

**RULES OF PRACTICE AND PROCEDURE  
OF THE COURT OF COMMON PLEAS  
GUERNSEY COUNTY, OHIO**

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# **Common Pleas Court of Guernsey County, Ohio**

## **Local Rules (Amended as of January 1, 2008)**

### **RULE 1**

#### **Terms of Court**

**1.01** This Court shall be in continuous session for the transaction of judicial business. Each calendar year shall contain one term of Court, commencing at 8:30 a.m. on the first non-legal holiday in January. The Clerk of Courts shall, on the last day of the term of Court, make an entry in the Journal continuing all causes, proceedings, prosecutions and other matters pending before the Court to the next succeeding term of Court.

### **RULE 2**

#### **Hours of Court Sessions**

**2.01** The sessions of this Court shall begin at 8:30 a.m. and close at 12:00 noon and shall resume at 1:00 p.m. and close at 4:00 p.m. or at such other hour of the day as the Court may decide is necessary for the proper conduct of the business of the Court on Monday through Friday of each week, save and except for days which by law or proclamation of the President of the United States or Governor of this State are designated or set aside for their observance as legal holidays.

### **RULE 3**

#### **Assignment Commissioner**

**3.01** The Court shall have an Assignment Commissioner responsible for maintaining a record of all firm trial dates (hereinafter sometimes referred to as the Trial Docket) and who also shall fix all other dates and times for hearings on all matters coming before the Court.

### **RULE 4**

#### **Attorney of Record**

**4.01** As soon as an attorney ascertains that he represents any party in any suit then pending in this Court, he shall immediately notify the Clerk so that proper notation can be made upon the file, the appearance and Court dockets. A copy of a time stamped notice shall be satisfactory evidence that notice was given. Failure to so notify the Clerk shall be deemed a waiver of any notice required under these Court rules.

**4.02** All counsel shall be individually responsible for their cases and copies of rulings of the Court shall be placed in the box provided for each counsel or office by the Clerk. Copies will be mailed to out of county counsel at the address stated on the most recent pleading.

## **RULE 5**

### **Deposit of Cash to Secure Costs, Bonds, Etc.**

**5.01** No civil action or proceeding shall be accepted by the Clerk of this Court for filing unless the party or parties offering the same for filing shall first have deposited a sum of money to secure the payment of costs, except as otherwise provided by law where applicable.

Such advance deposit shall be as follows:

<b>TYPE OF PLEADING</b>	<b>Deposit/Fee</b>
Personal/certified mail service	\$ 250.00
Service by publication (in addition to proof of payment of printer's fees)	\$ 250.00
Jury Demand (\$250 at filing plus add'l \$300 ordered at scheduling pretrial and due at final pretrial)	\$ 250.00 plus \$ 300.00
Foreclosure	\$ 350.00
Divorce	\$ 250.00
Divorce with children	\$ 250.00
Dissolution with children	\$ 250.00
Dissolution without children	\$ 175.00
Answer and counterclaim (Civil cases)	\$ 250.00
Subpoenas (if out of county witness) *Check made payable to witness for \$6.00 per 1/2 day plus \$.10 per mile round trip	*
Execution	\$ 150.00
Aid in Execution, Garnishment, Attachment	\$ 150.00
Appeals from other Tribunals, Administrative Appeals	\$ 250.00
Application for Modification and Citation of Contempt	\$ 150.00
Post Decree Agreed entry	\$ 25.00
QDRO	\$ 25.00
Cognovit Judgment (including defense attorney fees)	\$ 250.00

<b>Certificate of Judgment</b>	
* Preparation	\$ 5.00
* Filing in Judgment Lien Records	\$ 25.00
* Release (plus satisfaction entry from issuing court)	\$ 5.00
<b>Appeal to the Fifth District Court of Appeals</b>	
* Original Action	\$ 85.00
* Appeals	\$ 90.00

**5.02** In lieu of cash deposit, costs may be secured by bond with surety approved by the Clerk, provided that no member of the Bar shall be accepted as such surety.

**5.03** If it is brought to the attention of the Court that any deposit is insufficient, the Court may require said deposit to be increased from time to time.

**5.04** Where the Plaintiff makes an affidavit of inability to pay or secure costs as provided in Section 2323.31 O.R.C., the Clerk shall receive and file the complaint without such deposit or security. Affiants are subject to investigation, verification and approval by the Court, which may require a hearing to investigate the litigant's indigency. The Court may also require the Court costs to be paid over a period of time as may be found just.

**5.05** When submitting a request for service by publication or for publication of public sale notice, the proposed text is to be submitted to a newspaper of general circulation in Guernsey County for set up and determination of printer's fee/publication costs. These costs must be paid in advance to the printer and a copy of the receipt for said payment is to be submitted to the Clerk with the precipe for service and/or publication. The publication shall contain the name of the Judge to whom the case is assigned.

## **RULE 6**

### **Deposit of Costs on Cases Transferred from Cambridge Municipal Court**

Upon the transfer from the Municipal Court in the City of Cambridge of any case because of jurisdictional limitations, the Plaintiff shall deposit at the time of transfer with the Clerk of Courts an amount equal to the deposit required if the cause of action had originally been filed in this Court.

In addition, if a cross-complaint or counter-complaint has been filed, the Defendant who filed such cross-complaint or counter-complaint shall also deposit at the time of transfer with the Clerk of Courts an amount equal to the deposit required if said pleading had originally been filed in this Court.

## **RULE 7**

### **Costs on Cases Filed Under Rule 3(F) of the Ohio Rules of Civil Procedure**

**7.01** Costs for filing a complaint under Rule 3(F) of the Ohio Rules of Civil Procedure, shall be taxed in the amount of \$7.50 plus 10 cents for each Plaintiff and Defendant in excess of two. Said costs are to be paid in advance with notation on docket copy.

## **RULE 8**

### **Bail or Surety**

**8.01** No attorney at law or other officers of this Court shall be accepted or received as bail or surety on any undertaking of any kind in this Court, nor shall any bond or undertaking be approved having the name of any such person thereon as surety.

**8.02** The Clerk of this Court shall accept and allow criminal Defendants to post a bail bond or surety in the form and amount as set by the Cambridge Municipal Court upon the physical transfer of the file of that Court to the Court of Common Pleas of Guernsey County, or to seek modification of the bond with notice being given to the Prosecuting Attorney.

The parties or their attorneys appearing before this Court shall be guided by Criminal Rules 5(B)(1) and (7), Criminal Rule 10(C)(3), O.R.C. Section 2937.28 and this Rule in the procedure for bail bonds for criminal Defendants.

## **RULE 9**

### **Pleadings, Motions - General Form**

**9.01** Pleadings, motions and applications shall be legibly typewritten or printed on letter size paper (8 ½" x 11") and shall be securely bound at the top and unfolded. The caption at the top thereof, in addition to stating the name of the Court, County and State, shall state the name and address, if known, of each party in the case of complaints, with space for the number and blank space of at least three inches at the top of the first page for endorsement thereon by the Clerk. Pleadings filed subsequent to the complaint, including motions and applications shall state the number of the case, the name of the first Party-Plaintiff and first Party-Defendant on each side. Each pleading, motion or application shall bear the name, office address and telephone number of the attorney with the Supreme Court Registration Number; otherwise, the name of the party filing and the type of case, (such as foreclosure, civil, tort, etc).

**9.02** Post Judgment Motions: In the caption of a post judgment motion, there shall be typed the name and address of each party and a certificate of service showing proof of mailing by certified mail.

### **9.03** Local Rule for Fax {In Compliance With Civil Rule 5(E)}

1. Local Court Rules regarding the filing of pleadings and other papers by electronic means (Fax). "Any signature on electronically transmitted pleadings or papers shall be considered that of the attorney or party it purports to be for all purposes. If it is established that the pleadings or papers were transmitted without authority, the Court shall order the filing stricken. (Civ. R. 5(E)).
2. Attorneys should limit requests for facsimile transmission to filings of an emergency or time-critical nature. The facsimile is only to be used in appropriate circumstances. The Court reserves the right to revoke this privilege from any attorney who appears to be abusing the privilege.
3. All responsive pleadings and other papers may be filed with the Court by facsimile transmission subject to the following provisions:
  - (a) A fax document will be accepted as original and the signature accepted as original consistent with Civil Rule 5(E). No additional paperwork needs to be filed.
  - (b) The attorney must transmit the item at a time and to a phone number specified by the Clerk. Such time will ordinarily be within normal business hours-weekdays 8:30 a.m. to 4:00 p.m.
  - (c) The attorney or party must use a cover sheet and provide all required information.
  - (d) The Clerk will time stamp the cover sheet when processed. The attorney or party must provide name and address on the cover sheet.
4. Court costs are \$2.00 per transmission, plus \$1.00 per page. Clerk will submit a billing to be paid within 10 days.

**Fax Machine Specifications:** The Clerk will maintain a fax machine in the Clerk's office premises. The machine will be attached to a dedicated phone line and a dedicated electronic circuit protected by a surge protector. The Clerk will use 20 pound bond paper in a plain paper fax machine.

## **RULE 10**

### Service of Copies and Notice

**10.01** Upon filing of a complaint, the person filing the same shall submit to the Clerk a true copy thereof for each Party-Defendant, and the Clerk shall arrange for service to be made thereon as set forth in the Ohio Rules of Civil Procedure or as otherwise provided by law.

**10.02** A true copy of each subsequent pleading, motion, response, brief, application or other paper filed in any cause shall be served forthwith by the party filing the same or his counsel upon opposing counsel and each party not represented by counsel, except that transcripts of the

proceedings, depositions, and other transcripts of evidence shall not be required to be so served. Such service as well as proof of service shall be made as set forth in the Ohio Rules of Civil Procedure or as otherwise provided by law.

**10.03** In domestic relations matters, all motions and applications filed after Decree shall be served upon the adverse party pursuant to Civil Rules.

**10.04** In accord with Civil Rule 4.4(A)(2), the Court hereby designates for posting of notice by the Clerk:

- (1) The Bulletin Board outside of the Clerk's Office, Second Floor, Guernsey County Courthouse, Cambridge, Ohio;
- (2) The Bulletin Board of the Cambridge Municipal Court, 134 Southgate Parkway, Cambridge, Ohio;
- (3) The Bulletin Board of the Postmaster, Cambridge Post Office, 954 Wheeling Avenue, Cambridge, Ohio.

### **10.05 Electronic Signatures**

The Clerk of the Guernsey County Common Pleas Court shall accept service of process methods as outlined in Civil Rule 4.1 Process: methods of service, which methods shall include “virtual” service of process utilizing advanced postal technology or service by certified mail. This advanced postal technology does not modify Civil Rule 4.1(1) Service by Certified Mail, but merely provides for advanced electronic and website technology in the ending of certified mail and receipt of confirmation utilizing facsimile copies to show to whom the mail was delivered, the date of delivery and address where delivered, all in accordance with the now-existing Civil Rules. Virtual service of process has been authorized for the Guernsey County Common Pleas Court by the Ohio Supreme Court Committee on Technology as part of an on-going study.

All service of process of complaint or other documents served with virtual service of process are subject to review and/or challenge as further outlined in Civil Rule 4.1, with confirmation of service of process data being made available through this Clerk’s office.

## **RULE 11**

### **Rule Day for Pleadings - Extensions**

**11.01** The provisions of Rule 12(A) of the Ohio Rules of Civil Procedure, will be strictly enforced.

**11.02** Additional time may be granted by the Court pursuant to Rule 6(B) of the Ohio Rules of Civil Procedure.

## **RULE 12**

### **Amendment of Pleadings, Notice, Costs**

**12.01** No pleading or motion shall be amended by interlineation or obliteration, except upon leave of Court first obtained. Upon the filing of an amended pleading or motion, the Original of any prior Amendment thereof shall not be withdrawn from the file except upon leave of the Court.

## **RULE 13**

### **Hearing and Submission of Motions and Responses**

**13.01** Motions and applications other than in domestic cases shall be accompanied by a memorandum stating the grounds for and citing the authorities and points relied upon. Within seven days after service of a copy of such motion or application, opposing counsel may file an answer memorandum. Responding or moving party may file a reply memorandum within five days after being served with such answer memorandum. The Clerk may not accept for filing any motion or application which is not accompanied by the memorandum provided for in this Rule.

**13.02** (Revoked August 26, 1988)

**13.03** On hearing of any motion, response or application, oral testimony shall not be received except by leave of Court. Supporting data, where appropriate, may be in the form of affidavit, deposition or other document.

**13.04** There shall be included in the front or back of each brief or memorandum, which by the terms of Rule 13.01 is required to accompany such motion, response or application, a statement, proof or indication of service of such motion, response or application and memorandum upon opposing counsel or opposing parties if not represented by counsel.

**13.05** Service of all motions and notice of hearing on motion (unless otherwise provided in these Local Rules or in the Civil Rules) shall be made in the manner prescribed by Civil Rule 5.

**13.06** Objections and Motions Related to Discovery Procedures:

(A) Counsel are encouraged to participate in pretrial discovery conferences to reduce the filing of unnecessary discovery procedures. No interrogatories, requests, motions or applications will be filed under Rules 26 through 37 of the Ohio Rules of Civil Procedure until counsel shall have explored the objective or objectives with opposing counsel in an effort to informally handle the matter or matters and/or reduce the area of controversy. It shall be the responsibility of the party seeking discovery to initiate such personal consultation.

(B) The presentation to the Court of unnecessary discovery motions, applications, interrogatories and requests, as well as any unwarranted opposition to proper discovery proceedings, will subject the offender to appropriate remedies, including the imposition of costs and counsel fees.

- (C) To the extent such personal consultation does not dispose of the matter, the party seeking the discovery may then proceed with the filing of a formal motion, application, interrogatories or request under any of Rules 26 through 37 of the Ohio Rules of Civil Procedure.
- (D) Objections to any discovery motion, application, interrogatories or request under Rules 26 through 37 of the Ohio Rules of Civil Procedure shall be filed within twenty (20) days after service of the formal motion, application, interrogatories or request, and shall be accompanied by a memorandum or brief.
- (E) The party initiating discovery to which objections are filed may file an answer memorandum or brief within ten (10) days after service of the objections. Upon the filing of such answer memorandum or brief, or at the end of the ten (10) day period, the matter will be automatically submitted.
- (F) Motions, applications and requests to which objections are not seasonably filed may be granted as a matter of course (as will orders directing answers to interrogatories) upon the informal presentation of an appropriate proposed and endorsed order by counsel for the party initiating discovery.
- (G) Requests for the extensions of the prescribed periods must be in writing and state the grounds therefore.

## **RULE 14**

### **Case Management Program** (Effective August 14, 1992)

#### **I. Civil/Domestic Relations Cases**

**Pretrial** - For the purpose of insuring the readiness of cases for trial, the following procedure shall be in effect.

Within 90 days after a suit is filed, except as provided herein, the case shall be docketed for a scheduling order which shall review the following:

1. Categorize each case in terms of its type, complexity of facts and legal issues, number of parties, and the anticipated difficulty in obtaining and completing discovery.
2. Service of process.
3. Pending leaves to plead and/or the necessity of amendments or supplements to the pleadings.
4. Fix deadlines for the completion of discovery procedures.
5. Fix deadlines for filing of motions.

6. Determine a definite date for disclosure of expert witnesses.
7. Set a trial date and a date for a final settlement pretrial.
8. Explore the possibilities of any early settlement.

A case management, pretrial scheduling order shall be docketed by the Court in all civil cases prior to being scheduled for trial, except in actions for injunctions, receiverships, uncontested domestic cases (unless filed pro se), and appeals from administrative agencies. Counsel may request a pre-trial conference in any case by applying in writing to the Court, and the Court shall conduct the same on a date to be fixed by the Court's Assignment Commissioner.

The pretrial scheduling conference may be conducted by the Judge or the Magistrate as the Court shall determine. All counsel of record or parties not represented by counsel are required to attend and shall have full authority to enter into a binding case management order. At least 48 hours prior to the conference, all parties or their counsel shall submit to the Court and serve upon opposing parties or counsel a progress sheet in the form provided in Appendix A attached hereto.

At the conclusion of the scheduling conference, a case management order shall be prepared and filed by the Court. This order shall address all items listed above and shall be binding upon all parties in the case. If any new parties are added, a further scheduling conference shall be set and a new case management order shall be prepared and shall supersede any prior order.

## **EXCEPTIONS**

Within 90 days after a case is filed, the Court shall review said cases and determine if service has been obtained or if parties are in default for answer or other pleading. In the event service has not been completed or parties are in default, an appropriate order shall be prepared and sent to counsel of record requesting that appropriate action be taken within 14 days or good cause shown why action should not be taken or the case will be dismissed by the Court for failure to prosecute.

Domestic cases shall be reviewed monthly by the Assignment Commissioners and any case which has been pending for more than 90 days shall be immediately brought to the attention of the Judge and appropriate orders shall issue.

All other cases not specified above shall be reviewed by the Court within 90 days after the suit is filed and appropriate hearings, scheduling, and orders shall be set and prepared by the Court.

COURT OF COMMON PLEAS, GUERNSEY COUNTY, OHIO

PRETRIAL STATEMENT PROGRESS SHEET

_____	_____	_____
Plaintiff(s)	Case Number	Date Filed
vs.	_____	
_____	Nature of Case	
Defendant(s)	Demand	
	_____	
	Pretrial progress Sheet to be Returned to Court	
	By Above Date	

1. Do any pleadings need amending?

Is case at issue?

2. What are the physical facts? (Use back of sheet if necessary)

3. What facts are in controversy? (Use back of sheet if necessary)

4. What discovery is yet to be obtained?

How long to complete discovery?

5. Are further medical examinations requested?

6. Leave and date to file motions for summary judgment will be given by the Court to all parties. Are any other motions needed?

7. What exhibits do you expect to offer?

Have the exhibits been disclosed on discovery? \_\_\_\_\_

8. Are there statements of expenses of items of special damage that may be stipulated?

PAGE TWO

PRETRIAL STATEMENT PROGRESS SHEET

CASE NO. \_\_\_\_\_

9. Is a view of the premises requested?

10. State how many lay witnesses will be called and provide their names. Number \_\_\_\_\_

State how many expert witnesses will be called. Provide names, addresses and field of expertise.

Number \_\_\_\_\_

11. Are there unusual questions of law? \_\_\_\_\_ If so, briefly state what they are.

12. Will a jury trial be waived? \_\_\_\_\_

What is the total time required for trial? \_\_\_\_\_

13. Can case be assigned for early trial? \_\_\_\_\_ When? \_\_\_\_\_

14. Have you made a specific offer of settlement? \_\_\_\_\_ When? \_\_\_\_\_

In what amount? \_\_\_\_\_

**Mediation may be granted upon request of the parties/counsel pursuant to Local Court Rule 32.**

I understand this case is not to be continued after it is assigned for trial. I will abide by the above answers.

TRIAL BRIEFS **MUST BE** IN THE COURT'S HANDS NO LATER THAN 14 DAYS BEFORE TRIAL, to include special jury instructions, jury interrogatories and copies of cases cited.

\_\_\_\_\_

Attorney's Signature & Supreme Court ID#

\_\_\_\_\_

Attorney's Address and Phone Number

\_\_\_\_\_

Counsel for \_\_\_\_\_

Identify whether for Plaintiff or Defendant &

Name of Party

## **II. Criminal Cases**

For the purpose of insuring speedy trials of all criminal cases filed with this Court, the following procedure shall be in effect for criminal case management purposes as of the date of the filing of this Rule.

1. The Assignment Commissioner shall schedule a date and time for the arraignments in all criminal cases for which indictments have been returned by the Grand Jury within 10 Court days of the filing of the indictment with the Clerk of this Court.
2. A pre-trial shall be scheduled in each criminal case on the docket of this Court within 21 days of the date of arraignment and the Defendant and defense counsel and the Prosecuting Attorney shall be notified of the date of the pre-trial at the arraignment hearing and by Journal Entry.
3. On the date of the pre-trial the Prosecuting Attorney and Defendant's attorney or Defendant pro se shall confer with the Assignment Commissioner of this Court and schedule a plea date or trial date for the case within the time frames set forth in O.R.C. Section 2945.71 and in compliance with Sup. R. 39.
4. The Statistical Reporting Clerk of this Court shall provide to the Presiding/Trial Judge a list of any criminal cases pending for more than six months from the date of the filing of the case with the Court in which sentencing has not occurred each month. This report shall be prepared at the time of the preparation of the monthly statistical reporting of cases to the Ohio Supreme Court as required by Sup. R. 40(B).
5. The Presiding Judge shall investigate and determine why any criminal case is pending beyond six months of the date of filing and shall report the reason to the Chief Justice of the Ohio Supreme Court each month with the case statistics of this Court as required by Sup. R. 40(B).
6. The Probation Department of this Court shall complete and return to the Judge any presentence investigation within 30 days of the date of the assignment of the presentence investigation and prior to the date of sentencing scheduled by the Assignment
7. Each year the Presiding Judge shall review any criminal cases which have been pending for more than six months due to the failure of service on the Defendant and shall request the Prosecuting Attorney to complete service or dismiss the case.

### **EXCEPTIONS**

Any criminal case which proceeds under a bill of information shall be scheduled on this Court's docket as soon as possible by the Assignment Commissioner after notification from the Prosecuting Attorney that the case has been filed with the Clerk.

Bail bond hearings may be held at any time and as soon as possible and not more than 48 hours of the notification to the Court that a Defendant has been arrested on a warrant and indictment or on a warrant and bill of information, and 10 days on an arrest for a probation violation.

Any criminal case wherein the Defendant is unavailable for trial for reasons such as competency evaluation, evaluation to maintain plea of guilty by reason of insanity, escape, evaluation of drug/alcohol dependency, etc. under the time frames set forth herein shall be reported by the Statistical Reporting Clerk of this Court to the Administrative Judge who shall cause the case to be listed by case number, name and reason of unavailability of Defendant on a report attached to the monthly statistical report of this Court to the Chief Justice of the Ohio Supreme Court.

## **RULE 15**

### **Firm Trial Dates**

**15.01** Firm trial dates will be fixed on call of the docket or at pre-trial conference or at other times by the Court for good cause shown.

When a firm trial date has been set by the Court, continuances will not be granted for the convenience of any attorney or party, or by reason of any inability to obtain certain witnesses or delay in obtaining exhibits or other evidence. A continuance will not be granted for conflict by reason of assignments of one counsel or other in another court except for good cause shown where the attorney can prove that he had no way of knowing of the conflict sufficiently in advance of the trial date to obtain competent counsel to substitute for him in the trial of the case assigned, or for other good cause shown in which the Court believes in the interest of justice the trial must be continued.

**15.02** Counsel desiring the use of video taped testimony must arrange to provide the necessary equipment and personnel for its use in the courtroom. Counsel's attention is directed to Superintendence Rule 12.

**15.03** The Assignment Commissioner may assign cases as first, second or subsequent alternate to a primary case. The Court will endeavor to notify counsel for alternate cases not later than 24 hours before the trial time that the alternate case will or will not be heard on said date. However, the purpose of assigning cases as alternates is to utilize the courtroom and to get cases tried and the Court reserves the prerogative of requiring alternate cases to be ready for trial if it appears to the Court that there is a strong possibility that the principal case will at the last moment be settled, dismissed or continued.

**15.04** Trial Briefs: When a case has been given a firm trial date, each attorney representing a party thereto shall file with the Court for the Court's personal use, a trial brief, no less than 14 days before the trial, with contents as required below.

Trial Briefs shall contain:

- (a) A short statement of the case.

- (b) A memorandum of the law upon which Plaintiff relies for relief requested in the complaint. Memorandum of Defendant on law which Defendant relies to deny relief requested by Plaintiff.
- (c) Memorandum of the law involved with unusual trial procedure that may be contemplated including introduction of evidence, motions, or any special requests to be made to the Court for both Plaintiff and Defendant.
- (d) Issues of fact to be determined. Both Plaintiff and Defendant.
- (e) Names of witnesses and/or exhibits to be presented to prove each issue for both Plaintiff and Defendant.
- (f) Advice to the Court as to whether or not, (1) special findings of the jury will be requested; (2) interrogatories will be submitted to the jury.
- (g) Copy of any major cases or authorities cited and copy of any footnoted cases upon which the party relies.
- (h) In a trial to the Court, the trial brief will contain information as to whether or not the party will desire the Court to make findings of fact and conclusions of law. If after the trial a request is made by any party for a finding of fact and conclusion of law by the Court, the Court will request the attorney desiring the same to submit to the Court in advance that party's suggested appropriate finding of fact and conclusion of law for consideration by the Court.
- (i) Any complaint, counterclaim, or other affirmative relief pleading may be dismissed without prejudice for lack of prosecution if a party seeking such affirmative relief through its complaint, counterclaim or other affirmative relief pleading does not file a trial brief within the time limit prescribed herein at said party's costs. In the event of jury trial, any jury costs incurred by the county may be assessed against the dismissed party.

## **RULE 16**

### **Defaults**

**16.01** When a party is in default for a pleading, no extension of time shall be granted without notice to opposing counsel and for good cause shown. Any entry granting leave to plead, should in all cases first be submitted to and/or approved by the opposing counsel.

**16.02** (Revoked August 26, 1988)

**16.03** Applications for default judgment shall otherwise be considered and ruled upon by the Court in the manner provided in Ohio Civil Rule 55.

**16.04** In all cases where the party is seeking unliquidated damages or is entitled to a jury trial, at a time designated for default judgment, the party entitled to such judgment shall present proper evidence in support of the allegations in pleadings for consideration by the Court, and judgment shall be rendered according to the evidence and the law applicable. Prior to commencement of said hearing, counsel shall indicate and the entry of judgment shall show that a trial by jury was waived and that the matter was submitted for decision by the Court. If the party seeking the judgment is desirous of a trial by jury, this must be indicated to the Court as set forth in the Ohio Rules of Civil Procedure or as otherwise provided by law.

**16.05** Relief from any judgment shall be sought pursuant to Civil Rule 60.

## **RULE 17**

### **Cognovits**

**17.01** When judgment is taken on any cognovit note, the Clerk shall forthwith stamp on the original note "Reduced to Judgment" and date and file said original note in a place of safekeeping provided by him or her, or return stamped copy to Plaintiff upon receiving Court approval to do so.

**17.02** The pleadings on a cognovit note action shall include the allegations pertaining to venue and jurisdiction of this Court.

**17.03** It is further provided that the original cognovit note may be removed from the permanent depository provided by the Clerk only upon Court order for good cause shown, and the Clerk will be directed to make such a notation upon his or her permanent record of notes of the date or said order together with the journal and page where said order is journalized.

## **RULE 18**

### **Journal Entries - Other Than Domestic**

**18.01** All journal entries shall in the caption of the case set forth a short description of that which the journal entry accomplishes, grants or decides, which description shall be typed in the docket of the Court by the Clerk of Courts as the Court's docket entry, unless a prior docket entry on the subject has been filed.

**18.02** The attorney in whose favor the decision was made, shall within seven days prepare the proper entry and submit it to counsel for the adverse party who shall approve or reject the same within seven days after the receipt thereof. If approval or rejection is not communicated to prevailing counsel, prevailing counsel may submit the proposed entry with appropriate notation to the Court for approval. If the prevailing party does not prepare an entry within the seven day period, opposing counsel may forthwith present an entry to the Court for approval. If counsel are unable to agree upon an entry, they shall confer with the Judge, and if agreement cannot be reached after such conference, the Judge shall prepare and enter the proper entry.

**18.03** Journal entry forms provided by the Clerk may also be used as a docket entry in an appropriate situation, but the use of a docket entry is discouraged, the better practice being the use of the short description in the caption.

## **RULE 19**

### **Domestic Relations Cases**

**(Effective January 1, 2008)**

**19.00 General:** This version of Local Rule 19 is effective January 1, 2008, and incorporates all the provisions of Chapter 31 of the Ohio Revised Code by reference as each pertains to the subject matter and proceedings of the Domestic Relations Division of the Common Pleas Court of Guernsey County.

#### **19.01 Scheduling of Domestic Hearings**

- (A) All domestic relations cases, whether contested or uncontested, including all motions pertaining to family affairs, will be set by the Assignment Commissioner and will be assigned as part of the regular docket of the Judge or the Magistrate. Attorneys are required to include their attorney registration number issued by the Ohio Supreme Court on all documents filed under this rule.
- (B) At the time a petition for dissolution is filed, the attorney or party filing the same, shall obtain a hearing date from the Assignment Commissioner.
- (C) At the time of filing a divorce or legal separation, or after service is obtained, if in the opinion of Plaintiff, these actions are likely to be uncontested, the Plaintiff may obtain a hearing date from the Assignment Commissioner.
- (D) At the time Plaintiff requests a hearing date, the Court will cause notice of hearing to be sent by ordinary mail to Defendant at such address as Plaintiff shall provide. See also Rule 4.4(A)(2) and Rule 5(B) and 5(E) of the Ohio Rules of Civil Procedure.

#### **19.02 Appointment of Process Servers**

- (A) Process Server (one-time appointment). If a party desires personal service to be by process server pursuant to civil rule 4.1, that party must file with the clerk of courts an entry appointing a special process server. The following must be stated in the entry of appointment:
  - (1) The name of the person to be appointed as process server;
  - (2) That the person to be appointed as process server is 18 years of age or older;
  - (3) That the person to be appointed as process server is not a party or counsel for a party in the action.
- (B) Process Server (continuing appointment). A person may apply to be designated as a “standing process server” for cases filed in this court by filing an application supported by an affidavit setting forth the following information:
  - (1) The name, address, and telephone number of the applicant;

- (2) That the applicant is 18 years of age or older;
- (3) That the applicant agrees not to attempt service of process in any case in which the applicant is a party, counsel for a party, or related to at party by blood or marriage;
- (4) that the applicant agrees to follow the requirements of civil rule 4 through 4.6 and any applicable local rules, and specific instructions for service of process as ordered by the court in individual cases.

(C) Recording Order of Appointment.

- (1) The applicant requesting designation shall also submit an order captioned “in re the appointment of (name of applicant) as standing process server” and stating as follows: “it appearing to the court that the following applicant has complied with the provisions of local rule 19.02, (name of applicant)is hereby designated as a standing process server authorized to make service of process in all cases filed in this court, to serve until further order of this court.”
- (2) The clerk of courts shall record such appointment on the court’s general docket and shall retain the original application and judgment entry. In any case thereafter, the clerk of courts shall accept a time-stamped copy of such order as satisfying the requirements of civil rule 4.1(B) for designation by the court of person to make service of process.

**19.03 Ex-parte Domestic Orders**

- (A) Counsel desiring an ex-parte order pursuant to Civil Rule 75(H) or (M) must arrange a personal conference with the Judge or Magistrate and present the complete file together with a proposed entry or entries. During the conference, counsel may be required to provide background information and respond to inquiry pertinent to the relief sought.
- (B) Ex-parte restraining orders will not be considered unless there is presented an affidavit of a party, sworn to absolutely, containing information precisely as required by Civil Rule 75(H) and O.R.C. Section 3127.23. If applicable, Exhibit B as set forth herein is to be used for this purpose.
- (C) Requests for allowance of spousal support, child support and allocation or parental rights and responsibilities pendente lite must either be included in the complaint or by motion accompanied by satisfactory proof by affidavit. These requests shall be accompanied by the affidavit of financial and health insurance disclosure. See Form 19-A. Any ex-parte order/entry shall state that the order will remain in effect until hearing. The current primary residence of the child(ren) and temporary child support may be established in the temporary orders without further hearing. A hearing will be scheduled within 14 days at the request of any party.
- (D) In all domestic relations cases seeking ex-parte orders after January 1, 2008, the following statement, signed by counsel in accord with Civil Rule 11, will be made in the pleadings or by separate affidavit:

“I hereby certify that to the best of my knowledge and belief, the opposing party has not been, or is not presently, represented by counsel.”

(Signature), Attorney at Law

Supreme Court Registration No.

#### 19.04 Local Filing Requirements

- (A) At the time of filing a petition for dissolution, complaint or counterclaim for divorce, legal separation or annulment, or any answer to the same, the following must also be filed using the forms set forth in these rules. There must be sufficient copies to enable the Clerk of Courts to serve a copy thereof with the pleading on the opposing party and a copy for the Child Support Enforcement Agency in cases in which a child support or spousal support order is contemplated.
- (1) Financial Affidavit and Health Insurance Information Form (herein referred to as **Ex. A**).
    - (a) The purpose of the affidavit is to provide the Court with background financial and health insurance information. The affidavit does not constitute a pleading or resolution of substantive issues and shall not be made a part of the public record.
    - (b) Any financial documents of the parties used to support the affidavit, including but not limited to W-2's, paycheck stubs or tax returns, are to be made available to the Court as an exhibit and a notice of the same to be filed with the Clerk of Courts. Personal financial documents are **not** to be filed with the Clerk.
  - (2) All petitions for dissolutions and complaints in divorce or legal separations involving children will include the Financial Affidavit and Health Information Form with documented income as set forth above and the following:
    - (a) The signed, sworn, Uniform Child Custody Affidavit required by O.R.C. Section 3127.23 set forth herein as **Ex. B**, setting forth the residential information of all minor children of the parties. It shall be an affirmative duty to identify all children conceived or born to the wife during the marriage. Nondisclosure of such information shall be construed as an affirmative representation of non-parenthood; which if untrue, shall constitute a fraud upon the Court and for which the Court may make any appropriate Order.
    - (b) A Notice (**Ex. C-1**) that a signed application and release for Title IV-D services (**Ex. C-2**) has been completed and filed. The original application and release are to be provided for service on CSEA. The Clerk is to cause said application and release to be delivered to CSEA with a copy of the pleadings. Only the Notice is to be filed.
    - (c) A child support computation worksheet, pursuant to O.R.C. Section 3119.01 et seq., shall be attached to all entries, both temporary orders and final decrees, submitted to the Court which order child support. In dissolutions, the child support worksheet is to be signed and sworn to by both parties.
    - (d) A Notice to both parties that they are required to attend the Family Matters with a copy of Rule 19.07 (**Ex. D**) and the current year's schedule attached thereto.
- (B) Shared Parenting Plan
- (1) When a petition for dissolution includes a plan for shared parenting in the separation agreement, or when one party or both parties submit individual plans for shared parenting in a divorce or legal separation action, and any of the parenting time is the same as the court's

standard order of parenting time (**Ex. H**), the court's standard order is to be incorporated by reference and attached thereto and **not** rewritten in the body of the separation agreement or shared parenting plan.

- (2) Any parenting time that states "as the parties can agree" must include "but no less than the court's standard order of parenting time" and "that the court's standard order of parenting time shall govern in all issues of the minor children not otherwise modified herein and in all matters wherein the parties cannot agree."

(C) Pretrials (See Rule 14)

- (1) All contested divorce actions and contested legal separation actions and pro se dissolutions and divorces shall be set for pretrial hearings within 30 days of the completion of the initial pleadings of the parties. Pretrials will be scheduled by the Assignment Commissioner.
- (2) Appropriate subjects for pretrial review are discovery requirements and motions; evidentiary requirements to establish child support obligations; health care insurance availability and the coordination of such benefits (O.R.C. 3902.13); dates for discovery deadlines and motions; and final hearing dates.
- (3) The court shall receive oral motions for appraisal of real estate, personal property and pension plans at the pretrial hearing.
- (4) Potential prospects for mediation (see Rule 32) and conciliation efforts are appropriate issues to review at pretrial hearings.

(D) Conversions

- (1) The parties to a petition for dissolution may convert their petition to a complaint in divorce under the provisions of O.R.C. 3105.65.
- (2) The parties to a complaint in divorce may convert their divorce action to a petition for dissolution under the provisions of O.R.C. 3105.08.

**19.05 The Clerk of Court shall refuse to receive for filing any pleading which fails to comply with Paragraph 19.04 above.**

**19.06 Child Support**

- (A) Computation: the child support obligations of the parties to any domestic relations action involving children will be determined and computed under the provisions of O.R.C. 3119.02. In each case, the parties will be required to document their computations employing the "Supportworks" software package available in the County Law Library or some other equivalent software.

B) Child Support Orders.

(1) The Court shall issue child support orders as required under the provisions set forth in O.R.C. Section 3119.01 et seq. An income withholding order shall issue if the party is employed. The Court shall issue a Seek Work Order in cases where the obligated party is unemployed and under a support order of the Court. The following forms are to be used for these orders:

- (a) Income Withholding Order/Notice to Employer/Income Source (**Ex. E-1**)
- (b) Seek Work Order (**Ex. E-2**)
- (c) Income Withholding Termination (**Ex. E-3**)
- (d) Notification Orders to Obligor and Obligee (**Ex. E-4**)
- (e) Notice of Order to Enroll Dependent's in Health Plan (**Ex.E-5**)

(2) Pursuant to O.R.C.3121.29, all child support orders shall include the following:

**“EACH PARTY TO THIS SUPPORT ORDER MUST NOTIFY THE CHILD SUPPORT ENFORCEMENT AGENCY IN WRITING OF HIS OR HER CURRENT MAILING ADDRESS, CURRENT RESIDENCE ADDRESS, CURRENT RESIDENCE TELEPHONE NUMBER, CURRENT DRIVER’S LICENSE NUMBER, AND OF ANY CHANGES IN THAT INFORMATION. EACH PARTY MUST NOTIFY THE AGENCY OF ALL CHANGES UNTIL FURTHER NOTICE FROM THE COURT OR AGENCY, WHICHEVER ISSUED THE SUPPORT ORDER. IF YOU ARE THE OBLIGOR UNDER A CHILD SUPPORT ORDER AND YOU FAIL TO MAKE THE REQUIRED NOTIFICATIONS, YOU MAY BE FINED UP TO \$50 FOR A FIRST OFFENSE, \$100 FOR A SECOND OFFENSE, AND \$500 FOR EACH SUBSEQUENT OFFENSE. IF YOU ARE AN OBLIGOR OR OBLIGEE UNDER ANY SUPPORT ORDER ISSUED BY A COURT AND YOU WILLFULLY FAIL TO GIVE THE REQUIRED NOTICES, YOU MAY BE FOUND IN COMTEMPT OF COURT AND BE SUBJECTED TO FINES UP TO \$1,000 AND IMPRISONMENT FOR NOT MORE THAN 90 DAYS.**

**IF YOU ARE AN OBLIGOR AND YOU FAIL TO GIVE THE REQUIRED NOTICES, YOU MAY NOT RECEIVE NOTICE OF THE FOLLOWING ENFORCEMENT ACTIONS AGAINST YOU:**

**IMPOSITION OF LIENS AGAINST YOUR PROPERTY; LOSS OF YOUR PROFESSIONAL LICENSE; WITHHOLDING FROM YOUR INCOME, ACCESS RESTRICTIONS AND DEDUCTION FROM YOUR ACCOUNTS IN FINANCIAL INSTITUTIONS; AND ANY OTHER ACTION PERMITTED BY LAW TO OBTAIN MONEY FROM YOU TO SATISFY YOUR SUPPORT OBLIGATION.”**

(3) Deviations in child support from the guideline amount must be approved by the Judge or Magistrate and factors for said deviation pursuant to O.R.C. 3119.22 and 3119.23 must be set forth in the body of the decree/entry. A child support worksheet (condensed page) showing the guideline calculation and a child support worksheet (condensed page) showing the deviated amount must be attached to every entry or decree which orders child support.

(C) Dependent Health Care Insurance

(1) General: The dependent health care insurance obligations of the parties in domestic relations actions involving children will be determined by this court in accord with the provisions of O.R.C. 3119.30 et seq. Both parties will be ordered to maintain health insurance on their minor children through their employer when it is available at a reasonable rate unless a specific finding is made otherwise. The fact that a parties present insurance is found to be unreasonable does not eliminate their obligation to carry reasonable insurance at a later time.

(2) Whenever one or both parties is ordered to obtain or maintain health care insurance coverage for their dependent children, said party or parties will also be required to show proof of the said insurance to the Guernsey County Child Support Enforcement Agency within 30 days of the entry. Further, said party or parties will be required to direct the insurer to make reimbursements for claims made under such policy or policies to the legal custodian or primary residential parent. Further, that the parent who provides the insurance for the children must supply the other parent with the necessary medical card and claim forms enabling both parents to take advantage of the insurance coverage for the minor child (ren).

(3) Health Care Orders and Notices: Any party who is ordered to provide health insurance coverage for that party's dependent children through a group health care plan offered through the party's employer, that employer must be notified of the requirement on the withholding order issued to the employer for the child support withholding in the case. Health care benefits will be coordinated under the provisions of O.R.C.3902.13. The necessary notices which may be required are found in **Ex. E4 & E5**.

(4) Enforcement: If a party fails to obtain the required health insurance as ordered or when the court is notified by the Child Support Enforcement Agency that a party has failed to show proof of insurance, this court will issue an order directly to the appropriate employer(s) (**Ex. G**), or initiate other enforcement proceedings as appropriate.

**19.07 Educational Program for Divorcing Parents: Family Matters – Divorce Education Sessions**

Within 45 days after filing of the petitioner or service of process, all parties in dissolutions, divorce or legal separation actions involving minor children, shall attend an educational seminar for separating parents which has been approved by the Court. No action shall proceed to a final hearing until the parties have complied with this Rule; however, non-compliance by a party to an action for divorce or legal separation who fails to file a responsive pleading shall not delay the final hearing. The mandatory attendance at the educational seminar may be waived by the court only upon written motion for good cause shown.

Each parent shall be responsible for registering prior to the seminar to be attended. A fee of \$10 per case may be charged for the seminar by the agency administering the class.

**19.08 Final Journal Entry or Decree**

- (A) Counsel for the prevailing party shall prepare the entry as directed by the Court or Magistrate and shall provide the same to opposing counsel for their approval before providing the same to the court. Counsel is to provide enough copies for all counsel, all parties, and if minor children are involved, a copy for the Child Support Enforcement Agency, plus the original to be filed with the clerk of courts.
- (B) If the final hearing was before the Magistrate, the entry/decree is to be set forth as a Magistrate’s Decision with findings of facts and conclusions of law. The following must be included:
  - (1) **NOTICE TO THE PARTIES:** A PARTY MAY FILE WRITTEN OBJECTIONS TO A MAGISTRATE’S DECISION WITHIN FOURTEEN DAYS OF THE FILING OF THE DECISION, REGARDLESS OF WHETHER THE COURT HAS ADOPTED THE DECISION PURSUANT TO CIV. R. 53(E)(4)(C). A PARTY SHALL NOT ASSIGN AS ERROR ON APPEAL THE COURT’S ADOPTION OF ANY FINDING OF FACT OR CONCLUSION OF LAW IN THAT DECISION UNLESS THE PARTY TIMELY AND SPECIFICALLY OBJECTS TO THAT FINDING OR CONCLUSION AS REQUIRED BY CIV. R. 53(E)(3).
  - (2) A copy of the above Magistrate’s Decision was mailed to (Names of parties and their counsel) on \_\_\_\_\_.
  - (3) A signature line for the Magistrate.
  - (4) A separate Judgment Entry approving the Magistrate’s Decision is to be provided for the Judge’s signature, as set forth in **Ex. J**.

- (C) Allocation of Parental Rights and Responsibilities: The Court will not approve a journal entry relative to the allocation of parental rights and responsibilities or obligations of support, that fails to specify that the court inquired of the parties and found it to be in the best interest of the minor child(ren) that said allocation be made and that the residential parent so named is a proper person to be given these rights and responsibilities.
- (D) Duty to Support: The entry must include a finding that both parents are obligated to support their minor children. Obligee/ (residential parent)'s support is provided as in-kind support. Pursuant to the statutory guidelines, Obligor/(non-residential parent) shall pay the sum of \$\_\_\_\_\_ per month, plus 2% processing charge, for a total amount of \$\_\_\_\_\_, for the current support of the parties= minor children effective \_\_\_\_\_ (date of the final hearing). All payments of support shall be made to the Ohio Child Support Payment Central, P.O. Box 182372, Columbus, Ohio 43218. A separate wage withholding shall issue. All arrears are to be carried forward.

(For deviations refer to 19.06(B)(3) above.)

- (E) Parenting Time: The parenting time for the nonresidential parent shall be set forth specifically, unless it is pursuant to the Court's Standard Order of Parenting Time, which shall be incorporated by reference and attached thereto and **not** fully rewritten therein. (See Rule 19.04(B) and **Ex. H**)
- (F) Health Care Insurance and Uninsured Medical Expenses: (Husband/Wife/Both) is/are **ORDERED** to maintain health insurance on the minor child through his/her/their employer/s and to provide the necessary documentation to (Husband/Wife/other). The residential parent is **ORDERED** to pay the first \$100 of uninsured medical cost for each year. Any additional uninsured or extra-ordinary medical costs are to be divided pursuant to the percentage on line 16 of the child support worksheet/equally between the parties.

(**Note:** Both parties will be ordered to provide insurance when it is available to them through an employer at a reasonable rate. If the child can be covered under the insurance of a spouse of one of the parties at a more reasonable rate, the same shall satisfy this obligation.)

- (G) Tax Dependency Exemption: Husband/Wife (the residential parent) is **AWARDED** the child tax dependency exemption beginning with tax year \_\_\_\_\_ (or) Husband/Wife (nonresidential parent) is **AWARDED** the child tax dependency exemption beginning with tax year \_\_\_\_\_ for those years he/she is substantially current in his/her child support obligation.
- (H) Statutory Notices: Pursuant to O.R.C. ' 3109.051(H)(I) and (J), attached hereto as Ex. \_\_\_ and incorporated herein, notice is hereby given that any third-party who knowingly fails to comply with the above order or the attached statute is in contempt of court. (See **Ex. I**)

EXHIBIT A

IN THE COURT OF COMMON PLEAS OF GUERNSEY COUNTY, OHIO

\_\_\_\_\_  
(Petitioner)

Vs.

CASE NO. \_\_\_\_\_

\_\_\_\_\_  
(Petitioner)

**FINANCIAL AFFIDAVIT ORIGINAL ACTIONS (DR1)**

\_\_\_\_\_ (Affiant) being duly sworn says:

**PART A – CASE INFORMATION**

	<b>PLAINTIFF/PETITIONER</b>	<b>DEFEDANT/PETITIONER</b>
FULL NAME		
Address		
Telephone		
DOB		
Date/Place of Marriage		
Number of Marriage		

**PART B – ANNUAL INCOME**

	<b>PLAINTIFF/PETITIONER</b>	<b>DEFEDANT/PETITIONER</b>
Employer/Income Source		
Employer Address		
Gross Annual Income	\$	\$
Gross annual overtime/bonuses	\$	\$
Gross annual unemployment benefits	\$	\$
Gross annual worker's compensation	\$	\$
Gross annual interest of dividends	\$	\$
Other	\$	\$
<b>TOTAL GROSS ANNUAL INCOME</b>	<b>\$</b>	<b>\$</b>
Income tax actually paid out	\$	\$
F.I.C.A.	\$	\$
Mandatory retirement plan	\$	\$
Union dues	\$	\$
<b>TOTAL ANNUAL DEDUCTIONS</b>	<b>\$</b>	<b>\$</b>
<b>TOTAL NET ANNUAL INCOME</b>	<b>\$</b>	<b>\$</b>

**PART C - DEPENDENT INFORMATION**

List each minor child of this marriage with DOB of each child.

DO NOT INCLUDE CHILDREN NOT OF THIS ACTION OR STEP CHILDREN.

<b>Child's name</b>	<b>Date of Birth</b>	<b>SSN</b>	<b>Where Child Resides</b>

**PART D - ACTUAL EXPENSES PER MONTH**

	<b>Plaintiff / Pet</b>	<b>Defendant / Pet</b>
1. Housing		
2. Utilities		
3. Insurance		
a. Auto		
b. Life		
c. Health		
4. Uninsured medical/dental		
5. Clothing		
6. Groceries/household sup		
7. Transportation		
8. Work-related child care		
9. Child support paid out		
10. Ex-spouse support paid		
11. Loans/Creditors		
<b>TOTAL MONTHLY EXPENSES</b>		

**PART E - ASSETS**

List all assets owned by each party-marital or separate property

<b>Description</b>	<b>Owned by</b>	<b>Value</b>
Cash and Funds on Deposit (do not use account numbers)		
Real property Address:		
Tangible Personal Property (Include all titled vehicles; household goods and furnishings)		
Pensions, profit-sharing plans, I.R.A.s		
Stocks, bonds and other securities		
Other		



**PART G - GROUP HEALTH INSURANCE FOR MINOR CHILDREN**

If minor children are involved in this action; answer the following questions about availability, cost and coverage for the minor children.

If no minor children do not complete Part G.

<b>Insurance</b>	<b>Plaintiff/Petitioner</b>	<b>Defendant/Petitioner</b>
Available through employer	yes or no	yes or no
Available non employer	yes or no	yes or no
<b>Name/address Insurance Co</b>		
Group Policy Number		
Cost to you per year		
<b>Summarize benefits</b>		
Deductibles		
Co-payment		
HMO		
Comprehensive		
Major medical		
Dental		
Optical		
Other		

\_\_\_\_\_

Plaintiff/Petitioner

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_

Notary Public

\_\_\_\_\_

Defendant/Petitioner

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_

Notary Public

**EXHIBIT B**

**IN THE COURT OF COMMON PLEAS OF GUERNSEY COUNTY, OHIO**

\_\_\_\_\_  
(Petitioner)

Vs.

CASE NO. \_\_\_\_\_

**AFFIDAVIT**

(3109.27 Ohio Revised Code)

\_\_\_\_\_  
(Petitioner)

\_\_\_\_\_  
(Affiant) being duly sworn says that:

(1) I am a party to this action and the above named parties are the parents of the following children:

NAME \_\_\_\_\_ DOB \_\_\_\_\_ SSN \_\_\_\_\_  
NAME \_\_\_\_\_ DOB \_\_\_\_\_ SSN \_\_\_\_\_  
NAME \_\_\_\_\_ DOB \_\_\_\_\_ SSN \_\_\_\_\_

(2) Beginning with the child (ren)'s present address, the following child (ren) have lived within the past 5 years at the following places with the following person(s):

From \_\_\_\_\_ to present at \_\_\_\_\_  
with \_\_\_\_\_

From \_\_\_\_\_ to \_\_\_\_\_ at \_\_\_\_\_  
with \_\_\_\_\_

From \_\_\_\_\_ to \_\_\_\_\_ at \_\_\_\_\_  
with \_\_\_\_\_

\_\_\_\_\_  
**(Check here if continued on additional page)**

(3) I (have \_\_\_ /have not \_\_\_) participated as a party, a witness, or in any other capacity in any other litigation, in this or any other state, that concerned the allocation of parental rights and responsibilities for the care of the child (ren) and the designation of the residential parent and legal custodian of the child (ren) or that otherwise concerned custody of the same child (ren). (If you do, state the name and address of the person).

(4) I (do \_\_\_ /do not \_\_\_) have knowledge of any parenting or custody proceeding concerning the child (ren) pending in a Court of this or any other state. (If you do, state the name and address of the person).

(5) I (do \_\_\_ /do not \_\_\_) know of any person that is not a party to this action who has physical custody of the child (ren), claims to be the residential parent or legal custodian of the child (ren), or claims to have visitation rights with respect to the child. (If you do, state the name and address of the person).

(6) I (have \_\_\_ /have not \_\_\_) been convicted of or pleaded guilty to any criminal offense involved any act that resulted in a child being of an abused child or a neglected child. (If you have, state the name and address of the Court).

(7) I (have \_\_\_ /have not \_\_\_) been determined in a case in which a child has been adjudicated an abused child or neglected child, to be the perpetrator of the abusive or neglected act that was the basis of the adjudication. (If you have, state the name and address of the Court).

(8) I understand that, while this action is pending, I must inform the Court if I learn of any other parenting action involving the child (ren).

Affiant

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
Notary Public

My commission expires \_\_\_\_\_

**EXHIBIT B**

**(Information for Parenting Proceeding Affidavit)**

(O.R.C. §3127.23(A))

**EXHIBIT C-1**

IN THE COURT OF COMMON PLEAS  
GUERNSEY COUNTY, OHIO

(Name),

CASE NO. \*

PLAINTIFF

VS.

NOTICE OF FILING

(Name),

DEFENDANT

Pursuant to Local Rule 19.04(A)(2)(b), Plaintiff/Defendant has provided an application and release for IV-D services for the Clerk to provide to Guernsey County Child Support Enforcement. The same is not to be made a part of the court file.

s/ \_\_\_\_\_

Name of Counsel

Counsel for P/D

Sup. Ct. Reg. #

Address

Phone/Fax

**EXHIBIT C-2**  
**APPLICATION FOR TITLE IV-D SERVICES**  
**(O.R.C. 2301.35)**

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

\_\_\_\_\_

TELEPHONE: \_\_\_\_\_

-----

I request support enforcement services from the Guernsey County Child Support Enforcement Agency, under Title IV-D of the Social Security Act, for support orders issued by the Common Pleas Court of Guernsey County, Ohio.

I hereby authorize my attorney to release any information necessary for these services to the Child Support Enforcement Agency and authorize that Agency to release information to my attorney, \_\_\_\_\_, Ohio Attorney Registration Number \_\_\_\_\_.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature

**EXHIBIT D**

(Sample Notice to be provided to Clerk for service on Defendant)

IN THE COURT OF COMMON PLEAS

GUERNSEY COUNTY, OHIO

**NOTICE**

JANE JONES

(Plaintiff/Petitioner)

Vs.

CASE NO. \_\_\_\_\_

JOHN JONES

(Defendant/Petitioner)

TO: JOHN JONES, DEFENDANT

You are hereby notified that in accord with Guernsey County Local Court Rule 19.07, you are required to attend an educational seminar for separating parents.

A copy of the pertinent provisions of this Rule is attached, along with a brochure provided by the Family Resource Center.

---

Teresa Dankovic, Clerk of Courts

**EXHIBIT E1**

IN THE COURT OF COMMON PLEAS OF GUERNSEY COUNTY, OHIO

GENERAL DIVISION

CASE NO.

PLAINTIFF/PETITIONER

SETS NO.

DOB:

WITHHOLDING ORGANIZATION:

VS/AND

DEFENDANT/PETITIONER

**READ THIS ORDER**

DOB:

You may have important continuing obligations

**INCOME WITHHOLDING ORDER**

The Court, upon evidence, finds that \_\_\_\_\_ is the employer / income source of \_\_\_\_\_, the Obligor, and that the Obligor has been **ORDERED** by this Court to pay support.

**THE COURT, THEREFORE ORDERS, ADJUDGES AND DECREES** that \_\_\_\_\_ is joined as a party defendant in this action and **SHALL DO ALL OF THE FOLLOWING:**

1. Withholding from the income of the Obligor the total sum of \$\_\_\_\_\_ per \_\_\_\_\_; but if this amount exceeds the maximum amount allowed to be withheld under Federal Law, withhold only the maximum amount allowed.

2. Begin withholding as Ordered **NO LATER THAN ONE WEEK FROM RECEIPT OF THIS ORDER**; however, the employer/income source does not have to alter its pay cycle.

3. Forward the count withheld **IMMEDIATELY** to the Ohio Child Support Payment Central, P.O. Box 182394, Columbus, OH 43218-2394, including with each amount forwarded, the Obligor's name, Social Security Number, Sets Case Number, Order Number and the amount forwarded for this Obligor.

4. Continue the withholding until further order of this Court.

5. Give this Withholding Order priority over any other legal process issued against the same income, as required by law.

6. If you receive two or more of these Orders for Obligor, prorate the amounts due under the Orders, and notify the Court immediately of the other Order and the proration.

7. Notify the Court, IN WRITING, within ten (10) days upon the occurrence of any situation where the Obligor is not receiving enough income to cover this Order. This Notice MUST state the reason for the lack of income, including but not limited to termination of employment, leave of absence, and layoff.

8. Notify the Court of any benefits or other income the Obligor is receiving or is eligible to receive as a result of the occurrence of any of the above situations. Such benefits or other income include, but are not limited to, new employment, unemployment compensation, worker's compensation, severance pay, sick leave, lump-sum payments or retirement benefits or contributions, and bonuses or profit sharing payments or distributions. This notice MUST state the name and address of the new source of income, the amount of the income, the Obligor's Social Security Number and Date of Birth, and the Obligor's last known address and telephone number.

9. Notify the Court IMMEDIATELY of any lump sum payments of Five Hundred Dollars (\$500) or more to be paid to the Obligor, HOLD THE LUMP SUM FOR THIRTY (30) DAYS BEFORE PAYMENT, and upon Order of the Court pay the sum to the Agency specified in this Order.

10. Withholding the amount set forth hereinabove; however, the amounts specified herein shall not exceed the maximum amount permitted to be withheld from earnings under Sec. 303(b) of the "Consumer Credit Protection Act", 15 USC 1673(b), which is sixty percent (60%) of disposable earnings for a person not supporting another family and fifty percent (50%) for a person supporting another spouse or child, plus an additional five percent (5%) on each limit if there are arrearages over twelve (12) weeks old. If the Order exceeds these limits, the employer shall notify the Guernsey County Child Support Enforcement Agency, P. O. Box 253, Cambridge Oh 43725, IN WRITING, and withhold only the prescribed limit. (Disposal earnings means compensation paid for services minus amounts withheld for taxes and Social Security.)

**ALL NOTICES ARE TO BE SENT TO: GUERNSEY COUNTY CHILD SUPPORT ENFORCEMENT AGENCY, P. O. BOX 253, CAMBRIDGE, OH 43725. ANY PRIOR WITHHOLDING ORDER SENT TO THE EMPLOYER/INCOME SOURCE FOR THIS CASE NUMBER IS NULL AND VOID.**

#### **NOTICE OF EMPLOYER/INCOME SOURCE**

1. As a withholder of income you may charge a fee not to exceed \$2.00 or 1% of the amount withheld, whichever is greater.

2. You may combine all payments in one check to the Ohio Child Support Payment Central if you have more than one order of withholding that is paid through that Agency; however, you **MUST** provide with your check a written list of names, social security numbers; SETS numbers and case numbers, and the amount withheld for Obligor's.

3. The law provides penalties for any employer who discharges, refuses to hire or disciplines an employee of this Withholding Order.

4. The law also provides penalties for failure to comply with any of the obligations imposed by this Order.

5. **YOU ARE LIABLE FOR ALL SUMS YOU FAIL TO WITHHOLD UNDER THIS ORDER.**

6. If you have any questions concerning application of this Order, the Court advises that you seek proper legal assistance of your own choice.

       Yes        No The Court has also ORDERED the Obligor herein to enroll his/her dependent child (ren) in the group health care plan available by way of employment within thirty (30) days of the date of this Order.

---

JUDGE OF THE COMMON PLEAS COURT  
GUERNSEY COUNTY, OHIO

**EXHIBIT E-2**

IN THE COURT OF COMMON PLEAS

GUERNSEY COUNTY, OHIO

\_\_\_\_\_  
Plaintiff/Petitioner

SSN: xxx-xx-\_\_\_\_ DOB:\_\_\_\_\_

CASE NO.

and/vs

SETS NO.

\_\_\_\_\_  
Defendant/Petitioner

SSN: xxx-xx-\_\_\_\_ DOB:\_\_\_\_\_

SEEK WORK ORDER

This case came before the Court for hearing. Based upon the testimony and evidence before the Court, \_\_\_\_\_, as Obligor, is hereby **ORDERED:**

- 1) To seek employment, for all periods of **unemployment**, if you are able to engage in employment.
- 2) To show proof of your employment contacts by providing completed Seek Work Forms to the CHILD SUPPORT ENFORCEMENT AGENCY on the FIRST day of each and every month you are unemployed. Seek Work Forms can be obtained from the CHILD SUPPORT ENFORCEMENT AGENCY. You must make three (3) employment contacts per week.
- 3) To immediately notify the Child Support Enforcement Agency, **in writing**, upon obtaining employment or any other income source
- 4) To immediately notify the Child Support Enforcement Agency, **in writing**, upon obtaining ownership of any asset with a value of Five Hundred Dollars (\$500.00) or more.

You can notify the Child Support Enforcement Agency in person or by mail at:

GUERNSEY COUNTY CHILD SUPPORT ENFORCEMENT AGENCY  
324 Highland Avenue  
Cambridge, Ohio 43725

IT IS SO ORDERED.

\_\_\_\_\_  
JUDGE

cc:

**EXHIBIT E-3**

**IN THE COURT OF COMMON PLEAS  
GUERNSEY COUNTY, OHIO**

**DOMESTIC DIVISION**

\_\_\_\_\_  
(Plaintiff/Petitioner)

\_\_\_\_\_  
\_\_\_\_\_

SSN: xxx-xx-\_\_\_\_\_ DOB \_\_\_\_\_

Vs.

CASE NO. \_\_\_\_\_

**INCOME WITHHOLDING TERMINATION**

\_\_\_\_\_  
(Defendant/Petitioner)

\_\_\_\_\_  
\_\_\_\_\_

SSN: xxx-xx-\_\_\_\_\_ DOB \_\_\_\_\_

Employer/Income Source:

\_\_\_\_\_

Address: \_\_\_\_\_

City/State: \_\_\_\_\_

This Court has determined that further withholding in the above-cited case is not longer necessary.

Therefore, this Court ORDERS, ADJUDGES AND DECREES that the withholding from the Obligor's income is hereby terminated effective \_\_\_\_\_.

\_\_\_\_\_  
JUDGE OF COMMON PLEAS COURT OF  
GUERNSEY COUNTY, OHIO

cc: Oblige  
Obligor  
Employer  
CSEA

EXHIBIT E-4

IN THE COURT OF COMMON PLEAS GUERNSEY COUNTY, OHIO

NOTIFICATION ORDERS TO OBLIGOR AND OBLIGEE

\_\_\_\_\_  
(Plaintiff/Petitioner)

\_\_\_\_\_

\_\_\_\_\_

CASE NO. \_\_\_\_\_

SSN: xxx-xx-\_\_\_\_\_ DOB \_\_\_\_\_

**Vs.**

\_\_\_\_\_  
(Defendant/Petitioner)

\_\_\_\_\_

SSN: xxx-xx-\_\_\_\_\_ DOB \_\_\_\_\_

**READ THIS ORDER**

You have important continuing obligations.

**TO:** \_\_\_\_\_  
(OBLIGOR)

The Court finds:

\_\_\_\_\_ That you have been Ordered to pay support in this case. **TAKE NOTICE THAT A WITHHOLDING ORDER** has been issued to your employer/income stream for payment under this support order. A copy of this Order is attached.

\_\_\_\_\_ That you have been **Ordered** to enroll your dependent child(ren) in the group health care plan available through your employment. Your employer has received notice of such Order. A copy of this notice is attached. You are **Ordered** to show proof of your enrollment in writing to the Guernsey County Child Support Enforcement Agency (hereinafter "Agency") within 30 days of the date of this Order. Further, you are **Ordered** to provide the necessary medical card and claim forms to the residential parent and legal custodial or primary residential parent of the child(ren). Further, you are **Ordered** to direct the insurer to pay all reimbursement of claims to the said residential parent. Coordination of multiple plan coverage is by O.R.C. Section 3902.13.

\_\_\_\_\_ That you have been **Ordered** in your Decree to enroll your dependent child(ren) in a group health care plan available to you within your locality. You are Ordered to show proof of your enrollment in writing to the Agency within 30 days of the date of the Decree. You are to provide medical card and claim forms to the residential parent and legal custodian or the primary residential parent if you are the non-residential parent or the other residential parent. Further, you are to instruct your insurer that all claims reimbursements are to be made to the residential parent and legal custodian or to the primary residential parent. Coordination of multiple plan coverage is by O.R.C. Section 3902.13 if the Decree requires both parents to obtain separate health care insurance coverage.

\_\_\_\_\_ You have been **Ordered** in your Decree to enroll your dependent child(ren) in a group health care plan available to you within your locality. Both parents are **Ordered** to share the expense of the insurance premium. You are **Ordered** to follow the instructions provided in your Decree. The residential parent and legal custodian or the primary residential parent is **Ordered** to show proof of the enrollment within thirty (30) days of the date of the Decree to the Agency and is to be the holder of the medical card claim forms and is to be the recipient of all reimbursements resulting from any claims filed.

YOU ARE HEREBY **ORDERED** to notify this Court, **in writing**, immediately upon the occurrence of any of the following:

1. The commencement, termination or any other change of employment, including self-employment. This notice must include a description of any new employment and the name and business address of any new employer.
2. The receipt of or eligibility to receive any type of income, including but not limited to Worker's Compensation benefits, sick leave benefits, disability benefits, pension benefits, annuity benefits, insurance proceeds, lottery prizes, government (federal, state or local) benefits, trust fund income, endowment fund income, vacation pay, commissions, draws, bonuses and profit-sharing payments or distributions. This notice must include a description of the income, the amount, the schedule of distribution (e.g., weekly, bi-weekly, twice per month, monthly, etc.), any account or claim number assigned to you, and the name and address of the source of income.
3. The receipt of, or eligibility to receive any type of lump-sum payments or distributions. This notice must include a description of the lump-sum payment or distribution, or any claim or account number assigned to you, the amount of the payment, the date the payment or distribution can or will be made, the name and address of the source of the lump-sum.
4. The opening, closing or other change in any account in a financial institution. This notice must include a description of the account, or other identification number, and the name and address of the financial institution.

Upon the commencement of new employment, you may request that the Court cancel any existing support enforcement order(s) and issue a personal earnings withholding order to your new employer.

FURTHER, upon commencement of new employment, the Court may cancel any existing support enforcement order and will do all of the following:

- a. Issue a personal earnings Withholding Order to your new employer.
- b. Collect on any bond posted by you, if the Court determines that payments due under the support order are in arrears in an amount at least equal to the amount of support due for one month.

You must always advise the Agency, **in writing**, of your telephone number, residence address, mailing address, and of any changes in this information.

**A WILLFUL FAILURE TO SUPPLY A CORRECT ADDRESS, TO PROVIDE THE COURT WITH ALL CHANGES IN EITHER ADDRESS OR TO PROVIDE ANY OF THE NOTICES REQUIRED IN THIS ORDER IS CONTEMPT OF COURT AND SHALL BE PUNISHED AS PROVIDED BY LAW. ANY NOTICE TO BE SENT TO THE COURT UNDER THIS ORDER MUST BE ADDRESSED TO THE GUERNSEY COUNTY CHILD SUPPORT ENFORCEMENT AGENCY, P. O. BOX 253, CAMBRIDGE, OHIO 43725.**

\*\*\*\*\*

TO: \_\_\_\_\_

(OBLIGEE)

The Court finds:

\_\_\_\_\_ That you are the residential parent and legal custodian or the primary residential parent of the child(ren) in this case and you have been **Ordered** to enroll your children in the group health care plan available through your employment. Your employer has received notice of such Order. A copy of this notice is attached. You are **Ordered** to show proof of your enrollment in writing to the Guernsey County Child Support Enforcement Agency (hereinafter "Agency") within thirty (30) days of the date of the Order. Coordination of multiple plan coverage is by O.R.C. Section 3902.13.

\_\_\_\_\_ That you have been **Ordered** in your Decree to enroll you dependent child(ren) in a group health care plan available to you within your locality. You are **Ordered** to show proof of your enrollment in writing to the Agency within thirty (30) days of the date of the Decree.

\_\_\_\_\_ You have been **Ordered** in your Decree to enroll your dependent child(ren) in a group health care plan available to you within your locality. Both parents are **Ordered** to share the expense of the insurance premiums. You are **Ordered** to follow the instructions provided in your Decree. The residential parent and legal custodian or the primary residential parent is **Ordered** to show proof of the enrollment within thirty (30) days of the date of the Decree to the Agency and is to be the holder of the medical card, claim forms and is to be the recipient of all reimbursements resulting from any claims filed.

A WAGE WITHHOLDING ORDER HAS BEEN ISSUED FOR THE PAYMENT OF SUPPORT TO YOU. A copy of the Withholding Order is attached. Under Ohio Law, O.R.C. Section 2301.35 (J), all Obligees of support orders are considered to be applicants for the services provided under Title IV-D of the "Social Security Act", 88 Stat. 2351 (1975), 42 U.S.C. 651, as amended. Under the Code of Federal Regulations implementing the Title Iv-D program, there must be a formal application on file. The precise format of the application is prescribed by the Federal Office of Child Support Enforcement on its published policy memoranda.

You are hereby **Ordered** to always advise the Agency, **in writing**, of your current mailing address, your current residence address, and of any changes in either address, immediately after such change occurs until further order of this Court.

You, as the residential parent, the legal custodian or primary residential parent, are also **Ordered** to immediately notify the Court of any reason for which the support order should be terminated, including, but not limited to death, marriage, emancipation, incarceration, enlistment in the armed services, deportation, or change of legal or physical custody of the child.

A WILLFUL FAILURE TO PROVIDE ANY OF THIS INFORMATION AS REQUIRED BY THIS ORDER IS CONTEMPT OF COURT.

Any notice required by this Entry is hereby **Ordered** to be sent to the following address:

GUERNSEY COUNTY CHILD SUPPORT ENFORCEMENT AGENCY  
P. O. BOX 253  
CAMBRIDGE, OHIO 43725

Keep this copy for future reference. When responding, please include the name of the person obligated to pay support and the case number indicated above.

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JUDGE OF COMMON PLEAS COURT OF  
GUERNSEY COUNTY, OHIO

**EXHIBIT E-5**

IN THE COURT OF COMMON PLEAS OF GUERNSEY COUNTY, OHIO

\_\_\_\_\_ DIVISION

**NOTICE OF AN ORDER TO  
ENROLL DEPENDENT'S IN  
HEALTH PLAN**

\_\_\_\_\_  
(Plaintiff/Petitioner)

\_\_\_\_\_

CASE NO. \_\_\_\_\_

SSN: xxx-xx-\_\_\_\_\_ DOB \_\_\_\_\_

**Vs.**

\_\_\_\_\_  
(Defendant/Petitioner)

SSN: xxx-xx-\_\_\_\_\_ DOB \_\_\_\_\_

**READ THIS ORDER**

You have important continuing obligations.

The Court finds:

The Court, upon the evidence, finds that \_\_\_\_\_ is an Employer /  
Income Source of (Obligee) \_\_\_\_\_, and that Obligee  
has been ordered by this Court to enroll his/her dependents in said Employer's Group Health Plan  
and to notify the Guernsey County Child Support Enforcement Agency in writing of such  
enrollment within 30 days of the date of this Notice.

\_\_\_\_\_  
JUDGE DAVID A. ELLWOOD

**EXHIBIT G**

IN THE COURT OF COMMON PLEAS OF GUERNSEY COUNTY, OHIO

DOMESTIC RELATIONS DIVISION

**ORDER ON EMPLOYER**

(ENROLL AND DEDUCT)

O.R.C. 3113.217 (F)

Plaintiff/Petitioner

SSN: \_\_\_\_\_ DOB: \_\_\_\_\_

and/vs

CASE No. \_\_\_\_\_

Defendant/Petitioner

SSN: \_\_\_\_\_ DOB: \_\_\_\_\_

The Court finds, upon written notification from the Guernsey County Child Support Enforcement Agency provided pursuant to O.R.C. 3113.217(F), that the OBLIGOR/OBLIGEE \_\_\_\_\_ has not complied with the health insurance order issued on \_\_\_\_\_.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the EMPLOYER \_\_\_\_\_ located at \_\_\_\_\_ take any action necessary to enroll the OBLIGOR/OBLIGEE in any group health insurance plan that is available to the OBLIGOR/OBLIGEE, to provide coverage for the children who are the subject of the child support order and to deduct from the wages or other income of the OBLIGOR/OBLIGEE the cost of the coverage for the children.

IT IS SO ORDERED.

\_\_\_\_\_  
JUDGE OF THE COMMON PLEAS COURT

## EXHIBIT H

### IN THE COURT OF COMMON PLEAS

#### GUERNSEY COUNTY, OHIO

Effective the 1<sup>st</sup> day of January, 2004, the Court does hereby adopt the following as Standard Parenting Time Guidelines. The Standard Parenting Time Guidelines shall constitute the visitation order in each domestic relations case involving minor children, unless the parties agree to a different specific visitation schedule or the Court orders otherwise. **These guidelines are an order of the Court, however, they are a minimum amount of visitation and the parties may agree to expand the visitation.** Children need continued meaningful exposure to both parents and need the continuing and regular involvement of both parents to feel loved. It is hoped that each parent will be flexible on visitation based upon the changing needs of a child as that child grows older.

#### STANDARD ORDER OF PARENTING TIME

1. The non-residential parent shall have parenting time on alternate weekends from Friday evenings at 6:00 p.m. to Sunday evenings at 6:00 p.m. Additionally, there shall be one weekday parenting time experience with the non-residential parent each week, taking into account the parents' work schedules, the child(ren)'s school schedule and the distance between the parents' homes. This parenting time shall be Wednesday from 5:30 p.m. until 8:00 p.m. unless otherwise agreed to by the parties.
2. The children and/or the residential parent have no duty to await the visiting parent for more than thirty (30) minutes of the parenting time. A parent late more than thirty (30) minutes shall forfeit that parenting time period. If the non-residential parent cannot exercise parenting time, 24 hour notice must be given to the residential parent and the child(ren).
3. For the purpose of parenting time, there are eight (8) holidays to be divided between the parents and take precedent over the parenting time schedule of paragraph one (1) herein:

- |     |  |     |   |
|-----|--|-----|---|
| (1) | Martin Luther King Day<br>9:00 a.m. to 7:00 p.m. * | (2) | Easter<br>Saturday 6:00 p.m. to Sunday 6:00 p.m.                                    |
| (3) | Memorial Day<br>9:00 a.m. to 7:00 p.m. *           | (4) | July Fourth<br>9:00 a.m. on the 4 <sup>th</sup> to 9:00 p.m. on the 5 <sup>th</sup> |
| (5) | Labor Day<br>9:00 a.m. to 7:00 p.m. *              | (6) | Halloween (Beggar's Night)<br>4:30 p.m. to 7:00 p.m.                                |
| (7) | President's Day<br>9:00 a.m. to 7:00 p.m. *        | (8) | Thanksgiving<br>Wednesday 6:00 p.m. to Friday 6:00 p.m.                             |

In the odd-numbered years the residential parent shall have the child(ren) in Group A (left column) and the non-residential parent shall have parenting time in the Group B (right column). In the even numbered years, the non-residential parent shall have the Group A holidays and the residential parent, the Group B holidays.

If the parent with the Monday holiday has the weekend prior, the children do not need to be returned home on Sunday night but may remain with that parent until Monday night at 7:00 p.m. (See paragraph 8.)

4. Winter/Christmas Vacation: The Christmas/Winter break will be divided and alternated annually between the parents. Said time periods shall be determined by the school district which the child attends, or if the children are not of school age, the district of the residential parent and the residential parent shall have the child(ren), in even year, from the day school is out until December 25, at 10:00 a.m. In even years the non-residential parent shall have parenting time with the child(ren) from December 25 at 10:00 a.m. until 6:00 p.m. the day before school reconvenes. In the odd numbered years, the non-residential parent shall have extended Christmas/Winter parenting time from 6:00 p.m. from the day school is let out to December 25 at 10:00 a.m. and the residential parent beginning December 25 at 10:00 a.m.
5. On Mother's Day and Father's Day, no matter whose turn for parenting time, the child(ren) shall be with the appropriate parent on those holidays.
6. The child shall celebrate its birthday in the house of the residential parent in odd numbered years and in the house of the non-residential parent in even numbered years. The parent not having parenting time on the child's birthday may have a separate birthday party if desired.
7. The non-residential parent shall have two (2) separate two (2) week periods of parenting time each summer. The residential parent must have at least one (1) weekend of parenting time prior to the non-residential parent exercising his/her second two (2) week period.

The residential parent shall have one (1) two (2) week period and one (1) one (1) week period of parenting time each summer. The non-residential parent shall have at least one (1) weekend of parenting time prior to the residential parent exercising the second portion of his/her vacation period.

A week for parenting time during the summer vacation period shall be defined as Friday at 6:00 p.m. to Friday at 6:00 p.m., unless otherwise agreed to by the parties, and these periods shall take the place of the regular schedule in paragraph 1 of this Standard Order of Parenting Time as set forth above; i.e. these summer vacation weeks are uninterrupted by the other parents' weekends.

Parents must submit their vacation dates to the other parent in writing not less than 60 days prior to the school break. If there is a conflict, the opposing party must notify the other parent within seven days. If the conflict cannot be resolved between the parties, they must submit the matter in writing to the Court for mediation within 45 days prior to the summer break. If the parties fail to submit the matter to the Court in a timely manner, the parent who

first submitted the requested dates to the other party shall receive those dates for vacation. Failure to comply with this provision will not result in a forfeiture of summer parenting time, but may result in summer parenting times other than requested.

Summer vacation period is determined by the school district which the children attend, or if the children are not of school age, the vacation period is determined by the school district of the residential parent. The summer vacation shall run from the day after the last day of school until one week prior to school starting.

**Child support does not abate for any period of parenting time.**

8. Unless otherwise stated all holidays, Mother's day, Father's day, extended summer visitation and birthday visitations shall be from 9:00 a.m. until 7:00 p.m. where the day after the visitation is a school day or from 9:00 a.m. until 9:00 p.m. where the day after the visitation is a non-school day.
9. In the event that a regularly scheduled weekend parenting time period is canceled because of the child's illness, the parenting time shall be made up the next weekend. Any holiday parenting time canceled because of a child's illness shall be made up within two (2) weeks.
10. The non-residential parent shall bear the transportation expense necessary for exercising parenting time.
11. Parenting time does not mean picking up the child(ren) and then leaving them with someone else. If circumstances so require, however, another responsible adult, such as a grandparent, may pick up the child(ren) for parenting time and/or watch the child(ren) for a short period of time. One example of a situation requiring such an arrangement is where the parent exercising parenting time cannot get off work in time to pick up the child(ren).
12. The residential parent shall send with the child(ren) on parenting time, clean clothing appropriate to the season and sufficient to last the entire visitation period. The residential parent shall send sufficient bottles, car seat, formula, diapers and all prescription or non-prescription medication taken by the child(ren) along with written instructions for the administration of the same and the name and telephone number of the physician. All bottles and unused supplies sent by the residential parent shall be returned with the child(ren) as well as all clothing, which shall be cleaned by the non-residential parent.
13. If the residential parent intends to move his/her residence, the residential parent shall immediately file a written notice with the Clerk of Courts. The written notice shall include the following:
  - a) The case number under which the original visitation order was issued;
  - b) The residential parent's name, old address, and new address; and

- c) The non-residential parent's name and present address. Upon receipt of this notice, the Clerk shall file the original and send the non-residential parent a copy of the notice.
14. Notwithstanding paragraph 13, the residential parent shall not remove the child(ren)'s residence from the State of Ohio without first obtaining a modified visitation order from the Court.
15. Subject to Ohio Revised Code Section 2301.35(G)(2) and 3319.321(F), the non-residential parent shall be entitled to access to any record related to the child(ren) under the same terms and conditions that access is provided to the residential parent.

**NOTICE TO KEEPER OF RECORDS:** Knowingly failing to comply with this order and with Section 3109.051(H) of the Ohio Revised Code may be punishable as Contempt of Court.

16. The non-residential parent shall have access, in accordance with Ohio Revised Code Section 5104.011, to any child day care center attended by the child(ren) under the same terms and conditions that access is provided to the residential parent.
17. Subject to Ohio Revised Code Section 3319.321(F), the non-residential parent shall have access to any student activity involving the child(ren) under the same terms and conditions that access is provided to the residential parent.

**NOTICE TO SCHOOL OFFICIALS AND EMPLOYEES:** Knowingly failing to comply with this order or Section 3105.051(J) of the Ohio Revised Code subjects you to a possible Contempt of Court.

These are the Standard Visitation Rules of this Court, and they will be changed or modified by the Court if it is shown that there is good cause for such change or if the parties agree to another parenting time schedule.

**THEREFORE, IT IS ORDERED,** that this visitation schedule is the order in each domestic relations case involving minor children, unless otherwise agreed by the parties or unless good cause is shown for a variance from this Order. This Order shall be referred to as the "STANDARD ORDER OF PARENTING TIME".

JUDGE DAVID A. ELLWOOD,

JUDGE ROBERT S. MOOREHEAD, JR.,

## **EXHIBIT I**

**RELOCATION NOTICE:** Pursuant to Ohio Revised Code §3109.051(G), the parties are hereby notified as follows:

IF EITHER PARTY INTENDS TO MOVE TO A RESIDENCE OTHER THAN THE RESIDENCE SPECIFIED, SAID PARENT SHALL FILE A NOTICE OF INTENT TO RELOCATE WITH THIS COURT. EXCEPT AS PROVIDED FOR IN O.R.C. §3109.051(g)(2), (3), AND (4), A COPY OF SUCH NOTICE SHALL BE MAILED BY THE COURT TO THE OTHER PARENT. UPON RECEIPT OF THE NOTICE, THE COURT, ON ITS OWN MOTION OR THE MOTION OF THE OTHER PARENT MAY SCHEDULE A HEARING WITH NOTICE TO BOTH PARTIES TO DETERMINE IT IS IN THE BEST INTEREST OF THE CHILDREN TO REVISE THE VISITATION OR PARENTING SCHEDULE FOR THE CHILDREN.

**RECORDS ACCESS NOTICE:** Pursuant to Ohio Revised Code §3109.051(H) and §3319.321(B)(5)(a), the parties hereto are hereby notified as follows:

EXCEPTING AS SPECIFICALLY MODIFIED OR OTHERWISE LIMITED HEREIN AND SUBJECT TO O.R.C. §2301.35(g)(2) AND §3319.321(f) EACH PARENT IS ENTITLED TO ACCESS, UNDER THE SAME TERMS AND CONDITIONS AS A “RESIDENTIAL PARENT” TO ANY RECORD THAT IS RELATED TO THE CHILD OR CHILDREN AND TO WHICH A RESIDENTIAL PARENT OR THE CHILD LEGALLY IS PROVIDED ACCESS, INCLUDING SCHOOL RECORDS. ANY KEEPER OF A RECORD, PUBLIC OR PRIVATE, WHO KNOWINGLY FAILS TO COMPLY WITH THIS ORDER, IS IN CONTEMPT OF COURT.

**DAY CARE RECORDS AND ACCESS NOTICE:** Pursuant to Ohio Revised Code §3109.051(H) and §5105.001, the parties hereto are hereby notified as follows:

EXCEPTING SPECIFIC FINDING OF FACT AS JOURNALIZED BY THIS COURT HEREIN OR OTHERWISE MODIFYING OR LIMITING ACCESS, EACH PARENT IS ENTITLED TO ACCESS, UNDER THE SAME TERMS AND CONDITIONS AS THE “RESIDENTIAL PARENT” TO ANY DAY CARE RECORDS THAT NOW OR MAY, IN THE FUTURE, RELATE TO THE CHILD OR CHILDREN AND TO WHICH A “RESIDENTIAL PARENT” OF THE CHILD LEGALLY IS PROVIDED ACCESS.

**SCHOOL ACTIVITIES NOTICE:** Pursuant to Ohio Revised Code §3109.051(J) and §5105.001, the parties hereto are hereby notified as follows:

EXCEPTING AS SPECIFICALLY MODIFIED OR OTHERWISE LIMITED AND SUBJECT TO O.R.C. §3319.321, EACH PARENT, IS ENTITLED TO ACCESS TO ANY STUDENT ACTIVITY THAT IS RELATED TO THE CHILD OR CHILDREN AND WHICH A “RESIDENTIAL PARENT” OF THE CHILD LEGALLY IS PROVIDED ACCESS.

**EXHIBIT J**

IN THE COURT OF COMMON PLEAS

GUERNSEY COUNTY, OHIO

\*,

CASE NO. \*

PLAINTIFF

VS.

\*,

JUDGEMENT ENTRY

DECREE OF DIVORCE

DEFENDANT.

Upon careful and independent examination and analysis of the Magistrate's Findings and Decision, the Court finds the Decision of the Magistrate is sufficient for the Court to make an independent analysis of the issues and to apply appropriate rules of law in reaching a judgment. Therefore the Court adopts the Decision, and approves and enters the same as a matter of record. The Court further finds there is no error of law or other defect on the face of the Decision, and incorporates by reference the findings and decision of the Magistrate.

The Court hereby enters a divorce on the grounds of \*, property division and payment of debts is Ordered. \* is named the residential parent of the minor children. \* is Awarded parenting time (pursuant to the standard order/as parties agree/per attached shared parenting plan/etc). Child support is Ordered to be paid by \* in the amount of \$\* per month, including processing fees. Health insurance is Ordered, payment of uninsured medical cost are assessed and the tax dependency exemption is awarded.

The decision of the Court constitutes a final and appealable Order. The Clerk of this Court is **ORDERED** to comply with Civil Rule 58(B), and serve upon all parties' notice of judgment and date of entry upon the journal.

Court costs are assessed for which judgment plus interest is granted.

**IT IS SO ORDERED.**

---

JUDGE DAVID A. ELLWOOD

## **RULE 20**

### **Conciliations**

**20.01** All petitions for conciliation under Sections 3105.091 or 3117.01 et seq. shall in the caption designate the section under which the petition is filed. The petition shall be filed with the Clerk of Courts.

**20.02** A hearing date shall be obtained by the petitioner and notice of the hearing date shall be included with the petition and service of the petition and notice shall be made in accordance with law.

## **RULE 21**

### **Partition Actions**

**21.01** Approval of Valuation; Election. It shall be the responsibility of Plaintiff to become informed of the Sheriff's action relative to the Writ of Partition and within ten (10) days of the return of said writ to file a motion concerning the approval of the valuation contained in said writ and to cause notice of hearing of the motion to be given to counsel and to parties having no counsel, including parties served by Publication for who addresses have been obtained. Said notice shall also inform the Defendant of the appraised value and of the right of each party to Elect to Purchase the real estate at the appraised value in writing filed with the Court three days before the date set for hearing with copies being served upon all counsel, parties having no counsel and other parties served by Publication for whom addresses have been obtained. Any opposition to the appraised value as disclosed in Plaintiff's notice shall be by a writing stating the grounds thereof and filed at least three days before the date set for hearing and served on all parties and counsel as set forth above.

The hearing shall be conducted on the date set forth in the notice. The Court will receive evidence on the question of approving the appraisal. If the Court disapproves, an alias writ shall issue on the request of a party or upon the Order of the Court. If the Court approves the appraisal, the Court will consider written elections of parties to purchase at the appraised value.

If one or more parties (jointly) elects to purchase the property at the appraisal, it shall be adjudged to the party or parties (jointly) pursuant to Section 5307.09. If no one elects to purchase or more than one party individually elects to purchase, the real estate shall be sold pursuant to Section 5307.11.

**21.02** Computation of Time: Time shall be computed as set forth in Civil Rule 6.

**21.03** Fees for Plaintiff's Counsel in Partition Actions: If Plaintiff's counsel shall in a timely manner benefit the interest holders and perform the duties imposed by 21.01, Plaintiff's counsel shall be allowed fees upon motion setting forth the proposed fee after hearing, notice of which shall be given as provided in Section 21.01. The following fees for Plaintiff's counsel shall be considered prima facie reasonable in uncontroverted cases:

- (a) On the first Five Thousand (\$5,000.00) 10%

- (b) On the second Five Thousand (\$5,000.00) 8%
- (c) On the third Five Thousand (\$5,000.00) 5%
- (d) On the remainder 2%
- (e) In no case shall the fee be less than \$200

**21.04** Fees for Counsel Other than Plaintiff's Counsel in Partition Actions: Motions for fees for counsel other than Plaintiff's counsel and for fees for Plaintiff's counsel in excess of the schedule set forth in Section 21.03 shall set forth the proposed fee and will be determined at a hearing after notice as provided in Section 21.01.

**21.05** Allowance of Counsel Fees: The motion for allowance of counsel fees (in election cases) pursuant to Section 21.03 may be determined at the election hearing. In non-election cases, the question of counsel fees shall be determined upon motion at the hearing for confirmation of sale and for allowance of fees conducted after notice is given pursuant to Section 21.01.

## **RULE 22**

### **Receiver's Fees**

**22.01** The fees allowed a Receiver and/or counsel in a receivership shall be:

- (a) On the first Five Thousand (\$5,000.00) 8%
- (b) On the second Five Thousand (\$5,000.00) 6%
- (c) On the third Five Thousand (\$5,000.00) 4%
- (d) On the remainder 2%
- (e) In no case shall the fee be less than \$200

**22.02** Applications or motions for fees in excess of schedule will be determined after notice is given to opposing counsel or to parties having no counsel.

**22.03** Application for fees may be made only at the time of presenting a verified draft of an account. The application shall be set for hearing and notice of hearing given to all parties or counsel and to all creditors whose claims have not been paid in full. Applicant shall exhibit vouchers at the time of hearing. When the draft with such changes as after hearing are determined necessary is approved and fees are approved, the applicant may forthwith file his account in final form including the approved fees. If the account in final form is approved, an order for payment of fees may be submitted.

## **RULE 23**

### **Removal of Court Files**

**23.01** No pleadings, processes, papers, depositions, transcripts of the proceedings or any written matter of a case pending or disposed of shall be removed from the office of the Clerk without consent of the Clerk and signing a receipt therefore.

## **RULE 24**

### **Resolving Conflicts in Rules**

**24.01** The Ohio Rules of Civil Procedure or Rules of Superintendence shall take precedence over any conflicting Local Court Rules.

## **RULE 25**

### **Compensation for Making Transcripts and Copies by Court Reporter**

**25.01** The Court fixes the compensation to Court Reporters for making transcripts in indigent cases at \$2.00 @ page for the original transcript and at \$1.00 @ page per copy; in non-indigent and civil cases said compensation is set at \$3.00 @ page for the original, \$.50 @ page for the copy to the party paying for the original, and \$2.00 @ page for the opposing party for a copy. The court Reporter shall require a deposit of 75% of the estimated cost of said transcript or copy in advance, to be held in a separate fund by the Court Reporter until the work is completed and a statement based upon the charge is presented showing a credit for the deposit which the Court Reporter may then withdraw. The fees for the completed work shall be paid in its entirety.

**25.02** A party that requests a photocopy of a transcript previously prepared is required to pay the compensation as fixed in 25.01. Each time a party requests a transcript, the Court Reporter who prepared the transcript is entitled to the entire compensation as set forth in 25.01, unless the party requests at the same time more than one transcript of the same testimony or proceeding. In such situation, the Court Reporter is entitled to the entire compensation as set forth in 25.01 for the first copy and up to one-half the compensation allowed for the first copy of each additional copy.

## **RULE 26**

### **MAGISTRATES**

**26.01** Upon a reference being made as authorized by Rule 53 of the Ohio Rules of Civil Procedure, the appointing Judge thereof shall specify in the Order of Reference any limitation upon the powers and duties of duly-appointed Magistrates. Such Judge may also fix the time and place of hearing and filing reports. Otherwise such Magistrates shall do all things necessary and proper for the efficient performance of their duties under the Order and the Statutes.

# **RULE 27**

## **Foreclosures**

### **27.01 Reference to Magistrate**

Pursuant to Civ.R. 53(C), the Court may refer any foreclosure to the magistrate for adjudication of the action or any claims, motions, or matters therein.

### **27.02 Pleadings**

#### **(A) Complaint in Foreclosure**

Pursuant to Civil Rule 10(d), Complaints in foreclosure, including complaints amended or supplemented to include a cause of action in foreclosure, Counterclaim, or Crossclaim must have attached to it a legible complete copy of the Promissory Note, Mortgage, Proof of Ownership of Mortgage, and all assignments of the note and mortgage up to the date of said pleading or any lien that is the basis of the action. Within these local rules, and except as otherwise noted, the term “complaint in foreclosure” refers to both an original action in foreclosure, as well as a complaint amended or supplemented to include a cause of action in foreclosure.

#### **(B) Preliminary Judicial Report**

1. Concurrent with the filing and attached to the complaint, the plaintiff shall file an original Preliminary Judicial Report (PJR) or a certificate of title for a complaint for a tax foreclosure, prepared by an attorney licensed to practice law in the State of Ohio, as evidence of the state of record title of the property.
2. The PJR shall be prepared by a title company or its agent or an attorney licensed to practice law in the State of Ohio and shall guarantee an amount not less than the unpaid principal balance due on the first lien or such additional amount as may be allowed by the Court for each property involved. A photocopy of the original PJR, certified by the title company, may be filed with the Clerk in lieu of the original. The PJR shall become and remain a part of the court file in the action.
3. If the Plaintiff fails to comply with this requirement at the time of filing the complaint, any other interested party, upon notice to the plaintiff, may procure the PJR and file it in the case. Where the PJR indicates that necessary parties have not been made defendants, the plaintiff or the party filing the PJR shall proceed without delay to cause such new parties to be added and served.
4. Plaintiffs filing complaints amended or supplemented to include a cause of action in foreclosure shall file, concurrent with the amended or supplemental complaint, a Supplemental Judicial Report.

**(C) Legal Description** – The Complaint, Counterclaim, or Crossclaim, or any amendment thereto, or an exhibit thereof, must evidence an accurate legal description of the property.

- (D) **Service of Summons** – Absent a showing of good cause, service must be perfected within 6 months of the date of filing the Complaint or a Supplemental or Amended Complaint. Pursuant to Civil Rule 3, service shall be completed within twelve months, or the case shall be dismissed without prejudice.
- (E) **Pretrial** – Pretrials shall be scheduled for all cases in which a party files an answer and for all motions for default judgment. Failure to appear may result in default judgment or an adverse judgment against the party not appearing, and any other sanction against a party or attorney the court deems appropriate
- (F) **Evidence of Title**
1. Supplemental Judicial Reports – A Supplemental Judicial Report may be filed by the plaintiff, sua sponte, or ordered by the Court, in response to a request by a party or on its own motion.
  2. Final Judicial Reports – The plaintiff, or any other party ordered by the Court, shall file a Final Judicial Report before the Decree of Foreclosure is issued. The report shall include a copy of the Court’s docket as evidence of the method of service on each of the necessary parties and shall include a statement indicating whether any additional liens or mortgages have been filed since the date of any previous Judicial Reports.

#### **27.02 Cost of Title Work**

Cost for the title work required under this Rule shall include a base search fee not to exceed Three Hundred Fifty Dollars (\$350.00), plus a premium on the Judicial Report issued, based on an amount not less than the unpaid principal balance due on the first lien on the property or such additional amount as may be allowed by the Court. The cost shall be taxed as part of the costs in the action.

#### **27.04 Guernsey County Treasurer**

The Guernsey County Treasurer (“Treasurer”) shall be named a defendant, but need not answer or otherwise appear or respond to the summons. The Court shall serve the Treasurer with a copy of the Confirmation of Sale or other dispositive order of the Court, through the Prosecuting Attorney of Guernsey County, Ohio.

#### **27.05 Motion for Default Judgment**

- (A) All Motions for Default Judgment must contain:
1. Military Affidavits for Defendants
  2. Memorandum or Affidavit in support of MDJ
- (B) The Magistrate may dismiss the case without prejudice if the above referenced requirements are not satisfied, or in the alternative a magistrate may grant counsel an

allotted amount of time to comply with the above referenced requirements as set forth by law.

- (C) Pretrials will be scheduled for all motions for default judgment. Failure to appear may result in default judgment or an adverse judgment against the party not appearing, and any other sanction against a party or attorney the court deems appropriate. Failure of Plaintiff to appear may result in the action being dismissed without prejudice.

### **27.05 Vacant and Abandoned Property**

Subsequent to a case being filed on the Court's docket, any party may file an Affidavit of Vacancy averring that the property is vacant. All parties shall be notified by the Magistrate of said assignment and shall have an opportunity to object in writing to the property designation. If no objections are filed and the case is not otherwise contested then the Magistrate shall set all motions for default judgment for hearing. Movant shall meet all the necessary legal requirements for foreclosure prior to said motion for default judgment being granted. The Magistrate may dismiss the case without prejudice if the above referenced requirements are not met, or in the alternative a magistrate may grant counsel an allotted amount of time to comply with the above referenced requirements as set forth by law.

### **27.07 Tenants**

- (A) In order to educate the tenants in residential property about their rights and responsibilities during the pendency of a foreclosure action, the Court may send, or require the plaintiff to send, information in a form prescribed by the Court to tenants residing in a subject property.
- (B) A tenant residing at a subject property may file a Communication with the Court.
- (C) The Court shall review the Communication and shall take such action in response as it deems appropriate, including ordering a conference with the parties.

### **27.08 Dispositive Motions**

- (A) After the service of summons on all parties, any party may file a dispositive motion, which shall include a proposed Judgment Entry ruling on the motion.
- (B) If a dispositive motion is granted, the moving party shall file a Supplemental or Final Judicial Report with a proposed Judgment Entry or Decree of Foreclosure, if applicable, within fourteen (14) days of journalization of the order granting the motion.

### **27.09 Notice of Bankruptcy**

- (A) If the property owner files a petition under the United States Bankruptcy Code, the case shall be stayed pending evidence from the Bankruptcy Court of relief from the automatic stay. Any party to the case may file a Notice of Bankruptcy.

- (B) Upon the filing of a Notice of Relief from Automatic Stay or other proper motion the Court may return the case to its active docket.

### **27.10 Settlement**

Plaintiff's counsel shall notify the Court of any payment plan or Forbearance agreement entered into on a pending case within seven days of said agreement. The Court may dismiss the case without prejudice upon said notice, in order to enable plaintiff to re-file the case should the debtor fail to make payments pursuant to said agreement.

### **27.11 Judgment Entries**

- (A) The Judgment Entry Decree of Foreclosure shall contain the following:

1. A short recital of the pleadings filed by each party;
2. A finding that service of summons upon all defendants was proper and that the Court has jurisdiction over all of the defendants;
3. A finding that certain defendants are in default for failure to answer, and therefore barred from asserting any claims against the real estate;
4. A finding that the County Treasurer has the first and best lien on the property for real estate taxes due and payable, where appropriate;
5. A finding of the amount due to the plaintiff on the lien and an order rendering judgment in favor of the plaintiff and against those defendants personally obligated where prayed for in the complaint and not previously discharged in bankruptcy;
6. A finding that the plaintiff's lien is first and best (or good and valid) lien on the property after taxes, where appropriate;
7. A finding that the plaintiff is entitled to foreclosure;
8. A finding of the amount, validity and priority of all subordinate liens;
9. A finding of "no just reason for delay";
10. An order that unless the sums found due in the decree are paid in full within 3 days from the date the decree is entered by the Court, the defendants' equity of redemption will be foreclosed and an Order of Sale will issue to the appropriate Officer to appraise, advertise and sell the property at public sale;
11. An order of distribution of proceeds;
12. A waiver of deposit at sale for first lien holder; and

13. An order to the Clerk and the Guernsey County Recorder to fully or partially release the liens and mortgages of record from the property.

#### **27.12 Sale of the Subject Property**

- (A) Any party seeking to have a property sold under a foreclosure decree shall file a Praecipe with the Clerk asking the Clerk to issue a copy of the decree and Order the Sale to the Guernsey County Sheriff.
- (B) All judicial sales shall be conducted by the Guernsey County Sheriff's Office and shall follow the procedures set forth by the Sheriff's Office, unless otherwise ordered by this Court.
- (C) In limited circumstances, where appropriate and upon showing of good cause, the Court may require that the sale be subject to an existing tenancy on the property.

#### **27.13 Sheriff's Return of Sale**

The Sheriff shall return the Order of Sale to this Court within sixty (60) days from the date of sale advising the Court that the sale was held with or without execution and showing the name and address of the successful bidder(s) and the amount of the bid.

#### **27.14 Confirmation of Sale**

- (A) Upon written Motion of any party to the action, the Court may confirm the sale.
- (B) The Order of Confirmation of Sale shall:
  - (1) Contain a full copy of the legal description of the property;
  - (2) Order the Sheriff to distribute the sale proceeds;
  - (3) Identify the purchaser by name and address and order the Sheriff to prepare the deed to the purchaser and deliver the deed to the purchaser or escrow agent designated in writing by the purchaser upon payment of the full purchase price, with interest, if any;
  - (4) Order the Clerk and the Guernsey County Recorder to fully or partially release the liens and mortgages from the property;
  - (5) Order a Writ of Possession to issue to the purchaser as between the parties;
  - (6) Enter a deficiency judgment (when permitted); and
  - (7) Order the Clerk to cause a certified copy of the Order of Confirmation of Sale to be sent to the Guernsey County Recorder for recording.

### **27.15 Distribution of Sale Proceeds**

- (A) All Orders of Confirmation shall distribute the proceeds of the sale to the parties according to their priorities
- (B) Any lien holder asserting an interest in the proceeds of the sale after the initial distribution may file a motion with the Court requesting a supplemental distribution of the monies remaining on deposit within thirty (30) days of confirmation of the sale.

## **RULE 28**

### **Arbitration**

**28.01** Arbitration shall be permitted where all parties to the action agree to arbitration and if a jury trial has been previously demanded; all parties enter into a written stipulation waiving jury trial.

### **28.02 Selection of Arbitrators and Arbitration Commissioner**

- (A) Arbitration Commissioner: There shall be an Arbitration Commissioner who shall be appointed by the Court and whose compensation shall be set by the Court.
- (B) Arbitration List: The members of the Bar qualified to act shall include only those who have filed with the Arbitration Commissioner their consent so to act. The list of arbitrators shall consist of consenting lawyers, listed alphabetically, each of whom is a notary public. Attorneys subsequently desiring to be eliminated from the list may so notify the Arbitration Commissioner by letter, and the Arbitration Commissioner shall remove their names from the list. The list of arbitrators shall be kept current at all times and open to inspection at all times.
- (C) Oath of Arbitrators- The whole number of arbitrators shall be assembled on the second Monday of each new Term of Court and shall be sworn or affirmed by the Judge to justly and equitably try all matters properly at issue submitted to them during the Term.
- (D) Board of Arbitrators; How Appointed: Appointments to each Board of Arbitration shall be as follows: One arbitrator shall be selected by Plaintiff or all Plaintiffs if more than one; one arbitrator selected by Defendant or all Defendants if more than one; and a third shall be selected by the two named. The third arbitrator shall be Chairman of the Board of Arbitration. Each Board of Arbitration shall be under the supervision of the Arbitration Commissioner and the Judge.
- (E) Composition of Board; Disqualification from Appointment: Not more than one member of a law partnership or an association of attorneys shall be appointed to the same Board, nor shall an attorney be appointed to a Board who is related by blood or marriage to any party to the case or to any attorney of record in the case or who is a law partner or an associate of any arbitrator of record in the case or who has an interest in the

determination of the case which would interfere with an impartial consideration of the case

- (F) The Court will assign the cases to go to arbitration to the Arbitration Commissioner who shall be responsible for the files until an arbitration award has been made and/or the case has been returned by the Board of Arbitration.

It shall be the duty of the Arbitration Commissioner to see that the parties to the action have named their two arbitrators and the two arbitrators have named a third as chairman within 30 days of the date of the assignment of the case to the Arbitration Commissioner.

It shall further be the duty of the Arbitration Commissioner to furnish the file in his custody to the chairman of the Arbitration Board immediately upon notice of the name of the chairman of the Arbitration Board. It shall further be the duty of the Arbitration Commissioner to see that the Arbitration Board meets for the purpose of considering arbitration within 60 days of the date of the delivery of the file to the chairman of the Arbitration Board and to notify the Court if such arbitration meeting has not been set within said 60 day period.

No disclosure shall be made to the arbitrators prior to the filing of the report and award of any offers to settle made by either party. Prior to delivery of the Court file to the chairman of the Board of Arbitration, the Arbitration Commissioner shall remove from the file and retain all papers or any notations referring to demands or offers for settlement including demands or offers for settlement contained in any pre-trial statement or other note in the file. If there is any such note written on the file, it shall be covered by paper before the Arbitration Commissioner delivers the file to the Chairman of the Arbitration Board.

Nothing herein contained shall prevent the parties from settling the case prior to hearing of the Board of Arbitration; however, the members of the Board shall not be notified that settlement negotiations are progressing nor shall any continuance of an arbitration hearing be requested for the purpose of finalizing an executory settlement agreement.

### **28.03 Hearing**

- (A) Place of Hearing, Time Limits, and Notices: Hearings shall be held at a place provided by the Chairman of the Arbitration Board. Unless counsel for all parties and the entire Board agree, the place shall be one of central city location. Should the chairman be unable to provide a place for the hearing the Arbitration Commissioner shall request another member of the Board to make such provision, and if no members of the Board can make such provision, the chairman shall arrange with the Assignment Commissioner for the use of one of the courtrooms or the jury room for the arbitration hearing. The chairman shall fix a time for hearing not less than 15 days and not more than 60 days after the delivery of the file not less than 15 days and not more than 60 days after the delivery of the file to the chairman, giving due consideration to other commitments of attorneys and co-arbitrators in fixing said date. The chairman shall notify the arbitrators and parties or their counsel in writing at least ten days before the hearing of the time and place of the hearing. The 60 day period may be extended for good cause shown by the Arbitration

Commissioner upon request by the chairman of the Arbitration Board. No hearing shall be fixed for Saturdays, legal holidays or evenings, except upon agreement of counsel for all parties and all arbitrators.

- (B) Settlements: If a settlement is concluded by the parties, the parties shall present a settlement entry dismissing the case with prejudice to the Arbitration Commissioner who shall immediately present the same to the Judge for approval, and the Court upon approval of the entry will at the same time release and discharge the Board of Arbitration. There shall be no communications by counsel or the parties with the arbitrators concerning the merits of the controversy or settlement prior to the hearing.
- (C) Inability of Party to Proceed: In the event that counsel for any party is unable to proceed on the date set by the Board of Arbitration within the time limit provided in these rules, the chairman of Arbitration Board shall notify and return the file to the Arbitration Commissioner who shall mark the case continued for cause stated by the Board and shall place it at the bottom of his docket of cases.
- (D) Case Continued Twice Certified to the Court: Wherever any case has been continued two times after assignment to two Boards of Arbitration, said case shall be certified by the Arbitration Commissioner to the Judge who shall summon the parties and their counsel. The Judge shall have the power to make any appropriate order including dismissal for want of prosecution or an order for default judgment if the cause of both continuances has been brought about by the delay of the party against who judgment would be entered, or make an order that the case be again assigned to a Board of Arbitration and be heard and an award made whether or not both parties appear.
- (E) Default of a Party: The arbitration may proceed in the absence of any party, who after due notice fails to present or fails to obtain an adjournment or continuance. An award shall not be made solely on the default of a party; the Board of Arbitration shall require the other party to submit evidence as they may require for the making of an award without delay. If such evidence is not submitted in due course by the other party, the file shall be returned by the Board to the Commissioner with recommendation as to disposition that should be made to the Court. If Plaintiff defaulted, the recommendation may be to dismiss for lack of prosecution. If Defendant defaulted, the recommendation may be for default judgment in favor of Plaintiff for an amount found due by the Board of Arbitration on evidence adduced, or such other recommendations as the Board of Arbitration deems proper, including assignment to a new Board of Arbitration. The recommendation must be signed by all three members of the Board.
- (F) Conduct of Hearing
  - (1) General Powers: Three members of the Board of Arbitration, unless the parties agree upon a lesser number, shall be the Judge of the credibility, relevancy and materiality of the evidence offered. Conformity to legal rules of evidence shall not be necessary, but may be enforced if the Board wishes, after a pre-hearing conference with the parties or their attorneys and the ground rules are established. Such pre-hearing conference shall be held prior to each hearing of a Board of Arbitration. All evidence

shall be taken in the presence of the Board of Arbitration and of all the parties, except where the party has received notice of the hearing and has failed to appear, or has an attorney who has advised the board that his client waives the right to be present in person. The Board of Arbitration may receive the evidence of witnesses by sworn testimony or by affidavit or written report and shall give it such weight as they deem it is entitled to after consideration of any objections made to its admission and in accordance with the ground rules established by the Board at the prehearing conference. Counsel shall upon request and whenever possible produce a party or witness at the hearing without the necessity of a subpoena.

- (2) Specific powers: The Board of Arbitration shall have the general powers of the Court including but not limited to the following: (See O.R.C. §2711.06)
- (a) To cause the issuance of subpoenas to witnesses to appear before the Board and to request the issuance of a *capias* according to the practice of this Court for failure to comply therewith.
  - (b) To compel the production of all books, papers and documents which they shall deem material to the case by subpoena or otherwise.
  - (c) To administer oaths or affirmations to witnesses.
  - (d) To permit testimony to be offered by deposition, affidavits, and copies of letters where relevant and such other papers or modes of agreement reached at the pre-hearing conference.
- (3) Admissibility of Evidence: In actions involving personal injury and/or damage to property the following listed bills or estimates may be offered and received in evidence without further proof, for the purpose of proving the value and reasonableness of the charges for service, labor and material or items contained therein and, where applicable, without the necessity for furnishing the original records or the persons in charge of the same on the condition that one weeks written notice has been given to the adverse party accompanied by a copy of the bills or other copies of records or originals with authorization to the opposing counsel to examine the original.
- (a) Hospital bills on the official letterhead or billhead of the hospital when dated and itemized may be accepted as the reasonable value of the items and services represented.
  - (b) Bills of doctors and dentists when dated and containing a statement showing the date of each visit and the charge therefore may be accepted as the reasonable value of the items or services listed.
  - (c) Bills for medicine, prescriptions, eyeglasses, prosthetic devices, medical belts and similar items may be accepted as the reasonable value of the items.

- (d) Property repair bills, when identified and itemized setting forth the charges for labor and material used in the repair of property when signed by an authorized employee of or person performing said work to the effect that said work and material itemized has been performed or furnished setting forth the charges for labor and material used in the repair of property shall be accepted as the reasonable value of the items, labor and service represented.
  - (e) In the case of an estimate, the party intending to offer the estimate shall forward with his notice to the adverse party together with the copy of the estimate, a statement indicating whether or not the property was repaired, and if it was, whether the estimated repairs were made in full or part and attaching a copy of the receipted bill showing the items of repair made and the amount paid. In such cases, the estimate may also be admitted as the reasonable opinion of an expert as to the cost of performing the repairs which the author of the estimate considers to be necessary to repair the damage to the property.
- (G) Supervisor Powers of Court in Hearing: The Judge shall have full supervisory powers with regard to any questions that arise in all arbitration proceedings and in the application of these rules. Questions directed to the Judge should be specific and in writing and brought to his attention through the Arbitration Commissioner.
- (H) Witness Fees: Witness fees in any case referred to said Board of Arbitration shall be in the same amount as now or hereafter provided for witnesses in trials in the Common Pleas Court and may be ordered taxed as costs in the case and the cost in any case shall be paid by the same party or parties by whom they would have been paid had the case been tried in the Common Pleas Court. Witnesses appearing before the Board of Arbitration are to be paid in the same manner as if they had been a witness at a trial in the Common Pleas Court.
- (I) Transcript of Testimony: The Board of Arbitration shall not be required to make a transcript of the proceedings before them. If any party shall desire a transcript, he shall provide a reporter and cause a record to be made. The party requesting the same shall pay the costs thereof which shall not be considered costs in the case. Any party desiring a copy of any transcript shall be provided with it by the reporter upon payment therefore, based upon the usual charges made for a copy of deposition plus one-half of the cost of the reporter at the hearing.

#### **28.04 Report and Award**

- (A) Return of Report and Award and Duties of Arbitration Commissioner: Within 30 days after the hearing, the Chairman of the Board of Arbitration shall return the Court file together with the report and award of the Board to the Arbitration Commissioner who shall upon delivery of the same give to the Chairman a receipt for the return of the file and of the report and award. On the same day the Board shall mail or otherwise forward copies of the report and award to all parties or their counsel.

The Arbitration Commissioner shall make a note of the report and award on his docket; make a copy of the report and award; and file the original report and award in the court file through the Clerk of Courts' office where it shall be time stamped forthwith. The Arbitration Commissioner shall bring the same to the attention of the Judge for entry of judgment immediately after the time for notice of appeal has expired if no appeal has been filed. If an appeal has been filed from the Board of Arbitration, the Arbitration Commissioner shall note the fact on his docket and note that said case been returned to the regular trial docket of the court to be set for trial de novo to the Court (jury trial have been waived) by the Assignment Commissioner in accordance with the rules of this Court.

- (B) The report and award shall be signed by all of the members of the Board of Arbitration. In the event all three members do not agree on the finding and award, the dissenting member shall write the word "Dissents" before his signature. A minority report shall not be required unless the dissenting arbitrator elects to submit the same due to unusual circumstances.
- (C) Legal Effect of Report and Award and Entry of Judgment: The report and award, unless appealed from as hereinafter provided, shall be final and shall have the attributes and legal effect of a verdict. If no appeal is taken within the time and in the manner specified, the Court shall enter judgment in accordance therewith. After entry of such judgment, execution or other legal post judgment process may be issued or judgment lien taken the same as in the case of all other judgments.

#### **28.05 Compensation of Arbitrators**

- (A) Each member of a Board of Arbitration who has signed an award shall receive as compensation for his services in each case a fee of \$300. When more than one case arising out of the same transaction is heard at the same hearing, it shall be considered as one case insofar as compensation of the arbitrators is concerned. In cases requiring hearing of unusual duration or involving questions of unusual complexity, the Judge on motion of the members of the Board of Arbitration and for good cause shown may allow additional compensation. The members of the Board shall not be entitled to receive their fees until after filing the report and award with the Arbitration Commissioner. Fees paid to arbitrators shall not be taxed as costs nor follow the award as other costs.
- (B) All compensation for arbitrators shall be paid upon properly warrant from the funds of Guernsey County, Ohio, allocated for the operation of the Common Pleas Court.

#### **28.06 Appeal**

- (A) Right of Appeal: Any party may appeal from the action of the Board of Arbitration to the Common Pleas Court of Guernsey County. The right of appeal shall be subject to the following conditions, all of which shall be complied with within 30 days after the entry of the award of the Board on the docket of the Arbitration Commissioner.

- (1) The appellant shall pay an appeal fee of \$25 to the Clerk of Courts and shall file through the Clerk of Courts at the office of the Arbitration Commissioner a notice of appeal file stamped by the Clerk of Courts with an affidavit that the appeal is not taken for delay, but because it is believed that an injustice has been done. A copy of such instruments shall be served upon opposing parties or their counsel.
  - (2) The appellant shall first repay to Guernsey County, by depositing with the Clerk of Courts, all fees received by the members of the Board of Arbitration in the case in which the appeal is taken. The sum so paid shall not be taxed as costs in the case and shall not be recoverable by the appellant in any proceeding.
  - (3) An indigent party desiring to appeal an award may appeal by filing a written notice of appeal and affidavit and a written motion with supporting affidavit to the court averring that by reason of poverty the party is unable to make the payment required for an appeal, or if done through an attorney by an affidavit of the attorney that his client is unable to make the payment required and that the attorney in question is doing the legal work in connection with the appeal without compensation himself other than the possibility of a contingent fee and that said appeal should be allowed in the interest of justice. If after due notice to the opposite party, the Judge is satisfied of the truth of the statements in such affidavit, he may order that the appeal be allowed although the required deposit and the amounts specified to be paid are not paid by the appellant.
  - (4) The case shall thereupon be returned to the trial docket of the Common Pleas Court for assignment through the Assignment Commissioner in accordance with the rules of the court.
- (B) Appeal De Novo: All cases which have been duly appealed, shall be tried de novo and shall be before the Judge, Jury trial having been waived.
- (C) Testimony of Arbitrators on Appeal: In the event of an appeal from the award of decision of the Board of Arbitration, the arbitrators shall not be called as witnesses as to what took place before them in their official capacity as arbitrators upon any hearing de novo.
- (D) Exceptions to Finding of Board of Arbitration and Procedure:
- (1) Any party may file exceptions with the Clerk of Courts through the office of the Arbitration Commission from the decision of the Board of Arbitration within 30 days from the filing of the report and award for either or both of the following reasons:
    - (a) That the arbitrators misbehaved in the conduct of the case;
    - (b) That the action of one or more of the arbitrators was procured by misconduct or corruption;
  - (2) The filing of exceptions shall toll the running of the 30 day appeal period until a determination of the exceptions by the Court at a hearing.

(3) Copies of said exception shall be served upon each arbitrator and the Arbitration Commissioner within 48 hours after filing and shall be forthwith assigned for hearing before the Judge.

(E) Penalty for Misbehavior or Misconduct:

(1) If an exception shall be sustained, the report of the Board shall be vacated by the Court and the case set for trial, and the report and award of the Arbitration Board, the exception, and the transcript of the hearing before the Court on the exception shall be forwarded by the Court to the Board of Commissioners of the Supreme Court of Ohio on Ethics and Discipline of the Bar of Ohio for appropriate action.

(2) The Arbitration Commissioner shall remove the name of said arbitrator or arbitrators from the Court list of arbitrators.

## **RULE 29**

### **Medical Malpractice Arbitration**

#### **29.01 Selection of Arbitrators and Manner of Appointment**

(A) Pursuant to the provisions of Section 2711.21, the three members of the panel shall be appointed by the Judge as follows:

(1) The Judge shall designate within 45 days after the filing of the Complaint the arbitration panel chairman.

(2) The names of the two members of the panel to be appointed by the Plaintiff(s) and Defendant(s) respectively shall be submitted to the Judge within ten days after the receipt of the designation provided for in (1) above.

(B) If there is a failure of one or more parties to appoint one or more arbitrators as in (2) above, the Judge shall, upon motion, appoint an arbitrator or arbitrators for the party or parties failing to comply. Such appointment shall be made within five days of the filing of such motion.

(C) No party appointed as an arbitrator shall have any interest in the case being heard.

(D) No disclosure shall be made to the arbitrators prior to the filing of the report and award referred to in Section 29.12 of this rule infra of any offers of settlement made by any party. Prior to the delivery of the Court file to the chairman of the Board of Arbitrators, the Judge shall remove from the file and retain all papers or notations referring to demands or offers for settlement. Such file shall be forwarded to the chairman at the time of the assignment of the case.

### **29.02 Discovery**

The assignment of a case to an arbitration board shall not limit the right of the parties to continue discovery pursuant to the Rules of Civil Procedure.

### **29.03 Hearings: When and Where Held; Notice:**

- (A) Hearings shall be held at a place scheduled by the Arbitration Chairman. A hearing shall be scheduled not more than 45 days after the appointment of the Board of Arbitration and the Arbitration chairman shall notify the arbitrators and the parties or their counsel in writing at least fifteen days before the hearing of the time and place of the hearing. No hearing shall be fixed for Saturdays and Sundays, legal holidays or evenings except upon agreement of all parties and the arbitrators.
- (B) Since sufficient time is available to the parties prior to the hearing date to settle or compromise a dispute, once a hearing date is set, the hearing shall proceed forthwith at the scheduled time. There shall be no communications by counsel or the parties with the arbitrators concerning the merits of the controversy prior to the commencement of the hearing.

### **29.04 Inability of Party to Proceed:**

In the event that a party is unable to proceed when the case has been scheduled, and such date is agreed to by all parties, the Assignment Commissioner may mark the case continued and may assess a \$25 continuance fee against such party.

### **29.05 Oath of Arbitrator:**

When the whole number of arbitrators shall be assembled, they shall be sworn or affirmed justly and equitably to try all matters properly at issue submitted to them, which oath or affirmation may be administered to them by any person having authority to administer oaths.

### **29.06 Default of a Party:**

The arbitration may proceed in the absence of any party who, after due notice, fails to be present or fails to obtain an adjournment. An award shall not be made solely on the default of the party; the panel shall require the other party to submit evidence as they may require for the making of an award.

### **29.07 Conduct of Hearing; General Powers:**

- (A) The three members of the panel shall be the judges of the relevancy and materiality of the evidence offered and conformity to legal rules of evidence shall not be necessary. All

evidence shall be taken in the presence of the arbitrators, of all the parties, except where any of the parties is absent, in default, or has waived the right to be present. In addition to oral testimony, the panel may receive the evidence of witnesses by affidavit, deposition, video-tape deposition, interrogatories, or written report and shall give it such weight as the panel deems is justified after consideration of any objections which may be made to such evidence. In the instance of affidavits and written reports, copies shall be furnished to counsel for all parties not less than two weeks in advance of hearing.

- (B) Counsel shall, upon request and whenever possible, produce a party or witness at the hearing without the necessity of a subpoena.

#### **29.08 Specific Powers:**

The panel shall have the general powers of a court including, but not limited to, the following:

- (A) Subpoenas: To cause the issuance of subpoenas to witnesses to appear before the board and to request the issuance of an attachment for failure to comply therewith. Issuance of subpoenas will be done in the same manner as is used in other types of cases.
- (B) Production of Documents: To compel the production of all books, papers and documents which are deemed material to the case?
- (C) Administering Oaths; Admissibility of Evidence: To administer oaths or affirmations to witnesses, to determine the admissibility of evidence, to permit testimony to be offered by deposition and to decide the law and the facts of the case submitted to the panel.

#### **29.09 Supervisory Powers of the Court:**

The Judge shall have full supervisory powers with regard to any questions that arise in all arbitration proceedings and in application of these rules.

#### **29.10 Witness Fees:**

Witness fees shall be in the same amount as now or hereafter provided for witnesses in trials in the Common Pleas Court of Guernsey County, Ohio, which shall be taxed in costs.

#### **29.11 Transcript of Testimony:**

The Court shall provide at the request of any party, an official Court Reporter for each medical malpractice arbitration hearing. The costs shall be assessed pursuant to Section 2301.21 O.R.C.

#### **29.12 Report and Award:**

Within 30 days after the hearing, the chairman of the panel shall file a written report and award with the Clerk of the Court of Common Pleas and a duplicate copy with the Judge and on the same day shall mail or otherwise forward copies thereof to all parties or their counsel. In the event that all three members do not agree on the finding and award, the dissenting member shall submit a written dissenting opinion to be filed with the majority report.

### **29.13 Legal Effect of Report and Award; Entry of Judgment**

The report and award, unless rejected pursuant to law, shall be final. If no rejection is made within the manner specified by statute, the Court shall enter judgment in accordance therewith. After entry of such judgment, execution process may be issued as in the case of other judgments.

### **29.14 Compensation of Arbitrators: (Revised May, 1985)**

- (A) Each member of a panel who has signed an award or files a dissenting opinion, unless he has waived in writing his right to compensation prior to the hearing, shall receive as compensation for his services in each case a fee of Three Hundred Dollars (\$300) for the first day plus One Hundred Fifty Dollars (\$150) for each fractional half-day thereafter. When more than one case arising out of the same transaction is heard at the same hearing or hearings, it shall be considered as one case insofar as compensation of the arbitrators is concerned. The members of a board shall not be entitled to receive their fees until after filing the report and award with the Clerk of Courts. Fees paid to arbitrators shall be assessed pursuant to section 2711.21 O.R.C. and shall be taxed as costs, one-half to Plaintiff(s) and one-half to Defendant(s). In addition to the initial deposit required by Rule 5 of this Court, parties Plaintiff and parties Defendant shall deposit Five Hundred Dollars (\$500) total each with the Clerk of Courts at least twenty-eight (28) days prior to the arbitration hearing. If there are multiple defendants and they cannot agree as to their proportionate share of the deposit, upon proper motion, the Judge shall order the apportionment. When it appears proper, the Court may order additional deposits.
- (B) In cases which require additional deposits for payment of arbitrators due to the arbitration lasting more than one day, the deposit to cover the additional costs shall be made not later than five (5) days after the completion of the arbitration.
- (C) The chairman of the arbitration panel shall determine not less than four days prior to, and not more than five days following completion of the arbitration that the proper deposit has been made. If no deposit has been made by one or both sides, the chairman shall have the Assignment Commissioner schedule a show cause hearing before the Judge to determine why the Plaintiff(s) and/or the Defendant(s) should not be held in contempt for failure to file the required deposit.

- (D) Payment of fees shall be authorized by the Judge by Court entry on a form to be provided by the Assignment Commissioner.
- (E) In all cases in which the Plaintiff(s) has filed a poverty affidavit or in which an insufficient deposit has been made to pay Plaintiff(s) portion of the compensation due the arbitrators and in which an award, settlement or judgment has been made in favor of the Plaintiff(s), Defendant(s) shall first pay to the Clerk of this Court out of such award, settlement or judgment, and before making any payment to the Plaintiff(s), an amount equal to the undeposited Plaintiff(s) arbitrators not paid from costs shall be paid upon proper warrant from the funds of Guernsey County, Ohio.
- (F) In all cases in which a settlement is reached or arbitration is waived fewer than 60 days prior to the scheduled arbitration hearing, the panel members shall be paid One Hundred Dollars (\$100) each from the deposit heretofore required by Section (A) of this Rule.

**29.15 Time Limit to Amend Pleadings:**

If the decision of the arbitrators is rejected pursuant to Section 2711.12 O.R.C. pleadings shall be amended and filed with the Clerk of Courts within 30 days. The parties making such pleadings amendments shall serve other parties pursuant to Ohio Rules of Civil Procedure.

## **RULE 30**

### **GUERNSEY COUNTY COMMON PLEAS COURT**

#### **JURY USE AND MANAGEMENT PLAN**

**(The following is submitted pursuant to the rule of the Supreme Court of Ohio regarding a plan utilizing the Ohio Trial Court Jury Use and Management Standards as a guideline, effective July 1, 1994).**

**I. Opportunity for Service:**

- A. The opportunity for jury service shall not be denied or limited on the basis of race, national origin, gender, age, religious belief, income, occupation, disability or any other factor that discriminates against a cognizable group in the jurisdiction.
- B. Jury service is an obligation of all qualified citizens of Guernsey County, Ohio.

## **II. Jury Source List:**

- A. Pursuant to Court order, the jury source list shall be obtained from the Board of Elections' list of registered voters and may be obtained from the Ohio BMV list of Guernsey County residents who hold a driver's license. The Court shall designate key numbers based on the total number of registered voters and the number of jurors needed for a year of service. The jury Commissioners shall then receive a computer printout from the Board of Elections (i.e. every 1st, 4th, 7th, and 14th names).
- B. The jury source list shall be representative and should be as inclusive of the adult population in Guernsey County as is feasible.
- C. The Court shall every 4 years review the jury source list for its representativeness or inclusiveness of the adult population in the jurisdiction as is feasible.
- D. Should the Court determine that improvement is needed in the representativeness or inclusiveness of the jury source list, appropriate corrective action shall be taken.

## **III. Random Selection Procedures:**

- A. The jury source list from Board of Elections shall be printed out on address labels which shall be cut into individual names and addresses and placed into a jury wheel. Names are then pulled at random during a public jury drawing.
- B. Departures from the principle of random selection are appropriate only to comply with lawful exceptions.

## **IV. Eligibility for Jury Service:**

- A. 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 the jurisdiction in which they have been summoned to serve, to-wit: Guernsey County;
  - 4. Are not able to communicate in the English language; or
  - 5. Have been convicted of a felony and have not had their civil rights restored.

## **V. Term of and Availability for Jury Service:**

- A. 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.

- B. Jurors shall be "on call" for a four month period. They do not report every day. (The Clerk of Court has a local number whereby jurors call after 4:00 p.m. the working day before the trial for which the jurors have been notified and are informed as to whether they are still needed for jury service.

**VI. Exemption, Excuse, and Deferral:**

- A. All automatic excuses or exemptions, with the exception of statutory exemptions, from jury service should be eliminated.
- B. Prospective jurors are excused for the following reasons: over age 70 and request to be excused; financial hardship; personal or family illness; childcare hardship; physician; firefighter; or lawyer. Prospective jurors are rescheduled for the following reasons: vacation; employment hardship; or student.
- C. Deferrals for jury service for reasonably short periods of time may be permitted by a judge or specifically authorized court official.
- D. Requests for excuses and deferrals and their disposition shall be written or otherwise made or recorded.

**VII. Voir Dire:**

- A. 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.
- B. To reduce the time required for voir dire, basic background information regarding panel members should be made available to counsel in writing for each party on the date on which jury selection is to begin. See Exhibit A.
- C. 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.
- D. The judge should ensure that the privacy of prospective jurors is reasonably protected, and the questioning is consistent with the purpose of the voir dire process.
- E. 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.
- F. Rules on Voir Dire

1. The case may not be argued in any way while questioning the jurors.
2. Counsel may not engage in efforts to indoctrinate jurors.
3. Jurors may not be questioned concerning anticipated instructions or theories of law. This does not prevent general questions concerning the validity and philosophy of reasonable doubt or the presumption of innocence.
4. Jurors may not be asked what kind of verdict they might return under any circumstance.
5. Questions are to be asked collectively of the entire panel whenever possible.

**VIII. Removal from the Jury Panel for Cause:**

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

**IX. Peremptory Challenges:**

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

**X. Administration of the Jury System:**

- A. The responsibility for administration of the jury system shall be vested exclusively in the Guernsey County Common Pleas Court.
- B. All procedures concerning jury selection and service should be governed by Ohio Rules of Court.

**XI. Notification and Summoning Procedures:**

- A. The notice summoning a person to jury service and the questionnaire eliciting essential information regarding that person should be:
  1. Phrased so as to be readily understood by an individual unfamiliar with the legal and jury systems; and
  2. Delivered by ordinary mail.

- B. A summons should clearly explain how and when the recipient must respond and the consequences of a failure to respond.
- C. The jury questionnaire should be phrased and organized so as to facilitate quick and accurate screening and should request only that information essential for:
  - 1. Determining whether a person meets the criteria for eligibility;
  - 2. Providing a basic background information ordinarily sought during voir dire examination; and
  - 3. Efficiently managing the jury system.
- D. Policies and procedures should be established for monitoring failures to respond to a summons and for enforcing a summons to report for jury service.
- E. See following example of notification (Exhibit C) which is mailed to prospective jurors via ordinary mail approximately ten days prior to trial date. Jurors who fail to report for service are scheduled for a contempt hearing to inform the judge as to why they did not appear. Sanctions are imposed as warranted.

## **XII. Monitoring the Jury System:**

The Court shall collect and analyze information regarding the performance of the jury system periodically in order to evaluate:

- A. The representativeness and inclusiveness of the jury source list;
- B. The effectiveness of qualification and summoning procedures;
- C. The responsiveness of individual citizens to jury duty summonses;
- D. The efficient use of jurors and;
- E. The cost effectiveness of the jury management system.

## **XIII. Juror Use:**

- A. The Court shall employ the services of prospective jurors so as to achieve optimum use with a minimum of inconvenience to jurors.
- B. The Court shall determine the minimally sufficient number of jurors needed to accommodate trial activity. The information and appropriate management techniques should be used to adjust both the number of individuals summoned for jury duty and the number assigned to jury panels.

**XIV. Jury Facilities:**

- A. The Court shall provide an adequate and suitable environment for jurors.
- B. The entrance and registration area shall be clearly identified and appropriately designed to accommodate the daily flow of prospective jurors to the courthouse.
- C. Jurors shall be accommodated in pleasant waiting facilities furnished with suitable amenities.
- D. 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.
- E. To the extent feasible, juror facilities should be arranged to minimize contact between the jurors, parties, counsel and the public.

**XV. Juror Compensation:**

- A. Persons called for jury service shall receive a reasonable fee for their service and expenses pursuant to the Ohio Revised Code and the Resolution of the Guernsey County Commissioners (See Exhibit D).
- B. Such fees shall be paid promptly.
- C. Employers SHALL be prohibited from discharging, laying-off, denying advancement opportunities to, or otherwise penalizing employees who miss work because of jury service.

Notes: Upon completion of the jury term, the Jury Commission Clerk will provide checks to jurors (See Exhibit D).

**XVI. Juror Orientation and Instruction:**

- A. The Court may have an orientation program;
  - 1. Designed to increase prospective jurors' understanding of the judicial system and prepare them to serve competently as jurors; and
  - 2. Presented in a uniform and efficient manner which may use a combination of written, oral and audio visual materials.

- B. The Court shall provide some form of orientation or instructions to persons called for jury service.
- C. The trial Judge should:
1. Give preliminary instructions to all prospective jurors;
  2. Give instructions directly following impanelment of the jury to explain the jury's role, the trial procedures including note taking and questioning by jurors, the nature of evidence and its evaluation, the issues to be addressed, and the basic relevant legal principles;
  3. Prior to the commencement of deliberations, instruct the jury on the law, on the appropriate procedures to be followed during deliberations, and on the appropriate method for reporting the results of its deliberations. Such instructions should be made available to the jurors during deliberations, either in written or tape-recorded form;
  4. Prepare and deliver instructions which are readily understood by individuals unfamiliar with the legal system; and
  5. Utilization of recorded instructions is preferable.
  6. Before dismissing a jury at the conclusion of a case, the trial judge should:
    - a. Release the jurors from their duty of confidentiality;
    - b. Explain their rights regarding inquiries from counsel or the press;
    - c. Either advise them that they are discharged from service or specify where they must report; and
    - d. Express appreciation to the jurors for their service, but not express approval or disapproval of the result of the deliberation.
- D. All Communications between the Judge and members of the jury panel from the time of reporting to the courtroom for voir dire until dismissal shall be in writing or on the record. Counsel for each party shall be informed of such communication and given the opportunity to be heard.

Notes: Upon completion of the jury term, letters and certificate of appreciation will be provided to the jurors who actually served, together with a Juror Comments Response Letter.

**XVII. Jury Size and Unanimity of Verdict:**

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

**XVIII. Jury Deliberations:**

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

**XIX. Sequestration of Jurors:**

- A. A jury should be sequestered only for good cause, including but not limited to insulating its members from improper information or influences.
- B. THE JURY SHALL BE SEQUESTERED AFTER A CAPITAL CASE IS SUBMITTED TO THE JURY in conformity with existing Ohio law.
- C. The trial judge shall have the discretion to sequester a jury on the motion of counsel or on the Judge's initiative and shall have the responsibility to oversee the conditions of sequestration.
- D. Standard procedures should be promulgated to:
  - 1. Achieve the purpose of sequestration; and
  - 2. Minimize the inconvenience and discomfort of the sequestered jurors.
- E. Instructions shall be provided by the Judge to personnel who escort and assist jurors during sequestration.

# **RULE 31**

## **SECURITY PLAN**

The following is submitted pursuant to the rule of the Supreme Court of Ohio requiring a security plan for each Court of Ohio, effective July 1, 1995.

### **STANDARD 1 SECURITY POLICY AND PROCEDURE MANUAL**

This Security Policy and Procedures Manual governing security of the court and its facilities shall be established by the court to ensure consistent, appropriate and adequate security procedures. The manual shall include: a physical security plan, routine security operations, a special operations plan, a hostage situation response plan, a high risk trial plan, and emergency procedures (fire, bomb, disaster).

The model security manual prepared by the Committee on Court Security of the Ohio Supreme Court is adopted by this court and incorporated herein by reference.

### **STANDARD 2 LOCAL COURT SECURITY ADVISORY COMMITTEE**

The Common Pleas Court of Guernsey County, Local Court Security Advisory Committee representatives shall be: the Judge of the Common Pleas Court, General Division; the Bailiffs of the Common Pleas Court; members of the Common Pleas Court Committee of the Guernsey County Bar Association; the Common Pleas Clerk of Courts; the Guernsey County Sheriff; and the Guernsey County Commissioners.

### **STANDARD 3 PERSONS SUBJECT TO SECURITY SCREENING**

All persons entering the courtrooms, including attorneys, shall be subject to security screening. All screening shall occur for each visit to the courtroom regardless of the purpose or the hour.

### **STANDARD 4 COURT SECURITY OFFICERS**

- A. The Bailiffs of this court shall be the Court Security Officers and shall display their badges, and shall be armed and assigned specifically to each courtroom, to ensure the security of each courtroom and court facility.
- B. All Security Officers assigned to court security should be certified through the Court and Sheriff. These officers should receive specific training on court security and weapons instruction specific to the court setting.
- C. The Court Security Officers shall also provide security to the Clerk of Court's office at the request of the Clerk or Clerk's staff.

## **STANDARD 5 WEAPONS IN COURT FACILITIES**

- A. The Bailiffs of this court shall be the Court Security Officers and shall display their badges, and shall be armed and assigned specifically to each courtroom, to ensure the security of each courtroom and facility.
- B. The Court permits the carrying of weapons into the court facility by law enforcement officers acting within the scope of their employment.
- C. In all cases, law enforcement officers who are parties to a judicial proceeding as a plaintiff, defendant, witness, or interested party outside of the scope of their employment shall not be permitted to bring weapons into the court facility.

## **STANDARD 6 PRISONER TRANSPORT WITHIN COURT FACILITIES**

- A. Prisoners should be transported into and within the court facility by the Court's Transportation Officer. When a separate entrance is not available and public hallways must be utilized, prisoners' legs should be shackled with hands secured to their waist by use of a leather belt or Martin restraint chain handcuffed behind the back and, when appropriated, secured by leg restraints.
- B. Prisoners should be held in the custody of the Bailiff or Transportation Officer, while awaiting court hearings and during any recess.
- C. Transportation Officer or Sheriff's Deputy shall accompany prisoners to the courtroom, remain during the hearing and return prisoners to jail. Court Security Officers and Bailiffs should not assume this responsibility, except when a person has been placed in their custody by the Court and is awaiting transportation to the County Jail.

## **STANDARD 7 DURESS ALARMS FOR JUDGES & COURT PERSONNEL**

- A. All courtrooms and the Judge's Chambers shall be equipped with a duress alarm connected to a central security station. Duress alarms shall be located on the judge's and magistrate's bench and at the work station of the bailiff, the receptionist, the Probation Department secretary, and other officers. The duress alarm system should be a system with enunciation capability.
- B. Testing of the duress alarms should be done regularly so that confidence in the system is maintained and shall be the responsibility of the Bailiffs to test each month.

## **STANDARD 8 SECURITY ENTERING AND EXITING COURTHOUSE**

The bailiffs shall each morning and afternoon escort the Judge and Assignment Commissioners into and out of the courthouse to ensure the safety of the court personnel in entering and exiting the courthouse.

## **STANDARD 9 RESTRICTED ACCESS TO OFFICES**

- A. An effective secondary security process at the entrance to the judges' office space shall be utilized to ensure safe and secure work areas and to protect against inappropriate interaction between judicial officers, including the Assignment Commissioners and magistrate, and participants in the judicial process. The general public should not be permitted in the area that houses office space for judges and court personnel.
- B. The security of the office space housing judges and court personnel must be maintained. Unlimited access to these areas is dangerous and unnecessary. The general public should not be permitted to wander through these departments for any reason. However, attorneys should have controlled access to the restricted areas. Person having business with the court or its personnel should be encouraged to make appointments.

## **STANDARD 10 AFTER HOURS SECURITY FOR EMERGENCIES**

- A. As part of this security plan, the court, in conjunction with law enforcement officers, should adopt procedures for the security of judge and court personnel for period of time other than the normal working hours.
- B. The protection of a judge and court personnel from work-related threats and acts of violence outside their usual work hours is important. It is essential that a plan be in place, when desired by a judge, to respond to such incidents.
- C. The particular plans should consider personal security profiles, residential alarm systems, mobile cellular telephones, weapons training, self-defense training and personal/family bodyguard security. While all of these steps include some financial commitment, the plan may be graduated to respond to the needs of any given situation.

## **STANDARD 11 STRUCTURAL DESIGN OF COURTROOMS AND HEARING ROOMS**

The court facilities should include circulation patterns that govern the movement of people in the courtroom. Judges, court personnel and prisoners should have separate routes to and from the courtroom. Waiting areas should be available to allow separation of parties, victims and witnesses, The circulation patters should separates the prisoners from all other persons. The public should also be separated from the judges, juries and court personnel.

## **STANDARD 12 INCIDENT REPORTING**

- A. Every violation of security that occurs within a court facility should be reported to the Judge.
- B. An incident will be defined as any infraction of the court's Security Policy and Producers Manual. The work "incident" will further be defined as any and all disruptions made in the confines of the court facility.

- C. To measure the effectiveness of court security procedures, it is mandatory to recognize and report these incidents. A standard incident reporting form should be utilized by court personnel to record a summary of each event which compromised the security of the court and/or the safety of the participants in the court process.
- D. The tabulation of such incidents should be reported annually to the Supreme Court of Ohio.

## **RULE 32**

### **Mediation**

**Introduction** - The Guernsey County Court of Common Pleas adopts Local Rule 32, effective **January 1, 2007**. Through Rule 32 the Guernsey County Court of Common Pleas incorporates by reference the RC. 2710 "Uniform Mediation Act" (UMA), RC. 3109.052 Mediation of Differences as to Allocation of Parental Rights and Responsibilities and Rule 16 of the Supreme Court of Ohio Rules of Superintendence.

- (A) **Definitions** - Definitions found in the "Uniform Mediation Act" (UMA) RC. 2710.01 are adopted by this court through this local rule including, but not limited to the following:
  - (1) **"Mediation"** means any process in which a mediator facilitates communication and negotiation between the parties to assist them in reaching a voluntary agreement regarding their dispute.
  - (2) **"Mediator"** means an individual who conducts mediation.
  - (3) **"Mediation Communication"** means a statement, whether oral, in a record, verbal or non verbal, that occurs during a mediation or is made for purposes of considering, conducting, participating in, initiating, continuing, or reconvening a mediation or retaining a mediator.
  - (4) **"Proceeding"** means either of the following:
    - a. Judicial, administrative, arbitral or other adjudicative process, including related pre-hearing and post-hearing motions, conferences, and discovery;
    - b. A legislative hearing or similar process.

- (B) **Purpose**

To promote greater efficiency and public satisfaction through the facilitation of the earliest possible resolution for Guernsey County Court of Common Pleas cases through the use of mediation. To accomplish this goal, Court Mediation Services has been established.

**(C) Scope**

At any time any action under the jurisdiction of this court may be referred to mediation by the Judge or Magistrate of this Court or upon proper motion by counselor by letter/motion of a pro se party.

**(D) Case Selection**

**(1) Referral Process**

The court, on its own motion, or the motion of any of the parties may refer disputed issues to mediation in whole or in part by “Notice of Scheduled Mediation” which shall, at a minimum indicate the date, time, place, and contact information of the medication. All parties and counsel shall advise the assigned judge or magistrate of any domestic violence allegations known to them to exist or to have existed in the past, or which become known to them following entry of the order but before conclusion of all mediation proceedings, which allegations involve any two or more persons whose attendance is required by the referral order.

**(2) Eligibility of Cases**

The Court Mediation Services will determine the eligibility and appropriateness of each referral prior to the commencement of the mediation process and may decline any referral(s) deemed inappropriate.

**(3) Mediator Selection and Assignment**

The following methods may be used to determine the mediator for the case:

- a. The court mediator may facilitate the mediation.
- b. The court randomly assigns a mediator to the case from the Court’s roster of approved mediators.
- c. Specific appointments may be made by the court taking into consideration the qualifications, skills, expertise, and caseload of the mediator in addition to the type, complexity and requirements of the case.
- d. Parties may select a mediator from the court roster.

**(E) Procedures**

In accordance with all applicable provisions of this rule, if a case is deemed appropriate by the Court Mediation Services, mediation will be scheduled. A mediator may meet with

the parties individually prior to bringing the parties together for any reason including, but not limited to further screening. A mediator may schedule multiple mediation sessions, if necessary and mutually acceptable for the resolution of the issues in part or in their entirety.

(1) The court shall utilize procedures for all cases that will:

- Ensure that parties are allowed to participate in mediation, and if the parties wish, that their attorneys and other individuals they designate are allowed to accompany them and participate in mediation.
- Screen for domestic violence both before and during mediation.
- Encourage appropriate referrals to legal counsel and other support services for all parties, including victims of and suspected victims of domestic violence.
- Prohibit the use of mediation in any of the following:
  - As an alternative to the prosecution or adjudication of domestic violence;
  - In determining whether to grant, modify or terminate a protection order;
  - In determining the terms and conditions of a protection order; and
  - In determining the penalty for violation of a protection order.

Nothing in this division of this rule shall prohibit the use of mediation in a subsequent divorce or custody case even though that case may result in the termination of the provisions of a protection order.

(2) Mediation of allocation of parental rights and responsibilities or the care of, or visitation with, minor children or delinquency or status offense cases shall abide by all provisions set forth in (E)(1) of this rule, mediation may then proceed, when violence or fear of violence is alleged, suspected, or present, only if the mediator has specialized training set forth in "Qualifications" section (H) of this rule and all of the following conditions are satisfied:

- The person who is or may be the victim of domestic violence is fully informed, both orally and in writing, about the mediation process, his or her right to decline participation in the mediation process, and his or her option to have a support person present at mediation sessions.
- The parties have the capacity to mediate without fear of coercion or control.
- Appropriate procedures are in place to provide for the safety of the person who is or may be the victim of domestic violence and all other persons present at the mediation.
- Procedures are in place for the mediator to terminate mediation if he or she believes there is continued threat of domestic violence or coercion between the parties.

- Procedures are in place for issuing written findings of fact, as required by R.C. 3109.052, to refer certain cases involving domestic violence to mediation.

**(3) Party/Non-Party Participation**

- Parties to informal cases may voluntarily attend.
- Parties who are ordered into mediation in formal cases shall attend scheduled mediation sessions. The court may order parties to return to mediation at any time in formal cases.
- A judge, magistrate and/or mediator may require the attendance of the parties' attorneys at the mediation sessions if the mediator deems it necessary and appropriate.
- If counsel of any party to the mediation becomes aware of the identity of a person or entity whose consent is required to resolve the dispute, but has not yet been joined as a party in the pleadings, they shall promptly inform the mediator as well as the assigned judge or magistrate.
- If the opposing parties to any case are 1) related by blood, adoption, or marriage; 2) have resided in a common residence, or 3) have known or alleged domestic violence at any time prior to or during the mediation, then the parties and their counsel have a duty to disclose such information to the mediator and have duty to participate in any screening required by the court.
- By participating in mediation a nonparty participant, as defined by RC. 2710.01 (D), agrees to be bound by this rule and submits to the court's jurisdiction to the extent necessary for enforcement of this rule. Any nonparty participant shall have the rights and duties under this rule attributed to parties except as provided by RC. 2710.03(B)(3) and 2710.04(A)(2).

**(4) Confidentiality /Privilege**

All mediation communications related to or made during the mediation process are subject to and governed by the "Uniform Mediation Act" (UMA) RC. 2710.01 to 2710.10, R.C. 3109.052, the Rules of Evidence and any other pertinent judicial rule(s).

**(5) Mediator Conflicts of Interest**

In accordance with R.C. 2710.08(A) and (B), the Mediator assigned by the Court to conduct a mediation shall disclose to the mediation parties, counsel, if applicable, and any nonparty participants any known possible conflicts that may affect the Mediator's impartiality as soon as such conflict(s) become known to the Mediator. If counsel or a mediation party requests that the assigned Mediator

withdraw because of the facts so disclosed, the assigned Mediator should withdraw and request that the assigned Judge or Magistrate appoint another Mediator from the list of qualified Mediators that is maintained by the Court. The parties shall be free to retain the mediator by an informed, written waiver of the conflict of interest(s).

**(6) Termination**

If the assigned Mediator determines that further mediation efforts would be of no benefit to the parties, he or she shall inform all interested parties and the Court that the mediation is terminated using the procedure required by this Court.

**(7) Stay of Proceedings**

All remaining court orders shall continue in effect. No order is stayed or suspended during the mediation process except by written court order. Mediation shall not stay discovery, which may continue through the mediation process in accordance with applicable rules, unless agreed upon by the parties and approved by the judge or magistrate assigned to the case.

**(8) Continuances**

It is the policy of this court to determine matters in a timely way. Continuances of scheduled mediations shall be granted only for good cause shown after a mutually acceptable future date has been determined. The case may be continued by the Judge or Magistrate who referred the case. Except as authorized by the court, the existence of pending motions shall not be good cause for a continuance and no continuance will be granted unless the mediation can be scheduled prior to the final pretrial.

**(9) Mediation Case Summary**

Attorneys may, at their option, or must if required on a specific case by the judge and/or magistrate, submit a "Mediation Case Summary" to the mediator which shall contain the following:

- Summary of material facts.
- Summary of legal issues.
- Status of discovery.
- List special damages and summarize injuries or damages.
- Settlement attempts to date~ including demands and offers.

**(10) Guardian Ad Litem**

A guardian ad litem for the child shall be appointed by the court in all cases involving a child who was the subject of a prior abuse or neglect action~ in all cases where one of the parties was the perpetrator of an act which resulted in an adjudication that any other child was abused or neglected and in other cases where the mediator believes it to be in the best interest of the child. A guardian ad litem appointed in these cases shall participate in mediation.

**(11) Mediation Memorandum of Understanding**

The assigned mediator~ parties or counsel, *if applicable*, as agreed by the parties~ may immediately prepare a written memorandum memorializing the agreement reached by the parties. The "Mediation Memorandum" may be signed by the parties and counsel (if the "Mediation Memorandum" is signed it will not be privileged pursuant to R.C. 2710.05 (A) (1)). The written "Mediation Memorandum of Understanding" may become an order of the court after review and approval by the parties and their attorney, if applicable. No oral agreement by counselor with parties or an officer of the court will be regarded unless made in open court.

**(12) Mediator Report**

At the conclusion of the mediation and in compliance with R.C. 2710.06 the court shall be informed of the status of the mediation including all of the following:

- Whether the mediation occurred or was terminated;
- Whether a settlement was reached on some, all or none of the issues;
- Attendance of the parties; and
- Future mediation session(s), including date and time.

**(F) Qualifications**

To be a court approved mediator the following qualifications apply:

**(1) General Qualifications and Training.**

A mediator employed by the division or to whom the division makes referrals for mediation of allocation of parental rights and responsibilities, the care of, or visitation with, minor children, abuse, neglect and dependency, or juvenile perpetrated domestic violence cases shall satisfy all of the following:

- a. Possess a bachelor's degree, or equivalent education or experience as is satisfactory to the division, and at least two years of professional experience

with families. "Professional experience with families" includes mediation, counseling, casework, legal representation in family law matters, or such other equivalent experience satisfactory to the division.

- b. Complete at least twelve hours of basic mediation training or equivalent experience as a mediator that is satisfactory to the division.
- c. After completing the above training, complete at least forty hours of specialized family or divorce mediation training which has been approved by the Dispute Resolution Section of the Supreme Court.

**(2) Specific Qualifications and Training: Domestic Abuse**

A mediator employed by the division or to whom the division makes referrals for mediation of any case shall complete at least fourteen hours of specialized training in domestic abuse and mediation through a training program approved by the Ohio Supreme Court Dispute Resolution Section. A mediator who has not completed this specialized training may mediate these cases only if he/she co-mediate with a mediator who has completed the specialized training.

**(3) The Court maintains a list of qualified Mediators.**

This list shall be maintained by Domestic Relations Assignment Commissioner and a copy shall be distributed to the Judge and Magistrates of the Court.

- a. All those on the list of qualified mediators shall submit to the Domestic Relations Assignment Commissioner, a regularly updated Curriculum Vitae (including a list of training related to the field of dispute resolution and professional or association memberships) which CV shall be provided by the Domestic Relations Assignment Commissioner to those requesting information on an assigned Mediator's qualifications to mediate a dispute pursuant the requirements set forth in R.C. 2710.08(C).
- b. The Court will review applications of person seeking to be added to the list of qualified Mediators in accordance with the procedures adopted by the Judge of the Court.

**(G) Fees and Costs**

All costs shall be determined by the court, if applicable. The parties may agree between themselves to apportion the costs of the mediation. Unless otherwise agreed by the parties, the mediation costs shall be shared equally. In the event that the parties cannot agree, the court shall determine the apportionment of the mediation costs to the parties. The court may waive costs for the parties who are unable to pay. Mediation shall not be ordered where a party is indigent unless the mediation is available at no cost to the party.

**(H) Sanctions**

If any individual ordered by the court to attend mediation fails to attend mediation without good cause, the court may impose sanctions which may include, but are not limited to, the award of attorney's fees and other costs, contempt or other appropriate sanctions at the discretion of the assigned Judge or Magistrate.

**(I) Model Standards**

Mediators providing services for the court shall comply with the Model Standards of Practice for Family and Divorce Mediation, and the Special Policy Considerations for the State Regulation of Family Mediators and Court Affiliated Programs as set for in Rule 16 of the Supreme Court of Ohio Rules Superintendence for the Courts of Ohio.

**RULE 33  
RECORDS RETENTION SCHEDULE**

This Court shall follow Rule 26 of the Ohio Supreme Court Rules of Superintendence and hereby adopts the Court Records Management and Retention guidelines established therein as the minimum guidelines for management and retention of records of the Guernsey County Court of Common Pleas.

**RULE 34  
DRUG COURT**

The Guernsey County Common Pleas Court, having initiated, adopted and operated a Drug Court Program pursuant to R.C. §2951.041 and R.C. §2935.36, hereby adopts written treatment standards and requirements for participation in the Drug Court Program and/or Intervention in Lieu of Conviction Program.