

**RULES OF COURT**  
**LORAIN COUNTY COURT OF COMMON PLEAS**  
**GENERAL DIVISION**  
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**(updated 10/21/2021)**

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**RULES OF COURT**  
**LORAIN COUNTY COURT OF COMMON PLEAS**  
**GENERAL DIVISION**

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The General Division of the Common Pleas Court for Lorain County, Ohio adopts the following rules for the conduct, government and management of business operations, court proceedings and other functions and services of the Court. These rules govern the procedure in the Lorain County Common Pleas Court, General Division, and supersede all previous rules promulgated by the General Division. These rules do not govern the procedure in the Probate, Juvenile or Domestic Relations Divisions.

These rules shall supplement and complement the Ohio Rules of Civil Procedure, the Ohio Rules of Criminal Procedure, the Rules of Superintendence for the Courts of Ohio, the Ohio Revised Code and any other applicable authority.

**RULE 1**

**TERMS AND SESSIONS OF THE COURT**

**A. TERMS OF COURT**

The Court shall be in continuous sessions for the transaction of judicial business, but each calendar year shall be divided into four (4) terms, designated as the January, April, July and October terms of Court.

**B. RESPONSIBILITY DURING TERM OF COURT**

The Judge assigned to each term of Court shall supervise the grand jury. The assignment shall be rotated among the several judges of the General Division in the order of their seniority upon the bench. The grand jury Judge shall handle criminal matters that may arise in individual cases prior to indictment and arraignment, including setting of bonds, extraditions and habeas corpus actions pertaining to extraditions. The grand jury Judge shall be responsible for handling arraignments, judgment lien executions and miscellaneous docket cases filed during the Judge's term.

**C. HOURS OF SESSION**

The hours for the regular sessions of the Court shall be from 8:30 a.m. to 12:00 noon and from 1:00 to 4:30 p.m., Monday through Friday of each week, except for those days designated by law as legal holidays. Each Judge may establish earlier opening or later closing times to handle civil pre-trials or motions and may extend the closing hour during trials when deemed necessary.

#### D. PHOTOGRAPHS AND VIDEO RECORDINGS PROHIBITED

Taking photographs or video recordings is prohibited anywhere on the 6<sup>th</sup> and 7<sup>th</sup> floors of the Justice Center, absent prior Court approval. Anyone found to be in violation of this order is subject to confiscation of their equipment, fines and incarceration.

### **RULE 2**

#### **FILING, REMOVAL, SERVICE OF PROCESS, AND RECORDS** **RETENTION BY THE CLERK**

##### A. FILING

###### 1. Duties of Clerk

In accordance with these rules, the Clerk of Courts shall file and maintain all documents delivered to the Clerk's Office. The Clerk is instructed to refuse to accept for filing any document or case that does not conform to these rules.

###### 2 Filing Requirement in General

All pleadings, motions, briefs and other similar documents that are filed with the Clerk shall meet the following requirements:

- (a) Be typewritten or legibly printed on 8 1/2" x 11" paper, securely bound and without backing;
- (b) Contain a blank space of at least 2 1/2 inches at the top of the first page for endorsements;
- (c) Contain a short title indicating the nature of the document (complaint, answer, motion, brief, etc.);
- (d) Be signed by the attorney of record or party when not represented by counsel;
- (e) Include the attorney registration number, if applicable, along with the address, telephone, fax, and email of the individual filing the document.

###### 3. Complaint

Every complaint shall be accompanied by a case designation sheet which may be obtained from the Clerk of Courts. In addition, the complaint shall include the name and address, if known, of each party.

#### 4. Subsequent Documents

All pleadings, motions, briefs, and documents subsequent to the complaint shall include the following:

- (a) The name of the first party plaintiff and the first party defendant;
- (b) The name of the Judge to whom the case is assigned;
- (c) The case number.

#### 5. Discovery Papers

The Clerk of Courts shall not accept for filing depositions, transcripts, interrogatories, requests for documents, requests for admissions, answers and responses thereto unless they are accompanied by a certification that said documents are being filed on order of the Court, or for use as evidence in a motion or proceeding.

### B. REMOVAL, EXAMINATION, AND DUPLICATION

#### 1. Removal

No person except a Judge or a member of a Judge's staff shall remove any documents or case files from the custody of the Clerk. Originals of papers or pleadings in this Court shall not be taken from the courthouse, except upon order of the Court.

#### 2. Examination

Upon request, the Clerk of Courts shall allow any person to examine, but not remove, any original document or case file that is maintained by its office. Examination shall be allowed during regular business hours.

#### 3. Duplication

Upon request and the payment of a photocopy fee, the Clerk shall provide copies of any original document, excluding transcripts, maintained by its office. Copies shall be provided during regular business hours within a reasonable period of time as determined by the Clerk of Courts. A reasonable period of time shall be based upon the extent of the request with efforts toward a 24-hour response time.

### C. SERVICE OF PROCESS AND ELECTRONIC TRACKING OF CERTIFIED MAIL

The Clerk may utilize service of process methods as outlined in Civil Rule 4.1, which methods shall include "virtual" service of process utilizing advanced postal technology for service by certified mail, including but not limited to, certified electronic return receipt technology. This advanced postal technology does not modify Civil Rule 4.1(1) Service by Certified Mail, but merely provides for advanced electronic and website technology in the sending of certified mail and receipt of confirmation utilizing the

Court's website to show to whom the mail was delivered, the date of delivery and address where delivered, all in accordance with the Civil Rules currently in existence.

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

#### **D. EVIDENCE AND RECORD RETENTION**

The following evidentiary materials which have been proffered and admitted into evidence will be retained by the Court in accordance with the appropriate period of retention:

- (a) papers, documents, photographs, diagrams, blueprints (all must be 8 1/2" x 11" in size);
- (b) CDs, DVDs.

Evidence which is not admitted or which has not been specifically identified herein shall be retained and kept by the party, person, agency, office or department offering such evidence, pursuant to all applicable rules governing the retention of such evidence.

All exhibits must conform to the standards for retention set forth in this rule. By way of example, oversized demonstrative exhibits, such as presentation boards, shall be substituted with an exact duplicate copy 8 1/2" x 11" in size.

Additionally, the Court's receipt and admission of other types of evidence shall not be construed as taking possession, custody or control of said evidence. Possession, custody, or control at all times shall remain with the offering party, person, agency, office or department.

Upon the expiration of the appropriate period of retention, evidence or records in the custody of the Clerk and/or Court may be destroyed after notice and in accordance with the relevant rules.

### **RULE 3**

#### **FASCIMILE FILINGS**

##### **A. IN GENERAL**

This rule has been instituted solely for the convenience of those filing documents with the Clerk of Courts. Neither the Clerk of Courts nor the Court assumes any new or additional responsibilities, obligations or liabilities by virtue of this Rule. This Rule pertains only to the method of filing, it does not override, alter, amend, revoke or otherwise change any Local Rule or Ohio Rule of Civil or Criminal Procedure.

## B. FILINGS NOT ACCEPTED

Except for the following documents, this Rule authorizes the filing of facsimile transmissions of pleadings, motions and other documents that may otherwise be filed with the Clerk of Courts.

### 1. Commencement of an Action

Any filing commencing an action (e.g., a complaint, a third party complaint, a post-decree motion, a motion for injunctive relief) for which the Clerk of Courts must collect an initial case deposit against costs or a specific filing fee and/or for which the Clerk of Courts is required to effectuate service or summons.

### 2. Journal Entry

Any entry which must be signed by a Judge.

## C. COVER PAGE

Any faxed document must include a cover page containing the following information:

- Case number;
- Caption of the case;
- Assigned Judge;
- Description of the documents being filed;
- Date of Transmission;
- Transmitting fax and contact number; and
- Number of pages, including cover.

***If the cover page does not contain all required information, the faxed documents shall not be entered on the docket and shall be considered a nullity. The Clerk of Courts is not required to send any form of notice to the sender of a failed fax filing.***

## D. FACSIMILE MACHINE

The facsimile machine available for receiving fax filing for Common Pleas **Civil** Cases is **(440) 328-2416** and for **Criminal** Cases is **(440) 329-5404**. These lines are available twenty-four (24) hours per day, seven (7) days per week. Fax filings may not be sent directly to the Court for filing but may only be transmitted through the Clerk of Courts. Transmissions sent to any other location are neither covered by nor permitted under this Rule. However, copies of filings otherwise properly filed with the Clerk of Courts, such as courtesy copies for the Court, may, with Court approval, be sent by facsimile directly to the Court. Facsimiles sent directly to the Court shall not be considered as having been filed thereby.

#### E. DOCUMENT RESTRICTIONS

A fax transmission may contain more than one document but may not apply to more than one case number per transmission. Motions and other filings making reference to or incorporating other documents attached to the motion or other filing as an exhibit thereof shall be considered as part of a single file. If exhibits are impossible or burdensome to send by facsimile the original exhibits may be separately filed if done so within forty-eight (48) hours of the related transmission. If the exhibits are filed separately, then an insert page describing the exhibit must be included in the facsimile transmission. Facsimile transmissions must comply with the filing requirements under Local Rule 2 and may not exceed twenty (20) pages regardless of the number of documents being sent.

#### F. DATE AND TIME

Subject to the other provisions of the Rule, all documents filed by fax shall be considered filed with the Clerk of Courts as of the date and time that the fax transmission has been received by the Clerk of Courts. For purposes of this provision and for entering such filings into the docket system, a facsimile filing shall be deemed to have been received by the Clerk of Courts as of the date and time printed at the top of each page of the incoming fax as printed out by the Clerk of Courts' facsimile equipment. There shall be no other date and time stamp required for the filing of a fax document with the Clerk of Courts. The risks of transmitting a document by fax to the Clerk of Courts shall be borne entirely by the sender.

#### G. ORIGINAL FILING

A document filed by fax shall be accepted as the original filing, provided all the requirements set forth in this Rule are satisfied. The source document shall not be filed with the Clerk of Courts. However, until the case is closed and all opportunities for post-judgment relief are exhausted, any source documents filed via facsimile shall be retained and available for production at the Court's request.

#### H. SIGNATURES

Facsimile filings shall contain a signature or a /s/ notation followed by the name of the person signing the source document.

#### I. ACCEPTANCE OR REJECTION

**The Clerk of Courts is hereby authorized to reject and will not docket any facsimile transmission which fails to comply with these rules.**

## **RULE 4**

### **ELECTRONIC/INTERNET FILINGS**

(To Be Established)

## **RULE 5**

### **SECURITY FOR COSTS**

#### **A. IN GENERAL**

No civil action or proceeding shall be accepted by the Clerk of Courts for filing unless the party or parties offering same for filing shall have first deposited a sum to secure the payment of costs that may accrue in such action or proceedings, except as otherwise provided by law. Such advance deposit shall be in accordance with the schedule approved by the Court and prepared and published by the Clerk of Courts. The Court may also order the deposit of additional funds depending on the nature of the case. All costs associated with the case may be deducted from the security deposit regardless of which party is ordered to pay the costs.

#### **B. CASES TRANSFERRED FROM MUNICIPAL COURT**

On cases transferred to the Common Pleas Court in which the demand of the cross-claim or counter-claim exceeds the monetary jurisdiction of the Municipal Court, the cross-claimant and counter-claimant shall post security for costs in a sum equal to the amount required if the case were originally filed in this Court.

#### **C. MULTIPLE PARTIES**

In cases with multiple parties, the Clerk of Courts may require the party requesting service to advance an amount estimated by the Clerk to be sufficient to cover the costs thereof.

#### **D. BOND IN LIEU OF CASH**

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

#### **E. POVERTY AFFIDAVITS**

A poverty affidavit filed in lieu of a cash deposit must state the reasons for the inability to prepay costs and is subject to Court review at any stage of the proceedings.

## **RULE 6**

### **PRESIDING AND ADMINISTRATIVE JUDGE**

Judicial administration of the General Division shall be in accordance with the Rules of Superintendence for the Courts of Ohio.

## **RULE 7**

### **THE ASSIGNMENT SYSTEM**

#### **A. IN GENERAL**

Except as otherwise provided, all cases shall be assigned to a Judge by a random computer selection process. Civil cases shall be assigned at the time and in the order of filing or transfer from another Court. Criminal cases shall be assigned following preparation of the arraignment list by the Clerk of Courts. Secret indictments shall be assigned following service upon the Defendant.

#### **B. CIVIL REFILING AND CONSOLIDATION**

##### **1. Refiling – Civil Rule 41**

When a previously dismissed case is refiled, the attorney or party shall indicate so on the case designation sheet. The Clerk of Courts shall assign the refiled case to the Judge assigned at the time of the original dismissal. Any case filed beyond the guidelines established by Civil Rule 41 is a new action not subject to this rule.

##### **2. Consolidation**

When actions involving a common question of law or fact have been filed as separate cases, a motion for consolidation shall be filed with the Court to whom the lowest case number has been assigned. If the motion is granted, the cases shall be consolidated and go forward under the lowest case number.

##### **3. Civil Forfeiture**

Civil forfeiture cases shall be assigned or transferred to the Judge presiding over any related criminal case. The party seeking forfeiture shall inform the Court and file a motion to transfer whenever the underlying civil matter relates to any pending criminal case.

## C. CRIMINAL COMPANION AND CAPITAL CASES

### 1. Pending Case

When a Defendant has a pending case, any new case shall be assigned to the judge with the pending case, with the exception of criminal non-support cases. Any and all such criminal non-support cases will be assigned to the Probate Judge. With the exception of criminal non-support cases, no other criminal cases will be assigned to the Probate Judge and shall be assigned as set forth above.

### 2. Multiple Defendants

When cases involving multiple Defendants are related, all cases shall be assigned to the Judge with the lowest pending case number.

### 3. Dismissal and Re-indictment

When an individual is indicted for offenses that were pending in a case that was previously dismissed, the new case shall be assigned to the Judge who was presiding over the original matter.

### 4. Capital Case

All capital cases shall be assigned randomly through a process where each Judge, after receiving an assignment, is excluded from the assignment pool until all Judges have received a capital case. With respect to capital cases, the assignment process specified herein shall supersede all other local criminal assignment rules. The other assignment provisions of Local Rule 7(B) shall apply when not in conflict with this rule.

### 5. Specialized Dockets

Specialized Dockets of the General Division shall be in accordance with the Rules of Superintendence for the Courts of Ohio and any procedures established by the Specialized Dockets Section of the Ohio Supreme Court

### 6. Lorain County Recovery Court (Felony Drug Court)

(a) A specialized docket is created for the purpose of operating a felony drug court focused primarily on the opiate addicted defendant. The Lorain County Recovery Court (hereinafter referred to as "LCRC") shall be established in accordance with the requirements set forth in Ohio Supreme Court's Rules of Superintendence and shall operate and implement the "specialized docket standards" set forth in those Rules and Appendixes. The objective of the court is to reduce substance abuse and recidivism for the opiate addicted felony defendant by utilizing addiction and mental health treatment professionals and community control alternatives. The court began operation as a pilot program in September of 2015.

(b) Placement

Placement is initiated by obtaining and completing a “referral form” that is available from all the general division judges. This form must be completed and delivered to the LCRC Coordinator. The Coordinator will begin the analysis for clinical eligibility and a copy of the referral form will be given to the prosecutor to examine the case for legal eligibility. The LCRC operates on two tracks: Intervention and Post-Conviction Track.

(c) Eligibility

(1) The Intervention Track:

This track follows the eligibility of RC 2951.041 with the exception that no drug trafficking offenders are eligible. Successful completion of this track will result in a dismissal of charges.

(2) Post-Conviction Track:

So long as the defendant lives in the jurisdiction of Lorain County and is sentenced to a community control sentence/probation or judicial release supervision on the current offense, the defendant is legally eligible.\* The current offense must be eligible for a community control sentence.

*\*In all cases, a defendant will be clinically assessed to determine if the LCRC is an appropriate level of supervision (clinically eligible). In all cases where a defendant is found to be eligible for the LCRC, it is the sentencing judge who has sole discretion to add LCRC as a term of supervision.*

(d) Case Assignment

When a defendant’s case is “referred to the LCRC”, a journal entry so stating is executed by the assigned judge. The case remains with the assigned judge during the referral process. Once a defendant is determined to be clinically and legally eligible, attends orientation, signs the participation agreement and is approved for acceptance into the LCRC by the treatment team and LCRC judge, the case is then transferred to the LCRC Judge’s docket by the administrative judge. When a case is transferred to the Recovery Court Docket, the assigned Recovery Court Judge shall acquire full jurisdiction over that transferred case.

(e) Case Management

The LCRC, in conjunction with the Lorain County Adult Probation Department, have teamed with numerous county addiction treatment and mental health providers, residential sober living houses, recovery coaches, and the Lorain/Medina Community Based Correctional Facility to provide wrap around services to participants. The complete program is set forth in the LCRC Program Description. Participant requirements are set forth in the LCRC Participant Handbook and the LCRC Participant Agreement, all incorporated herein.

(f) Termination

There are two types of termination criteria: unsuccessful and neutral discharge.

- (1) Unsuccessful Termination: Criteria have been developed by the LCRC Advisory Committee. The Recovery Court Judge has the ultimate discretion in determining termination from the program. Criteria for unsuccessful termination may include: on-going non-compliance with treatment or refusal of treatment; new criminal charges which would have otherwise rendered the participant ineligible for the program; committing a serious infraction or series of infractions which graduate to the level of a “last chance” and having an outstanding warrant for non-compliance from the program for thirty (30) days or more. Defendants terminated unsuccessfully from the LCRC will be sentenced in accordance with current felony sentencing statutes in Ohio. Defendants on the intervention track who are terminated unsuccessfully will be convicted of the felony charges they plead guilty to prior to sentencing.
- (2) Neutral Discharge: In general, a neutral discharge may result from any number of reasons other than violation behavior. Defendants physical health may prevent further participation. The treatment team and LCRC judge may decide that continued participation is inappropriate. In cases of neutral discharge involving a defendant on the Intervention Track, the LCRC judge and the prosecutor will consult to determine if there are factors present which warrant conviction and sentence, or a transfer to another diversionary program.

(g) Appointment of Judges to preside over Recovery Court

The Administrative Judge will select a Common Pleas Court General Division judge(s) for LCRC docket(s). The judge(s) will serve for a period of three years from date of appointment. Upon approval of the Administrative Judge, the judge(s) may be reappointed to successive

terms. Thereafter, any Common Pleas Court General Division judge(s) who desire to preside over a LCRC docket may submit their names to the Administrative Judge for consideration.

7. Lorain County Wellness Court (Felony Mental Health Court)

(a) Establishment of Wellness Court—The Lorain County Common Pleas Wellness Mental Health Court (“Wellness Court”) is a specialized docket program offering targeted treatment for offenders who have been diagnosed with a severe or serious mental illness where such illness was a primary factor leading to their involvement in the criminal justice system. The Wellness Court operates as required by Sup.R. 36.20 through 36.29.

(b) Placement

The Wellness Court serves Lorain County residents who are charged with felonies and have a serious mental illness which has led to criminal justice involvement and for whom community-based, court-monitored treatment would provide the ability to lead self-sufficient, law-abiding lives.

Placement into Wellness Court is initiated by obtaining and completing a *referral form* that is available from all the general division judges. This form must be completed and delivered to the Wellness Court Coordinator. The Coordinator will begin the analysis for clinical eligibility and a copy of the referral form will be given to the prosecutor to examine the case for legal eligibility. Any one or more of the following will generally render the offender **ineligible** for the Wellness Court: sex offenses; arson; an offense involving a child victim; history of serious or repetitive violence; defendant is Not Guilty by Reason of Insanity (NGRI) or Incompetent to Stand Trial; history of sex offenses or child victim offenses; history of offenses which were not driven by mental illness; or defendant poses a significant risk of harm to Wellness Court staff.

(c) Case Assignment

When a defendant’s case is referred to Wellness Court, a journal entry is executed by the assigned judge. The case remains with the assigned judge during the referral process. Once a defendant is determined to be clinically and legally eligible, attends orientation, is approved for acceptance into the Wellness Court by the treatment team and judge, and signs the participation agreement, the case is then transferred to the Wellness Court judge’s docket by the administrative judge.

(d) Case Management

The Lorain County Common Pleas Court and the Lorain County Adult Probation Department have teamed with numerous county mental health and addiction service providers, community support service providers, NAMI Lorain County, and local law enforcement to provide

comprehensive services to Wellness Court defendants. Complete program eligibility, requirements, and expectations are delineated in the Wellness Court Program Description. Specific participant requirements are explained in the Wellness Court Participant Handbook and the Wellness Court Participation Agreement.

(e) Termination

There are two types of termination criteria from the Wellness Court: unsuccessful termination and neutral discharge. The Wellness Court Judge has final discretion to decide whether a participant should be terminated from the Wellness Court.

- (1) Unsuccessful Termination: The following actions may lead to unsuccessful termination from the Wellness Court: ongoing non-compliance with treatment or resistance to treatment; new serious criminal convictions; a serious infraction of the Wellness Court rules or a series of infractions; or a serious probation violation or a series of probation violations. If a participant is unsuccessfully terminated, the participant may have his or her community control sanctions modified. This may include extension of community control, commitment to a community based correctional facility or residential treatment facility, or revocation of community control with jail or prison sanctions. If a revocation hearing occurs, the Wellness Court Judge will adjudicate the proceedings.
- (2) Neutral Discharge: The following actions or events may lead to neutral discharge from the Wellness Court: a serious medical condition resulting in the participant's inability to participate in the Wellness Court and adhere to the requirements of the Wellness Court; a serious mental health condition resulting in the participant's inability to comply with the requirements of the Wellness Court; death of the participant; or any other factor(s) that may keep the participant from meeting the requirements for successful completion. Neutral discharge from the Wellness Court may result in the following: Defendant's case will proceed in front of the Wellness Court Judge; and should the defendant wish to be admitted to the Wellness Court in the future, the Treatment Team and Wellness Court Judge shall review the case closely, and the final decision whether to readmit the defendant is with the Judge.

(f) Appointment of Judges to preside over Wellness Court

The Administrative Judge will select a Common Pleas Court General Division judge(s) to preside over Wellness Court. The judge(s) will serve for a period of three years from date of appointment. Upon approval of the Administrative Judge, the judge(s) may be reappointed to successive terms. Thereafter, any Common Pleas Court General Division judge(s)

who desires to preside over Wellness Court may submit his/her name to the Administrative Judge for consideration.

**D. REASSIGNMENT**

Any cases requiring reassignment shall be referred to the Administrative Judge, along with the reason for reassignment. When merited, the Administrative Judge will reassign the case. The Judge receiving the case may transfer a case of similar import to the Judge requesting reassignment.

**E. APPLICATION FOR SEARCH WARRANTS**

In any application to obtain a search warrant, pursuant to Ohio Crim. R. 41, the applicant must swear or affirm in his/her supporting affidavit that an application seeking to conduct the same search has not been previously presented to, and been denied by, a Judge authorized by law to issue a warrant to search.

If an application for a warrant to search has been previously presented to a Judge authorized by law to issue the warrant and has been denied, then, unless the previous Judge is unavailable, an amended application, with any additional factual allegations supporting probable cause to issue the warrant shall be presented to the same Judge.

**F. TRANSFER OF SUPERVISION FOR NEW FELONY CHARGE**

When an offender who is under supervision on a community control sentence is charged with a new felony which would constitute a violation of that community control sentence, the judge assigned the new felony may, with the consent of the judge who issued the community control sentence, transfer the new case to the judge who issued the community control sentence to consolidate the cases and to minimize the impact upon court resources. If a judge requests such a transfer and the offender has companion cases, the judge requesting transfer must take the companion cases as well. No reassignment of a case pursuant to Rule 7(D) above is required.

**RULE 8**

**NOTICE**

In general, notification of the assignment of a case for any purpose shall be by ordinary mail. In the event mail delivery would be untimely because of a scheduling adjustment, telephone, fax or electronic communication may be utilized.

## **RULE 9**

### **MOTIONS / BRIEFS IN CIVIL CASES**

#### **A. MOTIONS FOR SUMMARY JUDGMENT**

Unless otherwise ordered by the Court, any motion for summary judgment will be decided without an oral hearing. The Judge shall consider the matter submitted for ruling 28 days after the filing of the motion.

As provided in Ohio Civ. R. 56, any brief in opposition shall be filed prior to the expiration of the 28 days. Any response not filed by that date will not be considered. Reply briefs, if any, shall be filed within 7 days of the filing of any brief in opposition.

Original evidentiary materials as permitted by Civ. R. 56(C) shall be filed with the Clerk of Courts with the original motion.

#### **B MOTIONS OTHER THAN SUMMARY JUDGMENT**

All motions shall be accompanied by a brief stating the grounds thereof and citing the authorities relied upon. The opposing party may file a Brief in Opposition within 14 days after the day on which the motion was filed and any reply brief shall be filed 7 days after the filing of the brief in opposition. Thereafter, the motion shall be deemed submitted for ruling. Unless otherwise ordered by the Court, motions will be decided without an oral hearing.

This rule does not apply to court-discretionary motions which include, but are not limited to, Motions for Leave to Plead, Motions for Extensions of Time and Motions to Continue.

#### **C. EXTENSIONS OF TIME**

The time periods set forth herein may be modified by the Court, for good cause shown, upon written application by either party or upon the Court's own motion.

#### **D. ORAL HEARINGS**

No motions in civil cases will be set forth for oral arguments unless a written request is made thereof by the moving party, or any other party, which request shall be noted conspicuously in the pleading. Upon receipt of such request from counsel, or upon the Court's own motion, the trial judge may set any motion for oral argument.

## **RULE 10**

### **CIVIL CASE MANAGEMENT PROCEDURE**

The purpose of this rule is to ensure the efficient and comprehensive management of civil cases.

#### **A. CASE MANAGEMENT CONFERENCE**

##### **1. Timing**

Within ninety (90) days of the filing of responsive pleadings, the case shall be set by the Court for a case management conference. Except as otherwise ordered by the Court, the parties' attendance is not required.

##### **2. Notice**

Notice of the case management conference shall be mailed to all counsel of record at least fourteen (14) days prior to the conference.

##### **3. Procedure**

(a) The case management conference shall be conducted in person, or by telephone with prior Court approval. All counsel attending shall have full authority to enter into a binding case management order. Failure of counsel to appear will result in counsel forfeiting the right to have any input into the scheduling order.

(b) Counsel shall consult with their client(s) and opposing counsel in advance of the case management conference and be prepared to confer practically and earnestly on all matters as may aid in the disposition of the action. The following matters will be considered at the case management conference:

- (1) The possibility of settlement of the action or referral to ADR;
- (2) The necessity of amendments to the pleadings;
- (3) Itemization of expenses and special damages;
- (4) Deadlines for the exchange of expert reports, completion of discovery and filing of motions;
- (5) Dates for further pretrial conference and trial.

***Failure of counsel to be fully prepared for the case management conference may result in sanctions.***

## B. FINAL PRE-TRIAL

### 1. Purpose

The purpose of the Case Management Conference is to effect an amicable settlement, if possible, and to narrow factual and legal issues by stipulation or motions.

### 2. Final Pre-trial Statement

All counsel shall cooperate with Plaintiff's counsel, who shall file a **joint** statement at least one (1) day before the final pre-trial, setting forth the following:

- (a) Statement of agreed facts and issues, with disputed facts and issues of law noted;
- (b) Jury instructions including a list of non-OJI contemplated by any party;
- (c) Plaintiff's demand and Defendant's offer;
- (d) List of expert and non-expert witnesses;
- (e) Legal or evidentiary problems anticipated;
- (f) Estimated length of trial;
- (g) Each party's anticipated pre-trial motions;
- (9) Equipment needs for trial.

*Failure of any party to cooperate in the joint statement may result in sanctions.*

### 3. Attendance

All parties and chosen representatives must be present, or in exceptional circumstances, with prior Court approval, be available by telephone, with full settlement authority. If the real party in interest is an insurance company, corporation, or other artificial entity, then the chosen representative must have full authority to negotiate the claim to the full extent of Plaintiff's demand.

## **RULE 11**

### **TRIAL WITNESSES**

#### **A. EXPERT WITNESSES**

##### **1. Reports**

Expert testimony, discovery, disclosure and exchange of expert reports, including the substitution of medical records of a Healthcare Provider in lieu of an expert report, are governed by Rule 26 (B)(7) of the Ohio Rules of Civil Procedure.

##### **2. OBJECTIONS.**

If either party questions the sufficiency of a medical record to meet the requirement to permit a Healthcare Provider under Civil Rule 26 (B) (7) (d) to testify on a particular issue, any party may file a Motion in Limine to permit or exclude any or a portion of potential testimony of the Healthcare Provider. All Motions in Limine under this rule shall be filed at least fourteen (14) days before the scheduled trial deposition testimony or live appearance of the Healthcare Provider. Either at the time the Motion is filed, if filed by the plaintiff, or within seven (7) days if the motion is filed by a defendant, the plaintiff shall provide the Court only, and not the Clerk of Courts, the pertinent medical records with those portions highlighted or otherwise marked for easy reference that support the plaintiff's claim that the records suffice for providing adequate notice to opposing counsel of subject matter for which the Healthcare Provider may testify at trial. The Court may rule with or without a hearing.

##### **3. RULING ON OBJECTION.**

Once the Court rules on the Motion in Limine, the Court shall attach to its entry any medical records provided under Section 2 of this rule. Such medical records shall be filed under seal.

##### **4. DISCOVERY DEPOSITIONS.**

A party may take a discovery deposition of their opponent's medical or expert witness, only after the mutual exchange of reports has occurred. Upon good cause shown, additional time after submission of both sides' expert reports will be provided for these discovery depositions. If a party chooses not to hire an expert in opposition to an issue, that party will be permitted to take the discovery deposition of the proponent's expert. In this situation, the taking of a discovery deposition of the proponent's expert constitutes a waiver of the right on the part of the opponent to call an expert at trial on the issues raised in the proponent's expert's report.

## B. NON-EXPERT WITNESSES

All parties are required to submit a trial witness list, including the full name and address of all witnesses expected to testify at the trial on their behalf, no later than fourteen (14) days prior to the final pre-trial. Thereafter, upon a showing of good cause, the opposing party may take the discovery deposition of any witness contained on the opposing party's trial witness list who has not been previously deposed during the normal discovery period. This extension of discovery cutoff is specifically restricted to depositions not previously taken of individuals listed on the opponent's trial witness list.

## **RULE 12**

### **TRIAL CONTINUANCES**

Continuances of civil and criminal cases shall be in accordance with Rule 41 of Superintendence for the Courts of Ohio.

#### **A. FAILURE TO PROCEED WITH TRIAL**

If a party or counsel seeking affirmative relief fails to appear or is not ready to proceed with trial, the Court may, in its discretion, dismiss the claim for want of prosecution. With respect to the Defendant or their counsel, the Court may proceed with the case and determine all matters *ex parte*.

#### **B. SETTLEMENT OR DISMISSAL PRIOR TO TRIAL**

If a case set for trial is settled or dismissed, the trial counsel shall immediately notify the Court. Failure to timely provide notice may result in the imposition of additional costs.

## **RULE 13**

### **ALTERNATIVE DISPUTE RESOLUTION (ADR)**

#### **A. ADR METHODS**

The Court recognizes these ADR methods: mediation and arbitration. The Court may approve any other ADR method the parties suggest or the Court believes is suited to the litigation. All ADR methods are important. Parties and counsel are expected to meaningfully participate. Failure to comply with the rules will result in appropriate sanctions, including the possibility of dismissal, default or waiver of the right to file an appeal de novo. Mediation is a non-binding process involving a neutral mediator who acts as a facilitator to assist the parties to craft a mutually acceptable resolution for themselves. Arbitration is an adjudicative process by which a neutral person or persons decide the rights and obligations of the parties. It may be consensual, mandatory, non-binding or binding.

#### **B. TIMING OF ADR DECISION**

Before the initial pre-trial conference in a case, counsel shall discuss the appropriateness of ADR in the litigation with their clients and with opposing counsel. At the initial pre-trial conference, the parties and counsel shall advise the Court of the results of their discussions concerning ADR. At that time and at subsequent conferences, if necessary, the Court may explore with the parties and counsel the possibility of using ADR.

#### **C. OPPOSITION TO ADR REFERRAL**

A party opposing either the ADR referral or the appointed mediator/arbitrator must file a written objection with the Court within seven (7) days of receiving notice of the referral or provider and explain the reasons for any opposition.

#### **D. ATTENDANCE AND AUTHORITY TO SETTLE**

Unless otherwise provided by the Court, party representatives with authority to negotiate a settlement and all other persons necessary to negotiate a settlement, including insurance carriers, must attend any ADR session. In the event the parties and/or their attorneys do not attend the ADR session, or do not meaningfully participate in the process, the ADR provider(s) may recommend to the Judge appropriate sanctions, including, but not limited to, dismissal, default judgment, attorney fees and/or costs.

#### **E. BINDING NATURE**

The result of ADR proceedings are not binding unless the parties agree otherwise.

#### **F. CONFIDENTIALITY, PRIVILEGES AND IMMUNITIES**

All communications made during ADR procedures, other than by witnesses testifying under oath, are confidential and protected from disclosure, except as otherwise provided

by law, and do not constitute a waiver of any existing privileges and immunities. ADR providers shall be prohibited from being called as witnesses in any subsequent legal proceeding, except as to the terms of the settlement agreement.

## **RULE 14**

### **WITHDRAWAL OF COUNSEL FROM CASES**

- A. Pursuant to Ohio Rule of Professional Conduct 1.16 (c), leave of court must be obtained before an attorney may withdraw from employment in pending litigation unless new counsel files a Notice of Appearance or Substitution of Counsel.

## **RULE 15**

### **MEDIATION**

#### **A. OHIO UNIFORM MEDIATION ACT**

Lorain County Court of Common Pleas, General Division, incorporates by reference the R.C. 2710 "Uniform Mediation Act."

#### **B. CASE SELECTION FOR MEDIATION**

1. Any civil case may be referred to mediation. Mediation will not be used as an alternative to the prosecution or adjudication of domestic violence, to determine whether to grant, modify or terminate a protection order, to determine the terms and conditions of a protection order or to determine the penalty for violation of a protection order. Nothing in this rule will prohibit the use of mediation in a subsequent divorce or custody case, even though the case may result in the termination of the provisions of a protection order pursuant to R.C. 3113.31.
2. If domestic abuse or domestic violence is alleged, suspected or present, mediation will not proceed until the following conditions have been satisfied:
  - (a) The mediator conducts and the parties participate in a screening, both before and during mediation, for domestic abuse/violence and for the capacity of the parties to mediate;
  - (b) The person who is or may be the victim of domestic abuse or domestic violence is fully informed about the mediation process, the 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 sessions;
  - (c) The assessment of the mediator during such screening concludes that the parties can mediate without fear of coercion or control;
  - (d) The Court has taken reasonable precautions to create a safe mediation environment for the parties and all other persons involved in the mediation process;
  - (e) Procedures are in place for the mediator to terminate a mediation session if there is a threat of domestic abuse, domestic violence or coercion between the parties; and
  - (f) Procedures are in place for issuing written findings of fact to refer certain cases involving domestic violence to mediation, as required by R.C. 3109.052.

### C. REFERRAL TO MEDIATION

A case is referred to mediation by order of the Court. The Court may issue the order upon its own motion, upon the motion of counsel, upon referral by the mediator or upon agreement of the parties.

### D. CONTINUANCES

Continuances will be granted only for good cause shown. Except as authorized by the Court, the existence of pending motions will not be good cause for a continuance and no continuance will be granted unless the mediation can be scheduled prior to the final pretrial.

### E. NO STAY OF PROCEEDINGS

All remaining court orders will remain in effect. No order is stayed or suspended during the mediation process.

### F. MEDIATION PRIVILEGE, CONFIDENTIALITY, NO PUBLIC ACCESS

#### 1. Mediation Privilege

Mediation communications are privileged, as described in Ohio Revised Code 2710.03 - 2710.05.

#### 2. Confidentiality

If the parties believe that confidentiality beyond the scope of the privilege is necessary, then the parties will effect a written confidentiality agreement prior to the mediation.

#### 3. No Access to Mediation Files

The files maintained by a mediator and documents provided to the mediator by a party but not filed with a clerk or submitted to the Court will not be available for public access pursuant to Sup. R. 44 through 47. The mediator may not be called as a witness for any purpose. All information contained the mediator's files can be purged at any time at the discretion of the mediator, except that any Summary of Agreement retained by the mediator will be retained for one year from the date of the execution of that Summary of Agreement.

### G. RESPONSIBILITIES OF THE MEDIATOR

1. Mediator is defined to mean any individual who mediates cases pursuant to an order of this Court, regardless of whether that individual is an employee, an independent contractor or a volunteer.
2. The mediator is to provide impartial and neutral facilitation of the negotiation process and will comply with all of the responsibilities required by statute, local rule and the Rules of Superintendence.
3. The mediator will inform the Court who attended the mediation, whether the case settled, whether efforts to settle the case through mediation are being continued or the case is being returned to the Court for further proceedings. Except as otherwise provided by law, no other information will be directly or indirectly communicated by the mediator to the Court, unless all who hold a mediation privilege, including the mediator, have consented to such disclosure.
4. The mediator will keep mediation communications confidential unless all who hold a mediation privilege, including the mediator, have consented to such disclosure.

#### **H. DUTIES OF ATTORNEYS, PARTIES, NON-PARTY PARTICIPANTS**

1. Trial counsel who is primarily responsible for each party's case will personally attend the mediation and will be prepared and authorized to discuss all relevant issues and settlement terms. All parties, or if applicable, the principal insurance adjuster for the claim, will personally attend all mediations with authority to settle. A party other than a natural person must be represented by a person, other than counsel, with authority to settle.
2. If counsel or any mediation party becomes aware of the identity of a person or entity whose consent is required to resolve the dispute, but who has not yet been joined as a party in the pleadings, they shall promptly inform the mediator, as well as the assigned judge, of such fact.
3. If the opposing parties to any case 1) either resided in a common residence or are related by blood, adoption, or marriage and 2) have known or alleged domestic abuse at any time prior to the mediation, then the parties and their counsel have a duty to disclose such information to the mediator. Such parties have a duty to participate in any screening required by the Supreme Court of Ohio's Rules of Superintendence Rule 16, both prior to and during the mediation session.
4. Individuals who participate in a mediation as non-party participants, by such participation, are bound by this rule and submit to the Court's jurisdiction to the extent necessary for enforcement of this rule. Any non-party participant will have the rights and duties under this rule as are attributed to parties, except that no privilege will be expanded.

**I. IMMUNITY**

A mediator acting pursuant to this local rule will have all immunity conferred by statute, rule and common law.

**J. NO LEGAL ADVICE**

The mediator will not give legal advice. The efforts of the mediator will not be construed as giving legal advice.

**K. REFERRALS**

The mediator is authorized to provide resource information for legal or other support services available in the community for all parties, including victims and suspected victims of domestic violence. Such distribution will not be construed as a recommendation of or referral to such resource. The recipient of that information is charged with the duty to evaluate those resources independently.

**L. SANCTIONS**

Failure to attend mediation without good cause may result in sanctions being imposed by the Court. Such sanctions may include attorney's fees or such other sanctions as the Court deems appropriate.

**M. ADMINISTRATIVE DISMISSAL**

If the parties fail to dismiss a settled case within the earlier of 60 days or the time noted in the entry that gave the Court notice of the settlement, then the Court may dismiss the case administratively.

**N. OVERSIGHT**

Comments or complaints regarding a mediation may be sent to the Court Administrator at 225 Court Street, 4<sup>th</sup> Floor, Elyria, Ohio 44035.

## **RULE 16**

### FORECLOSURE, QUIET TITLE, AND PARTITION OF ACTIONS

#### **A. JUDICIAL REPORTS**

In actions to quiet title, partition and for marshaling and foreclosure of liens on real property, the party seeking the quiet title, partition or judicial sale of property shall procure and file with the Clerk, within fourteen (14) days after the filing of the pleading requesting relief, evidence of the record title to the premises in question. Evidence of the title shall be demonstrated by a preliminary judicial report, which shall include those items as outlined in Ohio Revised Code 2329.191(B) and issued by a title insurance company licensed or authorized to do business in the State of Ohio. The guarantee amount on the report shall be either the fair market value of the property, based upon the county auditor value, or the principal balance of the mortgage, including any deferred amounts or other lien being foreclosed, whichever is greater. The preliminary judicial report shall include all matters affecting the title up to and including an effective date which is not more than thirty (30) days prior to the filing date of the pleading requesting relief.

Prior to the submission of a Dispositive Motion Packet, the party submitting the packet shall file with the Lorain County Clerk of Courts a final judicial report which updates the state of record title from the effective date of the preliminary judicial through at least the day after service has been perfected on all necessary parties. The Final Judicial Report must also have an effective date within six (6) months of the date of judgment. The final judicial report shall also contain a certification that all parties have been served. The cost of the title examination necessary for the preparation of both the preliminary judicial report and the final judicial report, together with the premiums for those reports based on the greater of the fair market value of the real estate or the principal balance of the mortgage or other lien being foreclosed on, shall be taxed as costs in the case. The judicial report shall be for the benefit of the named insured and the purchaser at any public sale resulting from the action filed. Failure to comply with this rule may result in dismissal of the action.

#### **B. DISPOSITIVE MOTION PACKET**

When applicable, all of the following shall be submitted in a packet, under one cover letter, to the Lorain County Clerk of Courts contemporaneous with the filing of a Motion for Default Judgment, Motion for Summary Judgment or other dispositive motion: (1) Motion; (2) Affidavit regarding Status of Account, which shall include amount in default, date of default, and applicable interest rate; (3) Final Judicial Report; (4) Military Affidavit; (5) Proposed Judgment Entry. Movant shall meet all the necessary legal requirements for judgment prior to said motion(s) being granted.

#### **C. LEGAL DESCRIPTION(s)**

1. Prior to the filing of the Complaint, the Plaintiff shall obtain the pre-approval of the legal description from the Lorain County Auditor's Office, Tax Map

Department, and shall file the original stamped “approved” description with the complaint. The Clerk of Courts shall not file any complaint that does not include a pre-approved legal description. Further, said approved legal description shall be submitted by Plaintiff, or by cross-complainants, at all stages in the foreclosure case (i.e. proposed Judgment Entry, Praecept for Order of Sale, Confirmation Entry, Sheriff’s Deed, etc.). Failure to attach the stamped “approved” legal description shall be cause for rejection of said document for filing.

2. To obtain pre-approval: The Plaintiff shall submit a completed “Property Legal Description Approval Form” to the Lorain County Auditor’s Office, Tax Map Department, at the address listed on the form. Upon review of the legal description, the Tax Map Department shall return the Property Legal Description Approval Form to the Plaintiff with a stamp of approval on the legal description or instruction to correct the legal. If corrections are required, then the corrected legal description shall be resubmitted to the Tax Map Department until approved.
3. All pleadings requesting a decree in foreclosure shall contain the permanent parcel number(s) of the subject property below the case caption. All judgment orders of foreclosure and sale shall contain the legal description of the property to be sold, together with the permanent parcel number and address including zip code, if applicable. If the property to be sold is vacant land and no street number exists, then the property address (or “Commonly Known As”) must state that it is vacant land and contain the name of the street or road upon which such property is located, together with the names of the streets or roads and the distances there from immediately north and south or east and west of such property that cross or intersect the street or road upon which it is located.

#### D. CASE MANAGEMENT

1. In any case where an owner of the subject property, or any other necessary person required for just adjudication, is believed to be deceased, evidence of death must be filed with the court via a death certificate or other reliable proof. If such evidence is unavailable, then the person believed to be deceased must be named, as well as his/her unknown heirs, devisees, next of kin, etc., and both shall be served according to the civil rules. If the property owner(s) is/are deceased, then the unknown tenants, if any, of the subject property must be named as a party and service at the subject property must be attempted. If a probate estate is open or had been opened for the deceased, a copy of the will, if any, and the next of kin form must be filed in the foreclosure action.
2. Loss Mitigation. If the parties enter into a loss mitigation agreement, such as a trial modification or repayment plan or other settlement resolution, the Plaintiff, or other party pursuing affirmative claims, must notify the Court within fourteen (14) days of entering into the agreement, at which point the Court may stay the case. Failure to notify the Court may result in a dismissal of the cause of action. Unless otherwise ordered by the Court, Plaintiff, or any party with a pending claim, shall complete service upon all parties, even if loss mitigation is in place, or the claim may be subject to dismissal.

3. Publication. If a party completes service by publication, that party is responsible for ensuring that proof of publication is filed with the Clerk.

E. SANCTIONS / DISMISSAL OF ACTION

Failure to comply with the foregoing requirements shall be grounds for the imposition of sanctions and/or dismissal of an action. Sanctions/Dismissal may be granted on motion of any party or upon the motion of the Court.

## **RULE 17**

### **JUDICIAL SALE**

#### **A. SHERIFF'S SALE**

##### **1. PRAECIPE FOR ORDER OF SALE**

In non-tax foreclosure matters, each praecipe to the Clerk for an Order of Sale shall be accompanied by: 1) the bill or invoice for preparation of the preliminary and final judicial reports, if they are to be taxed as costs in the case; 2) effective with all initial praecipes filed on or after October 1, 2020, the one-time per case license fee for the online auction management system pursuant to R.C. 2329.153 as set forth in the schedule of deposits and fees maintained by the Clerk of Courts, which shall be taxed as costs in the case; and 3) a check or money order made payable to the Lorain County newspaper of general circulation in which the legal advertisement for sale of the subject property is to run. The choice of newspaper and amount of the payment for the legal advertisement shall be based upon a schedule developed by and available from the Lorain County Sheriff's Department, Civil Office. The Clerk shall not deposit the check or money order. The Clerk shall issue the Order of Sale to the Sheriff, accompanied by the check or money order required to pay for the legal advertisement. The Sheriff shall forward said payment directly to the appropriate newspaper upon placing the legal advertisement. The Clerk is instructed to reject for filing any praecipes for Orders of Sale in non-tax foreclosure matters that are not accompanied by the required payment for the legal advertisement. The costs for the newspaper advertisement shall be taxed as costs to the case.

##### **2. SHERIFF'S RETURN**

Within ten (10) days of the date of sale, the Sheriff shall make his return to the Court. Counsel for the party requesting execution shall submit a proposed journal entry confirming the sale and file a motion requesting the Court to confirm the sale, stating in the motion the date the sale was held, and send copies to all parties or their counsel by regular U.S. mail, no later than fourteen (14) days following the day on which the sale was held. It shall not be necessary to have approval of any parties or their counsel prior to filing such entry. The failure to submit a confirmation order within the time provided may result in sanctions, including any damages, costs or fees incurred by the purchasing party.

##### **3. REAL ESTATE TAXES; VERIFICATION**

In all foreclosure actions and Sheriff's sales, the purchaser shall pay all required real estate taxes directly to the Lorain County Treasurer. Real estate taxes shall include delinquent, tax certified liens and current taxes. The purchaser shall obtain a verification form from the Treasurer's office to be delivered to the

Sheriff's civil division. No deed will be issued without proper verification from the Treasurer's office.

#### 4. CANCELLATION OF SALE

Except in the case of bankruptcy, no Sheriff's sale will be cancelled prior to all costs and fees being paid in full. The cancellation of a Sheriff's sale shall be by written motion detailing the reason for cancellation, filed at least twenty-four (24) hours prior to the date of sale, and include a copy of the receipt evidencing payment of costs. Failure to follow this rule may result in denial of the motion.

#### 5. PURCHASE PRICE

In every Sheriff's sale of real property, the purchaser, immediately following the acceptance of bid, shall deposit via cashier's check, payable to the Sheriff, ten percent (10%) of the amount of such accepted bid, but in no event less than \$1,000.00 up to a maximum of \$10,000.00. All money in excess of the required deposit will be applied toward the purchase price of the property. The purchaser shall be required to pay interest on said unpaid balance at ten percent (10%) per annum from the date of confirmation of the sale to the date of payment of the balance, unless the balance is paid within eight (8) business days from the date of confirmation of sale. Any interest received shall be distributed by the Sheriff to the parties entitled to distribution of the proceeds of the sale in the proper order of priority. The provisions of this paragraph shall not be applicable when the purchaser is the plaintiff or in tax foreclosure cases for non-payment of real estate taxes.

### B. PRIVATE SELLING OFFICERS

If a party elects to have a private selling officer ("PSO") sell the property, the following applies:

#### 1. APPOINTING A PSO

The party requesting execution by a PSO must file a motion with the Court that includes evidence of the qualifications to be a PSO, pursuant to ORC 2329.01(B)(2).

#### 2. PRAECIPE FOR ORDER OF SALE / APPRAISAL

The party requesting execution shall file with the Clerk of the Court a praecipe or praecipes requesting the issuance of an Order of Appraisal to the Sheriff and an Order of Sale to the PSO. No check for advertising shall be sent to the clerk, as the PSO will be responsible to pay the advertising directly. Any amounts that are requested to be taxed as costs must be submitted with the praecipe. Failure to file the proper praecipe(s) will result in denial of confirmation and the vacation of any sale.

### 3. PSO'S REPORT

PSO reports of sale shall be filed within fourteen (14) days of sale and a motion to confirm the sale with proposed entry shall be filed within thirty (30) days thereafter. When filing the motion to confirm, a copy of the PSO report, advertising invoice, escrow/title invoice and any other invoices to be paid through sale must be attached to the motion. The entry must include the sale date, purchaser's name and address and the purchase price. The failure to submit a PSO report or motion and entry to confirm within the time provided may result in sanctions, including any damages, costs or fees incurred by the purchasing party or denial of future requests to appoint a PSO.

### 4. PSO SALE TERMS

The PSO will be authorized to sell the property at public auction in accordance with O.R.C. Chapter 2329. Any PSO fees and costs in excess of one and one-half (1.5%) of the sale price shall be paid directly by the party requesting execution. No "premium" or any other amount over and above the successful purchaser's bid amount, except the actual costs for conveyance and recording fees, shall be charged, allocated or required to be paid by the purchaser. Any such "premium", if charged, shall be paid directly by the party requesting execution and shall not be included in the amount necessary to redeem real estate under section 2329.33 of the Revised Code or in the calculation of any deficiency judgment under section 2329.08 of the Revised Code.

### 5. REAL ESTATE TAXES; VERIFICATION

For all PSO sales, any outstanding real estate taxes shall be paid directly to the Lorain County Treasurer. Real estate taxes shall include delinquent, tax certified liens and current taxes. A verification form must be submitted to the Treasurer's office to confirm that taxes have been paid. No confirmation will be issued without proper verification from the Treasurer's office.

### 6. CANCELLATION OF SALE

If a PSO sale is cancelled for any reason, including bankruptcy, or not completed within the statutory timeframe, the party that requested execution shall file a notice with the Court stating that execution upon the praecipe has been cancelled or expired. Failure to file such a notice may prevent further orders of sale from being issued. If the party wishes to execute upon the property again, it must file a new praecipe or praecipes as outlined in this section. Upon the filing of a notice that the sale has been cancelled or expired and unless a new praecipe for order of sale is filed concurrently, the Clerk of Court may bill the costs to date to the party that requested execution.

## C. ALL JUDICIAL SALES

All judicial sales, whether by Sheriff or PSO, shall be subject to the following:

1. FAILURE TO COMPLETE PURCHASE

In the event a purchaser fails to pay the balance due on the purchase price and complete the purchase within thirty (30) days after confirmation of sale, the purchaser shall be in contempt of this court. The party who requested execution may file a motion requesting that the purchaser show cause as to why the purchaser should not be held in contempt for failure to complete the sale. Upon good cause, the motion may be granted and include a forfeiture of all or some of the purchaser's sale deposit.

2. NOTICE OF SALE

The party who requested execution shall promptly mail notice of the time, date and location of the sheriff's sale to the record owner(s) of the subject real estate and to all other interested parties not in default for failure to appear, or their counsel of record, at their respective last known addresses. The record owner(s) of the real estate shall be noticed by mail in all cases whether or not in default for failure to appear, except when said owners were originally served with summons solely by publication. Not less than fourteen (14) days prior to the scheduled sale date, the party who requested execution shall file with the Clerk of Courts a certificate of service of notice of sale date specifying the date and manner of service and the names and addresses of all interested parties who received notice. Failure to timely file the certificate of service required by this rule may constitute grounds for denial of the confirmation of sale.

3. APPRAISALS

- (a) FEES. Appraisal fees shall be based on the Auditor's last tax appraisal of the property as shown by his duplicates and be scaled in accordance with the schedule on file with the Clerk of Courts.
- (b) PRAECIPES. The Clerk of Courts shall not issue an Order of Sale without reappraisal to the Sheriff or PSO, unless the subject property has been previously appraised within the last twelve (12) months.

## **RULE 18**

### **JURY COMMISSIONER SYSTEM**

The responsibility for the administration of the jury system will be vested in the Court's Jury Management Division under the supervision of the Administrative Judge of the Lorain County Court of Common Pleas. All procedures concerning jury selection and service are governed by the Ohio Revised Code and the Ohio Rules of Court.

#### **A. PETIT JURY - SELECTION**

1. Petit jury service is for two (2) weeks. Three hundred forty (340) jurors may be pulled for each two (2) week period. The Jury Commissioner shall prepare the summons to jury duty not less than three (3) weeks prior to the date of service. The summons shall include the juror's group number, term of service and a questionnaire which is to be returned within five (5) days.
2. As jurors return their questionnaires, the Jury Commissioner must sort the responses according to the date upon which the juror is to begin his/her service, juror group number and whether the person is a qualified or unqualified candidate to be a juror.
  - (a) A qualified candidate is one who meets the statutory qualifications.
  - (b) If a candidate fails to meet the statutory criteria, the Jury Commissioner shall notify the candidate that he or she is exempt.
  - (c) In the event that a candidate seeks exemption that is not resolved by statutory exemption, such request will be sent to the Judge currently presiding over the grand jury, or that Judge's representative, for review.
3. The Jury Commissioner retains the juror questionnaires for a period of four (4) years for capital cases; all others may be destroyed upon completion of the venire period.

#### **B. PETIT JURY – TRIAL PREPARATION**

1. Each day, the Jury Commissioner must do the following to prepare for trial:
  - (a) Determine the jury needs for each court. The Jury Commissioner will list whether jurors are needed for civil or criminal cases and whether any extra jurors are needed.
  - (b) Determine how many trials will be starting the next day and the number of jurors to send to each courtroom.
    - (1) A minimum of twenty (20) jurors are needed for a civil case.
    - (2) A minimum of thirty (30) jurors are needed for a criminal case.
  - (c) Create a list for each judge with the juror group number assigned to their courtroom for the next day.
  - (d) Sort the questionnaires, arranging the stacks to be sent to the courtrooms for the next day.

- (e) Prepare the message for the jury recording. Jurors shall be on call Monday through Friday.
2. The Jury Commissioner must perform the following on the day of trial:
  - (a) After the jurors sign in, determine which jurors did not show up and move their questionnaires to the bottom of the pile.
  - (b) Print the finalized list with one copy for the courtroom and two copies for the Jury Commission office.
  - (c) Send copies of the list and questionnaires to the courtrooms.
  - (d) Inform the bailiff when the jurors are prepared and available for service.
  - (e) Call any juror who did not show up for service.
  - (f) Record those jurors who have been seated on a case so as not to call those jurors for a trial in another courtroom that day.
  - (g) Sort questionnaires, placing all jurors in one pile and not seated in another pile, should there be a need for jurors in another courtroom that day.
  - (h) If a juror is not seated, that juror goes back into the pool.

### C. JURY ORIENTATION

1. The Jury Commissioner must perform the following in order to orient new jurors:
  - (a) Introduce self as Jury Commissioner and explain duties briefly.
  - (b) Check the sign in sheet to determine who is present.
  - (c) Explain that petit jury is for two (2) weeks and that in circumstances in which civil cases will be heard, eight (8) jurors will be seated, and in criminal cases with crimes classified as felonies, twelve (12) jurors will be seated, with one or two alternates.
  - (d) Inform the jurors about parking.
  - (e) Answer any questions which jurors may have.

## **RULE 19**

### **DEPOSITIONS**

- A. See Ohio Civil Rules 26, 27, 28, 29, 30, 31, 32, 37 and 45(D)
- B. Witnesses, parties and counsel shall conduct themselves at depositions in a temperate, dignified and responsible manner. Where a witness, party or counsel violates any of these rules at a deposition, the Court may order sanctions or the remedies, including those sanctions available under Ohio R.Civ.P. 37.
- C. The following rules for the taking of depositions emphasize the expectations of the Court as to certain issues; they are intended to supplement Ohio R.Civ.P. 26, 30, 32 and 37.

#### **1. Scheduling**

Counsel is expected to make a timely and good faith effort to confer and agree to schedules for the taking of depositions. Except for good cause, counsel for the deponent shall not cancel a deposition or limit the length of a deposition without stipulation of the examining counsel or order of the Court. Non-parties shall first be given the option of being deposed in their county of residence or in any other location to which the witness agrees in writing or to a location ordered by the Court.

#### **2. Decorum**

Opposing counsel and the deponent shall be treated with civility and respect, and the questioner shall not engage in repetitive, harassing or badgering questioning. Ordinarily, the deponent shall be permitted to complete an answer without interruption by counsel.

#### **3. Objections**

Objections shall be limited to (a) those which would be waived if not made pursuant to Ohio R.Civ.P. 32(d), and (b) those necessary to assert a privilege, enforce a limitation on evidence directed by the Court, present a motion under Ohio R.Civ.P. 30(d) or to assert that the questioning is repetitive, harassing or badgering. No other objections shall be raised during the course of the deposition.

#### **4. Speaking Objections**

Counsel may interpose an objection by stating "objection" and the legal grounds for the objection. Speaking objections, which refer to the facts of the case or suggest an answer to the deponent, are improper and shall not be made in the presence of the deponent.

#### **5. Instructions Not to Answer**

Counsel may instruct a deponent not to answer a question only when necessary to preserve a privilege, enforce a limitation on evidence directed by a Court, present a motion under Ohio R.Civ.P. 30(d), or terminate repetitive, harassing or badgering questioning. In the event privilege is claimed, examining counsel may make appropriate inquiry about the basis for asserting the privilege. In the event that the ground for the instruction not to answer is that the questioning has become repetitive, harassing or badgering and the questioner believes that further questioning on the subject is necessary and proper, the questioner may apply to the Court for the right to pursue such questioning at a later date.

6. Irrelevant and Embarrassing Questions

If an attorney objects to a particular line of questioning on the ground that the questioning is being conducted in bad faith, or in such a manner as unreasonably to annoy, embarrass or degrade the deponent, the questioning attorney should move on to the other areas of inquiry, reserving the right to pursue the objected-to questions at a later time or date if the objecting attorney agrees to withdraw the objection or if, as a result of a conference call by the attorneys to the appropriate Court, a motion to compel or a motion filed under Civil Rule 30(D), a Court determines that the objected-to questions are proper.

7. Conferring During Questioning

While a question is pending, counsel for the deponent and the deponent shall not confer, except for the purpose of deciding whether to assert a privilege.

8. Documents

During the deposition, examining counsel shall provide opposing counsel and counsel for the deponent with copies of all documents shown to the deponent.

9. Duration

Unless otherwise stipulated or ordered by the Court, a deposition is limited to one (1) day of six (6) hours. By order, the Court may alter the number of depositions or the length of depositions. By order, the Court may also limit the number of requests for alteration.

## **RULE 20**

### APPOINTED COUNSEL

Attorneys wishing to receive court appointments shall comply with the provisions of OAC 120-1-10.

1. Applications may be obtained from, and shall be submitted to, the Court Administrator's office and shall contain a resume stating the attorney's training, experience and expertise in successfully handling Felony Court cases.
2. Attorneys shall maintain professional liability (malpractice) insurance in the amount equal to the minimum coverage required by the Ohio Rules of Professional Conduct and shall provide a copy of the declarations page to the Court Administrator's Office.
3. Applications shall be updated every year by December 31st to remain on the Appointed Counsel List.
4. Attorneys are under an ongoing obligation to notify the Court of changes to their status and contact information.
5. Attorneys shall be appointed on the basis of a rotating schedule which shall ensure that each attorney on the list is provided with an opportunity to obtain an equitable share of appointments.
6. The court may, in its discretion, deviate from the rotating schedule in order to assure the efficient and orderly administration of justice.
7. The appointment of counsel will be reviewed on at least an annual basis, to ensure the equitable distribution of appointments among persons on the Appointed Counsel List, considering the nature and type of appointment, the skill, experience, and aptitude of the attorneys, and other relevant factors.
8. Individual judges are free to require that attorneys seeking appointment be present in the courtroom when the appointment is made.

## **RULE 21**

### MEDIA COVERAGE OF COURT PROCEEDINGS

The use of cameras and/or recording equipment in the courtroom shall be in accordance with Rule 12 of the Rules of Superintendence for the Common Pleas Court and the following:

1. Requests for permission to broadcast, televise, photograph, or otherwise record proceedings in the courtroom shall be made in writing to the Judge or the Judge's designated courtroom employee. All applications shall become part of the record of the proceedings. Such applications should be made as far in advance as is reasonably possible.
2. The filming, videotaping, recording, or photographing of jurors shall **not** be permitted in any circumstance. The assigned judge may prohibit the audio or visual recording of undercover police officers, victims and witnesses.
3. There shall be no audio pick-up of conferences conducted in a court facility between attorneys and clients or of any conferences conducted at the bench between counsel and the judge.
4. The positioning of any cameras shall be at a location to be determined by the Judge.
5. Proper courtroom decorum shall be maintained by all in the courtroom. No photographic or electronic equipment may be used in the courtroom which causes distracting sound or light.

## **RULE 22**

### **GARNISHMENTS**

A. Any party filing a garnishment of personal earnings of a judgment debtor must comply with the terms of this Rule. Failure to comply with the terms of this Rule may result in the filing being rejected by the Clerk of Courts or denied by the Judge or Magistrate to whom the garnishment is assigned. The Court may, in its discretion, permit a party to supplement an incomplete garnishment filing, provided that the supplementation is completed within fourteen (14) days of the entry notifying the party that the garnishment filing is incomplete.

1. The following items are required:

- (a) The security deposit for costs required by the Clerk of Courts;
- (b) A certification of compliance cover sheet signed by the attorney or authorized representative indicating the filing complies with this Rule. Copies of this form are available in the Civil Division of the Clerk of Courts;
- (c) A Motion for Order of Garnishment of Personal Earnings of Judgment Debtor;
- (d) Two (2) copies of the Affidavit of Judgment Creditor or Judgment Creditor's attorney in accordance with Ohio Revised Code §2716.03, and one (1) copy of proof of service of written demand;
- (e) Four (4) copies of the Court Order and Notice of Garnishment;
- (f) Two (2) copies of the Notice to the Judgment Debtor;
- (g) Two (2) copies of the Request for Hearing Form;
- (h) One (1) copy of the Interim Report and Answer of Garnishee;
- (i) One (1) copy of the Final Report and Answer of Garnishee; and
- (j) One (1) Praeclipe for Garnishment of Personal Earnings.

2. In addition to complying with Rule 22(A), the judgment creditor must effectuate service of the following items, and file them annually with the Court, the garnishee and the judgment debtor:

- (a) Affidavit of Current Balance Due on Garnishment and Notice to the Judgment Debtor, in accordance with Ohio Revised Code §2716.031;
- (b) Request for Hearing Form in accordance with Ohio Revised Code §2716.031, accompanied by self-addressed, stamped envelope for the judgment debtor.
- (c) If the judgment creditor wishes to have time-stamped copies of the garnishment filing returned by mail, they must provide additional copies and a self-addressed, stamped envelope of sufficient size and with adequate postage affixed to accommodate the request.
- (d) The Clerk of Courts shall not accept filings that include double-sided pages, carbon paper, or inadequate margins or space to affix the Judge's signature.

(e) For convenience, some of the above-required forms are available on the Clerk of Courts' website at: <http://www.loraincounty.us/clerk/legal-division-forms>

B. Any party filing a garnishment of property other than personal earnings of a judgment debtor must comply with the terms of this Rule. Failure to comply with the terms of this Rule may result in the filing being rejected by the Clerk of Courts or denied by the Judge or Magistrate to whom the garnishment is assigned. The Court may, in its discretion, permit a party to supplement an incomplete garnishment filing, provided that the supplementation is completed within fourteen (14) days of the entry notifying the party that the garnishment filing is incomplete.

1. The following items are required:
  - (a) The security deposit for costs required by the Clerk of Courts;
  - (b) A certification of compliance cover sheet signed by the attorney or authorized representative indicating the filing complies with this Rule. Copies of this form are available in the Civil Division of the Clerk of Courts;
  - (c) Motion for Order of Garnishment of Property Other than Personal Earnings of Judgment Debtor;
  - (d) Affidavit of the judgment creditor or the judgment creditor's attorney in accordance with Ohio Revised Code §2716.11 and the garnishee's fee (separate from and not included in the deposit for filing) in accordance with Ohio Revised Code §2716.12;
  - (e) Four (4) copies of Order of Garnishment of Property and Answer of Garnishee.
  - (f) One (1) copy of the Order of Garnishment of Property and Answer of Garnishee may include Judgment Debtor's complete, unredacted personal identifiers. This copy should be clearly marked to distinguish it from the original filing and three (3) other copies. Any such copy, if provided, shall be issued to the Garnishee only and not retained in the Court file as part of the record.
  - (g) Two (2) copies of Notice to the Judgment Debtor;
  - (h) Two (2) copies of Request for Hearing form; and
  - (i) Praeclipe for Garnishment of Property Other than Personal Earnings.
  - (j) If the judgment creditor wishes to have time-stamped copies of the garnishment filing returned by mail, they must provide additional copies and a self-addressed, stamped envelope of sufficient size and with adequate postage affixed to accommodate the request.
  - (k) The Clerk of Courts shall not accept filings that include double-sided pages, carbon paper, or inadequate margins or space to affix the Judge's signature.
  - (l) For convenience, some of the above-required forms are available on the Clerk of Courts website at: <http://www.loraincounty.us/clerk/legal-division-forms>

**GARNISHMENT OF PERSONAL EARNINGS OF JUDGMENT DEBTOR:  
CERTIFICATION OF COMPLIANCE WITH LOCAL RULE 22**

This form must be included with any motion for order of garnishment of personal earnings of judgment debtor. Please check the boxes below indicating your filing includes all required documentation and sign the certification at the bottom.

- 1. A Motion for Order of Garnishment of Personal Earnings of Judgment Debtor;
- 2. Two copies of the affidavit of judgment creditor or judgment creditor's attorney in accordance with Ohio Revised Code § 2716.03, and one copy of proof of service of written demand;
- 3. Four copies of the Court Order and Notice of Garnishment;
- 4. Two copies of Notice to the Judgment Debtor;
- 5. Two copies of the Request for Hearing Form;
- 6. One copy of the Interim Report and Answer of Garnishee;
- 7. One copy of the Final Report and Answer of Garnishee; and
- 8. One Praeclipe for Garnishment of Personal Earnings.
- 9. Affidavit of Current Balance Due on Garnishment and Notice to the Judgment Debtor, in accordance with Ohio Revised Code § 2716.031;
- 10. Request for Hearing Form in accordance with Ohio Revised Code § 2716.031, accompanied by self-addressed, stamped envelope for the judgment debtor.

I \_\_\_\_\_ (print name) hereby certify that the garnishment of personal earnings of judgment debtor included with this cover sheet complies with Local Rule 22.

Sign: \_\_\_\_\_ Date: \_\_\_\_\_

GARNISHMENT OF PROPERTY OTHER THAN PERSONAL EARNINGS OF JUDGMENT  
DEBTOR: CERTIFICATION OF COMPLIANCE WITH LOCAL RULE 22

This form must be included with any motion for order of garnishment of property other than personal earnings of judgment debtor. Please check the boxes below indicating your filing includes all required documentation and sign the certification at the bottom.

- 1. Motion for Order of Garnishment of Property other than Personal Earnings of Judgment Debtor;
- 2. Affidavit of judgment creditor or judgment creditor's attorney in accordance with Ohio Revised Code § 2716.11 and the garnishee's fee (separate from and not included in the deposit for filing) pursuant required by Ohio Revised Code § 2716.12;
- 3. Four copies of Order of Garnishment of Property and Answer of Garnishee;
- 4. Two copies of the Notice to the Judgment Debtor;
- 5. Two copies of the Request for Hearing Form;
- 6. One Praeclipe for Garnishment of Property other than Personal Earnings.

I \_\_\_\_\_ (print name) hereby certify that the garnishment of property other than personal earnings of judgment debtor included with this cover sheet complies with Local Rule \_\_\_\_\_.

Sign: \_\_\_\_\_ Date: \_\_\_\_\_