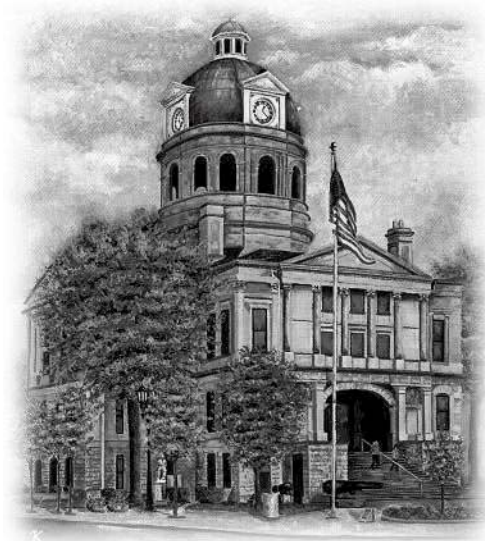


**Court of Common Pleas
Tuscarawas County, Ohio
General Trial Division**



Local Rules of Practice

January 1, 2011

**Edward Emmett O'Farrell
Administrative Judge**

**Elizabeth Lehigh Thomakos
Judge**



**Elizabeth W. Stephenson
Court Administrator**

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Exhibit List

<u>Exhibit</u>	<u>Description</u>
“A”	Court Cost Deposit Schedule
“B”	Civil Case Designation Form
“C”	Domestic Case Designation Form
“D”	Facsimile Cover Sheet
“E”	Request for Electronic Record of Courtroom Proceedings

General Rules

These rules conform to the Ohio Rules of Civil Procedure and the Rules of Superintendence for the Courts of Ohio and provide for the efficient and expeditious management of business before the Common Pleas Court for Tuscarawas County, Ohio, General Trial Division, ("Court") with due regard to local practices and requirements. These rules shall supersede all previous rules and amendments. However, these Local Rules are not meant to supersede the Rules of Superintendence for Common Pleas Courts established by the Supreme Court of Ohio or the Ohio Rules of Civil Procedure. Any previously ordered local rules of practice that conflict with the following rules shall be rendered void and of no force and effect.

Rule 1

Miscellaneous Information

A. Hours of Court Sessions

The sessions of the Court generally shall be daily Monday through Friday from 8:00 a.m. to 4:30 p.m. The Court shall be in session at such other times and hours as the administrative judge or any judge shall prescribe to meet special situations or conditions.

B. Addresses and Telephone Numbers

Courthouse:

101 East High Avenue

New Philadelphia, Ohio 44663

Internet Address: www.co.tuscarawas.oh.us

Judge Edward Emmett O'Farrell's Administrative Office:

330-365-3213

Judge Elizabeth Lehigh Thomakos' Administrative Office:

330-365-3289

Court Administrator's Office:

330-365-3217

E-mail Address: stephenson@co.tuscarawas.oh.us

Magistrate's Administrative Office:

330-365-3272

Facsimile Number for the above offices:

330-602-8811

Mediator's Administrative Office:
330-365-3269; Facsimile Number 330-365-3398
E-mail address: shumaker@co.tuscarawas.oh.us

Clerk of Courts:
125 East High Avenue
P.O. Box 628
New Philadelphia, Ohio 44663-0628
Telephone: 330-365-3243
Facsimile: 330-343-4682

C. Court Security

All persons entering the Tuscarawas County Courthouse, including elected officials, attorneys, law enforcement and security officers, must enter through the Ashwood Lane entrance (rear door towards alley and bank) and will be subject to security screening. Screenings will occur for each visit to the Tuscarawas County Courthouse regardless of the purpose or the hour.

D. Court Attire

All persons must dress in proper attire when entering a courtroom. No attorney, party or witness shall be permitted to appear in the courtroom or offer testimony while dressed in shorts or "tank tops." It shall be the duty of counsel to advise the parties and witnesses of this rule prior to their appearance in court.

E. Forms

The forms mentioned in the Local Rules can be obtained from the Court's web site, www.co.tuscarawas.oh.us (follow links to Departments, Court of Common Pleas, forms).

Rule 2
Filing Requirements

A. Filing Fees

No action or proceeding, except criminal filings, shall be accepted for filing by the clerk unless a financial deposit is made to secure the payment of the court costs that may accrue in the action, except as otherwise provided by law. See Exhibit "A" for a complete Schedule of Deposits as listed by the clerk of courts. The Schedule of Deposits is subject to change. Any questions regarding the Schedule of Deposits should be directed to the clerk of courts.

B. Copies of Pleadings and Motions

For all complaints, the clerk of courts requires that the original be filed plus one copy for each party being served. For all motions, the clerk of courts requires that the original be filed plus one copy for scheduling purposes and one copy for each party being served.

C. Publishing Procedures

Parties requesting legal notices shall prepare and prepay the cost of the notice to the legal publisher. The requesting party is required to submit proof of payment and proof of publishing to the clerk of courts for filing. The prepaid cost can be taxed as costs in the case. The legal notice shall be prepared and submitted to the clerk of courts for endorsement prior to publishing.

D. Discovery

Requests for and responses to discovery do not need to be filed in the Court file. A "Notice of Filing" of such is sufficient to notify the Court that a party has requested or responded to discovery.

E. Motions to Consolidate

1. Motions to Consolidate, In General

A motion to consolidate in a civil case, unless otherwise specified by this rule, shall be filed in the case that was filed last. The motion will be determined by the judge assigned to that case. If the motion is granted, the cases will be consolidated into the case that was filed first, and subsequent filings will only be permitted in that case.

2. Motions to Consolidate in Cases Involving Certificate of Judgment Liens

In civil cases involving the certificate of judgment liens, a motion to consolidate shall be filed in the case that was filed first. The motion will be determined by the judge assigned to that case. If the motion is granted, all relevant cases will be consolidated into the case that was filed first, and subsequent filings will only be permitted in that case.

3. Motions to Consolidate in Domestic Relations Cases

In a domestic relations case, a motion to consolidate shall be filed in the case where service was obtained last. The motion will be determined by the judge assigned to

that case or the magistrate. If the motion is granted, the cases will be consolidated into the case where service was obtained first, and later filings will only be permitted in that case.

Rule 3
Case Designation Forms

Every initial, non-criminal filing shall be accompanied by a Case Designation Form, which can be obtained in the office of the clerk of courts. For all complaints, post-decree motions filed in domestic relation matters or motions that reopen a domestic case, the form shall include the caption, related pending or closed cases, and indicate one of the case types provided on the form. The clerk of courts shall refuse to accept for filing any case that does not conform to this rule. A copy of the Civil and Domestic Case Designation Forms are attached hereto as Exhibits "B" and "C".

Plaintiff's attorney(s) shall notify the clerk of courts within 60 days of filing a complaint and defense attorney(s) shall notify the clerk of courts within 60 days of filing an answer that the case shall be designated as complex litigation pursuant to Rule 42 of the Rules of Superintendence for the Courts of Ohio.

Rule 4
Pleadings and Motions

A. Form

All pleadings and motions shall be legibly typewritten or printed and be double spaced on a single-sided 8 ½" x 11" paper and shall have a 2.5" top margin on the first page and subsequent pages shall have a 1" top margin. Motions must be bound only by a staple and free of dividers or tabs. If dividers or tabs are submitted, the clerk of courts is authorized to remove them prior to filing, docketing and scanning.

B. Case Numbering

All case numbers on pleadings, motions and other court filings shall appear as follows:

4 digit year designation	space	Supreme Court designation	space	2 digit month designation	space	4 digit case designation
2001		CR		03		0042

Examples: 2001 CR 03 0042

C. Names and Addresses of Parties

On all complaints and motions to reopen a case, the address of the parties shall be listed in the caption. If a party's address changes while the case is pending, the party shall report the change to the clerk of courts by filing a written Notice of Change of Address.

D. Attorney Registration Number

The attorney signature blocks of all pleadings, motions and filings shall include the attorney registration number assigned by the Supreme Court of Ohio.

E. Pro Se Filings

All individuals who are not represented by legal counsel (pro se) shall, in addition to the other requirements listed in these Local Rules, include their telephone number on all pleadings and motions filed with the Court.

F. Leave to Plead

By agreement of counsel, a party may be granted leave to move or plead provided the total extension of time does not exceed 28 days. Such consent shall be signed by all counsel and filed with the clerk of courts. Where an extension of time beyond 28 days is needed, the appropriate motion must be filed. Upon proper showing to the Court of good cause, the extension may be granted.

G. Amendments

No pleading or motion shall be amended by interlineation or obliteration. Upon filing of an amended pleading or motion, the original shall not be withdrawn from the Court file.

H. Motion Procedures

All motions shall be accompanied by a brief or memorandum stating the grounds for the motion and citing relevant authorities. The motion, together with the brief or memorandum, whether supporting or opposing a motion, shall not exceed 15 pages, exclusive of any supporting documents. If a party fails to provide a brief or memorandum or exceeds the 15-page limit, the Court may overrule the motion without consideration.

All motions on the non-oral docket shall also be accompanied by a proposed judgment

entry in accordance with Local Rule 13.

Courtesy copies of all dispositive motions and responsive memoranda in Judge Thomakos' cases should be sent to the courtroom upon filing.

Oral argument upon a motion will not be held unless written request is made by the party submitting or opposing the motion. The reasons for the necessity of an oral hearing shall be stated in the body of the motion, and the words "Oral Hearing Requested" shall be placed in the caption of the motion. **However, Objections and Motions To Set Aside scheduled before Judge O'Farrell will automatically be scheduled for oral hearing.** All motions where oral argument has been requested, unless oral argument is otherwise dispensed with by the Court, shall be set for hearing by the court administrator.

Oral arguments on civil motions shall be limited to 15 minutes unless the Court for good cause grants a longer time. Oral arguments on criminal motions will be scheduled three every 15 minutes, unless the Court directs otherwise.

I. Service on Opposing Parties

Every pleading, motion, brief or memorandum filed with the Court shall be served on all opposing counsel or upon all parties not represented by counsel and **shall state the full names and addresses of those served.** No such filing without correct proof of service will be considered by the Court.

J. Schedule for Motion Docket

Each week, the court administrator's office shall schedule and publish the following week's motion docket for oral hearings and non-oral considerations. The motion assignment sheet shall be distributed to all Tuscarawas County, Ohio, attorneys and law firms in their respective mailboxes located in the office of the clerk of courts. The motion assignment sheet shall also be distributed to pro se litigants and out-of-county attorneys and law firms who have a pending case listed on a particular motion assignment sheet, by way of the U.S. Postal Service. Out-of-county attorneys or any local attorney who does not have a mail box in the clerk's office can opt to receive the motion sheet by e-mail instead of U.S. Postal Service mail if they notify the court administrator.

Motions shall be set for either oral hearing or non-oral consideration on the second Monday following the date of filing, unless that Monday is a legal holiday. If such is the case, the motion docket will occur on the Tuesday following the holiday. If a motion is for summary judgment, the motion shall be set for the third Monday (or Tuesday if Monday is a legal holiday) following the date of filing. Written responses, if any, shall be filed and served on or before the Friday prior to the hearing or non-oral consideration.

For responses filed and served on that Friday, a courtesy copy shall be directed to the courtroom.

Motions to be decided by the magistrate shall be scheduled according to Local Rule 25.

K. Complaint on a Cognovit Note

Before presenting a complaint on cognovit note to the Court, a party must file the complaint with the clerk of courts so that the case can be randomly assigned to a judge. After random assignment, the complaint and related filings must be brought to the Court by the plaintiff's counsel, paralegal, or office staff person. If the assigned judge is unavailable, the alternate judge of Court may be asked to review the complaint.

The attorney confessing judgment on behalf of the defendant must be present and sign in the judge's presence or acknowledge the attorney's signature in the judge's presence.

The original cognovit note must be presented so that the Court can endorse the note indicating the judgment.

L. Motions for Default Judgment

Motions for default judgment shall be accompanied by an affidavit in support of the requested judgment. If the affidavit is insufficient, the Court may request additional evidence by affidavit or set the matter for hearing. At the hearing, the moving party shall be prepared to offer testimonial and documentary evidence in support of the claim, and if the claim is for damages, the moving party shall present evidence in support of damages. In cases based upon an account or other written instrument, the moving party must comply with Civ.R. 10(D) before default judgment will be granted.

M. Motions to Compel Discovery

Absent extraordinary circumstances, the last date for any party to seek the involvement of the judge in the discovery process by way of motion seeking a ruling, an order, sanctions, or other court action shall be 30 days after the discovery cutoff date.

Voluntary, mutually agreed-upon discovery for the purpose of the perpetuation of trial testimony by video recording or otherwise may continue after the discovery cutoff date in a manner that does not delay any other event on the case schedule.

Rule 5 Facsimile Filings

A. Definitions

1. “**Facsimile transmission**” means the transmission of a source document by a facsimile machine that encodes a document into signals, transmits, and reconstructs the signals to print a duplicate of the source document at the receiving end.
2. “**Source document**” means the document transmitted to the Court by facsimile machine/system.
3. “**Effective original document**” means the facsimile copy of the source document received by the clerk of courts and maintained as the original document in the Court’s file.

B. Procedure

1. Pleadings and other documents may be filed with the clerk of courts by facsimile transmission to **330-343-4682**.
2. A document filed by facsimile shall be accepted as the effective original document.
3. The original document and cover sheet filed by facsimile shall be maintained by the person **making the filing** until the case is closed and all opportunities for post judgment relief are exhausted.
4. Facsimile filings shall not exceed **10 pages** in length, excluding the cover sheet.
5. Facsimile filings may NOT be sent directly to the Court for filing but may only be transmitted directly through the facsimile equipment operated by the clerk of courts.
6. The clerk of courts may, but need not, acknowledge receipt of a facsimile transmission.
7. The risks of transmitting a document by facsimile to the clerk of courts shall be borne entirely by the sending party. Anyone using facsimile filing is urged to verify receipt of such filing by the clerk of courts.

C. Cover Page

1. The person filing a document by facsimile shall also provide a cover page containing the following information:
 - a. The title of the case;
 - b. The case number;
 - c. The title of the document being filed (e.g. Defendant Jones' Answer to Amended Complaint; Plaintiff Smith's Response to Defendants' Motion to Dismiss; Plaintiff Smith's Notice of Filing Exhibit "G" to Plaintiff Smith's Response to Defendants' Motion to Dismiss);
 - d. The date of transmission;
 - e. The transmitting facsimile number;
 - f. The number of pages included in the transmission, including the cover page;
 - g. The name, address, telephone number, facsimile number, Supreme Court registration number, if applicable, and e-mail address of the person filing the document if available.
 - h. A sample cover page is attached as Exhibit "D".
2. If a document is sent by facsimile to the clerk of courts without the cover page information listed above, the clerk may, at its discretion:
 - a. Enter the document in the Case Docket and file the document; or
 - b. Deposit the document in a file of failed facsimiled documents with a notation of the reason for the failure; in this instance, the document **shall not** be considered filed with the clerk of courts.

D. Signature

A party who wishes to file a **signed** source document by facsimile shall either:

1. Facsimile a copy of the signed source document; or
2. Facsimile a copy of the document without the signature but with the notation "/s/" followed by the name of the signing person where the signature appears in the signed source document.

E. Exhibits

1. Each exhibit to a facsimile produced document that cannot be accurately transmitted via facsimile transmission for any reason must be replaced by an insert page describing the exhibit and why it is missing. Unless the Court otherwise orders, the missing exhibit shall be filed with the Court, as a separate document, not later than five court days following the filing. Failure to file the missing exhibits as required by this paragraph may result in the Court striking the filing and/or exhibit.
2. Any exhibit filed in this manner shall be attached to a cover sheet containing the caption of the case, which sets forth the name of the Court, title of the case, the case number, name of the judge and the title of the exhibit, and shall be signed and served in conformance with the rules governing the signing and service of pleadings in this Court.

F. Time of Filing

Subject to the provisions of these rules, all documents sent by facsimile and received by the clerk shall be considered filed with the clerk of courts as of **the date and time the clerk time-stamps the document received**, as opposed to the date and time of the facsimile transmission. However, the fax machine will be available to receive facsimile transmission of documents 24 hours per day seven days per week, including holidays.

G. Fees and Costs

No document filed by facsimile that requires a filing fee or service by the clerk of courts shall be accepted by the clerk for filing. The clerk of courts may assess fees for a facsimile filing as set forth in R.C. 2303.20(Y). See Exhibit "A". Documents tendered to the clerk without payment of court costs and fees, or with incomplete information on the charge authorization or request, or that do not conform to applicable rules will not be filed.

Rule 6
Assignment of Cases

A. Civil and Domestic Cases

The clerk of courts shall assign a case by random assignment to a particular judge, who then becomes primarily responsible for the determination of every issue and proceeding in the case until its termination.

B. Criminal Cases

Under Sup.R. 36, the clerk of courts or court administrator's staff shall assign a case by random assignment to a particular judge, who then becomes primarily responsible for the determination of every issue and proceeding in the case until its termination.

The clerk of courts shall assign co-defendants to the same judge. For each group of co-defendants, the judge assigned to the first-filed co-defendant case will be the judge assigned to all of the co-defendants' cases.

In instances where the same subject matter is addressed in more than one case, the clerk shall assign the related cases to the same judge.

Rule 7
Case Management

A. Purpose

Pursuant to Rule 5(B)(1) of the Rules of Superintendence for the Courts of Ohio, this Court, establishes the following rule system for case management, which will provide for the prompt and fair disposal of all cases and motions before the Court. These rules, which may be amended and/or supplemented from time to time as deemed necessary by the judges, are intended to enable just and efficient resolutions of cases, to reduce delay in the consideration of cases by the Court and to ensure the readiness of cases for pretrial, hearings, trial and/or other proceedings that are required by the Court.

B. Assignment of Cases

The assignment of cases shall conform to Local Rule 6 and be in accordance with the Rules of Superintendence for the Courts of Ohio. The management and control shall then be the responsibility of that individual judge to whom the case is assigned.

C. Trial Dates

All assignments of cases for trial shall be made by the Court or court administrator at least two weeks prior to the date set for trial, unless counsel otherwise agree. The Order or Notice of Assignment for trial shall be filed with the clerk of courts and mailed or delivered by the court administrator to all interested counsel and parties who are without counsel.

D. Criminal Pre-Trial

All criminal cases shall be set for a pretrial conference following arraignment.

E. Continuances

All motions for continuance must be in writing and shall set forth the reason for the continuance. Unless the Court otherwise directs, a motion for continuance shall be heard after proper notice is given to opposing counsel. All motions for continuance shall set forth a detailed explanation along with any supporting documentation if applicable. A motion is generally not required when an agreed entry is submitted to the Court.

F. Administrative Appeals

Administrative Appeal actions are reviewed for case management purposes in the month following filing, take precedence over all other civil actions, and are governed by the various provisions of the Administrative Appellate Procedure Act (R.C. 2506.01 et seq.) or the Administrative Procedure Act (R.C. 119.12).

Rule 8
Court Files

Case files, both open and closed, shall not be removed from the office of the clerk of courts.

Files may only be removed with written Court authorization or if being taken directly to or from the Court or office of the clerk of courts.

Persons wishing to copy documents in a case file may copy such at the office of the clerk of courts at no charge if they furnish the paper for the copier. Otherwise, the charge will be \$.10 per page. Extraordinary copying requests will be handled on a case-by-case basis.

Rule 9
Medical Examinations

Upon motion, the Court may order the cost of medical examinations and the expenses incurred to be paid by the party requesting the examination.

Rule 10
Experts

For each person who is anticipated to be called as an expert at trial, a party shall provide written notice to the opposing party or counsel and file a copy with the Court, within a reasonable time

after being identified, but not later than 45 days prior to the date set for discovery cut-off, unless otherwise agreed between the parties. If the parties reach an agreement to extend the deadline to identify an expert, the parties must file a notice of such stipulation. The written notice shall contain the following information relating to the expert:

1. Name, address, and areas of expertise;
2. A copy of the curriculum vitae or resume; and
3. A general description of the areas of testimony expected to be covered by the expert at trial.

Failure to timely provide this information may, upon motion to the Court and for good cause shown, cause the Court to exclude the testimony of the expert at trial.

Rule 11

Argument and Interrogation of Witnesses

Except by permission of the Court, only one counsel for each party will be permitted to speak on any motion during the trial or hearing, and only one counsel for each party will be permitted to examine the same witness during the trial or hearing before the Court. In the final argument to the Court or jury, only one counsel on each side will be heard unless for special reasons the Court permits otherwise. The Court may set reasonable limits on the time for argument.

Rule 12

Proposed Jury Instructions

When written jury instructions are presented to the Court pursuant to Civ.R. 51 by a party or counsel, they shall be accompanied by a brief citation of the relevant legal authority, unless excused by the Court.

Rule 13

Preparation of Entries

Every non-oral motion filed with the Court shall be accompanied by a proposed judgment entry suitable for use if the motion is granted. The Court may also direct a party to prepare an entry. A party directed by the Court to prepare an entry shall do so as directed by the Court. All submitted entries must include a listing of all attorneys and unrepresented parties who are to receive a copy of the docketed entry from the clerk of courts' office. The listing should also include the court administrator and, when relevant, the Mediation Department. The listing must appear on the left side of the page below the signature block but aligned with the left margin. Only **one original** entry is to be submitted, unless the case is a domestic relations matter. The Court will make necessary copies after the entry is signed by a judge or magistrate.

A party submitting an entry to the Court may do so through e-mail. The staff e-mail addresses are found on the Court's website: www.co.tuscarawas.oh.us

Rule 14 **Appointed Counsel**

A. Appointments

No attorney will be assigned to defend an indigent person in a case unless the attorney's name appears on the applicable list of approved trial counsel.

Appointment of either the public defender or private counsel shall be made by the Court.

Each judge or magistrate will conduct a periodic review to ensure an equitable distribution of appointments among the attorneys on the list.

B. Affidavit of Indigency

Before counsel is appointed, each alleged indigent defendant must file an affidavit of indigency setting forth the facts in support. The affidavit must disclose whether or not there has been counsel retained in the matter to date, including whether any payments have been made to that counsel. No counsel who has received compensation or has been promised compensation from any source shall be appointed to represent that indigent defendant.

C. Compensation and Expenses

All requests for compensation for payment shall be made by completing the prescribed Ohio Public Defender Forms and submitting them to the Court within 30 days after filing of the termination entry of the case for which reimbursement is requested.

The rate of compensation shall be commensurate with the applicable Tuscarawas County Board of Commissioners' Resolution. Current rates of compensation can be obtained by contacting the Court.

Rule 15 **Alternative Dispute Resolution**

It is the policy of the Court to encourage Alternative Dispute Resolution ("ADR") methods. All parties and their counsel are expected to provide meaningful participation in the ADR process.

I. Mediation

A. General Information

1. Mediation Defined

Mediation is any proceeding in which a mediator facilitates communications and negotiations between parties to assist them in reaching a voluntary agreement regarding their dispute.

2. Program Summary

The Court employs one full-time mediator/mediation coordinator who mediates civil and domestic relations cases at no cost to the parties beyond the initial filing fee. The Court may utilize private mediators who are not employed by the Court.

3. Qualification of Mediators

The minimum qualifications of mediators shall be those established by the Supreme Court of Ohio. This Court may establish additional minimum qualifications that are not inconsistent with the qualifications established by the Supreme Court of Ohio.

Mediators of domestic relations cases shall comply with the Model Standards of Practice for Family and Divorce Mediations.

4. Communication Defined

Mediation communications are oral or written statements and may be verbal or nonverbal. Statements are considered mediation communications if they are made during a mediation conference, or before or after the mediation conference if they are made for purposes connected with the mediation, including considering, conducting, participating in, initiating, continuing, or reconvening a mediation conference.

5. Privilege vs. Confidentiality

a. Privilege

Mediation communications are privileged and not admissible as evidence in a court proceeding unless the privilege is properly waived or an individual is precluded from asserting the privilege.

b. There are no privileges to mediation communications if any of the following apply:

- i. The terms of an agreement are contained in a signed written agreement;
- ii. The communication is available to the public under R.C. 149.43;
- iii. The communication involves an imminent threat or a statement of a plan to inflict bodily injury or commit a crime of violence;
- iv. The communication is sought to prove or disprove a claim of professional misconduct or malpractice;
- v. The communication is used to plan, attempt to commit, commit a crime, or conceal an ongoing crime;
- vi. The communication is required to be disclosed under R.C. 2921.22: Duty to report a felony;
- vii. The communication is used to prove or disprove a claim of abuse or neglect; or
- viii. The communication is perceived by an attorney mediator as professional misconduct by an attorney participant.

c. Confidentiality

Mediation communications are confidential only to the extent agreed upon by the parties. Any party with concerns about public disclosure of the party's mediation communications should enter into a confidentiality agreement prior to or at the mediation conference.

6. Mediation Referral

Upon the request of any party to an action or upon its own motion, the Court, in its discretion, may order the parties to participate in mediation. Any party may request mediation by filing a Motion for Mediation and by serving the motion on all parties. A Motion for Mediation may be filed at any time after the commencement of an action, including during post-decree proceedings. Mediation may also be available before a post-decree motion is filed, provided all parties consent.

7. Domestic Violence Screening

In referring parties to mediation, the Court shall effectively screen and assess the parties relating to problems involving domestic violence convictions or allegations

of domestic violence. If the case proceeds to mediation, the screening shall continue throughout the mediation process. The parties and counsel shall cooperate with all portions of the domestic violence screening process.

The Court encourages appropriate referrals to legal counsel and other support services for all parties, including victims and suspected victims of domestic violence.

When violence or fear of violence is alleged, suspected, or present, mediation may proceed when the following conditions are satisfied:

- a. 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 the mediation sessions.
- b. The parties have the capacity to mediate without fear of coercion or control.
- c. 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.
- d. 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.
- e. 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.

Mediation shall not be used in the following:

- a. As an alternative to the prosecution or adjudication of domestic violence;
- b. In determining whether to grant, modify or terminate a protection order;
- c. In determining the terms and conditions of a protection order; and
- d. In determining the penalty for violation of a protection order.

8. Attendance

The attorney who is primarily responsible for each party's case shall personally attend the mediation conference and shall be prepared and authorized to discuss all relevant issues, including settlement.

The parties shall also attend, except when a party is being represented by an insurance company. In that case, an authorized representative of the insurance company, who has full settlement authority, shall attend. Attendance shall be in person, not by telephone.

In medical malpractice cases, the attorneys of record, an authorized representative of the insurance company, and the medical practitioner must all personally attend the mediation conference, regardless of whether the physician consented to settlement discussions or not.

If there is a guardian ad litem for any child involved in a case that is subject to mediation, the guardian ad litem shall have the right to be involved in the mediation process and attend the mediation conference.

Nonparties may participate in the mediation conference if requested by a party to mediation. The participant who wishes to have additional individuals present at the mediation conference must notify the mediator and opposing party or counsel before the scheduled date. In the event the mediator does not wish to proceed with the nonparty participant, the mediator may cancel the mediation conference.

9. Continuances

Continuances of mediation conferences are counter-productive, and requests are discouraged absent exigent circumstances. Requests shall include reasons and are to be directed to the Mediation Department at least 14 days prior to the hearing date.

10. Sanctions

For a violation of this rule, upon motion by a party, the mediator, or upon the Court's own motion, a party or the party's attorney may be subject to appropriate action, including but not limited to contempt, dismissal, default judgment, attorney fees and/or costs.

11. Workers' Compensation Settlement Days

On occasion, the Court will conduct Workers' Compensation Settlement Day Mediation Conferences.

12. Foreclosure Mediation Program

The Court's Foreclosure Mediation Program assists lenders and homeowners to resolve mortgage foreclosure actions.

Once a foreclosure case is referred to mediation, the parties must complete the Court Foreclosure Mediation Questionnaire by the date requested. The court mediator shall immediately review the questionnaires to determine whether the case is appropriate for mediation.

If it is determined that mediation is not appropriate, the matter shall be referred back to the Court's regular docket. Otherwise, the matter shall be scheduled for a mediation conference.

The Court shall defer ruling on all dispositive/default motions until a final Mediation Outcome Report is filed.

B. Mediation Procedures

1. At least five days prior to the mediation conference, the parties shall submit the following directly to the Mediation Department:
 - a. Responses to the Mediation Department's case summary form, which is available on the Court's website; and
 - b. Such other material as a party believes would be beneficial to the mediator.
2. During the mediation conference, the mediator shall:
 - a. Permit each party, through counsel or otherwise, to orally present the dispute;
 - b. Help to refine and prioritize the issue(s) in dispute; and
 - c. Hold separate, private caucuses with any party or counsel as needed.

3. If a settlement agreement is reached, the mediator, or one of the parties at the mediator's request, may prepare a Memorandum of Settlement listing the terms of the agreement. Dismissal entries shall be filed by counsel no later than 30 days after the mediation conference. Counsel shall notify the Mediation Department when additional time is required.

The Mediation Department will notify the Court when a dismissal entry is not filed in the allotted time period. Upon notification of the file remaining open the Court may:

- a. Set a status hearing; or
 - b. Dismiss the case with prejudice after reviewing the signed copy of the Memorandum of Settlement.
4. At the conclusion of mediation, the mediator shall report in writing to the assigned judge that the session was held, who attended, and whether an agreement was reached.
 5. The mediator shall make a reasonable inquiry to determine whether there are any known facts that a reasonable individual would consider likely to affect the impartiality of the mediator. The mediator shall disclose those facts to the parties as soon as is practicable.

C. Private Mediators

1. Court Referral

The Court may refer cases to a private mediator. A mediator may be selected by agreement of the parties, subject to Court approval, or at the discretion of the Court. When the Court refers a case to a private mediator, the parties may agree to apportion the costs of mediation among themselves. In the event the parties cannot agree to the division of costs, the Court shall apportion the costs after considering the parties' respective ability to pay.

2. Party Referral

If all parties advise the Court that they plan to use a private mediator, the Court shall permit them to do so at the expense of the parties, subject to submission to the Court and Mediation Department of an agreement requesting the use of private mediation,

specifically listing:

- a. The name of the private mediator,
- b. The date of the mediation, and
- c. The distribution of costs between the parties.

3. Outcome Report

The private mediator shall report the results of each mediation conference to the assigned judge and the Mediation Department within seven days of the close of the mediation conference.

The Outcome Report shall state:

- a. Whether the case settled and, if a settlement involves less than all parties or issues in the case, which parties or issues have settled;
- b. Whether an additional mediation conference is needed and the proposed date to reconvene; and
- c. Any failure of a party or the party's attorney to attend the mediation conference.

The Court Mediation Department shall schedule the case for an in-house mediation conference if an Outcome Report is not filed.

II. Arbitration

- A. The Court currently does not have an arbitration program. The Court supports agreed-upon requests by parties for arbitration. The procedure shall be as required by law.

Rule 16 **Jury Administration**

A. Jury Management

1. Jury Administration

The responsibility for administration of the jury system shall be vested in the Court of Common Pleas, General Trial Division, of Tuscarawas County. The office of the clerk

of courts shall implement the Court's jury system.

2. Jury Facilities

The Court provides juror assembly areas on the second floor of the Courthouse. Court employees will attempt to minimize contact between jurors, parties, counsel and the public by limiting juror movement to those areas designated for jury assemblage, deliberation and trial.

3. Juror Compensation

Persons called for jury duty will be paid a fee for their service and expenses as established by the Board of County Commissioners. Employers may not penalize jurors who miss work due to jury duty.

B. Juror Eligibility

1. General Eligibility

All citizens of Tuscarawas County shall be eligible for jury service except those who are less than 18 years of age; are not citizens of the United States; are not residents of Tuscarawas County; are not able to communicate in English; or are convicted felons whose rights have not been restored.

2. Term of Service

Persons will generally be asked to serve for a period of two weeks.

C. Jury Selection

1. Source List

Potential jurors shall be randomly selected from that pool of electors and licensed drivers as provided by R.C. 2313.06.

2. Panel Selection

The Court shall select jurors as provided by R.C. 2313.08 in order to obtain an annual jury list.

3. Notification and Summoning Procedures

The notice summoning a person to jury service, questionnaire, juror handbook and parking pass shall be sent by ordinary mail to each prospective juror by the Tuscarawas County Sheriff. The sheriff's office shall personally serve prospective jurors who fail to appear or respond to the summons with instructions for the prospective jurors so that they can be reassigned for service at a later date.

D. Jury Trials

1. Voir Dire

The judge will preliminarily examine prospective jurors and then permit counsel to question panel members for a reasonable length of time to determine whether to remove someone for cause and to determine the person's fairness and impartiality. In criminal cases, the voir dire shall be conducted on the record. In civil cases, the voir dire process shall be held on the record unless waived by the parties.

2. Jury Size

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

3. Jury Instructions

All communications between the judge and members of the jury, from the time of reporting to the courtroom for voir dire until dismissal, shall be in writing or on the record in open court.

4. Deliberations

Deliberations shall take place under conditions and with procedures designed to insure impartiality, secrecy and to enhance rational decision-making. The jury will not be required to deliberate after a reasonable hour or on the weekend unless the judge determines that such deliberation would not impose an undue hardship upon the jurors and is required in the interest of justice.

5. Sequestration

A jury should be sequestered only for good cause, including, but not limited to, insulating its members from improper information or influences. The jury shall be sequestered after a capital case is submitted to the jury, in accordance with Ohio law.

In a non-capital case, a jury shall be sequestered only for good cause, such as to insulate the jury from improper information or influence. 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.

Rule 17 **Receivership**

When a receiver is appointed by the Court, the Court will, whenever appropriate, appoint a receiver agreed upon by all parties. An attorney of record in a case shall not act as attorney for the appointed receiver, unless all parties agree or the Court directs otherwise. Within a time period specified by the Court after being appointed, the receiver shall file a report to the Court, submitting the inventory and appraisal, including an account of receipts and expenditures to date. A receiver shall file reports of receipts and disbursements with supporting documentation of the receiver's actions and transactions within three months after the date of appointment or at such other times as the Court may direct. A receiver's compensation and the compensation of the receiver's attorney will be set by the Court as allowed by statute. Failure to file any report after the report is due or ordered shall be grounds for removal without notice and without compensation. Any person removed as receiver shall be ineligible for any subsequent appointment.

Rule 18 **Foreclosure, Quiet Title and Partition Actions**

A. Filings

1. In Actions for the Marshaling and Foreclosure of Liens on Real Property

The plaintiff shall file a Preliminary Judicial Report with the clerk of courts within 14 days after the filing of the complaint, except in actions involving registered lands. The Preliminary Judicial Report must comply with the requirements found in R.C. 2329.191(B) and must be effective within 30 days prior to the filing of the complaint or other pleading requesting a judicial sale. In an action that demands the judicial sale of residential real estate consisting of more than four single-family units or commercial real estate, the party seeking judicial sale may file a commitment for an owner's fee policy of title insurance that complies with the requirements found in R.C. 2329.191(C) instead of a Preliminary Judicial Report.

Prior to submitting any order or judgment entry to the Court that would order the sale of the real estate, the party submitting the order or entry shall file a Final Judicial Report that updates the Preliminary Judicial Report and complies with the requirements found in R.C. 2329.191(B). The Final Judicial Report shall state that the report has been extended

through the date of lis pendens found in R.C. 2703.26 and that no third party has acquired an interest since the date of the original report.

2. In Actions to Quiet Title and for Partition

The plaintiff shall file a Preliminary Judicial Report with the clerk of courts within 14 days after the filing of the complaint, except in actions involving registered lands.

Within 45 days after completion of service upon all parties, counsel for the plaintiff shall file a continuation of the previously filed Preliminary Judicial Report, stating that the report has been extended to the lis pendens date found in R.C. 2703.26 and that no third party has acquired an interest since the date of the original report.

In all of the above cases, the expense of procuring and updating the instrument of title shall be taxed as costs in the case. Where the evidence of title indicates that necessary parties have not been made defendants, the plaintiff shall add and serve such new parties.

Upon failure of the plaintiff to timely comply with the foregoing, any other interested party, upon notice to plaintiff, may file a motion with the Court seeking permission to file evidence of title.

B. Failure to Comply

Failure to comply with this Rule shall be grounds for dismissal of the case without notice.

C. Praecipe for Order of Sale

Any party filing a Praecipe for Order of Sale with the clerk of courts shall attach to it a completed "Tuscarawas County Sheriff's Office Property Description Approval Form" that has been approved by the Tuscarawas County Map Office and Tuscarawas County Auditor's Office.

D. Notice of Sale

In any case, where the Court has ordered the sale of real estate, the clerk of courts shall mail a Notice of Issuing Order of Sale of Real Estate to all parties to the suit.

E. Fee Schedule

The expenses of title work required under this Rule include a base search fee not to exceed \$200.00 and a premium on the Judicial Report issued, based on the fair market

value of the property. In the case of a foreclosure, the premium on the Judicial Report will be based upon the final principal balance due on the first lien or such additional amount as may be allowed by the Court for each property involved. The costs shall be taxed as part of the costs in the case.

Unless the Court should direct otherwise, the attorneys for the parties for all services in a case of partition of real estate shall be allowed the following fees: On the appraised value of the real estate if partitioned, or on the gross proceeds of the sale if sold, 8% of the first \$5,000.00, 6% on the next \$10,000.00, and 2% on the balance, provided, however, that such fee shall not be less than \$100.00. Such fees shall be divided between counsel pursuant to R.C. 5307.25. All attorneys shall maintain detailed and accurate time records of services rendered on the case. This rule shall also apply to proceedings for the sale of real estate by a fiduciary in the General Division of the Court.

Rule 19 **Sheriff's Sales**

In every sheriff's sale of real property, the purchaser shall be required to deposit an amount equal to 10% of the appraised value of the real property being sold, by 12:00 noon on the day of the sale. The deposit shall be made by certified or cashier's check and be payable to the sheriff. The unpaid balance of the purchase price shall be due and payable to the sheriff within 30 days from the date of the filing of the Confirmation of Sale Entry. If the plaintiff or another lienholder purchases the real estate, the deposit will be assessed to costs, pro-rated taxes, assessments, and fees. After these expenses are paid, any remaining balance will be distributed or credited to the purchaser.

If a party registers the successful bid at a sheriff's sale and fails to deposit (by certified or cashier's check payable to the sheriff) 10% of the appraised value of the real property being sold, the sheriff shall disregard the bid and immediately re-offer the property for sale.

The party who filed the Writ of Execution of Order of Sale shall file a Motion to Confirm Sale within seven days after the return of the Writ of Execution of Order of Sale and submit to the Court a final proposed Confirmation of Sale Entry within 21 days after the return of the Writ of Execution of Order of Sale. The proposed Confirmation of Sale Entry shall provide the amounts provided in R.C. 323.47(B)(1), including the amount of any assessments and taxes pro-rated to 30 days after the sale, and provide that these amounts be discharged out of the proceeds of the sale. The amount of pro-rated taxes and assessments shall be the same as the amounts on the Tax Verification Worksheet "Per Parcel," which shall be obtained from the sheriff. The proposed Confirmation of Sale Entry must also include Court costs. In order to obtain the amount of Court costs in a timely manner, the proposed Confirmation of Sale Entry must be faxed to the clerk of courts for calculation of Court costs within seven days of the return of the Writ of Execution of Order of Sale.

The Court will not confirm any sheriff's sale until the party ordering the sale has filed a certificate of service of notice of the sale stating that the notice of the sale has been sent to all parties who have appeared in the action, by ordinary mail to their last known address, or their attorney of record. The Court will also not confirm any sheriff's sale unless all other notice requirements in R.C. 2329.26 have been complied with, and the purchaser has submitted the contact information required by R.C. 2329.271.

Within seven days of the filing of the Confirmation of Sale Entry by the Court, the party who filed the Writ of Execution of Order of Sale shall prepare a deed to the purchaser. The deed shall conform to the requirements of R.C. 2329.36 and shall be delivered to the Sheriff's Office for signature by the sheriff. The Sheriff's Office shall record the deed with the county recorder within 14 business days of the date the purchaser pays the balance due on the purchase price and charge the purchaser a fee to cover the actual costs of recording the deed. If registered land is sold, the procedure found in R.C. 5309.64 shall apply.

If a purchaser fails to pay the balance due on the purchase price within 30 days after the date of the filing of the Confirmation of Sale Entry, the purchaser may be deemed to be in Contempt of Court. Upon a finding of Contempt, the Court may proceed in accordance with R.C. Chapter 2705.

Rule 20

Court Recordings, Transcripts and Electronic Copies of Court Recordings

The Court records all hearings electronically. Electronic recordings are the official record and will be maintained by the Court for three years from the date of the particular recording. Any interested party or non-party desiring to preserve the record beyond that period must make arrangements with the appropriate court personnel to have the record transcribed or designated for permanent storage.

Transcripts may be ordered by making a written request. The original must be filed with the clerk of courts and a copy either hand-delivered or mailed directly to the judge or magistrate's office. All requests for transcripts must include the full case caption, and case number including the date and time of the hearing. The compensation rates for preparing transcripts and copies are as follows:

- For the original, the cost is \$3.00 per page (cost includes copy to requesting party).
- For the copy to a non-requesting party or others, the cost is \$1.50 per page.

Transcripts on file at the clerk of courts' office may not be copied at the clerk of courts' office or elsewhere, but must be obtained from the court transcriptionist at the designated rates of compensation indicated above.

Copies of electronic recordings on compact disc may be ordered by completing the Request for Electronic Record of Courtroom Proceedings, which is attached as Exhibit "E".

The official record for purposes of appeal or to prosecute or defend objections to a magistrate's decision remains the transcript as prepared by the designated court transcriptionists.

Rule 21 **Pro Hac Vice**

Attorneys who wish to appear pro hac vice must comply with Gov. Bar R. XII regarding pro hac vice certification and familiarize themselves with these Local Rules.

Rule 22 **Magistrate**

The Court has referred to the magistrate all domestic relations actions, including but not limited to divorces, parentage proceedings, actions for legal separation, dissolutions, annulments, pre-decree and post-decree motions, domestic violence petitions, anti-stalking petitions, actions for establishment of support in Title IV-D cases, actions to enforce prior child and spousal support orders, actions to enforce support orders of this Court in Title IV-D cases, actions filed pursuant to foreign decrees and support orders and motions relating to the issuance, modification and termination of child support enforcement orders. The Court has specifically referred to the magistrate any civil or criminal, non-jury matter ordered by the Court.

Criminal Rules

Rule 23 **Case Management**

Refer to Local Rule 6 for the Criminal Case Management procedure.

Rule 24 **Bail and Recognizance**

The purpose of bail is to insure that the defendant appears at all stages of the criminal proceedings. Crim.R. 46 and R.C. 2937.22 (when applicable) will govern in all cases.

A. Conditions of Release

1. If the Court determines a defendant is to be released on the defendant's personal

recognizance or an unsecured appearance bond, the release shall be effective upon the signature of the defendant and any other party determined by the Court.

The defendant and sureties, if any, shall execute the bond before the clerk or deputy clerk of courts and pay any additional State mandated fees to the office of the clerk of courts. A deputy sheriff may witness the bond and collect any and all funds in lieu of the clerk of courts when a defendant is incarcerated and transmit the same to the office of the clerk of courts except when bail bonds are being established by a surety. The clerk of courts shall approve the sufficiency of any surety bail bond prior to any release per Crim.R. 46(J).

2. If the Court determines a person is to be released, the following shall be considered:
 - a. The defendant shall be given the opportunity to post the Crim.R. 46(A)(2) 10% feature bond in the defendant's name. No additional surety is required.
 - b. The defendant may have another person post a Crim.R. 46(A)(2) 10% feature bond provided that the person provides sufficient financial responsibility in the amount of the bond.
 - c. In the absence of sufficient financial responsibility, the defendant may have a surety post the full amount of the bond in cash.
 - d. The defendant or any surety may post a property bond with property located within the county with sufficient value, double the full amount of the bond. The defendant or surety is required to deliver the deed and proof of sufficient value, as required by the clerk of courts, including a Certificate of Title search as to the sufficiency of the property to meet the value of the bond.
 - e. The defendant may have a professional bail bondsman post surety in the full amount of the bond. The clerk of courts shall determine the sufficient financial responsibility of the surety. The professional bail bondsman must be licensed by the State of Ohio for the sale of surety bonds and provide proof. The bail bondsman shall also provide proof to the clerk of courts that the underwriter is registered with the State of Ohio and has sufficient assets. In addition to any other requirements of the clerk of courts, the bondsmen shall provide to the clerk of courts a copy of their personal history data of the defendant and/or any other party to which the bonding company holds claim.

B. Forfeiture

If there is a breach of the conditions of the bond, the Court may declare a forfeiture of the

bond. Any surety shall be given notice by ordinary mail at the address shown on the bond of a show cause hearing on a date determined by the Court pursuant to R.C. 2937.36. The surety shall produce the defendant, cash equal to the full amount of the bond or show cause why judgment should not be rendered at the hearing. If the bond is secured by property, the clerk of courts shall proceed as in execution for the sale of the property to satisfy the bond.

Rule 25 **Appearance of Counsel**

When a defendant is unable to employ counsel, the assigned judge shall appoint counsel to represent the defendant pursuant to Crim.R. 44. The appointment shall be reflected in a Judgment Entry.

An attorney who desires to withdraw from representation of the defendant shall file a written motion with the Court. An attorney is not deemed to have withdrawn from the representation until it is reflected in a Judgment Entry.

Domestic Relations Rules

Rule 26 **Case Management**

A. Purpose

Pursuant to Rule 5(B)(1) of the Rules of Superintendence for the Courts of Ohio, the Common Pleas Court for Tuscarawas County, Ohio, General Trial Division, establishes the following rule system for case management, which will provide for the prompt and fair disposal of all cases and motions before the Court. These rules, which may be amended or supplemented from time to time as deemed necessary by the judges, are intended to enable just and efficient resolutions of cases, to reduce delay in the consideration of cases by the Court and to insure the readiness of cases for pretrial, hearings, trial or other proceedings required by the Court.

B. Assignment of Cases

The assignment of cases shall conform to Local Rule 6 and be in accordance with the Rules of Superintendence for the Courts of Ohio.

C. Trial and Other Event Dates

All assignments of cases set for trial shall be made by the Court or court administrator at least two weeks prior to the date set for trial, unless counsel otherwise agree. The Order or Notice of Assignment for trial shall be mailed or delivered to all interested counsel and parties who are without counsel and filed with the clerk of courts. Discovery dates and any other necessary deadlines will be set by the Court. All parties must have discovery completed at least one week prior to the mediation conference. All parties and their counsel are expected to provide meaningful participation in the ADR process. See Local Rule 15 for ADR procedures.

D. Motion Procedures

1. Scheduling

All motions, unless the magistrate deems unnecessary, shall be set for a ten minute oral hearing. At the hearing, the parties shall be prepared to discuss the following: the merits of the motion, the need for an evidentiary hearing, mediation, or guardian ad litem, and any other issues. Generally, motions for temporary orders will not be set for oral hearings.

2. Affidavits and Other Required Forms

All domestic relations motions that concern minor children must be supported by a child custody affidavit, child support computation worksheet and the filing of an application for IV-D services with the Child Support Enforcement Agency. All motions concerning spousal or child support must be supported or opposed by a financial affidavit and a Private Health Insurance Questionnaire, which is available from the magistrate's administrative office. The Court may refuse to consider motions filed or opposed without the required supporting documentation. Child care costs must be supported by adequate proof of payments made.

3. Preparation of Entries

Any party filing a motion shall submit a proposed entry to the magistrate for consideration. All proposed entries that issue or modify a child support obligation shall be accompanied by a completed Child Support and Health Care Determinations Form, which is available from the magistrate's administrative office.

E. Objections, Motions to Set Aside and Motions for Stay of Magistrate's Orders

1. Scheduling

All objections to magistrate's decisions, motions to set aside, motions for stay of magistrate's orders, pursuant to Civ.R. 53, will normally be considered by the Court on the second Monday after filing as follows:

a. Judge Elizabeth Lehigh Thomakos:

The above will be considered non-orally, unless a party requests an oral hearing.

b. Judge Edward Emmett O'Farrell:

The above will be scheduled for oral hearing.

2. Transcripts

Pursuant to Civ.R. 53(D)(3)(b)(iii), a party objecting to a factual finding shall file a transcript with the Court within **30 days** after filing objections unless the Court extends the time in writing for preparation of the transcript or other good cause.

If a party not objecting to a factual finding chooses to file a transcript, the party shall file a transcript with the Court within **30 days** after filing objections unless the Court extends the time in writing for preparation of the transcript or other good cause.

Refer to Local Rule 20 for the procedure on requesting transcripts.

3. Supplemental Objections

If a party files timely objections prior to the date on which a transcript is prepared, each party may supplement **one** time after filing of the transcript without leave of Court.

F. Notice of Intent to Relocate

If the residential parent of minor child(ren) intends to relocate to a residence other than that specified in the parenting time order or decree of this Court, the residential parent must file a Notice of Intent to Relocate in advance of the move in accordance with R.C. 3109.051(G). The Notice of Intent to Relocate must be filed at least 60 days in advance of the relocation.

The Court shall mail a copy of the Notice of Intent to Relocate to the non-residential parent unless the residential parent files a motion objecting for reasons set forth in R.C. 3109.051(G), including alleged domestic violence or abuse of a child. If the residential parent objects to the Court sending a copy of the notice to the non-residential parent pursuant to R.C. 3109.051(G)(4), the Court shall schedule the matter for a hearing and give both parents notice of the date, time and location of the hearing.

Absent an objection, the Court generally will not schedule a hearing on the notice unless one of the parents requests a hearing in writing. If either parent believes that the relocation will require a change in the parties' parenting time schedule or a change in residential parent status, that parent may file a motion to review the parenting time or a motion for change of residential parent or modification of the shared parenting plan.

Rule 27 **Divorce/Dissolution Filing Requirements**

All parties filing for a legal separation, divorce, dissolution, or annulment, that concern minor child(ren) must be supported by a child custody affidavit, child support computation worksheet and the filing of an application for IV-D services with the Child Support Enforcement Agency. All actions for spousal or child support must be supported by a financial affidavit and a Private Health Insurance Questionnaire. Child care costs must be supported by adequate proof of payments made.

Rule 28 **Affidavit of Indigency**

The affidavit of the plaintiff indicating inability to prepay or give security for costs in domestic relations cases shall be made before the clerk of courts, a deputy clerk, or a notary public, unless the Court directs otherwise.

Rule 29 **Guardian Ad Litem**

A. General

The role of the guardian ad litem is to assist the Court in allocating parental rights and responsibilities, with the primary focus being the best interest of the child(ren). The guardian ad litem performs an investigation and advocates for the child(ren)'s best interest.

B. Minimum Duties

A guardian ad litem shall perform the following duties:

1. Interview each parent separately or state in the report why this is impractical or unnecessary.
2. Interview the child(ren) separately or state in the report why this is impractical or unnecessary.
3. Contact any mental health providers involved in the case and evaluate the necessity, if any, of psychological evaluations or counseling.
4. Contact the child(ren)'s school, child care providers, and health care providers, as appropriate.
5. Participate in all pretrials and hearings as the Court directs.
6. File a final report and recommendations with the Court and serve all parties at least seven days before the final hearing unless otherwise ordered by the Court.

C. Report

The report of the guardian ad litem shall be submitted to the Court as a confidential, non-public, court document and will not be filed with the clerk of courts. Copies of the report shall be distributed by the guardian ad litem to the attorneys for the parties. If a party is not represented by counsel, the guardian ad litem shall review the report with the party. Pro se parties will not receive a copy of the report.

A guardian ad litem shall testify if requested by the Court or subpoenaed by a party.

D. Fees

At the time of the appointment to the case, the magistrate's order or judgment entry will include the following:

1. A fee rate of \$75.00 per hour for the guardian ad litem;
2. Instructions for an initial deposit of fees with the guardian's trust account as required by the Court; and
3. A description of how fees are to be apportioned among the parties.

The Court will enforce payment of fees on a case-by-case basis including, but not limited to, the following factors:

1. An itemized fee statement submitted by the guardian ad litem;
2. Actual services performed by the guardian ad litem.

Rule 30

Marriage Termination/Parent Education Class

A. Attendance Requirements

All parties in cases involving minor children must attend the Marriage Termination/Parent Education Class. Parties to such an action who do not reside within Tuscarawas or adjacent counties must meet the requirements of the class through private counseling or other approved class offered by a court of the resident's county and obtain the waiver from a class provider. Parties incarcerated in a penal institution or on whom personal or certified mail service cannot be obtained may be exempt from the class at the discretion of the Court.

The Marriage Termination/Parent Education Class must be attended by all parties or waived by a class provider prior to the final hearing in the Divorce, Dissolution, Annulment, or Legal Separation. Failure to meet this requirement by plaintiffs or petitioners will result in dismissal of the action without prejudice to re-filing. Failure of defendants to attend the class will result in contempt proceedings and appropriate sanctions after proper notice has been given.

B. Class Description

The Marriage Termination/Parent Education Classes will be held several times per month on dates scheduled by the class providers. Pre-registration is required by each party and classes will be filled in the order they are pre-registered. A fee determined and set by the class providers must be paid by each party upon attendance. In exceptional cases, where a party is unable to pay the fee, a request for a fee waiver may be filed with the Court and will be considered by the magistrate on a case-by-case basis.

C. Proof of Attendance

Upon completion of the Marriage Termination/Parent Education Class participants shall receive a certificate evidencing their attendance and payment, unless waived by the magistrate. Parties will be responsible for either filing the certificate with the clerk of

courts or presenting the certificate to the Court at the final hearing.

D. Notice

The clerk of courts will provide to each attorney or party filing a domestic relations action an information sheet regarding the requirements of the Marriage Termination/Parent Education Class, and the telephone number for pre-registration.

Rule 31
Parenting Time/ Visitation Standard Schedules

The Court has created the following standard orders that may be utilized in domestic relations cases when parenting time is ordered:

- Standard Parenting Orders and Incidental Rules
- Long-Distance Standard Parenting Orders and Incidental Rules

Such forms can be obtained from the Court or the Court's web site: **www.co.tuscarawas.oh.us**. From the County web site, click on *Departments, Common Pleas Court, Forms* to get the above schedules.

Court of Common Pleas
Tuscarawas County, Ohio,
General Trial Division

Schedule of Deposits for Security of Court Costs

Domestic Relations Cases

Complaints/Petitions in matters involving children, including Third-Party Complaints	\$190.00 dissolution \$230.00 all other
Complaints/Petitions in matters <u>not</u> involving children, including Third-Party Complaints	\$170.00 dissolution \$210.00 all other
Counterclaims	\$100.00
Motion to Convert a Dissolution to Divorce	\$35.00
Filing of a Registration of Foreign Support Order	\$15.00
Post-decree Motions for Contempt sanctions	\$105.00
Post-decree motions to modify	\$130.00 or \$95.00 if the case was mediated post-decree within two months immediately prior to filing post-decree motion
Agreed post-decree motions	\$80.00
Agreed post-decree entries	\$25.00 plus \$2.00 per page of order plus \$.80 per affidavit and \$5.00 for each party served if the entry requires service
Application for Post-Decree Mediation (without filing post-decree motion)	\$35.00
Notices of Intent to Relocate	\$2.50

Civil Complaints and Petitions

Complaints and Petitions , against <u>one</u> defendant/respondent, including Third-Party Complaints	\$180.00 or \$120.00 for Administrative Appeals plus \$10.00 for each additional defendant/respondent (unless personal service is requested – for personal service costs, see miscellaneous section below)
Initial Jury Demand	\$300.00
Counterclaims	\$100.00
Motions to Modify or Reopen, Executions, Proceedings in Aid of Executions, Garnishments, and Foreign Judgments	\$80.00

Miscellaneous

Praeipce for Service issued to Tuscarawas County Sheriff or foreign sheriff	\$40.00 each per name or address and writ
Praeipce for Order of Possession issued to Tuscarawas County Sheriff in Foreclosure cases	\$150.00
Praeipce for Service for service <u>not</u> issued to Sheriff and after initial filing	\$10.00 per name or address and writ
Praeipce for Subpoena issued to Tuscarawas County Sheriff	\$40.00 each
Praeipce for Subpoena issued to foreign sheriff	\$40.00 plus an additional check made to witness in the amount of \$12.00 per day plus \$.10 per mile round trip
Praeipce for Subpoena when served by filing attorney	\$2.00 each
Praeipce for Order of Sale	\$300.00 residential; \$375.00 for other; Publishing costs paid directly to publisher
Certificates of Judgment Liens	\$25.00 if judgment is from this court \$20.00 if judgment is from another court

-Making a lien to transfer it to another court	\$5.00
-Release of Judgment liens	\$5.00 plus all outstanding court costs

Notary Commission filing	\$61.00 paid to the Law Library; includes all necessary fees
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For questions regarding filing and court cost deposits contact:

Jeanne M. Stephen, Clerk of Courts
 125 East High Avenue, Suite 230
 P. O. Box 628
 New Philadelphia, Ohio 44663
 330-365-3243

Fax filings are accepted to **330-343-4682**.

The fees for fax filings are as follows: \$2.00 to file, plus \$1.00 for each page.

Effective date: 1/1/11

FACSIMILE TRANSMITTAL SHEET

TO:

COMPANY:

DATE:

FAX NUMBER:

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In the Court of Common Pleas
Tuscarawas County, Ohio
General Trial Division

_____ :
Plaintiff/Petitioner, : Case No. _____
vs./and :
_____ : Judge _____
Defendant/Respondent : **Request for Electronic Record of**
: **Courtroom Proceeding**
:

Please copy the following court hearing record onto a compact disk:

Date of hearing: _____ Time of hearing: _____ a.m./p.m.
Date of hearing: _____ Time of hearing: _____ a.m./p.m.
Date of hearing: _____ Time of hearing: _____ a.m./p.m.

All hearings held in this case to date (electronic recording began 6/30/2008).

Method of delivery: Will pick-up at Clerk of Courts
 Please mail

Notice of charges: \$.50 per compact disk plus \$2.75 per disc to mail. For multiple hearings on one CD, charges will be \$1.00 per compact disk, plus mailing costs.

Requesting party signature
Address: _____

Phone: _____

Email: _____

****This form is to be filed with the Clerk of Courts and a copy shall be delivered or mailed directly to the courtroom.**

To the Clerk:

Attached please find _____ CD(s) of a hearing or hearings in
_____ vs./and _____ ,
case number _____.

Please collect \$.50 per CD or \$1.00 per CD-RW, plus mailing costs, if
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Date