



**Cuyahoga County**  
**Common Pleas Court**  
**December 2022**

**Local Rules**



# Cuyahoga County Common Pleas Court Local Rules

1.0 PRESIDING JUDGE.....	3
2.0 ADMINISTRATIVE JUDGE .....	4
3.0 TERMS OF COURT: HOURS OF COURT SESSIONS .....	5
4.0 MEETING OF THE JUDGES .....	6
5.0 DOCKETS AND CALENDARS .....	7
6.0 OFFICIAL REPORTER AND ASSISTANTS.....	8
7.0 SECURITY FOR COSTS .....	9
8.0 PLEADINGS AND OTHER FILINGS.....	11
8.1 REPEALED .....	13
9.0 RESERVED .....	14
10.0 ENTRY OF APPEARANCE AND WITHDRAWAL OF COUNSEL.....	15
11.0 RESERVED .....	17
12.0 RESERVED .....	18
13.0 DEPOSITIONS.....	19
14.0 DAILY LAW JOURNALS .....	20
15.0 ASSIGNMENT OF CIVIL CASES FOR TRIAL.....	21
15.1 COMMERCIAL DOCKET.....	23
16.0 ASBESTOS LITIGATION SPECIAL PROVISION.....	24
17.0 PASSING AND DELAY OF CASES.....	25
18.0 DISMISSAL OF CASES .....	26
19.0 JOURNAL ENTRIES .....	27
19.1 ELECTRONICALLY SIGNED DOCUMENTS .....	28
20.0 COURT FILES AND PAPERS.....	29
21.0 ARBITRATION .....	30
21.1 COURT MEDIATION .....	34
21.2 REPEALED .....	38

Cuyahoga County Common Pleas Court Local Rules

21.3 REPEALED ..... 39

22.0 RESERVED ..... 40

23.0 CRIMINAL CASE MANAGEMENT ..... 41

24.0 FORECLOSURE, QUIET TITLE AND PARTITION ACTIONS..... 43

25.0 PARTITION CASES ..... 44

26.0 RECEIVERSHIP..... 45

27.0 JUDICIAL SALES..... 46

28.0 APPEALS TO THE COMMON PLEAS COURT ..... 50

29.0 RETENTION AND DESTRUCTION OF RECORD EXHIBITS..... 51

30.0 ASSIGNMENT OF CRIMINAL CASES ..... 53

30.1 ASSIGNMENT OF CRIMINAL CASES TO MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES DOCKETS .. 55

30.2 ASSIGNMENT OF CRIMINAL CASES TO DRUG COURT DOCKETS ..... 57

30.3 ASSIGNMENT OF CRIMINAL CASES TO VETERANS TREATMENT COURT DOCKET ..... 60

30.4 ASSIGNMENT OF CRIMINAL CASES TO THE RE-ENTRY COURT (REEC)..... 60

30.5: ASSIGNMENT OF CRIMINAL CASES TO HIGH-RISK DOMESTIC VIOLENCE DOCKET..... 64

31.0 GRAND JURY..... 66

32.0 PROBATION DEPARTMENT..... 67

33.0 ASSIGNMENT AND COMPENSATION OF COUNSEL TO DEFEND ..... 68

34.0 BAIL AND RECOGNIZANCE..... 80

35.0 SELECTION AND GOVERNANCE OF PROSPECTIVE JURORS ..... 83

36.0 RESERVED ..... 85

37.0 MEDIA..... 86

38.0 SPECIAL PROCESS SERVER ..... 88

39.0 ELECTRONIC FILING OF COURT DOCUMENTS ..... 89

Appendices..... 97

    (A)    RULE 13.0 (J) SUPREME COURT OF OHIO PROFESSIONALISM DO'S AND DON'TS: DEPOSITIONS..... 97

    (B)    RULE 26.1 (F) FORM ..... 97

    (C)    RULE 29.0 INVENTORY FORM..... 97

    (D)    RULE 30.1 GUIDELINES FOR MHDD ELIGIBILITY ..... 97

Cuyahoga County Common Pleas Court Local Rules

**1.0 PRESIDING JUDGE**

The presiding judge of the Court of Common Pleas will be selected under the terms and conditions as set forth in Sup.R. 3 and have such powers and duties as set forth in Sup.R. 3.01. The judges of all divisions will meet at the call of the presiding judge for the purpose of discussing and resolving administrative problems common to all divisions.

*Effective 11/29/2021.*

**2.0 ADMINISTRATIVE JUDGE**

- (A) The divisions of the common pleas court are as follows:
- (1) General Division
  - (2) Domestic Relations Division
  - (3) Probate Division
  - (4) Juvenile Division
- (B) The judges of the General Division will select an administrative judge at the September judges' meeting under the terms and conditions as set forth in Sup.R.4(B). The candidates for administrative judge must have completed a full term as a general division judge before assuming the office. The administrative judge will be elected for a two (2) year term and may be reelected. The election will be conducted by secret ballot if an election is contested; voting by proxy is not permitted. To be elected, the administrative judge must receive a majority vote of the qualified sitting judges. The administrative judge will have such the powers and duties as set forth in Sup.R. 4.01.
- (C) The administrative judge will be the presiding officer of the General Division and have full responsibility for and control over the administration, docket, and calendar of the General Division and serve as a spokesperson for the Court on all policy matters.
- (D) In addition to standing committees set forth in section E, the administrative judge may create committees to address specific administrative or policy issues of the Court. The administrative judge will name the chairperson, and appoint members, and fill vacancies of all committees. Upon election or reelection, the administrative judge may change the membership of all committees.
- (E) The standing committees include the following:
- (1) Civil Rules;
  - (2) Criminal Rules;
  - (3) Probation; and
  - (4) Commissions.

*Effective 11/29/2021.*

Cuyahoga County Common Pleas Court Local Rules

**3.0 TERMS OF COURT and HOURS OF COURT SESSIONS**

- (A) Term.** The Court will be in continuous operation for the transaction of business. Each calendar year will be divided into three terms designated as the January, May and September terms of court. The day of the commencement of each term of court will be fixed by the judges.
- (B) Hours.** The Court will be open Monday through Friday except on legal holidays or as determined by the administrative judge. Court sessions will be scheduled between 8:30 a.m. and 4:30 p.m. The Court may be in session at such other times and hours as the administrative judge or any judge prescribes to meet special situations or circumstances.

*Effective 11/29/2021.*

**4.0 MEETING OF THE JUDGES**

- (A) **Regular Meetings.** The Administrative Judge shall set the time and date of general meetings of the entire division, shall notify the judges within a reasonable time and submit a written agenda to all judges at least three (3) days prior to the meeting. General meetings shall be held quarterly on the call of the Administrative Judge or upon the signed request of ten or more general division judges. New business shall not be acted upon unless it is noted upon the agenda and submitted by the Administrative Judge to all members of the division prior to the meeting. Only judges present at the meeting shall have the right to vote.

Minutes of all general meetings shall be kept in a record of actions taken and shall be distributed to each Judge.

**(B) Judicial Conference of the Eighth Appellate Judicial District.**

- (1) Purpose.** There shall be held at such time and place as shall be designated by the Presiding Judge of this court and the Chief Justice of the Court of Appeals for the Eighth Appellate Judicial District in collaboration with Municipal Court Judges within this district and with members of the Bar designated pursuant to this Rule, a Conference of all Municipal, Common Pleas Judges and Appellate Judges of Cuyahoga County, and representative members of the Bar within the District for the purpose of considering the state of business of the courts, affording a forum for dialogue between the courts and between the courts and the Bar, and advising ways and means of improving the administration of justice within the District.
- (2) Who Shall Attend.** It shall be the duty of each judge of the Court of Common Pleas of Cuyahoga County to attend the Conference and, unless excused by the Presiding Judge, to remain throughout the Conference. Regular sessions of court, including all hearings, arraignments and trials, except those determined by a judge of this court, in consultation with the Presiding Judge, to require immediate attention shall be suspended throughout the time the Conference is in session.
- (3) State of Dockets.** The first part of the Conference shall be for the judges alone and shall be devoted to a discussion of matters affecting the state of the dockets and administration of justice in the District. Members of the Bar to be chosen as set forth in the succeeding paragraph to members of the Conference shall meet at the same time the meeting for judges alone is scheduled to consider such matters as may be referred for their consideration by the judges of the Conference and as may be programmed by the Executive Committee of the Conference, and shall participate in its discussions and deliberations during the subsequent sessions of the Conference.
- (4) Members of the Bar.** Members of the Conference shall include lawyers of experience and prominence in the profession to be appointed annually by the judges of the Conference, by representatives of the organized Bar, and as otherwise selected and designated in accordance with Rules for the Judicial Conference.

*Effective 09/01/2002.*

**5.0 DOCKETS AND CALENDARS**

The Clerk of Courts will perform his or her duties under the direction of the Court. In addition to the requirements of RC 2303.12 and RC 2303.13, the Clerk of the Courts will prepare and maintain for the use of the General Division Judges the following dockets and calendars:

- (A) A general appearance docket consisting of civil and criminal parts;
- (B) A journal consisting of civil and criminal parts;
- (C) A separate Special Cases Docket.

*Effective 11/29/2021.*



**6.0 OFFICIAL REPORTER AND ASSISTANTS**

- (A) The Official Reporter shall be responsible for the general supervision of the office of Court Reporters and for the assignment of reporters. Reporters shall report for duty at 8:30 a.m. each working day and shall not engage in any other employment.
- (B) In every case reported by the official or an assistant reporter, the trial judge shall make an appropriate entry taxing the statutory fee for each day of service to be collected as costs in the case. The compensation of reporters for making transcripts and copies shall be paid forthwith to the reporter by the party for whom it is made. No bill for any transcript ordered by a judge shall be approved unless it bears a certificate by the Official Reporter and that the charge is fair and in conformity with law. Every transcript of proceedings filed in this Court shall bear the name, address and telephone number of the reporter preparing it. A reporter shall not be required to prepare a transcript for any party until satisfactory arrangements for payment have been concluded.

Cuyahoga County Common Pleas Court Local Rules

**7.0 SECURITY FOR COSTS**

(A) Unless otherwise provided by law, no civil action or proceeding will be accepted by the Clerk of Courts for filing unless the party or parties filing the action have first deposited a sum to secure the payment of the costs. Deposits will be in accordance with the following schedule:

Civil Complaint	\$250.00 *
Civil Complaint - Foreclosure	\$475.00 *
Administrative Appeal	\$250.00
Cognovits	\$175.00
Foreign Judgment	\$125.00
Replevin	\$250.00
Third Party/Intervening Complaint	\$75.00
Counter Claim/ Cross Claim/ Amend Complaint	\$75.00
Service by Publication (Civil Action / Foreclosure)	\$150.00 / \$250.00
Jury Trial	\$0
Order of Sale and Online Sale Licensing Fee	\$820.00 for the first order of sale in a case and \$600.00 for all subsequent orders of sale.
Certificate of Judgment - Common Pleas	\$25.00
Certificate of Judgment - Foreign Court	\$20.00
Certificate for Transfer	\$15.00
Release of Lien	\$5.00
Exemplified Copy	\$1.00
Certified Copy	\$1.00
Motion to Modify, Revive, Vacate	\$30.00
Order in Aid	\$40.00
Garnishment - Other Than	\$80.00 **
Garnishment - Personal Earnings	\$85.00
Writ of Execution	\$3.00
Writ of Possession	\$0

*\* Special Project Fees included*

*\*\*Fee for one bank, \$10 each additional bank*

(B) The Clerk of Courts will accept payment via certain credit cards approved by its financial transaction provider. The Clerk of Courts is authorized to collect convenience fees for the use of credit cards and electronic checks. The convenience fee rates are set by the clerk’s financial transaction provider.

### Cuyahoga County Common Pleas Court Local Rules

- (C) In newly filed cases where the number of defendants exceeds ten, the Clerk of Courts will require the standard deposit and a deposit of \$5.00 for each additional defendant. In cases with multiple parties where there are supplemental pleadings filed, the Clerk of Courts may require the party requesting service to advance an amount estimated by the clerk.
- (D) On cases transferred to this court from the municipal court in which the prayer of the cross-claimant exceeds that court's monetary jurisdiction, the cross-claimant must post security for costs in a sum equal to the amount required as if the case was originally filed in this court.
- (E) The court may require an additional deposit from which fees for court-appointed representatives may be paid.
- (F) If a party is unable to pay court costs, then the party must submit a poverty affidavit requesting to have such charges waived on the form prescribed by the court. The completed affidavit must be submitted to the Clerk of Courts who will accept the filing without costs. Once the case is assigned, the trial judge may make further inquiry into the party's ability to pay costs and order payment where appropriate.
- (G) The Clerk may charge a fee of \$250.00 for the re-creation of a lost or destroyed order of sale. A party may move the court to waive this fee for good cause shown.

*Effective 08/24/2020.*

**8.0 PLEADINGS AND OTHER FILINGS**

**(A) Document Format**

- (1) **Paper, Spacing and Font.** All pleadings, motions and other filings, e-filed or otherwise, must be typewritten or legibly hand-written on letter sized (8.5" x 11") white paper. Typed documents must be double-spaced with 12 point font. Where stylistically appropriate, such as in block quotations and in footnotes, the spacing and font size may vary from this standard.
- (2) **Case Caption in the Complaint.** The caption in every complaint must state the name and address, if known, of each party. The complaint should be titled as such and should state in the caption the general nature of the action.
- (3) **Case Caption in Filings Subsequent to the Complaint.** All filings subsequent to the complaint must state the case number, the assigned judge's name, the assigned magistrate's name, if any, the name of the first plaintiff, the name of the first defendant and the title of the filing.
- (4) **Case Caption after Substitution of a Party.** The case caption does not change with the substitution of a party. With the substitution of one of the parties named in the caption, the caption retains the name of the original party.
- (5) **Filing Party Information.** All filings must include the filing party's name, address, telephone number and e-mail address. If the filing party is an attorney, the filing must also include the attorney's Ohio Supreme Court registration number.
- (6) **Change of Address.** Self-represented parties or counsel of record must file any notice of change of address with the clerk.
- (7) **Filing Hardcopies.** To permit easy scanning of documents, any filing submitted as a hardcopy may be bound only by a paper clip, binder clip or three-ring binder. A filing bound in any other manner may be rejected by the clerk.
- (8) **Fax Submissions.** Documents may not be submitted for filing via fax. The only permissible method for submitting filings electronically is detailed in the court's e-filing rule. See Local Rule 39.0.
- (9) **Failure to Comply.** The Court may strike any filings that do not comply with this rule.

**(B) Case Designation Sheet**

- (1) A case designation sheet must be filed with every complaint.
- (2) The case designation sheet must indicate the appropriate category of the case, disclose any related cases, pending or closed, and must indicate if the case has been previously filed and dismissed.
- (3) In mortgage foreclosure cases, the case designation sheet must also provide the name and telephone number, or other contact information, for the property's field service representative, if any.
- (4) The clerk may reject any complaint that is not accompanied by a case designation sheet.

## Cuyahoga County Common Pleas Court Local Rules

### **(C) Amended Pleadings**

- (1) A motion to file an amended pleading must indicate the substance of the proposed amendment and the grounds for the amendment.
- (2) The proposed amended pleading must be submitted as an exhibit to the motion.
- (3) No pleadings may be amended by interlineation or obliteration.
- (4) While an amended pleading supplants any prior pleadings, the prior pleadings remain part of the record and cannot be withdrawn.

### **(D) Leave to Plead**

- (1) When no prior extension to plead has been granted, parties may obtain an extension of time to answer, plead or otherwise move by filing a stipulation providing for an extension.
  - (a) The stipulation must be approved by the party who filed the pleading to which the extension to plead applies.
  - (b) This extension may not exceed 30 days.
  - (c) The stipulation must affirmatively state that no prior extension has been granted.
  - (d) The stipulation need not be approved by the court.
- (2) If no stipulation is obtained or if an additional extension beyond the initial stipulated period is requested, the party seeking an extension must request and obtain leave of court for an extension of time to plead.

### **(E) Discovery Requests and Motions**

- (1) Unless otherwise ordered by the court, discovery requests, notices of discovery requests and responses to discovery requests should not be filed with the Court.
- (2) All motions related to discovery disputes must include a copy of the disputed discovery request and any responses to the request.

*Effective 06/02/2021.*

Cuyahoga County Common Pleas Court Local Rules

**8.1 REPEALED**

*Local Rule 8.1 Repealed on June 1, 2021 by unanimous vote*

*Effective 06/02/2021.*

Cuyahoga County Common Pleas Court Local Rules

**9.0 RESERVED**

*Local Rule 9.0 Repealed and Reserved on June 1, 2021 by unanimous vote*

*See Civil Rules 4 and 5.*

*Effective 06/02/2021.*

**10.0 ENTRY OF APPEARANCE AND WITHDRAWAL OF COUNSEL**

**(A) Entry of Appearance**

- (1) All entries of appearance of counsel must be in writing and e-filed.
- (2) Unless the entry of appearance indicates otherwise, an entry of appearance will be a general appearance and counsel will be engaged in all phases of the case.
- (3) In civil cases, counsel may enter an appearance by filing a pleading, motion or notice of appearance.
- (4) In criminal cases, counsel may enter an appearance by filing a notice of appearance.
- (5) Until counsel enters an appearance, counsel may not be entitled to participate in any proceeding in the case.

**(B) Notice of Limited Appearance**

- (1) Counsel may enter a notice of limited appearance as provided by Prof.Cond.R 1.2 and Civ.R.3.
- (2) Notice of appearance of counsel who has a limited scope of representation must:
  - (a) Be titled "Notice of Limited Appearance";
  - (b) Describe the scope of the representation;
  - (c) Set forth the circumstances that justify the limited appearance;
  - (d) Indicate that the limited nature of counsel's representation has been communicated to the client in writing.

**(C) Withdrawal of Counsel - General Appearance**

- (1) **Client Unrepresented after Withdrawal.** In cases where counsel has entered a general appearance and counsel's withdrawal will leave a party unrepresented, upon written motion for leave to withdraw from the action and for good cause shown, the court may permit counsel to withdraw.
- (2) **Notice to Client.** Prior to or contemporaneously with the filing of a motion for leave to withdraw, counsel must satisfy their duties under the Rules of Professional Conduct in providing notice to the client of their intent to withdraw.
- (3) **Hearing.** The court may, in its discretion, set a hearing on the motion and may request the attendance of all counsel and clients. If the court requires the attendance of client at the hearing, counsel must inform the client of the hearing date and time by certified mail, return receipt requested.
- (4) **Client Represented after Withdrawal.** In cases where counsel has entered a general appearance and the client has retained new counsel or will be represented by another attorney who has appeared in the case, counsel may withdraw from representation by filing a notice of withdrawal. Withdrawal will be effective upon filing of such notice.

**(D) Withdrawal of Counsel - Limited Appearance**

- (1) **Terms of Representation Completed.** In cases where counsel has entered a notice of limited appearance and has fulfilled the terms of representation, counsel may withdraw from representation as provided in Civ.R. 3(B).



Cuyahoga County Common Pleas Court Local Rules

- (2) **Terms of Representation not Completed.** In cases where counsel has entered a notice of limited appearance and has not fulfilled the terms of his representation, counsel may withdraw from representation:
- (a) By filing a motion in accordance with paragraph C(1) of this rule if counsel's withdrawal will leave the client unrepresented; or
  - (b) By filing a notice in accordance with paragraph C(2) of this rule if, upon counsel's withdrawal, the client will be represented by another attorney who has appeared in the case.

*Effective 10/18/2021.*

Cuyahoga County Common Pleas Court Local Rules

**11.0 RESERVED**

*Local Rule 11.0 Repealed and Reserved on June 1, 2021 by unanimous vote.*

*Effective 06/02/2021.*

Cuyahoga County Common Pleas Court Local Rules

**12.0 RESERVED**

*Local Rule 12.0 Repealed and Reserved on October 18, 2021 by unanimous vote.*

*Effective 10/18/2021.*

### 13.0 DEPOSITIONS

The following rule for the taking of depositions emphasizes the expectations of the court as to certain issues and are intended to supplement Civ.R. 26, 28, 30, 32, 37, 45 and the Supreme Court of Ohio's "Deposition Do's and Don'ts."

- (A) Scheduling and Duration.** Counsel is expected to make a timely and good faith effort to confer and agree to schedules for the taking of depositions. Unless otherwise stipulated or ordered by the court, a deposition is limited to one day of seven hours. Except for good cause shown, counsel for the deponent may not cancel a deposition or limit the length of a deposition to less than one day or seven hours without stipulation of the examining counsel or order of the court.
- (B) Decorum.** Opposing counsel and the deponent must be treated with civility and respect and the questioner must not engage in repetitive, harassing, or badgering questioning. The deponent must be permitted to complete an answer without interruption of examining counsel.
- (C) Objections.** Objections are limited to:
  - (1) those which would be waived if not made pursuant to Civ.R. 32(D);
  - (2) those necessary to assert a privilege;
  - (3) those necessary to enforce a limitation on evidence directed by the court;
  - (4) those necessary to present a motion under Civ.R. 30(D);
  - (5) those necessary to preserve a proper evidentiary objection should the deposition be used as evidence or for impeachment.
- (D) Speaking Objections.** Counsel may interpose an objection by stating "objection" and the legal grounds of the objection. Speaking objections that refer to the facts of the case or suggest an answer to the deponent are improper and must not be made in the presence of the deponent.
- (E) Instructions Not to Answer.** Counsel for the deponent may instruct a deponent not to answer a question only when necessary to preserve a privilege, enforce a limitation on evidence directed by a court, present a motion under Civ.R. 30(D) or terminate repetitive, harassing or badgering questioning. In the event privilege is claimed, examining counsel may make appropriate inquiry about the basis for asserting the privilege.
- (F) Inappropriate Questions.** If counsel for the deponent objects to a particular line of questioning on the ground that the questioning is being conducted in bad faith or in such a manner as to unreasonably annoy, embarrass or degrade the deponent, the examining attorney should move on to other areas of inquiry, reserving the right to pursue the objected-to questions at a later time or date. The deponent must answer the question if the objection is withdrawn or the court determines the question is proper.
- (G) Conferring During Questioning.** While a question is pending, counsel for the deponent and the deponent may not confer except for the purpose of deciding whether to assert a privilege.
- (H) Documents.** When a deponent is being questioned, examining counsel must provide all counsel present with copies of all documents shown to the deponent.
- (I) Sanctions.** Where a witness, party or counsel violates any of these rules at a deposition, the court may order sanctions or other remedies as set forth in Civ.R. 26(C) and Civ.R. 37.
- (J) Supreme Court Best Practices.** The Ohio Supreme Court's Commission on Professionalism has issued its publication entitled "Deposition Do's and Don'ts" (See Appendix D). The court expects all attorneys practicing before it to adhere to the best practices contained in this document.

*Effective 10/18/2021.*

**14.0 DAILY LAW JOURNALS**

- (A) The "Daily Legal News and Cleveland Recorder," a daily law journal and newspaper of general circulation, is designated as the official publication of this Court. All official and legal notices required by law or ordered by the Court to be published may be published in the daily law journal. All charges for such publications shall be taxed as costs. For the publication of new cases, calendars, motions, dockets and notices the publisher of the daily law journal shall receive ten dollars (\$10.00), to be paid in advance by the party filing a complaint, transcript for appeal or a lien, to be taxed in the costs and collected as other costs and as provided in O.R.C. 2701.09.
- (B) The publisher of the daily law journal shall receive the sum of five dollars (\$5.00) for each required entry in the daily law journal published in the "abstract," and the Clerk of Courts shall tax as costs the sum of five dollars (\$5.00) for each entry made.

*Effective 12/01/1994.*

**15.0 ASSIGNMENT OF CIVIL CASES FOR TRIAL**

- (A) All civil cases shall be assigned to a judge through a process either manual or electronic, which ensures a random selection of the judge and preserves the identity of the judge until selected.
- (B) It shall be the duty of the assigned judge to handle all court activity, including motions, emergency matters, case management conferences, pre trials, trials, and any post trial matters associated with the cases assigned to the docket.
- (C) The scheduling of civil cases for case management conferences and pretrials may be handled by the Central Scheduling Office (CSO).
- (D) The trial date for a case will be set by the judge to whom the case is assigned.
- (E) The commitments of attorneys in any state court of record, the U.S. District Court or other branches of this court shall be honored by each judge when considering the setting of trial dates. (See Sup. Rule 41) If a scheduling conflict arises between the trial court and an appellate court, the appellate court shall be deemed to have a priority.
- (F) Attorneys with larger than average caseloads may, upon notification by the Administrative Judge, be required to submit detailed calendar information on a regular basis and to comply with other orders that may promote the orderly and timely disposition of his caseload.
- (G) (1) If a plaintiff, either in person or by counsel, fails to appear for a scheduled trial date, the judge may after notice enter an order dismissing the action for want of prosecution. If a defendant, either in person or by counsel, fails to appear, and the plaintiff appears, the judge shall order the plaintiff to proceed with the case and decide and determine all matters ex parte.  
  
(2) If a party or counsel appears but shows good cause as to why he is not ready for trial, the court shall make such order or orders it deems proper. If a party or counsel appears but indicates he is not ready for trial without showing good cause for his unreadiness, the court, if such party is plaintiff, shall enter an order dismissing the action for want of prosecution or, if a defendant, order the plaintiff to proceed with the case and determine all matters ex parte.
- (H) Pursuant to Civil Rule 42, when actions involving a common question of law and fact are pending in this court, upon motion by any party, the court may order a joint trial of any or all of the matters in issue; it may order all or some of the actions consolidated; and, it may make such orders concerning proceedings as may tend to reduce unnecessary costs or delay. The motion for consolidation shall be filed in all actions for which consolidation is sought. All judges involved in the consolidation motion shall confer in an effort to expedite the ruling. The judge who has the lower or lowest numbered case shall rule on the motion. In the event that the judges cannot agree, the motions shall be referred to the Administrative Judge for ruling.
- (I) All cases refiled with the Clerk's Office which were dismissed without prejudice pursuant to Civil Rule 41(A) on a previous occasion shall be immediately assigned to the original docket identified on the case designation form. In the event a case is incorrectly assigned to a judge, an order transferring a previously

Cuyahoga County Common Pleas Court Local Rules

filed case or related case to another judge must be entered within 120 calendar days from the date of the filing of the new complaint in the new case.

- (J) If a case disposed by an assigned judge is reversed and remanded by an appellate court the case shall be returned to the docket of the assigned judge. If a case is disposed of by a visiting judge and the case is reversed and remanded by an appellate court, the case shall be returned to the docket of the assigned judge who referred the case.

*Effective 07/01/2008.*

**15.1 COMMERCIAL DOCKET**

- (A) **Establishment of Commercial Docket.** Effective January 1, 2018, the Cuyahoga County Court of Common Pleas, General Division established a commercial docket pursuant to Sup. R. 49 through 49.12.
- (B) **Judges.**
- (1) **Judges Designated.** Four judges have been designated to hear all cases assigned to the commercial docket and will be referred to as the commercial docket judges.
  - (2) **Term of Commercial Docket Judges.** The term of the commercial docket judges will be three years. To ensure the continuity of experience among the commercial docket judges, the initial selection has been staggered. Cases assigned to a commercial docket judge will remain on that judge's docket after expiration of the judge's term.
  - (3) **Designation of Commercial Docket Judges.** All judges meeting the minimum requirements of Sup. R. 49.02 (A)(1) (a) or (b), and agreeing to participate as a commercial docket judge may submit their names to the Administrative Judge who shall conduct a random draw during a scheduled judges meeting not less than 60 days prior to the expiration of a commercial docket judge's term. The court will follow with a vote to confirm the designated judge(s).
- (C) **Adjustment of Other Case Assignments.** To guarantee a fair and equal distribution of cases, upon the transfer of a case to a commercial docket judge, the next non-commercial docket case filed, which under the random assignment process would have been assigned to the commercial docket judge, must be assigned to the judge who transferred the case to the commercial docket.
- (D) **Local Rules Apply.**
- (1) Unless otherwise ordered in a specific case, the general Local Rules of Cuyahoga County Court of Common Pleas apply in all commercial docket cases.
  - (2) A refiled case may not be transferred to the commercial docket unless it was previously on the commercial docket, or transfer is approved by a commercial docket judge due to anticipated consolidation with a commercial docket case. A refiled commercial case will be returned to the previously assigned commercial docket judge whose term has expired.
- (E) **Consolidation of Commercial and Non-Commercial Cases.** Upon motion pursuant to Civ. R. 42 and L. R. 15(H), any commercial docket case and any non-commercial civil case involving common or related questions of law or fact may be consolidated to the commercial docket. In the event of such consolidation, the consolidated case(s) will be assigned to the commercial docket judge with the related case.

*Effective 10/16/2019.*



**16.0 ASBESTOS LITIGATION SPECIAL PROVISION**

- (A) In an action involving any allegation for injury or death arising from exposure to asbestos, the rules of civil procedure governing a civil action shall apply except as provided by this rule.
- (B) The caption of all legal papers filed in the action shall contain the designation "Civil Action -- Asbestos."
- (C) Within twenty-eight (28) days after service of the complaint, the defendant shall enter an appearance which shall constitute:
  - (1) a denial of all averments of fact in the complaint;
  - (2) an allegation of all affirmative defenses; and
  - (3) a claim for indemnification and contribution from any other party.

By filing an entry of appearance, all averments of appearance, all averments of fact are deemed denied (subdivision (c)(1), all affirmative defenses are deemed alleged (subdivision (c)(2), and each defendant is deemed to have asserted a claim for indemnity and contribution against each other party (subdivision (c)(3).

*Effective 12/01/1997.*

**17.0 PASSING AND DELAY OF CASES**

**(A) Continuances.** The continuance of a schedule trial or hearing is a matter within the sound discretion of the trial Court for good cause shown.

- (1) Motion to Continue.** No party shall be granted a continuance of a trial or hearing without a written motion from the party or counsel stating the reason for the continuance, endorsed in writing by the party as well as counsel; however, the trial judge may waive this requirement upon a showing of good cause. Such motion shall be filed with the Clerk of Courts and received by the Court not later than seven (7) days before the date set for trial or hearing. If the motion is not approved by the trial judge, the case shall proceed as originally scheduled. No continuance shall be granted without first setting a definite date for the trial or hearing.
- (2) Witness Unavailable.** When a continuance is requested due to unavailability of a witness at the time scheduled for trial or hearing, the Court shall consider the feasibility of recording that testimony permitted by Civil Rule 30(B), and authorized for use by Civil Rule 32(A)(3).
- (3) Military or Bankruptcy Stays.** Cases stayed by reason of a party being on active duty in the military service or by order of Bankruptcy or other Court shall not be deemed included within the operation of this rule.

**(B) Conflict of Trial Assignment Dates.**

- (1)** When a continuance of trial or hearing is requested for the reason that counsel of record is scheduled to appear in another case or assigned for trial on the same date in the same or another trial court of this state, the case which was first set for trial shall have priority and shall be tried on the date assigned. Criminal cases assigned for trial have priority over civil cases assigned for trial. The court should not consider any motion under this Rule unless a copy of the conflicting assignment is attached to the motion and the motion is filed not less than thirty (30) days prior to the scheduled trial.
- (2)** A continuance shall be granted upon request when a party, counsel or witness under subpoena is scheduled to appear on the same date at a hearing before the Board of Commissioners on Grievances and Discipline of the Supreme Court as a member of the Board, as a party, as counsel for a party, or as a witness under subpoena for such hearing.

*Effective 12/01/1997.*

**18.0 DISMISSAL OF CASES**

Each judge shall quarterly review all civil cases pending on that judge's civil docket, except cases awaiting trial assignment. Cases that have been on the docket for six months without any proceedings taken, shall, after notice, be dismissed for want of prosecution, unless good cause is shown to the contrary.

The Court may make such orders as may facilitate the prompt and just disposition of any action.

**19.0 JOURNAL ENTRIES**

- (A)** When ordered or directed by the Court, counsel for the party in whose favor an entry, order, judgment or decree is entered shall, within ten (10) days unless the time is extended by the court, prepare a proper journal entry and submit it to opposing counsel who shall approve or reject it within three (3) days after its receipt and may file objections in writing with the court.

In all cases where a final title report is required, the time for preparation of the journal shall commence from the date the final title report is filed.

The Court shall approve a journal entry deemed by it to be proper, sign it Manually or Apply an Electronic Signature to the Journal Entry Pursuant to Local Rule 19.1, and cause it to be filed with the Clerk, and notice of the filing of each journal entry for journalization shall on the day following such filing be published in the Daily Legal News.

- (B) (1)** When a request for findings of fact and conclusions of law is made, the judge may direct the party making the written request to prepare, within five (5) days, proposed findings of fact and conclusions of law and submit them to the opposing counsel. Within ten (10) days after receipt by the opposing counsel, the proposed findings shall be submitted to the Court with objections and counter proposals, if any, in writing; however, only those findings of fact and conclusions of law made by the Court shall form part of the record.

**(2)** Upon motion of a party made within ten (10) days after the filing of the findings, the Court may amend the findings, make additional findings and may amend the judgment accordingly. The motion may be made with a motion for a new trial. When findings of fact are made in actions tried by the Court without a jury, the question of the sufficiency of the evidence to support the findings may be raised whether or not the party raising the question has made an objection in the trial Court to such findings or has made a motion to amend or a motion for judgment.

**19.1 ELECTRONICALLY SIGNED DOCUMENTS**

- (A) The following definitions shall apply to this rule:
  - (1) "Electronic" and "Electronic Signature" have the same meaning as used in section 1306.01 of the Ohio Revised Code.
  - (2) The term "Document" includes journal entries, notices, orders, opinions, and any other filing by a Judge or Magistrate of this Court.
- (B) Electronic transmission of a document with an electronic signature by a Judge or Magistrate that is sent in compliance with procedures adopted by the Court shall, upon the complete receipt of the same by the Clerk of Court, constitute filing of the document for all purposes of the Ohio Civil Rules, Ohio Criminal Rules, Rules of Superintendence, and the Local Rules of this Court.
- (C) Electronic transmission of an indictment with an electronic signature by a Grand Jury Foreperson that is sent in compliance with procedures adopted by the Court shall, upon the complete receipt of the same by the Clerk of Court, constitute filing of the document for all purposes of the Ohio Civil Rules, Ohio Criminal Rules, Rules of Superintendence, and the Local Rules of this Court.

*Effective 12/16/2008.*

**20.0 COURT FILES AND PAPERS**

No person (except a judge of the court) without consent of the Administrative Judge or the judge to whom the case is assigned shall remove any court papers, files of the court or any of the contents of a file from the custody of the Clerk.

**21.0 ARBITRATION**

**(A) Eligible Cases.**

- (1) At any time during the litigation, a judge may enter an order referring a civil case to be heard and decided by an arbitration panel or single arbitrator. Actions involving real estate, equitable relief and appeals are excluded.
- (2) A case is suitable for arbitration when the amount in controversy is \$100,000 or less per claimant, exclusive of interest. In cases where the amount in controversy exceeds the jurisdictional limit, the parties may agree to waive the limit. The court must indicate in the order of referral that the parties have consented to waive the jurisdictional limit.
- (3) Once a case is referred for arbitration, ruling on all pending motions will be held in abeyance and no further filings, except a motion for continuance of the arbitration, will be permitted.

**(B) Arbitrators.**

- (1) **Selection of the Panel.** Upon receipt of the referral order, the dispute resolution administrator will appoint a chairperson and two non-chairpersons from the list of arbitrators to serve as the arbitration panel. The list of arbitrators will be maintained by the administrator and divided into two groups: chairpersons and non-chairpersons. A chairperson must be admitted to the Ohio Bar for at least three years and have one year in service as a non-chairperson. Non-chairpersons must be admitted to the Ohio Bar for at least one year. The dispute resolution administrator may assign up to three cases to each panel at the time of its selection.
- (2) **Selection of a Single Arbitrator.** In any case referred to arbitration and where all parties agree, the court may refer the matter to be heard by a single arbitrator in lieu of an arbitration panel. The dispute resolution administrator will appoint an attorney named on the arbitration list or a lawyer experienced in and who would qualify as an expert in the area of law that is the subject of the action. The single arbitrator will receive the same compensation as the chairperson of an arbitration panel. All the procedures in this rule will govern an arbitration heard by a single arbitrator.
- (3) **Compensation.**
  - (a) Each signatory to the report and award will receive a fee of \$150.00. A consolidated case will be considered one case for purpose of compensation of the arbitrators. In cases requiring hearings of unusual duration or involving questions of unusual complexity, the dispute resolution administrator may allow additional compensation at the written request of the chairperson of the panel or single arbitrator. The members of the panel or single arbitrator are entitled to receive their fees after filing the report and award with the administrator. Fees paid to arbitrators will not be taxed as costs.
  - (b) The chairperson will receive an additional \$50.00 for each case heard by the panel. The single arbitrator will receive the same compensation as a chairperson.
  - (c) If a case is settled or dismissed more than two days prior to the date scheduled for the hearing, the panel members or single arbitrator will not be entitled to a fee. If a case is settled or dismissed on the day of the hearing, the panel members or single arbitrator may be entitled to receive the fee upon completing and signing the report and award. The report and award should state that the "case settled at the time of the hearing."
- (4) **Disqualification from Appointment.**
  - (a) If the chairperson or single arbitrator fails to set an arbitration hearing within the deadline set forth in the referral order, the chairperson or single arbitrator will be removed from the panel and the dispute resolution administrator will appoint a replacement.

## Cuyahoga County Common Pleas Court Local Rules

- (b) If the administrator, an arbitrator, counsel, or a party becomes aware that there is an issue with an arbitrator's neutrality, the arbitrator will be removed from the panel or relieved of their appointment and the administrator will appoint a replacement.

### **(C) General Hearing Procedures.**

- (1) **Location.** The chairperson or single arbitrator will set the date, time, and location of the hearing. Hearings may be held in a private office, hearing rooms at the dispute resolution office, or a bar association office. In instances of conflict with location, the dispute resolution administrator will determine the location of the hearing.
- (2) **Time for Hearing.** The chairperson or single arbitrator must set the hearing within any deadline set forth in the referral order and must provide at least ten days written notice to the arbitrators, counsel, and unrepresented parties of the time and place of the hearing.

### **(D) Communications with Arbitrators.**

- (1) Counsel or parties may not communicate with arbitrators regarding the merits of the controversy or any offers of settlement prior to the commencement of the hearing.
- (2) The dispute resolution administrator will deliver a copy of the complaint and answer to the chairperson or single arbitrator prior to the scheduled hearing date.
- (3) Parties may communicate with the panel or single arbitrator when requesting a continuance of the hearing. If a party requests a continuance beyond the arbitration deadline ordered by the judge, the party must file a written motion to the judge assigned to the case.
- (4) The parties must provide notice of settlement or dismissal to the chairperson, panel members, single arbitrator, and the dispute resolution department either by phone, fax or email.

### **(E) Default of Party.**

- (1) The arbitration may proceed in absentia as to any party who, after due notice, fails to appear or fails to obtain a continuance. An award may not be made solely on the default of a party. The arbitration panel or single arbitrator must require the non-defaulting party to submit evidence necessary to justify the award.
- (2) The failure of a party or counsel to appear and participate in an arbitration proceeding will operate as consent to the entry of judgment and a waiver of the right to file an appeal de novo.
- (3) A party who fails to appear for an arbitration hearing may file a motion for leave to file an appeal de novo with the dispute resolution department in conformance with the provisions in paragraph (G) of this rule. The motion may be granted or denied at the judge's discretion.

### **(F) Conduct of Hearing.**

- (1) **Supervisory Powers of the Court.** The assigned judge will have full supervisory powers with regard to all questions that arise in the arbitration proceedings and in the application of these rules.
- (2) **Attendance at hearing.** Counsel will produce, when possible, a party, or witness at the hearing without the necessity of a subpoena.
- (3) **Powers of the Arbitration Panel and Single Arbitrator.**
  - (a) **Rule on Evidentiary Matters.** The chairperson should rule on evidentiary matters with the advice of the other panel members. Strict conformity to the Rules of Evidence is not necessary. All evidence will be taken in the presence of the arbitrators and the parties unless there is a default or waiver of the right to be present. Evidence may be presented by sworn testimony of the witnesses, affidavits, or written reports and it will receive such weight as the panel or single arbitrator deems proper after consideration of any objection made to its admission. All expert



## Cuyahoga County Common Pleas Court Local Rules

- reports, medical or otherwise, must be on the expert's letterhead and signed to be received into evidence.
- (b) **Issue Subpoenas.** Subpoenas may be issued as provided in Civ.R. 45 and the Ohio Revised Code as in any other case filed in common pleas court. The subpoena forms should include the date, time, and location of the hearing.
  - (c) **Compel the Production of Documents.** The panel or single arbitrator has the power to compel the production of all books, papers, and documents which are material to the case. If a party or witness fails to produce documents, the panel or single arbitrator may treat that particular matter as uncontroverted and proceed accordingly.
  - (d) **Administer Oaths.** The panel or single arbitrator has the power to administer oaths to witnesses, to determine the admissibility of evidence, to permit testimony to be offered by deposition, and to decide the law and the facts of the case.
  - (e) **Consider Medical Bills, Property Damage Bills, or Estimates.** In actions involving personal injury or property damage, bills, write-offs, or estimates may be offered and received in evidence to prove the value and reasonableness of charges for services, labor, materials, or items contained therein, including:
    - i. Bills of doctors, dentists, nurses, physical therapists, and hospitals may be received in evidence when submitted on the official letterhead of the provider and sufficiently itemized to show the date, amount charged, and nature of the services rendered.
    - ii. Bills for medicines, eyeglasses, prosthetic devices, and similar items may be received in evidence when submitted on the official letterhead of the provider and sufficiently itemized to show the amount charged.
    - iii. Property repair bills or estimates may be received in evidence when submitted on the letterhead of the provider and itemized to show the charges for labor and materials.
- (4) **Witness Fees.** Witness fees in any case referred to arbitration will be the same amount as for trial witnesses.
- (5) **Transcript.** The arbitration panel or single arbitrator is not required to record the hearing or prepare a transcript of the proceedings. If any party desires a transcript, that party must provide and pay for the court reporter to record and transcribe the hearing. These costs will not be considered costs in the case. If both parties desire a transcript, they will split the costs of the reporter.
- (6) **Report and Award.**
- (a) Within seven days following the hearing, the arbitration panel or single arbitrator must file the report and award in the office of the dispute resolution administrator and provide copies to all parties or their counsel. An award may not exceed \$100,000 per claimant, exclusive of interest, unless the parties have waived the monetary limits. The report and award must be signed by all of the members of the panel. If all three members of the arbitration panel do not concur, the dissenting arbitrator must write the word "dissents" before signing. A dissenting report is not required, however, a dissenting arbitrator may elect to submit a written report. The dispute resolution administrator will file a notice of the report and award on the docket and file the original report with the clerk.
  - (b) The report and award, unless appealed, will be final with all attributes and legal effect of a verdict. If no appeal is filed within the appeal time and in the manner specified in paragraph G of this rule, the court will enter judgment. After entry of judgment, the clerk must serve the judgment as prescribed by Civ.R. 58 and Civ.R 5.

**(G) Appeal of Arbitration Award.**

- (1) **Appeal De Novo.** Any party may appeal the arbitration award to the assigned judge . The filing of a single appeal is sufficient to require a de novo trial of the entire case on all issues and as to all parties. The appeal must be filed within 30 days after the report and award is filed with the clerk in compliance with the following conditions:
  - (a) A notice of appeal de novo, with an affidavit of the party averring that the appeal is not being for delay, must be filed in the office of the dispute resolution administrator.
  - (b) Upon filing the notice of appeal de novo and affidavit, the appellant must repay the clerk for all fees received by members of the arbitration panel or the single arbitrator. These fees will not be taxed as costs in the case and will not be recoverable by the appealing party. The clerk will be ordered to deposit the fees, or some portion thereof as directed by the court, into a designated account.
  - (c) A poverty affidavit with a motion requesting waiver of the appeal fees may be filed with the notice of the appeal de novo. The affidavit must aver that by reason of poverty the party is unable to make the payments required for an appeal and request that the court allow an appeal de novo without payment of the amount specified in paragraph G(1)(a)(2). The judge will rule on the motion and enter an order accordingly.
  - (d) No appeal can be withdrawn without consent of all parties.
- (2) **Trial de novo.** All appeals shall be de novo proceedings at which members of the arbitration panel or single arbitrator are barred as witnesses. The case will be returned to the docket of the assigned judge for trial.
- (3) **Objections as to Arbitrator Misconduct.**
  - (a) Objections to the decision of the arbitration panel or the single arbitrator based on either misconduct or corruption of the arbitration panel or single arbitrator may be field by any party within 30 days from the filing of the report and award.
  - (b) Copies of the objection must be served upon each arbitrator and the dispute resolution administrator within 48 hours after filing and will be heard by the assigned judge
  - (c) If such objection is sustained, the report and award of the panel shall be vacated by the court and the case set for trial. The filing of an objection will toll the running of the 30 day appeal period until the court has ruled upon the objection.

*Effective 06/01/2021. Renumbered 04/11/2022.*

**21.1 COURT MEDIATION**

**I. ALL MEDIATION**

**(A) Eligible Cases.**

- (1) At any time during the litigation, any civil case may be referred to mediation to be conducted by a mediator employed by the court.
- (2) A case may only be referred to mediation by order of the court. The court may issue the order on its own motion, upon the motion of counsel or upon agreement of the parties.
- (3) At any time during the litigation, a business case may be referred to business mediation as provided in Section II of this rule by court order or by agreement of the parties with the approval of the court.

**(B) Continuances.** Continuances will be granted only for good cause shown. Except as authorized by the court, the existence of pending motions will not be good cause for a continuance and no continuance will be granted unless the mediation can be scheduled prior to the next court event.

**(C) No Stay of Proceedings.** All court orders issued and pending deadlines will remain in full force and effect. No order is stayed or deadline suspended during the mediation process.

**(D) Privilege and Confidentiality.**

- (1) Mediation communications are privileged as described in R. C. 2710.03- 05. If the parties believe that confidentiality beyond the scope of the statutory privilege is necessary, the parties should execute a written confidentiality agreement prior to mediation.
- (2) The mediator may not disclose to the judge or any court employee the contents of mediation discussions unless agreed to by all of the parties.
- (3) Parties, counsel and mediators may respond to confidential inquiries or surveys by persons authorized by the court to evaluate the mediation program. Information provided in such inquiries or surveys will remain confidential and will not be identified with particular cases. The mediation process will be treated as a compromise negotiation for purposes of the Ohio Rules of Evidence.
- (4) The mediator may not be called as a witness for any purpose.

**(E) Mediator's Duty.**

- (1) A mediator is any individual who mediates cases pursuant to an order of this court regardless of whether that individual is an employee, an independent contractor or a volunteer. After mediation, the mediator may inform the court who attended the mediation, whether the case settled, whether efforts to settle the case through mediation are being continued, or that the case is being returned to the court for further proceedings.
- (2) A mediator acting pursuant to this local rule will have all immunity conferred by statute, rule and common law.
- (3) The mediator may not give legal advice. The mediator is authorized to provide contact information for legal or other support services available in the community, however, the provision of that information is not a recommendation of or referral to such resource. The recipient of that information is charged with the duty to evaluate those resources independently.

**(F) Attendance at the Mediation Conference.**

- (1) The attorney who is primarily responsible for each party's case and all parties whose authority is required to reach settlement must attend the mediation. Where a party has delegated full settlement authority to an insurance representative, the insurance representative must attend the mediation. Willful failure of a party to attend the mediation conference will be reported by the mediator to the assigned judge who may impose appropriate sanctions.
- (2) In addition to counsel, any party may have one support person attend and participate in the mediation conference. Individuals who participate in a mediation conference as non-parties are bound by the same rules of privilege and confidentiality and submit to the court's jurisdiction to the extent necessary for enforcement of this rule.

**(G) Mediation Fees.**

- (3) No fees will be charged for civil cases referred to the court's dispute resolution department for mediation.
- (4) If the case is referred to a mediator other than the court's dispute resolution department, the parties will share the cost of the mediation in such proportions as they may agree.

**II. BUSINESS MEDIATION.** In addition to the provisions above, the following provisions apply specifically to business mediation.

**(A) Eligible Cases.** Business case is defined as any case primarily involving one or more of the following areas of law: contract law; matters arising under the Uniform Commercial Code; commercial and business torts; corporate law; securities law; trade secrets law; employment law; construction law; maritime law; international business law; real estate law; or, a case otherwise designated as a commercial docket case.

**(B) Administrative Procedure.**

- (1) Upon receipt of the referral order, the dispute resolution administrator will notify the parties in writing and will include the names of three proposed business mediators taken from the list of eligible business mediators. Each party will rank the business mediators in order of preference and within 10 days of the receipt of the notice of referral must return the rankings to the dispute resolution administrator. In the alternative, the parties may agree to select their own business mediator if written notice is given to the court no later than 10 days from the date of referral.
- (2) Upon receipt of the rankings, the dispute resolution administrator will strike from each party's list the least preferred business mediator and select the remaining name as the designated business mediator.
- (3) The designated business mediator will be notified of the assignment by the dispute resolution administrator in writing. The designated business mediator will have seven days to perform a conflict check and notify the dispute resolution administrator that the

## Cuyahoga County Common Pleas Court Local Rules

appointment has been accepted or declined. The administrator will then send a Notice of Mediator Designation to all counsel and the designated business mediator. If the designated mediator does not accept the assignment, the dispute resolution administrator will repeat the process until a designated business mediator has been assigned.

- (4) The business mediator must schedule the mediation within 30 days of receipt of the Notice of Mediator Designation and send written notice of the hearing date, time and location to all parties and the dispute resolution administrator.
  - (5) The business mediator will receive \$150 per hour as compensation for hearings lasting four hours or less. This fee will be paid by the court and will not be taxed as costs. If the parties agree, business mediation may continue in excess of four hours and time spent will be charged at the mediator's normal hourly rate and will be paid by the parties. Business mediation sessions may not exceed four hours without prior written consent of all parties.
- (C) **List of Eligible Business Mediators.** Business mediators in all cases referred to business mediation will be selected from the list of eligible business mediators. The list will be maintained by the dispute resolution administrator and distributed to all judges of the court. In order to be placed on the list of eligible business mediators, an attorney must submit a written application to the administrative judge. The administrative judge and any committee created for the purpose of maintaining the list of eligible business mediators will consider the applications and place those who are deemed qualified on the list.
- (D) **Contents of Mediator's Application.** The business mediator's application must include all of the following:
- (1) A current resume; and
  - (2) A statement that the applicant is a lawyer who has been admitted to the practice of law in the State of Ohio for at least 5 years or is a member of the faculty of an accredited Ohio law school; and
  - (3) A statement that the applicant has received Fundamentals of Mediation training as defined in Sup.R.16.23(A)(1) or in the alternative, has met the training requirements outlined in Sup. R. 16.23(A)(2).
- (E) **Written Submissions to the Business Mediator.**
- (1) At least five days before the business mediation conference, the parties must submit the following to the business mediator:
    - (a) Copies of relevant pleadings and motions;
    - (b) A short memorandum stating the legal and factual positions of each party; and
    - (c) Other material that each party believes would be beneficial to the mediator.
  - (2) Upon reviewing such material, the business mediator may schedule a preliminary meeting with counsel.
  - (3) Written mediation memoranda should not be filed with or shown to the court.

## Cuyahoga County Common Pleas Court Local Rules

- (F) **Business Mediator's Report.** The business mediator must submit a Mediator's Report to the dispute resolution administrator and to counsel for each party within 10 days of the business mediation conference. The report must comply with the privilege and confidentiality provisions of this rule and R.C. 2710.03. In accordance with Section E of this rule, after the business mediation, the business mediator will issue a report informing the court of who was in attendance, whether the case settled, whether efforts to settle the case will be continued, or that business mediation efforts were unsuccessful and the case is being returned to the court for further proceedings.

### **III. DOMESTIC ABUSE ISSUES**

- (A) Mediation may not be used as an alternative to the prosecution or adjudication of domestic violence, to determine whether to grant, modify, or terminate a protection order, to determine the terms and conditions of a protection order or to determine the penalty for violation of a protection order.
- (B) If opposing parties in any case have either resided in a common residence or are related by blood, adoption, or marriage, and have known or alleged domestic abuse at any time prior to the mediation, then the parties or their counsel have a duty to disclose such information to the dispute resolution staff. Each party will have a duty to participate in any screening required by Sup. R. 16 prior to, and in the mediator's discretion, during the mediation sessions.

*Effective 06/01/2021. Renumbered 04/11/2022.*

Cuyahoga County Common Pleas Court Local Rules

**21.2 REPEALED**

*Local Rule 21.2 Repealed on June 1, 2021 by unanimous vote.*

*Effective 06/01/2021. Renumbered 04/11/2022.*

Cuyahoga County Common Pleas Court Local Rules

**21.3 REPEALED**

*Local Rule 21.2 Repealed on June 1, 2021 by unanimous vote.*

*Effective 06/01/2021. Renumbered 04/11/2022.*



Cuyahoga County Common Pleas Court Local Rules

**22.0 RESERVED**

*Local Rule 22.0 Repealed and Reserved on June 1, 2021 by unanimous vote.*

*Effective 06/01/2021.*

### **23.0 CRIMINAL CASE MANAGEMENT**

The purpose of this rule of criminal practice is to effect the expeditious administration of justice within the confines of the Ohio Rules of Criminal Procedure; the Ohio Revised Code; the Ohio Constitution; and the U. S. Constitution. This rule shall be construed and applied to eliminate delay, unnecessary expense and all other impediments to just determination in criminal cases. The rules of this Court for civil cases apply to criminal proceedings, except where clearly inapplicable.

#### **PRESENTMENT OF MATTERS**

(A) (1) It shall be the function of the Cuyahoga County Prosecutor's Office, in concert with the Clerk of Courts and the Sheriff's Department, to prioritize the presentment of matters to the Grand Jury commencing with the defendants being held in jail and thereafter, depending upon the severity of the alleged crime pursuant to the potential penalty per the Ohio Revised code. Capital cases shall have first priority. Crimes of violence and those involving harm to person shall take precedent over property crimes. Criminal case bound over for grand jury presentment shall be submitted within thirty (30) days of the bindover.

(2) Failure to act. Prisoners in the Cuyahoga County Jail who either have been bound over to the Cuyahoga County Grand Jury for indictment or are proceeding through the Court's ECM process, shall be released by the Cuyahoga County Sheriff without the requirement of bond, if an indictment has not been returned within 30 days of the bind over, or, in the case of ECM prisoners, within 30 days of being booked into the Cuyahoga County Jail. Such a prisoner's release without bond is mandatory at the expiration of 30 days, unless the Sheriff receives an order from the Administrative Judge of the Court of Common Pleas granting the Cuyahoga County Prosecutor for good cause shown additional time to obtain final Grand Jury action as to that prisoner. Upon release of an ECM prisoner for failure to indict within 30 days, the prisoner's case number shall be terminated.

#### **PRE-INDICTMENT**

(B) The Cuyahoga County Sheriff's Department shall provide a list of its inmates to the Prosecutor's office, Clerk's Office, the Bond Commissioner, the Administrative Judge and the Court Administrator on a weekly basis to assist in insuring compliance with 23 (A).

#### **PRE-ARRAIGNMENT**

(C) The Clerk of Courts shall schedule arraignments within five (5) days of indictment, including weekends and holidays for all defendants being held in jail, within fourteen (14) days, including weekends and holidays, for all defendants released on bond. Arraignment lists shall be provided to the Prosecutor's Office, the Bond commissioner, the Administrative Judge, the Court Administrator and the Probations Department.

#### **POST ARRAIGNMENT**

(D) The Clerk of Courts shall forthwith transmit the file to the courtroom of the assigned judge to insure compliance with O.R.C. 2945.71 and 2945.72. It shall be the responsibility of the Prosecutor's Office to immediately notify the assigned Court of "time problem" cases.

## Cuyahoga County Common Pleas Court Local Rules

### **PRETRIAL**

(E) The Court shall schedule pretrials within seven (7) days of arraignment, including weekends and holidays, for all defendants being held in lieu of bond; within fourteen (14) days of arraignment, including weekends and holidays, for all defendants released on bond. The Court shall notify counsel for the state and defense for pretrial dates and times. Where practicable, it shall be the policy of the Court to conduct one (1) pretrial and, thereafter, schedule the trial pursuant to 23(F).

### **TRIALS**

(F) Trials, where practicable, shall be scheduled within thirty (30) days of the pretrial.

### **WAIVERS**

(G) All waivers of speedy trial shall be accepted in writing and incorporated by reference in the Court's docket. The Court shall not accept open ended waivers, but only waivers to a date certain.

### **CONTINUANCES**

(H) No continuances will be granted except by way of written motions approved by the assigned judge and reflected in the Court's docket. Requests for continuances shall be signed by the counsel and, if requested by the defense, signed by the defendant.

### **TIME GUIDELINES**

23.0 (A)(1) - Grand Jury Presentment - within thirty (30) days of bindover.

23.0 (C) - Arraignments:

Incarcerated - within five (5) days of indictment

Bonded - within fourteen (14) days of indictment

23.0 (E) - Pretrials:

Incarcerated - within seven (7) days of indictment

Bonded - within fourteen (14) days of indictment

23.0 (F) - Trial: within thirty (30) days of pretrial

Local Rule 23 - Criminal Case Management - is to have no effect on Court policy relative to probation violation hearings, shock and super shock hearings, post-conviction requests, time frames for procurement of presentence reports (jail v. bond), setting of sentencing dates, capias request unexecuted after thirty (30) days, bonding (C.S.R., cash, surety, personal, 10%), or disposition of defendants returned from institutions for cleanup cases.

*Effective 09/24/1992.*

*Amendment to paragraph (A)(1) and the addition of paragraph (A)(2) effective 04/14/2008.*

**24.0 FORECLOSURE, QUIET TITLE AND PARTITION ACTIONS**

- (A) In cases to quiet title, for partition, and for the marshaling and foreclosure of liens on real property the attorney for the plaintiff shall file with the Clerk, the original guaranteed evidence of the state of the record title to the property in question (Preliminary Judicial Report), including the names of the owners of the property, and a reference to the volume, and page and date of the recording of the next preceding recorded instrument by or through which the owners claim title, as the same shall have been prepared and extended by a responsible title and abstract company to a date not over thirty (30) days prior to the filing of the complaint. The Preliminary Judicial Report shall be filed within fourteen days after filing the complaint.

Upon failure of the attorney for the plaintiff to comply with the foregoing requirement, any interested party may procure leave to furnish and file such evidence of title within the ensuing thirty (30) days. Such evidence of title shall become and remain a part of the case file. Where the evidence of title indicates that necessary parties have not been made defendants the attorney for the party filing the case shall proceed without delay to cause such new parties to be added and served. Judges reserve the discretion to set case management orders and rules of procedure.

- (B) When a motion is filed under Civ.R.55 or Civ.R.56, it should be accompanied by a Proposed Magistrate's Decision and a Final Judicial Report. The Final Judicial Report shall be prepared and filed in accord with the foregoing requirements, including a copy of the case docket showing the address and location of the property and the record state of title through the date of lis pendens. The Final Judicial Report must also have an effective date within six months of the date of judgment.
- (C) Failure to comply with this rule may result in dismissal.
- (D) The expenses of the title work required under this rule shall include a base search fee not to exceed \$300.00, plus a premium on the Judicial Report issued, based on the fair market value of the property or in the case of a foreclosure, the final principal balance due on the first lien or such additional amount as may be allowed by the Court, for each property involved, and said costs shall be taxed as part of the costs in the case. The premium on the Judicial Report is that rate allowed by the Ohio Department of Insurance.

*Effective 11/01/2009.*

**25.0 PARTITION CASES**

Plaintiff's attorney fees in partition cases may be allowed according to the following schedule:

Valuation - \$10,000 or less \$125 - \$500

Valuation in excess of \$10,000 Additional 3% to \$55,000

Valuation in excess of \$55,000 Additional 2%

(Valuation is defined to be that property value established by the appointed commissioners.)

**26.0 RECEIVERSHIP**

- (A) As soon as practical after his appointment, and not more than thirty (30) days after taking possession of property, a receiver shall file an inventory of all property and assets in his possession unless otherwise ordered by the Court.
- (B) A receiver shall file reports of receipts and disbursements with supporting documentation of his acts and transactions as receiver within three (3) months after the date of appointment and at regular intervals every three (3) months thereafter until discharged or at such other times as the Court may direct. Failure to file any report within thirty (30) days after the report is due or ordered shall be grounds for removal without notice and without compensation. Any persons removed as receiver shall be ineligible for any subsequent appointment.
- (C) Applications for compensation of receivers or attorneys for receivers shall be made only upon prior notice to creditors and other persons in interest as the Court may direct. Such applications shall be heard at the convenience of the Court.

(Fee Schedule for Collection of Rents)

Single residence, Double and Miscellaneous Residence Properties -10% of gross monthly income.

Apartment Houses, Storerooms and Office Buildings - from 6% to 9% of the gross income.

A minimum fee of \$60.00 shall be allowed in all cases to cover cost of bond and care of property.

- (D) Where extraordinary repairs or construction are necessary and authorized, a receiver may be allowed additional compensation for supervision thereof to the extent of 10% of the amount authorized and expended. For the securing of new tenants an allowance from 25% to 50% of the first month's rent may be made. Notwithstanding the provisions of this paragraph, a judge may allow additional compensation to a receiver for extraordinary services rendered and not related to repairs or construction upon the filing of a detailed statement of such services. To entitle a receiver to compensation under the foregoing it shall be incumbent upon him to collect the rent and income of the properties in his charge, pay insurance premiums, pay utility bills and cause ordinary repairs to be made.

**27.0 JUDICIAL SALES**

- (A) **Day of Sheriff's Sale.** Except for sales of real property relating to tax delinquencies, the sheriff must conduct all sales of real property on Mondays. If the court is not open for business on a Monday, such sales must be conducted on the next business day. The sheriff may conduct sales of real property relating to tax delinquencies on any day when the court is open for business.
- (B) **Sheriff's Fee in Private Selling Officer Sales.** The sheriff may charge the party requesting the judicial sale of property by a private selling officer a fee of \$25.00 upon the receipt of an Order to Appraise from the Clerk of Courts. The sheriff may refrain from conducting the appraisal of the property until this fee is paid.
- (C) **Return of Order of Sale.** The sheriff or a private selling officer appointed under R.C. 2329.152 must make his or her return of the order of sale to the court within 14 days of the date of sale for sales relating to tax delinquencies and within seven days for all other sales.
- (D) **Notice of Sale.** The party requesting the sale must send notice of the date, time, and place of the sheriff's sale by ordinary mail to the last known address or attorney of record of all parties who have appeared in the case.
- (E) **Notice to Forgo the Payment of Certain Taxes.** If the plaintiff is the sheriff's sale purchaser or the party electing to purchase the property at the appraised value in a partition action, and the plaintiff desires to exercise the right to forgo the payment from the sale proceeds of certain taxes as provided in R.C. 323.47(A) & (B), the plaintiff must conspicuously provide notice that he or she is exercising this right in the successful bidder's form. Failure to do so will result in waiver of this right.
- (F) **Sheriff's Sale Purchaser's Deposit.** In sheriff's sales of residential real property, if the party awarded a decree of foreclosure is the purchaser at the sale, the purchaser will not be required to make a sale deposit. In all other sheriff's sales of real property, the purchaser must deposit the following amount at the time of sale:  
  
If the appraised value of the property (or minimum bid in cases that do not require an appraisal) is:
  - (1) Less than or equal to \$10,000.00, the deposit will be \$2,000.00;
  - (2) Greater than \$10,000.00 but less than or equal to \$200,000.00, the deposit will be \$5,000.00;
  - (3) Greater than \$200,000, the deposit will be \$10,000.
- (G) **Failure to Make Deposit.** For sheriff's sales conducted in person and not online, if a successful bidder cannot make the appropriate deposit immediately following the sheriff's sale, the sheriff will disregard the bid and must immediately re-offer the property for sale.
- (H) **Failure of Purchaser to Provide Information Required by R.C. 2329.271.** If the purchaser fails to provide the information required by R.C. 2329.271, including proof of its active status with the Secretary of State (if the purchaser is not an individual), the sale will be vacated upon the motion of any interested party, as provided in R.C. 2329.27(B)(1).

Cuyahoga County Common Pleas Court Local Rules

(I) **Time to Pay Balance of Purchase Price and Interest on Unpaid Balance.**

- (1) The purchaser must pay the balance of the purchase price to the sheriff within 30 days of the confirmation of the sale.
- (2) Unless the purchase price is paid in full within 15 days of date of sale relating to tax delinquencies or within eight days of other sales, the balance due will bear interest at the rate of 10% per annum from the date of sale to the date of payment. The sheriff must apply the interest to the costs of the case and, if interest remains, distribute the balance to the parties in the proper order of priority.
- (3) The sheriff must include notice of these payment provisions in each advertisement of sale.

(J) **Extension of Time to Pay.** The purchaser for good cause may move for an extension of time to pay the balance of the purchase price. The court has discretion to grant or deny the extension.

(K) **Sheriff's Deed.** On the day following confirmation, the clerk must notify the sheriff of the confirmation. The party who orders the sale must prepare a proposed deed and deliver the deed to the sheriff within seven days of the confirmation of the sheriff's sale. If a deed is not timely delivered to the sheriff, the sheriff may prepare a deed and bill the party who ordered the sale or the party's attorney an appropriate fee for preparing the deed.

(L) **Failure to Pay.**

- (1) **Motion for Contempt Filed by the Sheriff.** If a purchaser fails to timely pay the full purchase price as provided in Part I of this rule, upon motion filed by the sheriff, the case will proceed according to R.C. 2329.30, R.C. 2327.04, and R.C. 2705.05.
- (2) **Motion for Contempt Filed by a Party to the Case.** Unless otherwise ordered by the court, if a purchaser fails to timely pay the full purchase price as provided in Part I of this rule, upon motion filed by any interested party to the case, or the court's own motion, the sheriff's sale and confirmation will be vacated, the order of sale will be returned without execution and the purchaser's deposit will be forfeited. These consequences of failure to pay are in addition to any sanctions the court may impose on the defaulting purchaser for contempt pursuant to R.C. 2329.30, R.C. 2327.04, and R.C. 2705.05.
- (3) **Distribution of Deposit.** In any case where the purchaser's deposit has been forfeited, the sheriff must reimburse the costs related to the failed sale, including sheriff's costs, to the party who ordered the sale out of this deposit. Unless otherwise ordered by the court, the sheriff must refund the remainder of the deposit to the sheriff's sale purchaser.

(M) **Land Bank Provisions.** An electing subdivision, as defined in R.C. 5722.01, that purchases the property at sheriff's sale is exempt from the deposit requirements in Part F of this rule. All costs of the proceeding must be paid before a deed may be issued to an electing subdivision that purchases property at sheriff's sale.

(N) **Sheriff's Appraisers' Fees.**

- (1) **Standard Appraisals.** Appraisal fees are based on the fiscal officer's last tax appraisal of the property as shown by the tax duplicates and are scaled as follows:
  - (a) For property with a tax value of \$0 to \$100,000: each appraiser will receive \$50;



Cuyahoga County Common Pleas Court Local Rules

- (b) For properties with a tax value in excess of \$100,000: each appraiser will receive an additional \$1.25 for each \$5,000 of value or fraction thereof in excess of \$100,000.
  - (c) In addition to the fees above, the appraiser who uses his personal vehicle to transport the appraisers to the appraised property is entitled to mileage as determined by the Sheriff.
  - (d) The appraisers are entitled to a separate appraisal fee for each legal description appraised. If a legal description is associated with multiple parcel numbers, the appraisers will be entitled to only one appraisal fee.
- (2) **Proposed Order to Pay Standard Appraisals.** Compensation for appraisals pursuant to this standard scale may be made without a motion. In cases where the standard scale applies, the sheriff may submit for the court's consideration a proposed order compensating the appraisers per the scale.
- (3) **Special Appraisals.** For good cause shown, the court may award fees in excess of this scale for commercial property or residential property that requires an appraisal more extensive than the standard appraisal. Such appraisals are known as "special appraisals."
- (4) **Motion for Special Appraisal Fees.** To be compensated for a special appraisal, the appraisers must file with the Clerk of Courts a properly supported motion for fees along with a proposed order. Support for the motion must include affidavits that detail the number of hours spent and a statement of hourly rates. The motion must provide a contact address for each appraiser.
- (5) **Appraisers to be Made Court Parties and Notification.** Upon the filing of a motion for special appraisers' fees, the clerk must make the appraisers court parties for the limited purpose of notification. The clerk must send all future notifications to the appraisers at the addresses indicated in the motion.
- (6) **Hearing.** The court, in its discretion, may set a hearing on the motion.
- (7) **Approval of the Court.** No person will receive any compensation for any appraisal without approval of the court.

**(O) Deposit for Special Appraisals.**

- (1) In all foreclosure cases in which a special appraisal is necessary, upon notification by the sheriff, the party ordering a sheriff's sale must make a \$4,000 deposit with the clerk against the cost of the special appraisal. This deposit must be made in addition to all other required deposits and may be used only to cover the cost of the sheriff's sale appraisal.
- (2) Prior to making the deposit, the party required to make a deposit may move with a supporting affidavit or other evidence to lower the deposit amount.
- (3) No special appraisal may be undertaken until such deposit is made.
- (4) If the actual cost of the special appraisal is greater than the amount deposited, upon notification by the sheriff of the actual cost of the special appraisal, the party ordering a sheriff's sale must make an additional deposit for the balance.

Cuyahoga County Common Pleas Court Local Rules

- (5) If the actual cost of the special appraisal is less than the amount deposited or if the property is never appraised, the party ordering a sheriff's sale may move the court for a refund of the balance of the special appraisal deposit.
- (P) **Posting of this Rule.** The sheriff must keep a copy of this entire rule conspicuously posted at the place where he conducts sales and must call attention to the rule before receiving bids. For online sales, the sheriff must conspicuously provide a link to this rule on the sale website.

*Effective 08/24/2020.*

**28.0 APPEALS TO THE COMMON PLEAS COURT**

Except as otherwise provided by specific rules or statutes, all cases filed by way of appeal from administrative agencies, except Workers' Compensation cases, shall be governed by the same procedure.

- (A) Within twenty (20) days after the filing of a complete transcript (of all the original papers, testimony and evidence offered, heard and taken into consideration in issuing the order appealed from) with the Clerk of Common Pleas Court, appellant shall file his assignments of error and brief.
- (B) Within fifteen (15) days after filing of appellant's brief, appellee shall file his brief in opposition, and may file assignments of error on his own behalf.
- (C) Within seven (7) days after filing of appellee's brief, appellant may file reply brief.
- (D) The Court shall for good cause shown have and exercise the power to extend or shorten the time within which assignments of error or briefs shall be filed.

**29.0 RETENTION AND DESTRUCTION OF RECORD EXHIBITS**

- (A) **Scope.** The purpose of this rule is to provide minimum standards for the maintenance, preservation, and destruction of records within the court. The rule applies for the duration of an evidentiary hearing, trial, and appeal time, in accordance with the schedules set forth in Sup.R. 26.01 to 26.05 and R.C. 2933.82.
- (B) **Definitions.**
- (1) **Exhibit.** Any document, device, or item, regardless of physical form or characteristic, created, introduced, produced, proffered, received, or exhibited at an evidentiary hearing or trial.
  - (2) **Inventory List.** A written index created by the record custodian identifying exhibits, depositions, and transcripts.
  - (3) **Permanent Record.** All exhibits, depositions, transcripts, and the inventory list maintained in compliance with this rule.
  - (4) **Record Custodian.** Any person or agency responsible for the care and control of the permanent record.
- (C) **During Hearing or Trial.** The record custodian will receive and hold all exhibits proffered or admitted into evidence during the hearing or trial of any case, and will be responsible for the security and storage of those exhibits, except weapons, ammunition, currency, controlled substances, biological evidence, pyrotechnic or explosive devices, or contraband, as described in R.C. 2901.01 (A)(13).
- (D) **Conclusion of Hearing or Trial.**
- (1) **Evidence Not Retained by Record Custodian.** Weapons, ammunition, currency, controlled substances, biological evidence, pyrotechnic or explosive devices, or any contraband as described in R.C. 2901.01 (A)(13), or oversized demonstrative items of evidence will be retained by the party, counsel, or agency offering such evidence pursuant to all applicable rules and statutes governing the retention of such evidence.
  - (2) **Evidence Retained by Record Custodian.** All other evidence will be retained by the record custodian in conformance with Paragraphs F and G of this rule.
  - (3) **Inventory Procedures for All Evidence.**
    - (a) The record custodian will compile the inventory list of all exhibits by listing the exhibit number or letter with a brief description of the exhibit. The inventory list will state which party or agency representative is retaining the evidence.
    - (b) Each party and the judge or magistrate will sign the inventory list.
    - (c) Each party will receive a signed copy of the inventory list.
    - (d) The record custodian will retain one copy of the inventory list as part of the permanent record.
- (E) **Form of Exhibits.** Any exhibits which are part of the permanent record of the case are limited to 8 ½" x 11" in size (letter size). The party responsible for the exhibit will ensure that oversize or three-dimensional exhibits are reduced by photograph or duplication and approved by the judge or hearing officer for inclusion into the permanent record as an exhibit.
- (F) **Time Limits Criminal Cases.**
- (1) **Capital or Life Sentence Convictions.** Exhibits admitted, including exhibits in which forensic testing was performed, in cases where the maximum possible sentence is lifelong incarceration or the death penalty, must be permanently retained in the custody of the party, counsel, or agency who took receipt of the evidence and signed the inventory list in accordance with Section D of this rule.

## Cuyahoga County Common Pleas Court Local Rules

- (2) **Other Criminal Convictions.** Exhibits in all other felony cases must be retained for five years from the date of the final entry of the conviction. Exhibits in misdemeanor cases must be retained for one year.
  - (3) **Acquittals.** In cases in which a defendant has been acquitted, the exhibits will be immediately returned to the parties with the inventory list signed by all parties and the judge in accordance with Section D of this rule.
  - (4) **Hung Juries.** In cases of a hung jury, exhibits will be returned to the party in accordance with Section D of this rule or held by the record custodian in evidence at the discretion of the judge.
  - (5) **Destruction of the Exhibits.** Prior to destruction of exhibits in criminal cases, the record custodian must send written notification to the party or agency who submitted the exhibits and require the prosecutor's office to notify the victim or victim's family that:
    - (a) Exhibits may be retrieved within 60 days from the date of the notification and of the location and time to retrieve the exhibits;
    - (b) Exhibits will be destroyed if not retrieved within 60 days of the notification;
    - (c) The party or agency may file a motion to prevent destruction of the exhibits within 60 days of the notification. If a motion to prevent destruction of exhibits is filed under this rule, the court must set the motion for hearing prior to ordering destruction of the exhibits.
- (G) **Time Limits Civil Cases.**
- (1) **Real Estate Cases.** Exhibits in matters that result in a final judgment determining the title or interest in real estate must be permanently retained.
  - (2) **Civil Cases under Appeal.** Exhibits in civil cases under appeal will be retained for three years from the date of the final judgment entry.
  - (3) **Civil Cases not Appealed.** Exhibits in civil cases which have not been appealed will be held for one year.
  - (4) **Destruction of Exhibits.** Prior to destruction of exhibits in civil cases, the record custodian must send written notification to the party or agency who submitted the exhibits that:
    - (a) Exhibits may be retrieved within 60 days from the date of notification and of the location and time to retrieve the exhibits;
    - (b) Exhibits will be destroyed if not retrieved within 60 days of the notification.
- (H) **Extension of Retention Period.** The court may order the retention period for an individual case extended beyond the period specified in this rule or Sup R. 26 to 26.05 at its discretion.

*Effective 10/18/2021.*

**30.0 ASSIGNMENT OF CRIMINAL CASES**

Local Rule 30 (as amended)

The Judge presiding in the Arraignment Room shall be chosen by lot and shall serve for a period of two weeks.

All motions for continuance will be made in writing and may only be granted by the Arraignment Room Judge upon a showing of good cause. A second continuance may only be granted by the Administrative Judge.

All cases shall be assigned to a Judge by lot, upon arraignment of the defendant, in accord with Rules 4 and 36 of the Rules of Superintendence of the Courts of Ohio. There will be a random assignment of cases to Judges through an objective and impartial system that ensures the equitable distribution of cases among Judges.

The following procedure will be used:

- (A) Notwithstanding paragraph (E) below, a red ticket shall be drawn in all capital cases; Provided however, when a case is initially indicted without capital murder specifications but is later re-indicted based on essentially the same set of facts and circumstances which adds a capital murder specification. The originally assigned Judge will remain on the case until final disposition and said Judge shall be correspondingly credited with receiving a capital case assignment.
- (B) Cases will be randomly assigned to the docket of a Judge where the defendant has no pending case[s], is not on probation or community control at the time of the offense, there is no co-defendant[s] with a pending case or probation or community control cases, or the defendant pleads guilty at arraignment, except where a defendant has a confirmed serious mental illness or is developmentally disabled as defined in local rule 30.1 (a)(1) or (a)(2).
- (C) Where a defendant has a confirmed serious mental illness or is developmentally disabled as defined in local rule 30.1 (a)(1) or (a)(2), cases will be randomly assigned to Judge's dockets pursuant to local rule 30.1 (c). where a defendant's mental status is unconfirmed at arraignment, the case shall be assigned pursuant to section (b) of this rule. If after arraignment it is determined that the case should have been assigned to a Mental Health Court Docket, the case may be reassigned pursuant to Local Rule 30.1 (c)(2).
- (D) In capital cases where the defendant has in open Court already made a knowing, intelligent, and voluntary waiver of the right to a jury trial and has made the decision to have a trial before a three Judge panel or a plea required to be heard by a three Judge panel. The Administrative Judge shall assign the remaining panel members by random selection. If the Administrative Judge determines an assigned Judge is unavailable, the Administrative Judge will randomly select another Judge to replace that Judge.
- (E) Cases will be re-assigned to Judges when:
  - (1) A single defendant commits a new offense while on probation or community control. The case shall then be assigned to the docket of the Judge with such prior case.
  - (2) A single defendant has a pending case. The case shall then be assigned to the docket of the Judge with the pending case.

Cuyahoga County Common Pleas Court Local Rules

- (3) A defendant has co-defendant[s] on this case or has co-defendant[s] with a prior pending case, then the case shall be assigned to the docket of the Judge who was assigned the pending case. If two or more defendants have pending cases, the case shall be assigned to the docket of the Judge with the lowest numbered case.
  
- (4) A defendant has co-defendants where one co-defendant has a pending case and the other defendant has a probation or community control case. The case shall then be assigned to the docket of the Judge with the pending case.
  
- (5) A defendant has co-defendant[s] where no co-defendant has a pending case but a co-defendant[s] is on probation or community control, then all defendants shall be assigned to the docket of the Judge who has a co-defendant on probation or community control. Where there is more than one co-defendant on probation or community control, the case shall be assigned to the docket of the Judge with the lowest numbered case.

*Effective 5/20/2015.*

**30.1 ASSIGNMENT OF CRIMINAL CASES TO MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES DOCKETS**

(A) ELIGIBILITY FOR MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES (MHDD) DOCKET

- (1) Defendants with a confirmed severe mental illness with a psychotic feature or developmental disabilities, as determined by the Court's guidelines set forth in the Appendix hereto are to be assigned to an MHDD docket.
- (2) Defendants charged under Ohio Revised Code Sections 2903.01, 2903.02, 2903.03 and 2903.04 are not eligible for the MHDD docket upon arraignment or upon transfer except as provided in subsection (C)(2)(e) and (f).

(B) APPOINTMENT OF JUDGES TO PRESIDE OVER MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES DOCKETS

The Administrative Judge will select the chairperson and members for the MHDD docket. The judges will serve for a period of three years from the date of assignment. Upon approval of the Administrative Judge, the judges may be reappointed to successive terms.

(C) ASSIGNMENT OF CASES TO MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES DOCKETS

- (1) At arraignment, except as otherwise provided for in paragraph (D) of this rule, there will be a random assignment of identified MHDD defendants to MHDD judges.
- (2) Transfer of cases to MHDD Dockets Post Arraignment
  - (a) In cases where it is determined after assignment to a non-MHDD judge that the defendant qualifies for the MHDD docket, the assigned judge may apply to the Administrative Judge for transfer of the case to the MHDD docket. Upon approval for transfer, the MHDD judge will be assigned randomly. The MHDD judge receiving the case will be exempted from receiving one new case for assignment from the regular arraignment room draw for each case transferred.
  - (b) Once a Common Pleas Court has been formally notified of a defendant's MHDD docket eligibility, no transfer of defendant's case will be permitted after 30 days from the formal notification and it must be prior to any plea. Eligible defendants may also be transferred following sentencing to a community control sanction.
  - (c) In cases involving multiple defendants, if one or more of the defendants, but not all, are determined to be eligible for the MHDD docket, the transfer of those eligible defendants may only occur following sentencing to a community control sanction.
  - (d) In cases where it is determined after assignment to a non-MHDD judge, that the defendant qualifies for the MHDD docket and has been opined Incompetent To Stand Trial but Restorable or in need of a 20-day evaluation, the non-MHDD judge shall first issue an order for restoration/20-day evaluation and thereafter, may apply for transfer of the case as set forth in (a) above.



Cuyahoga County Common Pleas Court Local Rules

- (e) In cases where a defendant enters a plea of NOT GUILTY BY REASON OF INSANITY and produces an accompanying report challenging his/her sanity at the time of the incident, a Court may apply to transfer the case.
- (f) In cases where a defendant has been found incompetent to stand trial, unrestorable (ISTU) or not guilty by reason of insanity (NGRI), a Court may apply to transfer the case only after it has been concluded and is subject to the continuing jurisdiction of the Court.

(D) CASES WILL NOT BE ASSIGNED TO MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES DOCKETS WHEN:

- (1) A defendant is charged with a new offense while on probation or community control. The case shall then be assigned to the docket of the judge with such prior case.
- (2) A defendant has a pending case. The case shall then be assigned to the docket of the judge with the pending case.
- (3) A defendant has co-defendant(s) with a prior pending case. The case shall be assigned to the docket of the judge who was assigned the pending case. If two or more defendants have pending cases, the case shall be assigned to the docket of the judge with the lowest numbered case.
- (4) A defendant has co-defendants where one co-defendant has a pending case and the other defendant has a community control case. The case shall then be assigned to the docket of the judge with the pending case.
- (5) A defendant has co-defendant(s) where no co-defendant has a pending case but a co-defendant(s) is on community control, then all defendants shall be assigned to the docket of the judge who has a co-defendant on community control. Where there is more than one co-defendant on community control, the case shall be assigned to the docket of the judge with the lowest numbered case.

*Effective 11/18/2021.*

**30.2 ASSIGNMENT OF CRIMINAL CASES TO DRUG COURT DOCKETS**

**(A) Purpose**

The Drug Court docket(s) are established in order to reduce substance use disorders and recidivism by utilizing treatment and community control alternatives through a multi-disciplinary approach. Drug Court docket(s) are established to target high risk and high need individuals within the criminal justice system. The Drug Court Dockets utilizes a risk assessment tool and a substance abuse assessment to appropriately identify risk to recidivate and level of care needs. The totality of these assessments determine the eligibility and placement into each specific Drug Court docket based on target population requirements. Appendix A outlines the current target population for each Drug Court docket(s) for which an offender may be placed.

**(B) Appointment of judges to preside over the Drug Court docket(s)**

The Administrative Judge will select a Common Pleas Court General Division judge(s) for the Drug Court docket(s). The judge(s) will serve for a period of three years from the date of appointment. Upon approval of the Administrative Judge, the judge(s) may be reappointed to successive terms.

**(C) Eligibility for the Drug Court docket programs.**

The Drug Court docket(s) will be available to offenders who are arrested for or plead guilty to:

**(1) Legal Criteria**

- a. Any misdemeanor or felony offense of the third, fourth or fifth degree felony eligible for Community Control Sanctions, expect the following:
  - i. Sexually oriented offenses;
  - ii. Gang-related offenses;
  - iii. Any offender who has exhibited a pattern of violent or drug trafficking convictions.
- b. Any charge determined eligible for diversion, per the Cuyahoga County Prosecutor's Office;
- c. Any offender eligible Intervention in lieu of Conviction (ORC 2951.041) or other diversionary programs with the appropriate clinical diagnosis;
- d. Any offender in violation of Community Control Sanctions, expect those outlined in (C)(1)(a);
- e. Any offender eligible for Judicial Release, expect those outlined in (C)(1)(a);
- f. Any offender with pending felony charges in another jurisdiction will be reviewed on a case by case basis to verify the potential offender's ability to comply with the Drug Court conditions;
- g. Per Supreme Court Specialized Docket Commission standards, (Sup. R. Appendix I, Standard 3, (C)(1)&(2)), the specialized judge has discretion to decide the admission into the specialized docket in accordance with written criteria. Further, the written and clinical criteria does not create a right to participate in a specialized docket;

**(2) Clinical Criteria**

- a. Moderate to severe substance use disorder;
- b. An offender must volunteer to participate in the Drug Court docket(s) and comply with treatment planning and the Drug Court conditions;
- c. An offender must be capable of participating and completing all Drug Court conditions;
- d. An offender who is clinically eligible for the Mental Health and Developmental Disabilities (MHDD) Court will be excluded from eligibility.

## Cuyahoga County Common Pleas Court Local Rules

### (3) Diversionary and Non-Diversionary Tracks

The Drug Court docket(s) has two tracks, one diversionary and one non-diversionary. Offenders on both tracks will receive the benefit of enhanced treatment resources through a multi-disciplinary team and stakeholders. Unless the Prosecutor's Office assents to Diversionary status prior to the offender's plea of guilty to the underlying offense, the offender shall be on the non-diversionary track.

#### a. Diversionary Track

- i. If the offender is placed on the diversionary track, the Court shall accept the offender's plea of guilty and waiver of the right to a speedy trial, a preliminary hearing, and the time period within which a grand jury may indict. The guilty verdict shall be held in abeyance as the participant completes the program.
- ii. Every participant will be reviewed for placement for the diversionary track by the Cuyahoga County Prosecutor's Office. A participant may have prior felony convictions and be eligible for this track. If the Prosecutor's Office does not consent to the Diversionary Track, the participant will be placed in the non-diversionary track.

#### b. Non-Diversionary Track

- i. The offender shall have their guilty plea accepted and a finding of guilt entered, in accordance with Ohio Rule of Criminal Procedure 11.

### **(D) Transfer of Cases to the Drug Court docket(s)**

In cases where it has been determined an offender meets legal and clinical eligibility and has volunteered to enter into the docket, the assigned courtroom will be notified and may apply to the Administrative Judge when a case has been granted diversion or is prepared to plea and/or in accordance with (C)(1) of this rule.

- a. Determination of the appropriate Drug Court docket will be determined based on the offender's clinical need and risk to recidivate;
- b. A Participation Agreement must be signed by the offender;
- c. Once a case is transferred to the Drug Court docket, the assigned Drug Court judge shall acquire full jurisdiction over the transferred case.;
- d. If a defendant is deemed ineligible for the Drug Court docket(s) prior to the plea, the transferred case shall be returned to the active docket of the originally assigned judge.

### **(E) Successful Completion**

Once an offender completes all court ordered conditions and phasing requirements of the Drug Court program they may apply for graduation.

- a. An offender who successfully completes the diversionary track of the Drug Court docket(s) shall have their proceedings dismissed and the Court shall order the sealing of records pursuant to R.C. 2953.52. The case shall be without adjudication of guilt, and is not a criminal conviction for purposes of any disqualification or disability imposed by law and/or upon conviction of a criminal offense.
- b. An offender who successfully completes the non-diversionary track of the Drug Court docket(s) will have their Community Control sanctions terminated.

Appendix A

The Drug Court docket(s) addresses offenders with moderate to severe substance use disorders. Offenders may also suffer from other behavioral health disorders or have differing criminogenic needs. Therefore, it was important for the Cuyahoga County Common Pleas Court to tailor each of the Drug Court docket(s) to target diverse behavioral health disorders in an effort to treat each offender's need safely and effectively based on best practice standards.

The Drug Court docket funding is often provided by federal or state grants and therefore target population for each of the dockets may be revised over time based on community needs and growing research. Appendix A will be updated whenever a target population is modified or changed.

The following information defines the target population for each Drug Court docket(s) based on an offender's substance use and/or mental health assessment, along with an ORAS assessment and an interview with the potential participant.

1. Traditional Drug Court docket criteria:

- Moderate to severe substance use disorders (excluding opioid use disorder);
- Moderate ORAS Assessment

2. Recovery Court docket criteria:

- Moderate to severe substance use disorders;
- Human Trafficking exposure;
- Moderate to High Risk ORAS Assessment

3. Opioid Use Disorder (Medical Assisted Treatment- MAT) Drug Court docket criteria:

- Moderate to severe Opioid Use Disorder;
- Moderate to High Risk ORAS Assessment;

4. HOPE Drug Court criteria:

- Moderate to severe substance use disorder (excluding opioid use disorder); and
- High Risk ORAS Assessment
- Offenders with lengthy criminal histories records may be considered.

**30.3 ASSIGNMENT OF CRIMINAL CASES TO VETERANS TREATMENT COURT DOCKET**

**(A) Purpose**

The Veterans Treatment Court (VTC) docket is established for offenders presently serving on active duty in the military, the Reserves, and the National Guard, or for veterans/individuals who served in the United States Armed Forces. VTC serves those with substance use disorders, mental health use disorders, and at risk of recidivism, by utilizing treatment and community control alternatives through a multi-disciplinary approach. VTC will utilize the shared military experience of other veterans to assist the offenders while promoting public safety and alternatives to incarceration.

VTC docket is established to target high risk and high need individuals within the criminal justice system. VTC utilizes a risk assessment tool and a substance abuse assessment to appropriately identify risk to recidivate and level of care needs. The totality of these assessments determine the eligibility and placement into VTC.

**(B) Appointment of a judge to preside over the Veterans Treatment Court**

The Administrative Judge will select a Common Pleas Court General Division judge for the Veterans Treatment Court. The judge will serve for a period of three years from the date of appointment. Upon approval of the Administrative Judge, the judge may be reappointed to successive terms.

**(C) Eligibility for the Veterans Treatment Court**

The Veterans Treatment Court docket will be available to offenders who are arrested for or plead guilty to:

**(1) Legal Criteria**

- a. Any misdemeanor or felony offense eligible for Community Control Sanctions, except for the following:
  - ii. Current or past sexually oriented offenses with notification requirements;
- b. Any charge determined eligible for diversion, per the Cuyahoga County Prosecutor's Office;
- c. Any offender eligible for Intervention in Lieu of Conviction (ORC 2951.041) or other diversionary programs with the appropriate clinical diagnosis;
- d. Any offender in violation of Community Control Sanctions, except those outlined in section (C)(1)(a);
- e. Any offender eligible for Judicial Release, except those outlined in section (C)(1)(a);
- f. Any offender with pending felony charges in another jurisdiction will be reviewed on a case by case basis to verify the potential offender's ability to comply with the Veterans Treatment Court conditions;
- g. Per Supreme Court Specialized Docket Commission standards (Sup. R. Appendix I, Standard 3, (C)(1)&(2)), the specialized judge has discretion to decide the admission into the specialized docket in accordance with written criteria. Further, written and clinical criteria do not create a right to participate in a specialized docket.

**(2) Clinical Criteria**

- a. Moderate to severe substance use disorder;
- b. Mild to severe substance use disorder and mental health diagnosis;

## Cuyahoga County Common Pleas Court Local Rules

- c. An offender must volunteer to participate in the Veterans Treatment Court and comply with treatment planning and court conditions;
- d. An offender must be capable of participating and completing all Veterans Treatment Court conditions;
- e. Moderate to High Risk ORAS Assessment;
- f. Low risk ORAS Assessment may be considered if high responsivity needs are identified;
- g. An offender who is clinically eligible for the Mental Health and Developmental Disabilities (MHDD) Court will be reviewed and appropriate recommendations for which Court the offender is best suited for will be determined.

### (3) Veteran Eligibility

- a. An offender shall present evidence of military service with military form, DD-214;
- b. An offender's discharge status alone does not affect eligibility. The Veteran Treatment Court Judge will review an offender with bad conduct, dishonorable conduct, or failure to complete basic training.
- c. It is **not** a requirement of the Veteran's Treatment Court that an offender be service-connected for injury or disability.
- d. It is **not** a requirement of the Veterans Treatment Court that an offender be eligible for VA medical benefits.

### (4) Diversionary and Non-Diversionary Tracks

The Veterans Treatment Court will have two tracks, one diversionary and one non-diversionary. Offenders on both tracks will receive the benefit of enhanced treatment resources through a multi-disciplinary team and stakeholders. Unless the Prosecutor's Office assents to Diversionary status prior to the offender's plea of guilty to the underlying offense, the offender shall be on the non-diversionary track.

#### a. Diversionary Track

- i. If the offender is placed on the Diversionary Track, the Court shall accept the offender's plea of guilty and waiver of the right to a speedy trial, a preliminary hearing, and the time period within which a grand jury may indict. The guilty verdict shall be held in abeyance as the participant completes the program.
- ii. Every participant will be reviewed for placement for the Diversionary Track by the Cuyahoga Prosecutor's Office. A participant may have prior felony convictions and be eligible for this track. If the Prosecutor's Office does not consent to the Diversionary Track, the participant will be placed in the Non-Diversionary Track.

#### b. Non-Diversionary Track

- i. The offender shall have their guilty pleas accepted and a finding of guilt entered, in accordance with Ohio Rule of Criminal Procedure 11.

### **(D) Transfer of Cases to the Veterans Treatment Court docket(s)**

In cases where it has been determined an offender meets legal and clinical eligibility **and** has volunteered to enter into the docket, the assigned courtroom will be notified and may apply to the Administrative Judge when a case has been granted diversion or is post-plea.

## Cuyahoga County Common Pleas Court Local Rules

- a. A Participation Agreement must be signed by the offender;
- b. An offender found eligible for Diversion or Intervention in Lieu of Conviction may be transferred prior to a plea;
- c. An offender who is found guilty or plead guilty to a felony of the third, fourth or fifth degree may be transferred post-plea;
- d. An offender who is found guilty or plead guilty to a felony of the first or second degree may be transferred post-sentence when a community control sanction is imposed;
- e. Once a case is transferred to the Veterans Treatment Court, the assigned VTC judge shall acquire full jurisdiction over the transferred case;
- f. If a defendant is deemed ineligible for any reason prior to acceptance into VTC, the transferred case shall be returned to the active docket of the originally assigned judge.

### **(E) Successful Completion**

Once an offender completes all court ordered conditions and phasing requirements of the Veterans Treatment Court program they may apply for graduation.

- a. An offender who successfully completes the diversionary track of the Veterans Treatment Court shall have their proceedings dismissed and the Court shall order the sealing of records pursuant to R.C. 2953.52. The case shall be without adjudication of guilt, and is not a criminal conviction for purposes of any disqualification or disability imposed by law and/or upon conviction of a criminal offense.
- b. An offender who successfully completes the non-diversionary track of the Veterans Treatment Court will have their community control sanctions terminated.

*Passed by Emergency Vote 12/19/2022*

**30.4 ASSIGNMENT OF CRIMINAL CASES TO THE RE-ENTRY COURT (REEC)**

- (A) **Purpose.** The Cuyahoga County Re-Entry Court (REEC) is an intensive form of judicial release supervision committed to working with defendants to end the cycle of incarceration. The Court identifies eligible defendants, assesses their needs and links them to services specific to those needs to increase the likelihood of their rehabilitation and successful return to the community.
- (B) **Appointment of Judge(s) to Preside Over Re-Entry Court.** The Administrative Judge will select a Common Pleas Court, General Division Judge(s) to preside over the Re-Entry Court. The REEC Judge(s) will serve for a period of three years from the date of appointment. Upon approval of the Administrative Judge, the Judge(s) may be reappointed to successive terms. Any Common Pleas Court, General Division Judge who desires to preside over the Re-Entry Court may submit his or her name to the Administrative Judge for consideration.
- (C) **Eligibility.**
- (1) The defendant must be statutorily eligible for judicial release under R.C. 2929.20 or R.C. 2929.201;
  - (2) The defendant must be serving a prison term imposed in this Common Pleas Court;
  - (3) The defendant must intend to reside in this county or have a stable residence in a county adjacent to Cuyahoga County;
  - (4) The defendant may be currently serving prison terms on no more than two criminal case numbers from this Common Pleas Court;
  - (5) The defendant may be currently serving no more than his or her sixth prison term;
  - (6) The defendant cannot have any outstanding felony or misdemeanor arrest warrants, except on minor traffic matters;
  - (7) Defendants currently serving prison terms for contact sex offenses are ineligible, but those serving terms for non-contact offenses, namely, R.C. 2907.07, 2907.08, 2907.06, 2907.323(A)(3), 2907.32, 2907.21, 2907.321, 2907.322, and 2907.323(A)(1)-(2) are eligible;
  - (8) Defendants with any pending felony charges or open felony cases in any court are ineligible;
  - (9) The defendant must complete the entire application and questionnaire; incomplete applications and questionnaires will not be considered.
- (D) **Procedure for Admission.** Defendants may make application for Re-entry Court or file a judicial release motion. Both will be reviewed by the REEC Judge for all participating Sentencing Judges. The REEC Judge will review each application and motion and consider each defendant's suitability for participation and, if warranted, grant acceptance into the Court and notify the Sentencing Judge. The Sentencing Judge retains the discretion to determine whether or not to transfer the defendant's case to REEC and if so, the Sentencing Judge will request the Administrative Judge to reassign the case to the REEC Judge. Upon reassignment, the REEC Judge will assume all supervision of the defendant in his or her prison case number(s) and receive any new felony case(s) against the defendant during such supervision.

*Effective 03/11/2015.  
Amended 10/16/2019.*



**30.5 ASSIGNMENT OF CRIMINAL CASES TO HIGH-RISK DOMESTIC VIOLENCE DOCKET**

- (A) **PURPOSE.** The High-Risk Domestic Violence Docket is established to reduce intimate partner violence and risk of homicide by utilizing a specialized collaborative approach by criminal justice professionals highly trained in intimate partner violence. Enhanced accountability practices will be utilized to increase victim safety, and evidence-based practices will be utilized to facilitate and support behavior change in the defendant. The defendant must also satisfy eligibility requirements of Section (C) of this rule.
- (B) **APPOINTMENT OF JUDGE TO PRESIDE OVER HIGH-RISK DOMESTIC VIOLENCE DOCKET.** The Administrative Judge will select a Common Pleas Court General Division Judge for the High-Risk Domestic Violence Docket. The judge will serve for a period of three years from date of appointment. Upon approval of the Administrative Judge, the judge may be reappointed to successive terms. Thereafter, any Common Pleas Court General Division Judge who desires to preside over the High-Risk Domestic Violence Docket may submit his/her name to the Administrative Judge for consideration.
- (C) **ELIGIBILITY FOR HIGH-RISK DOMESTIC VIOLENCE DOCKET.** Only cases involving intimate partner violence will be considered. Cases are identified by the presence of high-risk lethality factors in the current offense, specifically an allegation of strangulation and/or use of a firearm.
- (D) **ASSIGNMENT OF CASES TO THE HIGH-RISK DOMESTIC VIOLENCE DOCKET.** The cases will be randomly assigned at Arraignment to a Common Pleas Court Judge. Defense counsel will inform the defendant of his/her eligibility to be placed on the High-Risk Domestic Violence Court and determine whether or not they are willing to participate. The assigned judge will be notified that the case meets admission criteria for the High-Risk Domestic Violence Court due to the presence of the high-risk lethality risk factors of strangulation and/or use of a firearm in the offense and that the defendant has agreed to have the case transferred to the High-Risk Domestic Violence Court. Should the assigned judge approve, the case will be transferred to the High-Risk Domestic Violence Docket.
- (E) **PROCEDURE FOR ADMISSION.** A defendant must enter into a Participation Agreement with the High-Risk Domestic Violence Court. Eligible cases shall be transferred to the High-Risk Domestic Violence Court as early in the case as is possible or by the plea or trial date at the latest.
- (F) **CASES WILL NOT BE ASSIGNED TO THE HIGH-RISK DOMESTIC VIOLENCE DOCKET WHEN:**
- (1) A defendant has a pending case with a new offense while on probation or community control. The case shall then be assigned to the docket of the judge with such a prior case.
  - (2) A defendant has a pending case. The case shall be assigned to the docket of the judge with a pending case.
  - (3) A defendant has a co-defendant(s) with a prior pending case. The case shall be assigned to the docket of the judge who was assigned to the pending case. If two or more defendants have pending cases, the case shall be assigned to the docket of the judge with the lowest numbered case.
  - (4) A defendant has co-defendants where one co-defendant has a pending case and the other defendant has a community control case. The case shall then be assigned to the docket of the judge with the pending case.

Cuyahoga County Common Pleas Court Local Rules

- (5) A defendant has co-defendant(s) where no co-defendant has a pending cases but a co-defendant(s) is on community control, then all defendants shall be assigned to the docket of the judge who has a co-defendant on community control. Where there is more than one co-defendant on community control, the case shall be assigned to the docket of the judge with the lowest numbered case.
- (G) **EFFECT OF TRANSFER.** When a case is transferred to the High-Risk Domestic Violence Docket, the assigned High-Risk Domestic Violence Docket Judge shall acquire full jurisdiction over that transferred case. If a defendant is deemed ineligible for the High-Risk Domestic Violence Docket, the transferred case shall be returned to the active docket of the originally assigned judge.

*Effective 09/08/2020.*

**31.0 GRAND JURY**

- (A) Members of any Grand Jury and a number of alternate members in excess of five as determined by the Court shall be selected as provided by statute or by such rules as may be promulgated by the Supreme Court. In the event of a vacancy on the grand jury and arising from disability, death, resignation or other cause, a successor or successors shall be chosen from other resident electors. At the beginning of each term of Court a Grand Jury shall be in session from 9:00 a.m. to 12:00 n. and from 1:15 p.m. to 4:15 p.m. on such days and times as ordered by the administrative judge or the presiding judge in charge of said grand jury until accumulated business has been disposed.
- (B) At the beginning of each term of Court a Grand Jury shall be in session from 9:00 a.m. to 12:00 n. and from 1:15 p.m. to 4:15 p.m. on such days and times as ordered by the administrative judge or the presiding judge in charge of said grand jury until accumulated business has been disposed.
- (C) (1) All proceedings of the Grand Jury including all testimony and evidence offered to the Grand Jury, comments of the Prosecuting Attorney, and instructions of the Court and Prosecuting Attorney, except as otherwise provided, shall be recorded verbatim, by the official Cuyahoga County Court Reporter, or an official assistant reporter.  
  
(2) Except as otherwise provided by law and Section (3) of this rule, all Grand Jury proceedings shall remain secret, and the notes of the official Cuyahoga County Court Reporter shall remain in the sole possession and custody of the official Court Reporter unless ordered by a Court of competent jurisdiction.  
  
(3) The Cuyahoga County Prosecutor may obtain transcripts of Grand Jury proceedings from the official Cuyahoga County Court Reporter at any time, without court order, for use as provided by law.  
  
(4) The deliberations of the Grand Jury shall remain secret and shall not be recorded.

*Effective 09/26/2022.*

**32.0 PROBATION DEPARTMENT**

No defendant who has pled guilty or has been found guilty of a felony shall be placed on probation until a written presentence investigation report has been prepared by a probation officer and submitted to the Court.

Upon receipt of an order of investigation by the Court to the department, the department shall investigate and shall complete a report in writing to the Court. Such written report of investigation shall not be made available to any person for inspection without express authorization by such judge.

If the Court grants probation, the Court shall cause the sentence to be journalized, and the defendant shall immediately report and be placed under the control and supervision of the department. The department will instruct the defendant on the general rules of probation and any special conditions imposed by the Court.

Upon failure of any probationer to comply with the imposed rules and conditions, the department shall report the fact to the Court.

**33.0 ASSIGNMENT AND COMPENSATION OF COUNSEL TO DEFEND**

**PART I.**

(A) No attorney will be assigned to defend any indigent person in a criminal case unless his or her name appears on one of the approved trial counsel lists as designated in paragraphs (a)(1)-(7) and meets the minimum requirements in paragraph (8) of this part. Any lawyer admitted to practice by the highest Court of any state of the United States is eligible to have their name entered on the appropriate list after approval of their application. The application shall identify the cases in which the applicant served as counsel, including the names of the parties, the Courts in which the cases were tried, the Court docket numbers, the names of the trial judges, the trial dates and other information as may be required by the Court. The applications will be reviewed by the Appointed Counsel Review Board which shall make the final determination.

The approved trial counsel lists shall be in effect for a period of two years consistent with counsel's biennial continuing legal education reports and will end on January 31 of the following year. Counsel whose name appears on the approved trial counsel lists may file an application for renewal to serve as appointed counsel to sustain eligibility. The renewal application shall be filed no earlier than three months prior to, and no later than, the expiration of the approved trial counsel list then in effect. Counsel who fails to timely file an application for renewal, shall be removed from the new approved trial counsel lists. Applications for reinstatement may be filed at any time. Reinstatement shall occur upon the filing of an original application to serve as assigned counsel and final approval by the Administrative Judge.

In the interest of justice in a specific case, for good cause, the trial Judge or the appointed Counsel Review Board may remove an assigned attorney as defense counsel.

The following experience and qualifications shall be the minimum requirements for the inclusion of a lawyer on the lists designated below:

- (1) OVI cases:
  - (a) Attorneys appointed to represent indigent clients in OVI cases must have completed a minimum of six hours of continuing legal education, certified by the Ohio Supreme Court commission on continuing legal education, focused on OVI practice and procedure.
- (2) Felonies of the fourth and fifth degree and unspecified felonies other than murder:
  - (a) Service as assistant trial counsel in two criminal jury trials.
- (3) Felonies of the third degree without life sentences:
  - (a) Service as trial counsel in at least one criminal jury trial and service as assistant trial counsel in at least two criminal jury trials.
- (4) Felonies of the first and second degree without life sentences:
  - (a) Within five years preceding the appointment, service as trial counsel in at least two previous felony jury trials; or
  - (b) Service as trial counsel in any five previous felony trials, of which at least three must be jury trials.

## Cuyahoga County Common Pleas Court Local Rules

- (5) Life sentences:
  - (a) Within ten years preceding the appointment, service as trial or trial assistant counsel in at least two prior life sentences trials, and trial counsel in four felony jury trials which were first or second degree felony trials.
- (6) Death Penalty:
  - (a) Qualification for assignment for cases charging aggravated murder with a death penalty specification shall be solely governed by The Rules for Appointment of Counsel in Capital Cases.
- (7) Mental Health: Assigned counsel for defendants having a confirmed serious mental illness or a developmental disability as defined in Local Rules 30.1(A) and 30.1(A)(2):
  - (a) Trial counsel shall meet established criteria for the appropriate offense as set forth in paragraphs (a)(1)-(7) of this part; and
  - (b) During each application period, trial counsel shall receive specific training, as approved by the judges assigned to the mental health dockets, on representing clients that have a mental illness or are developmentally disabled. The application period will be every two years consistent with counsels' biennial continuing education reporting and will end on January 31 of the following year.
- (8) Minimum Requirement for the Assigned Counsel Lists:
  - (a) Admitted in Ohio and in good standing;
  - (b) Proof of legal malpractice insurance;
  - (c) Proof of having obtained twelve hours of Continuing Legal Education credits in criminal practice and procedure during the two years of counsel's biennial continuing education period which courses may include subject matter such as trial practice, evidence, voir dire, criminal rules, capital cases, and case law updates; and
  - (d) Proof of having completed the Court's mental health training seminar.

### (B) Appointed Counsel Review Board:

#### (1) Statement of Purpose:

Delay in criminal and civil cases in the Courts of Common Pleas throughout the state of Ohio is a serious problem in the administration of justice. Constitutional courts were created to serve the litigants and the interest of the public at large, not for the convenience or benefit of judges and lawyers. Unnecessary delay erodes the public's confidence in the judicial system.

It is the obligation of the judges of the Court of Common Pleas, Cuyahoga County, Ohio, to operate the Court in a manner that is lawful, fair, just, and efficient for the benefit of the citizens of Cuyahoga County and all other litigants that come before it. To that end, the following rules are designed (1) to expedite the disposition of both criminal and civil cases in this Court, while at the same time safeguarding the rights of litigants to the just processing of their cases; (2) to expedite and make consistent the disposition of cases in the general branch of the Court; and (3) to serve the public interest which mandates the prompt disposition of all cases before this Court.

#### (2) Appointed Counsel Review Board:

There is hereby created an Appointed Counsel Review Board. The members of the Appointed Counsel Review Board shall include the Administrative Judge, the Chairman of the Criminal Rules Committee and the Senior Judge from the General Division. For purposes of this rule, the Senior Judge is the judge with

## Cuyahoga County Common Pleas Court Local Rules

the most years of continuous service on The Cuyahoga County Common Pleas Court, General Division. Any vacancies on the committee will be filled by appointment by the Administrative Judge. The duties and responsibilities of the Appointed Counsel Review Board shall be:

- (a) To approve a Trial Counsel List from which private counsel shall be selected to represent indigent defendants in criminal cases;
- (b) To approve an application form and process to be used by private counsel seeking to be listed on the Trial Counsel List;
- (c) To approve applications from private counsel for listing on the Trial Counsel List;
- (d) To approve applications from counsel accepted to practice in Ohio through reciprocity from another state.
- (e) To evaluate the performance of private counsel representing indigent defendants in criminal cases against the standards set forth in section (A) of this rule;
- (f) To remove private counsel from the Trial Counsel List;
- (g) To require private counsel, when appropriate, to undertake remedial action in order to remain on the Trial Counsel List; AND
- (h) To require private counsel to undertake appropriate continuing legal education.

### (3) Action by Appointed Counsel Review Board:

Any action taken by the Appointed Counsel Review Board to include an attorney or to exclude an attorney from the Trial Counsel List shall be approved by a majority of the judges.

### (4) Mentors:

Each applicant for inclusion on the Trial Counsel List not already meeting the requirements for inclusion must have a designated mentor. The mentor will co-sign the private counsel's application for inclusion on the Trial Counsel List, agreeing to act as an advisor to and resource for the applicant until the applicant has met the experience criteria set by the Appointed Counsel Review Board. In order to serve as a mentor, a criminal practice attorney must be approved counsel on the Trial Counsel List with the capability of being assigned all levels of criminal cases with the exception of capital cases.

Further, an attorney who qualifies as a mentor may only mentor a maximum of three applicants at any one time. Any criminal attorney, who meets the qualifications to serve as a mentor, but refuses to do so, may be excluded from the Trial Counsel List.

### (5) The Application Process:

The Appointed Counsel Review Board shall meet as frequently as necessary in order to review applications for inclusion on the Trial Counsel List. After review of the pending applications, the Board shall recommend those attorneys it deems qualified for inclusion on the Trial Counsel List. These recommendations shall be presented at the next monthly meeting of the judges. A majority of the judges shall either approve or disapprove the recommendations of the Board. The names of those attorneys approved by a vote of the judges shall be placed on the Trial Counsel List.

### (6) Orientation Program for New Attorneys:

In May and in November each year, the Court shall conduct a four-hour new attorney orientation program. Educational presentations shall be made by the following categories of court personnel:

## Cuyahoga County Common Pleas Court Local Rules

- (a) Judge
- (b) Prosecutor
- (c) Public Defender
- (d) Bailiff
- (e) Court Reporter
- (f) Private Defense Counsel
- (g) Court Administration
- (h) Representative from the Criminal Clerk's Office.

### (7) Grounds for Removal from the Trial Counsel List:

Any private counsel may be removed from the Trial Counsel List for the following conduct:

- (a) Failure to comply with the Code of Professional Responsibility; the Ohio Rules of Criminal Procedure; the Rules of Practice of the Cuyahoga County Court of Common Pleas.
- (b) Refusal to accept appointments.
- (c) Failure to follow the Court's billing procedures such as:
  - (i) refusal to complete request for reimbursement forms;
  - (ii) inaccurately completing the required request for reimbursement forms;
  - (iii) failing to file timely request for reimbursement forms;
  - (iv) Excess billing; and
  - (v) repeated submissions seeking fees in excess of the fee schedule.
- (d) Unprofessional behavior such as lack of preparation, tardiness, contentiousness, failure to follow through with responsibilities, or failing to treat court personnel with respect.
- (e) Repeated conflicts with indigent defendants necessitating the appointment of other counsel;
- (f) Accepting fees for representation of a defendant but only appearing in his behalf at arraignment necessitating the appointment of private counsel for the remainder of the case;
- (g) Accepting an appointment but sending other counsel to appear in behalf of the indigent defendant;
- (h) Having a case reversed by the Court of Appeals for ineffective assistance of counsel;
- (i) Seeking to withdraw, without cause, prior to the completion of the case;
- (j) Failure to timely file necessary paperwork; and
- (k) A pending disciplinary action before a local bar association or the Disciplinary Counsel.

### (8) Procedure for Removing an Attorney from the Trial Counsel List:

Anyone can file a complaint against a private attorney who is listed on the Trial Counsel List. The following procedure will be used to remove an attorney from the Trial Counsel List.

- (a) File a written complaint with the Court Administrator setting forth the reasons why the subject attorney should be removed from the Trial Counsel List.
- (b) The Appointed Counsel Review Board shall investigate the complaint and recommend that the private attorney:
  - (i) be removed from the Trial Counsel List;
  - (ii) remain on the Trial Counsel List; or
  - (iii) be suspended from the Trial Counsel List until remedial action is undertaken to correct his conduct.



## Cuyahoga County Common Pleas Court Local Rules

- (c) The recommendation of the Appointed Counsel Review Board shall be presented to the judges at their next scheduled monthly meeting. The judges shall vote to adopt the recommendation of the Board or take such other action as a majority of them so determine to be appropriate.
- (d) Immediately following the vote by the judges, the attorney will be notified in writing of the action taken.

### (9) Removal from the Trial Counsel List:

Any attorney removed from the Trial Counsel List may apply for reinstatement after one year providing the attorney completes the application process as set forth in the Local Rule.

### (10) Remedial Action:

An attorney suspended from the Trial Counsel List may seek reinstatement after completing the remedial action recommended by the judges. Possible remedial action may include:

- (a) Attendance at the orientation program for new attorneys;
- (b) The assignment of a mentor;
- (c) Completion of applicable continuing education courses;
- (d) A reduction in the class of felonies for which the attorney can receive appointments;
- (e) Assignment as assistant trial counsel on a non-fee basis in cooperation with regularly retained or assigned counsel in a criminal case; OR
- (f) Substance abuse counseling.

- (C) Assignments of counsel for indigent defendants, not represented by the Cuyahoga County Public Defender, shall be made by the Judge assigned to the Arraignment Room and appointments of counsel for defendants, not represented by the Cuyahoga County Public Defender will be distributed as widely as possible among the attorneys on the Court Assigned Counsel List designed to pair the defendant's level of offense with any attorney who meets the qualifications for assignment. The Court may exercise its discretion in making appointments from the list in order to avoid conflicts of interest, conflicts with counsel's schedule, conflicts with the Court's schedule, and in instances where the gravity of the offense requires counsel with greater experience than the next attorney on the Trial Counsel List. Any attorney appointed must be qualified for all counts in the indictment.

The office of the Cuyahoga County Public Defender shall be assigned thirty five per cent (35%) of cases for which counsel are selected for indigent defendants, including all criminal assignments whether or not processed through the Arraignment Room. The Assistant Public Defender, before being assigned to represent an indigent defendant, shall also meet the established criteria.

In cases requiring the appointment of new counsel for defendants, i.e., defendants not having retained counsel and defendants without a pending case with counsel previously appointed, (i) if the case number ends in 1, 3, 5, or 7, the arraignment room judge shall appoint the public defender's office as counsel; provided however, if the defendant has co-defendant in this case whom the public defender's office currently represents, then such defendant shall have a private counsel appointed instead of the public defender's office; and (ii) if the case number ends in 2, 4, 6, 8, 9 or 0 then in compliance with this local rule, the arraignment room judge shall appoint the public defender's office or private counsel as the judge determines.

- (D) When a case for arraignment contains multiple counts, assignment will be made to counsel qualified for the charge containing the longest potential sentence.

Cuyahoga County Common Pleas Court Local Rules

- (E) In all cases where a defendant has a confirmed serious mental illness or has a developmental disability as defined in local rules 30.1 (A)(1) and 30.1 (A)(2), the arraignment room judge:
  - (1) Where municipal court has assigned counsel meeting established criteria as set forth in paragraph (A)(1)-(7) of this part, shall assign the same counsel to represent the defendant; or
  - (2) May assign the public defender's office. The assistant public defender, before being assigned to represent an indigent defendant, shall meet the established criteria as set forth in paragraph (A)(1)-(7) of this part; or
  - (3) May assign private counsel meeting the established criteria as set forth in paragraph (A)(1)-(7) of this part.
- (F) As a general rule, only one attorney shall be assigned to all of an indigent defendant's pending cases. The attorney's assignment shall continue until the disposition of all of the defendant's pending cases. While such cases are pending, the same attorney will be assigned as counsel for each of an indigent defendant's subsequently arraigned cases except: should the defendant be arraigned on a charge on which original counsel is not eligible for assignment, then an eligible attorney shall be assigned for such case.

**PART II.**

- (A) Upon arraignment or subsequent thereto, where it appears to the Court that the defendant is without counsel and desires to have the Court assign counsel, the Court, before doing so, may require from the defendant receipt of a duly executed affidavit upon the form provided by the Court regarding his or her general background and financial status.
- (B) Assigned counsel shall receive compensation for professional services and shall be reimbursed for expenses in accordance with O.R.C.2941.51. In all cases upon completion of the service, it shall be the duty of such assigned counsel to submit a completed affidavit and entry for assigned counsel fees. The trial judge, after due consideration, shall determine the amount of compensation within the statutory limit in accordance with the following schedule:

**ASSIGNED COUNSEL FEE SCHEDULE**

*Effective for Fee Bills Submitted After July 1, 2022*

**CUYAHOGA COUNTY COMMON PLEAS COURT**

Assigned Counsel

<u>Offense/Proceeding</u>	<u>90% of Fee Maximum</u>
Aggravated murder (w/specs) per R.C. 2929.04(A) and per R.C. 2941.14(B)	As set by Capital Fee Council - see R.C. 120.33(D) The Council has currently set a rate of \$125 with no fee maximum.
Aggravated murder (w/o specs)	\$13,500/1 attorney \$22,500/2 attorneys
Murder	\$9,000
Felony with possible life sentence/	\$9,000

Cuyahoga County Common Pleas Court Local Rules

repeat violent offender/major  
drug offender

Felony (degrees 1-2)	\$7,200
Felony (degree 3)	\$4,500
Felony (degrees 4-5)	\$3,150
Misdemeanor OVI/BAC	\$2,250
Contempt of court	\$450
Violation (Probation/Community Control)	\$675
Preliminary Hearings	\$270
Sex Offender Classification	\$675
Other	\$675

**Municipal Proceedings:**

Preliminary Hearings	\$270
Misdemeanor (degrees 1-4)	\$1,800
Misdemeanor OVI/BAC	\$2,250

**General Division and Municipal Proceedings Hourly Rates**

In Court / Out of Court	\$75
-------------------------	------

**CUYAHOGA COUNTY COMMON PLEAS COURT**

**Assigned Counsel - Postconviction and habeas corpus proceedings**

<u>Offense/Proceeding</u>	<u>90% of Fee Maximum</u>
Death Sentence	As set by Capital Fee Council - see R.C. 120.33(D) The Council has currently set a rate of \$125 with no fee maximum.
Felony (degrees 1-2) (R.C. 2953.21 Petition/New Trial Mtn)	\$3,600
Felony (degree 3) (R.C. 2953.21 Petition/New Trial Mtn)	\$2,250
Felony (degrees 4-5) (R.C. 2953.21 Petition/New Trial Mtn)	\$1,575
Misdemeanor (60(B))	\$1,350

Cuyahoga County Common Pleas Court Local Rules

Juvenile	\$2,250
State Habeas	\$1,350
Expungement	\$270
Judicial Release	\$450
Revocation	\$675
Driving Privileges	\$135
NGRI/Comp Review	\$675
Jail Time Credit	\$270
Resentencing	\$450
Sex Offender Reclassification	\$675
Withdrawal of Guilty Plea	\$900

**EIGHTH DISTRICT COURT OF APPEALS**  
**Assigned Counsel - Appellate level proceedings**

<u>Offense/Proceeding</u>	<u>90% of Fee Maximum</u>
Death Sentence	As set by Capital Fee Council - see R.C. 120.33(D) The Council has currently set a rate of \$125 with no fee maximum.
Cumulative Minimum Sentence exceeds 25 years	\$7,200
Felony (degrees 1-2) Trial	\$4,500
Felony (degree 3) Trial	\$3,150
Felony (degrees 4-5) Trial	\$2,250
Misdemeanor Trial	\$1,800
Felony Plea	\$1,350
Misdemeanor Plea	\$900
ADN Permanent Custody	\$3,150
Probate	\$3,150
Unruly	\$900
Other	\$900
26(B) Murnahan Felony (degrees 1-2) Trial	\$2,700
26(B) Murnahan Felony	\$1,800

Cuyahoga County Common Pleas Court Local Rules

(degree 3) Trial	
26(B) Murnahan Felony	\$900
(degrees 4-5) Trial	
OSC Jurisdiction Memorandum	\$1,350

**EIGHTH DISTRICT COURT OF APPEALS**

**Assigned Counsel - Postconviction and habeas corpus proceedings**

<u>Offense/Proceeding</u>	<u>90% of Fee Maximum</u>
Death Sentence	As set by Capital Fee Council - see R.C. 120.33(D) The Council has currently set a rate of \$125 with no fee maximum.
Felony (degrees 1-2) (R.C. 2953.21 Petition/New Trial Mtn)	\$3,600
Felony (degree 3) (R.C. 2953.21 Petition/New Trial Mtn)	\$2,250
Felony (degrees 4-5) (R.C. 2953.21 Petition/New Trial Mtn)	\$1,575
Misdemeanor (60(B))	\$1,350
Juvenile	\$2,250
State Habeas	\$1,350
Expungement	\$270
Judicial Release	\$450
Revocation	\$675
Driving Privileges	\$135
NGRI/Comp Review	\$675
Jail Time Credit	\$270
Resentencing	\$450
Sex Offender Reclassification	\$675
Withdrawal of Guilty Plea	\$900
<u>Eighth District Court of Appeals Hourly Rates</u>	
In Court / Out of Court	\$75
Death Sentence - In Court/Out of Court	\$125

Cuyahoga County Common Pleas Court Local Rules

**JUVENILE COURT**

Assigned Counsel

Case Type	90% of Maximum Fee
Aggravated Murder (without/with SYO)	\$6,750 / \$10,125
Murder (without/with SYO)	\$5,400 / \$8,100
1st and 2nd Degree Felonies (without/with SYO)	\$4,500 / \$6,750
3rd, 4th, and 5th Degree Felonies (without/with SYO)	\$3,150 / \$4,725
Misdemeanor	\$1,800
Traffic	\$270
Misdemeanor OVI	\$2,250
Bindover—Mandatory	\$750
Bindover—Discretionary	\$1,800
Bindover—Reverse (Amenability)	\$1,350
Custody Review Hearings	\$1,350
Custody Initial Case/Dispositional Motions	\$1,350
Permanent Custody	\$2,250
Adult Criminal	\$1,350
Violation of Court Order (VCO)	\$675
Contempt	\$450
Purge Review	\$135
All Other	\$675

Guardians Ad Litem

Case Type	Maximum Fee
Custody Initial Case/Dispositional Motions	\$1,000
Permanent Custody	\$1,000
Custody Review Hearings	\$200
Delinquency/All Other	\$250

Hourly Rates

Type of Appointment	In Court Rate	Out of Court Rate
Assigned Counsel	\$75/hour	\$75/hour
GAL	\$60/hour	\$60/hour

The compensation to be paid for such services shall not exceed the amount listed in the compensation schedule except in extraordinary cases when upon motion it shall be determined by the trial judge, the administrative judge and another judge to authorize additional payment. The motion should set forth in detail the basic reasons such request, the amount in excess of the fee schedule requested and an itemized statement of services rendered. Motions for extraordinary compensation shall be filed simultaneously with the usual affidavit and entry for assigned counsel fees.

Individuals appointed as Guardian Ad Litem may request payment of fees exceeding this schedule using the above procedure.

## Cuyahoga County Common Pleas Court Local Rules

- (C) Pursuant to Cuyahoga County Resolution R2022-0173, the State Public Defender reimbursement rate will be reviewed by the Cuyahoga County Fiscal Office Division of Financial Reporting on January 1st and July 1st of each year, starting January 1, 2023. If, at the time of review, the Ohio Public Defender Commission has decreased or increased the reimbursement rate for assigned counsel fees for the representation of indigent defendants, then the approved maximum rates set forth in the assigned counsel fee schedule shall be changed accordingly by the same percentage, and be effective the date of review. All fee bills submitted after the review date will be calculated by the Courts at the reimbursement rate as communicated by the Cuyahoga County Division of Financial Reporting on January 1st and on July 1st of each year.
- (D) Unless a defendant on probation or community control sanctions knowingly and intelligently, orally and in writing, waives his right of counsel at a probation violation hearing. The defendant shall be entitled to counsel at such hearing retained or assigned. Assigned counsel shall be compensated in accordance with the fee schedule for habeas corpus, parole, probation, community control sanctions, and all other proceedings not elsewhere classified in Part II (B) of Rule 33.
- (E) Defendants returned to this Court for a hearing pursuant to O.R.C.2945.40, shall be represented by counsel who shall be appointed and compensated as provided in part (C) of this rule.
- (F) It is intended that counsel assigned to represent indigent defendants shall themselves investigate cases to which they have been assigned.

Investigators shall not be employed by defense counsel except by leave of Court, and then only in cases where the defendant is charged with aggravated murder or murder. Only individuals licensed by the State of Ohio as a private investigator under a Class A or Class B license shall be appointed and paid under this section. In these cases, counsel shall make application for the use of such investigator in writing at least 30 days before trial. The application should set forth in detail the basic reason for the need for such request and the approximate amount that would be incurred if the request was granted, including written verification that the investigator currently holds a valid Class A or Class B license issued under O.R.C. Chapter 4749.

The trial Court shall journalize its decision.

The compensation to be paid for such investigation shall not exceed \$1,000.00 except in extraordinary cases when it shall not exceed \$2,000.00. Extraordinary fees shall be determined by the trial judge, the administrative judge and another judge. In every case, the investigator shall submit an itemized statement of services rendered. Investigators shall not receive compensation at a rate greater than twenty-five dollars (\$50.00) per hour.

Bills for such investigation shall be filed with defense counsel's application for attorney fees and shall be paid as part of counsel's expenses.

- (G) Counsel assigned pursuant to Local Rule, Part I (D) to multiple pending cases for a single defendant shall receive compensation for professional services as follows: no more than one maximum fee for one case containing the highest degree offense plus the minimum fee for each of all other cases assigned to counsel for that defendant.

Cuyahoga County Common Pleas Court Local Rules

(H) This Court shall not consider approval of or payment for and shall not approve or pay any amount for any expert or specialist relating to psychological, mitigation or similar services under R.C. 2929.024 or otherwise in a criminal action unless there is filed with the Clerk of Courts or Court an application by counsel for the defendant which expressly provides, with specificity, the following information:

- (1) The name of the individual(s) sought to be appointed, his/her professional qualifications or credentials demonstrated by an attached resume or curriculum vitae;
- (2) The services sought to be provided including, but not limited to, research, investigation, testimony and/or consultation;
- (3) The hourly rate to be charged by such individual for each service and the estimated number of hours;
- (4) Any additional expense anticipated in connection with such services; and
- (5) The total projected expense anticipated for each individual.

The above described application may be filed under seal and/or ex parte with the prior permission of the trial judge to whom the case is assigned.

*Effective 07/01/2022*



**34.0 BAIL AND RECOGNIZANCE**

**(A) RIGHT TO BAIL AND PURPOSE OF BAIL**

All persons are entitled to bail. The purpose of bail is to insure that the defendant appears at all stages of the criminal proceedings.

**(B) CONDITIONS OF PRETRIAL RELEASE**

Where summons has issued and the defendant has appeared the judge may release the defendant on his personal recognizance.

Any person who is entitled to release under subdivision (A) may be released on his personal recognizance or upon the execution of an unsecured appearance bond in an amount specified by the judge, unless the judge determines that such release will not assure the appearance of the person as required. Where a judge so determines he shall, either in lieu of or in addition to the preferred methods of release stated above, impose the first of the following conditions of release which will reasonably assure the appearance of the person for trial, or if no single condition gives that assurance any combination of the following conditions:

- (1) Place the person in the custody of a designated person or organization agreeing to supervise him;
- (2) Place restrictions on the travel, association, or place of abode of the person during the period of release;
- (3) Require the execution of an appearance bond in a specified amount and the deposit with the Clerk of the Court before which the proceeding is pending a sum of money equal to ten percent of the amount of the bond, but in no event shall such deposit be less than \$25.00 which deposit is to be returned upon the performance of the conditions of the appearance bond;
- (4) Require the execution of a bail bond with sufficient solvent sureties, or the deposit of cash or the securities allowed by law in lieu thereof, or;
- (5) Impose any other constitutional condition deemed reasonably necessary to assure appearance.

**(C) CONDITIONS OF RELEASE AFTER CONVICTION**

A person who has been convicted and is either awaiting sentence or has filed a notice of appeal shall be treated in accord with the provisions of subdivision (B), unless the judge has reason to believe that the person will flee or pose a danger to any other person or to the community. If such a risk of flight or danger is believed to exist, the person may be ordered detained.

**(D) CONDITIONS OF RELEASE: BASIS**

In determining which conditions of release will reasonably assure appearance, the judge shall consider the seriousness of the offense charged, the previous criminal record of the defendant, and the probability of his appearing at the trial.

Cuyahoga County Common Pleas Court Local Rules

(E) ORDER

The judge who releases a person under this rule shall make an appropriate written order stating the conditions of release.

(F) AMENDMENTS

Subject to the provisions of subdivisions (B) and (E), a judge ordering the release of a person on any condition specified in this rule may at any time amend his order to impose additional or different conditions of release.

(G) INFORMATION NEED NOT BE ADMISSIBLE

Information stated in, or offered in connection with, any order entered pursuant to this rule need not conform to the rules pertaining to the admissibility of evidence in a Court of law.

(H) CONTINUATION OF BONDS

Unless application is made by the surety for discharge, the same bond shall continue as a matter of right until the final disposition of the case in the trial Court. Final disposition shall mean the return of a verdict by a jury or judgment by the Court. In the discretion of the trial Court, and upon notice to the surety, the same bond may also continue after final disposition in the trial Court and pending sentence or pending disposition of the case on review. Any provision of a bond or similar instrument which is contrary to this rule is void.

(I) SANCTIONS

Any person, having been released pursuant to any provision of this rule, who fails to appear before any Court as required, shall be subject to any punishment provided by law and shall incur a forfeiture of any bail which was given for his release.

(J) JUSTIFICATION OF SURETIES

Every surety, except a corporate surety which is licensed as provided by law, shall justify by affidavit and may be required to describe in the affidavit the property by which he proposes to justify and the encumbrances on it, the number and amount of other bonds and undertakings for bail entered into by him and remaining undischarged and all his other liabilities. He shall provide such other evidence of financial responsibility as the Court or clerk may require. No bond shall be approved unless the surety or sureties appear, in the opinion of the Court or clerk, to be financially responsible in at least the amount of the bond. No licensed attorney of law shall be a surety.

(K) FORFEITURE OF BONDS

If there is a breach of condition of a bond, the Court shall declare a forfeiture of the bail. Forfeiture proceedings shall be promptly enforced as provided by law.

(L) EXONERATION

The obligor shall be exonerated as provided by law.

## Cuyahoga County Common Pleas Court Local Rules

### (M) VERIFICATION OF BOND INFORMATION

Before accepting any bond for bail or recognizance, the Clerk shall make certain that the affidavit of justification for suretyship shall contain all of the information required by R. C. 2937.24 and such additional information as the Court may require to be set forth. The Clerk shall also require compliance with every direction contained in R. C. 2937.21, et seq. Whenever the Clerk shall be in doubt as to the validity of the signature of any bondsman, he shall refer the matter to the Sheriff who shall promptly cause the subject to be investigated and make a report to the Clerk.

### (N) NOTIFICATION OF LAW ENFORCEMENT

Whenever a *capias* is issued by the Court, the Clerk shall promptly forward it to the Sheriff who shall immediately inform the police department or other law enforcement agency whose information led to the indictment of the defendant of the Court's action. The Sheriff is further directed to alert other law enforcement agencies as to such Court action.

### (O) BOND FORFEITURE JUDGMENTS

The Clerk of Courts shall forward to the Prosecuting Attorney a copy of every bond forfeiture judgment entry. Every bond forfeiture judgment entry shall include the following language: "It is further ordered by the Court that if the aforesaid judgment is not satisfied within sixty (60) days, the Clerk of Courts is instructed to accept no further recognizance from said surety."

Further the Clerk of Courts shall notify the Prosecutor at such time that a judgment is satisfied. If the judgment is not satisfied at the end of the sixty (60) day period, the Prosecuting Attorney shall immediately take the necessary action to collect the judgment.

When a bond forfeiture has been ordered in a criminal case with a judgment taken thereon, and a bondsman files a motion to vacate said judgment to remit all or part of the money paid or payable, the following procedure will be followed.

When the defendant has been returned to this jurisdiction, or where it has been ascertained that he is being detained in another penal institution outside of this jurisdiction, and the Court partially grants the motion, the following sums shall be deducted from the money to be remitted:

- (1) All Court costs.
- (2) All costs of extradition sustained by the County or State.
- (3) Ten percent (10%) of the total bond where the order is made within one year of the date of the bond forfeiture.
- (4) Where the order is made one year or more subsequent to the date of the bond forfeiture, such sum, if any, in excess of ten percent (10%) of the bond as the judge deems appropriate.
- (5) If good cause by production of the body of the accused or full payment of the reduced judgment is not made within thirty (30) days, the face amount of the bond or the full judgment will be reinstated.

*Effective 11/01/2000.*

**35.0 SELECTION AND GOVERNANCE OF PROSPECTIVE JURORS**

- (A) The jury commissioners appointed by the Court pursuant to R. C. 2313.01 shall, on or before the first day of August of each year, select such number of prospective jurors as the Court may determine. Pursuant to R. C. 2313.21(C) the Court authorizes and directs the Commissioners of Jurors to conduct the drawing of the jurors by the use of automated data processing and by employing such procedures that shall include the random selection of names of prospective jurors, return of names of persons selected but not used as jurors, public viewing by designated officers or their representatives of the selection process, the printing of venires containing the names and addresses of the persons drawn, the Court, and the term for which they were drawn, and safeguards against unlawful tampering or activation of the automated system.
- (B) The names of prospective jurors shall be selected from the registration and polling lists of the county and/or the driver licenses according to a key number designated by the jury commissioners and in such number and manner that each ward in each city and each township in the county shall be represented in proportion to their respective populations.
- (C) The jury commissioners shall cause an examination to be made in a form and manner approved by the Administrative Judge as to assignment or exemption for jury service. They shall keep a separate record of all such prospective jurors who fail to respond and promptly send additional notice by registered or certified mail to such persons and any failure to respond to such second notice shall be reported to the Administrative Judge for appropriate action. They shall keep a complete and accurate record of all persons examined for jury service, accepted or excused.
- (D) When the required number of persons, competent to serve as jurors, has been chosen and the names approved by the jury commissioners, they shall prepare in triplicate an alphabetical list of prospective jurors by name. One copy of this list shall be given to the Administrative Judge, one to the Clerk of Courts and one shall be retained by the jury commissioners. Each such list shall bear the endorsement of both commissioners.
- (E) The Sheriff shall issue summons by mail in the manner provided by law to persons whose names are drawn.
- (F) On the day that the persons summoned appear to serve as jurors, the jury commissioners shall prepare triplicate lists of the persons appearing. One list shall be retained by the jury commissioners and two shall be sent to the jury bailiff. The jury bailiff shall employ procedures to randomly select jurors to be used as panels for voir dire. The panel lists shall be in a form approved by the administrative judge.
- (G) The jury bailiff shall withdraw from service the names of jurors that have been excused or have completed their term of service.
- (H) In the absence of the jury bailiff, the duties herein prescribed shall be performed by one of his assistants.
- (I) When not engaged in the trial of a case, all jurymen shall report to the jury bailiff each morning at 9:00 o'clock in order that their attendance may be credited. Jurymen shall remain in the jury quarters during Court hours and shall not leave except at the direction of the jury bailiff.

Cuyahoga County Common Pleas Court Local Rules

- (J) When jurors are discharged from or excused from the panel of a case, they shall immediately report to the jury bailiff.
- (K) Jurymen shall not be excused and depart from the building without notice to the jury bailiff.
- (L) Any juryman failing to answer the call of the jury bailiff in compliance with the above regulation shall be reported to the Administrative Judge who shall take proper action.

Cuyahoga County Common Pleas Court Local Rules

**36.0 RESERVED**

*Local Rule 36.0 Repealed and Reserved on June 1, 2021 by unanimous vote.*

*Effective 06/01/2021.*

**37.0 MEDIA**

(A) DEFINITIONS, APPLICATIONS

- (1) For purposes of these rules, the term "media recording" shall be understood to encompass broadcasting, televising, recording, or photographs. The term "trial" shall be understood to apply to any public hearing held by the Court.
- (2) Application for media recording shall be made in writing to the assigned judge in the case prior to the commencement of the trial. No special form of application will be required, but the application must specify the type of equipment to be used, and must identify and be signed by the applicant. The "pooling" required by Superintendence Rule 12(B) for Courts of Common Pleas shall be accomplished prior to submission of the application. The positioning of the cameras shall be at a location to be determined by the trial judge.
- (3) In the event the judge approves the application, he shall prepare and sign a journal entry setting forth the conditions of media recording and such journal entry shall be made a part of the record of the case. Before preparing the journal entry, the judge shall confer with media representatives regarding the positioning of the operators and equipment.
- (4) The journal entry shall state whatever portions of the trial shall not be open to media recording. In the event that at any time subsequent to the signing and filing of the journal entry the judge shall decide to withhold media recording of any part of the trial, such decision and order shall be entered into the record of the case.
- (5) In the event of a continuance of the trial for a period of more than thirty (30) days, a new application shall be required.
- (6) At any arraignment room session, application in writing may be made anytime before the session. The Court may give permission for the reporting or recording of any portion of the session without a formal journal entry. Positioning of any equipment shall be at the complete discretion of the arraignment room judge.

(B) LIMITATIONS

- (1) Any equipment which is non-portable shall be set up and ready for operation prior to the commencement of Court sessions. In no event will persons be permitted to bring equipment into the courtroom during trial unless such equipment can be easily carried by a single person and without causing distraction or disturbance.
- (2) No media recording of proceedings in the judges' chambers or accesses shall be permitted except with the express permission of the judge. No media recording shall be permitted in jury deliberation rooms at any time during the course of the trial or after the case has been submitted to the jury. No pictures of jurors may be taken at any time.
- (3) Audio equipment shall be so controlled that it will not pick up conferences or conversations between counsel and client, between counsel and the judge at the bench, or between counsel and official Court Reporter as in the case of a proffer.
- (4) The judge, counsel, and witnesses shall not address any remark to the media when the Court is in session. In all respects, the trial shall proceed in exactly the same manner as though there were no media recording in process.

Cuyahoga County Common Pleas Court Local Rules

- (5) No media recording shall be made of any document or exhibit before or after such document or exhibit is admitted into evidence, except those which are clearly visible to spectators, e.g., maps, charts, blackboards, etc.
- (6) The judge shall inform victims and witnesses of their right to object to being filmed, videotaped, recorded or photographed. Upon objection the media are prohibited from employing any means to record the victim or witness.
- (7) No photographic or electronic equipment may be used in the courtroom which causes distracting sound or light.

(C) SANCTION

- (1) Upon failure to comply with the orders of the judge or with Superintendence Rules for Courts of Common Pleas the Judge may revoke any permission previously granted.

*Effective 03/12/1996.*



**38.0 SPECIAL PROCESS SERVER**

A person may apply for a standing order to be designated as a "Special Process Server" for cases filed in this Court by filing an application supported by an affidavit setting forth the following information:

- (A) the name, address and telephone number of applicant;
- (B) that the applicant is eighteen years of age or older;
- (C) that the applicant agrees not to accept service of process in any case which the applicant is a party or counsel for a party;
- (D) that the applicant agrees to follow the requirements of Civil Rules 4 through 4.6, and any applicable local rules, and specific instructions for service of process as ordered by the court in individual cases.

The applicant requesting the designation shall also submit a proposed standing order captioned "In Re The Appointment of (name of applicant) As Special Process Server," and stating as follows: "It appearing to the Court that the following applicant has complied with the provisions of Local Rule 38, (name of applicant) is hereby designated as a Special Process Server authorized to make service of process and subpoenas in all cases filed with this Court, to serve for one year, such year beginning on January 1st of the year filed and ending on December 31st, of that year, or until further order of the Court." The order shall be signed by the Administrative Judge of the General Division of the Common Pleas Court. The Clerk of Courts shall record such appointment on the Court's Special Docket, and shall retain the original applications and entries. In any case thereafter, the Clerk of Courts shall accept a time-stamped copy of such order as satisfying the requirements of Civil Rule 4.1(B) for designation by the Court of a person to make service of process.

The cost for filing this application is \$66.00 plus any applicable Special Project Fees.

*Effective 01/12/2012.*

**39.0 ELECTRONIC FILING OF COURT DOCUMENTS**

**(A) E-FILING GENERALLY**

- (1) All attorneys must use the court's E-Filing system. All cases, except for those listed below, are designated as E-File cases.
  - (a) Case types not subject to E-Filing are:
    - (1) Cognovit
    - (2) Foreign Judgment
    - (3) Petition for Civil Stalking Protection Order
    - (4) Replevin
    - (5) Certificate for Qualification of Employment (CQE)
  - (b) Discovery-related documents in criminal cases must be submitted electronically through the court's criminal discovery portal and may not be E-Filed.
  - (c) Indictments and criminal complaints may be submitted electronically through the Justice Matters portal. Indictments and criminal complaints submitted in this manner need not be E-Filed.
- (2) Self-represented filers may, but are not required to, utilize the E-Filing system. The Clerk of Courts will provide secure public access terminals from which self-represented filers will be permitted to use the court's E-Filing system and electronically file documents. Self-represented filers who do not utilize the E-Filing system must file all documents with the clerk by mail, commercial carrier service, or personal delivery to the clerk's office. The clerk must accept the paper document for filing, docket the document, and scan the document before the end of the next business day or as soon as practicable, and retain the original for placement in the case file.
- (3) The court and the clerk will issue, journalize, and serve notices, orders, and other documents electronically. The clerk will issue postcard notices to those parties that do not have an email address in the case management system and on exempted cases listed in (A)(1). For documents that have been electronically filed or documents filed in paper format that have been scanned and uploaded to the case management system, the electronic version constitutes the official court record. Electronically filed papers have the same force and effect as those filed by traditional means.

**(B) DEFINITION OF TERMS**

- (1) **Clerk Review.** A review of electronically filed documents by the Clerk of Courts. The clerk will review the data and documents electronically submitted to ensure the document is signed by the filer, is in compliance with all court formatting rules, is accompanied by the required payment, does not require a judge's signature, and that the document matches what the filer states he or she is filing.
- (2) **Case Management System.** A system that manages the receipt, processing, storage, and retrieval of data and documents associated with a case and performs actions on the data or documents.
- (3) **Court Electronic Record.** Any document received in electronic form, recorded in the case management system, and stored in the court's document management system. This will include

## Cuyahoga County Common Pleas Court Local Rules

notices and orders created by the court as well as pleadings, other documents and attachments created by the parties. It will not include physical exhibits that cannot be scanned into electronic form. These documents will be considered and maintained as court records as set forth in the Ohio Rules of Superintendence.

- (4) **Electronic File ID (E-File ID).** The electronic-file ID is a unique number that is assigned to a filing as soon as the E-Filer creates the filing in the E-Filing system. In the E-Filing system, the E-Filer can retrieve any filings that are in progress, submitted, filed, canceled, or rejected through the E-File ID.
- (5) **Electronic Filing (E-Filing).** The electronic transmission, acceptance, and processing of a filing. E-Filing does not include facsimile or e-mail.
- (6) **Electronic Service (E-Service).** The electronic notice of a filed document to all other electronically registered case participants via the E-Filing system.
- (7) **Electronic Signature.** A symbol that is adopted by a party with the intent to sign the electronic record.
- (8) **Docket Type.** A two or three letter description selected by the E-Filer when E-Filing a document signifying the type of filing. For example, "MO" for motion and "NOT" for notice.
- (9) **Registered User.** A person who has read and agreed to the terms of the Electronic Filing Systems' User Agreement, has provided credentials through the E-Filing system proving the user's identity, and has been provided with a user name and password through the E-Filing system.

### **(C) PERSONAL AND PRIVATE INFORMATION IN ELECTRONICALLY FILED COURT DOCUMENTS**

- (1) In accordance with Sup.R. 45(D), social security numbers and other personal identifying information, whether relevant to the case or not, must be redacted from documents before the documents are filed with the court. This requirement includes exhibits or addenda attached to filings such as preliminary judicial reports, financial reports, and medical records, etc.
- (2) Personal identifying information includes but is not limited to:
  - a. Financial account numbers;
  - b. Names of minor children;
  - c. Driver's license numbers;
  - d. Information protected by law from public disclosure.
- (3) Pursuant to Sup.R. 45(D)(3), the responsibility for redacting personal identifiers rests solely with the parties and their counsel. The court and clerk will not review each document for compliance with this rule.
- (4) Pursuant to Sup.R. 45(D)(2), when personal identifiers are redacted from a document submitted to a court or filed with the clerk, the party must submit or file that information on a separate form provided by the clerk and this information will be held in a format that cannot be viewed by the public.

**(D) E-FILED DOCUMENTS**

- (1) **Format.** All E-Filed documents must, to the extent practicable, be formatted in accordance with Local Rule 8 and Civ.R.10. A filed document may not contain internal links to other documents or references in the court’s case management system, unless the links are incorporated into the filed document. External links are prohibited.
- (2) **Portable Document Format.** With the exception of proposed orders, all E-Filed documents must be filed as a portable document format (PDF) file.
- (3) **Proposed Orders.** Proposed orders must be submitted in Microsoft Word (.doc or .docx) format, must reference the specific motion to which they apply, and must be contemporaneously served on all parties. Proposed orders and agreed judgment entries signed by the parties and requiring a judge or magistrate’s signature should not be filed on the docket. These entries must be E-Filed through the proposed submission icon or the proposed agreed entry icon or submitted to the court in paper format.
- (4) **Size of Filing.** Submissions are limited to twenty megabytes in size. No combination of PDF files in one transmission may aggregate to more than twenty megabytes in size. Filings that exceed this size limit will be rejected by the clerk and must be filed as a paper document.
- (5) **Title of Filing and Docket Type.**
  - a. All filed documents must have an appropriate title. For example:
    - (1) Any filing requesting an act by the court should be titled as a motion, not a “request.”
    - (2) A brief in opposition should be titled “brief in opposition,” not “reply.”
    - (3) A reply to a brief in opposition should be titled “reply”, and not “response.”
  - b. The title of a filing entered into the E-Filing system must match exactly the title in the caption of the filed document.
  - c. The docket type selected on the E-Filing system must match exactly the type of document filed. For example:
    - (1) All motions must be given a docket type “MO.”
    - (2) A brief in opposition should be given a docket type “BR,” not “OT.”
    - (3) A notice of dismissal should be given the docket type “NOT,” not “MO.”
- (6) **One Document per Filing.** Only one captioned document may be filed per E-Filing. This provision does not preclude the inclusion of attachments to a motion, brief, or other filed document in the same E-Filing.
  - a. For example, a user should file a “notice of filing deposition transcript” as one E-Filed document and the actual deposition transcript as a second E-Filed document. Both of these documents have captions and each needs its own docket entry.
  - b. In contrast, a “suggestion of death” with a death certificate as an exhibit may be filed as one filing. The death certificate does not have its own caption and does not need to be a separate docket entry.
- (7) **Multiple Documents per Filing.** If two captioned documents are included in the same E-Filing, the docket entry assigned to the filing will determine which document is filed. The document not named in the docket entry will not be considered filed.

## Cuyahoga County Common Pleas Court Local Rules

- a. For example, if a user files both a notice of filing deposition transcript and the actual deposition transcript as one E-Filed document and the filing is called a “notice of filing deposition transcript”, only the notice will be considered filed. The deposition transcript itself will not be considered filed.

### **(E) SIGNATURES**

- (1) **Attorney and Filing Party Signature.** E-Filed documents that require an attorney’s or filing party’s signature must be signed with a representation of a signature such as “/s/ (name).”
- (2) **Effect of Signature on E-filed Pleading.** The representation of a signature on an e-filed document has the same effect as an original signature for purpose of signature requirements imposed by all applicable Rules of Procedure.
- (3) **Multiple Signatures.** When a stipulation or other document requires the signature of two or more individuals, the E-Filer must indicate the agreement of other counsel or parties at the appropriate place in the document, usually on the signature line, using the representation of a signature as detailed in Sec. E(2).
- (4) **Third-Party Signatures.** Documents containing signatures of someone other than the party filing the document (such as: affidavits, depositions, etc.) may be E-Filed only as a hand signed scanned PDF document.
- (5) **Judge and Magistrate Signatures.** Electronic documents may be signed by a judge or magistrate via a digitized image of his or her signature. All documents signed in this manner will have the same effect as if the judge or magistrate had affixed his or her signature to a paper copy of the document and it had been entered on the journal in a conventional manner.

### **(F) FILING DATE AND TIME OF E-FILED DOCUMENTS**

- (1) Documents may be submitted to the clerk for E-Filing twenty four hours a day, seven days a week.
- (2) Upon receipt of document submitted for E-Filing, the E-Filing system will issue a confirmation that the submission has been received.
- (3) The clerk will perform a clerk review of the submission during normal business hours and will either accept or reject the submission.
- (4) If a document submitted for E-Filing is accepted by the clerk, the document will be entered into the court’s case management system and will receive an electronic timestamp indicating the date and time of the E-Filing.
- (5) The electronic timestamp, and the effective date and time of filing, will correspond to the date and time the E-Filing was submitted to the E-Filing system.
- (6) The clerk will notify the E-Filer by e-mail of the successful submission.

## Cuyahoga County Common Pleas Court Local Rules

- (7) If the clerk rejects a submitted document, the document will not become part of the official court record. The clerk will notify the E-Filer by e-mail if the E-Filer's submission has been rejected.
- (8) Filing a document electronically or the clerk's rejection of a document does not alter the filing deadline for that document.

### **(G) FILING ERRORS**

#### **(1) Filings Amended After Submission.**

- a. An E-Filer who wishes to make corrections or additions to a previously filed document may file a revised document if no response has been made to the original filing by any party.
- b. The revised document must be filed within the time permitted for the filing of the original document.
- c. The revised document must be so identified and must reference the date of filing of the document being revised in its title. For example, a document submitted in place of a motion to dismiss that was filed on June 1, 2015, should be titled "Revised Motion to Dismiss (original filed on June 1, 2015)."
- d. The revised document properly filed under this rule will supersede the original and the original will be considered withdrawn. The court will not consider the original.
- e. The time for filing a response to a revised document properly filed under this rule begins to run from the date the revised document is filed.

#### **(2) Documents Filed in Error.**

- a. Prior to acceptance for filing, the clerk may reject a document from the E-Filing system upon timely request by the filer. The request for rejection must contain either the case number or the E-File ID of the E-Filing sought to be rejected.
- b. After the clerk accepts an E-Filing, the E-Filed document cannot be withdrawn, deleted, or altered. After acceptance, only a judge can strike an E-Filing in the event it has been filed in error.
- c. When the clerk strikes a document upon the order of a judge, the clerk must annotate the docket to show that it has been stricken and the reason therefore.

#### **(3) Formatting Errors.**

- a. If, despite the clerk's review, a document accepted for filing does not substantially comply with this court's formatting rules, the court may, either sua sponte or on the motion of any party, strike the improperly formatted document.
- b. If the improperly formatted document is stricken, it will be treated as if it were not filed. If the deadline has expired for filing the document in question, the filer must seek leave of court to re-file it.

**(H) SYSTEM ERRORS**

(1) **Technical Malfunctions with the E-Filing System.** The Clerk must notify the court and the public of any malfunction with the E-Filing system greater than one hour. When the Clerk deems the E-Filing system subject to a technical malfunction, the following provisions must apply:

- a. **Anticipated Outage.** If the system outage is planned or anticipated ahead of time, the Clerk must post a message on the Clerk's website and on the E-Filing portal - alerting filers of a possible system outage. This message is an official acknowledgment of a system outage that may have prevented some filers from submitting their filings within a certain timeframe, as identified in the message.
- b. **Unexpected Outage.** If the system outage is unexpected, the Clerk must post a message on the Clerk's website and on the E-Filing portal. This message is official acknowledgement of a system outage that may have prevented some filers from submitting their filings within a certain timeframe, as identified in the message.
- c. **Motion to Deem Filed as of Date Electronically Submitted.** Filers who are unable to electronically submit their filings due to a system outage, and who then submit their filings no later than the next business day after an official acknowledgement of the system outage, may file a properly supported motion for an order permitting the document to be deemed filed as of the date it was electronically submitted.
- d. **Order to Deem Filed as of Date Electronically Submitted.** If the court determines from the motion described in Part c of this Section that a system failure prevented a filer from E-Filing a document, the court must enter an order deeming the document filed as of the date of the attempted electronic submission.

(2) **Missed Deadline as the Result of E-Filers Technical Failure.**

- a. A party who misses a non-jurisdictional deadline because of technical problems with the filer's equipment, software, or internet access may move the court to file a document instantaner no later than the next business day following the resolution of the party's technical problems.
- b. The motion must be accompanied by a signed declaration explaining the failure to meet the deadline.
- c. The judge or magistrate may grant or deny such motion in his or her discretion.

(3) **Jurisdictional Deadlines.**

- a. Technical failures, whether the fault of the court's E-Filing system or otherwise, cannot extend jurisdictional deadlines (such as statutes of limitation or deadlines for appeal).
- b. When the court's E-Filing system is subject to a technical failure, system users may file documents in paper format to comply with jurisdictional deadlines.
- c. When a system user cannot E-File because of the user's technical problems, the user may use the clerk's public terminals to file documents in order to comply with jurisdictional deadlines.

**(I) ELECTRONIC SERVICE OF DOCUMENTS**

- (1) **Service of claims that require service of summons.** When submitting any complaint, third-party complaint, or other claim requiring summons for E-Filing the filing party must also submit instructions for service as required by the Rules of Procedure. The clerk must issue a summons by the method of service requested in accordance with the applicable rules of procedure.
- (2) **Service of filings subsequent to the complaint.** It will be the responsibility of the filing party to serve all filings subsequent to the complaint and a party must include a certificate of service in accordance with the applicable rules of procedure. All parties who are registered users of the court's authorized E-Filing system may electronically serve all other registered users of the E-Filing system through the court's authorized E-Filing system. Once a document is E-Filed, a notice of electronic filing will be automatically served electronically on all parties who are registered case participants.
- (3) **Effect of E-Service.** Electronic service of the filing constitutes service of the filed document and satisfies the certificate of service requirement, unless the filing party has actual knowledge of a technical failure resulting in non-receipt of a document. E-Service of an E-Filed document will be deemed complete when a registered user receives the notice on the E-Service notifications page through the E-Filing system.
- (4) **Service of Paper Copies.** Self-represented parties and other interested parties who may be served with a filing (such as receivers and other court appointees) but who are not subscribed to the court's E-Filing system must be served with a paper copy in accordance with the applicable rules of procedure.

**(J) PAPER FILING OF DOCUMENTS**

- (1) **Documents Filed under Seal.** A motion to file documents under seal must be filed and served electronically. However, the documents to be filed under seal must be filed in paper form unless otherwise directed by the court.
- (2) **Documents submitted for in camera review.** Any documents submitted for in camera review must be submitted to the assigned judge in paper form outside the E-Filing system. The party submitting the documents for in camera review must e-file a Notice of Documents Submitted for In Camera Review.
- (3) **Exhibits.** Exhibits or other items that cannot be captured or stored in an electronic format may be filed and served in paper form.
- (4) **Motions to be admitted Pro Hac Vice.**

**(K) PUBLIC ACCESS TERMINALS**

Public access terminals are located in the clerk's office. Users will be charged for printed copies of documents at rates established by the clerk.



**(L) HELP DESK**

The clerk will maintain a help desk in the clerk's office for users of the E-Filing system. The help desk will have dedicated staff available to provide telephone support from 8:30 a.m. to 4:30 p.m. each business day. The help desk staff will:

- (1) Answer and assist the public with any concerns regarding the E-Filing system;
- (2) Assist the public with establishing new accounts and registration;
- (3) Assist system users with the resetting of passwords;
- (4) Coordinate and provide end user training.

*Effective 10/10/2018.*

Cuyahoga County Common Pleas Court Local Rules

**Appendices**

(A) *RULE 13.0 (J) SUPREME COURT OF OHIO PROFESSIONALISM DO'S AND DON'TS: DEPOSITIONS*

(B) *RULE 26.1 (F) FORM*

(C) *RULE 29.0 INVENTORY FORM*

(D) *RULE 30.1 GUIDELINES FOR MHDD ELIGIBILITY*

## APPENDIX A



THE SUPREME COURT *of* OHIO



# DEPOSITIONS

Issued by the Commission on Professionalism:

*If there is one area of the practice of law that consistently gives rise to an inordinate number of complaints about lack of professionalism, it is the area of depositions. Depositions, of course, are an extremely important and valuable component of our adversary system, but, if abused and mishandled, they can engender unnecessary and costly strife that impedes and undercuts the entire process. To help correct this situation, the Commission on Professionalism is publishing the following guidelines, a set of deposition “dos and don’ts.” The Commission believes that if lawyers follow these guidelines — which are consistent with, and to some extent provide specific amplification of, the Supreme Court’s Statements on Professionalism — lawyers will be able to use depositions to advance the legitimate interests of their clients, while, at the same time, treating all participants in the process, including deponents and opposing counsel, with courtesy, civility, and respect. It is not the Commission’s intention to regulate or to suggest additional bases for discipline, but rather to facilitate the promotion of professionalism among Ohio’s lawyers. In short, by adhering to these guidelines, lawyers will be acting as professionals and in the manner that the courts expect.*

*Therefore, as a lawyer who is scheduling, conducting or attending a deposition:*

## DO

- Review the local rules of the jurisdiction where you are practicing before you begin.
- Cooperate on scheduling. Rather than unilaterally sending out a notice of deposition, call opposing counsel first and cooperate on the selection of the date, time, and place. Then send out a notice reflecting the agreed upon date.
- If, after a deposition has been scheduled, a postponement is requested by the other side, cooperate in the rescheduling unless the requested postponement would be one of those rare instances that would adversely affect your client’s rights.
- Arrive on time.
- Be prepared, including having multiple copies of all pertinent documents available in the deposition room, so that the deposition can proceed efficiently and expeditiously.

## Cuyahoga County Common Pleas Court Local Rules

- Turn off all electronic devices for receiving calls and messages while the deposition is in progress.

### The Supreme Court of Ohio Commission on Professionalism

---

- Attempt to agree, either before or during the deposition, to a reasonable time limit for the deposition.
- Treat other counsel and the deponent with courtesy and civility.
- Go “off record” and confer with opposing counsel, privately and outside the deposition room, if you are having problems with respect to objections, the tone of the questions being asked or the form of the questions.
- Recess the deposition and call the court for guidance if your off-the-record conversations with opposing counsel are not successful in resolving the “problem.”
- If a witness is shown a document, make sure that you have ample copies to distribute simultaneously to all counsel who are present.
- If a deponent asks to see a document upon which questions are being asked, provide a copy to the deponent.
- Inform your client in advance of the deposition (if the client plans to attend) that you will be conducting yourself at the deposition in accordance with these “dos and don’ts.”

## DON'T

- Attempt to “beat your opponent to the punch” by scheduling a deposition for a date earlier than the date requested by your opponent for deposition(s) that he or she wants to take.
- Coach the deponent during the deposition when he or she is being questioned by the other side.
- Make speaking objections to questions or make statements that are intended to coach the deponent. Simply say “object” or “objection.”
- Make rude and degrading comments to, or ad hominem attacks on, deponent or opposing counsel, either when asking questions or objecting to questions.
- Instruct a witness to refuse to answer a question unless the testimony sought is deemed by you to be privileged, work product, or self-incriminating, or if you believe the examination is being conducted in a manner as to unreasonably annoy or embarrass the deponent.
- Take depositions for the purpose of harassing a witness or in order to burden an opponent with increased litigation expenses.
- Overtly or covertly provide answers to questions asked of the witness.
- Demand conferences or breaks while a question is pending, unless the purpose is to determine whether a privilege should be asserted.
- Engage in conduct that would be inappropriate in the presence of a judge.



## APPENDIX D

THE SUPREME COURT of OHIO • 65 South Front Street Columbus, Ohio 43215-3431 • [supremecourt.ohio.gov](http://supremecourt.ohio.gov) • 614.387.9317



### MHDD Court and MHDD Probation Unit

### Qualifying Diagnoses

#### Clinical Eligibility Guidelines

Clinical eligibility requires a defendant to suffer from a psychotic-spectrum mental illness and/or developmental disability (Neurodevelopmental Disorder).

#### Mental Health Diagnoses (DSM-5)

Key features of a psychotic-spectrum mental illness include the following symptoms:

- 1) Auditory/Visual Hallucinations (e.g., hearing or seeing things that others do not)
- 2) Delusions (e.g., fixed, false beliefs such that one claims they are Jesus Christ)
- 3) Disorganized Thinking/Speech (e.g., incoherence, jumping from one topic to another)
- 4) Grossly Disorganized/Abnormal Motor Behavior (e.g., childlike behavior, agitation)
- 5) Negative Symptoms (e.g., diminished emotional expression)

Disorders that have psychotic elements include the following:

- **Delusional Disorder (Erotomantic, Grandiose, Jealous, Persecutory, or Somatic Type)**
- **Brief Psychotic Disorder**
- **Schizophreniform Disorder**
- **Schizophrenia**
- **Schizoaffective Disorder (Bipolar or Depressive Type)**
- **Psychotic Disorder Due to Another Medical Condition**
- **Other Specified or Unspecified Schizophrenia Spectrum and Other Psychotic Disorder**
- **Schizotypal Personality Disorder**
- **Bipolar I Disorder with Mood Congruent Psychotic Features**
- **Bipolar II Disorder with Mood Congruent or Incongruent Psychotic Features**
- **Other Specified or Unspecified Bipolar and Related Disorder with Psychotic Features**
- **Persistent Depressive Disorder (Dysthymia) with Mood Congruent or Incongruent Psychotic Features**
- **Other Specified or Unspecified Depressive Disorder with Psychotic Features**
- **Posttraumatic Stress Disorder with Psychotic Features**
- **Other Specified or Unspecified Trauma and Stressor Related Disorder with Psychotic Features**

#### Developmental Disability Diagnoses (DSM-5)

- **Intellectual Disability (Mild, Moderate, Severe, Profound) and/or an adaptive skills deficit based on a diagnostic report.**
- **Unspecified Intellectual Disability**
- **Borderline Intellectual Functioning (if Full Scale IQ score is 75 or lower)**
- **Autism Spectrum Disorder (e.g., Asperger's Disorder)**
- **Tic Disorder (e.g., Tourette's Disorder)**
- **Major or Mild Neurocognitive Disorder (with onset prior to age 22)**