

COURT OF COMMON PLEAS

DARKE COUNTY, OHIO

Civil, Criminal and Domestic Relations Divisions

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LOCAL RULES OF PRACTICE

(Effective February 1, 2024)

THE COMMON PLEAS COURT OF DARKE COUNTY, OHIO
Civil, Criminal, and Domestic Relations Divisions

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TABLE OF CONTENTS

RULE 1: General Provisions; Costs, Deposits and Fees	Page 1
RULE 2: Pleadings and Other Papers	Page 3
RULE 3: Service of Process	Page 6
RULE 4: Trial Attorney	Page 7
RULE 5: Case Management	Page 8
RULE 6: Fees of Fiduciaries and Their Attorneys	Page 15
RULE 7: Practice in Domestic Relations Cases	Page 16
RULE 8: Hearings Before the Magistrate	Page 21
RULE 9: Criminal Matters	Page 22
RULE 10: Media Matters	Page 25
RULE 11: Judicial Sales of Real and Personal Property	Page 26
RULE 12: Electronic Delivery of Pleadings for Filing	Page 29
RULE 13: Electronic Appearances	Page 33

RULE 1: GENERAL PROVISIONS; COSTS, DEPOSITS AND FEES

- A. Scope and Applicability of Rules.** The Local Rules of Practice hereafter set forth shall apply to the Civil, Criminal, and Domestic Relations Divisions of the Common Pleas Court of Darke County, Ohio, effective February 1, 2024.
- B. Purpose.** The purpose of these rules is to define local practices and procedures of this Court consistent with the Rules of Superintendence for Courts of Common Pleas, the Rules of Civil Procedure, the Rules of Criminal Procedure, and other rules as may be adopted and promulgated by the Ohio Supreme Court.
- C. Failure to Comply with Rules.** If any party or their counsel fails to comply with any Rules of the Courts for the state of Ohio, local rules, or Orders of the Court, the Court reserves the right to impose appropriate sanctions, including directed verdicts, dismissal of the cause of action or motion, striking pleadings, monetary fines, reimbursement to the other party for fees and/or expenses, and incarceration.
- D. Advance for Cost Deposit.** Unless an affidavit of inability to prepay or give security for costs is approved, no civil actions or proceedings shall be accepted for filing by the Clerk unless the party or parties offering the same for filing shall first deposit a sum of money to secure the payment of costs. Except as otherwise provided by law, when applicable, such advanced deposits shall be as periodically determined by the Court and published by the Clerk of Courts. The current cost deposit amounts (which may change from time to time) are attached hereto and incorporated herein. Counsel and parties are encouraged to periodically check with the Clerk of Courts to determine if any changes have been made.
- E. Affidavit of Inability to Pay Deposit.** An affidavit of inability to prepay or give security for costs shall include a detailed explanation of the financial resources and income of the affiant. An affiant should be able to satisfy the Court that the exception to the rule of prepayment is justifiable. Waiving a deposit does not preclude the Court from later assigning costs.
- F. Payment of Costs Upon Conclusion of Case.** Upon conclusion of a case, motion or other matter pending before the court, an Order will ordinarily be entered concerning which party shall bear the costs incurred. Where an agreed disposition of the matter is reached, the counsel and/or parties are encouraged to resolve the issue of the payment of court costs. In the absence of any agreement, the Court shall make such Orders as shall be deemed appropriate regarding payment of court costs. Regardless of an allocation of costs by agreement or Order, the party initiating the case, motion or other matter is responsible for paying the costs due and is then entitled to seek reimbursement from the other party/parties. Calculating and billing court costs will be the responsibility of the Clerk of Courts and payment should be made to the Clerk of Courts within 30 days after the date of the statement. Failure to comply with Orders pertaining to the payment of

costs may be the basis for a contempt of court action. Further, failure to make payment of costs may cause collection actions to be initiated by the Office of the Prosecuting Attorney.

- G. Compliance with Rules of Superintendence.** All parties and their counsel are directed to review the Rule 39 of the Rules of Superintendence which pertains to guidelines for completion of cases and motions. Compliance with this Rule is expected. Parties and their counsel should conduct discovery and other litigation preparation in order to comply with Rule 39. While most civil cases must be completed within twenty-four (24) months from the date of filing, all foreclosure and workers' compensation cases shall be completed within twelve (12) months from the date of filing. The failure to comply with Rule 39 of the Rules of Superintendence and this local rule may lead to dismissal of an action or motion.

RULE 2: PLEADINGS AND OTHER PAPERS

- A. Form and size of pleadings.** All pleadings and other papers shall be offered for filing without folding, suitable for flat-filing system, and shall be prepared upon letter size bond paper, except where the original document which is attached or offered as an exhibit, requires a different size. All pleadings must be bound together as one document by suitable method, including stapling or other binding; filing of loose papers is not permitted. In all filings, **a top margin of 2 ½ inches** shall be available on the first page to allow for endorsements thereon. Subsequent pages should have a top margin of no less than one inch. For the return of time-stamped copies by mail, a self-addressed, stamped envelope must be furnished to the Clerk. An additional copy of all pleadings shall be provided to the office of the Judge of the Court of Common Pleas.
- B. Facsimile copies.** The use of facsimile copies for electronic delivery to filing purposes is permitted. Further, when counsel wish to provide the Court with a copy of a pleading which was filed or to communicate to the Court, such electronic means of communications may be used.
- C. Identification of pleadings.** All pleadings and other papers shall be identified by a title which shall contain the name and party designation of the persons filing it, and the nature of the pleading or paper. For example:
1. Defendant John Smith Answer to the Amended Complaint
 2. Third Party Plaintiff Richard Roe's Answer to Defendant Sam Brown's Interrogatories
- D. Removal of files.** Originals of papers or pleadings filed in the Clerk's Office in pending cases shall not be removed therefrom unless Ordered by the Court for good cause shown and under terms discussed with the Clerk of Courts.
- E. Necessary pleadings.** The following pleadings are required in the respective actions:

Dissolution (with children) :

Petition
Uniform Child Custody Jurisdiction Affidavit
Separation Agreement (and Shared Parenting Plan, if applicable)
Affidavit of Property
Affidavit of Income and Expenses
Affidavit of Health Insurance
Notice to Attend Parenting Classes
Application for Child Support Services (IV-D application)
Child Support Computation Worksheets
Questionnaire (must be on yellow colored paper)
Social Security Number and Date of Birth information form (Court use only)

Divorce (with children and separation agreement) :

Complaint
Separation Agreement (and Spared Parenting Plan, if applicable)
Uniform Child Custody Jurisdiction Affidavit
Mutual Restraining Orders
Affidavit of Property
Affidavit of Income and Expenses
Affidavit of Health Insurance
Child Support Computation Worksheets
Notice to Attend Parenting Classes
Application for Child Support Services (IV-D application)
Questionnaire (must be on yellow colored paper)
Social Security Number and Date of Birth information form (Court use only)

Divorce (with children and no separation agreement):

Complaint
Uniform Child Custody Jurisdiction Affidavit
Mutual Restraining Orders
Affidavit of Property
Affidavit of Income and Expenses
Affidavit of Health Insurance
Notice to Attend Parenting Classes
Application for Child Support Services (IV-D application)
Questionnaire (must be on yellow colored paper)
Social Security Number and Date of Birth information form (Court use only)

Post Decree Motions and Any Action Involving Children and Spousal Support:

Uniform Child Custody Jurisdiction Affidavit
Affidavit of Income and Expenses
Affidavit of Health Insurance

F. Case Numbering. New Complaints should have the last two digits of the year and the docket code typed on by the attorney's office. The Clerk's Office will fill in the new case number. Also, the following are an example of how case numbers should be listed:

Civil	14CV00115
Criminal	14CR00009
Divorce	14DIV00201
Dissolution	14DIS00077
Domestic Relations	14DR00600
Certificate of Judgment	14CJ 13, PG 13
Foreign Support	14FS00039
Court of Appeals	14CA01

Where old case filings have no prefix numbers and letters, such should be added based on information from the file. Example: Case No. 53467 becomes 98DIV53467

- G. Extension of time to answer or plead.** Upon the filing of a written request for such extension, the Court routinely grants up to 14 days as an extension of time in which to answer, plead, or otherwise move, when no such prior extension has been granted. Every request shall state whether any prior extension(s) has been granted. If an additional extension beyond the initial period is requested, the party desiring an extension must attempt approval of any opposing counsel and show good cause.

RULE 3: SERVICE OF PROCESS

In addition to the provisions for service of process as found in the Ohio Rules of Civil Procedure, or other statutes or Rules, the following Local Rules are adopted.

SERVICE BY PUBLICATION:

- A. Counsel for a party desiring service by publication in a civil matter pursuant to Civil Rule 4.4(A)(1) shall submit to the Clerk of Courts the proposed legal notice for such publication. Upon compliance with this Rule, the Clerk shall promptly publish the notice in a newspaper of general circulation.
- B. In any action when service is to be made by publication, the party seeking service by publication shall deposit with the Clerk of Courts, as security for the publication costs, the sum set forth in the Schedule of Fees periodically adopted by the Court (currently \$350). This deposit shall be in addition to any and all other deposits for costs required by these rules.
- C. In a divorce, annulment, or legal separation action, if the Plaintiff is proceeding *in forma pauperis*, and if the residence of the Defendant is unknown, service by publication shall be made by posting and mail as required by Civil Rule 4.4 (A)(2). Counsel for a party desiring this service shall submit to the Clerk of Court the proposed legal notice for such publication. This notice shall include notice of the time and place of final hearing. The Clerk shall promptly post the notice in a conspicuous place in the Courthouse of Darke County, Ohio and in two public areas of Darke County which might reasonably be believed to give notice of the proceedings as designated by Entry filed in the case based upon the request of the Plaintiff. This notice shall be posted in these required locations for six (6) consecutive weeks. Upon the completion of the six (6) weeks, the Clerk shall note on the docket when and where notice was posted, and service shall then be complete.

FAILURE OF SERVICE:

- D. If service is not completed within six (6) months as required by Civil Rule 4(E), the Court will serve notice on counsel that unless service is obtained within the specified time, the case will be dismissed.

SERVICE BY POSTING:

- E. Where service by posting and mailing is requested pursuant to Civil Rule 4.4(A)(2), sufficient affidavits and proof shall be filed to satisfy the Court that process under Civil Rule 4.4 should be permitted. When approved, service of notice shall be made by the Clerk of Courts by posting in the following places: (1) in the Clerk of Courts office of the courthouse; (2) in the lobby of the Juvenile/Probate Court via delivery to the Court's Bailiff; and (3) in the lobby of the Darke County Sheriff's Criminal Justice Center.

RULE 4: TRIAL ATTORNEY

- A. Notice of Appearance.** It shall be the duty of any attorney upon accepting representation of a party in any matter to notify the Court of such representation as soon as possible by the filing of a pleading, motion, Entry of Appearance, or other document.
- B. Designation and Qualification.** Unless otherwise ordered, in all actions filed in this Court, all parties not appearing *in propria persona* shall be represented of record by a trial attorney who is a member of the Bar of Ohio. Thereafter, until such designation is changed by Order of the Court, said trial attorney shall be responsible for the action.
- C. Signing of pleadings.** All pleadings filed on behalf of any party represented by counsel shall be signed by one (1) attorney in his/her individual name with the designation “Trial Attorney referred to in paragraph (B) of this rule, together with his/her typed name, his/her office address, zip code, telephone number, area code, attorney registration number and email address. Firm names and names of co-counsel or associate counsel may appear on the pleadings for information purposes.
- D. Notices.** All notices and communications from the Court with respect to an action will be sent to the trial attorney via electronic mail or to the last address of record. Trial counsel shall be responsible for notifying his or her co-counsel or associate counsel of all matters affecting the action.
- E. Withdrawal of trial attorney.** A trial attorney shall be permitted to withdraw from an action only upon written request and for good cause shown with consent of the Court and upon such terms as the Court shall impose. The Court usually will not permit counsel to withdraw from any action at any time within twenty-one (21) days in advance of trial, final pretrial, or evidentiary hearing. At other times, the Court may permit counsel to withdraw only upon: written application with the written consent of the party and the entry of appearance of a substitute counsel, or a finding of good cause after hearing on a written application which contains a certificate of service of said application and a copy of this rule upon the represented party by counsel.

If counsel shall become unable to represent a party or shall be permitted to withdraw from a case, that party shall have fourteen (14) days to secure new counsel. The Court may extend that time period upon application of the party and for good cause shown, or upon its own motion. If a party fails to procure counsel or fails to move the Court for an extension within said fourteen (14) days, the Court will assign the matter as in any other case, and the case shall proceed accordingly, or the Court may give notice of any other remedy. In such case, notices will be mailed directly to the party without counsel.

Any counsel who seeks to withdraw from a case shall advise the party to the action of this rule, shall furnish a written copy of this rule to the party, and shall certify compliance.

RULE 5: CASE MANAGEMENT

- A. Purpose.** The purpose of Rule 5 is to establish a system for civil, criminal, and domestic relations case management which will ensure the readiness of cases for trial and pretrial proceedings; to maintain and improve the timely and fair disposition of all cases; to provide the Court with an efficient means of controlling and monitoring the flow of cases; and to minimize the time required by members of the Bar, their clients and parties appearing pro se to resolve the disputes which bring the matters pending before this Court; and to comply with both the Code of Judicial Conduct and the Rules of Superintendence.
- B. Motion and memoranda.** Except as otherwise provided by these rules, counsel filing any motion shall also file a written memorandum containing a short, concise statement of the points relied upon and the authorities supporting each contention, with copies to opposing counsel. The Clerk shall not accept for filing any motion which is not accompanied by a memorandum in accordance with this rule.
- C. Attorney registration.** Counsel shall include their attorney registration number issued by the Supreme Court of Ohio on all documents filed with the Court, and the Court shall use said number as the exclusive number or code to identify counsel who file documents.
- D. Court's copy of pleadings.** Counsel shall provide a complete copy of all pleadings, motions, or other filings to the Clerk who shall file stamp and deliver same to the Court. These copies shall be marked on the front page as "Court's copy" or "Judge's copy."
- E. Citing unreported cases.** When citing an unreported case to the Court in any pleading, counsel or a party shall attach a complete copy of that case to the pleading.
- F. Responsive pleadings.** If any party fails to file a counter-memorandum or other response within ten (10) days after the receipt of any motion except summary judgment (unless another specific time has been established by the Court), the motion will be treated as having been submitted and the Court will rule upon the same. This rule shall not apply to a motion for temporary injunction, a motion to modify a decree, a motion for a new trial, unless otherwise ordered, or to any motion otherwise assigned for a hearing by the Court.
- G. Journalizing decisions.** Unless otherwise ordered by the Court, counsel for the party in whose favor a decree, judgment, or order is rendered, including orders and rulings pertaining to any part of a motion shall, within seven (7) days thereafter, prepare the proper journal entry and submit it to counsel for the adverse party for endorsement. If counsel for the prevailing party shall fail to do so, then counsel for the other party may prepare and submit such entry. Counsel to whom the entry is submitted shall approve or reject the same within seven (7) days after receipt thereof, and if counsel are unable to agree upon an entry, the judge making the decision or order shall direct what entry shall be made, or the Judge may prepare and file it himself.

H. Failure to journalize. The failure to timely submit an Entry to the Court as Ordered or as the parties may agree to resolve issues pending on the Court's docket will result in Notice being sent to the parties and/or counsel of record that the Court intends to dismiss the matter for lack of prosecution.

I. Discovery. The purpose of discovery is to assist counsel in discovering the merits of any claims, defenses or other pertinent issues involved in a pending matter. Discovery is not intended to be used to delay, confuse, or frustrate the litigation process. The process and regulation of discovery is intended to be left to the domain of the attorneys of record for parties in the case. Absent specific problems, the court will not generally become actively involved in the management of discovery. However, the court will regulate and participate in discovery when required by the Ohio Rules of Civil Procedure, local rules and specific Court Order.

1. Objections to any discovery motion, application, interrogatories, or request under Rules 26 through 37 of the Civil Rules shall be filed within ten (10) days after service of the formal motion, application, interrogatories, or request, and shall be accompanied by a memorandum or brief.
2. The party initiating discovery to which objections are filed may file an answer, memorandum, or brief within ten (10) days after service of the objections. Upon the filing of such answer, memorandum, or brief, or at the end of the ten (10) day period, the matter will be automatically submitted.
3. Motions, applications and requests, to which objections are not reasonably filed, may be granted as a matter of course (as will orders directing answers to interrogatories) upon the informal presentation of an appropriate proposed and endorsed order by counsel for the party initiating discovery.
4. Requests for extensions of the prescribed periods must be in writing and state the grounds therefore and, in general, will be looked upon with disfavor.

J. Pretrial matters.

1. A pretrial conference may be held in civil, criminal and domestic relations cases as may from time to time be ordered by the Court. The purpose of a pretrial conference shall be to accomplish the objectives set forth in Civil Rule 26 and Criminal Rule 16, and counsel shall cooperate fully in such procedure.
2. The judge shall have authority to decide any undetermined preliminary matter; to record any admissions, stipulations, or agreements; to hear and determine the case; to make such findings, orders, judgments, or decrees as may be warranted and proper under the circumstances and within the scope and spirit of this rule, including the consideration of any pending motions; to set the case for trial or dismissal or to take other appropriate action if either or all of the parties and their respective counsel fail to appear at a duly assigned pretrial hearing.

3. Statements of the parties or their counsel made in the course of any pretrial hearing shall not be binding upon the parties unless expressly made so by written stipulation in the course of pretrial or upon other notice by the Court.
4. Following the filing of a case, counsel for all parties shall initiate and complete as much discovery as possible. In accordance with Civil Rule 26(F), attorneys and unrepresented parties shall confer with each other and file with the Clerk of Courts their Rule 26 Discovery Plan (see Court's website <https://www.darkecountycourts.com>). The Court will schedule a telephonic scheduling conference. Counsel for any party may request a status conference (either in-person or telephonic) as may be deemed necessary.

K. Assignment of Civil Cases.

1. Cases will be assigned by the Court for trial even if no request for trial assignment has been received. However, it shall be the duty of counsel for any party seeking affirmative relief to advise the Court when its claim is at issue and ready for trial. One of the objectives of a pretrial conference is to set an agreeable trial date. No continuance of any case set at pretrial will be granted unless requested in writing and for good cause shown. In the event the cause claimed is the absence of a material witness, an affidavit must be furnished as to the substance of what the witness would testify to if called. Absence of a material witness whom counsel has not deposed, subpoenaed, or otherwise arranged for immediately after pretrial shall not be good cause.
2. The firmness of assignment dates is imperative. Continuances generally will not be granted due to conflict of assignments unless written application is received within five (5) days after the notice of trial assignment provided requirements of the Civil Rules and Rules of Superintendence are met.
3. When a jury demand is made in civil cases, any party requesting a jury shall confirm the need to summon a jury at least seven (7) days prior to the start of trial. If a jury is not needed, the party requesting the jury shall pay the costs of summoning the jury and the cost of any jurors who appear. In criminal cases where the Defendant has the right to jury without request, counsel for the Defendant shall confirm the need to summon a jury at least ten (10) days prior to the start of trial. If a jury is not needed, the Defendant will be required to pay the costs of summoning the jury and the cost of any jurors who appear. Juror questionnaires may be provided to counsel according to the Court's discretion and shall be used solely for trial purposes and may not be provided to non-parties; after jury selection, the questionnaires shall be destroyed. Jury amenities are provided at the Court's discretion and the expense thereof may be taxed as costs.

L. Default Judgments.

1. All applications for default judgment which require a hearing under the Civil Rules will be assigned by entry submitted by counsel filing the application.

2. It is the duty of counsel to apply for default judgment or to move a party in default to plead; the failure to do so may be taken into consideration by the Court in determining whether or not there has been lack of prosecution.

M. Dismissals.

1. The Court may dismiss, on its own motion, any case in which:
 - a. There has been no affirmative action taken for unreasonable time and the notice provided for in paragraph (b) has been given;
 - b. There has been no response to inquiries from the Court regarding the status of the case;
 - c. The Court has been advised that the parties in divorce, dissolution, or alimony cases have become reconciled since the case was filed;
 - d. Any Rule of Superintendence has not been fulfilled, including deadlines imposed by the Supreme Court for disposition of any case.
2. If no affirmative action is taken which indicates that a case is proceeding toward resolution, any such case will be dismissed at least ten (10) days after the date of mailing notice to counsel and the parties, that the Court is considering dismissal of such case. Such dismissals shall be without prejudice, without record, and costs to be taxed as the Court deems just.

N. Pretrial briefs. Pretrial briefs should assist the trier of fact in better understanding legal and factual issues. Counsel shall submit such briefs on the legal issues as the Court may order prior to or at the time of the trial. In cases tried to the Court without a jury, counsel may supplement their briefs upon completion of the trial on such terms as the Court may direct.

O. Proceedings in Aid of Execution.

1. In connection with proceedings in aid of execution, unless a party objects, instead of sending a pay-master or other witness to testify, the defendant's employer may answer a questionnaire and send it by mail to the Clerk.
2. In connection with proceedings in aid of execution, unless a party objects, instead of sending an officer or employee or other witness to testify, a financial institution may answer a questionnaire concerning assets belonging to a person against whom execution is sought which are deposited in or held by said financial institution and send it by mail to the Clerk. Such reports are returnable to the Clerk on or before the seventh (7th) day following day after the proceeding was filed. Service shall be by regular mail unless otherwise requested.

P. Bankruptcy. When a bankruptcy proceeding is filed, the debtor's attorney or the debtor shall file a notice with the Court which shall include a copy of an appropriate pleading from the bankruptcy court providing *prima facie* proof of the filing. If the bankruptcy is expected to stay further sale proceedings, an Order to stay proceedings shall be submitted to the Court; merely filing a notice of bankruptcy does not automatically stop proceedings, including advertised Sheriff's sales.

Q. Receivership.

1. When an application is made for the appointment of a receiver, the hearing thereon shall be ordered by entry with notice to interested parties given thereon as ordered.
2. The receiver shall post bond as ordered by the Court and file an inventory not later than thirty (30) days from his appointment unless an extension is granted upon a motion filed for good cause shown. Unless otherwise ordered, the practice described by statute in the administration of decedents estates shall be followed as to notice and hearings on exceptions to the inventory and as to notice and hearing on accounts of receivers.

R. Trustee's Accounts.

1. Every trustee administering a trust in this Court shall render an account of the administration of his trust at least once every two (2) years, unless by Order of the Court, on its own motion, or by motion of any person interested in the trust, for good cause shown, such account be otherwise required.
2. Every such trustee shall render a final account within thirty (30) days after termination of such trust, or within such periods of time as the Court may order.
3. Such accounts shall be prepared, filed, assigned for hearing, notices published and exceptions taken in such manner as prescribed for decedent's estates.
4. If such trustee neglects or refuses to file an account when due or when ordered by the Court, the Court at its own insistence may, and on application of any interested party shall, issue a citation of such trustee to compel the filing of the overdue account. In the event the trustee fails to file such account within thirty (30) days after he has been served with such citation, no allowances shall be made for his services if the Court finds that such delay was unreasonable.

S. Agreed Settlements.

1. In cases where the parties have reached an agreed resolution of all or some issues, counsel shall agree upon who will prepare the pleading to journalize the agreement. Counsel for both parties should sign the agreement before submission to the Court.
2. It is suggested that counsel or parties make a record of the agreement between themselves if agreement is reached at the time of the hearing. This procedure will assist the Court and counsel if a dispute later arises. The Court will assist in providing equipment and personnel to make the record.

3. If, after the agreement, one party refuses to authorize their attorney to sign the agreement, the proposed agreement may be submitted to the Court for enforcement. However, prior to submission to the court, counsel for the signing party shall notify the other attorney that the entry will be submitted to the Court at least 3 days after the notice. The objecting attorney may submit an explanation to the Court of objections to the proposed agreement. The Court will then make such decision regarding signing the agreement as may be proper.
4. Counsel shall present agreements to the Court within 14 days after the Court is advised of the agreement or within 14 days after the date of the scheduled hearing, whichever is earlier. The failure to present agreements in a timely fashion as described herein may lead to dismissal of the pending complaint or motion, or such other sanctions as the Court may determine.

T. Nunc pro tunc entries. Where it is necessary to correct an entry previously filed, the corrections in the subsequent entry shall readily identify the area of correction (by such manners as underlying, bold text or capital lettering). The entry must indicate in the title that it is an entry "nunc pro tunc."

U. Court Reporter Issues.

1. For most proceedings, the Court does not utilize a Court Reporter; rather, audio recordings of proceedings are preserved electronically. Any party may request a Court Reporter to be present during a particular proceeding, the costs of which will be billed to the requesting party. Such request shall be made in writing and filed with the Clerk of Courts at least fourteen (14) days prior to the proceeding.
2. If Counsel or a party would like to order a copy of the audio recording of any proceeding(s), please file a *Request For Audio Recording* identifying the case caption, case number, and date and time of proceedings, and provide to the Court a clean thumb drive.
3. If Counsel or a party would like to order a transcript of any proceeding(s), please file a *Request for Transcript* identifying the case caption, case number, and date and time proceeding(s). The Court will forward such request, along with a copy of the audio recording(s), to a transcriptionist, who will coordinate with the requesting party regarding payment and delivery.
4. Counsel who have been appointed by the Court (i.e., public defenders) may request from the Court a list of court-approved reporters or transcriptionist if a subsequent request will be made regarding payment of related fees and costs.

V. Cognovit Judgments. In addition to other statutory requirements, prior to obtaining a cognovit judgment, the moving party must provide the original note to the Court. Upon the granting of a cognovit judgment, the Court shall note on the original note that a judgment was granted by the Court and the date of the judgment. The original note will be returned to the moving party.

- W. Mediation and alternate dispute resolution.** The Court does not have a mandatory mediation program or other regularly scheduled alternate dispute resolution services. The Court encourages these methods to assist parties in more promptly and less expensively resolving their disputes. The Court reserves the right to mandate mediation and other methods of alternate dispute resolution and to define the procedures to be followed to pursue these methods. Costs will be decided by the Court within its own discretion.
- X. Escheat.** In order to avoid the escheat of funds to the State of Ohio when no claim is made for funds on deposit with the Clerk of Courts, the Court reserves the right to direct such funds for local purposes which serve the public's need for representation, this conclusion being deemed necessary due to the diminished number of local attorneys and the need for pro bono legal services. Such conduct will occur only after reasonable attempts to locate persons with interest in such funds.
- Y. Attire.** All persons in the courtroom and adjacent facilities and appearing by virtual means, including parties, witnesses and spectators, shall appear with appropriate attire and cleanliness which recognize the significance of the judicial system and which is conducive to court proceedings. Such standards may admittedly be subjective and will ultimately be determined by the presiding judicial officer on a case-by-case basis. If such problems arise, the Court will attempt to provide a means to remedy the deficiency while reserving the right to exclude such person until the deficiency is corrected. Examples of inappropriate appearance / attire include the following characterizations: excessive dirt; offensive smells or body odors; excessive tears, tatters or holes; excessive exposure of skin and body parts; vulgar, crude, demeaning or offensive words, pictures, tattoos or diagrams.

RULE 6: FEES OF FIDUCIARIES AND THEIR ATTORNEYS

In any matter pending in this Court in which a trustee, receiver, or other fiduciary has been appointed by this Court, and such fiduciary desires to secure from the Court an allowance of compensation for his services and/or for attorney's fees for services rendered, such fiduciary shall:

1. File in this Court a written application for such allowance, which application shall contain notice of the time and date for the hearing, which shall not be less than seven (7) days from the filing of the application. A copy of the application and notice shall be served upon other parties and counsel in the manner provided for by the Ohio Rules of Procedure.
2. Upon the filing of the application and copies, the applicant shall forthwith mail one copy to each counsel of record in the case, except where several parties are represented by the same counsel, it shall be sufficient compliance herewith to mail one (1) copy to such counsel.
3. At or after the time and date of the hearing on the adjudication, the Court shall make such order and judgment as it may deem proper.
4. The provisions of this rule shall not apply to applications for compensation where the amount requested is less than One Hundred Dollars (\$100); nor shall the rule be applicable to actions wherein such fees or compensations are fixed in journal entries which are approved by counsel of all other parties in the case.

RULE 7: PRACTICE IN DOMESTIC RELATIONS CASES

- A. Personal History.** In each and every case in which the relief demanded includes a divorce, dissolution, legal separation, or spousal support, there shall be presented by the Plaintiff with the Complaint a Questionnaire on a yellow colored form which may be obtained from the Clerk, containing a personal history of the parties of the action. The Defendant may present a similar Questionnaire at the time of filing an Answer or Cross-Complaint. The Clerk shall not accept for filing any Complaint in a divorce, dissolution, or legal separation action unless the Questionnaire is presented. Each party requesting child support or spousal support shall file a completed Affidavit of Income and Expenses. The information contained in said Affidavit shall be treated in the hearing and considered in the cause of action as though it were obtained in answer to questions propounded by the Court to the party filing such statement and shall be the subject of cross-examination.
- B. Confidentiality of Identifying Information.** Consistent with Superintendence Rule 45, no complete social security number or date of birth for any party shall be included on pleadings filed with the Clerk of Courts. Where such information appears necessary to clarify persons or parties, it is suggested the following information may be included: (1) first five digits of the social security number; and/or (2) month and year of birth.

To assist with accurate identification of a party or person, when any domestic relations case is filed or any motion to invoke the Court's continuing jurisdiction is filed, the party or their counsel shall provide the Court (but not publicly file) on a separate pleading the full name, complete social security number, complete date of birth, and maiden name (if applicable). This information shall be maintained by the Court in a confidential file which shall be available only to Court personnel, personnel from the Department of Jobs and Family Services (for support collection purposes) and others upon Court approval for good cause shown.

- C. Temporary Orders.**
1. Counsel are directed to the provisions of Civil Rule 75(I) and 75(M) with regard to general provisions for Temporary Orders. Granting *ex parte* temporary orders can serve the interests of the parties; orders will be considered on a case by case basis depending on the facts presented. Generally, orders should maintain the status quo as opposed to causing significant changes in circumstances.
 2. Excepting requests to mutually restrain the disposal of assets, requests for *ex parte* orders should not be made when the parties have both retained counsel who have been attempting to resolve marital conflict or conclude marital issues. If both parties have counsel, a movant shall notify the other counsel of their belief in the need for temporary Orders and contact the Court for a time to discuss the matter. Otherwise, pleadings alone are usually sufficient for the Court to determine appropriate Orders although counsel may be required to appear to explain case circumstances or otherwise justify the motions.

3. Motions seeking *ex parte* Orders defining residential placement of minor children, payment of support and medical expenses for children, visitation and similar children-related issues may be granted at the discretion of the Court; such Orders are generally disfavored and usually best if maintaining the status quo. Parties seeking this relief shall file supporting affidavits providing detailed information which would support the motion, including statements regarding the past and current caretakers of the child(ren). Vague and broadly written affidavits are discouraged as not likely to assist the Court in making a decision.
4. Motions seeking *ex parte* Orders for spousal support by cash or in-kind payment will generally be set for hearing or deadline for written response with notice to the opposing party, permitting reply within the time permitted by the notice (generally 10 to 14 days after filing the notice). But see paragraph (a) above.
5. Motions for the exclusive occupancy of a motor vehicle or residence will be sparingly granted without a hearing or deadline for written response and usually under such circumstances where the movant shows there will be little inconvenience to the other party, such as the parties having multiple motor vehicles or one party having already vacated the residence for some reasonable period of time.
6. If any party feels aggrieved by a temporary order, such party may file a motion to modify the order as outlined in Civil Rule 75.

D. Attorney fees. Requests for attorney fees will be considered on a case-by-case basis and granted only where justified by the circumstances of the case at the Court's discretion.

E. Investigations / Guardians ad Litem. The following Local Rules supplement Rule 48 of the Ohio Rules of Superintendence.

1. The appointment of a Guardian ad Litem or Investigator may be ordered in any action for divorce, annulment, spousal support, or a motion for a change of custody of minor children where the question of residential placement or parenting time is in dispute. The parties may request the appointment or the court may do so on its own motion. The parties are encouraged to select a mutually agreeable Guardian ad Litem, when possible.
2. The report of the Guardian ad Litem shall be submitted to the Court at least seven (7) days in advance of hearing, unless another date is permitted by the Court on a case by case basis. Submission to the Court shall be deemed as "filing" the report as required by Supt. Rule 48(F)(2). Submission may be by electronic means, and may be stored in electronic format, provided retrieval on paper can occur therefrom. Copies shall be provided by the Guardian ad Litem to counsel of record but any further distribution in verbatim format (paper, electronically, etc.) is prohibited. Distribution of the report to any party pro se will be under circumstances designed to limit further distribution. Payment for the costs of the investigator may be agreed by the parties. In the absence of an agreement, the moving party shall make a deposit with the Clerk of Court of sufficient funds (as set by the Court) to pay for the report (unless the court orders otherwise). The Court retains jurisdiction over allocation of the costs of the report.

3. If a party twice fails to appear or make satisfactory arrangements for an interview, or to otherwise cooperate, the Complaint, counter-complaint or appropriate motion may be dismissed by the Court for lack of prosecution. Further, the Court reserves the right to otherwise consider the lack of cooperation with the interview.
4. Access to the report of the Guardian ad Litem shall be provided to the counsel for the parties where such counsel exists of record. Phone access is limited to whether the report has been filed. Contents of the report will not be orally provided by phone access. Any *ex parte* communications between counsel and any Investigator or Guardian ad Litem are prohibited until after the report has been issued. This prohibition does not apply to providing necessary information or records requested by the investigator or Guardian ad Litem.
5. Criteria for the appointment of Guardians ad Litem will be established by the Court, and as modified from time to time. To the extent permitted by law, documents submitted to qualify as a Guardian ad Litem shall be submitted by the applicant and will be maintained as non-public records of the Court to protect privacy of the applicant. The duty of the Court to consider distribution of work load when appointing a Guardian ad Litem will be given minimal weight.
6. In order to avoid improprieties and to not interfere with the adjudicatory process, any written comments and criticism of the Guardian ad Litem may be submitted to the presiding judge of the Court at such time as the matter concerning the Guardian's involvement is finally determined and all appeal times have expired. In order to be considered, comments and criticism shall be signed by the submitting party. Any action by the Court will seek to protect the confidentiality of the submitting party, and any disclosure will be at the Court's discretion. This rule does not prevent examination of the Guardian ad Litem during trial and pretrial proceedings, subject to applicable rules of evidence and procedure.
7. The Court has developed an internal policy regarding other, non-substantive aspects needed to implement Supt. Rule 48.

F. Parenting Time provisions.

1. The difficulties between spouses who become litigants in domestic relations cases frequently cause problems for the minor child(ren). Children often become embroiled in the conflict instead of being left out of the litigation. It is the Court's policy to encourage parties to maintain appropriate, respectful, and loving relationships between child(ren) and their parents. While the parties may no longer be spouses, they both remain parents of any child(ren) and need to be involved in parenting responsibilities for the child(ren).
2. Parenting time between parents and children is to be encouraged by parties, attorneys, and other interested persons. Because agreements cannot always be reached regarding suitable time, the Court has developed a Standard Schedule for Parenting Time. [See attachments following these Rules.] In the absence of specific agreements between parties regarding parenting time on a case by case basis, then parenting time orders

shall make reference to the Standard Schedule. A copy of the Standard Schedule is attached hereto and incorporated. The Standard Schedule may be modified from time to time by the Court to meet changing needs.

3. For children under one year of age, or in cases where one parent has not been in regular contact with the child(ren), the parties are encouraged to agree to a modified parenting time plan that allows time to develop a relationship and to integrate the child(ren) into the family of the other parent. In the absence of an agreement, the parties shall follow the Phase-In Schedule adopted by this Court [See attachments following these Rules.]

G. Seminar for Parents. In every case where minor children are involved, the parties shall complete one of various Helping Children Succeed After Divorce seminars approved by the Court. Each party shall pay the appropriate fee unless, upon Court Order for good cause shown, the fee is waived. If parties are before the Court on matters of continuing jurisdiction and have not previously attended the parenting class, the parties shall attend the class unless excused therefrom for good cause shown. Substitution of similar classes for ones previously approved by the Court may be permitted upon proof of the content of the proposed program and for good cause shown. [See attachment following these Rules.]

H. Post-Decree Modification. When pleadings are filed to invoke the Court's jurisdiction on post-decree issues, the initial pleading filed by any party shall contain therein the current address of all parties and an updated Application for Child Support Services (IV-D application). Upon specific application and for good cause shown, the Court reserves the right to waive the requirement to disclose a current address.

I. Miscellaneous. Before agreements regarding custody, parenting time, and support can be approved, the parties must not only agree as to the amount of support but also on parenting time, payments of ordinary and extraordinary medical, dental, optical, and orthodontic expenses, and provisions for medical insurance which benefits such children.

J. Mutuality of Restraining Orders. All parties to original divorce and legal separation actions in the Darke County Court of Common Pleas shall be subject to the following temporary restraining orders. The Plaintiff shall be restrained as of the date an action is filed, and the Defendant(s) shall be restrained as of the date of service. The parties to this order shall comply with the temporary restraining orders under penalty of contempt of court.

The attorney representing the Plaintiff in any divorce or legal separation action filed in this court shall furnish a copy of the restraining order to the Plaintiff, and as of signing the complaint, the Plaintiff shall be bound by the terms of this order. The Plaintiff's pleadings shall indicate proof of receipt of the temporary restraining order or acknowledgment of its existence.

The attorney representing the Plaintiff shall prepare and file an order with the initial pleadings in conformity with this Rule so that the document is served simultaneously with initial pleadings. If there is no attorney for the Plaintiff, a comparable legal duty shall apply to a self-represented Plaintiff.

The terms of the mutual restraining orders to be included in the pleadings are as follows:

1. Each party is hereby enjoined and restrained from causing or permitting minor children of the parties to be relocated from Darke County or from their current address except by signed written agreement of the parties or authorization by this court.
2. Each party is hereby enjoined and restrained from doing, attempting to do or threatening to do any act of injuring, maltreating, vilifying, molesting or harassing the adverse party or any children of the parties.
3. Each party is hereby enjoined and restrained from selling, encumbering, contracting to sell, removing from the jurisdiction of this court, or otherwise disposing of any of the property belonging to either of the parties, except in the ordinary course of business or unless authorized in writing by this court.
4. Both parties are restrained from entering safety deposit boxes until further order of the court.
5. Each party is hereby restrained from changing the beneficiaries on or cancelling any health insurance, life insurance, automobile insurance, retirement or investment accounts.

RULE 8: HEARINGS BEFORE THE MAGISTRATE

- A.** Having previously established the position of Magistrate and having filed orders of reference, the Court may refer any matters coming before the Court to be heard by the Magistrate instead of the Court, according to the provisions of Civil Rule 53 and Criminal Rule 19. The following Local Rules are a supplement to the provisions of Civil Rule 53 and Criminal Rule 19.
- B.** If all parties and counsel of record consent, a jury trial may be referred to the Magistrate for trial purposes.
- C.** Upon the Magistrate hearing a non-jury matter, if all parties have entered an agreement on a particular issue or on all issues, the parties may sign a waiver of a decision by the Magistrate and consent to the immediate presentment of the Order to the Court for consideration without the 14 day time for objection required by Civil Rule D(3)(a) or Criminal Rule 19(E)(2)(a).
- D.** In cases where one or both parties objects to the Magistrate's Decision, a memorandum consisting of the reasons for the objections must be filed within fourteen (14) days after the filing of such decision. If no objections are filed within the appropriate time, the Magistrate's Decision may be adopted as the Order of the Court.
- E.** A copy of any objections to the Magistrate's Decision must be given to the Common Pleas Court by the attorney representing the objecting party.
- F.** When a hearing before the Magistrate requires the testimony or interviewing of any children, a time will be set aside for the same. Parties and counsel are encouraged to set a time which minimizes interference with school and/or scheduled activities. Generally, children should not be brought to the hearing, unless circumstances exist which require it. The Magistrate has broad discretion regarding the circumstances that require children to attend the hearing.

RULE 9: CRIMINAL MATTERS

A. Pre-trials, Hearing and Entries.

1. An initial Status Conference shall be assigned at the time of the arraignment, following indictment by the Grand Jury, for the purpose of establishing time periods for discovery and for motion hearings, pretrials, and trials.
2. To make pretrial conferences as productive as possible, discovery by both sides shall be substantially completed by the time of the pretrial conference. The following shall be the Court's standard discovery order on criminal cases:
 - a. If discovery is desired, the Defendant shall file a request for discovery within 7 days after the date of arraignment if the Defendant intends to do so. The State of Ohio shall comply with the Defendant's discovery request within 21 days thereafter. The Defendant shall then provide discovery to the State of Ohio within 14 days thereafter. These deadlines shall not limit either party from filing Motions under Criminal Rule 12(E) nor shall this Order limit the continuing duty of the parties to supplement its responses.
 - b. Motions pursuant to Criminal Rule 12 shall be filed within 42 days after the date of the arraignment, or 7 days before trial, whichever is earlier.
 - c. Counsel for the Defendant shall confirm with the Court that a jury is needed ten (10) days in advance of trial. If a jury is not needed but the Court is not timely notified, the Defendant or his counsel shall pay the cost of summoning the jury and any other related costs.
 - d. Within fourteen (14) days prior to any trial, counsel shall file a list of witnesses which they intend to call and the list of exhibits which they intend to introduce.
3. Counsel are requested to meet prior to scheduled proceedings to resolve issues whenever possible.
4. Defense counsel shall have the Defendant present for all proceedings unless excused by the Court. If the Defendant is incarcerated out of the county and has not been excused from attendance, defense counsel shall file a motion at least one (1) week prior to that proceeding requesting the Defendant's conveyance.
5. A representative of the investigating law enforcement agency is requested to be present for all contested proceedings, regardless of their need to testify.
6. If counsel is requested to prepare an entry, counsel shall submit it to the Court within seven (7) business days after the request unless otherwise Ordered.

- B. Post-Conviction Motions.** Upon the filing of any post-conviction motion, only upon Order of the Court will the matter be scheduled for hearing. Unless otherwise Ordered, scheduling will usually be held within sixty (60) days after any motion is filed.
- C. Counsel for Indigent Defendants.**
1. By agreement with the Darke County Bar Association, the Court shall appoint attorneys to represent indigent Defendants, pursuant to the Ohio Revised Code and the agreement entered with the Darke County Public Defender's Commission.
 2. When an attorney has been appointed to represent an indigent Defendant, the Common Pleas Court staff shall notify the attorney of the appointment and the time and date of the next Court appearance of the Defendant. The attorney shall make every effort to interview the Defendant, explain the nature of the charge(s) and the penalties involved, and outline the statutory and constitutional rights of the Defendant prior to the next scheduled Court appearance of the Defendant.
 3. Normally, one attorney will be appointed to represent the Defendant. However, when the case involves a charge of murder or aggravated murder or where the case appears to otherwise require additional counsel, including the opportunity to education younger counsel, the Court may appoint additional counsel to represent the Defendant.
 4. When attorneys are not appointed pursuant to the agreement with the Public Defender's Commission, as determined by the Court when considering caseload and other factors, other counsel shall be appointed by the Court. A reasonable attorney fee plus reimbursement for reasonable expenses, both as set by the Court, shall be allowed to the appointed attorney upon application filed by the attorney with the Court. The application for attorney fees and expenses must conform with requirements promulgated by the Ohio Public Defender's Office. In order to obtain reimbursement from the Ohio Public Defender's Office, applications for fees and expenses should be filed with the Court within thirty (30) days after the date of the last service for the Defendant. Applications filed out of time will be considered for payment, possibly at the end of the fiscal year, and possibly for compensation at a lower rate.
- D. Experts and Investigators.** Upon motion and for good cause shown, whether filed publicly or in camera, appointed counsel for an indigent defendant may request that the court authorize expenses for expert witnesses and investigators. Counsel should be prepared to define the need for the expert and/or investigator and to estimate the amount of fees and expenses necessary for the expert and/or investigator.
- E. Restitution.** When applicable and upon Court Order, a person convicted of a criminal offense may be required to pay restitution, including court costs, attorney fees and damages suffered by a victim(s) of a crime. Disbursement of payments received for restitution will typically be made by the Adult Probation Department pursuant to written

policies periodically developed by the Court or as may be ordered on a case by case basis.

- F. Open File Discovery.** In cases where the Prosecuting Attorney elects to provide a complete copy of the file to counsel for the defense, this "open file discovery" will be treated as fully satisfying the State's obligations under Criminal Rule 16(B), except as may be ordered by the court upon subsequent motion and showing of a particularized need. Counsel for the defense may not use witness statements provided by the State unless Criminal Rule 16(B)(1)(g) is satisfied.

RULE 10: MEDIA MATTERS

Broadcasting, televising, recording, and photographing by news media during courtroom sessions, including recesses between sessions, generally will be permitted but according to the discretion of the Judge and under the following conditions:

- A. **Written Requests.** Requests for permission to broadcast, televise, record, or photograph in the courtroom shall be in writing to the Court's Administrative Assistant as far as in advance as reasonably practical, but in no event later than 1 hour prior to the courtroom session to be broadcast or photographed unless otherwise permitted by the Trial Judge.
- B. **Light and Sound Criteria.** Only professional quality telephonic, photographic, and audio equipment which does not produce distracting sound or light shall be employed to cover courtroom sessions.
- C. **Professionalism.** Equipment and media personnel shall operate in a manner that does not demean the proceedings or distract from the conduct of the courtroom. Television cameras, microphones, and taping equipment shall not be placed in, moved during, or removed from the courtroom except prior to commencement or after adjournment of the session or during a recess. Changing television-tape magazines, rolls, lenses, film, nor audio tape cassettes shall be done in a quiet and orderly manner so to avoid distraction. Media representatives are encouraged to be properly attired and act in a manner that reflects positively upon the journalistic profession.
- D. **Restrictions.** There shall be no audio pickup or broadcast of conferences conducted in a courtroom between counsel and clients, co-counsel, or the Trial Judge and counsel. It is prohibited to photograph or televise by any means victims of sexual assaults, undercover police officers and jurors. The Trial Judge retains discretion to limit or prohibit photographing or televising of any other victim, witness, or counsel or his or her work product.
- E. **Revocation of Permission.** Upon the failure of any media representative to comply with the conditions prescribed by the Trial Judge, the Rules of Superintendence of the Supreme Court, or this rule, the Trial Judge may revoke the permission to broadcast, photograph, or record the trial or hearing.

RULE 11: JUDICIAL SALES OF REAL AND PERSONAL PROPERTY

- A.** On all sales of goods and chattels, the purchase price shall be paid in cash at the time of the sale, unless otherwise ordered by the Court. Where the sale is not conducted by the Sheriff, on application and for good cause, the Court may authorize extra advertising and the employment of an auctioneer. Unless the Court otherwise orders, the commission on sales shall be determined by the Court in advance of the sale on a case by case basis.
- B.** On all Sheriff sales of real estate where the sale price is One Thousand Dollars (\$1,000) or less, the Sheriff shall require payment from the purchaser of the full amount of his bid as soon as the bid is accepted. Where the amount of the bid is more than One Thousand Dollars (\$1,000) and is made by a person other than the proponent of the sale or first lienholder, the Sheriff shall require a deposit of fifteen percent (15%) of the sale price. Where the amount of the bid is more than One Thousand Dollars (\$1,000) and is made by the proponent of the sale or the first lienholder, the Sheriff shall require a deposit of either (1) four percent (4%) of the appraised value of the property, or (2) \$500.00, whichever is greater. Payments under this rule shall be in the form of cash or a check payable to the Sheriff. The deposit required herein is first to be applied to the conveyance fee, transfer taxes, recording costs, a \$75.00 Sheriff's fee for filing / recording services, Sheriff's fees under R.C. 311.17, and other administrative expenses. The balance of the deposit, if any, shall be applied to distributions pursuant to the confirmation entry. If the Sheriff determines that the costs of transferring and recording the deed will exceed the deposit, he may seek such additional deposit to cover such expenses.
- C.** When the relief sought includes a request for an Order of Sale involving real estate, the proponent of the Order shall attach a complete real estate description for the real property to be sold, along with the permanent parcel identification number, any known street address and the volume and page reference for the most recently recorded deed. The complete real estate description shall contain the approval of the Darke County Engineer regarding the accuracy of the description for purposes of subsequent conveyance. The proof of a title examination, judicial report or other evidence of title required by R.C. 2329.191 may also be issued by an attorney licensed to practice law in the State of Ohio (i.e. not exclusively issued by a title insurance company). Such proof shall cover a period of 21 years prior to the date of the report, or the actual length of the current owner's title, whichever is longer. An additional cost deposit toward publication costs of \$200.00 shall be paid by the proponent of the Order of Sale at the time of the filing of the Order of Sale.
- D.** Within 30 days after the date of sale, counsel for the party causing the sale shall provide a confirmation entry to the Court. Within 30 days after the filing of the confirmation entry, the purchaser shall pay the balance of the purchase price, if any. If the sale is conducted by the Sheriff, after being recorded by the Sheriff, the deed will be mailed to the purchaser. All court costs shall be fully paid within 15 days after the purchaser pays the balance of the purchase price or within 45 days after the date of filing the confirmation

entry if the highest bid is made by the proponent of the sale or the first lienholder.

- E.** Counsel for the proponent of the sale shall submit the deed and conveyance form required by R.C. 2329.36. A copy of the legal description with proof of the Engineer's approval shall accompany the deed. No particular form of deed is required, but acceptability of the proposed deed is left to the discretion of the Sheriff. If the deed is not timely submitted, the Sheriff or proponent may prepare the deed and charge \$75.00 for such preparation.
- F.** In the event that the highest bidder does not pay the balance of the purchase price within 30 days after the sale, the Court may declare the deposit to be forfeited, provided the highest bidder receives written notice of the intent to declare the deposit forfeited and is given five days after the mailing of the notice to pay the balance due. Forfeited funds shall be applied to additional costs of resale, with any balance to inure to the benefit of the county, or be disbursed as directed by the Court.
- G.** When publication is necessary for service of process, or for advertising the sale of real estate, pursuant to R.C. 2703.141 and R.C. 5721.18, efforts should be undertaken to minimize costs. Counsel is expected to contact local general circulation newspapers approved for publication to ascertain the least expensive alternative; if the least expensive alternative is not selected, unless good cause is shown, the Court reserves the right to assess the higher cost of publication against the proponent of the publication and not assess the higher cost to the opposing party. Abbreviated real estate descriptions should be used where permitted by law, including the use of permanent parcel identification numbers, street addresses / descriptions and deed references.
- H.** The requirements of R.C. 2329.271 shall be deemed satisfied by completion and filing the form customarily used by the Darke County Sheriff.
- I.** Unless otherwise ordered by the Court, a deposit of at least One Hundred Dollars (\$100) may be required by the Sheriff before any goods and chattels are seized and sold on execution. On application of the Sheriff, after notice to the party affected and for good cause shown, the amount of the deposit may be increased by the Court to ensure that sufficient funds are available to pay the cost, storage, insurance, advertising, etc.
- J.** In the circumstance where entrance into a building or improvement on the real estate is requested (such as an open house, the need to preserve the premises from damage, re-appraisals, etc.), a written request must be made to the Court providing detailed reasons to justify the request. The Court may make such Orders for entrance as it determines to be fair and reasonable. The costs and payment for entrance, securing the property, etc. are also subject to the Court's discretion.
- K.** Where real estate does not sell at public auction, any party or the Court on its own motion may request a re-appraisal of the real estate. If the Sheriff's appraisal does not change from the first appraisal, or if there is lack of marketability or other justification, the Court may reduce the two-thirds minimum amount or otherwise modify the customary terms of sale and payment.

- L.** When a bankruptcy proceeding is filed, the debtor's attorney or the debtor shall file a notice with the Court which shall include a copy of an appropriate pleading from the bankruptcy court providing *prima facie* proof of the filing. If the bankruptcy is expected to stay further sale proceedings, an Order to withdraw the sale shall be submitted to the Court; merely filing a notice of bankruptcy does not automatically stop a sale.

- M.** The above provisions are drafted as if a sale is conducted by the Sheriff, which is the most common judicial sale. If judicial sales conducted by third-parties are authorized by the Court, such as Receiver and Commissioner sales, similar procedures are suggested though such third party sale will have individual terms, conditions and rules as the Court may establish on a case by case basis.

LOCAL RULE 12: ELECTRONIC DELIVERY OF PLEADINGS FOR FILING

As an alternative to delivery by U.S. Postal Service, for-profit carriers and/or personal delivery, pleadings and other papers may be delivered to the Clerk of Courts for filing by electronic (facsimile or email) transmission to **937-547-7305** or **edelivery.darkeclerk@co.darke.oh.us**, subject to the following requirements:

A. APPLICABILITY:

1. These rules apply to pleadings and other papers in civil, criminal, and domestic relations proceedings in the Darke County Common Pleas Court, Civil, Criminal and Domestic Relations Divisions, except as specified in the following paragraph.
2. These rules do not apply to the following pleadings:
 - a. any pleading requiring a court cost deposit where none has already been made with the clerk, such as civil complaint, counter-claim, cross-claim, third-party complaint, domestic relations motions to re-open case, etc.;
 - b. any pleading which commences a new action or matter where no deposit is required;
 - c. cognovit promissory notes and other documents where any part of the original document is to be returned to the proffering party;
 - d. original depositions;
 - e. criminal complaint and attachments; indictments

B. ORIGINAL FILING:

1. A document delivered by electronic transmission shall be accepted as the effective original filing. The Clerk of Court receiving the electronic transmission will maintain its equipment to reconstruct a paper copy version of the source document to serve as the original document in the case file.
2. Unless otherwise directed by the Court, the person causing an electronic delivery need not file any source document with the Clerk of Court but must, however, maintain in his or her records and have available for production on request by the Court the source document delivered by electronic method, with original signatures as otherwise required under the applicable rules, together with the source copy of the cover page used for delivering the subject document.
3. The source document delivered by electronic method shall be maintained by the person making the delivery until the case is closed and all opportunities for post judgment relief are exhausted.

C. DEFINITIONS:

As used in these rules, unless the context requires otherwise:

1. “Electronic delivery” means the transmission of a source document by a computer, facsimile machine or other electronic equipment, that encodes a document into optical or electrical signals, transmits and reconstructs the signals to print a duplicate of the source document to the telephone number or email address of the Clerk of Courts at the receiving end.

D. COVER PAGE:

1. The person delivering a document by electronic methods shall also provide therewith a cover page containing the following information: [See attached sample cover page.]
 - a. sender’s name and firm identification;
 - b. sender’s telephone number;
 - c. the transmitting fax/email number;
 - d. the caption of the case;
 - e. the case number;
 - f. the title of the document being filed (e.g. Defendant Jones’ Answer to Amended Complaint; Plaintiff Smith’s Response to Motion to Dismiss; Plaintiff Smith’s Notice of Filing Exhibit G, etc.);
 - g. the date of transmission;
 - h. the number of pages included in the transmission, including the cover page;
2. If a document is delivered by electronic method to the Clerk of Court without the cover page information listed above, or if the document does not otherwise comply with any provisions of the Local Rules, 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 electronic documents with a notation of the reason for the failure; in this instance, the document shall not be considered filed with the Clerk of Courts.
3. As with current methods of paper delivery, the Clerk of Court is not legally required to send any form of notice to the sending party of a failed electronic delivery. Parties are expected to check on the efficacy of electronic delivery. The Clerk of Court shall endeavor to inform the sending party only of a failed filing. See www.darkecourts.com.
4. Once an electronically delivered document is accepted by the Clerk and filed on the Case Docket, the Clerk of Courts shall send a notice (eg. bottom of the cover page) to the sending party by the same electronic method as received (eg. fax or email) that the document was accepted and filed. The Clerk of Courts shall not be responsible for return of the filed document; instead, the sending party may retrieve the document by

searching the docket and retrieving the document (eg. download the document to your desk top).

5. The sending party shall comply with Ohio Rule of Civil Procedure 5 regarding notice to other parties / counsel.

E. SIGNATURE:

1. A party delivering a signed source document by electronic method shall either:
 - a. transmit a copy of the signed source document; or
 - b. transmit 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 (eg. /s/ Jane Doe). Submission of this notation carries the imprimatur and obligations of Ohio Rule of Civil Procedure 11.
2. A party who delivers a signed document by electronic method represents that the physically signed source document is in his/her possession or control and that he/she will comply with this Rule.

F. EXHIBITS:

1. Each exhibit to an electronically produced document that cannot be accurately delivered via electronic 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 (5) court days following the filing of the electronically delivered document. Failure to file the missing exhibits as required by this paragraph may result in the Court striking the document and/or exhibit.
2. Any exhibit filed in this manner shall be attached to a cover sheet containing the information required by Section D.1. above, and shall be signed and served in conformance with the rules governing the signing and service of pleadings in this court. [See appendix for sample cover sheet.]

G. TIME OF FILING:

1. Subject to the provisions of these rules, all documents delivered by electronic method and accepted 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 electronic delivery. The office of the Clerk of Court will be deemed open to receive electronic delivery of documents on the same days and at the same time the court is regularly open for business.
2. Electronically delivered documents may NOT be sent directly to the Court for filing but may only be transmitted directly to the Clerk of Court.

3. As with delivery by U.S. Postal Service, for-profit carriers and personal delivery, the risks of delivering a document by electronic method to the Clerk of Court shall be borne entirely by the sending party. Anyone using electronic method of delivery for filing is urged to verify receipt of such filing by the Clerk of Court through whatever means are available. See www.darkecourts.com.

H. FEES AND COSTS:

1. No document delivered by electronic methods that requires a court cost deposit shall be accepted by the Clerk for filing. Documents tendered to the Clerk without payment of court cost and fees, or which do not conform to applicable rules, may not be filed.
2. No additional fee shall be assessed for electronic delivery and filing of pleadings. However, customary charges for the printing and /or copying of any documents which must be distributed by the Clerk of Court shall still be charged (eg. Final Appealable Orders, pleadings directed by the Court to be sent by the Clerk, etc.)

I. LENGTH OF DOCUMENT:

1. Electronically delivered filings shall not exceed 30 pages in length for each document. If multiple documents with extensive page size are to be electronically delivered, it is recommended that each document be submitted individually. The filer shall not transmit service copies by electronic methods.

LOCAL RULE 13: ELECTRONIC APPEARANCES

The intent of this local rule is to promote uniformity in the practices and procedures related to telephone and video appearances in cases before the Darke County Court of Common Pleas, General Division, where permitted by these rules, court order, statutory or other rules of this court or the courts of Ohio. Believing in the necessity for electronic appearances, and the numerous attendant benefits therefrom, the Court expects to liberally apply this local rule. Counsel and parties are encouraged to advise the Court when circumstances indicate that remote technology will be beneficial.

Notwithstanding any provisions of this rule, there is no entitlement to an electronic appearance. Only the Court may implement this Local Rule and permit a party, witness or counsel to electronically or remotely appear in court for any conference, hearing, or proceeding.

For all such electronic appearances, the Court shall provide a means of access for the public at any time the public has the right to be present in the proceeding.

- A. **ELECTRONIC APPEARANCES.** If the Court determines that an electronic (aka remote) appearance would not materially hinder the progress of any proceeding or would not hinder the effective management or resolution of any particular case, at the Court's discretion, a witness or party may testify via electronic method, provided there is effective audio and video communication. Factors for the Court to consider regarding the necessity of electronic appearance include: the witness / party / counsel's remote distance from the courthouse, scheduling conflicts, gravity / complexity of the subject matter, economic efficiencies and integrity of the judicial process. Other factors may also be considered.
- B. **REQUESTS.** Though implementation of the rule remains in the Court's sole discretion, parties, counsel and witnesses are encouraged to move the Court to permit appearances by electronic methods. "Electronic methods" includes telephone and video-conference methods. Such requests should articulate the reasons therefor.
- C. **NOTICES.** The Court shall give notice of the electronic method, the time and the person who will initiate the electronic method. Further, the Court shall provide information necessary to accomplish or facilitate the electronic conference, such as communications platform, telephone numbers, hypertext link and/or video-conference meeting numbers.
- D. **RECORDING.** Unless the proceeding includes evidentiary materials, electronic conferences typically will not be recorded. When recording is necessary, the Court will use the customary means used during in-person appearances to make the recording.

- E. **RECONSIDERATION.** If at any time during a hearing, conference, or proceeding conducted by electronic method the Court determines that a personal appearance is necessary, the court may continue the matter and require a personal appearance.
- F. **CONFIDENTIAL DISCUSSIONS.** Provisions shall be made to preserve the confidentiality of attorney-client communications and privilege as may be necessary during the course of any electronic proceeding. The Court should be advised of such need as soon as the need becomes apparent.
- G. **SEPARATION OF WITNESSES AND INTERESTED PERSONS.** No witness shall listen to or observe any proceeding conducted by electronic methods. In any proceeding involving minor children, the electronic proceeding shall not be conducted in the presence of any minor child; residential parents / parties are encouraged to arrange child care during the time of the proceeding. Any person with knowledge of any violation of separation requirements shall promptly notify the Court.
- H. **BEST PRACTICES.** The Court shall, from time to time, promulgate best practice instructions to assist participation by electronic means. These instructions will be posted on the Court's website. The terms of such instructions are incorporated herein.
- I. **TECHNICAL STANDARDS AND EQUIPMENT.** The equipment and platform used in any proceeding conducted under this rule must conform to the following minimum requirements:
1. All parties and witnesses must be able to see and hear each other continuously and simultaneously.
 2. All parties and witnesses must be able to see, hear, or otherwise observe any documents, physical evidence, or exhibits presented during the proceedings. Compliance with this requirement may occur by displaying the item during a video-conference proceeding and by providing the item in advance of the proceeding to other parties / counsel and the Court.
 3. When a recording is necessary, the Court must be able to make a verbatim verbal record of the proceeding. Participants appearing remotely will be required to provide connectivity and effective communications to allow a complete recording.
 4. The use of telephonic or audiovisual technology in conducting hearings and proceedings shall in no way abridge any right of public access, unless ordered by the Court.
 5. To facilitate electronic methods, the Court may make available its own electronic hardware, software and means of connectivity.

J. INSTRUCTIONS FOR ELECTRONIC APPEARANCE

1. Appearing by electronic means (telephone and video-conference) still means that you are in the Court's presence (as if in the courtroom itself) and customary decorum must be followed (i.e. appropriate clothing, no extraneous talking or gestures, waiting to speak until called on by the Court, not talking over others, etc.)
2. These instructions are primarily intended to assist with video-conference appearances, though many still apply to telephone usage.
3. Before your scheduled proceeding, visit the video-conferencing website for helpful instructions on how to use the platform or application. The Court's preferred platform is ZOOM. Best results typically occur when participants download the app onto their device.
4. Test your telephone, camera, speaker, and microphone in advance. Also, bigger screens give participants a better video experience. Set the view to Gallery Mode to see all participants simultaneously (as opposed to Speaker Mode).
5. Find a quiet place to participate. Remove distractions in your space, such as pets, phones, other noises, electronic devices.
6. Keep your microphone on mute until it is your turn to talk.
7. Place your camera/phone/tablet in a stationary place to minimize unnecessary movement.
8. Make sure others using your Wi-Fi network minimize their use so to not disrupt your connection. Ensure you have adequate battery power or use a direct electric connection.
9. Make sure your profile or screen name accurately describes you, preferably using your first and last name. No obscene, suggestive or misnomers will be permitted.
10. Do not use a virtual background. Keep a good light source in front of you to avoid backlighting.
11. Recording by anyone except the Court is not permitted, unless the Court gives permission prior to the hearing. Violations are punishable by fines and/or incarceration.
12. Exhibits: Provide any documents/exhibits that will be presented at the hearing shall be provided to opposing counsel / parties and the Court prior to the hearing. Providing the exhibit does not imply that rules for admissibility are satisfied.
13. If private conversations are necessary, such as sidebar discussions with the Court or attorney-client discussions, break out rooms or private chat features will be used.
14. Witnesses will be placed into a "waiting room" prior to admission into the proceeding and will be admitted at the Court's discretion. Witnesses may be required to verify their

identity by use of an approved identification card. Witnesses will be administered the Oath by the Court prior to testifying. Witnesses should look into their camera when testifying and should speak slowly and clearly.

15. If video methods are not functional or available for a witness during a video-conference proceeding, the Court may hear the oral testimony, continue the hearing to require personal appearance, or exclude the testimony.
16. Breaks / Recesses may be used as determined by the Court. Parties and counsel should not leave a hearing or terminate their connection without prior permission by the Court.
17. To get the Court's attention during a hearing for ministerial matters, put the request in the chat box or use the "raised hand" symbol. Raising objections permitted by the Rules of Evidence should be made by the customary interruption process.
18. Unless the Court designates the hearing as "closed to the public," the video-conference will be open to viewing by members of the public. Public attendees will be muted and are expected to follow all rules of the Court, including not recording the proceeding. Public attendees may be removed by the Court for failure to follow rules.
19. If a party, counsel or witness needs accommodations due to a recognized disability, the Court should be advised as soon as this disability issue is known so that reasonable accommodation can be considered.
20. If there is a technical difficulty during the proceeding, the Court will make operational decisions at that time, including granting continuances, adjourning and restarting the video-conference, etc. If communication with the Court is lost during a hearing, immediately call the Court and advise the staff (937-547-7325). Also, promptly try to reconnect to the hearing.
21. As with all rules, the Court will enforce these instructions and manage all proceedings to accomplish the administration of justice. Violation of rules and instructions by parties, witnesses, counsel and members of the public may subject the violator to sanctions for contempt, including monetary fines and incarceration.

THE COURT RESERVES THE RIGHT WITHIN ITS SOUND DISCRETION TO ENFORCE ALL LOCAL RULES AND OTHERWISE USE AND MANAGE THEM TO ENSURE THE EFFECTIVE ADMINISTRATION OF JUSTICE.

INTERNET RESOURCES: Numerous domestic relations pleadings can be found on the website of the Ohio Supreme Court at www.supremecourt.ohio.gov. The availability of these forms and their filing in the Court of Common Pleas does not constitute an endorsement of their propriety and is not a substitute for compliance with either State or Local Rules.

Court website: www.darkecommonpleascourt.com

Clerk website: www.darkecourts.com

Clerk electronic delivery: edelivery.darkeclerk@co.darke.oh.us