



HAMILTON COUNTY, OHIO

COMMON PLEAS COURT

LOCAL RULES

PROPOSED LOCAL RULE CHANGES

Recommended by the Civil Rules Committee

- recommended deletions ~~struck through~~
- recommended additions in **bold**

RULE 10. Trial attorneys

(A) All pleadings and motions, served and filed on behalf of any party represented by counsel in a civil action, shall be signed by one attorney in that attorney's individual name as required by Civil Rule 11, as the trial attorney for that party, as provided in Superintendence Rule 3. Such trial attorney shall be the attorney who is to try the case, unless otherwise ordered by the Court, and shall be responsible for the action. Following that attorney's signature, office address including suite number[,], ~~and~~ zip code, **ADD: and email address**, and have both telephone and FAX number including area code, there shall be set forth the designation "Trial Attorney" for the party represented. Firm names and the names of co-counsel or associate counsel may appear on the pleadings and motions for information only as "Of counsel." In addition to the certificate mentioned in Civil Rule 11, the signature of the trial attorney, in actions for partition, foreclosure of mortgages, foreclosure of mechanics' liens, to contest a will, and other such actions, also constitutes a certificate that all persons having a claim, interest or lien on the property involved, or in the subject matter of the action, have been made Parties as required by law.

(B) All copies of pleadings or other court filings required by these Rules or Civil Rule 5 to be served upon other counsel in a cause, shall be served upon the trial attorney, designated in accordance with Paragraph A hereof.

(C) All notices and communications from the judges of this Court with respect to a cause pending therein will be sent to the trial attorneys designated on classification forms, notification forms (civil), or entries (criminal) referenced in Local Rule 11B hereof. Whenever the appearance of designated trial attorney is required in Court, the judge to whom a cause is assigned under Local Rule 7 hereof, shall so advise the Assignment Commissioner, who shall promptly notify by electronic postcard ~~or by regular U.S. mail a postcard~~ to such trial attorney advising of the required appearance. The **ADD: electronic** postcard shall specify the number and title of the cause, the date and time of the required appearance, the courtroom number and name of the judge to whom the cause is assigned or before whom the appearance is required, and the reason for such appearance, whether "For Trial" or "Pretrial Conference," "For Hearing on Motion to Strike" or other such customary designation. The **ADD: electronic** postcard notices shall be addressed to the designated trial attorney of record in that attorney's individual name, at the most recent ~~office~~ **ADD: email** address on file with the Clerk of Court's office. This most recent ~~mailing~~ **ADD: email** address will be used on all subsequent correspondence from the Court, on any case filed, until such time as the attorney in question changes his or her **ADD: email** address by filing a new notification form with the Clerk of Courts. The trial attorney shall be responsible for notifying the co-counsel or associate counsel of all matters affecting the action.

(D) Application for leave to withdraw as trial attorney in a civil case shall be made by written motion filed with the Clerk of Courts, with copies served upon all other trial attorneys in the cause 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 such trial 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 trial attorney, if permitted to withdraw, shall notify such 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.

(E) Any attorney who accepts private employment, or is appointed by the Court in any criminal case shall be required to sign one of the entries designated in Local Rule 11 B(3) which shall be filed with the papers in the case.

Thereupon such attorney shall become attorney of record upon the journal of this Court and shall not be permitted to withdraw except upon written motion and for good cause shown.

(F) Pursuant to Rule 1 of the Supreme Court Rules for the government of the Bar of Ohio an attorney must be admitted to practice in the State of Ohio in order to practice in the Court of Common Pleas. The Assigned Judge to the particular case or the Judge assigned for the purposes of the subject proceedings has the discretion to admit counsel for that case only upon a filed written motion for admission pro hac vice. An affidavit must be attached indicating: (1) applicant attorney has taken and passed a bar examination and has been admitted as an attorney at law in the highest court of a state, commonwealth, territory, or possession of the United States or in the District of Columbia, or who is admitted to practice in the courts of a foreign state; (2) applicant attorney is currently in good standing in said jurisdiction; (3) applicant attorney has not taken and failed an Ohio bar examination; (4) there are currently no disciplinary actions or contempt proceedings pending against applicant attorney before any court or administrative body; (5) the applicant attorney is aware of the contents of the Rules Governing the Courts of Ohio and the Local Rules of the Hamilton County Court of Common Pleas. The Assigned Judge may require local counsel. Upon granting of a motion for admission, applicant attorney is required to comply with notification procedures addressed in Local Rule 11(B). (Effective February 19, 2008)

RULE 11. Pleadings and other papers

(A) Pleadings and other papers shall be typewritten or printed on 8 1/2 x 11 inch bond paper, and shall be offered for filing to the Clerk of Courts without folding, suitable for a flat filing system. Original documents attached or offered as exhibits thereto are exempted from this requirement. **ADD: All pleadings and others papers for General Division civil cases assigned an "A" case number classification SHALL be filed electronically in accordance with Local Rule 34 unless the party is proceeding pro se. Depositions, administrative records, trial transcripts and other large, multi-page filings are exempted from this requirement.**

(B) Civil: Case Classification and Attorney Notification Forms. Criminal: Counsel retained, co-counsel retained and counsel appointed.

(1) No complaint in a civil case shall be accepted for filing unless accompanied by a completed classification form. The trial attorney must indicate on this form the following information:

a. The classification of the case being filed.

ADD: A party may only check ONE type of civil case on the classification form. Whether the present complaint reflects a previously filed and dismissed case and, if so, the original case number and originally assigned judge's name.

Trial attorney name (printed) and Supreme Court number.

(2) Whenever an attorney makes the first appearance in a civil case, that attorney shall complete an attorney notification form.

(3) Whenever an attorney makes a first appearance in a criminal case, that attorney shall complete one of the following entries:

Counsel retained

Co-counsel retained

Counsel appointed

(4) Whenever an attorney has a change in official mailing address, that attorney shall complete and file a new attorney notification form.

(5) The Clerk of Courts shall furnish such forms at the Issue Desk in the form approved by the Joint Session. (Amended June 1, 1999)

(C) All pleadings and other papers shall be identified by a title which shall contain the name and party designation of the person filing it, the nature of the pleading or paper, the identification number of the attorney, and the assigned judge's name. **ADD: For General Division civil cases assigned an "A" case number classification, no paper copies of the filing(s) need be provided by the party to the Clerk of Courts. Clerk of Courts personnel will provide assistance for parties proceeding pro se.** ~~In addition to the original, a conformed, legible copy of such pleading or other paper, shall be filed with the Clerk of Courts, except with respect to depositions and transcript of proceedings.~~

Originals of papers or pleadings in this Court shall not be withdrawn from the file.
(Amended January 1, 1983)

(D) A transcript of proceedings which has been filed with the Clerk of Courts, or exhibits in any pending case, shall not be taken from the custody of the Clerk of Courts or the official shorthand reporter, without written consent of the judge to whom the case is assigned, or the Presiding Judge.

(E) Unless otherwise ordered by the trial judge, all exhibits offered and admitted into evidence in the trial of a cause shall be kept in the custody of the official shorthand reporter for one year after the making of a final order in such cause. If no appeal has been taken within such time, the official shorthand reporter shall notify the trial attorney offering such exhibits to present an entry authorizing the withdrawal of them. If no such entry is presented, the official shorthand reporter, with the consent of the trial judge, may make such disposition of exhibits in the reporter's possession as is warranted. By entry, the trial judge, after hearing, may order an accurate photograph or photographs substituted for a physical exhibit. Such exhibit shall then be returned to the offering party. If a final order has been made on appeal, and no further proceedings have been had within one year from the date of such final order, the Clerk of Courts, with the consent of the trial judge, may make such disposition of exhibits as is ordered by the Court. With respect to videotape depositions, the Clerk of Courts shall release the original recording and the edited recording to the owner of the videotape upon Order of the Court pursuant to Superintendence Rule 12(E). Should the owner fail to claim said videotape deposition within thirty days of notice of a Court Order of Release, the Clerk of Courts may dispose of such tape in the manner deemed proper. Notice of the Order of Release shall be by ordinary mail to the last known owner of the videotape recording. (Amended July 1, 1990)

(F) When any court paper, file or page from the books of any public official is offered in evidence, a photocopy thereof shall be furnished forthwith by the party offering the same, and the original returned to the lawful custodian thereof. Photocopies of any other document may, with the trial judge's approval, be substituted for the originals as exhibits.

(G) Application for transcripts on appeal or if otherwise ordered of criminal or civil matters by counsel of record shall be only for that portion of the record necessary to illustrate the error(s) claimed or as may be required. The official shorthand reporter shall transcribe only as much of the proceedings as specifically ordered in writing by counsel of record. Counsel so making the request shall also advise on the same day all opposing counsel of that written request to the reporter of those positions ordered.

(H) Mental Capacity. 1) In case a person is found incompetent to stand trial under provisions of Revised Code 2945.38(C), the Court Administrator is designated to file an affidavit as a ministerial function in the Probate Court certifying the appropriate finding or findings of this Court. In the absence of the Court Administrator the Assistant Court Administrator for the Common Pleas General Division is designated for this purpose.
(Amended September 17, 1982)

2) The Clerk of Courts shall notify the Court Administrator within 24 hours of the filing of such findings by any judge of this Court.

3) In any case where the court has appointed an examiner pursuant to Revised Code Section 2945.37 et seq, said examiner shall transmit said report to the Court Administrator of this Court. The Court Administrator shall distribute copies of said report to the assigned judge, the appropriate prosecutor, and defense counsel, as required by the statute and the Court Administrator shall further deliver the original report to the clerk for filing. The clerk shall maintain said reports in a separate place under lock and key and shall keep such reports in a confidential fashion except as ordered by a judge of a Court of Common Pleas, or upon the request of a party to the proceedings or their legal counsel, or at the request of the Court of Appeals. The receipt of this filing shall be clearly entered in the clerk's journal, and in the event of an appeal, an appropriate document should be reflected in the transcript of the dockets, records and journal entries that the Clerk of the Court of Appeals has said confidential evaluation reports under lock and key with instructions as to where the Appellate Court may obtain them in the same manner as exhibits in an appellate case. (Amended December 15, 1986)

(I) Any motion or other paper filed with the Court, other than those which are required to contain a certificate of service by counsel pursuant to Ohio Civil Rule 5 shall contain a statement by counsel filing same indicating whether there is opposing counsel, whether opposing counsel has been informed of the filing, and whether there is objection to the actions sought. (Amended September 17, 1982)

(J) In accordance with Superintendence Rule 12(C) the official videotape format for the General Division of the Common Pleas Court is VHS 1/2 inch video cassette format at a tape speed of 1-6/16 I.P.S. (standard play). In addition to the requirements of Rule Superintendence 12, a written transcript of the deposition shall be filed when the video tape is filed, unless waived by the Court. Additionally, all video tapes shall be labeled to identify the overall length (in hours and minutes) of the video tape.

Playback equipment is maintained by this Court and is available for use at trial upon application at least twenty-four hours in advance to the Court Administrator and may be operated by an employee of this Court. Nothing in this Rule shall be construed to deny either party the ability to contract individually with a private court reporting firm, for the use of their equipment and/or personnel. However, where private firms are used no portion of such fee will be borne by the Court. (Amended effective August 1, 1991).

(K) In order to provide remote public access to Court records the Hamilton County Clerk of Courts publishes certain court records on the Clerk's web site www.courtclerk.org.

1. The Clerk of Courts may provide remote public access over the internet to the following classes and formats of court records:

- a. Litigant/Party indexes to civil and criminal cases filed with the court searchable by party name, judge, date filed or case number.
- b. Register of actions or dockets showing a list of what documents have been filed in a case.
- c. Calendars of cases scheduled before the various courts or judges, searchable by case no., party, attorney, judge, or room and time.
- d. Judgments, orders, or decrees in a case searchable by party or case number.
- e. Liens affecting title to real estate.
- f. Images of documents filed in a case not otherwise excluded from remote public access by this rule, court order, or upon request of the parties in accordance with paragraph 4 or 5 below.

2. The Clerk of Courts shall not provide remote public access over the internet to the following classes and formats of court records:

- a. Trial exhibits,
- b. Transcripts of court proceedings or Grand Jury proceedings
- c. Jury venires, questionnaires, seating charts, or verdict forms.
- d. Traffic Tickets, Criminal Warrants, Criminal Affidavits, Police referral records, or any other document routinely containing social security numbers.
- e. Criminal bond records that contain personal and financial information regarding the surety.
- f. Applications for Civil protections orders that are pending and the index thereto, until a final order is granted.
- g. Domestic Relations filings other than the complaint, answer and decree.
- h. Domestic Relations Family Files.
- i. Search Warrants and Applications for telephone subscriber information and affidavits in support thereof.

Unless sealed in accordance with paragraph 5 below, such documents shall be available only at a Court facility or pursuant to paragraph 3 below.

3. As technology allows, the Clerk should provide secure remote access to Court Records that are otherwise available only at a Court facility pursuant to paragraph 4 below, over the Internet to Court authorized individuals, parties, counsel, Court officers and staff. Unless sealed in accordance with paragraph 5 below, documents and records excluded from remote public access over the internet shall be imaged and available on the Court Management System (CMS) and at the office of the Clerk according to the access policies of the Clerk of Courts.

4. Upon motion of a party, a person with interest in the court record, or on the court's own motion, an assigned judge may order that all or certain records pertaining to an assigned case shall not be published on or shall be removed from the official web site. In limiting the remote public access to a record the court should use the least restrictive means that achieves the purposes of the access policy and the needs of the requester. Unless such record is subject to non-disclosure under some exception to the public record law or is sealed in accordance with paragraph (5) herein, there shall be an obvious notation on the official web site that said document or information has been withheld and is available in the official records of the Court. In deciding such a motion the Court shall consider the following factors:

- a. The need to maximize accessibility to court records,
- b. Support for the role of the judiciary,
- c. Promotion of governmental accountability,
- d. Public safety,
- f. Risk of injury to individuals,
- g. Protection of individual privacy rights and interests,
- h. Protection of proprietary business information,
- i. Possible reluctance to use the court to resolve disputes,
- j. The most effective use of court and clerk of court staff,
- k. Service to the Community
- l. The possible burden on the ongoing business of the judiciary.

5. Any party may apply to the Court by a motion pursuant to Criminal Rule 16 or Civil Rule 26 or otherwise in accordance with common law for the sealing of all or any part of an official Court file. Such request shall be by written motion. Any order to seal all or part of a Court public record shall be by journal entry. Such journal entry shall include in its caption either (1) Order to Seal Entire Record or (2) Order to Seal Document. Where the journal entry directs the Clerk to seal a Court file the Clerk shall keep said records safely and allow no access to said records except by written Court order. Where an entire file is sealed, the index and case number only shall be available on the Court Management System (CMS) and may be published for remote access and shall otherwise state that the record is held under seal pursuant to Court order with reference to this rule. Otherwise, any file, record or document ordered sealed shall not be published by the Clerk on the Internet. Nothing herein shall interfere with the Clerk's appropriate expungement of records pursuant to Revised Code Section 2953.31 et seq. or 2953.51 et seq.

6. The Clerk of Courts does not review the contents of and is not responsible for the contents of any record or document filed in that office that is provided for remote public access over the internet. The Clerk of Courts is not responsible for the use, misuse or theft of any information that is provided for remote access over the internet.

a. Parties and counsel should expect that documents or records filed with the Clerk of Courts and not excluded from remote public access in paragraph 2 above will be made available for remote public access over the internet. Parties and counsel are encouraged to avoid unnecessarily memorializing in court filings, social security numbers, full birth dates, bank or other financial account numbers, names of minor children or other personal information which might contribute to identity theft. If a date of birth or an account number must be referenced, it is ordinarily appropriate to use only the year, or the last four digits of the account. If names of minor children must be referenced it is appropriate to use the child's initials, or a generic abbreviation such as "CV" for "child victim".

b. Where a party finds it necessary to file an otherwise proper document containing personal identifying information which may implicate privacy or security concerns the party should request limited access to that document or record pursuant to paragraph 4 or 5 above.

(Effective July 1, 2005)

RULE 13. Default

(A) A party seeking a default judgment pursuant to Civil Rule 55 shall file a written motion with the Clerk of Courts. If the claim is liquidated, in addition to the motion, the moving party shall file an affidavit containing sufficient information in support of the claim. After filing the motion with the Clerk of Courts, the moving party shall leave a time stamped copy of the motion and the affidavit with the Court of Common Pleas Magistrate along with the proposed judgment entry.

If the claim is unliquidated, and/or if the party against whom judgment by default is sought has appeared in the action, a hearing is required before the Court of Common Pleas Magistrate. Counsel shall schedule the hearing on the motion for default with the Assignment Commissioner.

If the party against whom judgment by default is sought has appeared in the action, he/she shall be served with written notice of the application for judgment at least seven days prior to the hearing on such application.

(B) At the hearing on the unliquidated claim, the party requesting the default shall present to the Magistrate evidence to support the award of the default. The Magistrate may require testimony under oath. The Magistrate shall upon the conclusion of the hearing, having been satisfied that service of summons and complaint has been obtained, and that the evidence presented establishes the party's entitlement thereto, cause to be prepared the Magistrate's Decision and file the same with the Clerk of Courts. The Magistrate's decision shall set forth the date service of process was obtained, set forth the nature of the claim and the amount so claimed. Copies of the Magistrate's decision shall be served upon the parties or their attorneys by the Clerk of Courts, such notice to contain language that Objections to the Magistrate's Decision must be filed within 14 days of the filing thereof.

(C) If, at the hearing before the Magistrate, any opposition develops to the granting of the default judgment, the Magistrate shall take no action but shall advise counsel for the moving party to set the matter before the assigned Trial Judge unless the case had previously been referred to the Magistrate.

(D) Following the expiration of ~~14~~ **17days** days after filing of the Magistrate's Decision, with no Objection being filed, the moving party shall present a Default Judgment Entry to the Common Pleas Magistrate. (Amended effective May 1, 1997)

(E) In foreclosure actions the order of reference to the Magistrate shall include pre and post judgment proceedings.

RULE 17. Journal entries

(A) Unless the Court otherwise directs, counsel for the party in whose favor an order, judgment, or decree has been granted in a civil case, shall prepare a journal entry within ten days thereafter, unless the Court extends the time, and shall submit it to opposing counsel, who shall approve or reject it within three days after its receipt. The endorsement of counsel for each party affected shall appear on the journal entry before counsel presents it to the Court for approval. If opposing counsel fails to return or refuses to endorse the journal entry counsel may present to the Court a proposed journal entry which includes a certificate of service as provided in Rule 11(I) herein. When rejected, opposing counsel may file written objections with the Court. If a journal entry is not timely presented to the Court by counsel then it may be prepared and journalized sua sponte by the Court. **ADD: For claims in cases seeking judicial sale of real property, all journal entries SHALL be filed in accordance with Local Rule 45.**

The Court shall approve a journal entry deemed by it to be proper, sign the same and cause it to be filed with the Clerk of Courts. All judgment entries shall contain a complete caption setting forth the names of all parties affected by the entry and shall be journalized by the Clerk of Court on the same date that it is signed and approved by the Court. When the court signs a judgment as defined in Ohio Civil Rule 54 from which an appeal lies, as provided in Revised Code Section 2505.02, the Court shall affix a uniform stamp in red ink identifying said judgment and directing the clerk to serve all parties pursuant to Ohio Civil Rule 58. Counsel for the party in whose favor a final appealable order, judgment, or decree has been granted in a civil case shall forward notice of such filing to all other counsel or parties in the case and said counsel shall also file a certificate of such notice with the Clerk of Courts for journalization. Notice of the filing of each entry and the journalization thereof shall on the following day of such filing be published in the Cincinnati Court Index. (Amended July 1, 1989)

(B) When a request is duly made for findings of fact and conclusions of law, the judgment may direct the party making the written request to prepare within five days proposed findings of fact and conclusions of law and submit them to opposing counsel. Within ten days after receipt by the opposing counsel the proposed findings shall be submitted to the Court with objections and counterproposals if any in writing; however, only those findings of fact and conclusions of law made by the Court shall form part of the record.

RULE 34: Electronic Transmission Filings

A. Facsimile Filings

~~In conformity with Ohio Revised Code's Civ.R. 5(E) and Crim.R. 12(B) and effective upon approval by the Ohio Supreme Court Committee on Technology and the Courts, pleadings and other papers may be filed with the Clerk of Courts by facsimile transmission subject to the following conditions:~~

~~1. Definitions. The following terms in this Rule shall be as follows:~~

~~(a) Facsimile transmission—means the transmission of a source document by a facsimile machine that encodes a document into signals, transmits and reconstructs the signals to print a duplicate of the source document at the receiving end.~~

~~(b) Facsimile machine—means a machine that can send and receive a facsimile transmission either as a stand-alone device or as part of a computer system.~~

~~(c) Fax or faxes—an abbreviation for “facsimile” and refers, as indicated by the context, to facsimile transmission or to a document so transmitted.~~

~~(d) Source document—means the document transmitted to the court by facsimile machine/system.~~

~~(e) Effective original document—means the facsimile copy of the source document received by the Clerk of Courts and maintained as the original document in the court's file.~~

~~(f) Effective date and time of filing—means the date and time the filing has been received as indicated at the top of each page of the incoming fax transmission as printed out by the Clerk of Courts facsimile equipment.~~

~~2. Application of Rules and Orders. This Local Rule has been instituted solely for the convenience of those filing documents with the Clerk of Courts. Neither the Clerk of Courts nor the Court of Common Pleas for Hamilton County, Ohio, assumes any new or additional responsibilities, obligations or liabilities by virtue of this Local Rule, except as expressly provided for herein. Further, this Local Rule pertains only to the method of filing; it does NOT override, alter, amend, revoke or otherwise change any Local Rule or Ohio Rule of Civil or Criminal Procedure respecting the requirements of any filings such as obtaining the consent of parties or counsel or obtaining signatures or the authorization to sign for opposing counsel.~~

~~3. Filings Not Accepted. This Rule authorizes the filing of facsimile transmissions of all pleadings, motions and other documents that may otherwise be filed with the Clerk of Courts but anything stated or implied above to the contrary notwithstanding, the following documents may NOT be filed by facsimile transmission:~~

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

~~(b) Any entry which must be signed by a Judge of this Court; or~~

~~(c) Any final entry not requiring the Court's signature but for which a party is obligated to settle up costs with the Clerk of Courts. Notices of dismissal, stipulated entries of dismissal and the like, however, not requiring a Judge's signature and not requiring a settling up with the Clerk of Courts, may be filed by fax subject to the other provisions of this Local Rule; or~~

~~(d) Any domestic relations case filings.~~

~~4. Cover Page. The person filing a document by fax shall provide therewith a cover page containing the following information: (a) the case number (or indicate none); (b) the caption of the case; (c) the assigned judge (or indicate none); (d) a description of the documents being filed; (e) the date of transmission; (f) the transmitting fax number; and (g) an indication of the number of pages included in the transmission, including the cover page. If a document is sent by fax to the Clerk of Courts without the cover page information listed above, it will be deposited in the case jacket but shall not be entered into the Case Docket and shall be considered to be a nullity and thereby stricken. The Clerk of Courts is not required to send any form of notice to the sender of a failed fax filing.~~

~~5. Facsimile Machine. The telephone number of the facsimile machine available for receiving fax filings for Common Pleas Civil Cases is 513-946-5640 and for all Criminal Cases is 513-946-5670. These lines are available twenty four (24) hours per day seven (7) days per week. Fax filings may not be sent directly to the Court for filing but may only be transmitted directly through the facsimile equipment operated by the Clerk of Courts. Transmissions sent to any other location are not covered by nor permitted under this Local Rule. Copies of filings otherwise properly filed with the Clerk of Courts, however, such as courtesy copies for the Court, may be sent by facsimile directly to the Court, but any such transmittals shall not be considered as having been filed thereby.~~

~~6. Document Restrictions. A "fax transmission", as referred to in this Local Rule, may contain more than one (1) document but may not apply to more than one (1) case number per transmission. Motions and other filings making reference to or incorporating other documents attached to the motion or other filing as an exhibit thereof shall be considered as being part of a single filing for purposes of this rule. If exhibits are impossible or burdensome to send by facsimile transmission the original exhibits may be separately filed if done so within forty eight (48) hours of the related facsimile transmission. If the exhibits are filed separately, then an insert page describing the exhibit being filed separately must be included in the facsimile transmission. Facsimile transmissions may not be in excess of twenty (20) pages each regardless of the number of documents being sent.~~

~~7. Fees. There are no additional costs or fees related to facsimile transmissions except to the extent that the filings are taxed as cost to any case.~~

~~8. Filing Acceptance or Rejection. The Clerk of Courts is hereby authorized to reject any facsimile transmission filing if the sender fails to provide the Cover Page required under Section Four (4) of this Rule or if the transmission contains a filing not acceptable under Section Three (3) of this Rule.~~

~~9. Date and Time. Subject to the other provisions of this Local Rule, all documents filed by fax shall be considered filed with the Clerk of Courts as of the date and time that the fax transmission has been received by the Clerk of Courts. For purposes of this provision and for entering such filings into the electronic Case Docket system, a facsimile filing shall be deemed to have been received by the Clerk of Courts as of the date and time printed at the top of each page of the incoming fax transmission as printed out by the Clerk of Courts facsimile equipment. There shall be no other date and time stamp required for the filing of a fax document with the Clerk of Courts. The risks of transmitting a document by fax to the Clerk of Courts shall be borne entirely by the sender. Anyone using facsimile filing is urged to verify receipt of such filings by the Clerk of Courts through whatever technological means are then available, such as the activity register or report function of the transmitting equipment.~~

~~10. Original Filing. A document filed by fax shall be accepted as the effective original filing if the person sending the fax complies with all of the requirements set forth in this Local Rule. The person making a fax filing need not file any source document with the Clerk of Courts. However, until the case is closed and all opportunities for post judgment relief are exhausted the filer must maintain in their records and have available for production on request by the Court the source document of any document filed by fax, with original signatures as otherwise required under the applicable rules, together with the original copy of the facsimile cover sheet used for the subject filing.~~

~~11. Signatures. Facsimile filings shall contain a signature or a /s/ notation followed by the name of the person signing the source document.~~

A. B. Internet Electronic Filings

In conformity with Ohio Revised Code's Civ.R. 5(E) and Crim.R. 12(B) and as approved (provisionally) by the Ohio Supreme Court Committee on Technology and the Courts on June 5, 2002, **ADD: pleadings and other papers in all general civil cases assigned an "A" case number classification SHALL be filed with the Clerk of Courts electronically via the Internet.** Pleadings and other papers in criminal and other civil cases may be filed with the Clerk of Courts electronically via the Internet[.] **ADD: All electronic filings shall be** subject to the following conditions:

1. Definitions. The following terms in this Rule shall be as follows:

(a) Electronic Filing – (E-filing or e-filing) The process of transmitting a digitized source document electronically via the Internet to the Clerk’s office for the purpose of filing the document and refers, as indicated by the context, to the means of transmission or to a document so transmitted.

(b) Electronic Mail – (Email or e-mail) Messages sent by a user and received by another through an electronic service system utilizing the public Internet.

(c) Source Document - means the document transmitted to the Court via the Internet.

(d) Original Document - means the transmitted copy of the source document received by the Clerk of Courts and maintained in the Court's file.

(e) Date and Time of Filing - means the date and time the filing has been received, as indicated on the sender's computer screen after the document has been uploaded to the Clerk of Courts, unless rejected and not corrected. (See filing acceptance or rejection cycle below.)

2. Application of Rules and Orders. Unless modified by approved stipulation or order of the Court or a judicial officer, all Federal Rules of Civil and Criminal Procedure, Ohio Rules of Civil and Criminal Procedure and Local Rules, and orders of the Court shall continue to apply to documents electronically filed.

3. Filings Not Accepted. Any Entry that must be signed by a Judge of the court or any filing for which a party is obligated to settle final case costs will not be accepted for electronic filing.

4. Account Assignment. Upon receipt of the properly executed and signed User Agreement Form and Credit Card Authorization Form and the deposit of required funds into the Clerk’s copy cost account at the Clerk of Court’s office, the Clerk of Courts shall set up an electronic filer user account and assign a user-id and initial password to be used for electronically filing documents. Electronic filers using third party electronic filing providers will not be assigned a user-id or password and will not be required to maintain a copy cost account.

5. Hours of Operation. Electronic filings may be submitted at any time. The electronically filed document will be considered filed as of the date and time that the receiving device of the Clerk of Courts received the entire transmission. All electronically filed documents shall receive a confirmation date and time acknowledgement.

6. Document Format. Documents submitted must be in a digitized format specified by the Clerk of Courts as set forth in the online guide to electronic filing.

7. Fees. Normal filing fees and case deposits will be collected via user credit card at the time the filing is processed by the Clerk of Courts. Copy costs will be charged against the copy cost account at the time the filing is processed by the Clerk of Courts. Filings made using third party electronic filing providers will be charged copy costs via credit card at the time the filing is processed by the Clerk of Courts. The Clerk of Courts will, from time to time, establish and publicize the rules and regulations governing the requirements for maintaining the copy cost accounts.

8. Filing Acceptance or Rejection Cycle. A confirmation number will be assigned to each filing when it is received in its entirety by the receiving device of the Clerk of Courts. The confirmation number and the date and time of the filing will be displayed on the screen of the filer's computer upon successful transmission of the filing. Filers using third-party electronic filing providers will not have the confirmation number and date and time of filing displayed on the screen, but must wait for the confirmation electronic mail message from the Clerk of Courts to obtain the confirmation number and date and time of filing. Upon successful processing of the filing by the Clerk of Courts, an electronic mail message containing the confirmation number and case number assigned, if any, will be sent to the filer. Filers will be notified via electronic mail if the filing is rejected for any reason. A rejected filing may be resubmitted via electronic mail to the Clerk of Courts in order to retain the original date and time of filing. Rejected filings which are resubmitted via electronic mail must be received by the Clerk of Courts within twenty-four (24) hours of the time that the rejection electronic mail message was sent by the Clerk of Courts in order to retain the original date and time of filing and confirmation number. A corrective filing may, however, be sent at a later time if the filer elects to do so, but after the twenty-four (24) hours period expires such a filing will be considered a new filing and the prior confirmation will have expired.

9. Electronic Filed Stamp. Upon successful completion of acceptance processing by the Clerk of Courts a document filed electronically will be electronically filed stamped. This stamp will include the date and time that the receiving device of the Clerk of Courts received the entire transmission as well as the confirmation number of the filing. A document electronically filed that is not successfully processed by the Clerk of Courts will not receive an electronically filed stamp but the filer will receive a rejection e-mail. (See Filing Acceptance or Rejection Cycle above.)

10. Disposition and Maintenance of Original Documents. A document electronically filed shall be accepted as the original filing, consistent with Ohio Revised Code Civ.R. 5(E) and Crim.R. 12(B) if the person filing electronically complies with all of the requirements set forth in this Local Rule. The person filing electronically need not file any original copy with the Clerk of Courts but must maintain in his or her records, and have available for production on request by the Court, the Clerk of Courts or other counsel, the original copy of any document electronically filed. The filer must maintain this original document until the final disposition of the case and through any Notice of Appeal or, if appealed, appeal period.

11. Public Method of Access to Electronically Filed Public Documents. Members of the public can obtain copies of or review electronically filed documents in the same manner

as documents filed on paper. Public access to electronically filed public documents will be available via the Internet web site of the Clerk of Courts as soon as the Clerk of Courts has processed the document. If Internet web site access is unavailable or is not provided by the Clerk of Courts, or if the Clerk of Courts is prohibited by the Court or by any law from making the document available via the Internet web site, the document will be available at one or more offices of the Clerk of Courts, either by computer terminal or in paper form in the case jacket or on microfilm. However, if a document or case record is sealed or expunged it is unavailable for public disclosure.

12. Operating Procedures and Instructions. The Clerk of Courts is authorized to prepare and maintain operating procedures and instructions for electronic filing.

RULE 45: Foreclosure

(A) Pleading

In every action demanding the judicial sale of real estate, the party or parties seeking such judicial sale shall attach legible copies of the following documents to the initial pleading:

1. the Note and recorded mortgage drafted pursuant to Chapter 5301.; or
 2. the recorded Affidavit for Mechanic's Lien drafted pursuant to R.C. § 1311.06;
- or
3. the file-stamped copy of the Certificate of Judgment filed pursuant to R.C. § 2329.02 or Authenticated Foreign Judgment and Affidavit filed pursuant to R.C. §§ 2329.022 and 2329.023; or
 4. any other written instrument upon which the party relies as the basis for a judicial sale.

If the plaintiff is not the payee of the Note or the original mortgagee, then the assignment of mortgage bearing the plaintiff's name shall also be attached to the complaint. If the documents are not attached, the reason for the omission must be stated in the pleading.

(B) Receiverships

1. The following procedure shall be applied upon the filing of a motion for the appointment of a receiver in a foreclosure case with the Clerk of Courts:
 - a. The party seeking the appointment shall schedule a hearing before the Common Pleas Magistrate;
 - b. Unless the mortgage provides for appointment of a receiver without notice, notice of the hearing shall be served on interested parties either by attachment to the complaint and original summons, or by certified mail in accordance with the Ohio Rules of Civil Procedure;
 - c. Notice, if required, shall be served on the owner of the property three (3) days before the hearing; and
 - d. The Court may continue hearings from time to time upon the showing of good cause.

2. Appointment of Receivers – Prerequisites:

a. Before any receiver is appointed in a foreclosure case, the following must be demonstrated by affidavit, evidence or representation of counsel:

(1) That legal or equitable grounds exist necessitating the appointment of a receiver, and

(2) That the mortgaged property is in danger of being lost, removed, or materially injured, or that the condition of the mortgage has not been performed, and the property is probably insufficient to discharge the mortgage debt, or on grounds other than those prescribed herein.

3. Oath and Bond:

a. Upon appointment, a receiver shall qualify and give a bond in the amount required by the Court. Bond shall generally be of a nominal sum in the amount of \$100.00, when the property is vacant and it is anticipated in the motion and order that the receiver's duty will be that of caretaker. Bond shall generally be in a sum equal to the sum of monthly rents or accounts receivable, where there are rents and profits to be collected. If the receiver fails to qualify and give bond, the appointment is voidable.

4. Duties of Receivers:

a. All receivers shall take charge of property pending litigation, preserve property from waste or destruction, receive rents and profits, hold income subject to order of the Court, and have authority to sue in forcible entry in the receiver's name and capacity.

b. Within ninety (90) days of the date of their appointment and every ninety (90) days thereafter, receivers shall file a report of receipts and disbursements with the Clerk of Courts.

c. Absent wording in the original Order, no receiver shall diminish the financial resources of the receivership through expenditure for repairs, real estate taxes and assessments, gas, light and water bills, trash pick-up and insurance, without first procuring an order from the Court for that purpose, except that necessary outlays under \$200.00 which may be made without

the order, subject, however, to the final approval of the Court in the receiver's account.

d. A Final Receiver Report shall be filed with the court within 60 days after the filing of the Order Distributing Proceeds. The Final Receiver Report shall indicate that no funds remain in the receiver's account and that all outstanding bills have been paid. The receiver shall not be dismissed until the Final Receiver's Report is approved by the Court as filed.

(C) Case Management

Any party, or counsel thereof, with an active claim with a cause of action for judicial sale of real property must be present at all case management conferences. No telephonic appearances are authorized except through written leave of the Common Pleas Magistrate or Judge.

(D) Bankruptcy

Where a defendant has filed bankruptcy, the defendant, or plaintiff upon notification from the defendant, shall file a "Notice of Bankruptcy and Suggestion of Stay" and send a file-stamped copy of the Notice to the Common Pleas Magistrate as soon as practicable. Upon the receipt of the Notice, no further court settings will be scheduled and no further documents shall be filed with the Clerk of Courts regarding the bankrupt party until plaintiff or other party seeking judgment moves for, and is granted, an order to reinstate the case to the active docket. NOTHING IN THIS RULE SHALL PREVENT A PARTY FROM COMPLYING WITH FEDERAL BANKRUPTCY LAW.

(E) Judgment

1. Default

a. All motions for default shall list each defendant and the date service was perfected thereon.

b. A party seeking default judgment shall file an "Affidavit of Account". The affiant shall be the party seeking judgment or an employee of the plaintiff familiar with the mortgagor's account. All relevant information required pursuant to 50 App. U.S.C. § 521(b)(1) [Servicemembers Civil Relief Act] may be included within the Affidavit of Account, or by

separate affidavit. The amount claimed due and owing in the Affidavit of Account must match the amount listed on the proposed Judgment and Decree in Foreclosure.

c. Pursuant to Civ. R. 55(A) and L.R. 13(A), parties seeking default judgment shall deliver to the Common Pleas Magistrate a file-stamped copy of the Motion for Default, file-stamped copies of all relevant affidavits and the proposed Judgment and Decree in Foreclosure. The moving party shall also include a file-stamped copy of the Final Judicial Report or commitment. Where a party otherwise in default has made an appearance, the moving party shall contact the Common Pleas Magistrate to schedule a hearing on the Motion for Default and notify all appearing defendants. The hearing shall be set at least seven days after notice is sent to the appearing party.

d. Where a junior lienholder seeks default judgment on a **ADD: “its”** ~~er~~ssclaim, all lienholders who claim an interest senior to that of the party seeking judgment shall file an Affidavit of Account attesting to the outstanding balance due and owing. This requirement shall not apply if the Court has previously awarded a decree of foreclosure to the lienholder claiming the senior interest[,] **ADD: or the attorney for the senior lienholder signs the proposed entry.**

2. Summary Judgment

a. Where a junior lienholder seeks summary judgment on a **ADD: “its”** ~~er~~ssclaim, all lienholders who claim an interest senior to that of the party seeking judgment shall file an Affidavit of Account attesting to the outstanding balance due and owing. This requirement shall not apply if the Court has previously awarded a decree of foreclosure to the lienholder claiming the senior interest[,] **ADD: or the attorney for the senior lienholder signs the proposed Magistrate’s Decision.**

b. If one or more of the defendants have failed to timely answer and the plaintiff has filed motions for default, the moving party may include the defaulting parties in the Entry Adopting the Magistrate's Decision granting summary judgment.

c. The moving party shall attach a file-stamped copy of the Final Judicial Report or commitment with the Entry Adopting the Magistrate's Decision granting summary judgment.

(F) Judicial Sale

1. Parties seeking an Order of Sale shall complete the "Praecipe for Order (Sale of Possession)" located at www.courtclerk.org/cp_civil_forms.asp. Parties seeking an Order of Sale and interested buyers shall also complete a "Purchaser Information Sheet" located at www.courtclerk.org/cp_civil_forms.asp. Parties may generate and utilize alternative "Praecipe for Order - Sale" and "Purchaser Information Sheet" forms, so long as information contained on the alternative forms is identical to that contained on the published forms.

2. Terms of Sale. Purchasers at judicial sale must present a cashier's check to the execution officer equal to 10% of the appraised value of the real property ("the deposit"). The balance of the sale price, payable by cashier's check, shall be due within thirty (30) days of the Confirmation of Sale. Failure to timely pay the balance of the sale price may result in the forfeiture of the deposit.

(G) Confirmation of Sale, Ordering Deed, and Distribution of Proceeds

1. The Entry Confirming Sale and Ordering Deed shall be proffered to the Common Pleas Magistrate within thirty (30) days of the writ of execution indicating the sale was made, in all respects, in conformity with sections 2329.01 to 2329.61 of the Revised Code. The attorney who filed the writ of execution shall make to the purchaser a deed for the lands and tenements and deliver said deed to the sheriff's office within seven (7) days following the journalization of the Entry Confirming Sale and Ordering Deed.

2. An Order Distributing Proceeds shall not be proffered to the Common Pleas Magistrate until the full purchase price and fees have been received by the Sheriff's Office. The Order Distributing Proceeds shall state whether the distribution is in full or partial satisfaction of the judgment. If the foreclosing party seeks a distribution pursuant to R.C. § 5301.233 or in equity for funds in excess of court costs, unpaid property taxes, or the amount equal to the unpaid principal, accrued interest, and late fees, then the attorney of record for the foreclosing party shall prepare and file a Confirmation Worksheet which shall indicate how much additional distribution is requested. Documentation sufficient to support the additional distribution shall be attached to the Confirmation Worksheet. A blank Confirmation Worksheet is available at www.courtclerk.org/cp_civil_forms.asp.

3. A clause allowing a mortgagee to collect reasonable attorney fees in a Note backing a commercial transaction is enforceable only if the total amount owed on the Note at the time the Note was executed exceeds \$100,000.00. Attorney's fees for cases involving the foreclosure of residential property are collectable only where the Note backs a commercial transaction and contains a provision allowing said fees. Reasonable attorney fees incurred by a unit owners' association in a foreclosure action against the defaulting unit owner for unpaid common assessments are enforceable if such a provision is contained within a declaration of condominium ownership and/or condominium by-laws.

4. No Writ of Possession shall issue until all sale proceeds and fees have been paid. A Writ of Possession may issue pursuant to R.C. §§ 2327.02(C) and 5303.15 against any named occupant of real property if a judgment against said occupant has been obtained. The Sheriff shall return the Writ unexecuted when he/she determines that the occupant is other than a named party.

(H) Distribution of Excess Funds

Any defendant claiming an interest in any excess funds from a judicial sale must file a motion requesting a supplemental distribution. Such motion must set forth the reasons why the movant is entitled to the claimed funds. The movant shall schedule a hearing on the motion with the Common Pleas Magistrate and serve the plaintiff and all other parties not in default a copy of the motion and a notice of hearing.