuity insurance carrier and the broker procuring the policy shall each furnish the Court with an affidavit certifying that the carrier meets the criteria set forth in Rule 417:A. (2)(c) above as of the date of the settlement and that the qualification is not likely to change in the immediate future. The broker's affidavit shall state that the determination was made with due diligence based on rating information which was available or should have been available to an insurance broker in the structured settlement trade.
  - (g) If the parties desire to place the annuity with a licensed insurer in Ohio that does not meet the above criteria, the Court may consider approving the same, but only if the annuity obligation is bonded by an independent insurance or bonding company, licensed in Ohio, in the full amount of the annuity obligation.
- (3) The application shall include a statement of the actual cost to the defendant of the settlement. The actual cost shall be used to fix and determine attorney's contingent fees.

**Rule 418: Sale of Structured Settlement Payments**

- A. All applications for approval of sale of structured settlement payments shall be filed and set for hearing before the Judge.
- B. The application should include a statement of the income, living expenses, and other financial obligations of the person desiring to sell the structured settlement payments as well as a detailed statement as to how the sale proceeds will be applied and/or utilized by the applicant. If this statement is not filed with the application, it must be filed no later than 10 days before the hearing. If it is not filed by that time, the hearing shall be reset.

Rule 419: Settlement of Claims For Wrongful Death

- A. All applications to settle claims for wrongful death shall be set for hearing before the Judge unless otherwise ordered by the Court. All interested parties to the distribution of the net proceeds of the settlement shall be listed by name, residence, and relationship to the decedent on the proposed entry approving settlement or distributing wrongful death proceeds.
- B. The term "interested parties" who are subject to notice are those set forth in R.C. §2125.02.
- C. A guardian *ad litem* may be appointed to represent the interests of any minor or incompetent persons who are potentially "interested parties. "
- D. When the Court is called upon to endorse an agreed entry of distribution or to adjust the shares of distribution, notice to or consents from those "interested parties" designated above shall be required.
- E. The applicant is required to appear at the hearing regarding an application to approve a wrongful death settlement or proposed distribution. An applicant shall have 30 days following approval in which to file the report of distribution unless otherwise ordered by the Court.
- F. The Court shall approve the report of distribution of the wrongful death proceeds only after appropriate vouchers are presented.
- G. Attorney fees for completing probate work in having a wrongful death settlement approved shall be paid from the contingent fee.

Rule 420: Guardianships

- A. General Information
  - (1) An application to expend funds shall not be granted if an inventory has not been filed or if an account is overdue. The guardian of a minor ward's estate must demonstrate that the ward's parent(s) are unable to fulfill their responsibility to support the ward before the Court will consider allowing an expenditure from the ward's estate for the purpose of that ward's support, maintenance, medical care or education.
  - (2) All guardians and their attorneys are required to inform the Court, in writing, within 30 days of a change of address and/or change of telephone number for either the ward or the guardian.
  - (3) Unless waived by the Court, all minors who are the subject of a hearing on the appointment of a guardian for their person(s) shall attend the hearing on said application.
  - (4) The Judgment Entry Appointing Guardian for Incompetent Person (SPF 17.5) shall indicate whether the provisions of SupR 66.01 through 66.09 shall apply to the individual who is appointed guardian if that person is related to the ward by consanguinity or affinity.
  - (5) A guardianship of the estate may not be required if the applicant is the representative payee for the ward through the Social Security Administration and the ward receives no other income.
  - (6) Guardian reports shall be required on an annual basis unless otherwise ordered by the Court.
- B. Attorney fee applications in a guardianship:
  - (1) In cases establishing guardianship of an estate or of person and estate, fees shall be considered at the time of filing of the inventory and subsequently at the time of the

filing of each required annual account. Attorneys must keep accurate time records which need only be submitted when requested by the Court or pursuant to these rules.

- (2) For indigent guardianship proceedings, fees shall be considered at the time of the appointment of guardian, or dismissal of the application, subject to the court's rules regarding payment of fees from the indigent guardianship fund. Guardian Fee Application from the indigent fund must set forth the amount of any compensation the guardian received from third parties during the period covered by the Application. Guardian Fee Application from the indigent fund must utilize the Application set forth on the Court's website.
- (3) If an attorney is both attorney and guardian of the ward, and unless otherwise approved in advance by the Court upon motion by attorney, only legal services may be billed at a reasonable attorney rate for Adams County.
- (4) In all matters where the application for payment of guardian and/or attorney fees is in excess of \$2,000, but less than \$20,000, the application shall be presented to the Magistrate. All applications for fees in excess of \$20,000 shall be set for hearing before the Judge.
- (5) Attorneys appointed on behalf of an indigent ward may receive a one time \$300.00 fee. Additional fees may be approved upon application including documentation of time records or other documentation regarding the reason for the additional fee.

C. Use of Funds

- (1) Funds shall not be released to a guardian except upon an order of the Court.
- (2) All applications for release of funds shall specify the exact amount to be released, the financial institution holding the fund, its address, and the person in whose name the fund is held.
- (3) None of a ward's assets may be accessed through an automated teller machine, debit card, or the ward's credit cards. Electronic payment of routine and recurring expenses is permitted upon receiving approval of an Application for Authority to Expend Funds.

D. Emergency Guardianships

- (1) For all applications for the appointment of an emergency guardian, evidence shall be presented and a physician shall personally appear unless otherwise ordered by the court and testify why it is reasonably certain that immediate action is required to prevent significant injury to the person and/or estate of the minor or alleged incompetent. If the physician is not testifying, a statement of expert evaluation must be submitted with the application for appointment.
- (2) The applicant shall exercise due diligence in giving notice of hearing upon the proposed ward in all emergency guardianships.

E. Guardianship-Veterans Affairs

- (1) For all guardianship proceedings wherein the proposed ward is receiving income from the Department of Veterans Affairs, the VA shall be a necessary party, entitled to notice, of all pleadings filed therein, including, but not limited to, the initial application for appointment and the annual accountings.

- (2) The Court shall supply the guardian or the attorney for the guardian, at no cost, certified copies of any of the pleading filed in the proceedings, for submission to the Department of Veterans Affairs.
- (3) All Applications for guardian's compensation or attorney's fees shall be set for hearing, and notice shall be given to the Department of Veterans Affairs, unless a Waiver or Consent is obtained.

F. Guardian Comments and Complaints

- (1) Comments or complaints regarding the performance of guardians appointed by this Court may be submitted in writing via ordinary mail or fax. The fax filing rules set forth herein apply to fax filings. Anonymous comments or complaints will not be accepted for filing.
- (2) The court will provide a copy of the comment or complaint to the guardian who is the subject of the comment or complaint and to the guardian's attorney, if any.
- (3) The comment or complaint will be filed in the guardianship case and will be reviewed and considered by the assigned magistrate for appropriate action. The Court may, in its discretion, set a hearing on the matter. Notice of the hearing shall be served to both the guardian and person who filed the comment or complaint.
- (4) The Magistrate will issue a written decision or order regarding the comment or complaint. The decision or order shall be filed in the guardianship case and a copy shall be served upon the guardian and person who filed the comments or complaint.

Rule 421: Guardian's Compensation

A. Compensation for services as guardian of person and estate shall be allowed not more frequently than annually, upon application and entry, and shall be supported by calculations and documentation. The following methods for considering the reasonableness of guardian's compensation apply:

- (1) Guardian guideline fee:
  - (a) 3% of the total income; and 3% of the total expenditures where total expenditures are less than \$200,000, and 2% of the total expenditures that are equal to or greater than \$200,000.
  - (b) An annual fee of \$2.00 per \$1,000 of the fair market value of the principal.
  - (c) Compensation computed on income will not be allowed on balances carried forward from one accounting period to another; nor will an investment of funds of the final distribution of unexpended balances to a ward at the close of a guardianship be considered as expenditures.
  - (d) In calculating the guardian guideline fee, only the actual value of estate assets shall be reflected. Compensation is allowed for "expenditures" only to the extent that outlays have depleted assets against which compensation is to be calculated. If the guardian wishes to get credit for expenditures made at closing, then in calculating principal, the guardian must deduct the amount of those expenditures from the sale price of the assets. The same rule applies with respect to payment of tax liens or mortgages made prior to closing.

B. Hourly rate:

- (1) Non-indigent guardianships, an hourly rate of \$20.00 is generally appropriate for guardians.

- (2) In Indigent guardianships, attorneys acting as guardian may receive a one time \$300.00 fee. Additional fees may be approved upon application including documentation of time records or other documentation regarding the reason for the additional fee.
  - (3) Under certain circumstances, a higher hourly rate may be specifically approved by the Court.
  - (4) Guardian fees for veterans shall be pursuant to statute.
- C. Minimum for guardian of estate:
    - (1) A guardian of an estate shall be permitted a minimum fee of \$500.
  - D. For purposes of computing a guardian's compensation as herein provided, for the first accounting period, the fair market value of the principal shall be based on the value contained in the inventory. For each subsequent accounting period, the fair market value of the principal shall be based on the value of the assets remaining as stated on Form 15.8. The annual principal valuation shall be adjusted from time to time to reflect additions to and withdrawals from the principal of the estate, and the compensation for the remaining portion of the annual period shall be similarly adjusted to reflect such revised valuation.
  - E. Additional compensation, reimbursement for expenses incurred by a guardian, as well as, for compensation of a guardian of the person only may be fixed by the Court upon application. No application for extraordinary guardian's compensation shall be considered unless supported by complete time records during the period covered by the fee application. The Court may require that any application for compensation be set for hearing and that notice of the hearing be given to interested parties as ordered by the Court.
  - F. All applications for guardian compensation shall contain a good faith estimate of the number of hours expended by the guardian during the period covered by the fee application.
  - G. The compensation of co-guardians, including when separate parties are appointed as guardian of person and guardian of the estate shall not exceed the compensation that would be allowed to one guardian. In the event that the co-guardians cannot agree on the division of the compensation, the Court shall determine an equitable allocation of any guardian compensation awarded.
  - H. In cases where multiple guardians are involved and separate fee applications will be filed, all fee requests shall be considered by the Court simultaneously.
  - I. Compensation for services as guardian of an indigent ward may be paid from the Indigent Guardianship Fund in accordance with the Court's then standing procedural order. In no case shall guardian's compensation be paid from the Indigent Guardianship Fund where the guardian is related by blood or marriage to the ward or where the guardian or his/her employer receives compensation from third parties for guardian services.
  - J. Except for good cause shown, neither compensation for a guardian, nor fees to the attorney representing such guardian, will be allowed while such guardian is delinquent in filing an inventory, account, or Guardian's Report. The Court may deny or reduce compensation if there is such a delinquency or failure to faithfully discharge the duties of fiduciary.
  - K. Unless otherwise authorized by the Court, extraordinary guardian fees should not be awarded for travel that would not have been incurred but for the fact the guardian resides outside Adams County or counties contiguous thereto.

Rule 422: Trustee's Compensation

- A. Where the instrument creating the trust makes no provision for compensation, the annual compensation charged by a Trustee appointed by this Court for ordinary services performed in connection with the administration of each separate trust estate shall not exceed the following:
- (1) An amount to be computed on the fair market value of the principal of the trust property in accordance with the following schedule.
    - (a) \$14.00 per \$1,000.00 on the first \$1,000,000.00.
    - (b) \$11.00 per \$1,000.00 on the next \$2,000,000.00.
    - (c) \$9.00 per \$1,000.00 on the next \$2,000,000.00
    - (d) \$7.00 per \$1,000.00 on the balance.
  - (2) The Trustee may charge a minimum compensation of \$2,500.00.
  - (3) Such compensation shall be charged one-half to income and one-half to principal, unless otherwise provided in the instrument creating the trust or applicable law.
  - (4) Without prior court approval, the Trustee shall not be paid compensation during the accounting period that exceeds the amount calculated under the above guideline. An application for additional Trustee compensation must be filed pursuant to paragraph D. no later than the time the Trustee's Account is filed with the Court. The Trustee's Account will not be approved until the Court issues its Order on the application for additional Trustee compensation. Any adjustment to the compensation of the Trustee that is ordered shall be reflected on the next Trustee's Account that is filed with the Court.
  - (5) For purposes of computing the Trustee compensation as herein provided, the fair market value of the principal shall be determined by reference to the H.C. Form 24.82 (Assets Remaining in the Trustee's Hands) for the applicable accounting period unless otherwise ordered by the Court.
- B. At the option of a corporate Trustee, compensation valuations may be made and paid on a monthly or quarterly basis.
- C. Where the instrument creating the trust makes no provision for compensation, compensation in excess of the amount calculated pursuant to paragraph (A)(1) above for extraordinary services may be allowed upon application. No application for extraordinary Trustee compensation shall be considered unless supported by complete time records during the period covered by the compensation application unless otherwise allowed by the Court for good cause shown. The Court may require that the application be set for hearing and notice thereof be given to all the beneficiaries as defined in the Ohio Trust Code Section 5801.01(C), as may be amended, in accordance with Civil Rule 73(E).
- D. The compensation of co-Trustees in the aggregate shall not exceed the compensation that would have been payable if only one Trustee had been acting, except where the instrument under which the co- Trustees are acting provides otherwise.
- E. In cases where multiple Trustees are involved and separate compensation applications will be filed by more than one Trustee, all compensation requests shall be considered by the Court simultaneously.
- F. Except for good cause shown, neither compensation of a Trustee nor attorney fees for representing the Trustee will be allowed while the Trustee is delinquent in filing an account required by RC 2109.303.



- G. Every corporate Trustee shall provide the Court with a copy of its compensation schedule by the 1st day of January each year. Corporate Trustee shall also immediately provide the court with a copy of any revisions made during the year.
- H. In all instances, the Court retains the right to review the reasonableness of Trustee compensation.
- I. Unless otherwise authorized by the Court, extraordinary Trustee compensation should not be awarded for travel that would not have been incurred but for the fact the Trustee resides outside Adams County or counties contiguous thereto.

Rule 423: Attorney Fees for Trust Administration

- A. An application for the allowance of attorney fees for trust administration shall have attached thereto an itemized statement of the services performed, the date services were performed, the time spent in rendering the services and the rate charged per hour.
- B. In all matters where the application for payment of attorney fees is in excess of \$2,000, but less than \$20,000, the application shall be presented to the magistrate. All applications for fees in excess of \$20,000 shall be set for hearing before the Judge.
- C. When multiple attorneys have been retained by the trustee or trustees, or when it is anticipated that attorney fees will be paid to more than one attorney or law firm, all fee requests shall be considered by the Court simultaneously.

Rule 424: Court Appointments

- A. The Probate Court may request practicing attorneys with law offices in Adams or surrounding Counties to be available for Court appointments. Every attorney who practices in Probate Court shall be deemed competent to provide legal services for those unable to obtain counsel.
- B. The following cases or proceedings are examples where the Court may appoint counsel:
  - (1) Counsel for guardian of an indigent ward
  - (2) For a ward, wishing to terminate a guardianship
  - (3) For an involuntary psychiatric commitment proceeding
  - (4) Any other probate matter requiring the Court to appoint counsel for a party
- C. Compensation for Court appointed counsel shall be paid at the rate of \$50.00 per hour out-of-Court, and \$60.00 per hour in-Court, with a maximum of \$300.00 per case. Counsel shall submit documentation of time spent. The Court will consider an application for fees in excess of the maximum limit allowed by this Rule, when the type, complexity and requirements of the case are such that the maximum is an unreasonable fee.

Rule 425: Appraisals & Appraisers

- A. When required by law, there shall be suitable and disinterested appraiser(s) appointed by the executor or administrator of an estate, with Court approval. The following persons shall be disqualified from being an appraiser:
  - (1) A person related by blood or marriage to the decedent
  - (2) A beneficiary of the estate
  - (3) A person related by blood, marriage or employment to the attorney of the estate
  - (4) A person related by blood, marriage or employment to the fiduciary of the estate

- B. Real estate appraisals shall be made by licensed real estate agents, brokers, auctioneers, credentialed real estate appraisers, or other such persons who, by experience and training are qualified to make real estate appraisals.
- C. When an estate contains real estate, counsel shall examine the record title to the real estate from the time it was acquired by the decedent. An inventory must be filed before consents to the sale of real estate may be filed.
- D. Readily ascertainable value of real property; notwithstanding Sections A through C of this Rule, the market value of real estate as found in the Adams County Auditor's property records shall be accepted as the readily ascertainable value of the property, and no further appraisal of such property shall be required, except as provided under Section F of this Rule. A copy of said evaluation shall be attached to Form 6.1 - Schedule of Assets, or Form 5.1 - Assets and Liabilities to be Released from Administration, whichever is applicable.
- E. Readily ascertainable value of motor vehicle; notwithstanding Sections A through C of this Rule, the market value of any motor vehicle as found in the current N.A.D.A Official Used Car Guide under category "Average Retail" may be adopted as the readily ascertainable value of the property, and no further appraisal of such property shall be required except as provided under Section F of this Rule. A copy of the appropriate page from said booklet shall be attached to the appropriate form.
- F. An administrator, executor, fiduciary, beneficiary or creditor of a decedent's estate may file a written request with the Probate Court, not later than the date set for the hearing on the Inventory and Appraisal, pursuant to RC 2115.16, that any property deemed to be appraised by readily ascertainable value shall be appraised by a suitable and disinterested appraiser as provided by Sections A through C of this Rule.
- G. With regard to household goods and other tangible personal property, no formal appraisal shall be required unless the estimated value exceeds \$5,000.00. Where the fiduciary chooses to dispose of tangible personal property by public auction, the gross proceeds from the auction may be used in lieu of a formal appraisal.
- H. Notwithstanding the foregoing, the Court may order a formal appraisal of any asset for good cause shown. Such an order may be issued upon the Court's own motion or at the request of any interested party.

**Rule 426: Claims and Bond Premiums**

- A. In intestate Estates, or if the bond requirement is not waived by the will, a Bond shall be required in the amount of twice the personal property estimated in the inventory or \$5,000.00, whichever is greater. If subsequent investigation results in an increased value of personal property, the Court may determine the bond amount is inadequate and require that the bond amount be increased.
- B. No estate, guardianship, or trust shall be closed until all claims filed with the Court have been resolved. If a claim has been rejected, a copy of the rejection and the proof of service shall be filed with the Court.
- C. Bond premiums shall be regarded as administrative expenses, and they shall be paid when due. No application need be made for authority to pay bond premiums.
- D. When an estate appears to be insolvent, the fiduciary shall file Representation of Insolvency utilizing forms SPF 24.0 through 24.6.

- E. Whenever a decedent was 55 years of age or older at the time of death and had been the recipient of Medicaid, Standard Probate Form 7.0(A) - Notice to Administrator of Medicaid Estate Recovery, shall be filed with the Court and a copy of the form shall be sent by certified mail to the Administrator of the Estate Recovery Program.
- F. If the executor or administrator of an estate has received written notice that one of the beneficiaries has a child support arrearage, no distributions shall be made to or through Child Support Enforcement Agency (CSEA) without a hearing before the Probate Court.

**Rule 427: Fiduciary Accounts**

- A. Every account presented to the Court shall be examined by the Probate Clerk and shall include:
  - (1) An itemized statement of all receipts of the fiduciary.
  - (2) An itemized statement of all disbursements and distributions made by the fiduciary referenced by number or letter and date.
  - (3) An itemized statement of all funds, assets, and investments on hand at the end of the accounting period.
  - (4) Where real estate has been sold, a copy of the closing statement.
  - (5) The signature of the fiduciary. All fiduciaries must sign the account where multiple fiduciaries have been appointed, unless otherwise ordered by the Court.
- B. A partial account shall have an accounting period which ends not more than six (6) months prior to the time it is presented and approved by the Court, and it shall specify the number of the account using ordinal numbers (e.g., Third Partial Account).
- C. When presenting an account for audit, the fiduciary shall provide copies of all bank statements for the entire accounting period. In addition, the fiduciary shall provide documentation showing the net proceeds from any sales of personal property.
- D. With regard to disbursements and distributions made during the accounting period, all fiduciaries shall provide vouchers or other proofs. Acceptable vouchers or proofs shall include but not be limited to the following:
  - (1) Signed receipts.
  - (2) Invoices that have been marked paid by the creditor.
  - (3) Cancelled checks.
  - (4) Check substitutes issued by financial institutions.
  - (5) Account statements that list the date, name of payee, and amount transferred.
- E. With regard to assets remaining in the hands of the fiduciary at the end of the accounting period, all fiduciaries shall provide the following supporting documentation:
  - (1) For stocks and bonds, original certificates where they exist.
  - (2) Brokerage statements where investments are held by a broker.
  - (3) Dividend reinvestment statements where dividends are being reinvested.
  - (4) Statement of the transfer agent where securities are in book entry form.
  - (5) Other satisfactory evidence of the existence of the assets on hand.
- F. Subsections C. D. and E. of this Rule shall not apply to corporate fiduciaries who are subject to RC §1111.28.
- G. Accounts filed by executors and administrators pursuant to RC §2109.301:
  - (1) At the time of filing, a copy of the account shall be provided to each heir of an intestate estate and each beneficiary of a testate estate. However, copies need not be

- provided where the address of an heir or beneficiary is unknown or where the beneficiary of a specific bequest has received his or her distribution.
- (2) In the case of a Final Account, the executor or administrator shall give notice of the hearing to the following persons whose addresses are known:
    - (a) In an intestate estate, to all heirs.
    - (b) In a testate estate, to the residuary beneficiaries.
    - (c) To counsel of record representing the above.
    - (d) When a will creates a charitable trust, to the Ohio Attorney General, Charitable Trusts Division.
  - (3) When presenting a Partial Account, Waiver of Partial Account or Affidavit and Entry in Lieu of Partial Account, the executor or administrator shall also file the following:
    - (a) Application to Extend Administration; and
    - (b) Certificate of Service of Account to Heirs and Beneficiaries.
  - (4) Status Reports shall not be required unless ordered by the Court.
  - (5) Where an heir or beneficiary is a minor, a guardianship must be established either in Adams County or elsewhere before any distribution is made unless:
    - (a) The decedent's will specifically provides otherwise; or
    - (b) The value of the distribution is \$10,000.00 or less in which case the distribution may be made to a custodian under a Uniform Transfers to Minors Act.
- H. Accounts filed by guardians and conservators pursuant to RC §2109.302:
- (1) Partial Accounts shall be rendered at least annually.
  - (2) A guardian shall not be required to give notice of hearings for Partial Accounts except in the case of Veteran's Guardianships where notice shall be given to the Veteran's Administration.
  - (3) Unless waived, a guardian shall give notice of the hearing on the Final Account to the following persons whose addresses are known:
    - (a) In the case of an incompetent, to the Ward's next-of-kin, or in the discretion of the magistrate to the fiduciary of the Ward's estate.
    - (b) In the case of a minor, to the Ward if the Ward has reached the age of majority. Otherwise to the Ward's next-of-kin.
    - (c) In all cases, to counsel of record for any represented party.
  - (4) Check substitutes or credit card statements may not be sufficient to evidence payment of debts. Receipts showing specific expenditures may be requested.
- I. Accounts filed by trustees and other fiduciaries pursuant to RC §2109.303:
- (1) Partial Accounts shall be rendered at least biennially.
  - (2) When presenting an Account, the trustee shall file a current list of the names and addresses of all persons interested in the trust.
  - (3) Unless waived, the trustee shall serve notice of the hearing on an Account to the following persons whose addresses are known:
    - (a) All income beneficiaries.
    - (b) Counsel of record for any represented party.
    - (c) The Ohio Attorney General, Charitable Trusts Division for charitable trusts.
  - (4) Check substitutes or credit card statements may not be sufficient to evidence payment of debts. Receipts showing specific expenditures may be requested.
- J. Service of notice of hearings for all accounts may be made by ordinary mail or by personally delivering a copy of the notice to the person entitled to receive it. Evidence of

notice shall be documented by the filing of an —Affidavit of Service which sets forth the manner of service.

- K. If an account is not timely filed and no arrangement has been made for an extension of the due date, a Citation to Appear shall be issued compelling the attendance of both the attorney and the fiduciary. Failure to appear at the Citation Hearing may result in the Court issuing a body attachment and writ of arrest for the attorney and/or fiduciary.
- L. Special Administrators shall file an account within 30 days from the date of appointment.

**Rule 428: Show Cause Hearings**

- A. A fiduciary and attorney who have been cited for a show cause hearing shall personally appear. Counsel shall not appear in lieu of a cited fiduciary unless the Court grants leave for the attorney to appear in that capacity.

**Rule 429: Marriage Licenses**

- A. All applicants for a marriage license must review the Certified Abstract of Marriage for accuracy before they sign the abstract. In the event errors are discovered on the abstract and/or marriage certificate after issuance, an Application to Correct Marriage Certificate and/or Certified Abstract of Marriage must be filed with the court. The application may be filed by the applicant(s) or some other party in interest and must be accompanied by supporting affidavits. The Court may set the application for hearing or consider it without hearing. If the court finds the application to be well taken, the court will issue its judgment entry correcting the marriage certificate and/or certified abstract of marriage.
- B. In the event an officiant fails to timely return a certificate of marriage to the court as required by R. C. 3101.14 (currently 30 days), one or both of the applicants for the marriage license must file an Application to Issue Certificate of Marriage which shall be set for hearing. If both applicants for the marriage license do not join in the Application to Issue a Certificate of Marriage, the second applicant must be notified of the hearing or an explanation must be given satisfactory to the court why that individual cannot be notified. The applicant(s) bear the burden of proving to the court, by a preponderance of the evidence, that the wedding was timely solemnized by a duly authorized person pursuant to Ohio law. The court will journalize an entry finding that the subject marriage has been duly solemnized if it is satisfied that applicant(s) have met their burden of proof.

**Rule 430: Examination of Probate Files, Records, Papers & Other Documents**

- A. On the premises inspection of files, records, papers and documents shall be as follows:
  - (1) The general records of the Court shall be subject or open to inspection via the public computer terminal or paper records during regular office hours of the Court.
  - (2) Files of adoptions, mental illness and Ohio Estate Tax Returns are confidential. Access to those files may be authorized by the Judge. In order to obtain the Judge's authorization, the person seeking inspection of the Court's confidential records must first make written application to the Court, and receive its approval. Such inspections shall be in the presence of a deputy Clerk. For purposes of this Rule, any attorney duly authorized to practice law in the State of Ohio and being officers of the Court, may inspect such confidential records in the presence of a deputy Clerk.
  - (3) Home investigations and Guardian Ad Litem reports are considered confidential information, and shall not be made public. Inspections by attorney or appropriate

persons may be allowed by the Court, but no copies shall be made, nor reports reproduced in any way.

- B. Copies of public records shall be provided at the cost of \$0.25 per page by paper medium, unless otherwise specified by statute. Copies provided by the Court's archivist will be \$0.25 per page. If a request is received that copies be sent via U.S. Mail, such copies will be mailed after the payment for the cost of the copies, postage and any other mailing expenses are pre-paid.

Rule 431: Service of Notice by Posting in Probate Cases

- A. Pursuant to Civ. R. 73(E)(7), in any proceeding where any type of notice other than service of summons is required by law or deemed necessary by the court, service may be by other method as the court may direct. The Court hereby adopts the following rule for posting to be used in Probate Cases where notice is required and there are insufficient funds available in the Probate proceeding to pay for the costs of publication and/or the Court determines that such posting is necessary due to the facts of a specific case and;
  - (a) the residence of the party upon whom service is sought is unknown and cannot reasonably be ascertained; or
  - (b) Certified or ordinary mail has been returned indicating a failure of delivery at a prior address where service had been successful
- B. An affidavit of the party requesting service or that party's counsel shall be filed with the court. The affidavit shall contain
  - (1) A statement that service of cannot be made because the current residence of the party to be served is unknown to the affiant
  - (2) A statement of all of the efforts made on behalf of the party to ascertain the residence of the party to be served, including a statement of prior successful attempts, and that the current residence of the party to be served cannot be ascertained with reasonable diligence.
  - (3) Sets forth the last known address of the party to be served.
- C. Upon the filing of the affidavit, the clerk shall cause service of notice to be made by posting in the Courthouse; on the bulletin board at the Department of Job and Family Services, 482 Rice Drive, West Union, Ohio 45693, and on the bulletin board at the West Union Village Offices at 33 Logans Lane West Union, Ohio 45693.
- D. Alternatively, the posting may be made on the website of the Probate Court clerk of courts, if available, in a section designated for such purpose.
- E. The Notice shall contain the name and address of the court, the case number, the case caption name, and the name and last known address, if any, of the person or persons whose residence is unknown. The Notice also shall contain a summary statement regarding the notice to the party whose residence is unknown and shall notify the party of a time after the publication that is set as the time to appear. The Notice shall be posted for three consecutive weeks.
- F. Service of process shall be deemed complete at 4:00 PM on the last date of the third week. After posting is complete, the Clerk shall enter into the docket that service has been completed.



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