

***TRUMBULL COUNTY***

***COMMON PLEAS COURT***

***(GENERAL DIVISION)***

# RULES OF THE COURT OF COMMON PLEAS (GENERAL DIVISION)

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**TRUMBULL COUNTY CLERK OF COURTS**  
**CIVIL COST SCHEDULE REVISED: 8-01-01**

**Complaints:**

Civil .....	\$150.00
(Professional Tort, Product Liability, Other Torts, Workers Compensation, Foreclosure, Administrative Appeal, Other Civil, Replevin)	
Counter Claim .....	\$0. .... if served ..... \$ 60.00
Third Party Complaint, Answer & Cross Complaint (if served) .....	\$ 60.00
Cognovit .....	(without precipe) ..... \$ 110.00
Cognovit (with precipe) .....	\$ 27.00
Amended Complaint .....	\$ -0-

**Certificate of Judgment**

Filing .....	(from other court) ..... \$ 15.00
Filing .....	(from Trumbull County) ..... \$ 17.00
For Transfer .....	\$ 5.00
Revivor of Judgment .....	\$ 25.00
Satisfaction/Release ....	(full or partial) ..... \$ 5.00
Foreign Judgment .....	\$ 15.00
State Lien Release ....	(full) ..... \$ 20.00
State Lien Release ....	(partial and per each lien) ..... \$ 5.00

**Misc.**

Executions .....	\$ 25.00
Debtors Exam .....	\$ 25.00
Writ of Possession .....	\$ 25.00
Garnishment .....	(personal earnings) ..... \$ 25.00
Garnishment .....	(other than personal earnings) ..... \$ 25.00
Appeals of Arbitration .....	\$ 180.00
Copies .....	(each page) ..... \$ .10
Certified Copies .....	(for the certificate) ..... \$ 1.10
Notary Commission .....	\$ 5.00
Court of Appeals .....	\$ 50.00
Witness Fees .....	(.10/mile)(whole days) ..... \$ 12.00
Witness Fees .....	(.10/miles)(half days) ..... \$ 6.00
Motion for Expungement .....	\$ 50.00
Subpoenas .....	\$ -0-

**Domestic Cost Schedule Revised 10-01-01**

**Complaints**

Divorce .....	\$200.00
Dissolution .....	\$160.00
Answers & Counterclaims w/service of summons requested .....	\$ 60.00
Answers Only .....	\$ -0-
Counterclaims with no service requested (certification to counsel) .....	\$ 60.00
Any Post-Divorce Motion (with or without service of summons) .....	\$ 50.00
Praecipe to the Clerk of Issue Rule 58 Notice by Certified Mail .....	\$ 20.00
Release of Lien .....	\$ 5.00
Motion to Reinstate .....	\$ 35.00
Any Motion to Continue .....	\$ 10.00

RULES OF THE COURT OF COMMON PLEAS

(GENERAL DIVISION)

TRUMBULL COUNTY, OHIO

IT IS ORDERED that the following rules are hereby adopted for governance of the practice and procedures in the General Division of the Court of Common Pleas, Trumbull county, Ohio, unless and until otherwise provided in the Ohio Rules of Civil Procedure; the Rules of Superintendence of the Supreme Court of Ohio; the Ohio Criminal Rules; the Rules of Juvenile Procedure; or the Ohio Rules of Evidence.

RULE 1

TIME TABLE FOR LAWYERS

The time allowed or permitted for the performance or completion of any act in handling matters before any division of court shall be as established by the Ohio Rules of Civil Procedure; or, if a particular matter is not covered by the Ohio Rules of Civil Procedure; such time as established by court order.

RULE 2

PRESIDING JUDGE

2.01 The presiding judge shall The time allowed or permitted for the performance or completion of any act in handling matters before any division of court shall be as established by the Ohio Rules of Civil Procedure; or, if a particular matter is not covered by the Ohio Rules of Civil Procedure, such time as established by court order have the general superintendence of the business of the court and shall classify and distribute it among the judges.

2.02 The presiding judge shall be selected by a majority of the judges of the court and shall serve at their pleasure.

### RULE 3

#### ADMINISTRATIVE JUDGE

3.01 The divisions of the court shall be as follows:

- (A) General, including civil and criminal cases;
- (B) Family Court, including domestic relations and juvenile; and
- (C) Probate.

3.02 The judges of the general division of the court shall, by their majority vote, select one of their number to act as administrative judge. The administrative judge shall be selected for an annual term and may be re-elected.

3.03 The administrative judge for each division shall be presiding officer of his division and shall have full responsibility for and control over the administration, docket and calendar of the division which he serves. He shall cause cases to be assigned to the judges within the division and shall require such reports, from each judge, concerning the status of assigned cases as he may require to assist him in discharging his responsibility to the Chief Justice of the Supreme Court.

### RULE 4

#### TERMS OF COURT: HOURS OF COURT SESSSIONS

4.01 The Court shall be in continuous session for the transaction of judicial business, but each calendar shall be divided into three (3) terms of court. The day of the commencement of each term of court shall be fixed by the judges.

4.02 The sessions of the court generally shall be daily, Monday through Friday, from 8:30 a.m. to 12:00 noon, and 1:00 p.m. to 4:30 p.m.

4.03 The court shall be in session at such other times and hours as the Administrative Judge or any judge thereof shall prescribe to meet special situations or conditions.

4.04 There shall be three terms of court each year, each of which shall begin at 9:00 a.m. on the following designated dates: The January term shall begin on the first Monday following the first day of January; the May term shall begin on the first Monday of May; and the September term shall begin on the day following Labor Day.

#### RULE 5

#### MEETING OF THE JUDGES

5.01 The judges of the court shall meet according to the Rules of Superintendence and the standing resolution of the court governing meetings.

5.02 All of the judges shall meet at the call of the Presiding Judge for the purpose of discussing and resolving administrative problems common to all divisions of the court.

5.03 The judges of a particular division shall meet at the call of the Administrative Judge to handle problems arising within that division.

#### RULE 6

#### DOCKETS AND CALENDARS

6.01 The Clerk of the Court shall prepare and maintain for the use of the judges the following dockets and calendars:

- (A) A general Appearance Docket consisting of Civil and Criminal parts;
- (B) A journal consisting of Civil and Criminal parts;
- (C) A separate Execution Docket;
- (D) An index to the Appearance and Execution Dockets direct and reverse and, to all other books, direct; and
- (E) Such other dockets and calendars as provided by law.

6.02 The Court Administrator shall receive and process the necessary procedures required for notaries public in accordance with O.R.C. Sections 147.01 et seq.

6.03 All civil cases, correctly prepared in conformance with Rule 9 herein, received by the Clerk for filing shall be numbered consecutively in a new series each calendar year. Said number shall carry the prefix of the year, followed by the consecutive number, each year beginning with number "one". Example: 91-1, 91-2, etc.; 92-1, 92-2, etc.

6.04 The Clerk shall immediately provide the assignment office with notification of all civil cases filed, and thereafter of pleadings and motions pertinent to the assignment of such cases for hearing or trial.

#### RULE 7

#### COURT REPORTERS

In every case reported, the reporter shall make an appropriate entry taxing the statutory fee for each day's service to be collected as other costs in the case. The compensation of reporters for making transcripts and copies shall be paid forthwith by the party and/or the attorney for whose benefit the same is made. No bill for any transcript ordered by a judge shall be approved unless the same bears a certificate, by the Official Reporter, that the charge therefore is fair and in conformity with the law. Every bill of exceptions filed in this court shall bear the name, address and telephone number of the reporter making up the same. A reporter shall not be required to prepare a transcript for any attorney, or other person, until satisfactory arrangements for payment have been concluded.

#### RULE 8

#### COURT ASSIGNMENTS

8.01 The General Division Assignment Commissioner, and all duly-qualified assistant assignment commissioners, shall be responsible to the General Division of the Court of Common Pleas, and be under direct supervision of the Administrative Judge of the General Division.

The General Division Assignment Commissioner, and any qualified Assistant assignment commissioner, shall be responsible for the Assignment of all civil and criminal case assignments, in the General Division, under the supervision of the General Division Common Pleas Judges with respect to the cases assigned to each of them.



8.02 The Civil Assignment Commissioner for the general division shall:

(A) Obtain newly-filed cases, each day, from the Clerk's office, and prepare history cards to be maintained in the Assignment Commissioner's office, together with a history card for each case, for each respective judge, for his use in making his monthly report and supervision of the assignment of cases pending in his courtroom;

(B) Obtain all additional filings made in civil cases pertaining to any future assignment of said cases, including final orders, motions, answers, cross-complaints, replies, etc., and maintain a current record so appropriate assignment of all matters may be made, under the direction of each judge;

(C) Prepare individual assignments for each judge in all matters requiring a hearing or trial, with the direct approval of each judge; and give notice of such assignments to all necessary parties in accordance with Rule 10 herein; and

(D) Assign all pretrials and perform such other duties as required in accordance with Rule 10 herein, and under the direction of each judge.

8.03 The Administrator of the Family Court shall be responsible for the assignment of all cases and matters pertinent thereto, pending before the Family Court Division of the Common Pleas Court.

8.04 The probate assignments will be handled at the direction of the Probate Judge of the Common Pleas Court.

## RULE 9

### PLEADINGS AND MOTIONS

9.01 All pleadings and motions shall be legibly typewritten or printed on paper of letter size (approximately 8-1/2 x 11), securely bound at the top. The caption in every complaint shall state the name and address, if known, of each party. Subsequent pleadings and motions shall state the number of the case, the name of the judge to whom the case is assigned, the name of the first-party plaintiff, and first-party defendant on each side. Every pleading, motion, brief or

other paper filed in a cause shall be identified by title and shall bear the name (written, typewritten or printed) of the individual attorney, firm, if any, office address, telephone number and attorney registration number of counsel filing the same or, if there be no counsel, the address and telephone number of the party filing the same.

Unless otherwise ordered by the Court, and attorney who signs a pleading or motion shall be designated trial counsel, and shall try the case and be otherwise responsible for the action, on behalf of his/her party-client.

9.02 All Complaints shall state the general categorical nature of the action. The clerk is authorized to refuse to accept for filing any case that does not contain a case classification, indicating the category of the cause, as more particularly set forth in Local Rule 10(B), *infra*.

9.03 Civil Rule 12, prescribing Rule Day for pleadings, will be strictly enforced. However, parties may generally obtain one (1) extension of time without leave of court not to exceed thirty (30) days, in which to answer, plead or otherwise move, when no such prior extension has been granted, by filing a Journal Entry with the Clerk of Courts, thereon noting "First Leave" or words of similar import, with stipulation by or notice to opposing counsel. If any additional extension is requested, the party desiring an extension must obtain the approval of the court.

9.04 Pleadings and motions may be amended as provided in Civil Rule 15, but no pleading or motion shall be amended by interlineations, except upon leave of court first obtained.

9.05 Depositions upon oral or Written Examination, Interrogatories, Requests for Admission, Requests for Production of Documents, and answers and responses thereto, shall not be filed unless on order of the court, for use as evidence or for consideration of a motion in the proceeding. Papers filed with the court shall not be considered until proof of service is endorsed thereon, or separately filed. The proof of service shall state the date and manner of service, and shall be signed in accordance with Civil Rule 11.

9.06 Every motion shall state its nature with specificity, and be submitted and determined upon the papers hereinafter referenced. Oral argument of motions may be permitted on application and proper showing. Motions for a continuance will not be entertained unless made in writing and signed by counsel for the moving party and, if directed by the court, also signed by the MOVING PARTY.

9.07 Counsel are encouraged to cooperate in pre-trial discovery procedures to reduce, in every way possible, the filing of unnecessary discovery motions. To curtail undue delay in the administration of justice, no discovery motion filed under Rules 26 through 37 of the Rules of Civil Procedure, to which objection or opposition is made by the responding party, shall be taken under consideration by the court unless the party seeking discovery shall first advise the court, in writing, that after sincere attempts to obtain voluntary compliance by the responding party, they are unable to reach an accord. This statement shall recite those matters which remain in dispute and specify precisely those steps which have been taken by the party seeking discovery to obtain voluntary compliance. It shall be the responsibility of counsel for the party seeking discovery to initiate efforts and resolve any dispute before seeking the court's intervention.

9.08 Sanctions. The presentation of unnecessary motions, and the unwarranted opposition of motions which, in either case, unduly delay the course of an action through the courts, may be deemed "frivolous conduct" and upon further motion and hearing, subject an offender to appropriate discipline, including the imposition of costs and/or payment of a reasonable attorney fee incurred in connection with defending against such conduct.

9.09 Motions for leave to withdraw as attorney in a civil case shall be made by written motion, filed with the Clerk of Courts, with copies served upon all other attorneys, or parties, in accordance with Civil Rule 5 and these Rules. Said motion shall be heard, normally within ten days of filing, by the judge to whom such case has been assigned. Written notice of such application shall be given to the client of the attorney seeking to withdraw, by certified mail, return receipt requested, stating the time when, and before which judge, such application will be

made. If such application is granted and the client does not appear at such hearing, the attorney, if permitted to withdraw, shall notify the client by certified mail, return receipt requested, to secure a new trial attorney within such time as may be designated by the court. A copy of such notice, together with the order authorizing withdrawal and the certified mail, return receipt requested, shall be filed and docketed in the cause, with a copy provided to the Assignment Commissioner.

## RULE 10

### CASE FLOW MANAGEMENT

#### A. SCOPE AND GOALS

It is the obligation of

It is, therefore, incumbent upon the judges to articulate orders in each case, and the uniform the judges of the Trumbull County Common Pleas Court, General Division, to operate the court in a manner that is lawful, fair, just and efficient both for the benefit of the citizens of Trumbull County and all other litigants that come before them. To that end, it is important that the court supervise the progress of all cases from filing to termination in a process that is fundamentally fair, and neither too deliberate nor too hasty. Within the bounds of applicable constitutional provisions, statutes, case law and rules governing the courts of Ohio, the court shall manage the sequence of events in litigation to ensure the timely disposition of all matters by trial, negotiated settlement, arbitration, mediation, or other means of appropriate dispute resolution.

It is therefore, incumbent upon the judges to articulate orders in each case, and the uniform enforcement of procedural requirements and other rules and time deadlines applicable in any particular case or type of case. Counsel has a corresponding duty to know these rules and the time deadlines that apply to their cases, to comply with these rules and meet those deadlines and to inform the court of extraordinary circumstances which would cause the standard deadlines to work a substantial injustice to their clients.

These Case Flow Management rules shall apply to all civil and criminal cases filed in the general division of the Common Pleas Court of Trumbull County unless (1) the case, by its very nature, requires a more rapid adjudication such as equity matters, habeas corpus, etc.; (2) the case, because of court-imposed stays, interlocutory appeals, removal to federal court and remand, etc., requires a different schedule; or (3) the court, by written order, places the case on a different schedule for resolution based upon good cause shown. The deadlines set by the Ohio Rules of

Superintendence for Common Pleas Court shall be construed as maximums, and shall not preclude the more rapid resolution of cases under these rules or by the assigned trial judge if he so orders. Any conflict between this Case Flow Management rule and any other local rules of the court shall be resolved in favor of the Case Flow Management rule.

#### B. CLASSIFICATION OF CASES, DEADLINES, TIMING

All cases filed after January 1, 1990, shall be classified in the following categories, and the classification shall be reflected in the case number. Cases shall be set for final disposition within these absolute time limits as set by the Ohio Rules of Superintendence for Common Pleas Courts:

Professional Tort	24 months
Product Liability	24 months
Other Torts	24 months
Worker's Compensation	12 months
Foreclosure	12 months
Administrative Appeal	6 months
Complex Litigation	36 months
Other Civil	12 months
Criminal	6 months

#### C. CIVIL CASES

1. Each court in the General Division shall cause, or have a member of its staff cause civil cases to flow within the time frames within this Case Flow Management rule.

a. An initial status conference shall be scheduled within ninety (90) days of the date the case is filed. The initial status conference may be conducted by a referee or bailiff, at the trial judge's option, and may be by telephone conference if previously approved. Parties and party representatives need not be present for the initial status conference if previously approved by the trial court. In addition, any party may move, in writing, for an initial status

conference if previously approved by the trial court. Also, any party may move, in writing, for an initial status conference, prior to ninety (90) days, if the party feels his particular case so warrants an accelerated status conference, the conference shall be approved and a date and time shall be set for such accelerated status conference.

b. It shall be the duty of all counsel to come to the initial status conference fully prepared and authorized to enter into a binding status conference order, alternate dispute resolution order, and/or negotiation towards settlement of the case. Failure to be prepared may result in dismissal of the case for want of prosecution, default judgment, or other terms, fines or sanctions to enforce compliance, as the trial judge deems appropriate.

c. At the initial status conference, whether held by telephone conference call or in person, the discussion should include by not be limited to:

- 1) Joinder of parties;
- 2) Third-party practice;
- 3) Amendment of the pleading, if necessary;
- 4) Issues concerning jurisdiction and venue;
- 5) Service of process;
- 6) Default judgment;
- 7) Motions under Civil Rules 12 and 19;
- 8) Issues concerning the Statute of Limitations, if necessary;
- 9) Proper classification and assignment of discovery deadlines, motion dates, and final assignment of the case for trial;
- 10) The use of compulsory and/or binding arbitration, referee, mediation, or other means of dispute resolution; and

11) Settlement.

d. At the initial status conference, the court may cause a "case schedule" to be prepared. That case schedule should include the following:

EXAMPLE OF CASE SCHEDULE:

<u>Case Caption</u>	<u>Case No.</u>	<u>Latest Time of Occurrence of the Event</u>
Case Filed		_____
Initial Status Conference		_____
Initial Joint Disclosure of All Witnesses		_____
Supplemental Joint Disclosure of All Witnesses		_____
Alternate Dispute Resolution		_____
(a) Referee		_____
(b) Arbitration		_____
(c) Mediation		_____
(d) Other Dispute resolution		_____
Discovery Cut-Off		_____
Dispositive Motions		_____
Decisions on Motions		_____
Second Status Conference		_____
Final Pre-Trial Conference or Pre-Trial Brief (or both)		_____
Trial Assignment		_____

By Order of the Court of Common Pleas,  
Trumbull County, Ohio

\_\_\_\_\_  
Judge

e. If the trial court assigns the case to alternative dispute resolution at the initial status conference, he should also set the case for final trial assignment in those cases where the alternate dispute resolution may not be final or binding.

f. The court shall set the case for trial assignment within the guidelines listed in Rule 10(B).

## 2. Final Pre-Trial Procedures.

a. At the time and date set at the initial status conference, or if the trial judge has set a date, a final pre-trial conference shall be held. The conference shall be conducted by the trial judge, if available, and all counsel shall be present with full settlement authority. If the real party in interest is an insurance company, common carrier, corporation, or other artificial legal entity, then the chosen representative must have full authority to negotiate the claim(s) the full extent of plaintiff's demand.

b. If the trial court so orders, no civil case need be finally pre-tried.

c. It shall be the duty of counsel to appear at pre-trial fully prepared and authorized to negotiate towards settlement of this case. Failure to be prepared may result in dismissal of the case for want of prosecution, a default judgment, or such other action to enforce compliance as the trial judge deems appropriate.

d. The trial court may require a pre-trial brief which should include the following, unless waived by the judge:

- 1) A brief description of parties' claims (one paragraph) to be read to jury upon voir dire;
- 2) A brief description of operative facts and listing of damages. Defendants to submit a brief description of defenses and operative facts;
- 3) If parties anticipate evidentiary rulings, please submit anticipated evidentiary problems;



- 4) Anticipated requested jury instructions should be included (case law and OJI cites);
- 5) If any motions are not ruled upon, a requested ruling upon those motions should be included;
- 6) Listing of all witnesses expected to testify;
- 7) A listing of all exhibits expected to be offered into evidence;
- 8) Whether a jury view is requested;
- 9) The estimated number of days required for trial;
- 10) Motions in limine, if any;
- 11) Trial briefs are to be hand-delivered by the attorneys to the trial court (after proper filing with the Clerk of Courts).

e. Any trial judge at the final pre-trial conference or trial shall have authority (1) to dismiss an action for want of prosecution, upon motion of the defendant, upon failure of plaintiff or counsel to appear in person at any pre-trial conference or trial; (2) to order the plaintiff to proceed with the case and to decide and determine all matters, ex parte, upon failure of the defendant to appear in person or by counsel at any final pre-trial conference or trial.

f. The failure of any attorney to comply with the final pre-trial procedures, without good cause, may subject the attorney or parties to terms, fines, or sanctions.

#### D. CHANGE OF THE TRIAL ASSIGNMENT DATE

1. Any request to change the trial assignment date shall be made, where possible, by written motion and shall be approved by the party requesting the change and/or contain a statement of acknowledgment, by counsel for that party, that the party approves the request for change of trial assignment date. The motion may be granted if it is supported by a showing of good cause.

2. A copy of the motion to change trial assignment date shall be served upon all counsel and any party not represented by counsel. A certificate of service shall be filed with the motion.

3. In the event that counsel requests a change of trial assignment date and does not have time to make a written motion, counsel is first required to telephonically communicate with all other counsel, or any party no represented by counsel, to receive their approval or to communicate their disapproval to the trial court.

4. If the trial assignment date is extended by the trial judge, the judge may require the party requesting the change to file a journal entry, within five (5) days, with the Clerk of Courts. That journal entry shall state the reasons for the modification of trial assignment date as was initiated by the trial judge.

#### E. CRIMINAL CASES

1. The Clerk of Courts shall cause the transcript of proceedings to be delivered to the Prosecutor's Office, for purposes of processing the same to a Grand Jury, within twenty-four (24) hours of its receipt from the municipal or county court binding said transcript to the Common Pleas Court. The purpose of this rule is to help ensure speedy processing of the case within the speedy trial time guidelines provided by statute.

2. If a criminal case is indicted, the Assignment Commissioner shall cause arraignments to be set within ten (10) days after a case is indicted, unless the court orders otherwise in order to ensure disposition within speedy trial time limits.

3. At arraignment, the arraigning judge shall notify counsel and/or the defendant of a disposition hearing date. At the disposition hearing date, it shall be a requirement for the defendant to be present. Failure of the defendant to appear at the disposition hearing date could cause the prosecutor to request a *capias* to be issued by the court of jurisdiction. At the disposition hearing date, the following subjects should be discussed:

a) Exchange discovery, or in the event discovery

is not available, discuss the dates when  
discovery will be completed;

- b) Potential plea bargains;
- c) If defendant accepts plea bargain, a date for  
the potential plea of guilty shall be set with  
the court jurisdiction;
- d) In the event the defendant does not accept  
a plea bargain, the parties shall inform  
the court and the court shall cause the  
case to be set for final trial and/or pre-trial  
as the court deems necessary;
- e) In the event hearings are required on  
motions, counsel shall so notify the court  
and it shall set hearing dates as well as  
filing dates for any motions.

4. The trial court shall set the case for final disposition, either by trial or by plea, within the speedy trial times set by statute, unless the speedy trial time is tolled under the appropriate statutes as set forth in Sec. 2945.71, et seq.

#### RULE 11

##### ASSIGNMENT OF CIVIL CASES FOR TRIAL

11.01 All civil cases shall be assigned to a judge, pursuant to a system to be agreed upon by lot by the members of the court.

11.02 When a case which has been assigned for trial is settled, counsel for the party seeking affirmative relief shall immediately notify the civil assignment office and cause preparation and filing of the dispositive judgment entry.

11.03 The criminal assignment is to take precedence and shall be assigned in accordance with RULE 10 (E), supra.

11.04 At any time prior to trial, if the trial judge determines that there is a proper basis for removing himself from a given case, he may assign the case to the administrative judge for reassignment.

## RULE 12

### REPRODUCTION OF HOSPITAL RECORDS

12.01 Upon motion of any party showing good cause therefore and notice to all other parties, the judge may order any hospital in the county, by any agent thereof competent to act in its behalf, to reproduce, by photostating or other recognized method of facsimile reproduction, all or any portion of designated hospital records or x-rays, which constitute or contain evidence pertinent to an action pending in this court. Such order shall direct the hospital to describe, by cover letter, the portion(s) of the records reproduced, any omissions therefrom and to specify the usual and reasonable charges therefore. Such order shall designate the person(s) to whom such reproduction(s) shall be delivered or made available.

12.02 Objections to the admissibility of such reproduced hospital records shall be deemed reserved for ruling at the time of trial, without specific reservation in the order to reproduce. Reproductions made pursuant to this procedure may be admitted in evidence without further identification or authentication, but subject to rulings on objections that have been preserved.

12.03 The reasonable charge for reproduction of its records shall be paid directly to the hospital by the movant(s).

12.04 Where original records are produced in court and reproductions substituted, by agreement of the parties or by order of court, the movant(s) shall be responsible for the reasonable cost thereof.

RULE 13

ARBITRATION

13.01 COMPULSORY ARBITRATION. To facilitate and expedite the administration of justice in the General Division of the Trumbull County Common Pleas Court, the following procedure for compulsory arbitration shall be followed in all civil cases:

13.02 CASES FOR SUBMISSION.

A) Every civil case, except those involving title to real estate, equitable relief, or appeal, in which the right to a trial by jury exists and which the judge to whom the case is assigned determines involves a real controversy of Twenty Thousand Dollars (\$20,000.00) or less, shall be submitted to arbitration. The amount in controversy shall be determined by:

- (1) The amount of the prayer;
- (2) The demand in settlement; or
- (3) An evaluation by the court at  
any time prior to trial.

13.03 BINDING ARBITRATION: WAIVER OF DE NOVO REVIEW. Forms will be available to the parties, or their counsel, providing for a waiver of the right of de novo review by the trial court. When such forms have been duly executed by the parties, or their counsel, the parties shall have no right to appeal, except as otherwise provided by law, and the report of the arbitrator(s) shall be a final judgment in the case, unless exceptions are taken and allowed in accordance with RULE 13.22, infra. It shall be the duty of counsel for the prevailing party to see that judgment is entered on the award in accordance with RULE 13.15, infra.

13.04 SELECTION OF ARBITRATORS

A) A list of arbitrators will be maintained by the Assignment Commissioner. This list will be comprised of members of the Trumbull County Bar Association. The members of the Bar qualified to so act shall include only those who have filed a consent with the Assignment Commissioner.

B) Cases shall be submitted to one Arbitrator selected by the Assignment Commissioner, or the trial court, unless a party requests that an arbitration panel consisting of three (3) Arbitrators be assigned by the Assignment Commissioner or the trial judge.

1) When an arbitration proceeds before a panel of three (3) Arbitrators, the chairman of the panel shall be selected by a majority vote of the Arbitrators. In the event the Arbitrators cannot select a chairman, the lawyer who is eldest in years of practice shall serve as chairman of the panel.

2) Counsel may agree, prior to appointment by the Assignment Commissioner, to their own panel of the three (3) Arbitrators, and shall transmit this concurrence in writing to the Assignment Commissioner.

C) Within ten (10) days after notification of assignment of a case for arbitration, either party may request a replacement of the Arbitrator selected. If such request is made and the parties cannot agree to a replacement, each shall submit two (2) names from the arbitration list, within ten (10) days thereafter, from which the Assignment Commissioner or trial judge shall select one.

13.05 DISQUALIFICATION. No attorney shall serve as an Arbitrator who is related, by blood or marriage, to any party to the case, or to any attorney of record in the case, or who is a law partner or associated with any attorney of record.

#### 13.06 ASSIGNMENT OF CASES.

A) The Arbitrator(s) shall assign a trial date for each case. No case shall be assigned earlier than thirty (30) days or later than sixty (60) days, from date of the appointment of the Arbitrator(s), unless otherwise directed by the assigned judge, for good cause and with at least fifteen (15) days' notice of date of trial.

B) No disclosure shall be made to the Arbitrator(s), prior to filing of the report and award, of any offers or demands of settlement made by either party, except by agreement of the parties. Any arbitrator who has knowledge of settlement demands and offers

shall be disqualified. Prior to delivery if the court file to the Arbitrator or chairman of the arbitration panel, the Assignment Commissioner or trial judge shall place all notations, containing settlement demands or offers, in a sealed envelope which shall remain with the file, but which shall not be opened by the Arbitrator(s).

13.07 HEARINGS; WHEN AND WHERE; NOTICE. Hearings shall be held at the place designated by the court, or by the assigned Arbitrator(s). No hearings shall be scheduled for Saturdays, Sundays, legal holidays, or evenings except upon agreement by counsel for all parties and the Arbitrator(s).

13.08 CONTINUANCES.

A) Cases may be continued by the Arbitrator(s), for good cause shown, for a period not to exceed sixty (60) days. Further continuances may be had only with the consent of the judge to whom the case was originally assigned.

B) Whenever any case has been continued by the Arbitrator(s) for a period of sixty (60) days, the judge to whom the case was originally assigned may summon the parties or their counsel. The judge shall have the power to make any appropriate order, including an order of dismissal for want of prosecution or an order that the case be again assigned to the Arbitrator(s) and be heard and an award made, whether or not the defendant appears and defends.

13.09 DEFAULT OF A PARTY; FAILURE TO APPEAR.

A) In the event of the failure of any party to be present at the time and place set for hearing, the judge to whom the case was originally assigned shall have the power to make any appropriate order, including an order of dismissal.

B) The arbitration may proceed in the absence of any party who, after due notice, fails to be present or fails to obtain an adjournment. An award shall not be made solely on the failure of a party to appear, and the Arbitrator(s) shall require the other party to submit such evidence as may be required for the making of an award.

13.10 CONDUCT OF HEARINGS; POWERS.

A) The Arbitrator(s) shall be the sole judge of the evidence offered, and conformity to legal rules of evidence shall not be necessary. All evidence shall be taken in the presence of the Arbitrator(s) and of all the parties, except where any of the parties is absent, in default, or any of the parties has waived his right to be present. The Arbitrator(s) may receive the evidence of witnesses by affidavit or written report, and shall give it such weight as deemed appropriate after consideration of any objections made to its admission.

B) Counsel shall, whenever possible, produce a party or witnesses at the hearing without the necessity of a subpoena.

C) The Arbitrator(s) shall have the general powers of a court including, but not limited to the following:

(1) Subpoenas. To cause the issuance of subpoenas to a witness to appear before the Arbitrator(s), and to request the issuance of an attachment, according to the practice of the courts, for failure to comply therewith.

(2) Production of Documents. To compel the production of all books, papers and documents deemed material to the case.

(3) Administering Oaths; Admissibility of Evidence. To administer oaths or affirmations to witnesses, to determine the admissibility of evidence; to permit testimony to be offered by deposition and to decide the law and the facts of the case

(4) Evidentiary Admissibility of Bills, Estimates and Other Documentation of Special Damages, and of Records and Reports. In actions involving recovery for personal injury or property damage, bills, estimates and other special damages documentation, and records and reports may be offered and admitted into evidence, without further proof and over "hearsay" objection, for the purpose of proving the reasonableness of charges; the necessity therefore; and/or casual connection with the transaction in issue, PROVIDED THAT at least two (2) weeks'



written notice of the proposed offering of same is given to the adverse party, accompanied by a copy of the following documents to be offered into evidence:

(a) Itemized statements, invoices or bills of hospitals and health care professionals, including nurses and physical therapists;

(b) Itemized statements, invoices, bills or receipts for prescribed medications, medical appliances and the like,

(c) Itemized property damage repair bills or estimates;

(d) Regularly-kept records, if duly-certified by their custodian;

(e) Expert reports, if signed by the author;

(f) Lost earnings verification, if signed by the employer or other person having first-hand knowledge thereof, and sufficiently detailed to include dates and amounts lost, together with an understandable computation of the total amount claimed; and

(g) Documentation of any other element of special damage, if sufficiently authenticated and detailed to the arbitrator's satisfaction as to its trustworthiness.

(5) Estimates. In the case of an estimate, the party intending to offer the estimate shall forward it, with his notice, to the adverse party, together with a statement indicating whether or not the property was repaired and, if it was, whether the estimated repairs were made, in full or in part, by attaching a copy of the receipted bill showing the items of repair made and the amount paid.

13.11 SUPERVISORY POWERS OF COURT. The judge to whom the case was originally assigned shall have full supervisory power with respect to any question arising at the arbitration proceedings in the application of these rules.

13.12 WITNESS FEES. Witness fees in any case referred to arbitration shall be in the same amount as now or hereafter provided for witnesses in trials in the Common Pleas Court of Trumbull County, Ohio; may be ordered taxed as costs in the case; and the costs in any

case shall be paid by the same party or parties who would pay them had the case been tried in the Common Pleas Court.

13.13 TRANSCRIPT OF TESTIMONY. The Arbitrator(s) are not required to transcribe their proceedings. If any party desires a transcript, he shall provide a reporter and cause a record to be made. The party requesting same shall pay its cost, which shall not be considered costs in the case. Any party desiring a copy of any transcript shall be provided same by the reporter upon reasonable payment therefore.

13.14 REPORT AND AWARD.

(A) Within thirty (30) days after the hearing, the Arbitrator(s) shall file a report and award with the Assignment Commissioner and, on the same day, forward copies to all parties or their counsel. The Assignment Commissioner shall make a note of the report and award on the docket, and forthwith file the original with the Clerk of Courts.

(B) The report and award shall be signed by the Arbitrator(s). In the event all three (3) members do not agree on the report and award, the dissenting member shall write the word "Dissents" before his signature. A minority report shall not be required unless the Arbitrator elects to submit the same in unusual circumstances.

13.15 LEGAL EFFECT OF REPORT AND AWARD: ENTRY OF JUDGMENT.

The report and award, unless appealed as herein provided, shall be final and have the legal effect of a verdict. If no appeal is taken within the time and in the manner specified therefore, the court shall enter judgment in accordance therewith. After entry of such judgment, execution may issue as in the case of other judgments.

13.16 COMPENSATION OF ARBITRATORS.

A) Each Arbitrator signing an award shall receive, as compensation for his/her services, the fee of One Hundred Fifty dollars (\$150.00). When more than one claim arising out of the same transaction is heard at the same hearing, it shall be considered as one case insofar as compensation is concerned. In cases requiring a hearing of unusual duration or

involving questions of unusual complexity, the judge to whom the case was originally assigned may, for good cause shown, allow additional compensation. The Arbitrator shall not be entitled to receive his/her fee until the filing of the report and award with the Assignment Commissioner. Fees paid the Arbitrator(s) shall not be taxed as costs, nor follow the award as other costs.

B) All compensation for Arbitrators shall be paid, upon proper warrant, from Trumbull County funds allocated to the Common Pleas Court of Trumbull County.

C) In the event a case is settled or dismissed sooner than two (2) days before the date scheduled for hearing, the Arbitrator(s) shall not be entitled to fees. In the event a case has settled or dismissed within such period, the Arbitrator(s) shall be entitled to a fee of Fifty Dollars (\$50.00).

D) If a case is settled or dismissed within two (2) days of the scheduled hearing date, a report and award, based on such settlement, and certification must be signed by all parties or counsel and filed with the Assignment Commissioner.

13.17 RIGHT TO APPEAL. Any party may appeal, from the award of the Arbitrator(s), to the Common Pleas Court. The right of appeal is subject to the following conditions, all of which shall be complied with within thirty (30) days after the award of the Arbitrator(s) is filed and time-stamped in the office of the Clerk of Courts.

13.18 NOTICE OF APPEAL AND COST.

A) The appellant shall pay Thirty Dollars (\$30.00) to the Clerk of Courts and shall file, with the Clerk, a notice of appeal, together with an affidavit that the appeal is not taken for delay, but because he believes an injustice has been done. A copy of such notice and affidavit shall be served upon opposing parties or their counsel.

B) The appellant shall first repay to Trumbull County, Ohio, by depositing, with the Clerk of Courts, all fees received by the Arbitrator(s) in the case in which the appeal is taken.

C) If the appeal results in a judgment different from that determined by Arbitrator(s), the court shall assess costs, including the reimbursement of amounts required to be paid by the appellant to effect the appeal, against either or both of the parties as it determines to be just.

13.19 POVERTY AFFIDAVIT ON APPEAL. An appellant without funds may apply, by a written motion and affidavit, to the court stating that, by reason of poverty, he is unable to make the payments required for an appeal. If, after due notice to the opposite parties, the assigned judge is satisfied of the truth of the statements in such affidavit, he may order that the appeal of such party be allowed without payment of said amounts.

13.20 RETURN TO ACTIVE TRIAL LIST; TRIAL DE NOVO.

A) Upon the filing of the notice of appeal and the payment or waiver of the costs as hereinbefore provided, the Assignment Commissioner shall cause the case to be returned to the assigned judge for trial.

B) All cases which have been appealed shall be tried de novo by the assigned judge.

13.21 TESTIMONY OF ARBITRATORS ON APPEAL PROHIBITED. In the event of an appeal from the arbitration award, the Arbitrator(s) shall not be called as witnesses as to what transpired before them as Arbitrators, upon any hearing de novo.

13.22 EXCEPTIONS AND REASONS THEREFOR.

A) Any party may file exceptions to the award of the Arbitrators), within thirty (30) days after the filing of the report and the award, for either misconduct or corruption of the Arbitrator(s).

B) Copies of said exceptions shall be mailed to each Arbitrator and the Assignment Commissioner within forty-eight (48) hours after filing, and said exceptions shall be forthwith assigned for hearing before the assigned judge.

C) If such exceptions are sustained, the report and award of the Arbitrator(s) shall be vacated and the case either assigned to a new Arbitrator or returned to the active civil list.

13.23 Exhibits received in evidence during arbitration hearings shall be marked for identification purposes, in either a distinguishable numerical or alphabetical sequence, and are to be further identified by designating the offering party.

In the event an arbitration award is not appealed as hereinabove provided, or in the event that an appeal is processed pursuant to the foregoing sections and the case is concluded prior to a trial de novo, each party shall have sixty (60) days after either of the foregoing events to obtain exhibits offered in evidence in such arbitration proceedings. The Assignment Commissioner is authorized to dispose of such exhibits if there is a failure to obtain them within this time frame.

#### RULE 14

##### SUPPLEMENTAL RULES OF CRIMINAL PROCEDURE

###### 14.01 CRIMINAL JUDGE AND TERM OF GRAND JURY.

A) Each of the judges sitting in the General Division shall serve as criminal judge for one term of court. The judges will rotate to accomplish this purpose.

B) The grand jury tenure and proceedings will be conducted in accordance with Rule 6 of the Ohio Rules of Criminal Procedure.

C) The Prosecuting Attorney shall refer all requests by grand jurors to be excused, whether temporary or permanent, to the criminal judge presiding over the grand jury.

D) The judge sitting as criminal judge shall handle all grand jury matters, including the appointment of grand jury foreman; the receiving of reports by the grand jury; and the giving of any necessary instructions.

E) Appointment of counsel for indigent defendants will be made by the criminal judge, when necessary, and by the judge to whom the case is assigned, after indictment.

F) The official shorthand reporter shall not prepare transcripts of testimony of grand jury proceedings, except under order of the court or upon an order of the prosecuting attorney. Said order shall be in writing and directed to the court reporter.

G) Summons on Indictment – Each indictment shall contain a formal, printed order, to the defendant, to appear in the courtroom of the assigned judge on a specific day and hour for arraignment, to be determined by the assignment office, and shall contain an appropriate place for the return, by the Sheriff, of the service of the notice and the indictment.

If the defendant were released on his recognizance or is on bond, the Sheriff may notify the defendant to pick up his indictment and notice within forty-eight hours.

#### 14.02 CRIMINAL CASE FILING AND COURT DESIGNATION.

A) The Clerk, upon receiving a criminal transcript from a municipal court or county court, shall immediately assign a case number as well as the courtroom and judge, and shall also cause the prosecutor's office to be notified of the transcript within twenty-four (24) hours of its receipt.

B) The Clerk shall number each case consecutively, in a new series, each calendar year. For example: 91-Cr-1, 91-CR-2, 92-CR-1, 92-CR-2, etc. ADDITIONALLY, ON THE DOCKET SHEET, THE CLERK SHALL AFFIX THE DATE OF ARREST OF THE DEFENDANT TO THE CASE NUMBER OR, IN THE EVENT OF A DIRECT PRESENTMENT OR SECRET INDICTMENT, THE DATE OF ARREST OF THE DEFENDANT OR THE DATE OF SERVICE OF SUMMONS WILL BE AFFIXED TO THE CASE NUMBER, AND THE CLERK SHALL AFFIX THE DATE UPON WHICH A DEFENDANT POSTED BOND, IF AVAILABLE. For example: Case #91-CR-1, Case #91-CR-2, D.O.A-12-10-90, D.O.A-1-13-91, D.O.B-12-11-90, D.O.B-1-19-91.

C) The prosecuting attorney, when drawing an indictment in compliance with the findings of the Grand Jury, shall observe Rules 6 and 7 of the Ohio Rules of Criminal

Procedure in all respects, and endeavor to maintain the original case number assigned. Where the indictment joins two or more defendants, it should be returned under the lowest case number.

D) The judge assigned to the case number of the "indictment" will be responsible for further proceedings thereon.

#### 14.03 INACTIVE CRIMINAL CASES

Criminal cases in which further proceedings are not presently possible shall be placed in a suspended file by the Clerk and considered closed for statistical purposes, either upon motion of the prosecuting attorney or the Court's own motion, and shall not be subject to dismissal for want of prosecution. A case shall be removed from such list when the defendant is available and proceedings resumed, or when such case is dismissed. Cases to which this rule is applicable shall include those in which the defendant is not competent to stand trial; is confined in a penal institution in another state; has not been served; or cannot be found.

#### 14.04 SEARCH WARRANTS.

A) The Clerk shall maintain a separate index and docket for search warrants.

B) Where the judge files, pursuant to Rule 41(E) of the Ohio Rules of Criminal Procedure, the search warrant, copy of the return, inventory and all other papers in connection therewith, the clerk shall secure said documents in a separate jacket, consecutively numbered and indexed by name.

C) If property is seized, it shall be held by the arresting authority for safekeeping, unless the court directs otherwise.

#### 14.05 SHERIFF'S REPORT.

A) As of the first day of each month, the sheriff shall deliver to all judges, the prosecuting attorney and the assignment office, a report of all persons confined in the jail. The report shall separately list defendants held for (a) federal or other authority outside this county; (b) state parole authority; (c) probation department; (d) domestic relations court; and (e) common pleas court. If a defendant is held or detained by order of more than one authority, such

defendant shall be listed under the entity that placed the defendant in custody: Others claiming such person shall be separately indicated by use of footnotes.

14.06 CRIMINAL ASSIGNMENT.

Criminal cases will be assigned for hearing or trial by the Assignment Commissioner under the supervision of the judge to whom the case is assigned.

14.07 FORFEITURES.

In any civil or criminal proceeding wherein the State of Ohio seeks forfeiture of property by any means, that proceeding shall be assigned to the judge to whom any underlying criminal case(s) has been assigned.

RULE 15

JUDGMENT ENTRIES

Counsel for the party in whose favor an order, judgment or decree is announced shall, within fourteen (14) days thereafter unless the time is extended by the court, prepare a proper judgment entry and submit the same to counsel for the opposite party, who shall approve or reject the same within five (5) days after its receipt by him and may, in case of rejection, file objections thereto in writing with the court.

RULE 16

COURT FILES AND PAPERS

No person shall remove any court papers, files, or parts thereof, from the custody of the Clerk, without the express permission of a judge of this court.

RULE 17

SECURITY FOR COSTS

17.01 No civil action shall be accepted by the Clerk for filing unless the party or parties offering the same shall have first deposited a sum to secure the payment of the costs that may accrue in such action or proceeding, 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, from time to time.

A) In addition to such advance court cost deposits previously approved by this Court and prepared and published by the Clerk, an additional advance of Fifty Dollars and 00/100 (\$50.00) is to be collected at the time of filing of each criminal cause, civil action or proceeding or judgment by confession pursuant to the authority granted in Ohio Revised Code Section 2303.201 for the purpose of funding special projects as may be established by the Court from time to time. This Local Rule 17.01(A) shall be effective as of August 1, 2001.

17.02 On cases transferred to the Common Pleas Court in which the demand exceeds the monetary jurisdiction of the municipal or county court, such complainant shall post security for costs in a sum equal to the amount required if the case were originally filed in this Court.

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

17.04 In lieu of cash deposit, costs may be secured by bond with surety approved by the Clerk provided, however, that no member of the Bar shall be accepted as such surety unless expressly approved by a judge of this court.

17.05 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 18

### APPEALS TO THE COURT OF COMMON PLEAS

18.01 In all administrative appeals to the Court of Common Pleas provided in O.R.C. Sec. 119.12, the time for filing briefs shall be as follows:

A) Within twenty (20) days after the filing of the record of proceeding with the Clerk of the Common Pleas Court, the Appellant shall file assignments of error and brief.

B) Within twenty (20) days after the Appellant's Brief is filed, Appellee shall file a brief and cross-assignments of error, if any.

C) Within ten (10) days after filing of the Appellee's Brief, the Appellant may file a reply brief.

D) For good cause, the court may, upon motion, extend the time for filing the brief and assignment(s) of error.

18.02 Upon expiration of the time for filing the briefs, the case will be considered submitted on briefs, unless oral argument is requested in writing and granted by the judge to whom the appeal is assigned.

18.03 These rules do not apply to appeals from the Industrial Commission pursuant to O.R.C. Sec. 4123.519.

#### RULE 19

#### RECEIVERSHIPS

In all cases where receivers are appointed by this court, the following shall apply:

A) Unless the court specifically authorizes the receiver to continue a business, he shall expeditiously take control of the assets of the debtor, give notice to all known creditors of his appointment and afford them opportunity to present and prove their claims; cause the assets to be inventoried and appraised; determine the validity and priority of creditor's claims; and take such steps as may be necessary to liquidate the assets and make cash distribution among the various classes of creditors. A receiver cannot proceed to act until he has filed, with the Clerk of Courts, a court-approved receiver's bond with proper surety, in the amount and form ordered by the court.

B) After approval of the receiver's bond, the receiver must obtain his general powers from the court, contained in an appropriate judgment entry, which powers shall include an order enjoining all secured and unsecured creditors from levying, executing, attaching, or suing on their respective claims, and shall further direct that all monies received by them, after the appointment of the receiver, shall be transferred to the receiver's general fund. The priorities among the creditors shall then be determined at a hearing on the matter at a later date, and shall

be determined by order of the court. Within two (2) months after his appointment, the receiver shall report to the court, submitting his inventory and appraisal, and including his account of receipts and expenditures to date. Such documents shall be filed with the Clerk. These several matters shall be considered by the judge to whom the case is assigned, and his approval thereof shall be by entry, approved first by the receiver and his counsel.

C) Semi-annually, after filing the first report with inventory, appraisal and account, the receiver shall file consecutively-numbered reports, with accounts, for approval by entry by the court as to all receipts and expenditures made by the receiver during the reporting period, together with a summary of plans for the future conduct of the receivership. The validity and priority of the various claims shall be determined by the court and not by the receiver.

D) In cases involving receivers appointed to take charge of property and to collect rents and other income, the receiver may expend funds, without first having obtained court approval, to pay for insurance premiums, water and utility bills, and make emergency repairs as are necessary for the proper maintenance of the property. For authority other than that, the receiver shall make application to the court. All claims not filed with the receiver, after notice has been given a creditor, shall be deemed barred, as provided by law.

E) In all receiverships in which property appraised in excess of \$2,000.00 is to be put up for public or private sale, the receiver shall file, in advance of such sale, a report with the court showing the amount of expenditures incurred or to be incurred prior to the time the sale is to be conducted. All public and private sales conducted pursuant to this rule shall not be considered final or consummated until approved and confirmed by court entry.

F) An application for payment of partial or final receiver and receiver counsel fees shall be filed with the Clerk for approval by the court. Notice of filing shall be filed with the Clerk for approval by the court. Notice of filing shall be mailed, by ordinary mail, to all counsel of record in the pending matter. Such application shall show time spent on enumerated items; amount of money collected, disbursed and on hand; the status of secured and unsecured

creditors' claims, including amounts claimed; payments made thereon and balances due; the amounts and dates of prior fees authorized in the case; and an estimate of the amounts and dates of prior fees authorized in the case; and an estimate of the amount of time necessary to complete the work in the receivership and make final distribution. The court may approve the application, or set it for hearing, not sooner than ten (10) days after the filing of the application.

G) Failure to file an inventory and appraisal, accounts or other reports as contemplated by the rule will constitute cause for removal of the receiver and/or his attorney, and for withholding of fees for the receiver and/or his attorney.

#### RULE 20

##### DEBTOR'S EXAMINATION REFEREES

In cases where the court has approved the appointment of a referee to conduct a debtor's examination pursuant to Ohio Revised Code 2333.09, such referee shall be paid a minimum fee of \$50.00 by the requesting party at the completion of such examination, which fee charge may be taxed to the costs.

#### RULE 21

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

21.01 In actions to quiet title, partition and for the marshalling and foreclosure of liens on real property, except those involving registered lands, the attorney for the plaintiff shall procure and file with the Clerk, within thirty (30) days after filing of the Complaint, evidence of the record title to the premises in question including, but not limited to the names of the owners of the property to be sold; a reference to the volume and page of the recording of the next preceding recorded instrument by or through which the owners claim title; the names and addresses of all lienholders; and the amount owed, volume and page of instrument creating the lien, the date of recording of such lien, and the attorney representing the lienholder, if apparent on the record. Evidence of title may be demonstrated by a preliminary opinion of attorney in a form and to such extent as would satisfy the requirements of the Marketable Title Act, or preliminary

judicial report issued by a title insurance company. Such opinion or report shall be rendered as of a date which is fourteen (14) days after the date of the filing of the Complaint and shall include all matters affecting the title up to and including the date which is fourteen (14) days after the filing of the Complaint. Upon failure of the attorney for the plaintiff to comply with the foregoing requirement within thirty (30) days after filing of the Complaint, the court may forthwith order evidence of title, or any cross-complainant or other interested party, upon notice to the plaintiff's attorney, may procure leave to furnish and file such evidence of title within the ensuing thirty (30) days. Such evidence of title or copy thereof shall become and remain a part of the files in the case. Where the evidence of title indicates that necessary parties have not been made defendants, the attorney for the party filing the same shall proceed without delay to cause such new parties to be added and served.

21.02 For the purpose of locating premises for prospective bidders, attorneys shall include street addresses on all legal descriptions when available. If there is not street address, the property shall be identified on legal descriptions by giving reference to distances from intersections or other apparent monuments.

21.03 Within fourteen (14) days following the entry of judgment in any such case, a final opinion of attorney or final judicial report shall be prepared and filed, in accordance with the foregoing requirements, showing the description of the property and the record state of title as of the day following the filing of the decree. Such extension shall also become and remain a part of the file in the case.

21.04 Failure to comply with the foregoing rule shall be grounds for dismissal of an action. Dismissal may be granted on motion of any party or upon the motion of the court.

21.05 The expense of the title work required under this rule, in an amount not exceeding two hundred and fifty dollars (\$250.00) for each property involved, may be taxed as part of the costs in favor of the plaintiff unless otherwise ordered by the court.

21.06 For the purpose of reporting by the trial judge to the Supreme Court in foreclosure cases, the judgment entry and order for sale will determine the case to be closed. All other proceedings in foreclosure cases will proceed according to law.

## RULE 22

### SHERIFF'S SALES

22.01 In every Sheriff's sale of real property, the purchaser, as soon as his bid is accepted, shall be required to deposit, on the day of sale, in cash or by certified check payable to the Sheriff, ten percent (10%) of the amount of such accepted bid. The unpaid balance of the purchase price shall be due and payable to the Sheriff within thirty (30) days from the date of the confirmation of the sale. The purchaser shall be required to pay interest on said unpaid balance, at ten percent (10%) per annum, from the date the balance is due. Any interest received shall be pro-rata and distributed by the Sheriff to the parties entitled to distribution of the proceeds of sale, in the proper order of priority. The provisions of this paragraph shall not be applicable when the purchaser is the plaintiff.

22.02 On the Monday following the Tuesday on which sales are held, the Sheriff shall make his return to the court. Plaintiff shall file the confirmation entry with the Clerk of Courts, and send copies to all parties or their counsel by regular mail, no later than the Monday following the Tuesday on which the sale is held. It shall not be necessary to have approval of other parties or their counsel prior to filing such entry. Unless proper written objection to the confirmation entry by a party or counsel is presented to the court not later than the second Monday following the sale, said entry shall be approved by the court. If proper written objection is made, the court shall determine the validity of the objection and make an order determining the issue. After confirmation is signed, the court that confirmed the sale shall forthwith cause the Sheriff to file the confirmation with the Clerk of Courts. Sheriff shall then prepare his deed to the purchaser. Such deed shall be prepared in conformity with R.C. Sec. 2329.36 and shall be delivered to the purchaser upon payment of the full purchase price and interest, if any.

22.03 In the event a purchaser fails to pay the balance due on the purchase price and complete the purchase within said thirty (30) days after the date of confirmation or sale, he shall be in contempt of this court and the Sheriff, or other interested party, shall forthwith cause a citation to issue commanding such defaulting purchaser to appear before the judge of this court having such matters in charge, and show cause why he should not be punished. Upon a finding of contempt, the court shall proceed in accordance with R.C. Sec. 2329.04.

22.04 In each advertisement of sale, the Sheriff shall cause to be included notice that the full purchase price shall be paid within thirty (30) days from the date of confirmation of sale, and unless paid within thirty (30) days shall bear interest at ten percent (10%) until paid; otherwise, the purchaser shall be adjudged to be in contempt of court. The Sheriff shall also keep a copy of this entire rule conspicuously posted at the place where he conducts sales and shall call attention thereto before receiving bids.

22.05 Appraisal fees shall be based on the Auditor's last tax appraisal of the property as shown by his duplicates and the area of the county where the property is located. The fees shall be scaled as follows:

Warren City, Warren Township and Howland Township . . . . .	\$40.00
Champion, Braceville, Lordstown, Southington, Bazetta, Vienna, Newton and Weathersfield Townships and Niles And Newton Falls Cities and McDonald Village . . . . .	\$45.00
Farmington, Bristol, Mecca, Fowler, Brookfield, Liberty, Johnston, Hartford, Vernon and Hubbard Townships and Cortland, West Farmington, Yankee Lake and Orangeville Villages and Girard and Hubbard Cities . . . . .	\$50.00
Mesopotamia, Bloomfield, Greene, Gustavus and Kinsman Townships . . . . .	\$55.00

Compensation for appraisal fees may be obtained in special cases by approval of court.

RULE 23

NOTICE OF APPLICATION FOR DEFAULT JUDGMENT

In accordance with Civil Rule 55 (A), when a party against whom a judgment for affirmative relief is sought has failed to plead, appear or otherwise defend as provided by the Civil Rules, he, or his designated trial attorney, shall be served with written notice of the application for default judgment at least seven (7) days prior to the hearing on such application. The Written notice of the application shall be sent by ordinary U.S. mail. The trial attorney for the party claiming to be entitled to a default judgment, shall exhibit to the court, at the time of the hearing on the application as part of the evidence in the case, a copy of said notice.

RULE 24

SPECIAL PROCESS SERVER

24.01 Appointment of Special Process Server – In accordance with Civil Rule 4.1, a party may request the appointment of a special process server.

24.02 Appointment of Standing Special Process Server – By this local rule, and in accordance with Civil Rules 4, and 4.1 through 4.5 the Court of Common Pleas, General Division establishes the position of Standing Special Process Server.

Appointment of any Standing Special Process Server shall be solely at the discretion of the Judge of the Court of Common Pleas – General Division, and said appointment shall be subject to the following procedures and limitations:

1. Any party desiring to be a standing special process server for the Trumbull County Court of Common Pleas – General Division shall make application to the court by way of motion.

2. Any Motion requesting appointment of a Standing Special Process Server shall be filed by an attorney of good standing who is a member of the Trumbull County Bar Association and who will attest in the Motion to the character and fitness of the party desiring to be a Standing Process Server.



3. Said application shall include an affidavit by the applicant setting forth the following:

a. A statement that he/she is over 18, not under any disability, and that he/she will never attempt to make service in an action to which she is a party, is related to any party, is counsel for any party, has an interest in the outcome of any case, or otherwise would be in violation of the Ohio or Trumbull County Rules of Court.

b. The business and home address and phone numbers of applicant.

c. An acknowledgement that the applicant will follow all State and Local Rules regarding service of process and follow instructions in any precept for making service and delivery of return to the Court.

d. An acknowledgment that the applicant will comply with all Ohio laws and at no time intentionally cause a breach of the peace while attempting to accomplish service.

e. An acknowledgment that movant understands that the Court may cause a criminal record check to be made prior to appointment.

Any appointment as Standing Special Process Server is solely within the direction of this Court and will continue for an indefinite period of time until terminated by Rule or Order of the Court.

Any Standing Process Server may be terminated or removed with or without cause by a majority vote of the Judges of the Court of Common Pleas – General Divisions.

The applicant requesting designation shall also submit an order captioned: "In Re: The Appointment of (name of applicant), whose business (or residence) address is (applicant's business or home address) has complied with the provisions of the Trumbull County Common Pleas Court – General Division's Local Rules of court and Ohio Civil Rules 4 through 4.5.

**IT IS THEREFORE ORDERED, ADJUDGED, and DECREED,** that said (name of applicant) is hereby designated as Standing Special Process Server and that said (name of

applicant) is hereby authorized to make service of process in all cases filed in the Trumbull County Common Pleas Court – General Division, and to serve in such capacity until further Order of the Court" said Order shall be signed by the Administrative Judge of said Court, or in his/her absence, by any Judge of said Court.

The clerk shall record such appointment on the Court's General Docket, and shall retain the original motions (applications), affidavits and entries. In any case thereafter, the Clerk of Courts shall accept a time-stamped copy of such Order as satisfying the requirements of Civil Rule 4.1(B) for designation by Order of the Court of a person to make service of process.

This Local Rule 24 shall be effective as of July 1, 1999, or when the same has been filed with the Supreme Court of Ohio in accordance with Civil Rule 83.

#### RULE 25

#### PRO HAC VICE

25.01 An attorney, not licensed to practice law in the State of Ohio, but who is duly licensed to practice law in any other state, District of Columbia, the Commonwealth of Puerto Rico, or territories of the United States may, in the discretion of the Trial Judge, be permitted to represent a party or parties in any litigation pending or to be filed in the county after completion of all of the following conditions:

A. The applicant attorney shall be sponsored in writing by an attorney licensed to practice law in the State of Ohio. The motion made by the Ohio licensed attorney shall certify such applicants' compliance with this rule and the Rules for the Government to the Bar;

B. The applicant attorney shall certify in writing that he or she is on active status and in good standing to practice law and is not under any disability. Applicant shall further certify in writing that he or she has familiarized himself or herself with local court rules and will familiarize himself or herself with the appropriate Criminal or Civil Rules, the Rules of Evidence, and the Code of Professional Responsibility;

C. The sponsoring attorney shall submit with the motion and certification, an entry authorizing approval of the motion;

D. The sponsoring attorney, or any other attorney licensed to practice law in the State of Ohio, shall be co-counsel with the attorney admitted pro hac vice.

25.02 The continuance of any scheduled trial or hearing date shall not be permitted solely because of the unavailability or inconvenience of the out of state counsel.

This Local Rule 25 shall be effective as of October 1, 2002.