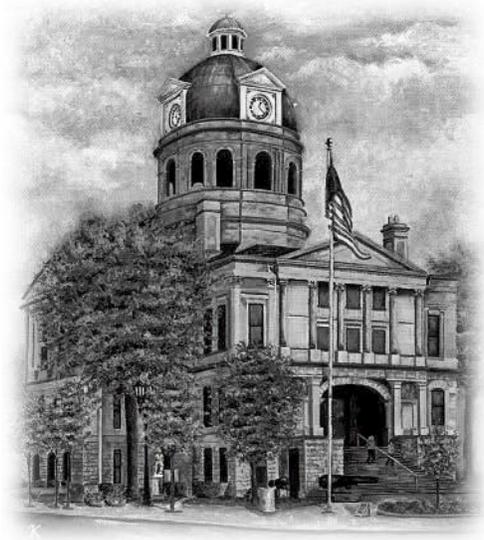


**Court of Common Pleas
Tuscarawas County, Ohio
General Trial Division**



Local Rules of Practice

January 1, 2020

**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”	Schedule of Deposits for Security of Court Costs and Filing Fees
“B”	Civil Case Designation Form
“C”	Domestic Relations Case Designation Form
“D”	Facsimile Transmittal Sheet
“E”	Request for Electronic Record of Courtroom Proceeding

Chapter 1 – General Court Information

Rule 1.01 – General

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 1.02 – Hours of Court Sessions

The hours of the Court are generally 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.

Rule 1.03 – Addresses and Telephone Numbers

Courthouse:

101 East High Avenue

New Philadelphia, Ohio 44663

Telephone: 330-364-8811

Court facsimile: 330-602-8811

Mediation facsimile: 330-365-3398

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

A complete directory is available at www.co.tuscarawas.oh.us/Courts/directory

Clerk of Courts:

125 East High Avenue

P.O. Box 628

New Philadelphia, Ohio 44663-0628

Telephone: 330-365-3243

Facsimile: 330-343-4682

Rule 1.04 – 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 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. Employees with keys are directed to enter the building through alternate doors.

Rule 1.05 – 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.

Rule 1.06 – Forms

The forms mentioned in the Local Rules can be obtained from the Court’s website.

Chapter 2 – Pleadings and Motions

Rule 2.01 – Format

All pleadings, motions and other court filings shall be legibly typewritten or printed and be double spaced on a single-sided 8 ½” x 11” paper and shall have a 2” top margin on the first page and a 1” top margin on subsequent pages. 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.

Rule 2.02 – 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 1998 TC 06 0166 1997 CV 12 0876

Rule 2.03 – 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 Relations Case Designation Forms are attached hereto as Exhibits "B" and "C."

Plaintiff 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 service that the case shall be designated as complex litigation under Rule 42 of the Rules of Superintendence for the Courts of Ohio.

Rule 2.04 – Names, Addresses, and Phone Numbers of Parties

On all pleadings and motions to reopen a case, the address and phone number 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.

All individuals who are not represented by legal counsel shall include their telephone number on all pleadings and motions filed with the Court.

Rule 2.05 – 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.

Rule 2.06 – Motion Requirements

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 2.15.

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.**

Rule 2.07 – 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.

If the case is being opened, reopened, or if claims are being made against additional parties, the clerk of courts shall serve all opposing parties. The party filing the pleading or motion that opens or reopens the court file must request that the clerk of courts serve the document by filing a Request for Service. The Request for Service may be filed as a

separate document or at the end of the pleading or motion. **Every Request for Service must state the full names and addresses of those to be served.**

All other documents shall be served by the party filing the document as provided in Civ.R. 5. The pleading or motion must contain a Proof of Service, which is a statement notifying the Court that the opposing counsel or unrepresented parties have been sent or given a copy of the document. **Every Proof of Service must state the full names and addresses of those served.**

No filing without a correct Request for Service or Proof of Service will be considered by the Court.

Rule 2.08 – 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 of good cause to the Court, the extension may be granted.

Rule 2.09 – Amendments

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

Rule 2.10 – 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.

Rule 2.11 – Motions for Continuance

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.

Rule 2.12 – Motions to Consolidate

Consolidation may be appropriate if two or more cases involve a common question of law or fact.

A. 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.

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

In civil cases involving certificates 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 the first 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.

Rule 2.13 – Motions for Default Judgment

Motions for default judgment shall be accompanied by an original 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.

Rule 2.14 – 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 2.15 – 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. A party opposing a motion may provide the Court with a proposed judgment entry. 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, the Child Support Enforcement Agency (CSEA) for domestic relations matters, if applicable, and self-represented 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 and aligned with the left margin. For domestic relations cases, please provide **one original plus service copies** of the entry. For all other cases, please provide **one original** and the Court will make necessary copies after the entry is signed by the judge.

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/Courts/directory

Chapter 3 – Filing

Rule 3.01 – Filing Fees

No filings except criminal filings, shall be accepted for filing by the clerk unless all required financial deposits have been 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 for Security of Court Costs and Filing Fees as listed by the clerk of courts. The Schedule of Deposits for Security of Court Costs and Filing Fees is subject to change. Any questions regarding the Schedule of Deposits for Security of Court Costs and Filing Fees should be directed to the clerk of courts.

Rule 3.02 – 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.

Rule 3.03 – Publishing Procedures

Parties requesting legal notices shall prepare the legal notice 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.

Rule 3.04 – Facsimile Filings

Facsimile filing is available for the convenience of all parties and their attorneys.

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 **15 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; and
- 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.

2. A sample cover page is attached as Exhibit "D."

3. 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, and 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 facsimiled 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 business 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 shall be accepted by the clerk of courts for facsimile filing if it requires a filing fee or service by the clerk of courts. 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 3.05 - Email Filings

Email filing is available for the convenience of all parties and their attorneys.

A. Definitions

1. **"Email transmission"** means a method of exchanging digital messages between computer users.
2. **"Source document"** means the document transmitted to the Court by email.
3. **"Effective original document"** means the print 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 email transmission to: clerkfiling@co.tuscarawas.oh.us
2. A document filed by email shall be accepted as the effective original document.
3. The original document filed by email shall be maintained by the person **making the filing** until the case is closed and all opportunities for post-judgment relief are exhausted.
4. Email filings may **not** be sent directly to court employees for filing but may only be transmitted to the clerk of courts.

5. The clerk of courts may, but need not, acknowledge receipt of an email filing.
6. The risks of transmitting a document by email to the clerk of courts shall be borne entirely by the sending party. Anyone using email filing is urged to verify receipt of such filing by the clerk of courts.

C. Signature

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

1. Email a copy of the signed source document; or
2. Email 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.

D. Exhibits

1. Each exhibit to an email filing that cannot be accurately transmitted via email 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 business days following the filing. Failure to file the missing exhibits as required by this rule may result in the Court not considering 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.

E. Time of Filing

Subject to the provisions of these rules, all documents sent by email and received by the clerk shall be considered filed with the clerk of courts on **the date and time the clerk time stamps the document received**, as opposed to the date and time of the email

transmission. Emailed filings that are received by the clerk on or before 4:30 PM on a business day will be time stamped on the date and time received.

F. Fees and Costs

No document shall be accepted by the clerk of courts for email filing if it requires a filing fee or service by the clerk of courts. The clerk of courts may assess fees for an email filing as set forth in R.C. 2303.20(Y). See Exhibit "A" for a per page cost for printing the filing. 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 may not be filed.

Chapter 4 – Case Management/Scheduling

Rule 4.01 – 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 pre-trial, hearings, trial and/or other proceedings that are required by the Court.

Rule 4.02 – Assignment of Civil Cases

The assignment of cases shall be in accordance with the Rules of Superintendence for the Courts of Ohio. The management and control of each case shall be the responsibility of the individual judge to whom the case is assigned.

The clerk of courts shall generally assign a case by random assignment to a particular judge. However, if a case involves the same parties and subject matter as a case that was previously filed with the Court, the clerk of courts shall assign the case to the same judge who was responsible for the previous case. If more than one case is filed simultaneously with the same parties, the clerk shall assign the cases to the same judge.

Rule 4.03 – Trial Dates

All assignments of cases for trial shall be made by the Court or Court Administrator's office 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 to all interested counsel and self-represented parties.

Rule 4.04 – Oral Hearings

Motions will be scheduled for non-oral consideration unless a written request for an oral hearing is made by the party submitting or opposing the motion. All motions where oral argument has been requested, unless oral argument is otherwise dispensed with by the Court, shall be set for oral hearing by the Court Administrator's office. However, Objections and Motions to Set Aside scheduled before Judge O'Farrell will automatically be scheduled for oral hearing.

Oral arguments on civil motions shall be limited to 15 minutes unless the Court, for good cause, grants a longer time.

Rule 4.05 – Schedule for Motion Docket, Generally

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 self-represented litigants and out-of-county attorneys and law firms who have a pending case listed on that motion assignment sheet, by way of the U.S. Postal Service. Out-of-county attorneys or any local attorney can opt to receive the motion sheet by e-mail instead of U.S. Postal Service mail if they notify the court administrator. The motion docket schedule is also available on the Court's website.

Motions shall generally be set for either oral hearing or non-oral consideration on the fourth Monday following the date of filing. However, if that Monday is a legal holiday, the motion docket will occur on the Tuesday following the holiday. Written responses, if any, shall be filed and served within 14 days after service of the motion, unless

provided otherwise below. A movant's reply to a response to any written motion may be served within seven days after service of the response to the motion. If a reply is filed on the Friday before the hearing or non-oral consideration, a courtesy copy shall be directed to the courtroom.

Rule 4.06 – Motions for Summary Judgment

Motions for summary judgment shall generally be set for the sixth Monday following the date of filing. Written responses, if any, shall be filed and served within 28 days after service of the motion. Any written replies to a response shall be filed and served within seven days after service of the response to the motion. For replies filed and served on the Friday before the hearing or non-oral consideration, a courtesy copy shall be directed to the courtroom.

Motions for summary judgment must comply with the general rules set forth in Chapter Two of these Local Rules.

Rule 4.07 – Motions to Revive a Dormant Judgment

Motions to revive a dormant judgment will be placed on the motion docket after a response has been filed or after the response time has elapsed.

Rule 4.08 – Motions to be Decided by the Magistrate

Motions to be decided by the magistrate shall be scheduled according to Local Rule 10.05.

Rule 4.09 – 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 4.10 – Referral to the 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.

Rule 4.11 – Jury Administration

Jury administration is governed by the Court’s Jury Management Plan, which can be obtained from the Court’s website, the clerk of courts, or the court administrator.

Chapter 5 – Court Records

Rule 5.01 – Court Files

Case files, both open and closed, shall not be removed from the office of the Clerk of Courts, unless written Court authorization has been given or if a file is being taken directly to or from the Court or office of the clerk of courts.

Case documents, as defined by Sup.R. 44, are public records. However, some documents submitted to the Court or filed with the Court are excluded from the definition of case documents under Sup.R. 44(C)(2).

Copies of case documents can be obtained from the office of the clerk of courts for \$.10 per page. For the cost of copies see attached Schedule of Deposits for Security of Court Costs and Filing Fees, Exhibit “A.” Court records that are not case documents are not public records and may not be obtained from the clerk of courts.

Rule 5.02 – Court Recordings

The Court records all hearings electronically. Electronic recordings are the official record. Electronic recordings, audio tapes, and any stenographer notes shall 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.

If an electronic recording of a hearing in front of a judge is not available for purposes of appeal, refer to App. R. 9(C). Refer to Local Rule 10.08 for the procedure that will be followed when an electronic recording of a hearing in front of the magistrate is not available.

Rule 5.03 – Electronic Copies of Court Recordings

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

Rule 5.04 – Transcripts

Transcripts may be ordered by making a written request. The original request 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 \$3.50 per page (cost includes copy to requesting party).
- For a copy to a non-requesting party or others, the cost is \$0.10 per page.
- Electronic copies of previously prepared transcripts are available free of charge via e-mail.

The official record for purposes of appeal, or to prosecute or defend objections to a magistrate’s decision, remains the transcript as prepared by an official court transcriptionist.

Chapter 6 – Counsel Issues

Rule 6.01 – Appointed Counsel

A. Appointments and Qualifications

Appointment of either the Public Defender’s Office or a private attorney shall be made by the Court. When the Public Defender’s Office cannot represent a particular defendant, the Court will appoint a private attorney. The Court maintains a list of private attorneys who wish to serve on the appointed counsel list.

The Court will conduct a periodic review to ensure an equitable distribution of appointments among the attorneys on the list. The selection of a private attorney will be from the alphabetic list, in order, unless there are special circumstances that dictate a different selection, e.g., prior appointment to represent a defendant in a municipal or county court proceeding involving the same or related matter, limitations related to jurisdiction, or felony level.

The qualifications of appointed counsel shall conform to Ohio Adm. Code 120–1–10.

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 6.02 – 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 6.03 – Withdrawal of Counsel

An attorney may not withdraw from representation without the permission of the Court. An attorney who desires to withdraw from representation of a party 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.

Chapter 7 – Discovery and Experts

Rule 7.01 – Notice of Filing 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.

Rule 7.02 – 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. 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.

If the parties reach an agreement to extend the deadline to identify an expert, the parties must file a notice of such stipulation.

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 7.03 – 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.

Chapter 8 – Trials and Hearings

Rule 8.01 – 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.

Proposed jury instructions shall be submitted one week before trial for all trials scheduled before Judge Elizabeth Lehigh Thomakos. Proposed jury instructions shall be submitted prior to trial for all trials scheduled before Judge Edward Emmett O'Farrell.

Rule 8.02 – 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 8.03 – Interpreters

The Court will use and pay for certified, provisionally qualified or language-skilled interpreters in all proceedings in which a party or witness is non-English speaking, deaf, or hard of hearing.

Interpreters shall be used in accordance with the Rules of Superintendence and in accordance with the Court’s Language Access Plan.

Any party, counsel for any party, or an attorney serving as Guardian ad Litem or in any other official capacity on any case who is aware that there is a need for interpretive services shall notify the Court of that need immediately.

Chapter 9 - Mediation

Rule 9.01 – Mediation - General Information

This Local Rule incorporates by reference R.C. 2710 (“Uniform Mediation Act”) and Rule 16 of the Supreme Court of Ohio Rules of Superintendence.

A. Mediation Defined

Mediation is any process in which a neutral third party helps the parties communicate and negotiate with each other to help them reach a voluntary agreement regarding their dispute.

Statements made by the Mediator shall not be construed as giving legal advice.

B. 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.

C. 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 shall follow the “Core Values of Mediation” as approved by the Supreme Court Dispute Resolution Sanction.

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

D. 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.

Rule 9.02 – Privilege v. Confidentiality

Mediation communications are privileged as described in R.C. Chapter 2710 Ohio Uniform Mediation Act. If the parties believe that confidentiality beyond the scope of privilege is necessary, they may sign a written confidentiality agreement prior to the mediation. Except where otherwise required by law, the mediator shall keep all mediation communications confidential unless all mediation participants and the mediator have consented to disclosure. All disclosures by the mediator shall be in compliance with R.C. 3109.052 and R.C. 2710.03 – 2710.05.

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

1. The terms of an agreement are contained in a signed written agreement;
2. The communication is available to the public under R.C. 149.43;

3. The communication involves an imminent threat or a statement of a plan to inflict bodily injury or commit a crime of violence;
4. The communication is sought to prove or disprove a claim of professional misconduct or malpractice;
5. The communication is used to plan, attempt to commit, commit a crime, or conceal an ongoing crime;
6. The communication is required to be disclosed under R.C. 2921.22: Duty to report a felony;
7. The communication is used to prove or disprove a claim of abuse or neglect; or
8. The communication is perceived by an attorney mediator as professional misconduct by an attorney participant.

Rule 9.03 – 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.

Rule 9.04 – 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.

Mediation will not be scheduled in cases where the person who is or may be a victim of domestic violence is self-represented.

All parties and counsel shall advise the magistrate and Mediation Department of any domestic violence allegations known to them to exist or to have existed in the past, or which become known to them following the referral to mediation, but before the conclusion of the mediation proceedings.

Where there is a need, the Mediator shall provide 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 about the mediation process, right to decline participation in the mediation process, and of the option to have a support person, in addition to an attorney present at the mediation session.
- 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 a 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 as follows:

- 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; or

D. In determining the penalty for violation of a protection order.

Rule 9.05 – Mediation 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.

Rule 9.06 – Mediation 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.

Rule 9.07 – Mediation Procedures

A. At least five days prior to the mediation conference, the parties shall submit the following directly to the Mediation Department:

1. Responses to the Mediation Department's case summary form, which is available on the Court's website; and
2. Any other materials a party believes would be beneficial to the mediator.

B. During the mediation conference, the mediator shall:

1. Permit each party, through counsel or otherwise, to orally present the dispute;
2. Help to refine and prioritize the issue(s) in dispute; and
3. Hold separate, private caucuses with any party or counsel as needed.

C. 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 failure to file a dismissal entry, the Court may:

1. Set a status hearing; or
2. Dismiss the case with prejudice after reviewing the signed copy of the memorandum of settlement.

D. 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.

E. 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.

Rule 9.08 – 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.

Rule 9.09 – Workers' Compensation Settlement Days

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

Rule 9.10 – 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.

9.11 – Domestic Pre-filing Mediation Conference

A. Post-Decree Mediation

Mediation may be available before a post-decree motion is filed in an existing closed divorce or dissolution case, provided all parties consent by completing and signing the Request for Pre-Filing Post Decree Mediation form, which is available at the Clerk of Court's office and on the Court's website. The parties must submit a copy to the Mediation Department. The Mediation Department will screen to determine if scheduling a mediation conference is appropriate.

B. Pre-filing Divorce or Dissolution Mediation

Individuals may participate in mediation prior to filing a divorce or dissolution by submitting a Joint Request for Mediation Services. This form is available at the Mediation Department and on the Court's website. There is no cost to the parties to participate.

The Mediation Department will screen to determine if mediation is appropriate. Attorneys who represent the parties may participate in the mediation conference if an individual requests. If the matter is scheduled for mediation, and an agreement is reached, the parties shall prepare a Memorandum of Understanding, which will not be signed. The parties will need to file their own dissolution paperwork after the mediation.

Rule 9.12 – Private Mediators

A. 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.

A court shall not be responsible for the quality of a mediator selected by the parties without guidance from the court. In these cases, the parties are responsible to assure

the mediator meets the qualifications, education and training requirements of Sup.R. 16.23.

B. 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:

1. The name of the private mediator;
2. The date of the mediation; and
3. The distribution of costs between the parties.

C. Outcome Report

Counsel 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 Mediation Outcome Report shall state:

1. Whether the case settled and, if a settlement involves less than all parties or issues in the case, which parties or issues have settled;
2. Whether an additional mediation conference is needed and the proposed date to reconvene; and
3. 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 a Mediation Outcome Report is not filed.

Rule 9.13 – Evaluation, Comments, and Complaints

It is the policy of the Court to use mediation to benefit the parties, to assist in reaching a resolution, and to provide a process that is timely and flexible that maintains the trust and confidence of the people. Any mediation participant may submit written comments, complaints, or feedback regarding the performance of a mediator to the Court Administrator.

Chapter 10 – Domestic Relations

Rule 10.01 – Case Management, Generally

Pursuant to Rule 5(B)(1) of the Rules of Superintendence for the Courts of Ohio, the 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 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 pre-trial, hearings, trial or other proceedings required by the Court.

Rule 10.02 – Assignment of Domestic Cases

The clerk of courts shall generally 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. However, if a case involves the same parties and subject matter as a case that was previously filed with the Court, the clerk of courts shall assign the case to the same judge who was responsible for the previous case. If more than one case is filed simultaneously with the same parties, the clerk shall assign the cases to the same judge.

The assignment of cases shall be in accordance with the Rules of Superintendence for the Courts of Ohio.

Rule 10.03 – Motions to Consolidate

Consolidation may be appropriate if two or more cases involve a common question of law or fact.

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 10.04 – Trial and Other Event Dates

All assignments of cases set for trial shall be made by the Court or Court Administrator's office 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 self-represented parties 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 Chapter 9 of the Local Rules for ADR procedures.

Rule 10.05 – Motion Procedures/Scheduling

A. Motions for Temporary Orders

Motions for temporary orders shall be scheduled for non-oral consideration on the fourth Monday following filing of the motion. However, if that Monday is a legal holiday, the motion docket will occur on the Tuesday following the holiday. All required documentation shall be filed no later than 14 days after service of the motion. If the scheduled non-oral consideration is fewer than 14 days after the responding party was served, then the non-oral consideration will be rescheduled.

B. Motions to Show Cause

Motions to show cause will be set for a 30 minute oral hearing, and all parties shall be prepared to present their case on the merits.

C. All Other Motions

All other motions shall be set for a ten minute oral hearing, unless the magistrate determines that an oral hearing is unnecessary. 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.

D. Notice of Hearing

All motions will be set by Notice of Hearing. All attorneys and self-represented parties will receive a copy of the Notice of Hearing from the clerk of courts.

Rule 10.06 – Failure to Answer

A divorce or legal separation case shall be deemed to be uncontested unless an answer, motion or stipulation for leave to plead is filed within 28 days after completion of service. When a case has been set for final hearing as an uncontested case, the defendant may not introduce evidence on his behalf except by leave of Court for good cause shown.

Rule 10.07 – Pre-trial Conference

A. Purpose

The primary purpose of the pre-trial conference shall be to achieve an amicable settlement of the controversy in suit.

At the pre-trial conference, the following shall be considered:

1. Settlement of the case;
2. Agreement upon and simplification of the issues;
3. The number of witnesses to approximate the length of trial; and
4. Any other matters that may aid in the disposition of the case.

B. Scheduling and Attendance

A pre-trial conference shall be held in all contested divorce cases. The pre-trial conference shall be scheduled in all cases when a complaint for legal separation, divorce or annulment is filed. All parties, except those joined for the sole purpose of being enjoined from releasing assets during the pendency of the case, and their counsel shall appear at the pre-trial.

Failure of any party or counsel to appear at the pre-trial conference may result in sanctions, including, but not limited to, payment of attorney fees to the adverse party. If neither the defendant nor his or her attorney appears at the pre-trial conference, the Court may hear evidence and decide the case on the pre-trial date. If neither the plaintiff nor his or her attorney appear at the pre-trial conference and no counterclaim has been filed, the Court may dismiss the action.

All requests for continuance of a pre-trial conference shall be made in writing and filed in the case.

C. Preparation for Pre-Trial Conference

All parties must be prepared to discuss the following matters at the pre-trial conference:

1. The witnesses, including expert witnesses, that each party expects to call at the final hearing;
2. The exhibits each party intends to introduce at the final hearing;
3. Contested facts;
4. Legal issues;
5. Any matters upon which the parties are willing to stipulate;
6. Trial time estimates; and
7. Whether any pending motions remain.

D. Pre-Trial Order

Following the pre-trial conference, if settlement has not been achieved, the magistrate will issue a pre-trial order, which sets the matter for trial and summarizes the outcome of the pre-trial conference.

E. Status Conferences

The Court may schedule periodic status conferences to assure the progress of a case and assess readiness for trial.

Rule 10.08 – Objections, Motions to Set Aside and Motions for Stay of Magistrate’s Orders

A. Scheduling

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

1. Judge Elizabeth Lehigh Thomakos:

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

2. Judge Edward Emmett O’Farrell:

The above will be scheduled for oral hearing.

3. If a transcript is requested, the motion will normally appear on the motion docket on the second Monday after the filing of the transcript, provided that four weeks have elapsed from the date of the motion.

B. Transcripts

Under 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 Chapter 5 of the Local Rules for the Court's procedures regarding Court recordings, transcripts, and electronic copies of Court recordings.

If a transcript is unavailable because no recording of the proceedings before the magistrate was made or the recording is no longer available for transcription, the objecting party may prepare a statement of the evidence or proceedings from the best available means, including the objecting party's recollection. The statement shall be served on the other party within 14 days after filing objections, and the other party may serve an objection or a proposed amendment to the statement on the objecting party within ten days after service of the statement. The statement and any objection or proposed amendments shall be submitted to the magistrate, who shall approve and make any necessary amendments within 14 days of receipt.

C. 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.

Rule 10.09 - Review of Temporary Orders for Spousal Support, Child Support or Parental Rights and Responsibilities, Only

When the Magistrate has conducted a non-oral hearing and issued a temporary order on spousal support, child support or allocating parental rights and responsibilities for the care of children, a party seeking an oral hearing to modify the temporary order, pursuant to Civ. R. 75(N), shall file a motion.

A motion for hearing pursuant to Civ. R. 75(N) shall be captioned "Motion To Modify Rule 75(N) Temporary Orders (Oral Hearing Requested)" and indicate the amount of time requested for hearing.

As stated in Civ. R. 75(N), the request for oral hearing shall not suspend or delay the commencement of spousal support or other support payments previously ordered or

change the allocation of parental rights and responsibilities until the order is modified by journal entry after the oral hearing.

Temporary orders issued by the Magistrate that address matters other than spousal support, child support or parental rights and responsibilities, and magistrate's orders issued after an oral hearing, will be reviewed upon filing a Motion to Set Aside, pursuant to Civ. R. 53(D)(2)(b).

Rule 10.10 – Divorce/Dissolution Filing and Motion Requirements

A. Filing Requirements for Initial Pleadings

1. All pleadings requesting a divorce, legal separation or annulment must be supported by an **Affidavit of Income and Expenses** and **Affidavit of Property; and**
2. All actions for legal separation, divorce, dissolution, or annulment, that concern child(ren) must also 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; and
3. All actions for child support must also be supported by a Private Health Insurance Questionnaire. Child care costs must be supported by adequate proof of payments made.

The Court may **dismiss filings for a legal separation, divorce, dissolution or annulment with minor children** filed without an application for IV-D services with the Child Support Enforcement Agency.

B. Motion Requirements

1. Generally

All motions must comply with the rules set forth in Chapter 2 of the Local Rules. The Court may dismiss any motions that do not comply with these provisions.

2. Affidavits and Other Required Forms

The following supporting documentation must be filed with certain motions:

- a. Domestic relations motions that concern parenting time and parental rights and responsibilities of minor children must be supported by a Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA), child support computation worksheet and Affidavit of Income and Expenses, if the motion reopens the case.
- b. All domestic relations motions that might affect a change in child support must be supported by a child support computation worksheet and Affidavit of Income and Expenses.
- c. All motions concerning spousal or child support must be supported or opposed by an Affidavit of Income and Expenses and a Private Health Insurance Questionnaire.
- d. Motions for allocation of parental rights must be accompanied by an affidavit of the party filing the motion that contains facts sufficient to support the requested relief.
- e. Child care costs must be supported by adequate proof of payments made.

The Court may **dismiss or refuse to consider motions** filed or opposed without the required supporting documentation.

Forms are available from the Court's website and may be available on the Court's brochure rack located outside the magistrate's courtroom.

All parties must update their Affidavits of Income and Expenses if there are changes to their financial information.

Any of the above documents not considered case documents under Sup.R. 44 will not be considered public records and will not be available from the clerk of courts.

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.

Rule 10.11 – Posting Locations for Service by Publication

When service by publication is made in a divorce, annulment, or legal separation action under Civ.R. 4.4(a)(2), the office of the Clerk of Courts shall post the service of notice on the bulletin board outside of the magistrate's courtroom, on the bulletin board at the office of the Clerk of Courts, and in the public area of the Tuscarawas County Job and Family Services' building.

Rule 10.12 – 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 or as soon as the residential parent is aware that relocation will occur.

The clerk of courts 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 10.13 – Waiver of Filing Fee and Court Cost Deposit

A party who is unable to prepay or give security for costs in domestic relations cases shall file a Petition for Waiver of Filing Fee and Court Cost Deposit and an Affidavit in Support of Petition for Waiver of Filing Fee. The Affidavit must be notarized. The Court will rule on the Petition after setting the matter for non-oral consideration. If the Petition is denied, a deposit shall be made in accordance with Court Order. Failure to pay the deposit as ordered may result in dismissal of the case.

Rule 10.14 – 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. All guardians ad litem shall comply with Sup. R. 48.

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 pre-trials and hearings as the Court directs; and

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 shall not be filed with the clerk of courts. The guardian ad litem shall distribute copies of the report to the attorneys for the parties, who shall review the report with their clients. If a party is not represented by counsel, the guardian ad litem shall review the report with the party. Parties shall not be given a copy of the report. The guardian ad litem shall not otherwise distribute the report without the Court's permission.

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

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 10.15 – Marriage Termination/Parent Education Class

A. Attendance Requirements

All parties in cases involving minor children must complete a 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 another approved class offered by a court of the resident's county. 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 completed by all parties 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 complete the class will result in contempt proceedings and appropriate sanctions after proper notice has been given. However, if a defendant fails to enter an appearance and does not contest the action, issuance of the final entry shall not be delayed if he or she fails to attend the class.

B. Class Fee

A fee determined and set by the class providers must be paid by each party upon attendance.

C. Proof of Completion

Upon completion of the Marriage Termination/Parent Education Class, participants shall receive a certificate proving 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 10.16 – Parenting Time/Standard Parenting Guidelines

The Court has created the following guidelines that may be used in domestic relations cases when parenting time is ordered:

- A. Standard Parenting Guidelines and Rules Governing Parenting Time
- B. Long-Distance Standard Parenting Guidelines and Rules Governing Parenting Time

These forms can be obtained from the Court’s brochure rack or the Court’s website.

Rule 10.17 – Parenting Coordination

A. Introduction

This rule is adopted in order to comply with Sup.R. 90.01.

“Parenting coordination” is a child-focused dispute resolution process ordered by the Court to assist parties in implementing a parental rights and responsibilities or parenting time order using assessment, education, case management, conflict management, coaching, or decision-making. “Parenting coordination” is not mediation subject to R.C. Chapter 2710, R.C. 3109.052, or Sup.R. 16, or arbitration subject to R.C. Chapter 2711 or Sup.R. 15.

A “Parenting coordinator” (PC) is an individual appointed by the Court to conduct parenting coordination.

B. Scope

At any point after a parental rights and responsibilities or parenting time order is filed, the Court may order parenting coordination, except to determine the following:

1. Whether to grant, modify, or terminate a protection order;
2. The terms and conditions of a protection order;

3. The penalty for violation of a protection order;
4. Changes in the designation of the primary residential parent or legal guardian; or
5. Changes in the primary placement of a child.

C. Appointment

The Court may order parenting coordination for any of the reasons listed in Sup.R. 90.02. The Court may appoint an individual as a PC who meets all of the qualifications listed in Sup.R. 90.05. To maintain eligibility for appointment, a PC shall complete at least three hours per calendar year of continuing education relating to children that has been approved by the Dispute Resolution Section of the Supreme Court.

A PC who meets the qualifications in Sup.R. 90.02 shall be selected using one of the following:

1. Use of a Court employee;
2. Random selection by the Court from the Court's roster of PCs;
3. Specific appointment based on the type of case, the qualifications, and caseload of the PC; or
4. Parties select a PC from the Court's roster of PCs.

The Court shall not appoint a PC who does not possess the qualifications in Sup.R. 90.02 or who has served or is serving in a role that creates a professional conflict including, but not limited to, a child's attorney or child advocate; guardian ad litem; custody evaluator; therapist, consultant, coach, or other mental health role to any family member; or attorney for either party. Parties may not waive this prohibition.

With written consent of the parties, the Court may appoint a mediator to serve as the PC with the same family.

D. Termination or Modification of PC Appointment

Upon motion of a party, for good cause shown, or sua sponte, the Court may terminate or modify the PC appointment.

E. PC Responsibilities

A PC shall comply with Sup.R. 90.10.

A PC shall submit a resume to the Court documenting compliance with Sup.R. 90.05; provide an updated resume to the Court in the event of any substantive changes; and notify the Court of any changes to name, address, telephone number and, if available, email address contained in the resume.

On or before January 1st of each year, a PC shall report to the Court a list of all continuing education training completed during the previous year pursuant to Section C of this rule, including the sponsor, title, date, and location of each training. A PC shall not be eligible for appointment until this requirement is satisfied. The PC shall complete three hours of continuing education for each calendar year of deficiency.

F. Parenting Coordination Procedures

1. Screening for and disclosure of domestic abuse and domestic violence

All cases shall be screened for domestic abuse and domestic violence by the PC before the commencement of the parenting coordination process and by the PC during the parenting coordination process.

All parties and counsel shall immediately advise the PC of any domestic violence convictions and/or allegations known to them or which become known to them during the parenting coordination process.

When domestic abuse or domestic violence is alleged, suspected, or present, before proceeding, a PC shall do each of the following:

- a. Fully inform the person who is or may be the victim of domestic abuse or domestic violence about the parenting coordination process and

the option to have a support person present at parenting coordination sessions;

b. Have procedures in place to provide for the safety of all persons involved in the parenting coordination process; and

c. Have procedures in place to terminate the parenting coordination session/process if there is a continued threat of domestic abuse, domestic violence, or coercion between the parties.

2. Disclosure of abuse, neglect, and harm

A PC shall inform the parties that the PC shall report any suspected child abuse or neglect and any apparent serious risk of harm to a family member's self, another family member, or a third party to child protective services, law enforcement, or other appropriate authority. A PC shall report child abuse or neglect pursuant to the procedures set forth in R.C. 2151.421.

3. Attendance and participation

Parties shall attend parenting coordination sessions. Requests to reschedule parenting coordination sessions shall be approved by the PC.

A PC shall allow attendance and participation of the parties and, if the parties wish, their attorneys and any other individuals designated by the parties.

4. Referrals to support services

A PC shall provide information regarding appropriate referrals to resources including legal counsel, counseling, parenting courses or education, and other support services for all parties, including, but not limited to, victims and suspected victims of domestic abuse and domestic violence.

5. Parenting coordination agreements, reports, and decisions

Parties shall sign and abide by agreements reached during a parenting coordination session, which shall be maintained in the parenting coordination file. The PC shall provide a copy to each party and their attorneys, if any.

Upon request by the Court, the PC shall prepare a written report including, but not limited to, all of the following:

- a. Dates of parenting coordination session(s);
- b. Whether the parenting coordination session(s) occurred or was terminated;
- c. Requests to reschedule a parenting coordination session(s), including the name of the requestor and whether the request was approved;
- d. Whether an agreement was reached on some, all, or none of the issues;
- e. Who was in attendance at each session(s);
- f. The date and time of a future parenting coordination session(s); and
- g. Whether any decisions were written and if so, the date(s).

The PC shall first attempt to assist the parties in reaching an agreement that resolves the dispute. If the parties are unable to reach an agreement, the PC shall issue a written decision that is effective immediately. The PC shall provide copies to the parties and their attorneys, if any. The decision shall be immediately filed with the Court and include all of the following:

- a. Case caption, including the case number;
- b. Date of the decision;

- c. The decision of the PC;
- d. Facts of the dispute and facts upon which the decision is based;
- e. Reasons supporting the decision;
- f. The manner in which the decision was provided to the parties; and
- g. Any other necessary information.

6. Objections to a PC's Decision

A party may file written objections to a PC's decision with the Court and serve all other parties to the action within 14 days of the filing date of the decision. If any party timely files objections, any other party may also file objections with the Court and serve all other parties to the action, not later than 10 days after the first objections are filed. A hearing may be scheduled, upon request, at the discretion of the Court. A judge or magistrate shall issue a ruling on the objections within 30 days from the date of the last objection filed.

7. Parenting coordinator evaluations and complaints

A PC shall provide participants with the Parenting Coordinator Evaluation form, provided by the Court, prior to the first parenting coordination session and at the end of the term of the appointment.

The Court shall complete a review of the PC's on the Court's roster in January of each year.

A party to a case appointed to parenting coordination may file a complaint regarding the PC within one year from the termination of the appointment. The complaint shall be submitted to the Court Administrator, and include all of the following:

- a. The case caption and case number;

- b. The name of the PC;
- c. The name and contact information for the person making the complaint;
- d. The nature of any alleged misconduct or violation; and
- e. The date the alleged misconduct or violation occurred.

The court administrator shall provide a copy of the complaint to the PC. The PC has 14 days from the date of the receipt of the complaint to respond in writing to the court administrator.

The court administrator shall conduct an investigation into the allegations and shall issue a response within 30 days from the date the complaint was received.

8. Fees

A PC shall be paid \$75/hour, unless otherwise ordered by the Court. All fees shall be determined by the Court and included in the appointment order. Fees shall be waived for indigent parties.

9. Stay of Proceedings

Unless otherwise provided by court order, referral of a case to parenting coordination stays a case until further notice. The clerk of courts shall not accept for filing any documents while a case is in parenting coordination with the following exceptions:

- a. An objection to a PC's decision;
- b. A motion to lift the stay;
- c. A response to a motion to lift the stay;
- d. An application to dismiss the case;

- e. A notice related to counsel;
- f. A motion for changes in the designation of the primary residential parent or legal guardian; and
- g. A motion for changes in the primary placement of a child.

G. Confidentiality and Privilege

Except as provided by law, communications made as part of parenting coordination, including communications between the parties and their children and the PC, communications between the PC and other relevant parties, and communications with the Court, shall not be confidential. Except as provided by law, parenting coordination shall not be privileged.

H. Public Access

The files maintained by a PC, but not filed with the clerk of court or submitted to the Court, shall not be available for public access pursuant to Rules 44 through 47 of the Rules of Superintendence for the Courts of Ohio.

I. Model Standards

PC's shall comply with the "Guidelines for Parenting Coordination" developed by the Association of Family and Conciliation Courts Task Force on Parenting Coordination. Wherever a conflict exists between the "Guidelines for Parenting Coordination" and this rule, this rule shall control.

Chapter 11 – Criminal

Rule 11.01 – Case Management/Assignment

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's case will be the judge assigned to all of the co-defendants' cases.

If the same defendant has two or more cases on a grand jury report, the clerk of courts shall randomly assign the first-filed case, and the second case against the same defendant shall be assigned to the same judge as the first-filed case. The same rule would apply if one defendant has any number of additional cases on the same grand jury report.

When a case is dismissed and refiled against the same defendant with additional or different charges from the same facts that formed the basis of the previous case, the clerk of courts shall assign the case to the same judge who was responsible for the previous case.

If a defendant has a pending case, and an additional case is filed for the same defendant, the clerk of courts shall randomly assign the new case.

Rule 11.02 – Bail and Recognizance

The purpose of bail is to ensure 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 a deputy clerk of courts and pay any additional state mandated fees to 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 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 bondsman shall provide to the clerk of courts a copy of his or her 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 11.03 – Oral Hearings

Oral arguments on criminal motions will be scheduled three every 15 minutes, unless the Court directs otherwise.

Rule 11.04 – Criminal Pre-trial

All criminal cases shall be set for a pre-trial conference following arraignment.

Rule 11.05 – Appointment and Withdrawal 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 and Local Rule 6.01. The appointment shall be reflected in a judgment entry.

An attorney may not withdraw from representation without the permission of the Court. 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.

Rule 11.06 – Certification of Qualification for Employment

Under R.C. 2953.25, the Court adopts the following procedure to obtain a Certification of Qualification for Employment (CQE).

A. The Court has established an electronic account with the division of parole and community services of the Ohio Department of Rehabilitation and Correction (ODRC) to access the CQE system for the following purposes: to review completed electronic petitions filed with the Court, to receive notices regarding electronic petitions filed with the Court, to provide the individual filing the petition with information regarding the petition, and to provide the ODRC with information regarding petitions that are granted or denied by the Court.

B. Eligible individuals who seek to petition the Court for a CQE must establish an electronic account with the division of parole and community services of the ODRC and shall follow the administrative rules and regulations adopted under R.C. 2935.25 and the rules and procedures adopted by the Court.

C. All petitions for a CQE should be completed electronically, through the ODRC website, on the form prescribed by the division of parole and community services. The Court will accept the paper filing of a petition for a CQE. However, Petitioners are encouraged to apply through the ODRC website www.drccqe.com for the most efficient processing.

D. The individual filing the petition for a CQE (Petitioner) is responsible for removing personal and private information, such as the individual's social security number, from the petition, any exhibits or addenda attached to the petition, or from documents later filed in the proceeding.

Personal and private information must be submitted on a Disclosure of Personal Identifier form, which is a non-public record. The information will be kept in a separate envelope within the case file and appropriately marked as containing personal and private information, and opened only upon an order of the Court.

E. After the petition for a CQE has been submitted electronically and is determined to be complete by the ODRC, Petitioner shall appear at the office of the clerk of courts, within 30 days of electronic submission, to complete filing and pay a court cost deposit of \$50.00. If the Petitioner files a petition with the Court but fails to complete filing by paying the court cost deposit within 30 days, the Court will dismiss the petition for want of prosecution. If the Petitioner files directly with the clerk of courts, the filing fee must be paid upon filing.

F. The petition for a CQE shall be deemed filed as of the date the Petitioner personally appeared in the office of the clerk of courts, signed the petition under penalty of perjury, and paid the filing fee.

G. Upon the filing of a petition for a CQE, the clerk of courts shall notify the Tuscarawas County Community Corrections Program and the Tuscarawas County Prosecuting Attorney of the filing and provide them with a copy of the petition. The Community Corrections Program shall determine, to the extent possible, all other courts with records of felony or misdemeanor convictions (other than minor traffic offenses) of Petitioner and attempt to notify the appropriate court of conviction, in writing, of the filing of the petition, and solicit comments, in writing, regarding the granting of relief.

H. The Community Corrections Program shall attempt to obtain all pre-sentence investigations and reports, drug and alcohol evaluations, and psychological evaluations of the Petitioner for a CQE, and any law enforcement agency's report or reports of the crime or crimes of conviction.

I. The Community Corrections Program shall notify the judge assigned to hear the petition for CQE of all the information it has requested, and the results of its notifications and solicitations for comments, and may suggest to the judge any other investigation report or information that may assist the Court in deciding whether to grant or deny the petition.

J. All investigation-related documents and information gathered by the Community Corrections Program and the Court in its consideration of the petition for a CQE shall be considered confidential and not a public record. Such documents and information shall be treated with the same level of confidentiality as a pre-sentence report and shall be kept sealed and transmitted in a sealed condition to the Court of Appeals in the event of appellate review, and shall not be opened except upon an order of the Court.

K. When the Court has completed its investigation and received and assembled all of the documents and information it requires to consider the petition for a CQE, the Court will, upon notice from the Community Corrections Program, schedule a hearing to occur within 60 days.

L. The Tuscarawas County Prosecuting Attorney shall be an associated party to the proceedings on the petition, shall receive notice of any hearing, and shall represent the interests of the people of the State of Ohio on all pertinent issues, particularly whether the Petitioner for a CQE poses an unreasonable risk to safety of the public or an individual. The Community Corrections Program shall also receive notice of hearings on such petitions.

M. The Court shall notify the Petitioner and the ODRC of its decision to grant or deny the petition through the Court's electronic record.

N. In determining whether to grant a petition for a CQE, the Court may require the Petitioner to undergo psychological testing, drug testing, risk assessment or other investigation, at Petitioner's expense.

O. Petitioners who have been granted a CQE by the Court shall have a continuing duty to report, in writing, to the Court any arrest or conviction of Petitioner for a felony offense after the issuance of the CQE. Such reports must be filed with the clerk within seven days of the arrest or the conviction of, or plea of the felony offense.

Rule 11.07 – COBRA Drug Court

Establishment of the Changing Offender Behavior through Rehabilitation and Accountability Court—In order to facilitate efficient and effective treatment of alcohol and drug addicted offenders, the Court of Common Pleas, General Trial Division, has established a specialized docket known as the Changing Offender Behavior through Rehabilitation and Accountability (COBRA) Court. The Court, established on July 1, 2005, and certified by the Supreme Court of Ohio on April 11, 2014, accepts the referral of cases identified for this program to the COBRA Court judge who is, by this rule, designated to attend to and manage such cases.

The goals of the COBRA Court are to reduce participant jail/prison/institution days by 25% of the original sentence, decrease the number of COBRA Court participants who re-offend following successful completion of the COBRA Court program by 40%, and to graduate 30% of participants successfully from the program.

The COBRA Court will include a Diversion Track and a Post-Conviction Track.

- The COBRA Court Diversion Track is a voluntary, comprehensive program designed to assist participants in becoming sober, responsible, and contributing members of society. The Court shall dismiss the criminal proceedings against participants who successfully complete the program and seal the record.
- The COBRA Court Post-Conviction Track gives the participant a final opportunity to address substance dependence and anti-social behaviors while remaining in the community.

A. Placement in the COBRA Court— All cases may be referred by the Prosecutor/Assistant Prosecutor/Defense Attorney for screening by the Chief Probation Officer or designee to determine appropriateness for placement. The pre-screening process allows needed information to be collected pertaining to all offenders prior to placement in the COBRA Court program. This information includes criminal history; residency; instant offense and contributing factors.

The assigned supervising officer and/or judge may refer pending pre-trial candidates, post-conviction community control candidates, judicial release candidates and/or pending revocation candidates for screening by contacting the Chief Probation Officer (CPO) or Assistant Chief Probation Officer (ACPO). Defense attorneys assisting a candidate in the filing of a judicial release motion can make a referral by contacting the CPO/ACPO.

Upon receipt of prospective participant referrals the CPO/ACPO and/or defense attorney will provide the candidate with a copy of the program handbook and an application screening form to be completed and returned to the CPO/ACPO prior to screening by the COBRA Court treatment team.

The **legal eligibility criteria** for referral to the COBRA Court under this rule are the following:

- Any Community Control-eligible case where alcohol and/or drug use was directly or indirectly related to the offense;
- The offender must be a resident of Tuscarawas County;
- The offender must be assessed and diagnosed as chemically dependent by an approved alcohol and/or drug treatment provider;
- The offender is determined to be high-moderate to very high risk in the substance abuse domain utilizing the Ohio Risk Assessment System (ORAS); and

- The offender must be mentally competent and have the developmental capacity to adhere to the participation requirements.

The **clinical eligibility criteria** for referral to the COBRA Court under this rule are the following:

- The offender has a history of alcohol/substance use/abuse;
- The offender must complete an alcohol/drug assessment;
- The offender is diagnosed with substance dependence (Axis I); and
- The offender has the developmental capacity to complete the COBRA Court requirements.

An offender will be **disqualified** from participation in the COBRA Court if any of the following pertain:

- The offender is charged with an offense for which a prison term is mandatory;
- The offender is actively working as a police informant;
- The offender is mentally incompetent and/or has an Axis I mental health disorder which would prevent or interfere with successful completion of the COBRA Court requirements;
- The offender is an integral part of a distribution or manufacturing network or actively engaged in crimes to benefit a gang; and/or
- The offender resides outside of Tuscarawas County.

Once an offender is determined to have met the legal and clinical eligibility criteria for participation in the COBRA Court, the CPO/ACPO will review all collateral information gathered and make a decision regarding placement in the COBRA Court.

The Prosecutor must consent to the placement of the offender in the COBRA Court Diversion Track. Refusal of the Prosecutor to consent to such placement will not preclude consideration of the offender for placement in the COBRA Court Post-Conviction Track.

The COBRA Court judge has final authority regarding placement of an offender in the COBRA Court (either track) and termination of offender placement.

- B. Case Assignment**— The process of the initial assignment of judges remains unchanged. The case will be transferred to the COBRA Court judge upon placement of the offender.

- In the event of termination from the COBRA Court Post-Conviction Track, the participant will remain with the COBRA Court Judge for further proceedings.
 - In the event of termination from the COBRA Court Diversion Track, the participant's case will be transferred to the originally assigned judge for further proceedings.
- C. COBRA Court Case Management**—The COBRA Court is a specialized docket established to assist chemically dependent offenders on their road to recovery, by providing services and programming to address their specific needs. Services and programming are more specifically outlined in the COBRA Court description, COBRA Court Handbook and COBRA Court Participant Agreement. Services may include participation in the following:
- Residential treatment;
 - Intensive outpatient treatment;
 - Individual treatment sessions;
 - Gender-specific programming;
 - Family therapy;
 - Medication;
 - Medication monitoring;
 - Ongoing mental health treatment;
 - Case management;
 - Education;
 - Vocational training;
 - Employment;
 - Transportation;
 - Anger management;
 - Criminal thinking;
 - Housing;
 - Parenting classes;
 - Domestic violence programming; and
 - Physical, mental and dental health.
- D. Termination from the COBRA Court** – The COBRA judge has discretion to decide probable cause for termination from the COBRA Program in accordance with the following criteria:
- Ongoing non-compliance with treatment or resistance to treatment;

- A new conviction for a felony offense of violence, firearm-related offense, or sexually oriented offense will result in termination from the COBRA program;
- Any serious specialized docket infraction or series of infractions; or
- A serious probation violation or series of probation violations.

If a participant is terminated from the COBRA Court Post-Conviction Track, he or she will be subject to the following:

- The participant will be subject to the imposition of other penalties or incarceration by the COBRA Judge; and;
- The participant will be ineligible for placement in the COBRA Court (either track) for a period of five years.

If a participant is terminated from the COBRA Court Diversion Track, he or she will be subject to a hearing before the originally assigned judge for the following purposes:

- Adjudication of guilt.
- Imposition of sentence.

Chapter 12 – Miscellaneous

Rule 12.01 – 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. Praeipice for Order of Sale

Any party filing a Praeipice 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. The fees shall be divided between counsel under 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 Court.

Rule 12.02 – Sheriff's Sales

The Tuscarawas County Sheriff has posted the rules and policies governing advertising, deposits, location of sales, the timing of sale/purchase events, deed process, and payment at <http://www.co.tuscarawas.oh.us/tcso/>. Sheriff sale forms are also available online.

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 date of 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. The Sheriff's Office charges 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 12.03 – 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 12.04 - Process Servers

A. One-Time Appointment

If a party wants personal service to be made by a special process server under Ohio Civil Rule 4.1, that party must file a motion to appoint a special process server. The party must also submit a proposed entry. The motion and the entry must state the following:

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; and
3. That the person to be appointed as process server is not a party or counsel for a party in the action.

B. Continuing Appointment (“Standing Special Process Server”)

1. Application and Affidavit

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:

- a. The name, address, and telephone number of the applicant;
- b. That the applicant is 18 years of age or older;
- c. 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 a party by blood or marriage;
- d. That the applicant agrees to follow the requirements of Ohio Civ.R. 4 through 4.6, any applicable Local Rules, and specific instructions for service of process as ordered by the Court in individual cases.

2. Order of Appointment

- a. The applicant requesting the designation shall also submit a proposed standing Order captioned “In Re The Appointment of (name of applicant) As Special Process Server.” The Order shall state as follows: “It appearing to the Court that the following applicant has complied with Local Rule 12.04, (name of applicant) is hereby designated as a Standing Special Process Server authorized to make service of process in all cases filed with the Court for one year from the filing of this Order.”
- b. The Order shall be signed by the Administrative Judge.
- c. The clerk of courts shall record such appointment on the Court’s general docket and shall retain the original application, affidavit and Order.
- d. Until expiration of the Order, the clerk of courts shall accept a file-stamped copy of such order as satisfying the requirements of Ohio Civil

Rule 4.1 for designation by the Court as a person authorized to make service of process.

3. Expiration of Appointment

All Orders appointing standing special process servers shall expire one year from the date of filing.

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

**Schedule of Deposits for Security of
Court Costs and Filing Fees**

Court of Appeals

Appeal from Common Pleas Court	\$154.00
Appeal from Municipal or County Court	\$103.00

Domestic Relations Cases	
Complaints/Petitions in matters involving children, including Third-Party Complaints	\$350.00 dissolution \$350.00 divorce or other
Complaints/Petitions in matters <u>not</u> involving children, including Third-Party Complaints	\$255.00 dissolution \$255.00 divorce or other
Counterclaims	\$100.00
Motion to Convert a Dissolution to Divorce	\$35.00
Filing of a Registration of Foreign Support Order	\$15.00
Motions to Show Cause for Contempt	\$130.00
Post-decree Motions to Modify	\$155.00 or \$120.00 if the case was mediated post-decree within two months immediately prior to filing post-decree motion
Agreed post-decree motions	\$90.00
Agreed post-decree entries including QDRO's filed after final decree	\$55.00 plus \$3.00 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)	\$50.00
Notice of Intent to Relocate	\$2.50

Civil Complaints and Petitions

Complaints and Petitions, against <u>one</u> defendant/respondent, including Third-Party Complaints	\$208.00 or \$133.00 for Administrative Appeals plus \$10.00 for each additional address 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	\$90.00

Email and Fax Filings

<p>Email filings are accepted to: clerkfiling@co.tuscarawas.oh.us</p> <p>Fax filings are accepted to: 330-343-4682</p>	The fee for email and fax filings are as follows: \$2.00 to file, plus \$1.00 for each page.
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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	\$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 for witness fees – see section for statutory witness fees

Statutory Witness Fees and mileage rate	\$12.00 per whole day, \$6.00 per half day \$.46 per mile for travel per R.C. 2335.06, R.C. 2335.08 and Tuscarawas County Commissioner Resolution dated February 18, 2014
Praeipce for Subpoena when served by filing attorney	\$3.00 each
Praeipce for Order of Sale	\$300.00 residential; \$375.00 for other; Publishing costs paid directly to publisher
Certificate of Judgment Liens	\$35.00 if judgment is from this court \$30.00 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
Motion or Application to Seal Criminal Record	\$50.00
Petition for a Certificate of Qualification for Employment (CQE)	\$50.00
Copies of Case Documents Certified Copies of Case Documents	\$.10 for each page, and if certified \$2.00 for each document

For questions regarding filing and court cost deposits contact:

Jeanne M. Stephen, Clerk of Courts
Tuscarawas County Office Building
125 East High Avenue, Suite 230
P. O. Box 628
New Philadelphia, Ohio 44663
330-365-3243
stephen@co.tuscarawas.oh.us

Civil Case Designation Form

Address: _____

Plaintiff(s),
vs. _____

Address: _____

Defendant(s).

:
:
: Case Number: _____
:
:
:
: Judge: _____
:
:
:
:
:

Has this case been previously filed and dismissed? Check one: _____ Yes _____ No
If yes, list case number and judge: _____
List all related pending case(s), including case number and judge: _____

Please indicate which category and subcategory, if applicable.

- | | |
|--------------------------------------|---|
| _____ A. Professional Tort | _____ E. Foreclosure |
| _____ Medical Malpractice | _____ Residential |
| _____ Legal Malpractice | _____ Residential - Rental |
| _____ Other Malpractice | _____ Business/Commercial |
| _____ B. Product Liability | _____ F. Administrative Appeal |
| _____ C. Other Tort | _____ G. Complex Litigation
Classification Requested |
| _____ Personal Injury | _____ H. Other Civil |
| _____ Personal Injury - Auto | _____ Appropriation* to Ct Adm |
| _____ Consumer Protection | _____ Contract |
| _____ Miscellaneous | _____ Debt Collection |
| _____ D. Workers Compensation | _____ Stalking |
| _____ Self-insured | _____ Consumer Protection |
| _____ State funded | _____ Miscellaneous |

Mediation: Is this case appropriate for mediation? Check one: _____ Yes _____ No

Non-attorney/pro se litigant:

Attorney:

Party Name (if not represented by an attorney)

Signature

Address

Address (continued)

Home Telephone

Cell Phone

Email Address

Attorney of Record

Signature

Attorney Registration Number

Firm Name

Firm Address

Firm Phone Number

Attorney Email Address

Domestic Relations Case Designation Form

Address: _____

Plaintiff/Petitioner
vs.

Address: _____

Defendant(s)/Petitioner/Respondent

:
:
: Case Number: _____
:
:
:
: Judge: _____
:
:
:
:

Has this case been previously filed and dismissed? Check one: _____ Yes _____ No
If yes, list case number and judge: _____

List all open or closed case(s), involving your children, including case number and judge: (for example, a Juvenile Court case regarding custody and/or support) _____

Please indicate which category:

- | | |
|---|--|
| _____ A. Termination of Marriage w/children
(Divorce) | _____ G. Establishment/
Enforcement/Modification
of Support |
| _____ B. Termination of Marriage w/o children
(Divorce) | _____ H. Domestic Violence |
| _____ C. Dissolution of Marriage w/children | _____ I. U.I.F.S.A. |
| _____ D. Dissolution of Marriage w/o children | _____ J. Parentage |
| _____ E. Change/Establishment of Custody | _____ K. Other
(i.e., Post Decree Property/
QDRO Issues) |
| _____ F. Visitation/Parenting Time
Enforcement or Modification | |

Mediation: Is this case appropriate for mediation? Check one: _____ Yes _____ No

Non-attorney/pro se litigant:

Party Name (if not represented by an attorney)

Signature

Address

Address (continued)

Home Telephone

Cell Phone

Email Address
Rev. 12/18/2019

Attorney:

Attorney of Record

Signature

Attorney Registration Number

Firm Name

Firm Address

Firm Phone Number

Attorney Email Address

FACSIMILE TRANSMITTAL SHEET

TO: _____

COMPANY: _____

DATE: _____

FAX NUMBER: _____

TOTAL NO. OF PAGES INCLUDING
COVER: (15 PAGE LIMIT EXCLUDING COVER)

PHONE NUMBER: _____

CASE NUMBER: _____

TITLE OF DOCUMENT: _____

CASE NAME: _____

Please File

FROM: _____

SUPREME CT. REG. NO.: _____

ADDRESS: _____

PHONE NO.: _____

FAX NO.: _____

NOTES/COMMENTS:

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**
: (Electronic Recording began on 6/30/2008)
:

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.

_____ 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.

Please note, per our record retention policy, we only maintain 3 years' worth of recordings. Any recordings that we have retained prior to 6/30/2008 are not available for duplication.

To the Clerk:

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

Please collect \$.50 per CD plus mailing costs, if any, and deliver to the
requesting party.

Court Employee who prepared the CD

Date