

IN THE COMMON PLEAS COURT, PREBLE COUNTY, OHIO

IN THE MATTER OF THE CIVIL AND CRIMINAL

LOCAL RULES:

ENTRY

The following local rules are adopted to govern the practice and procedures of this Court, subject to such rules as may be adopted or promulgated by the Supreme Court of Ohio.

These rules shall be recorded by the Clerk of Courts of Preble County, and journalized therein, and shall be filed with the Ohio Supreme Court.

Unless otherwise stated herein, these rules are effective March 1, 2006.

Judge David N. Abruzzo

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PREBLE COUNTY LOCAL CIVIL AND CRIMINAL RULES

CLASSIFICATION OF CASES FOR THE SUPREME COURT REPORT

When a new case is filed the filing attorney shall designate the case as being in one of the following categories:

PROFESSIONAL TORT PRODUCT LIABILITY
OTHER TORTS
WORKERS COMPENSATION
FORECLOSURES
ADMINISTRATIVE APPEAL
OTHER CIVIL
CRIMINAL
DIVORCE WITH CHILDREN
DIVORCE WITHOUT CHILDREN
DISSOLUTION WITH CHILDREN
DISSOLUTION WITHOUT CHILDREN
CHANGE OF RESIDENTIAL PARENT STATUS
VISITATION/MODIFICATION OR ENFORCEMENT
SUPPORT ENFORCEMENT/MODIFICATION
UIFSA
ALL OTHERS (4/98)

COURT COSTS IN CRIMINAL CASES

In criminal cases that are dismissed by the Court, either after resolution of a substantive issue or at the request of the State, and where there is no agreement by the defendant to pay the costs, the costs shall be paid by the State, provided, however, that the costs for which the State is responsible shall be limited to sums necessary to reimburse the Clerk of Courts for expenses actually incurred by and paid by the Clerk. When the State is ordered to pay costs, the Clerk shall deliver to the Prosecuting Attorney a cost bill that represents expenses actually incurred by and paid by the Clerk. Commencing on January 1, 1999, the State shall pay costs, as defined above, in all criminal cases that proceed to trial and result in a verdict of not guilty (by jury or the Court) on all charges tried. (7/98)

In all criminal convictions where a defendant is ordered to pay restitution, court costs and the costs of appointed counsel, said payments shall be distributed in the manner prescribed by the Ohio Revised Code. (1/05).

COURT COSTS AND DEPOSITS

Court costs incurred in civil and domestic relations shall be collected in the following manner: If the defendant is ordered to pay court costs, the deposits made by plaintiff shall be held until reasonable efforts are exhausted by the Clerk to collect the costs from the defendant. If costs cannot be collected from the defendant, then the deposits shall be used toward the payment of court costs, with the balance to be paid by plaintiff. In domestic relations cases where affidavits of poverty have been filed and where the location of the defendant is unknown, costs shall be paid by plaintiff pursuant to a schedule established by the Clerk and the plaintiff, so that the payment of costs does not create a burden for the plaintiff.

SEE SCHEDULE OF COSTS

CONTINUANCE OF A COURT DATE

In a continuing effort to improve the management of the Court's docket, the following rule concerning the granting of continuances will be followed as closely as possible to assure that the Court's pending cases are heard in as timely a manner as possible.

Continuances shall only be considered when submitted in writing and when they substantially comply with Rule 41 of The Supreme Court's Rules of Superintendence. **In addition, continuances shall state the**

nature of the scheduled hearing, the name of the party who filed the original motion to be heard, the reason for the continuance, how many continuances have previously been granted for this particular motion, and whether the opposing side objects or agrees with the continuance. Further, if the reason for the continuance is a conflict with another scheduled hearing in another court, the movant shall file with the continuance a timed stamped copy of the order or hearing notice setting the conflicting hearing.

DEFAULT JUDGMENTS

No default judgment shall be granted except upon motion of the requesting party. **All hearings for default judgment shall be set by the Court** with a minimum notice to the defaulting party of two weeks from the date of mailing the entry setting hearing.

On or before the hearing date the movant shall submit to the Court an affidavit setting forth facts sufficient to support a judgment for the relief requested and a proposed entry granting the relief sought. This affidavit must be signed by the movant and not counsel for the movant. **Neither movant nor counsel are required to attend the hearing.**

If the defaulting party fails to appear on the date scheduled for hearing, and if the affidavit is sufficient to support the judgment requested, the judgment will be granted. If on the scheduled date the defaulting party (or one of the defaulting parties if more than one) appears, then the Court will inquire of said party or parties in an effort to determine whether or not the matter should go forward on the basis of the affidavit or be continued for further proceedings.

In actions requesting foreclosure of a party's interest in real estate it shall not be necessary for lienholding defendants to appear, provided however that before the interest of a lienholding defendant may be protected in a default entry (based on the motion of a party other than said lienholding defendant) proof of said interest shall be submitted by affidavit.

No default entry shall be approved by the Court unless same is approved by counsel of record for all parties. (5/01)

FACSIMILE COPIES

All pleadings submitted to the Court by facsimile shall be followed by submission of the original pleading within 24 hours of its receipt by the Clerk.

The Clerk shall file-stamp the first page of the facsimile only and retain the facsimile in the file until the original pleading is submitted for filing. When the original is received, the first page of the facsimile shall be retained in the court file; however, the remaining pages of the facsimile shall be removed and discarded and the original pleading shall be file-stamped and placed in the file in place of the facsimile. (8/98)

FORECLOSURE CASES – APPRAISAL FEES

Upon the filing of a request for an order of sale, a deposit of \$150.00 shall be made with the Clerk of Courts. Said deposit shall be used to pay the appraisal fee (1/05).

FORECLOSURE ACTIONS - CONVEYANCE FEES

In all foreclosure actions the transfer tax set forth in Ohio Revised Code Section 322.02 shall be paid out of the proceeds of sale.(10/01)

TRANSCRIPT FEES:

The Court does hereby adopt the following fee schedule regarding transcripts of court proceedings:

ORIGINAL (COURT OF APPEALS/OTHER)	\$2.25 per page
COPY TO OPPOSING SIDE	1.00 per page
COPY TO SAME SIDE (COURT OF APPEALS)	1.00 per page
DAILY RATE	5.00 per page (1/05)

RULES FOR WEEKEND/INTERMITTENT CONFINEMENT:

The Court adopts the Rule for Weekend/Intermittent Confinement as defined by the Sheriff of Preble County, Ohio (copy attached). A copy of the Policy shall be given to each defendant who is sentenced to a term of intermittent confinement by the Community Control Office on the day of sentencing. Same shall serve to instruct and warn such defendant of the penalties associated with non-compliance with the terms of said policy (1/05).

PROBATION AND COMMUNITY CONTROL - CONDITIONS

Any defendant convicted of a criminal offense in the Common Pleas Court of Preble County, Ohio, and whose sentence is suspended and who is placed on probation or community control shall be subject to the **Conditions of Supervision** (see attached) of the State of Ohio, Department of Rehabilitation and Correction, Adult Parole Authority as they exist at the time of the Defendant's sentence.

NEWSPAPER PUBLICATION

Counsel for any party requesting any Sheriffs sale or requesting service by publication or requesting any other relief which requires publication of notice in a local newspaper shall prepare the publication required, cause same to be published at the party's expense and shall cause the filing of any affidavit (proof) of publication that may be required by law. In cases where service is made by publication, no Judgment Entry or Decree of Foreclosure shall be accepted for filing until the Proof of Publication is filed.

The cost of said publication, once paid by the party requesting same, shall upon application of said party, be taxed as costs thus enabling said party to obtain possible reimbursement or judgment for said sum.

This rule shall apply to all parties including any public office or official whether a subdivision of the state, county, city or village. The purpose of this rule is to avoid situations where the Clerk incurs an obligation to a newspaper for the cost of any publication that may be associated with any case pending in the Common Pleas Court of Preble County. (1/05)

MOTION§ AND NOTICE§ OF APPEARANCE

All motions filed with the Court shall be filed separate and apart from any proposed entry. A separate copy of said motion shall be placed in a designated tray at the Clerk's office for delivery to the Court. Any proposed entry, along with the required copies, shall be paper clipped to the Court's copy of said motion at that time. When motions are filed that apply to two separate cases, an original of the motion (bearing the relevant case number and original signature of the filing party) shall be filed with each case (1/05).

The assignment commissioner shall file all entries, and copies, submitted to the Court. File stamped copies shall be placed in the attorney's box at the Clerk's Office. Out of town counsel shall submit with the copies a self-addressed stamped return envelope.

Entries submitted without copies shall be filed without copies. It is counsel's responsibility to see that service of the entry is made on opposing counsel.

The first line of the first page of all pleadings filed with the Court shall begin two and one-half inches (2 1/2") from the top of the page.

In addition, to promote accuracy in the docket, all initial pleadings filed by counsel shall be accompanied by a Notice of Appearance of Counsel. The only exception to this rule shall be the filing of a complaint or an answer. (4/98)

CERTIFICATES OF SERVICE

Effective December 1, 2001, all Certificates of Service shall contain the name of the attorney, the party represented, and the address of the attorney to whom the pleading is being mailed. If the pleading is being mailed to a party who is not represented by counsel, the Certificate of Service shall contain the name and address of the party.

CONFIRMING ENTRIES

A confirming entry shall be presented to the Court for approval and filing within 30 days of 1) the filing of a decision that requires a confirming entry to be prepared by one of the attorneys, 2) the recitation in the record in the presence of the parties of an agreement that resolves the issues, or 3) notice to the Court via phone or otherwise that a case has been settled.

If a confirming entry is not timely submitted to the Court, a Notice and Order will be filed ordering all counsel to appear in open court on a specific date and time to explain the failure. A copy of this Notice and Order will be mailed to the parties.

A week before the Notice and Order is filed; a copy of same will be posted on the bulletin board on the third floor of the courthouse. This informal posting will give counsel the opportunity to avoid the filing of the Notice and Order with respect to your case by submitting the entry before the filing date. Out of town counsel will be advised of the posting via phone or mail.

If a Notice and Order is filed, you may avoid the order to appear by submitting the confirming entry no later than seven days prior to the hearing date. Depending on the nature of the information received at the hearing, contempt proceedings may follow. Failure to appear for said hearing might result in contempt proceedings.

COMMENTS: The attorney instructed to prepare a confirming entry (in the decision or perhaps from the bench) is ultimately responsible for the timely submission of same to the Court. A confirming entry should contain the approval of all counsel involved; however, same is not required. If the issue(s) cannot be resolved, then the attorney responsible for preparation of the entry shall (within the 30-day period) submit his or her entry with an explanation as to the attempts made to obtain approval of all counsel and an explanation as to why an approval is missing.

Parties who have appeared in open court and who have acknowledged their understanding and acceptance of the agreement that was placed of record in their presence are not required to execute the entry. If counsel desires to obtain the approval of a client, counsel must do so within the time limit. In cases where a party is having "second thoughts" or is otherwise opposed to language contained in an agreement, the proposed entry should still be timely submitted with an explanation. The Court will thereafter likely review the tape to make sure that the entry accurately recites the agreement.

Before counsel leave the courtroom, in cases where the agreement is placed of record, make sure the Court has indicated the attorney who is to prepare the confirming entry. This is usually nothing more than the Court's acceptance of counsel's offer to prepare same.

STATUS AND SCHEDULING CONFERENCES:

In all civil cases, upon the completion of service a status/scheduling conference date will be assigned. At said hearing dates will be established for discovery cut-off and for pre-trial conference. If requested, a trial date will be assigned.

PRE-TRIAL CONFERENCES:

On the day that a pre-trial conference is scheduled, each party shall file a pre-trial statement, which contains all of the following information:

1. A description of each and every exhibit intended to be introduced at trial.
2. A list of the names and addresses of all witnesses who are expected to testify at trial along with a brief summary of the expected testimony.
3. A description of all of the legal issues that the Court will be asked to determine.
4. A summary of any expected evidentiary questions that may arise at trial.
5. The names and addresses of any witnesses whose testimony will be presented to the Court via deposition as well as notification to the Court as to whether or not any of said depositions are or will be recorded on videotape.

6. If there is a jury demand, include a summary of the status of settlement negotiations. For purposes of promotion of settlement, counsel for the parties shall appear at said conference with full settlement authority or in the alternative, the party shall be present with his/her counsel.
7. Request for special jury instructions.

If a pre-trial statement is not filed in accordance with this rule, the Court may continue the pretrial in progress and entertain a motion for attorney fees against the non-complying party. If at the conclusion of the pre-trial conference the matter is not resolved, a trial will be scheduled.

Trials shall begin promptly on the date assigned. Before the trial begins, each attorney shall provide the Court with the following:

1. An index of exhibits.
2. All exhibits shall be pre-marked with plaintiff using numbers and defendant using letters
3. A list of the names and addresses of all witnesses.

A copy of any joint pre-trial statement (stipulations) prepared and/or filed pursuant to a previous order of the Court.

SPECIAL PROJECTS FUND:

This Court has determined that additional funds are necessary to defray the costs associated with staff training in community control matters and in mediation matters. Pursuant to ORC Section 2303.201(E)(1), a fee of \$10.00 per case, in addition to the fees and costs authorized by law will be charged and collected by the Clerk of Courts upon the filing of each new criminal, divorce, dissolution, legal separation, and civil case. Petitions for civil protection orders, stalking civil protection orders and IV-D motions as well as all re-opened cases are exempt from this required fee.

All fees paid under this Rule shall be paid to the Clerk of Courts for deposit with the County Treasurer for deposit into a general special projects fund. That fund shall be called "Special Projects Fund – Court Training Fund". Monies from that fund shall be disbursed upon order of this Court in an amount no greater than the actual cost of the special project stated above or for any other special project which this Court from time to time might deem necessary for its efficient operation.

EXHIBIT RETENTION ORDERS

In all trials before the Court or Magistrate, any exhibits admitted during trial shall be held by the Court Reporter until an appeal is filed and the exhibits are sent to the Court of Appeals. If no appeal is filed, the party seeking release of an exhibit or exhibits shall petition the Court for an order releasing said exhibit. No exhibit shall be released without a court order.

All unreleased exhibits in civil and domestic relations cases shall be held for a period of two years from the date of the hearing. All unreleased exhibits in criminal cases shall be held for a period of ten years from the date of the hearing, except in the instance of capital cases or in criminal cases where the Defendant is incarcerated for longer than ten years. In those cases the exhibits shall be held until ordered destroyed by the Court.

SCHEDULE OF COSTS:

Effective March 1, 2006, the Clerk of Courts shall collect as Deposit for court costs the following:

CERTIFICATE OF JUDGMENT, FILING	\$ 23.00
MAKING AND FILING	28.00
RELEASING	5.00
FOREIGN	38.00
CERTIFICATION	1.00
CIVIL (except foreclosure)	200.00
Service per defendant	10.00
FORECLOSURE	250.00
Service per defendant	10.00
CROSS-COMPLAINT	
COUNTERCLAIM,	
THIRD-PARTY COMPLAINT	
ANSWER with Motion Requesting Service	100.00
AMENDED COMPLAINT (re-issuing per party)	10.00
JURY DEMAND	300.00
DEBTOR'S EXAM	53.00
EXECUTION	53.00
GARNISHMENT	100.00
DISSOLUTION WITH CHILDREN	265.00
DISSOLUTION WITHOUT CHILDREN	200.00
DIVORCE WITH CHILDREN	300.00
SEMINAR FOR SEPARATING PARENTS	25.00
DIVORCE WITHOUT CHILDREN	200.00
AGREED ENTRY FILED AFTER CASE CLOSED (per page)	2.00
QDRO (filing)	25.00
Service Required	50.00
RE-OPENING CASE	15000
SUBPOENA	10.00
ORDER OF SALE (appraisers fees - \$50.00 x 3)	150.00
OUT-OF-COUNTY WITNESS PAYABLE TO	
WITNESS PER DAY	12.00
PLUS PER MILE	.10
STATE TAX CASES	58.00
COURT OF APPEALS	125.00
GUARDIAN AD LITEM - APPOINTMENT MOTION	400.00
NOTARY FILING FEES (EXAMINATIONS)	25.00
WRIT OF POSSESSION	100.00
SPECIAL PROJECTS FUND (COURT TRAINING)	10.00
(INCLUDE FOR NEW CRIMINAL CASES)	