

**HOLMES COUNTY  
COURT OF COMMON PLEAS  
GENERAL AND DOMESTIC RELATIONS DIVISIONS**

**Local Rules of Practice**

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**RULE 1**  
**GENERAL PROVISIONS**

**(A) Adoption and Applicability.**

The following rules are adopted effective on and after May 3, 2010, to govern the practice and procedure before this Court, subject to such rules as may be adopted or promulgated by the Supreme Court of Ohio. These rules shall be recorded by the Clerk of Courts of Holmes County and journalized therein, and shall be filed with the Supreme Court of Ohio. All previous orders and versions of these Rules are rescinded.

**(B) Citation.**

The Local Rules of Practice of the Holmes County Court of Common Pleas, General and Domestic Relations Divisions, shall be cited in this Court as follows: “**Local R. \_\_**”.

**(C) Computation of Time.**

All time computations under these Rules shall be made in accordance with the Ohio Rules of Civil and Criminal Procedure as required by said Rules.

**(D) Ohio Attorney.**

No action in the Court of Common Pleas shall be filed or tried by an attorney who is not admitted to practice in the State of Ohio, unless there is co-counsel who is admitted to practice in Ohio. This does not preclude pro se appearances.

Together with the attorney’s signature line upon any pleading filed with the Court of Common Pleas, the attorney shall include his/her Supreme Court registration number.

At the request of the Judge, an attorney may be requested to present identification that he or she is registered and in good standing with the Ohio Supreme Court to practice law in this state.

**LOCAL RULE 2**  
**FILINGS WITH THE COURT**

**(A) Custody of Files.**

The Clerk of Courts shall not permit any of the files of that office to be taken from her custody except with written approval of the Court. This Rule shall not prevent the files of the Clerk of Courts being removed from her custody by a Judge of the Court, a member of the Judge's staff or a Visiting Judge.

**(B) Copies.**

The Clerk of Courts shall upon advance request and as the business of her office allows, furnish certified copies of pleadings (except depositions or transcripts of evidence) contained in the files of the Court. All certified pages copied by the Clerk upon request shall be furnished upon the payment in advance at the rate of \$1.00 per page. The Clerk shall certify said copy as being true and correct. This paragraph's payment requirements shall not be applicable to any office or department of county government, nor shall it be applicable to indigent parties or their counsel upon written approval by the Court.

**(C) File Management.**

(1) The previous provision of the Local Rules of Practice requiring the filing of duplicate pleadings for the judge is rescinded.

(2) The Clerk of Courts shall have custody of the case files and pleadings of the Court.

(3) Upon the filing of a pleading or other paper with the Clerk, such paper shall be docketed and otherwise processed pursuant to law. The Clerk shall place the paper in the appropriate case file and bring the file to the Judge's attention.

**(D) Filing of Discovery Materials.**

The Clerk of Courts shall not accept those materials proscribed by Civil Rule 5(D) unless ordered by the Court by entry, or the party seeking to file the same furnishes a statement that the materials shall be used as evidence at the trial on the merits or are related to consideration of a pending motion.

**(E) Exhibits in the Custody of the Court Reporter.**

All exhibits admitted into evidence at trial or hearing in the Court of Common Pleas shall be in the custody of the Court Reporter unless otherwise ordered. The Court Reporter shall keep said exhibits in her custody for a period of sixty (60) days after the last action in this Court or an appellate court unless otherwise ordered.

At the end of said sixty (60) day period the Court Reporter/Bailiff shall notify the person who submitted the exhibit. Said person has ten (10) days within which to pick up the exhibit. Failure of such a person to pick up the exhibits within ten (10) days from notice by the Court Reporter shall result in the Court Reporter disposing of the exhibit.

**RULE 3**  
**TIME EXTENSIONS**

**(A) Leave to Plead.**

Leave to plead or an extension of time to file a pleading, including but not limited to an answer, motion, reply, or response to request for discovery, shall be upon leave granted by the Court only. No stipulations for extensions of time shall be binding upon the Court. A party desiring an extension of time to file a pleading shall do so by motion, together with supporting memorandum and draft journal entry. Any request or extension of time shall comply with Local R. 5(D). Failure to make a filing within a time period required by the appropriate Civil or Criminal Rules of Procedure or the Local Rules of Practice or an Order of this Court may result in the striking of a pleading by the Court *sua sponte* or upon motion of an adverse party.

**(B) Leave Instanter.**

(1) All certifications or motions for leave to plead or extensions which are not filed with the Court before the expiration of the otherwise applicable time period shall be styled a "Motion for Leave to Plead Instanter." Said motion shall be supported by memorandum and affidavit if necessary, which shall set forth the reason that the pleading was not filed timely. The motion shall be accompanied by the proposed pleading to be filed instanter together with a draft journal entry which may be executed by the Court in the event the "Motion for Leave to Plead Instanter" is granted.

(2) In the event any party objects to the granting of a "Motion to Leave to Plead Instanter", such objecting party shall respond within five (5) days from the "Motion to Leave Instanter's" filing with the Court. The Court shall determine the "Motion for Leave to Plead Instanter" and any objections thereto without hearing it on the basis of the pleadings submitted to the Court. Reply or additional memoranda shall be submitted only with prior approval of the Court.

**(C) Leave as Justice Requires.**

Nothing herein shall prevent the Court from granting leave to prevent manifest injustice.

## RULE 4

### FILING PLEADINGS AND OTHER DOCUMENTS BY ELECTRONIC TRANSMISSION.

Whereas:

“Local Rules may provide for the filing of pleadings and other documents by electronic means, any signature on electronically transmitted pleadings or documents shall be considered that of the attorney or party it purports to be for all purposes. If it is established that the pleadings or documents were transmitted without authority, the Court shall order the filing stricken.” (Civ. R. 5(E), effective July 1, 1991.)

All pleadings and other documents may be filed with the Court by facsimile [to the Clerk’s Office facsimile No. 330-674-0289 fax number].

Transmissions are subject to the following provisions:

(1) A document filed by facsimile transmission will be accepted as original and the signature accepted as original consistent with Civ. R. 5(E).

(2) The sending party or attorney must provide all required information on a cover page of transmission. Said cover page shall bear the name of the case, the full case and docket number, the sender’s name, firm, address, phone number and fax number; the date of transmission; the number of pages, including the cover page being transmitted; and such other comments and information as may assist the Clerk and Court in processing the document. Transmissions without such information will not be accepted for filing. A transmitted document must be no longer than **30 pages**, not including the cover page, and must pertain to only one case.

(3) The Clerk of Courts shall notify the attorney or sending party if the transmitted document cannot be filed for any reason. All documents submitted shall be considered filed when the date/time has been stamped by the Clerk. For the purposes of this rule, the date/time stamp produced by the Clerk’s facsimile machine shall constitute the date/time stamp of the Clerk.

(4) The risk of fax filing remains with the sender and the Clerk of Courts assumes no new responsibilities or liabilities. The sending party shall be responsible for maintaining the source document and cover sheet until all appeals have been exhausted.

(5) The Clerk shall maintain on the premises a facsimile machine which will be attached to a dedicated phone line and dedicated electronic circuit protected by surge protector and shall be available 24-hours a day seven days a week. The device will use 20 lb. bond paper, to comply with Civ. R. 10(E) and will meet C.C.I.T.T. Group 3 specification. It shall automatically place the date and time of receipt on the printed transmission.

**RULE 5**  
**CIVIL CASE MANAGEMENT**

**(A) Preface.**

The goal of this Rule is the prompt but fair disposition of civil litigation. This goal can only be accomplished by early and continuing judicial control and management of each case assigned to the judge's docket. This Rule will establish a general framework for management of cases, leaving to the discretion of the judge the use of additional procedures to accomplish the goal of this Rule.

**(B) Scheduling Order.**

(1) At any time after service of the Complaint, the judge may make a scheduling order.

(2) The scheduling order may limit the time:

- (a) To join new parties and to amend the pleadings;
- (b) To file and hear motions, including motions for summary judgment;
- (c) To disclose experts and to jointly certify to the Court in writing the completion of discovery (the completion of discovery does not include the taking of depositions preserving testimony for use at trial.)
- (d) The scheduling order may establish the final pretrial date. Final pretrial conferences and any other pretrial conferences shall be conducted pursuant to Local Rule 9.
- (e) The Court may address in the scheduling order any other matters appropriate to the particular case.
- (f) The scheduling order shall not be modified except by subsequent order of the Court.

**(C) Motions.**

(1) Summary Judgment.

- (a) Motions for summary judgment shall be in accordance with Civil Rule 56, and shall be decided without oral hearing, unless oral argument is requested and determined necessary by the Court. The scheduling order shall fix a "hearing date" as required by Civil Rule 56(C). Rebuttal memoranda, affidavits, or other supporting documents shall be filed by the moving party only with prior permission of the Court.

- (b) To assure compliance with Civil Rule 56(C), depositions answers to interrogatories, written admissions, affidavits, transcripts of evidence, and written stipulations of fact to support or oppose a motion for summary judgment shall be attached to the motion or memorandum, and the caption shall state the document attached, i.e. '...Including Affidavit of \_\_\_\_\_.' Documents which are not expressly mentioned in Civil Rule 56(C) shall be attached to an affidavit and filed. Failure to file any document as provided herein or to reference said document in the memorandum in support or in opposition to a motion for summary judgment may result in its exclusion by the Court.
- (c) The movant for summary judgment shall submit a judgment entry granting the relief sought, together with the motion for summary judgment in the event said motion is granted.

(2) All Other Motions.

All other motions will be decided without oral hearing unless oral argument is requested and determined necessary by the Court. The moving party shall file with the motion a brief supporting memorandum containing the authorities relied upon and any affidavits or other supporting documents required or appropriate together with a draft judgment entry in the event the motion is granted. Each party opposing the motion shall file a written response within fourteen (14) days after the filing of the motion with the Court. Reply, rebuttal or additional briefs or memorandums shall be submitted only with prior approval of the Court. Motions for extensions or leave to plead shall be governed by Local Rule 3 and 5(C).

(D) Continuances.

(1) Requests for continuance shall be submitted to the judge in writing at least seven (7) days prior to the trial, hearing date or other date set by order or Rule of this Court, absent emergency or other cause deemed sufficient by the Court. Requests for continuance include continuances of case management conferences, pretrial conferences, matters established by scheduling orders, motion dates, trials and any other dates or time limits established by order of the Court or these Rules. Requests for continuance shall be made by written motion and separate proposed journal entry. The motion shall be supported by a memorandum which shall include:

- (a) The reason for the request for continuance. If the reason is another case scheduled on the same date in another court, the memorandum shall be supported by a copy of that court's scheduling order

setting forth the name of the court and assigned judge, the case caption, the date and time of the conflicting case, and the date that the conflicting case was assigned for trial, together with whether said conflicting case is a criminal or civil matter;

(b) The number of continuances of the hearing, trial or other date which is sought to be continued which have been previously made by any party, together with the Court's ruling upon said requests.

(c) The request for continuance shall bear the signature of movant's client approving the continuance and the necessity thereof.

(2) The separate proposed journal entry which shall include:

(a) The time and date of the current assignment;

(b) The position of opposing counsel and parties on the continuance which shall have been obtained by movant prior to the filing of the motion for continuance;

(c) A new date obtained from the Court and previously cleared with opposing counsel by movant in the event the Court grants the motion for continuance.

**(E) Sanctions.**

Failure of counsel or a party to comply with the provisions of Rule 5(D) may result in a denial of a motion for continuance by the Court *sua sponte*.

**RULE 6**

**MEDIATION IN FORECLOSURE ACTION**

At the commencement of the filing of any foreclosure action other than a tax foreclosure action the Holmes County Common Pleas Clerk of Courts shall attach a notification to the debtor-defendants that they have a right to mediation. The mediation shall only be conducted if the defendants properly execute the mediation form and submit it to the clerk's office in a timely fashion as set forth by the language of the request. A copy of said request language is set forth and marked Appendix A and made a part of this rule.

**RULE 7**  
**WITHDRAWAL OF COUNSEL**

**(A) Leave of Court required.**

Counsel for any party shall be permitted by the Court to withdraw from an action in all cases where he/she is obligated to withdraw under Disciplinary Rule 2-110 of the Ohio Code of Professional Responsibility. The Court may also permit counsel to withdraw when withdrawal is permitted under Disciplinary Rule 2-110.

**(B) Procedure.**

(1) When counsel's client consents to counsel's withdrawal, counsel shall file with the Court a written Motion to Withdraw, together with an entry and appearance of substitute counsel. The Court may not allow a continuance of the matter because counsel has been substituted.

(2) In all other cases counsel shall file a written Motion to Withdraw with the Court and counsel shall send written notice to the client of the time, date, and place of the hearing on the Motion by certified mail, return receipt requested. A copy of said notice shall be attached to the Motion. In the event that counsel is unable to locate the client, counsel shall submit with their Motion a statement detailing the efforts to communicate with the client.

(3) If the Motion is granted, counsel shall notify the client of the withdrawal by sending him a copy of the Entry by certified mail, return receipt requested, at the client's last known address.

**RULE 8**  
**FILE MANAGEMENT**

(1) The previous provision of the Local Rules of Practice requiring the filing of duplicate pleadings is rescinded.

(2) The Clerk of Courts shall have custody of the case files and pleadings of the Court.

(3) Upon the filing of a pleading or other paper with the Clerk, such paper shall be docketed and otherwise processed pursuant to law. The Clerk shall place the paper in the appropriate case file and bring the file to the Judge's attention.

(4) Case files which are removed from the Clerk's office for the Judge's consideration shall be signed out by the person removing same. Upon completion of the Judge's consideration, the case file shall be returned to the Clerk's custody.

(5) When a paper is received by the Clerk for filing and the case file is in the Judge's possession, the pleading shall be forwarded to the Judge after processing and the Judge's staff shall be responsible for filing the pleading in the case file.

**RULE 9**  
**PRETRIAL CONFERENCES IN CIVIL CASES**

**(A) Case Management Conference.**

(1) The Court may hold one or more case management conferences. The purposes of the case management conferences are to establish a scheduling order, to clarify and simplify the issues, to consider the necessity or desirability of amendment to the pleadings, to facilitate constructive communication among the parties, to explore settlement possibilities, and to otherwise promote an economical, expeditious, and mutually satisfactory conclusion of the case.

(2) Case management conferences shall be scheduled at the time of the filing of the Complaint. Defendants shall be served with a copy of the notice establishing the case management conference by the Clerk together with the summons. The scheduling of a case management conference shall not relieve any party from a duty to timely plead pursuant to the Rules of Civil Procedure or as otherwise ordered by this Court.

(3) Counsel for each party shall appear at each case management conference, shall bring their calendar/schedule with them and shall have authority from their clients to fully discuss the issues in the case and explore settlement possibilities. The parties need not appear unless the Court orders otherwise. Any statement of counsel made in the course of a case management conference shall not be binding upon the parties unless expressly made so by written stipulation, or by request to the Court that such statement be incorporated into a pretrial order.

(4) Any counsel may elect, with at least three (3) business days notice to the Court and to opposing counsel, to conduct the case management conference by telephone conference call. Counsel electing to conduct the conference by telephone shall have the responsibility of placing the conference call to the Court and opposing counsel. In the event the Court determines that a case management conference conducted by telephone conference call was inadequate for the purposes desired, the Court may schedule a subsequent case management conference and require the attendance of all counsel in person.

(5) Following the case management conference, the Court shall prepare a written pretrial scheduling order, which embodies the matters discussed and agreed upon at the conference. The Court may direct counsel to prepare a draft of such pretrial order, pursuant to Local R. 13.

**(B) Other Pretrial Conferences.**

The Court may at any time, upon its own motion or upon motion of any party, schedule a pretrial conference to discuss any matter relating to the expeditious and fair resolution of any matter concerning the litigation pending before the Court.

**(B) Final Pretrial Conference.**

(1) Unless the Court determines that a final pretrial conference would be unnecessarily burdensome to the Court or the parties, or the Court determines that final pretrial conference is otherwise unnecessary, a final pretrial conference shall be scheduled during the two-week period immediately preceding the trial date.

(2) **Joint Pretrial Statement.** In the event the final pretrial conference is held, a joint pretrial statement shall be prepared by counsel for all parties, or by the party if unrepresented, and shall be filed with the Court not less than seven (7) business days prior to the date of the final pretrial conference. The joint pretrial statement shall include as follows:

- (a) A concise summary of the essential facts.
- (b) A brief statement of the issues involved.
- (c) A brief statement of the applicable law and the authorities upon which each party relies.
- (d) A list of demonstrative evidence and exhibits which will be offered at trial.
- (e) An itemized statement of damages by persons claiming such damages.
- (f) Names and addresses of prospective lay and expert witnesses, together with a brief summary of the experts' qualifications.
- (g) A list of depositions and/or video-taped depositions which each party intends to introduce at trial.
- (h) Estimated length of trial.
- (i) A brief statement that counsel conferred prior to the final pretrial conference, discussed in depth the issues involved, proposed offers of settlement, that such offers were refused, and a statement as to the prospects of settlement prior to trial.

(3) If the case is to be tried to a jury, counsel shall also file with the Court and serve upon all parties at least seven (7) business days before the date of final pretrial conference a draft of substantive jury instructions, jury interrogatories (if any), verdict forms, and an indication as to whether a jury view will be requested and, if so, details as to the site

parameters of the view. Jury instructions may be referred to by referencing standard Ohio Jury Instructions volumes and sections.

(4) In addition to counsel of record, all parties and persons who have authority to affect the disposition of the case shall attend the final pretrial conference.

(5) When justice so requires, such as when the party represents a limited or a peripheral interest or is not involved in the contested issues in the case, the Court may excuse any party or counsel from appearance at the final pretrial conference or from the preparation of a joint pretrial statement, or both. A party desiring to be excused from attendance or preparation of a joint pretrial statement, in the event such party is not expressly excused in the Court's notice of final pretrial conference, shall request such consideration by written motion pursuant to Local R. 5(D).

(6) Counsel shall be prepared to discuss all other matters referred to in Civil Rule 16 at the final pretrial conference.

(7) Following the final pretrial conference, the Court shall prepare a written pretrial order which embodies the matters discussed and agreed upon at the conference. The Court may direct counsel to prepare a draft of such pretrial order, pursuant to Local R. 13.

**(C) Failure to Appear or Failure to Comply.**

(1) Should a party or counsel fail to appear at a conference held pursuant to this Local Rule or fail to comply with the directions set forth in this Rule or an order of Court issued pursuant to this Rule, counsel and/or a party may be required to pay opponent's costs and attorney's fees, and/or may be punished for contempt of court, and/or an ex parte hearing may be held and judgment of dismissal or default or other appropriate judgment may be entered and sanctions imposed.

(2) Counsel or unrepresented party with any claim pending before this Court is hereby given notice, pursuant to Civ. R. 41(B)(1), that failure to appear at any conference, pursuant to this Rule, or failure to comply with this Rule or any order of this Court issued pursuant to this Rule may result in dismissal of said claim for want of prosecution.

(3) Failure of a party to include information in the joint pretrial statement may result in the exclusion of such information (fact, issue, law, authority, demonstrative evidence, exhibit, damages, witness, deposition, etc.) at trial.

**RULE 10**

**RESERVED.**

**RULE 11**

**FINDINGS OF FACT AND CONCLUSIONS OF LAW.**

When a request under Rule 52 of the Ohio Rules of Civil Procedure is timely made for findings of fact and conclusions of law, the Court may direct either party to prepare within seven (7) days proposed findings of fact and conclusions of law and submit them to the Court and to opposing counsel and parties unrepresented by counsel. Within seven (7) days thereafter, the opponent shall submit any objections or counterproposals to the Court in writing.

**RULE 12**  
**RESERVED**

**Rule 13**  
**JUDGMENT ENTRIES AND DECREES**

**(A) Preparation.**

(1) Except as to certifications, entries granting leave to plead, and matters in which the Court prepares a Judgment Entry, or unless the Court otherwise directs, counsel for the party in whose favor an order, judgment, or decree has being ranted in a civil case shall prepare a Judgment Entry relating the action of the Court and shall submit to the Court the same after circulation of the original to all other trial counsel and all parties unrepresented by counsel who have entered an appearance in the case, within fourteen (14) days of the Court's decision, unless the time is extended by the Court. In the event that no one party is clearly the prevailing party, the Court shall designate which counsel shall prepare the proposed Judgment Entry and, in the absence of such designation, the parties shall request the Court to make such a designation.

**(B) Approval by Fewer than Four Parties.**

In the event fewer than four approvals are required:

(1) The opposing counsel or unrepresented party shall approve or reject the proposed Entry within five (5) days after service of the same. Three days shall be added for any counsel or unrepresented party who resides outside the county. Upon approval, the Entry shall be returned to counsel who prepared it, who shall then submit it forthwith to the Court. Upon approval and signature by the Court, the Clerk shall enter the entry forthwith upon the journal.

(2) If any objection is made to the proposed Judgment Entry, the objecting party shall state his objection in writing, attach the objections to the Entry, and submit the same with the Court. In the alternative, the objecting party may submit to the Court an alternative proposed Judgment Entry which he/she believes properly reflects the Court's decision. Written objections and alternative proposed entries shall be served upon all counsel and all parties unrepresented by counsel.

(3) The failure of any party to respond to a proposed Entry within the aforestated five (5) day period after service shall be deemed an approval of the Entry and shall authorize counsel who prepared the entry to submit it or a duplicate directly to the Court for approval.

(4) The Court may resolve the matter of the objections or alternative

proposed Judgment Entry without a hearing or may schedule a hearing upon notice to all parties.

**(C) Approval by Four or More Parties.**

In the event four or more approvals are required:

(1) Counsel or parties unrepresented by counsel may approve an Entry by telephone, in which case the counsel preparing the Entry shall sign for the party approving the Entry and include a certificate relating that said party or counsel approved the Entry by telephone on a specific date and authorized counsel preparing the Entry to sign on behalf of that party.

(2) Counsel preparing a proposed Entry may submit the original Entry directly to the Court for approval without circulation among counsel and parties. Such proposed Entry shall, in lieu of the approval of other counsel, contain a certificate of the submitting counsel that on a specified date he mailed a copy of the Judgment Entry to all counsel or parties whose approval is not endorsed thereon. The Court shall withhold approval of the proposed Judgment Entry until ten (10) days after the date copies were sent to other counsel or parties. If no written objections or alternative proposed Judgment Entries are filed with the Court by the end of such period, and the proposed Judgment Entry is otherwise acceptable to the Court, the Court shall approve and sign the same forthwith. In the event of any objection or alternative proposed Judgment Entry, the Court may decide the matter as stated above.

**(C) Judgment Entry upon Settlement.**

Counsel shall submit an order of dismissal for a case not later than fourteen (14) days after notice to the Court of settlement, unless said time is extended by the Court.

**(D) Orders Sua Sponte.**

Provisions of this Rule shall not be deemed to preclude the Court at any time from preparing and filing *sua sponte* its own judgment or order.

**(E) Approval as to Form Only.**

If counsel or a party unrepresented by counsel signs the entry "as to form only," said reservation shall be understood to mean that the attorney or party so signing admits the truth of no fact contained in the Entry and waives appeal of no legal issue resolved therein, but acknowledges that the Entry properly reflects the decision of the Court. Unless otherwise provided for in the Entry, neither the admission of facts nor the waiver of legal issues may be inferred from a signature not accompanied by the foregoing reservation.

**(F) Confirmation Entries.**

Submission and approval of Entries confirming judicial sales shall be governed by Rule 15.

**(G) Judgment Entries Affecting Interest in Real Estate.**

Prior to the submission of any Entry or Decree transferring or affecting any interest in real estate situated in Holmes County, Ohio, to the Court for execution, counsel shall submit the legal description of the real estate contained in said Entry to the Holmes County Tax Map Office for review as to the legal sufficiency of said description. The original of any such Entry shall bear the approval stamp of said Tax Map Office prior to submission to the Court.

**(H) Sanctions for Failure to Comply.**

If an Entry is not presented for execution to the Court in conformance with this Rule, the Court may prepare its own Entry and/or may require counsel and the parties to appear and show cause why they should not be punished for contempt and/or may dismiss the case with or without prejudice for want of prosecution and assess costs.

Notice is hereby given pursuant to Civ. R. 41(B)(1) to any counsel for claimant or any unrepresented claimant who has a claim for relief pending before this Court that failure to abide by the terms of this Rule or any order of Court issued pursuant to this Rule may result in a dismissal of said claim for want of prosecution.

**(I) Distribution of Entries.**

All judgment entries and journal entries submitted to the Court shall at the end of the entry indicate for the Clerk of Courts to whom copies of the entry should be distributed (e.g. counsel, sheriff, CSEA, etc.). This Rule shall be complied with by listing the persons for distribution after "cc:" under the Judge's and counsel's signature lines.

**RULE 14**  
**RESERVED**

**RULE 15**  
**SHERIFF'S SALES**

**(A) Payment by Successful Bidder.**

(1) In every Sheriff's sale of real property, the successful bidder as purchaser, shall be required to deposit by 3:00 o'clock P.M. on the day of sale, in cash or by certified check payment to the Sheriff, not less than ten percent (10%) of the amount of such bid. The unpaid balance of the purchase price shall be due and payable to the Sheriff within thirty (30) days from the date of the sale, or within five (5) days of confirmation of the sale if the sale is not confirmed within such thirty (30) day period. The purchaser shall pay interest on the unpaid balance of the purchase price at an annual rate of interest provided in Section 1343.03 of the Ohio Revised Code from the date of the sale to the date of payment of the balance unless the balance shall be paid within such time period. Any interest received shall be distributed by the Sheriff to the parties entitled to distribution of the proceeds of sale in the proper order of priority. The provisions of this paragraph shall not be applicable when the purchaser is the Plaintiff.

(2) In the event a purchaser fails to pay the balance due on the purchase price and complete the purchase within the time set forth herein, he shall be in contempt of this Court and any attorney of record in the case may forthwith cause a citation to issue commanding such defaulting purchaser to appear before the Judge of the Court and show cause why he should not be punished. Upon a finding of guilty of contempt, the Court shall proceed in accordance with Section 2329.30 of the Ohio Revised Code.

**(B) Return and Confirmation.**

(1) By the first Monday following the date of sale, the Sheriff shall make his return to the Court. The plaintiff shall prepare and deliver a proposed entry confirming the sale to the Court, and serve copies upon all parties or their attorneys of record by regular mail within seven (7) days after the date of sale. Proof of service of such proposed Entry shall be filed with the Court. It shall not be necessary to obtain the approval of other parties or their attorneys of record prior to the filing of such entry, though such approval may be obtained if expedited confirmation is desired. Unless proper written objection to the proposed confirmation entry is received by the Court within twenty-one (21) days after the date of sale, the proposed entry shall be approved by the Court and filed with the Clerk of Courts forthwith. If proper written objection is made, the Court shall determine the validity of the objection and make an order determining the issue. By the end of the day immediately following the filing of the entry confirming the sale, the Clerk shall deliver to the Sheriff a certified copy of such entry.

**Plaintiff's counsel** shall prepare a deed conforming to the requirements of Section 2329.36 of the Ohio Revised Code and shall deliver the same to the purchaser upon payment of the full purchase price and interest, if any.

(2) Insofar as is possible, all such entries of confirmation shall distribute proceeds according to their priorities and discharge liens of record. Every effort shall be made by counsel for Plaintiff, or the party requesting confirmation and distribution, to secure and protect the title of the purchaser at the sale.

**RULE 16**  
**RESERVED**

**RULE 17**  
**JUDICIAL CERTIFICATE IN CASES INVOLVING**  
**JUDICIAL SALES OF REAL ESTATE**

**(A) Certificate as to Title.**

In every action hereinafter filed in the General Division of the Common Pleas Court of Holmes County, Ohio, wherein a judicial sale of real estate is contemplated by the Complaint or subsequent pleadings the party praying for said sale or the attorney for the party praying for said sale shall either file a Judicial Title Certificate or a Certificate of Title with the Complaint or pleading, or may in the alternative endorse on such Complaint or pleading the following certification:

“The undersigned hereby certifies that an examination of the public records of Holmes County, Ohio has been made to determine the ownership of subject real estate and all parties who may claim any interest therein, and that, in the opinion of the undersigned, all such parties have been named as parties to this action,”  
stating as exceptions any interested party not so named.

**(B) Continuation of Certificate.**

Within ten (10) days after the filing of any Decree subsequently issued which orders the sale of real estate, the party or attorney having requested said sale shall either file a Continuation of a previously filed Certificate, or shall file the following Certification with the Clerk:

“The undersigned hereby certifies that the examination to title to subject real estate has been extended to (date of Decree) to determine if any parties have acquired an interest therein subsequent to said previous examination and discloses that, in the opinion of the undersigned, there are no such parties except parties to whom the doctrine of lis pendens applies,” also stating as further exceptions any such party not subject to lis pendens.

**(C) Examination by Purchaser.**

The Sheriff, deputy or party conducting the sale shall, prior thereto, announce that any purchasers shall have twenty-one (21) days from the date of sale to obtain an examination to title to said real estate. Should such examination disclose the title so purchased to be unmarketable by reason of any defect in the proceedings or the existence of any interest not disclosed in either of the certifications described above, no liability shall be predicated on the certifications, which are for the convenience of the Court, but said purchaser may, within the twenty-one (21) day period, notify the Court thereof by written motion requesting that said sale

be set aside. If the Court, upon hearing thereof, finds said title to be unmarketable, the Court shall refuse to confirm said sale. The Court may, however, fix a reasonable time, not to exceed ninety (90) days, within which such defects may be corrected.

**(D) Waiver.**

A purchaser may waive his right to examination in a writing filed with the Clerk within such twenty-one (21) day period if any expedited confirmation is desired.

**(E) Tax Foreclosures.**

This Rule shall not apply to proceedings under Section 55721.18, O.R.C.

**RULE 18**

**RESERVED**

**RULE 19**

**SERVICE UPON LOCAL COUNSEL**

The Clerk of this Court shall establish and maintain in the Office of the Clerk an individual drawer for each practicing attorney or firm or association of attorneys who maintain an office within the geographical limits of the County of Holmes. All pleadings subsequent to the original Complaint to be served upon any attorney or record in the action by the Clerk, the Court, or opposing counsel may be deposited in the drawer designated for that attorney, firm or association of attorneys, and such deposit shall constitute proper and complete service upon said attorney of record. Proof of service, when required by Civil Rule 5, shall indicate whether service was made pursuant to this Rule. All attorneys maintaining an office within the geographical limits of this County shall regularly check the contents of their individual or firm or association drawer. Failure in this regard will not excuse a claim of lack of proper notice. This Rule shall also apply to service of pleadings and notices to the Holmes County Child Support Enforcement Agency concerning any actions or pleadings which shall involve said Agency in this Court.

**RULE 20**  
**JURY MANAGEMENT PLAN**

Pursuant to Rule 9(C) of the Rules of Superintendence for Courts of Common Pleas of the Ohio Supreme Court, the following is hereby adopted as the Jury Management Plan for the Holmes County Common Pleas Court.

**(A) Opportunities for Service.**

(1) The opportunity for jury service shall not be denied or limited on the basis of race, national origin, gender, age, religious belief, income, occupation, disability, or any other factor that discriminates against a cognizable group in Holmes County, Ohio.

(2) Jury service is an obligation of all qualified citizens.

**(B) Jury Source List.**

(1) The names of potential jurors shall be drawn from a jury source list compiled from one or more regularly maintained lists of persons residing in Holmes County, Ohio, and maintained pursuant to law.

(2) The jury source list shall be representative and shall be as inclusive of the adult population in Holmes County, Ohio, as is feasible.

(3) The court shall periodically review the jury source list for its representativeness and inclusiveness of the adult population in the jurisdiction in Holmes County, Ohio, as is feasible.

(4) Should the court determine that improvement is needed in the representativeness or inclusiveness of the jury source list, appropriate corrective action shall be taken.

**(C) Random Selection Procedures.**

(1) Random selection procedures shall be used throughout the juror selection process. Any method may be used, manual or automated, that provides each eligible and available person with an equal probability of selection. These methods shall be documented by the jury commissioners and the court bailiff.

(2) Random selection procedures shall be employed in:

- (a) Selecting persons to be summoned for jury service;
- (b) Assigning prospective jurors to panels; and
- (c) Calling prospective jurors for voir dire.

(3) Departures from the principle of random selection are appropriate:

- (a) To exclude persons ineligible for service;
- (b) To excuse or defer prospective jurors;

- (c) To remove prospective jurors for cause or if challenged peremptorily; and
- (d) To provide all prospective jurors with an opportunity to be called for jury service and to be assigned to a panel.

**(D) Eligibility for Jury Service.**

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

- (1) Are less than eighteen years of age;
- (2) Are not citizens of the United States;
- (3) Are not residents of Holmes County, Ohio;
- (4) Are not able to communicate in the English language; or
- (5) Have been convicted of a felony and have not had their civil right restored.

**(E) Term of and Availability of Jury Service.**

(1) The time that persons are called upon to perform jury service and to be available should be the shortest period consistent with the needs of justice.

(2) Jury venires shall be summoned for a term of service of one day unless otherwise ordered by the Court.

(3) Persons shall not be required to maintain a status of availability for jury service for longer than two weeks.

**(F) Exemption, Excuse, and Deferral.**

(1) All automatic excused or exemptions, with the exception of statutory exemptions, from jury service shall be eliminated.

(2) Eligible persons who are summoned may be excused from jury service only if:

(a) Their ability to receive and evaluate information is so impaired that they are unable to perform their duties as jurors and they are excused for this reason by a judge; or

(b) They request to be excused because their service would be a continuing hardship to them or to members of the public and they are excused by the bailiff.

(3) Deferrals for jury service for a reasonably short period of time may be permitted by the judge or the bailiff.

(4) Requests for excuses and deferrals and their disposition shall be written otherwise made or recorded.

**(G) Voir Dire.**

(1) Voir dire examination shall be limited to matters relevant to determining whether to remove a juror for cause and to determine the juror's fairness and impartiality.

(2) To reduce the time required for voir dire, basic background information regarding panel members shall be made available to each counsel in writing for each party on the day on which jury selection is to begin.

(3) The trial judge shall conduct a preliminary voir dire examination. Counsel shall then be permitted to question panel members for a reasonable period of time.

(4) The judge should ensure that the privacy of prospective jurors is reasonably protected, and that the questioning is consistent with the purpose of the voir dire process.

(5) In criminal cases, the voir dire process shall be held on the record. In civil cases, the voir dire process shall be held on the record unless waived by the parties.

**(H) Removal from the Jury Panel for Cause.**

If the trial judge determines during the voir dire process that any individual is unable or unwilling to hear the particular case at issue fairly and impartially, that individual shall be removed from the panel. Such determination may be made on motion of counsel or by the trial judge.

**(I) Peremptory Challenges.**

(1) The Ohio Rules of Civil and Criminal Procedure relating to procedure for exercising peremptory challenges shall apply in this Court.

(2) Peremptory challenges should be limited to a number no larger than necessary to provide reasonable assurance of obtaining an unbiased jury.

(3) In civil cases, the number peremptory challenges shall not exceed three for each side. If the Court finds that there is a conflict of interest between parties on the same side, the Court may allow each conflicting party up to three peremptory challenges.

(4) In criminal cases, the number of peremptory challenges shall not exceed:

(a) Six for each side when a death sentence may be imposed upon conviction;

(b) Four for each side when a sentence of imprisonment (state institution) may be imposed upon conviction; or

(c) Three for each side in all other prosecutions. One additional peremptory challenge shall be allowed for each defendant in a multi-defendant criminal proceeding.

(d) In criminal and civil proceedings each side shall be allowed one peremptory challenge if one or two alternate jurors are impaneled, two peremptory challenges if three or four alternates are impaneled, and three peremptory challenges if five or six alternates are impaneled. These additional peremptory challenges shall be used against an alternate juror only, and the other

peremptory challenges allowed by law shall not be used against an alternate juror.

**(J) Administration of the Jury System.**

(1) The responsibility for administration of the jury system shall be vested exclusively in the Holmes County Court of Common Pleas.

(2) All procedures concerning jury selection and service shall be governed by Ohio Rules of Court and applicable statutes.

(3) Responsibility for administering the jury system shall be vested in the bailiff of the Court under the supervision of the Judge of the Court.

**(K) Notification and Summoning Procedures.**

(1) The notice summoning a person to jury service and the questionnaire eliciting essential information regarding that person should be:

- (a) Combined in a single document;
- (b) Phrased so as to be readily understood by an individual unfamiliar with the legal and jury system;
- (c) Delivered by ordinary mail.

(2) The questionnaire shall be phrased and organized so as to facilitate quick and accurate screening and should request only that information essential for:

(3) The questionnaire shall be phrased and organized so as to facilitate quick and accurate screening and should request only that information essential for:

- (a) Determining whether a person meets the criteria for eligibility;
- (b) Providing basic background information ordinarily sought during voir dire examination;
- (c) Efficiently managing the jury system;
- (d) Policies and procedures shall be established by the bailiff for monitoring failures to respond to a summons and for enforcing a summons to report for jury service.

**(L) Monitoring the Jury System.**

The Court shall collect and analyze information regarding the performance of the jury system on a regular basis in order to evaluate:

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

**(M) Juror Use.**

(1) The Court shall employ the services of prospective jurors so as to achieve optimum use with a minimum on inconvenience to jurors.

(2) The Court shall determine the minimally sufficient number of jurors to accommodate trial activity. This information and appropriate management techniques shall be used to adjust both the number of individuals summoned for jury duty and the number assigned to jury panels.

(3) The Court shall coordinate jury management and calendar management to make effective use of jurors.

**(N) Jury Facilities.**

(1) The Court shall provide an adequate and suitable environment for jurors.

(2) The entrance and registration area for jurors shall be clearly identified and appropriately designed to accommodate the daily flow of prospective jurors to the courthouse.

(3) The jurors shall be accommodated in pleasant waiting facilities furnished with suitable amenities.

(4) Jury deliberation rooms shall include space, furnishings, and facilities conducive to reaching a fair verdict. The safety and security of the deliberation rooms shall be ensured.

(5) To the extent feasible, juror facilities shall be arranged to minimize contact between jurors, parties, counsel and the public.

**(O) Juror Compensation.**

(1) Persons called for jury service shall receive a reasonable fee for their service and expenses.

(2) Such fees shall be paid promptly.

(3) Employers shall be prohibited from discharging, laying-off, denying advancement opportunities to, or otherwise penalizing employees who miss work because of jury service.

**(P) Juror Orientation and Instruction.**

(1) An orientation program shall be designed to increase prospective jurors' understanding of the judicial system and prepare them to serve competently as jurors; and, presented in a uniform and efficient manner using a combination of written, oral and audiovisual materials.

(2) The Court shall provide some form of orientation of instructions to persons called for jury service.

(3) The trial judge just shall give preliminary instructions, instructions after the enpanelment of the jury; instructions during trial and prior to the commencement of deliberations, pursuant to law.

(4) All communications between the judge and the members of the jury panel from the time of reporting to the court or voir dire until dismissal shall be in writing, on the record, in open court. Counsel for each party shall be informed of such communication and given the opportunity to be heard.

**(Q) Jury Size and Unanimity of Verdict.**

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

**(R) Jury Deliberations.**

(1) Jury deliberations shall take place under conditions and pursuant to procedures that are designed to ensure impartiality and enhance rational decision-making.

(2) The judge shall instruct the jury concerning appropriate procedures to be followed during deliberations.

(3) The deliberation room shall conform to this rule.

(4) The jury shall not be sequestered except under circumstances and procedures set forth by law.

(5) The jury shall not be required to deliberate after a reasonable hour unless the trial judge determines that evening or weekend deliberations would not impose an undue hardship upon jurors and are required in the interest of justice.

(6) Training shall be provided to personnel who escort and assist jurors during deliberations.

**(S) Sequestration of Jurors.**

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

(2) During deliberations in the guilt phase and the penalty phase, the jury shall be sequestered in a capital case.

(3) The trial judge shall have the discretion to sequester a jury on motion of counsel or on the judge's initiative and shall have the responsibility to oversee the conditions of sequestration.

(4) Training shall be provided to personnel who escort and assist jurors during the sequestration.

**RULE 21**  
**QUESTIONS BY JURORS**

**(A) Protocol for Questions.**

(1) During the Court's preliminary instructions [Civ. R. 51(B) and Crim. R. 30(B)], the jury shall be instructed regarding the privilege of submitting written questions to the Court which, if approved by the Court, may be asked of a witness. The jurors will further be given a cautionary instruction similar to the "question asked and objection sustained" instruction requiring them to disregard any juror question submitted but not approved by the Court. The jury will be further cautioned that the submission of written questions is a privilege and cautioned not to abuse the privilege by asking repetitive or unnecessary questions. The jury will also be instructed as to the exact procedure for submission of written questions to the Court.

(2) At the end of each witness' testimony, the Court will inquire as to whether any jurors have any questions for this witness. Jurors with questions will raise a hand and the bailiff will distribute a clipboard with one sheet of paper and a pen to each juror(s). After the juror(s) have completed writing their question(s), the bailiff will collect the clipboards, paper and pens and submit the paper with the question(s) to the Court. The Court will then conduct a bench conference with counsel and the court reporter at the north end of the bench (out of view and hearing of the jury). If there is no objection or only objection as to form of the question(s), the Court will decide on the question(s) at that time. If there is a substantive objection, counsel and the judge may step into chambers briefly to resolve the objection totally out of sight and sound of the jury. Lengthy objections or arguments may require a recess.

(3) After the Court rules on the juror's question(s), the Court may ask the question(s) of the witness in an impartial manner. [Evid. R. 614(B)].

(4) In the event the Court asks a juror's question(s), counsel shall be allowed follow-up questions of the witness regarding the subject matter of the juror's question(s) in the same manner and order as the original testimony.

(5) The Court may from time to time repeat the "question(s) submitted but not asked" instruction, especially when question(s) are submitted but the Court chooses not to ask them of a witness.

**(B) Objections.**

Any counsel or party objecting to this protocol shall submit such objections prior to trial or be deemed to have waived same. Any party may, of course, object to any particular question or answer.

**(C)** The Court's Journal Entry of September 21, 1989 regarding this procedure is incorporated herein as if fully rewritten.

**RULE 22**

**RESERVED**

## LOCAL RULE 23

### CRIMINAL CASE MANAGEMENT PLAN

#### **(A) General Provisions.**

##### **(1) Purpose.**

The purpose of this rule is the prompt but fair disposition of criminal cases. This goal can be accomplished only by early and continuing judicial control and management of each case. This rule establishes a general framework for the management of criminal cases, leaving to the discretion of the Judge the use of additional procedures to accomplish the goal of this Rule.

##### **(2) Authority.**

This rule is established pursuant to C.P. Sup. R. 9(B) and Crim. R. 57.

##### **(3) Applicability.**

This rule shall apply in all criminal litigation in the General Division of the Holmes County Court of Common Pleas.

##### **(4) Incorporation of Rules.**

These rules incorporate the Ohio Rules of Criminal Procedure and all Local Rules which may be applicable to criminal litigation. Without limitation as to the incorporation of other Local Rules, the following Local Rules are specifically incorporated herein insofar as applicable to criminal litigation: Local Rules 1, 2, 3, 4, 5(D), 7, 11, 13, 19 and 21.

(5) This rule is merely procedural in nature and creates no substantive rights on behalf of any party.

#### **(B) Arraignments.**

(1) Arraignments shall be conducted pursuant to Crim. R. 10 and shall be scheduled upon the filing of the indictment, transcript from a court of inferior jurisdiction, bill of information or complaint. Arraignments shall be scheduled as soon as practicable.

**(2) At Arraignment, the Court shall establish a scheduling order which may include a status conference and shall establish a pretrial conference.**

#### **(C) Discovery.**

(1) The Prosecuting Attorney shall appear at arraignment prepared to give Defendant discovery pursuant to Crim. R. 16(B) and 12(D). The Prosecuting Attorney shall have prepared a packet at arraignment which packet shall consist of Notice of Materials subject

to discovery. The packet shall contain copies of the material or notice of the existence of material together with notice of opportunity to inspect, copy or photograph said material as required by Crim. R. 16(B)(1)(a), (b), (c), (d), (e), and (f). The Prosecuting Attorney may include in the packet copies of witness statements, pursuant to Crim. R. 16(B)(1)(g).

(2) At arraignment, the Court shall inquire of Defendant whether Defendant desires discovery. An affirmative response shall be deemed to be a request/motion for discovery pursuant to Crim. R. 16(A). When said request is granted by the Court, the Prosecuting Attorney shall deliver the aforementioned discovery packet to Defendant. The Defendant's negative response shall be deemed a waiver of discovery.

(3) Upon the Prosecuting Attorney's provision of discovery as stated above, the Court shall inquire as to whether the Prosecuting Attorney desires reciprocal discovery from Defendant pursuant to Crim. R. 16(C). An affirmative response shall be treated as a request/motion for discovery from Defendant pursuant to Crim. R. 16(A). When said request is granted, Defendant shall provide discovery to the Prosecuting Attorney within fourteen (14) days, or such other time as may be ordered by the Court, pursuant to Crim. R. 16(C)(1)(a), (b) and (c). Defendant may include in his discovery materials copies of witness statements pursuant to Crim. R. 16(C)(1)(d).

(4) Duty to disclose.

Pursuant to Crim. R. 16(D) if, subsequent to compliance with this Rule and prior to or during trial, a party discovers additional matter which would have been subject to discovery or inspection under the original request and order, such party shall promptly make such matter available for discovery or inspection, and immediately notify the other party or his attorney and the Court of the existence of the additional matter, in order to allow the Court to modify its previous order, or to allow the other party to make an appropriate request for additional discovery or inspection. Discovery shall be completed in its entirety at least fourteen (14) days prior to trial, including supplementation pursuant to the continuing duty to disclose. Supplementation of discovery within fourteen (14) days prior to trial shall be provided to opposing counsel and the Court together with a showing of good cause as to why said discovery was not previously noticed to opposing counsel. The Court reserves the option of sanctions, pursuant to Crim. R. 16(E), in the event good cause is not shown as to why discovery was not noticed to opposing counsel at least fourteen (14) days prior to trial.

**(D) Pretrial Motions.**

(1) Pretrial motions shall be regulated by the provisions of Crim. R. 47 and Crim. R. 12.

(2) A motion, other than one made during trial or hearing, shall be in writing unless the Court permits it to be made orally. The motion shall state with particularity the grounds upon which it is made and shall set forth the relief or order sought. The motion shall be supported by memorandum containing citations of authority and may also be supported by an affidavit. The motion shall be accompanied by a draft entry granting the relief or order sought.

(3) Pursuant to Crim. R. 47 and to expedite the Court's business, the Court shall determine all pretrial motions without oral hearing and upon brief written statements of reasons in support and opposition unless oral hearing is requested by the movant in the motion or by the opposing party and oral hearing is determined necessary by the Court. If no oral hearing is determined to be necessary by the Court, any memoranda and supporting documents in opposition to the motion shall be filed with the Court within seven (7) days of the filing of the motion. Rebuttal or reply briefs, memoranda or other documents shall be submitted only with prior approval of the Court.

**(4) Motion date.**

All pretrial motions, including motions in limine, shall, pursuant to Crim. R. 12(C) and, except as provided in Crim. R. 7(E) and 16(F), be made within thirty-five (35) days after arraignment or seven (7) days before trial, whichever is earlier. The Court, in the interests of justice, may extend the time for making any pretrial motions. Such requests for extension of time shall comply with Local R. 3 and Local R. 5(D). Failure to comply with this Rule may result in the dismissal of a pretrial motion by the Court *sua sponte*.

**(E) Pretrial Conferences.**

(1) Pursuant to Crim. R. 17.1, at arraignment the Court shall schedule a pretrial conference to consider such matters as will promote a fair and expeditious trial. The Court may, in its discretion, schedule more than one pretrial conference as the demands of a particular case necessitate. At the conclusion of a pretrial conference the Court shall prepare and file a memorandum of the matters agreed upon. No admissions made by the Defendant or his attorney at the conference shall be used against the Defendant unless the admissions are reduced in writing and signed by the Defendant and his attorney. No pretrial conference shall be conducted until the Defendant is represented by counsel or the right to be represented by counsel has been voluntarily and intelligently waived.

(2) The Prosecuting Attorney and defense counsel shall attend the pretrial conference. The defendant shall attend the pretrial conference as a term and condition of bond.

**(3) Negotiated Plea.**

Counsel shall be prepared to discuss the status of any negotiations leading to a plea at the pretrial conference. The pretrial conference shall be the cutoff date for the Court's acceptance of any negotiated plea. If no guilty plea is entered or arranged to be entered at the pretrial conference, the defendant may plead guilty at any time after the pretrial conference, but only as charged. No pleas to reduced charges will thereafter be accepted by the Court.

**(F) Requests for Jury View.**

If a party requests a jury view, said request shall be made in writing and filed with the Court and a copy served upon opposing counsel at least fourteen (14) days before trial. The written request shall set forth details as to the site of the view and parameters of the view. A map of the site of view is suggested.

**(G) Requests for Jury Instruction.**

Requests for jury instructions shall be governed by Crim. R. 30(A). The Court prefers requests for instructions submitted in writing and at least seven (7) days prior to trial. However, in no event shall a party fail to submit requested instructions in writing any later than the close of the evidence at trial or at such earlier time during the trial as the Court may direct. Copies of such requests shall be furnished to all other parties at the time of the making of such requests. Failure to submit written requests for jury instructions as provided in this Rule and pursuant to Crim. R. 30(A) shall be deemed a waiver of any request for instructions. This Rule shall not exclude a request to correct any error in the giving of instructions or objection to an instruction given before the jury retires to consider the verdict.

**(H) Presentence Investigations.**

(1) Upon conviction or guilty plea the Court may order a presentence investigation pursuant to Crim. R. 32.2. The Court may schedule the case for a review hearing to determine whether or not to order a presentence investigation after conviction or guilty plea. Defendant shall appear at said review hearing as a term and condition of his bond and all counsel shall appear. Defendant shall be prepared to proceed to sentencing in the event the Court determines that no presentence investigation shall be ordered and the Court decides to pronounce sentence at that time.

(2) If the Court orders a presentence investigation, the Court shall establish a sentencing date. The presentence investigation report shall be filed with the Judge by the Adult Probation Department at least three (3) business days prior to the sentencing date. An

attorney's copy of the presentence investigation report shall then be available to counsel in the Adult Probation Office.

**(I) Sanctions for Failure to Comply.**

Failure by a party or counsel to comply with the provisions of this Rule or any order made pursuant to this Rule may result in the granting of a continuance, the prohibition of a party from introducing in evidence material not disclosed pursuant to this Rule, the offending party and/or counsel may be required to show cause why they should not be punished for contempt of this Court; if the State is the offending party, an order of dismissal with or without prejudice may be entered, or the Court may make such other order and impose such sanction as it deems just under the circumstances.

**(J) Variance for Good Cause Shown.**

The Court may vary by order for good cause shown and in the interests of justice any provisions of Local R. 23.

**RULE 24**

**RESERVED**

## **RULE 25**

### **DOMESTIC RELATIONS CASE MANAGEMENT PLAN**

#### **(A) General Provisions**

##### **(1) Purpose.**

The purpose of this rule is the prompt but fair disposition of domestic relations cases. This goal can be accomplished only by early and continuing judicial control and management of each case. This rule establishes a general framework for the management of domestic relations cases, leaving to the discretion of the judge the use of additional procedures to accomplish the goal of this rule.

##### **(2) Authority.**

This rule is established pursuant to C.P. Sup. R. 9(B) and Civ. R. 75 and 83.

##### **(3) Applicability.**

This rule shall apply to all domestic relations' litigation in the General Division of the Holmes County Court of Common Pleas.

##### **(4) Incorporation of Rules.**

These rules incorporate the Ohio Rules of Civil Procedure and all Local Rules that may be applicable to domestic relations' litigation. Without limitation as to the incorporation of other Local Rules, the following Local Rules are specifically incorporated herein insofar as applicable to domestic relations litigation: Local Rules 1, 2, 3, 4, 5(D), 7, 11, 13, 15, 17 and 19.

(5) This rule is merely procedural in nature and creates no substantive rights on behalf of any party.

#### **(B) Filings.**

(1) In addition to the requirements of Local R. 2, all adversarial complaints, petitions, and/or motions and responsive pleadings thereto must include, where applicable, a Parenting Proceeding Affidavit (See Appendix B), an Affidavit of Income and Expenses (See Appendix C), an Affidavit of Property (See Appendix D), a Health Insurance Affidavit (See Appendix E), Motion and Affidavit or Counter Affidavit for Temporary Orders Without Oral Hearing (See Appendix F), and a child support computation worksheet, pursuant to R.C. 3113.215. The Affidavit of Property need not be filed in non-adversarial proceedings (e.g. dissolutions).

#### **(C) Case Management.**

(1) The domestic relations case management plan shall commence upon the filing of a complaint, petition or post-decree motion.

##### **(2) Ex parte temporary orders.**

(a) Generally where there are exigent circumstances which require a party to seek

an emergency *ex parte* temporary order upon which the Court is permitted to act on an *ex parte* basis pursuant to Civ. R. 75, the party seeking such order may move the Court for the issuance immediately of an order on an *ex parte* basis by filing a motion supported by affidavit, a draft journal entry granting the relief sought.

**(b) Exclusive Possession of Marital Residence.**

In order to secure an exclusive possession of premises order on an *ex parte* basis, the party seeking such order must move the Court for such relief and provide an affidavit with particular information concerning the appropriateness of such order, including the reasons for needing the order and the alternate living arrangements which the party sought to be excluded may have. The moving party shall submit a draft journal entry for use by the Court in the event the motion is granted. The journal entry shall include a specific instruction to the Sheriff or other officer of the Court concerning instructions for removal and restraint of the non-moving party. The journal entry shall also include blank spaces for the insertion of hearing date and time so the evicted party can have a review hearing. Said hearing shall be scheduled within ten (10) days of the issuance of the order to vacate.

**(c) Mutual Restraining Orders.**

It shall be the policy of the Court that upon the filing of any domestic relations complaint or petition, a mutual restraining order may be issued forbidding the parties from harassing, abusing or annoying the other and precluding the parties from transferring or encumbering their assets.

**(d) Ex parte Orders Where Adversary is Represented by Counsel.**

Whenever an attorney files a pleading with the Court in which *ex parte* relief is sought, and the attorney knows that the adverse party is represented by counsel, the party seeking such relief shall notify the Court at the time he/she files the request for relief of the other attorney's involvement by including the name, address and telephone number of opposing counsel in the motion for *ex parte* relief. The attorney for the moving party shall certify to the Court that notice of intent to seek *ex parte* relief was given to opposing counsel or, in the event it is not given, the particular reasons why notice to opposing counsel is not in the best interests of the parties and/or children.

**(3) Case Management Conference.**

(a) The Court may hold one or more case management conferences. The purposes of the case management conference are to determine service upon all necessary parties, establish a scheduling order, to clarify and simplify issues, to consider the necessity or desirability of amendment to the pleadings, to facilitate constructive communication among the

parties, to explore settlement possibilities, and to otherwise promote an economical, expeditious, and mutually satisfactory conclusion of the case.

(b) Case management conferences shall be scheduled at the time of the filing of the complaint, petition or post-decree motion. If summons is issued, Defendants/Respondents shall be served with a copy of the notice establishing the case management conference by the Clerk together with the summons. The scheduling of a case management conference shall not relieve any party from the duty to timely plead pursuant to the Rules of Civil Procedure or as otherwise ordered by this Court.

(c) Counsel for each party and each party shall appear at each case management conference. Counsel shall bring their calendar/schedule with them. Counsel shall have conferred with each other prior to the case management conference. Any statement of counsel or party made in the course of the case management conference shall not be binding upon the parties unless expressly made so by written stipulation, made upon the record or by request to the Court that such statement be incorporated into an order. Unless specifically granted leave by the Court to the contrary, no evidence or testimony will be heard by the Court on any issue at a case management conference.

(d) No case management conference on a domestic relations case shall be conducted by telephone conference call. A party seeking to conduct a case management conference in a domestic relation's case by telephone conference call must obtain leave of Court and permission of the adverse party.

(e) Following the case management conference, the Court shall prepare a written pretrial scheduling order which embodies the matters discussed and agreed upon at the conference. Court may direct counsel to prepare a draft of such pretrial order, pursuant to Local R. 13.

**(4) Other Pretrial Conferences.**

The Court may at any time upon its own motion, or upon motion of any party, schedule a pretrial conference to discuss any matter relating to the expeditious and fair resolution of any matter concerning the litigation pending before the Court.

**(5) Joint Pre-motion Hearing Statement on Post-Decree Motions.**

(a) At least seven business days prior to a post-decree motion hearing, unless otherwise directed by the Court, the parties and counsel shall file with the Court a joint pre-motion hearing statement. This rule shall not require an alleged contemnor to produce any information which would violate his/her constitutional rights, including, but not limited to, the right against self-incrimination.

(b) The joint pre-motion hearing statement shall contain any updates in the parental affidavits, affidavits of income, expenses and financial disclosure and, where applicable, and shall where appropriate include an up-to-date child support computation worksheet pursuant to R.C. 3113.215. Such statement shall also include a list of each party's lay witnesses, a list of each party's expert witnesses, together with the subject matter upon which said experts will testify, a list of each party's exhibits, a statement of issues, evidence and legal authority upon which the parties agree and a statement of issues, evidence and authority upon which the parties disagree. Such statement shall also contain each party's proposal, which the party states is fair and reasonable, for resolution of the issues before the Court.

(c) Joint pre-motion hearing statements shall be signed by each party, counsel for each party (if any) and the guardian ad litem (if any).

**(6) Motion Hearings.**

(a) It is the goal of the Court to commence motion hearings at or as close as practicable to the scheduled date and time. Requests for time for negotiation during a motion hearing shall be granted only upon the showing of exigent circumstances and by leave of Court.

**(b) Contempt Motions.**

No contempt motion shall be heard until the Court has determined there is probable cause to punish the contemnor upon the basis of affidavits or other evidence submitted by the moving party. The moving party shall provide a draft journal entry establishing probable cause and requiring the contemnor to appear before the Court and to show cause why he should not be punished. Such journal entry shall contain a blank date and time for a case management conference or such other hearing as the Court may determine is necessary. The moving party shall also submit to the Court, with appropriate copies for service, a summons which notifies the contemnor of his/her rights in a contempt proceeding.

(c) Motion hearings shall be limited to the issues, evidence and authority contained in the joint pre-motion hearing statement.

**(7) Domestic Relations Final Pretrial Conference.**

(a) Unless the Court determines that a final pretrial conference would be unnecessarily burdensome to the Court or the parties, or the Court determines that a final pretrial conference is otherwise unnecessary, the final pretrial conference shall be scheduled during the two-week period immediately preceding the trial date in an adversary proceeding.

(b) **Joint Pretrial Statement.** In the event a final pretrial conference is held, a

joint pretrial statement shall be prepared by counsel for all the parties, or by the party if unrepresented, and shall be filed with the Court not less than seven (7) business days prior to the date of the final pretrial conference. The joint pretrial statement shall include as follows:

(1) A concise summary of the essential marital facts, including a brief history of the marriage.

(2) A brief statement of the uncontested and contested issues involved.

(3) A brief statement of the applicable law and authorities upon which each party relies.

(4) A list of the demonstrative evidence and exhibits which will be offered by each party at trial.

(5) A summary of the information required in the affidavit of income, expenses and financial disclosure. The parties shall include statements of their positions concerning "marital" and "separate" property and debts as defined in R.C. 3105.171.

(6) The names and addresses of prospective lay and expert witnesses for each party, together with a brief summary of the expert witness' qualifications and subject matter of testimony.

(7) A list of deposition and/or video-tape depositions which each party intends to introduce at trial.

(8) The estimated length of the trial.

(9) Each party shall also state a proposal, which the party believes is fair and reasonable, which would resolve all issues pending before the Court including an equitable division of assets, payment of debts, payment of spousal support, together with the allocation of parental rights and responsibilities.

(10) A brief statement that counsel and the parties conferred prior to the filing of the joint pretrial statement, discussed in depth the issues involved, the proposed offers of settlement, that such offers were refused and a statement as to the prospects of settlement prior to trial.

(c) Domestic relations final pretrial statements shall be signed by all counsel and all parties, together with the guardian ad litem (if any).

(d) In addition to counsel of record, all parties and the guardian ad litem (if any) shall attend the final pretrial conference.

(e) Following the final pretrial conference, the Court shall prepare a written pretrial order which embodies the matters discussed and agreed upon at the conference. The Court may direct counsel to prepare a draft of such pretrial order, pursuant to Local R. 13.

**(8) Trial.**

(a) It is the policy of the Court to commence all trials promptly on the date and time scheduled or as soon as practicable thereafter. Requests for time to negotiate shall be granted only upon a showing of exigent circumstances and with leave of Court.

(b) The evidence, issues and legal authority heard at trial shall be limited to those matters contained in the parties' joint final pretrial statement, absent exigent circumstances and with leave of Court.

(c) Arrearages for child or spousal support accruing under a temporary order must be reduced to a sum certain at time of trial or such arrearage will be waived.

(d) It shall be determined at trial if there is any issue born during the marriage or expected within 300 days after trial.

(e) Request for an award of attorney fees at motion hearing or trial may be supported by testimony from the party at trial and also an affidavit submitted by the requesting attorney. Testimony from an attorney shall not be necessary.

(f) In the event a case is set for uncontested hearing and it becomes obvious to any counsel or party that the matter is no longer uncontested, such party or counsel shall immediately inform the Court of the contested nature of the litigation.

**(D) Guardians Ad Litem**

(1) **Applicability.** This rule shall apply in all domestic relations in the court of common pleas where a court appoints a guardian ad litem to protect and act in the best interest of a child.

(2) **Definitions.** For purposes of this rule:

(a) "Guardian ad litem" means an individual appointed to assist a court in its determination of a child's best interest.

(b) "Child" means:

(i) A person under eighteen years of age, or

(ii) A person who is older than eighteen years of age who is deemed a child until the person attains twenty-one years of age under section 2151.011(B)(5) or section 2152.02(C) of the Revised Code.

(iii) A child under R.C. 3109.04 or a disabled child under R.C. 3119.86 who falls under the jurisdiction of a domestic relations court or of a juvenile court with a paternity docket.

### **(3) Appointment of guardian ad litem**

(a) The court appointing a guardian ad litem under this rule shall enter an Order of Appointment which shall include:

(i) A statement regarding whether a person is being appointed as a guardian ad litem only or as a guardian ad litem and attorney for the child.

(ii) A statement that the appointment shall remain in effect until discharged by order of the court, by the court filing a final order in the case or by court rule.

(iii) A statement that the guardian ad litem shall be given notice of all hearings and proceedings and shall be provided a copy of all pleadings, motions, notices and other documents filed in the case.

(b) Whenever feasible, the same guardian ad litem shall be reappointed for a specific child in any subsequent case in any court relating to the best interest of the child.

(c) The court shall make provisions for fees and expenses in the Order.

#### **(4) Responsibilities of a guardian ad litem.**

In order to provide the court with relevant information and an informed recommendation regarding the child's best interest, a guardian ad litem shall perform, at a minimum, the responsibilities stated in this division, unless impracticable or inadvisable to do so.

(a) A guardian ad litem shall represent the best interest of the child for whom the guardian is appointed. Representation of best interest may be inconsistent with the wishes of the child whose interest the guardian ad litem represents.

(b) A guardian ad litem shall maintain independence, objectivity and fairness as well as the appearance of fairness in dealings with parties and professionals, both in and out of the courtroom and shall have no ex parte communications with the court regarding the merits of the case.

(c) A guardian ad litem is an officer of the court and shall act with respect and courtesy to the parties at all times.

(d) A guardian at litem shall appear and participate in any hearing for which the duties of a guardian ad litem or any issues substantially within a guardian ad litem's duties and scope of appointment are to be addressed.

(e) A non-attorney guardian ad litem must avoid engaging in conduct that constitutes the unauthorized practice of law, be vigilant in performing the guardian ad litem's duties and request that the court appoint legal counsel, or otherwise employ the services of an attorney, to undertake appropriate legal actions on behalf of the guardian ad litem in the case.

(f) A guardian ad litem who is an attorney may file pleadings, motions and other documents as appropriate under the applicable rules of procedure.

(g) When a court appoints an attorney to serve as both the guardian ad litem and attorney for a child, the attorney shall advocate for the child's best interest and the child's wishes in accord with the Rules of Professional Conduct. Attorneys who are to serve as both guardian ad litem and attorney should be aware of Rule 3.7 of the Rules of Professional Conduct and act accordingly.

(h) When a guardian ad litem determines that a conflict exists between the child's best interest and the child's wishes, the guardian ad litem shall, at the earliest practical time, request in writing that the court promptly resolve the conflict by entering appropriate orders.

(i) A guardian ad litem shall avoid any actual or apparent conflict of interest arising from any relationship or activity including, but not limited to, those of employment or business or from professional or personal contacts with parties or others involved in the case. A guardian ad litem shall avoid self-dealing or associations from which the guardian ad litem might benefit, directly or indirectly, except from compensation for services as a guardian ad litem.

(j) Upon becoming aware of any actual or apparent conflict of interest, a guardian ad litem shall immediately take action to resolve the conflict, shall advise the court and the parties of the action taken and may resign from the matter with leave of court, or seek court direction as necessary. Because a conflict of interest may arise at any time, a guardian ad litem has an ongoing duty to comply with this division.

(k) Unless excepted by statute, by court rule consistent with this rule, or by order of court pursuant to this rule, a guardian ad litem shall meet the qualifications and satisfy all training and continuing education requirements under this rule and under any local court rules governing guardians ad litem. A guardian ad litem shall meet the equalifications of guardians ad litem for each county where the guardian ad litem serves and shall promptly advise each court of any grounds for disqualification or unavailability to serve.

(l) A guardian ad litem shall be responsible for providing the court or its designee with a statement indicating compliance with all initial and continuing educational and training requirements so the court may maintain the files required in division (7) of this rule. The compliance statement shall include information detailing the date, location, contents and credit hours received for any relevant training course.

(m) A guardian ad litem shall make reasonable efforts to become informed about the facts of the case and to contact all parties. In order to provide the court with relevant information and an informed recommendation as to the child's best interest, a guardian ad litem

shall, at a minimum, do the following, unless impracticable or inadvisable because of the age of the child or the specific circumstances of a particular case:

i) Meet with and interview the child and observe the child with each parent, foster parent, guardian or physical custodian and conduct at least one interview with the child where none of these individuals is present;

(ii) Visit the child at his or her residence in accordance with any standards established by the court in which the guardian ad litem is appointed.

(iii) Ascertain the wishes of the child(ren);

(iv) Meet with and interview the parties, foster parents and other significant individuals who may have relevant knowledge regarding the issues of the case;

(v) Review pleadings and other relevant court documents in the case in which the guardian ad litem is appointed;

(vi) Review criminal, civil, educational and administrative records pertaining to the child and, if appropriate, to the child's family or to other parties in the case;

(vii) Interview school personnel, medical and mental health providers, child protective services workers and relevant court personnel and obtain copies of relevant records;

(viii) Recommend that the court order psychological evaluations, mental health and/or substance abuse assessments, or other evaluations or tests of the parties as the guardian ad litem deems necessary or helpful to the court; and

(ix) Perform any other investigation necessary to make an informed recommendation regarding the best interest of the child.

(n) A guardian ad litem shall immediately identify himself or herself as a guardian ad litem when contacting individuals in the course of a particular case and shall inform these individuals about the guardian ad litem's role and that documents and information obtained may become part of court proceedings.

(o) As an officer of the court, a guardian ad litem shall make no disclosures about the case or the investigation except in reports to the court or as necessary to perform the duties of a guardian ad litem. A guardian ad litem shall maintain the confidential nature of personal identifiers, as defined in Rule 44 of the Rules of Superintendence, or addresses where there are allegations of domestic violence or risk to a party's or child's safety. A guardian ad litem may recommend that the court restrict access to the report or a portion of the report, after trial, to preserve the privacy, confidentiality, or safety of the parties or the person for whom the guardian ad litem was appointed in accordance with Rule 45 of the Rules of Superintendence. The court may, upon application, and under such conditions as may be necessary to protect the witnesses

from potential harm, order disclosure of or access to the information that addresses the need to challenge the truth of the information received from the confidential source.

(p) A guardian ad litem shall perform responsibilities in a prompt and timely manner, and, if necessary, an attorney guardian ad litem may request timely court reviews and judicial intervention in writing with notice to parties or affected agencies.

(q) A guardian ad litem who is to be paid by the court or a party, shall keep accurate records of the time spent, services rendered, and expenses incurred in each case and file an itemized statement and accounting with the court and provide a copy to each party or other entity responsible for payment.

**(5) Training requirements.**

In order to serve as a guardian ad litem, an applicant shall have, at a minimum, the following training:

(a) Successful completion of a pre-service training course to qualify for appointment and thereafter, successful completion of continuing education training in each succeeding calendar year to qualify for continued appointment.

(b) The pre-service training course must be the six hour guardian ad litem pre-service course provided by the Supreme Court of Ohio, the Ohio CASA/GAL Association's pre-service training program, or with prior approval of the appointing court, be a course at least six hours in length that covers the topic areas in division (5)(c).

(c) To meet the requirements of this rule, the pre-service course shall include training on all the following topics:

(i) Human needs and child development including, but not limited to, stages of child development;

(ii) Communication and diversity including, but not limited to, communication skills with children and adults, interviewing skills, methods of critical questioning, use of open-ended questions, understanding the perspective of the child, sensitivity, building trust, multicultural awareness, and confidentiality;

(iii) Preventing child abuse and neglect including, but not limited to, assessing risk and safety;

(iv) Family and child issues including, but not limited to, family dynamics, substance abuse and its effects, basic psychopathology for adults and children, domestic violence and its effects;

(v) Legal framework including, but not limited to, records, checks, accessing, assessing and appropriate protocol, a guardian ad litem's role in court, local resources and service practice, report content, mediation and other types of dispute resolution.

(d) The continuing education course must be at least three hours in length and be provided by the Supreme Court of Ohio or by the Ohio CASA/GAL Association, or with prior approval of the appointing court, be a training that complies with division (e) of this rule.

(e) To meet the requirements of this rule, the three hour continuing education course shall:

(i) Be specifically designed for continuing education of guardians ad litem and not pre-service education; and

(ii) Consist of advanced education related to topics identified in division (5)(e)(i)-(v) of this rule.

(f) If a guardian ad litem fails to complete a three hour continuing education course within any calendar year, that person shall not be eligible to serve as a guardian ad litem until this continuing education requirement is satisfied. If the person's gap in continuing education is three calendar years or less, the person shall qualify to serve after completing a three hour continuing education course offered under this rule. If the gap in continuing education is more than three calendar years that person must complete a six hour pre-service education course to qualify to serve.

(g) Attendance at an Ohio Guardian ad Litem Training Program approved by the Surpeme Court of Ohio or at an Ohio CASA/Guardian Association pre-service training program at any time prior to the effective date of this rule shall be deemed compliance with the pre-service training requirement.

#### **(6) Reports of guardians ad litem.**

A guardian ad litem shall prepare a written final report, including recommendations to the court, within the times set forth in this division. The report shall detail the activities performed, hearings attended, persons interviewed, documents reviewed, experts consulted and all other relevant information considered by the guardian ad litem in reaching the guardian ad litem's recommendations and in accomplishing the duties required by statute, by court rule, and in the court's Order of Appointment.

(a) In domestic relations proceedings involving the allocation of parental rights and responsibilities, the final report shall be field with the court and made available to the parties for inspection no less than seven days before the final hearing unless the due date is extended by the court. Written reports may be accessed in person or by phone by the parties or their legal

representatives. A copy of the final report shall be provided to the court at the hearing. The court shall consider the recommendation of the guardian ad litem in determining the best interest of the child only when the report or a portion of the report has been admitted as an exhibit.

**(7) Responsibilities of the court.**

In order to ensure that only qualified individuals perform the duties of guardians ad litem and that the requirements of this rule are met, each court appointing guardian ad litem shall do all of the following:

- (a) Maintain a public list of approved guardians ad litem while maintaining individual privacy.
- (b) Establish criteria, which include all requirements of this rule, for appointment and removal of guardians ad litem and procedures to ensure an equitable distribution of the work load among the guardians ad litem on the list.
- (c) Appoint or contract with a person to coordinate the application and appointment process, keep the files and records required by this rule, maintain information regarding training opportunities, receive written comments and complaints regarding the performance of guardians ad litem practicing before that court and perform other duties as assigned by the court.
- (d) Maintain files for all applicants and for individuals approved for appointment as guardians ad litem with the court. The files shall contain all records and information required by this rule for the selection and service of guardians ad litem including a certificate or other satisfactory proof of compliance with training requirements.
- (e) Require all applicants to submit a resume or information sheet stating the applicant's training, experience and expertise demonstrating the persons' ability to successfully perform the responsibilities of a guardian ad litem.
- (f) Conduct, or cause to be conducted, a criminal and civil background check and investigation of information relevant to the applicant's fitness to serve as a guardian ad litem.
- (g) Conduct, at least annually, a review of its list to determine that all individuals are in compliance with the training and education requirements of this rule and local rules, that they have performed satisfactorily on all assigned cases during the preceding calendar year and are otherwise qualified to serve.
- (h) Require all individuals on its list to certify annually they are unaware of any circumstances that would disqualify them from serving and to report the training they have attended to comply with division (5) of this rule.

**(E) Child Support Enforcement Agency.**

(1) “CSEA” is defined as the Child Support Enforcement Agency of the Holmes County Department of Human Services, P.O. Box 72, Millersburg, Ohio 44654, Telephone No. (330) 674-1111.

(2) Unless otherwise ordered, a child support obligation shall be paid as long as there remains a parental duty of support to the child(ren) as defined by R.C. 3103.03. After termination of the parental duty of support any arrearage shall be reduced to judgment and collected pursuant to law.

(3) An obligor that has a position of employment subject to wage withholding provisions of R.C. 3113.21(D)(1) shall have his/her wages withheld pursuant to an order which CSEA shall draft and submit to the Court. An obligor shall pay directly to CSEA the first payments due and any payments for which any reason are not covered by the provisions of the wage withholding order.

(4) Pursuant to R.C. 2301.35(J)(2), an obligee of a child support order shall sign an application for services under Title IV-D of the Social Security Act, as amended, and shall file that application as soon as possible at CSEA. Application forms may be obtained from CSEA.

(5) Pursuant to R.C. 3113.217(B), CSEA shall investigate and determine, when required, if either parent has satisfactory health insurance coverage, other than Medicaid, for the children. If CSEA determines that neither parent has satisfactory health insurance, it shall file a motion and draft journal entry with the Court for an order pursuant to R.C. 3113.217(C) – (K).

**(F) Visitation.**

**(1) General Provisions.**

Visitation is a time for children to do things with the parent they do not live with. Activities the non-residential parent does with the children or skills taught to the children help the time to be rewarding. Helping the children to find friends in the non-residential parent’s neighborhood also helps to make it like home for them. Liberal visiting arrangements are encouraged, as contact with both parents is important to children. Specific items in any journal entry of the Court take precedence over this rule. Changes or modifications can be made by the Court if the need for such is shown.

(a) Unless otherwise agreed in writing between the parties and subject to further order of this Court, subparagraphs (2) and (3) set forth the minimum amount of visitation between the non-residential parent and the children.

(b) Visitation does not constitute the non-residential parent picking the children up and leaving them with someone other than a relative, other than as required for employment.

(c) The residence of the children shall not be removed from the State of Ohio without first obtaining a modified allocation of parental rights and responsibilities order from this Court.

(d) All parties shall refrain from arguments or breaches of the peace in the presence of the children and in carrying out the terms of this Rule or an order of the Court. Any arguments or breaches of the peace shall be treated as contempt of Court.

(e) The non-residential parent shall be responsible for transporting the children to and from visitation.

(f) The children shall be permitted to speak on the telephone at least twice per week with the non-residential parent. The children shall be permitted to send and receive at least three letters or cards per week to or from the non-residential parent.

**(2) Standard Visitation Guideline.**

Pursuant to R.C. 3109.051(F)(2), the following minimum amount of visitation between the non-residential parent and the children shall be:

(a) Alternate weekends from Friday to Sunday for forty-eight hour period commencing on the first weekend after this Order is issued. In the event the parties are unable to agree as to the starting and ending time of said period, the Court Orders that said visitation shall commence on Friday at 6:00 p.m. and shall conclude on Sunday at 6:00 p.m.

(b) The non-residential parent shall have visitation one weeknight per week. If the parties are unable to agree, then this midweek visitation shall be every Wednesday evening from 5:30 p.m. until 7:30 p.m. (during the school years) or 9:00 p.m. (during school vacation periods).

(c) The children and/or the residential parent have no duty to await the non-residential visiting parent for more than thirty (30) minutes from the beginning of the visitation time. The non-residential parent being late more than thirty (30) minutes shall operate as a forfeiture of that visitation period.

(d) For the purposes of visitation, there are eight (8) holidays as follows:

1. New Year's Eve
2. Martin Luther King Day
3. President's Day
4. Easter
5. Memorial Day
6. Fourth of July
7. Labor Day

8. Thanksgiving

In the odd numbered years, the mother shall have the children on the odd number holidays; the father shall have the children on the even numbered holidays. In the even numbered years, the father shall have the children on the odd numbered holidays; and the mother shall have the children on the even numbered holidays.

**(e) Christmas break visitation. The nonresidential parent shall have the children for one-half of the Christmas break. "Christmas break" shall be deemed as commencing the day after the last day of school at 10:00 a.m. until the day before school reconvenes at 6:00 p.m. (including weekends) but not including December 24 and December 25. In the event there is an odd number of days during Christmas break, the nonresidential parent shall have the children for the extra day. The nonresidential parent's choice of dates during Christmas break has priority over the residential parent's Christmas break schedule if the nonresidential parent notifies the residential parent of the dates not later than October 1<sup>st</sup> of the applicable year. Absent timely notification by the nonresidential parent, the residential parent's Christmas break schedule shall have priority. For purposes of this paragraph a "day" is all or any portion of one calendar day. (updated 08-29-13)**

**(f) In even-numbered years, the nonresidential parent shall have the children from 9:00 p.m. on December 24 until 6:00 p.m. on December 25. In odd-numbered years, the nonresidential parent shall have the children from 10:00 a.m. until 9:00 p.m. on December 24 and from 6:00 p.m. to 11:00 p.m. on December 25. The children shall be with the residential parent on December 24 and December 25 at all other times not otherwise specified on these dates. (updated 08-29-13).**

(g) On Mother's Day and Father's Day, no matter whose turn it is for visitation, the children shall be with the respective parent for a period of at least eight (8) hours.

**(h) The non-residential parent shall have a six (6) week visitation each summer, to be arranged with the residential parent by April 15<sup>th</sup> for both parties to have an opportunity to take the children on vacation. (updated: 05-28-13)**

**In the event that the non-residential parent fails to notify the residential parent of the date and time pursuant to the April 15<sup>th</sup> deadline, the custodial parent may make whatever summer arrangements that they desire and it will take precedence over any subsequent request made by the non-residential parent. (updated: 05-28-13)**

The six (6) week visitation period shall be arranged to allow a period of two (2) consecutive weeks during the summer visitation for the residential parent to have the children.

The residential parent shall be permitted a minimum of alternate weekend visitation the same as provided in Section 1 above during the six (6) week visitation, if practicable.

(i) The children shall celebrate their birthdays in the home of the residential parent; regardless of the non-residential parent's visitation.

**(3) Standard Visitation Guidelines for Long-Distance Travel.**

Pursuant to R.C. 3109.051(F)(2) the following is the minimum amount of visitation between the non-residential parent and the children when the parents live over 150 miles one way apart from each other:

(a) Christmas: Christmas vacation, excluding Christmas Eve and Christmas Day, will be divided in half and alternated annually, by half, between the parents. Additionally, Christmas Eve and Christmas Day shall be alternated annually between the parents.

(b) Spring Break: School vacation (the Friday school is out to the day before school recommences, to be coincidental with the days of the school vacation and not to interfere with school) in odd numbered years or with the same alternation the Saturday before Easter to the Saturday after Easter for preschoolers with no school-aged siblings.

(c) Alternative Holidays: For the purposes of visitation, there are eight holidays as follows:

1. New Year's Eve
2. Martin Luther King Day
3. President's Day
4. Easter
5. Memorial Day
6. Fourth of July
7. Labor Day
8. Thanksgiving

In the odd numbered years, the mother shall have the children on the odd numbered holidays and vacations; father shall have the children on the even numbered holidays and vacations. In the even numbered years the father shall have the children on the odd numbered holidays and vacations; and the mother shall have the children on the even numbered holidays and vacations.

(d) Summer Vacation: One-half of the school summer vacation. Summer school necessary for the children to pass to the next grade must be attended. The residential parent shall notify the non-residential parent by March 15 of when the summer vacation begins and

ends. The non-residential parent must notify the residential parent as to his/her intentions by April 15.

(i) If the parties cannot agree which half of the summer they prefer, in the even numbered years, the first half of the summer shall be spent with the non-residential parent, and in the odd numbered years, the second half.

(ii) A general itinerary shall be provided either parent if more than two (2) days will be spent away from either home when the children are in that parent's care.

(e) Each parent may arrange an uninterrupted vacation of not more than two (2) weeks with the children. A general itinerary of the vacation shall be provided for the other parent, including dates, locations, addresses and telephone numbers.

(f) Additional Visitation: A once per month weekend visitation with the non-residential parent will be permitted if the child's traveling time does not exceed three hours one way. The residential parent must be notified at least one week in advance. Weekend visitation shall be as defined in Local R. 25(F)(2)(a) and (c).

(g) Father's Day and Mother's Day shall always be spent with the appropriate parent.

**(G) Health Expenses and Insurance.**

(1) This rule sets forth the Court's policy regarding health expenses and health insurance for children pursuant to R.C. 3113.215(B). It is the Court's policy for the residential parent to pay all reasonable and ordinary uninsured medical or dental expenses.

(2) The parent that has the opportunity to obtain the best health insurance coverage at the least cost shall provide such health insurance coverage for the children. Such providing parent shall be allowed credit as provided in R.C. 3113.215 for the cost of health-care insurance when determining the appropriate amount of child support.

(3) Any order of the Court providing for payment of health expenses and provision of insurance coverage shall provide the residential parent is to be reimbursed for out-of-pocket medical, optical, dental, or prescription expenses paid for the children which are covered by a health insurance policy. Such order shall set forth the residential parent's name, address and telephone number.

(4) The parties shall share the uninsured liability for the costs of extraordinary medical and health-care needs of the children which would otherwise be covered under a standard health insurance policy in the same percentage as the percentage of parents' income to total income in Item 14 of the calculations made pursuant to R.C. 3113.215 or as otherwise ordered by the Court.

**(H) Children as Income Tax Dependents.**

The residential parent shall receive the income tax exemption for each child, unless it can be shown that awarding the tax exemption to the nonresidential parent would result in a net tax savings, thereby furthering the best interests of the child. *Singer v. Dickson* (1992), 63 Ohio St. 3d 408.

**(I) Access to Records, Day-Care and Student Activities.**

Pursuant to Division VIII of the Court's Standard Order of Allocation of Parental Rights and Responsibilities (See Appendix C), the nonresidential parent shall be entitled to the same access to day-care center attended by the children and any of the children's student activities.

**(J) Shared Parenting.**

A party submitting a "Shared Parenting Plan", pursuant to R.C. 3109.04, shall state with specificity the details of such plan.. A "Shared Parenting Plan" shall cover all factors provided by law and shall also, at the minimum, cover all factors addressed in the Court's Standard Order of Allocation of Parental Rights and Responsibilities (See Appendix C).

**(K) Agreed Modifications of Allocation of Parental Rights and Responsibilities.**

(1) Agreed modifications of orders of the Court allocating parental rights and responsibilities may be made by an agreed entry, without hearing, so long as all of the following apply:

- (a) The agreed entry must be accompanied by a motion requesting the change with appropriate affidavits attached together with parental affidavits, affidavits of income, expenses and financial disclosure and child support calculation worksheet, as appropriate, executed by each parent and counsel indicating their agreement setting forth specific facts which the Court can make a determination of whether the agreed change is in the best interests of the children;
- (b) If the agreed entry would affect the activity of the Child Support Enforcement Agency, the agreed entry shall contain appropriate instructions to the Child Support Enforcement Agency concerning implementation of the order;
- (c) The agreed entry must specifically deal with the establishment, modification or non-modification of all provisions which are contained in the Court's Standard Order of Allocation of Parental Rights and Responsibilities.

(2) In the event the Court cannot determine whether the agreed change of the residential parent is in the best interests of the child or children from the documents submitted or if the parents fail to fully comply with this Rule, the Court shall set the motion for change of residential parent down for a pretrial or such other hearing as the Judge deems appropriate.

**(L) Sanctions.**

(1) If a party or counsel fails to abide by this Local Rule of Practice or of an order issued pursuant to this Local Rule of Practice, such party or counsel may be punished for contempt of Court, may be required to pay the adverse party's costs and attorney's fees, may be subject to an *ex parte* hearing which would result in judgment of dismissal or default, or may be subject to other appropriate sanctions the Court may lawfully impose.

(2) If a party or counsel fails to appear at a conference, hearing, trial or other matter before the Court scheduled pursuant to this Rule or Order of the Court, such party or counsel may be punished for contempt of court, may be required to pay the adverse party's costs and attorney's fees, may be subject to an *ex parte* hearing which would result in a judgment of dismissal or default or may be subject to such other appropriate sanctions as the Court may lawfully impose.

(3) All parties and counsel are hereby given notice pursuant to Civ. R. 41(B)(1) that failure to comply with the Rules of Civil Procedure, the Local Rules of Practice or any Court Order may result in the Court *sua sponte* dismissing an action or claim for failure to prosecute.

INDEX TO LOCAL R. 25 – DOMESTIC RELATIONS

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