

KNOX COUNTY
RULES OF PRACTICE AND PROCEDURE OF THE
COURT OF COMMON PLEAS
JUVENILE DIVISION

James M. Ronk, Judge

Introduction

It is ordered that the following rules be and are hereby adopted for the governance of the practice and procedures in the Court of Common Pleas, Juvenile Division, Knox County, Ohio, until otherwise provided pursuant to Article IV, Section (5) of the Ohio Constitution, to Section 2123.15 of the Ohio Revised Code, and to the Rules of Superintendence promulgated by the Supreme Court of Ohio.

Adoption, Scope and Construction of Rules

- A. The Juvenile Division of the Common Pleas Court for Knox County, Ohio, adopts the following Rules for the management of proceedings and other functions of the Court. The Court may amend the Rules from time to time as needed or required by law.
- B. These Rules are intended to supplement and complement the Ohio Rules of Juvenile Procedure, the Ohio Rules of Civil Procedure, the Superintendence Rules of the Supreme Court of Ohio, and controlling statutes.
- C. These Rules shall be applied, construed, and enforced so as to avoid inconsistency with other rules of Court and statutes governing proceedings of this Court. In their application, they shall be construed so as to provide fairness and to secure just and expeditious determination of all proceedings.
- D. These Rules shall be cited as “Juv. Ct. Rule __.__.”
- E. These Rules shall be effective January 1, 2007.

RULE 1 GENERAL

RULE 1.01 Sessions of Court

- (A) The Juvenile Court Office shall be open for the transaction of ordinary business from 8:00 a.m. to 4:00 p.m. on all business days, Monday through Friday, with legal holidays as provided by law to be observed.
- (B) Juvenile Traffic Court is conducted on Tuesday beginning at 4:00 P.M. until conclusion.
- (C) The Juvenile Court Office, at the discretion of and upon the order of the Judge of said Court, may be open at other hours for matters of an extraordinary nature or importance.

RULE 1.02 Conduct in Court

- (A) Proper decorum in the Court is necessary to the administration of justice and the Court's functions. All parties or witnesses appearing therein shall be treated with all due professional courtesy and respect by any counsel. Any conduct which interferes, or tends to interfere with the proper administration of justice and/or the business of the Court is strictly prohibited and may, at the discretion of the Court, subject the offending counsel, parties or other participants to sanctions, including contempt.
- (B) Appearance in Court under the influence of alcohol or drug of abuse by any person is strictly prohibited. Any party or other person appearing in this Court who appears to be under the influence of alcohol and/or any drug of abuse shall, at the discretion of the Court, be ordered to submit to alcohol testing or a drug screen. A positive alcohol test and/or drug test may result in a finding of direct contempt. A finding of contempt may subject the contemner to a fine, incarceration or both.

RULE 1.03 Ohio Attorney

No action in the Court of Common Pleas, Juvenile Division, shall be filed or tried by an attorney who is not admitted to practice in the State of Ohio unless there is co-counsel who is admitted to practice in Ohio. This does not preclude pro se appearances.

At the request of the Judge or Magistrate, an attorney may be requested to present identification that he or she is registered and in good standing with the Ohio Supreme Court to practice law in this State.

RULE 1.04 Court Records

- (A) Official Court records for cases involving Juveniles shall be open for review and inspection as required by public record statutes. All psychological reports, social histories, and home studies are considered confidential and shall not be available to any person except by order of the Judge or Magistrate, or by the written consent of the juvenile herein. The written consent of the juvenile shall be executed at the Court in the presence of an officer of the Court or Deputy Clerk.
- (B) Reports and records of the Probation Department shall be considered confidential information and shall not be made public. The inspection of Probation records by attorneys and interested parties shall be governed by Rule 32 (c) of the Rules of Juvenile Procedure. No person shall be permitted to review any probation records without the prior written consent of the Judge or Magistrate.
- (C) The records of adult cases shall be public records as provided by law.
- (D) Written request for information (i.e. military, government, employment) will be processed within seventy-two (72) business hours. Written requests may be hand delivered, mailed or faxed to the Court.

RULE 1.05 Official Record of Proceedings

- (A) A complete record of all testimony or other oral proceedings shall be taken in shorthand, stenotype, or by electronic recording device, pursuant to Rule 37 of the Rules of Juvenile Procedure.
- (B) No public use shall be made by any person, including a party, of any juvenile court record, including the recording or transcript thereof of any juvenile court hearing, except in the course of an appeal or as authorized by the order of the Court.
- (C) All requests for typing of transcripts for the purpose of an appeal or objection to the Magistrate's Decisions shall be filed with the Clerk of the Juvenile Court. All original transcripts produced shall be filed with the Clerk and shall become part of the official record of the case. The compensation for making transcripts and copies shall be paid forthwith by the party for whose benefit the same is made at an amount and upon such terms as the Court shall determine. No transcript will be prepared by the Court for any party until satisfactory arrangements for payment have been made.

RULE 1.06 Photographing, Recording or Broadcasting of Proceedings

No radio or television transmission, voice recording device, other than a device used in making an official record of the proceeding for the Court, or the making or taking of photographs, shall be permitted without the prior approval of the Judge.

RULE 1.07 Facsimile Filing

- (A) Pursuant to the authority extended the Court by Civil Rule 5(E) and Juvenile Rule 8, the Court adopts the following procedures for the acceptance of facsimile copies, subsequent to the original complaint, of pleadings and other papers not longer than ten (10) pages in length. No document longer than ten (10) pages in length shall be filed in this manner.
- (B) The Court shall maintain an independent private telephone line, publish the number of the same, and maintain a facsimile machine for utilization by members of the bar authorized to practice law in Ohio in filing documents with the Court and its Clerk as provided herein. The facsimile telephone number is (740) 393-6832.
- (C) The filing of pleadings or other papers, subsequent to the original complaint and not requiring a security deposit pursuant to Local Rule, may be filed with the Clerk by facsimile copy. Within three (3) business days after the transmission to the Clerk of a facsimile copy, an original document bearing original signatures shall be filed with the Clerk. The Clerk shall docket any facsimile copy when received as a facsimile copy. Thereafter, when the original document is filed, the Clerk shall docket it in the usual and customary manner and the filing shall relate back to the date upon which the facsimile copy was filed. In the event any facsimile copy is received by the Clerk after 4:00 p.m. on a regular business day or anytime on a weekend or holiday the facsimile copy shall be considered filed on the next ensuing regular business day for the Clerk.
- (D) Any facsimile copy filed pursuant to this rule shall conform to the requirements of applicable Civil Rules, Juvenile Rules, and Local Rules, in both form and substance, and shall be preceded in transmission by a cover page which includes the following information:
 - (1) Name of forwarding attorney,
 - (2) Address of forwarding attorney,
 - (3) Ohio Supreme Court registration number of attorney,
 - (4) Telephone number of attorney,
 - (5) Facsimile telephone number of attorney,
 - (6) Date and time of facsimile initiation, and
 - (7) Number of pages in document being forwarded.

RULE 2 SECURITY FOR COSTS

RULE 2.01 Deposit for Costs

Complaint/Motion to Establish Paternity/Support	\$200.00
Complaint/Petition for Custody	200.00
Motion to Reopen or New Action on Existing Case	100.00
Transcript	400.00

RULE 2.02 Inability to Secure Costs

If a litigant claims inability to either prepay or give security for costs, the litigant shall complete an Affidavit of Indigency required by O.R.C. 2323.30 and O.R.C. 2323.31, substantiating such inability, all of which shall be filed with the pleadings and treated as other papers in such case, and be subject to review by the Court at any stage of the proceedings.

RULE 2.03 Payment of Fines and Costs

In any case, regardless of its nature, where fine and/or court costs are assessed against a party, said fine and/or court costs are due and payable immediately unless otherwise ordered by the Court. Failure to pay can result in a citation for contempt or other collection efforts.

RULE 2.04 Deposit for Fees of Guardian ad Litem

Any party requesting appointment of a Guardian ad Litem in a proceeding involving allocation of parental rights and/or parenting time shall, at the time of appointment of a Guardian ad Litem, deposit with the Guardian Ad Litem the sum of \$250.00 to be applied toward the satisfaction of the fees for the Guardian ad Litem. The opposing party shall similarly be required to deposit the sum of \$250.00. For good cause shown, and upon motion of the party, the Court may waive the deposit requirement. No deposit for fees of Guardian ad Litem shall be required in cases filed by the Children Services Unit of the Knox County Department of Job and Family Services alleging a child to be dependent, neglected, abused, unruly, or delinquent. The assessment of the costs for the fees of Guardian ad Litem shall be made by Court at the completion of the proceedings. In any case, the Court reserves the right to reallocate the fees of the Guardian ad Litem at the completion of the proceedings.

RULE 2.05 Jury Demand

A demand for jury trial shall be made no later than six (6) weeks prior to the trial date, or the date of receipt of the jury assignment, whichever occurs later in time. Any demand for jury trial shall be submitted with a jury demand fee of \$500.00 or an affidavit of indigency shall be submitted by the same filing date which would waive the \$500.00 fee.

RULE 2.06 Charges for Computerized Research

- (A) Pursuant to the authority of R.C. 2303.201(A) it is determined that, for the efficient operation of this Court, additional funds are required to obtain computerized legal research services.

The Clerk of this Court is directed and hereby authorized to charge and collect an additional fee of three dollars (\$3.00) upon the filing of each cause or appeal under R.C. 2303.20(A), (Q), and (U).

All funds collected pursuant to this rule shall be paid to the County Treasurer to be maintained by the County Auditor in a separate account for utilization of this Court in procuring and maintaining computerized legal research services.

- (B) Pursuant to the authority of R.C. 2303.201(B) it is determined that, for the efficient operation of this Court, additional funds are required to computerize the office of the Clerk of the Court of Common Pleas, Juvenile Division.

The Clerk of this Court is directed and hereby authorized to charge an additional fee of ten dollars (\$10.00) upon the filing of each cause of action, appeal, certificate of judgement, or the docketing and indexing of each aid in execution or petition to vacate, revive, or modify a judgement under R.C. 2303.20(A), (P), (Q), (T), and (U).

All funds collected pursuant to this rule shall be paid to the County Treasurer and maintained by the County Auditor in a separate account, to be disbursed, upon an order of the Court of Common Pleas, Juvenile Division and subject to appropriation by the Board of Commissioners, in an amount no greater than the actual cost to the Court of procuring and maintaining computer systems for the office of the Clerk of the Court of Common Pleas, Juvenile Division.

RULE 3 COUNSEL OF RECORD

RULE 3.01 Attorney Registration

Any filing made by an attorney licensed to practice law in this state shall, in addition to the requirements of Rule 11 of the Rules of Civil Procedure, include the attorney's address, telephone number and attorney registration number.

RULE 3.02 Court Appointed Counsel

- (A) In any traffic, delinquency, or unruly case where a party believed to be indigent seeks counsel, said party shall first apply for the services of the Knox County Public Defender, 1 Public Square, Mount Vernon, Ohio (740) 393-6734. No court-appointed counsel will be provided for any other juvenile cases, unless otherwise required by statute or rule. Reference is made to Appendix A attached.
- (B) When a party is determined to be ineligible for the services of the Knox County Public Defender, the party shall return to the Court and file a motion for appointed counsel and an affidavit of indigency on forms prescribed by and made available at the Court within seven (7) days of determination of ineligibility.
- (C) In cases where counsel is appointed by the Court, representation shall continue until completion of the case, or until an Order for Withdrawal is approved by the Judge or Magistrate.
- (D) Compensation for all court-appointed counsel for delinquency, unruly, truancy, and traffic cases shall be at a rate of \$50.00 per hour out of court and \$60.00 per hour in court, with a cap of \$250.00 per case. Additional fees may be approved at the Court's discretion for cases involving additional litigation. Any fees incurred for court-appointed counsel will be assessed as court costs and billed to the parent of the juvenile.
- (E) Compensation for all court-appointed counsel for abuse, neglect, and dependency cases shall be at the rate of \$65.00 per hour.

RULE 3.03 Withdrawal of Counsel

- (A) Attorneys seeking to withdraw as counsel in a pending case shall submit a motion, memorandum and order to the Judge or Magistrate assigned to hear the case. Said motion and order must contain a certificate of service to opposing counsel and to the withdrawing attorney's client.

- (B) Leave to withdraw shall not be granted within thirty (30) days of scheduled trial or hearing, except for good cause shown. Nonpayment of attorney's fees by the client is not a basis for withdrawal.

RULE 3.04 Attorney Scheduling

- (A) Each attorney is responsible for requesting adequate court time for all motion hearings and final hearings. In the event no court time is requested, each motion hearing will be scheduled for one (1) hour. Each attorney will have one-half (1/2) hour to proceed and complete his or her case.
- (B) In the event adequate time has not been requested, continuances will be granted at the discretion of the Court.
- (C) Each attorney shall have a copy of his or her calendar available at all scheduling conferences, status conferences, pretrial conferences and hearings.
- (D) Each attorney shall cooperate fully with the Court in the scheduling of all appearances before the Court with consideration for prior scheduled appearances in other courts. Client appointments or conferences are not a basis for nonavailability for scheduling.

RULE 4 SERVICE

RULE 4.01 Service by Civil Rules

Service in any matter filed or pending before the Court shall be in accordance with the Rules of Civil Procedure.

RULE 4.02 Service by Posting

Consistent with the provisions of Rule 16(A) of the Ohio Rules of Juvenile Procedure provision is hereby made by local rule to permit service by publication to be made by posting and mail in lieu of publication by newspaper whenever it does not appear that newspaper publication is any more likely to provide actual notice to the person upon whom service is to be made.

Upon the filing of an affidavit attesting that the residence of a party is unknown and cannot be ascertained with reasonable diligence and the filing of a request or instructions to the clerk of this Court for service by posting and mail as well as a copy of the notice to be posted, the clerk shall cause service of notice to be made by posting the notice so filed upon the bulletin board on the first floor of the Knox County Courthouse Common Pleas Court as well as upon a bulletin board at the Knox County Jail, and upon a bulletin board in the lobby of the Public Assistance Division of the Knox County Department of Job and Family Services. The notice so posted shall contain the same information required to be contained in a newspaper publication and shall be posted in the required location for seven consecutive days.

After the seven days of posting, the clerk shall note on the docket where and when notice was posted. Service shall be complete upon the entry of posting.

RULE 5 CASE MANAGEMENT

RULE 5.01 Continuances

- (A) All requests for continuances or advancements shall be in writing and shall be submitted to the Judge or Magistrate to whom the case is assigned at the earliest possible time, at least fourteen (14) working days prior to the date of a jury trial, seven (7) days prior to other hearings.
- (B) All requests for continuances shall contain the following information:
 - (1) The date on which the need for continuance arose,
 - (2) The reason(s) for requesting the continuance,
 - (3) The date on which all other attorneys of record and guardians ad litem were contacted, and whether these attorneys and guardians agree on the need for a continuance, and
 - (4) The earliest date that all parties will be ready to proceed.
- (C) No case will be continued on the day of the trial or hearing except for good cause shown, which cause was not known to the party or counsel prior to the date of trial or hearing, and provided that the party and/or counsel have used due diligence to be ready for trial and have notified or made diligent efforts to notify the opposing counsel or party as soon as they became aware of the necessity to request a continuance. This rule may not be waived by consent of counsel.

RULE 5.02 Trial

- (A) Motions *in limine* shall be filed not less than seven (7) days prior to trial, except for good cause shown.
- (B) If requested by the Court, the parties shall file trial briefs with the Court stating their respective cases, both factual and legal, and bring to the Court's attention any anticipated legal issues which counsel expects to arise during the trial. Copies shall be furnished to opposing counsel prior to trial. Trial briefs shall be filed at least four (4) weeks prior to trial.

RULE 5.03 Failure to Appear

In addition to or in lieu of holding a party in contempt when that party fails to appear within fifteen (15) minutes of a scheduled conference or hearing, the Court may:

- (A) When the moving party fails to prosecute or comply with these rules or any Court order, the Court may, after notice to counsel, dismiss the case or grant any other appropriate relief to the responding party.
- (B) When the responding party fails to appear at a pretrial conference or the trial/hearing, the Court may order that the case will proceed ex parte.
- (C) Issue an arrest warrant.

RULE 6 ALLOCATION OF PARENTAL RIGHTS & RESPONSIBILITIES

RULE 6.01 Ex parte Orders

- (A) There shall be no ex parte orders for residential parenthood prior to non-oral temporary orders, except upon showing of good cause and supported by adequate affidavits indicating an immediate or imminent risk to the health, safety and welfare of the child if the requested relief is not granted.
- (B) Incomplete, inaccurate or misleading information provided to the Court may result in sanctions to the attorney and/or the party providing such.
- (C) All motions for ex parte relief shall be served upon the opposing party by personal service.

RULE 6.02 Temporary Orders

- (A) Requests for temporary allocation of parental rights and responsibilities shall be made by motion, with a memorandum in support thereof and a child custody affidavit. The Court shall schedule a non-oral hearing on affidavits only upon service of the motion upon the opposing party.
- (B) If either party wishes to contest a temporary order granting temporary residential parent status, the party shall file a motion for relief or motion to set aside, as appropriate. Copies of the motion shall be served in accordance with the Rules of Civil Procedure. Upon filing, the Court shall schedule the matter for hearing.

RULE 6.03 Allocation of Parental Rights and Responsibilities

Final orders allocating parental rights and responsibilities shall be established through one of the following procedures as appropriate:

- (A) When both parties request shared parenting and file a single shared parenting plan, the following documents shall be submitted to the Magistrate for approval prior to filing:
 - (1) Shared Parenting Plan which includes at least the following information:
 - (a) Physical living arrangements of the children;
 - (b) Child Support, including reasons for deviation from schedule of support, if any, by separate Findings of Fact;

- (c) Medical plan;
 - (d) School placement;
 - (e) Parenting time schedule;
 - (f) A designation of legal custodian if necessary for welfare or school.
- (2) Child support calculation sheet calculated using the percentage of time each parent will spend with the child taking the entire yearly obligation of each and dividing that by the percentage of time each parent will spend with the child.
- (3) Child custody affidavit.
- (4) Shared parenting decree.
- (B) When both parents request shared parenting but submit separate plans:
- (1) The parties shall advise the Magistrate at the pretrial conference that two (2) plans will be filed.
 - (2) Whenever possible, the shared parenting plans shall be filed with the Deputy Clerk and copies submitted to opposing counsel/party within fourteen (14) days of the pretrial conference.
- (C) When one party requests shared parenting and the other party objects, the requesting party shall advise the Magistrate at the pretrial conference of the intention to file a shared parenting plan.
- (D) When a shared parenting request is denied or in cases in which neither parent requests shared parenting, the parties shall:
- (1) Agree that one parent shall have sole residential parenthood status; or
 - (2) Advise the Court at the pretrial conference that each party seeks sole residential parenthood status.
- (E) Upon learning that each parent seeks sole residential parenthood status, the Court at the pretrial conference will issue an order regarding:
- (1) The nature of any investigation to be conducted;
 - (2) The time table for completion of investigation and discovery;
 - (3) The necessity for psychological evaluations, the appointment of the evaluator, and the source of payment for the evaluations along with the time table for

completion of the report. Court personnel shall make all arrangements for court-ordered psychological evaluations. Attorneys for the parties are to have no direct contact with the appointed psychologist prior to the completion of the report. The appointed psychologist shall be considered the Court's own witness and his/her report shall be a part of the record on the Court's own motion.

RULE 6.04 Modification of Prior Orders Allocating Parental Rights and Responsibilities or Parenting Time

- (A) A motion for a change of allocation of parental rights and responsibilities, a request for shared parenting or modification of a parenting time schedule shall set forth the Court order sought to be modified and the specific change in circumstances upon which the motion is filed. If the motion fails to be specific, the Court may dismiss it on its own motion.
- (B) Upon service of the motion on the opposing party the deputy clerk shall schedule a pretrial conference date. Notice of the date, time and place of conference shall be sent to the parties. The purpose of the pretrial conference is to review:
 - (1) Settlement/agreement: Counsel shall have discussed settlement proposals prior to the pretrial conference;
 - (2) Request for psychological evaluations or other evaluations;
 - (3) Need for home studies;
 - (4) Appointment of a Guardian ad Litem;
 - (5) Any other matter as determined by the Court.
- (C) Pretrials shall be set at thirty (30) minute intervals. During the pretrial, the Magistrate will also conduct the following business:
 - (1) The Court will proceed with a child interview if requested; and
 - (2) The Court will perform any in-camera inspection of any information that may have been subpoenaed from Children Services.

If the matter is not settled at the pretrial, a trial date shall be set. Counsel shall bring his or her calendar to the pretrial.

RULE 6.05 Subpoenas of Children Services, Evidence, Records, Case Worker and/or Keeper of the Records

- (A) In those cases in which it is believed that there is information that either side needs to elicit from Children Services, the attorneys shall, within seven (7) days of the date of pretrial, give notice to the Children Services caseworker of the information they are seeking so the Court can proceed at the pretrial regarding whether or not the issue of confidentiality should be considered.
- (B) The notice of intent to subpoena the Children Services records shall be made seven (7) days prior to the pretrial date. If the parties fail to follow this procedure, any evidence requested from Children Services will be excluded except upon a showing of good cause.
- (C) Ten (10) days prior to pretrial the party who is requesting the information from Children Services shall submit to the Court a memorandum in support of the issue regarding why the issue of confidentiality should be breached and the overriding concerns therein.

RULE 6.06 Modification by Agreement (Residential Parenthood)

- (A) In all cases in which the parties agree either to change residential parenthood status so as to allocate parental rights and responsibilities or to change an existing shared parenting plan, the parties shall file a request for approval of an agreed shared parenting plan or a request for approval of an agreed sole custody (residential parent) entry.
- (B) The request shall contain either of the following as appropriate:
 - (1) A shared parenting plan (and entry) shall include:
 - (a) Physical living arrangements of the child(ren);
 - (b) Child support including the reasons for variations from the schedule of support, if any;
 - (c) Medical, dental, hospitalization care plan;
 - (d) School placement;
 - (e) Visitation/companionship;
 - (f) Designation of legal custodian if necessary for welfare or school purposes;

- (g) Child support calculation sheet calculated according to the percentage of time that each party shall be spending with the child;
 - (h) Child custody affidavit;
 - (i) Shared parenting decree.
- (2) A sole custody entry shall include all of the items listed in #1 above except (d), (f) and (i).

RULE 6.07 Residential Parent – Notice of Intent to Relocate

- (A) A residential parent shall file a notice of intent to relocate with the deputy clerk of this Court and the CSEA at least sixty (60) days prior to the change of residence. The notice shall contain the following information:
- (1) Name and current address of residential parent;
 - (2) Name(s) of child(ren);
 - (3) Proposed residence address;
 - (4) Statements as to any objections there may be to releasing the proposed address to the non-residential parent;
 - (5) Name and address of non-residential parent.
- (B) If the residential parent requests that the proposed address not be released to the non-residential parent, the residential parent shall file a motion to deny notice of relocation with the Deputy Clerk with service of process to the non-residential parent pursuant to the Civil Rules.

The motion shall include the date, time and place of the hearing.

IF THE RESIDENTIAL PARENT MAKES NO SPECIFIC OBJECTION TO THE RELEASE OF THE PROPOSED ADDRESS TO THE NON-RESIDENTIAL PARENT, A COPY OF THE NOTICE WILL BE SENT TO THE NON-RESIDENTIAL PARENT.

- (C) Upon receipt of the notice of intent to relocate (certificate of mailing by the Clerk), the non-residential parent may file a motion requesting modification of any parenting time schedule.

RULE 6.08 Parent Education

- (A) All parties to contested actions involving allocation of parental rights and responsibilities or parenting time shall attend a program of parent education as specified by the Court. Each person ordered to attend shall pay a fee of thirty Dollars (\$30.00), unless determined to be indigent by the Court.

- (B) No final entry will be approved until all parties have complied with any order for attendance. In addition, failure to attend as ordered may subject the person to a finding of contempt against the offending party or result in a dismissal of the pending motion at the discretion of the Court.

RULE 7 PARENTING TIME

RULE 7.01 Model Parenting Schedule (Under 90 Miles One Way)

The Court of Common Pleas, Juvenile Division, has adopted the Model Parenting Schedule (Under 90 Miles One Way) as a guideline for parenting time, a copy of which is attached hereto, as Appendix B. These guidelines are to be used when the parties cannot otherwise agree upon parenting time. This, however, does not limit the discretion of the Court in granting alternate parenting time.

RULE 7.02 Model Parenting Schedule (Over 90 Miles One Way)

The Court of Common Pleas, Juvenile Division, has adopted the Model Parenting Schedule (Over 90 Miles One Way) as a guideline, a copy of which is attached hereto, as Appendix C. These guidelines are to be used when the parties cannot otherwise agree upon parenting time. This, however, does not limit the discretion of the Court in granting alternate parenting time.

RULE 7.03 Phased Parenting Time Schedule

The Court of Common Pleas, Juvenile Division, has adopted the Phased Parenting Time Schedule as a guideline for phased parenting time, a copy of which is attached hereto, as Appendix D. These guidelines are to be used when the parties cannot otherwise agree upon phased parenting time. This, however, does not limit the discretion of the Court in granting alternate parenting time.

RULE 8 CHILD SUPPORT

RULE 8.01 Schedule of Support

In every case in which child support is ordered, the amount of support shall be calculated in accordance with the schedule of support set out in Ohio Revised Code 3113.215, subject to the permissible statutory deviations.

RULE 8.02 Ex Parte Orders

There shall be no ex parte child support orders unless the Defendant in a case has failed to respond to the initial pleadings and it is necessary for the Court to go forward and issue such ex parte child support orders pursuant to the non-oral temporary hearing.

RULE 8.03 Temporary Orders

Requests for temporary orders of child support pending final hearing shall be made by motion and affidavit stating all known financial information of all parties to the proposed child support order. The Court shall schedule for nonoral hearing on affidavits only.

RULE 8.04 Motions for Modification of Support

All motions for the establishment or modification of the support order shall be accompanied by completed calculation sheets. If at the time of hearing a calculation sheet has not been filed in accordance with this rule, the matter may be continued and the Court may entertain a motion for attorney fees against the non-complying parties.

RULE 8.05 Health Insurance Coverage Orders

- (A) In addition to the monetary amount of support ordered, parents will be ordered to provide health insurance for their children whenever such insurance is available at a reasonable cost to them through a group policy through their employment or otherwise.
- (B) Whenever two policies are in effect, the residential parent's policy shall be considered primary coverage and the non-residential parent's policy shall be secondary.
- (C) All medical, dental, optical, prescription drug, orthodontic, psychiatric and psychological expense shall be divided between the parties and paid by the parties

according to the percentage of child support that they pay as determined by the Ohio Child Support Guidelines, unless otherwise agreed to by the parties.

- (D) To facilitate the maximum amount of health care coverage available for the children of the parties, credit will be given for the differential premium paid by a stepparent if the minor children of the action are covered by the stepparent's plan or policy of health insurance.

RULE 8.06 Wage Withholding Orders

In any case where child support is established, modified or terminated, all wage withholding notices or orders terminating wage-withholding orders shall be prepared and filed by the Knox County Child Support Enforcement Agency. Wage withholding notices or orders terminating wage withholding orders from private parties or counsel will not be accepted.

RULE 8.07 Child Enforcement Records

The certified copy of records of the Knox County Child Support Enforcement Agency as subpoenaed by the attorneys in the case will be considered as prima facie evidence of the child support obligation and the child support payment records, subject to any challenge for accuracy.

RULE 8.08 Child Support Orders

- (A) In all cases in which a permanent child support order is made in a decision or entry, the official file shall contain a completed child support calculation sheet. If the amount ordered or agreed upon deviates from the amount indicated in the calculation sheet, the entry shall state that the scheduled amount is inappropriate, unjust and not in the best interest of the child and shall contain findings of fact supporting the deviation.
- (B) The Court may refuse to approve orders which are not, in the Court's opinion, in the best interest of the children.
- (C) When a child support order is set, (pendente lite or permanent), and filed with the Clerk's Office, an additional copy must be provided and filed for the CSEA.

RULE 9 GUARDIAN AD LITEM

RULE 9.01 Appointments

A Guardian ad Litem shall be appointed to protect the interest of a child or incompetent adult when:

- (A) The child has no parent, guardian or legal custodian,
- (B) The interest of the child and the interests of the parents may conflict,
- (C) The parent is under the age of eighteen or appears to be mentally incompetent,
- (D) Moved by any party to an action to allocate parental rights and responsibilities or establish/modify a parenting time schedule,
- (E) Otherwise provided for by law or rule.

RULE 9.02 Qualifications

The Court shall maintain a list of attorneys willing to accept appointments as Guardian ad Litem. Any Guardian ad Litem must be licensed as an attorney in Ohio and in good standing with the Ohio Supreme Court, and maintain professional liability insurance.

RULE 9.03 Duties

- (A) The Guardian ad Litem shall represent the child or incompetent as to all matters before the Court, and shall attend all pretrial conferences and hearings.
- (B) The Guardian ad Litem shall not be called to testify as a witness or be subject to cross examination, except in cases of termination of parental rights.
- (C) The Guardian ad Litem shall submit a report to the Court no later than seven (7) days prior to final hearing. The report shall be filed with the Court and notice given of the filing to counsel or parties if unrepresented. The report shall be open for inspection by all counsel and parties during regular business hours. The Guardian ad Litem may file a supplemental report within seven (7) days after the conclusion of the final hearing based upon the evidence presented. Copying or reproducing the report of the Guardian ad Litem in any form is prohibited.

RULE 9.04 Compensation

- (A) The rate of compensation for services rendered as Guardian ad Litem shall be \$65.00 per hour.
- (B) In abuse, neglect, dependency, or delinquency cases, the Guardian ad Litem shall submit an itemized statement for services at the conclusion of the case.
- (C) In all other cases, the Guardian ad Litem shall be provided with a deposit by the parties as ordered by the Court. The Guardian ad Litem shall submit an itemized statement for services at the conclusion of the case.
- (D) The failure of any party required to pay, either in whole or part, for the services of a Guardian ad Litem within thirty (30) days of the conclusion of the case shall constitute contempt of court. In the event of nonpayment within the foregoing period, the Guardian ad Litem may file a motion to show cause to bring the matter before the Court.

RULE 10 HOME STUDIES

RULE 10.01

The Court may order a homestudy to be performed in any case of allocation of parental rights and responsibilities, parenting time and companionship or placement of a child outside the home. Parties, unless determined to be indigent, shall pay the home study investigator directly at such rates/terms as investigator shall require, subject to motion for contempt for non-payment.

RULE 11 MOTION PRACTICE

RULE 11.01 Time of Hearing

- (A) All hearings on motions shall be scheduled for one (1) hour. Any attorney needing more than one (1) hour must request additional time when scheduling a hearing.
- (B) Attorneys who file cross motions which will require additional time shall request the same from the Deputy Clerk. If a hearing cannot be concluded in the amount of time allotted, the Court may grant a continuance and proceed at its discretion or may dismiss the action.

RULE 11.02 Content of Motions

(A) Motions to Show Cause

- (1) All motions to show cause shall state with specificity each provision of a prior Court order with which a party has failed to comply, the date of such order, and the facts constituting noncompliance. The motion shall be accompanied by an affidavit signed by the moving party, and an Order to Show Cause.
- (2) If the motion pertains to the nonpayment of child support, the motion shall clearly set forth the date of the last order of support, the amount of said order, the time period between the date of the last order and the filing of the motion, the amount which should have been paid and the amount that was actually paid during that period, and the amount of the arrearage existing as of the date of filing. For purposes of computing the arrearage, the effective date of any order shall be the date of journalization of the order unless the order specifically states some other effective date. At hearing, the movant shall be prepared to update the arrearage computation to the date of hearing.
- (3) If the motion asserts nonpayment of medical or dental bills, or support other than periodic payments, the motion shall itemize such expenses and state whether demand for payment has been made, including the date of demand, prior to filing the motion.
- (4) Upon a finding of contempt, a standard award of attorney's fees of up to \$500.00 may be awarded. Attorneys seeking fees in excess of \$500.00 shall so state in the text of the motion and shall present evidence, including an itemization of time spent, at the time of hearing regarding the basis of the fee requested.

(B) Motions to Modify

All motions to modify a prior Court order, including motions for a change in the allocation of parental rights and responsibilities, shall set forth the Court order sought to be modified, the nature and extent of the modification sought, and the specific change in circumstances which justifies the relief requested. If the motion fails to be specific, the Court may dismiss on its own motion.

(C) Motions for Lump-Sum Judgment

All motions for lump sum judgment shall set forth the Court order upon which the motion is based and the total amount due thereunder. A copy of the records of the CSEA shall be attached to all motions involving child support. If the motion fails to include this information, the Court may dismiss on its own motion.

RULE 11.03 Motions to Set Aside

(A) Objections to a Magistrate's Order may be made by Motion to Set Aside pursuant to Rule 53 (c)(3)(b) of the Rules of Civil Procedure and/or Rule 40 (C)(3)(b) of the Rules of Juvenile Procedure, as appropriate.

(B) Motions to Set Aside shall be filed within ten (10) days after the Magistrate's Order is entered. The Motion to Set Aside does not stay the effectiveness of the Magistrate's Order unless a stay is requested and granted by the Magistrate or the Court.

(C) Motions to Set Aside shall be specific and state with particularity the grounds therefore.

RULE 11.04 Objections to Magistrate's Decision

(A) Content

Objections filed by a party pursuant to Civil Rule 53 (E)(2) and/or Juvenile Rule 40 (E)(2) shall be specific and state with particularity the grounds therefore and shall include the date of the report upon which they object. Such objections shall specify whether they are directed to the findings of the Magistrate, the Orders of the Magistrate or both. If objections are directed to findings of fact, a transcript shall be provided.

(B) Time

Objections shall be filed within fourteen (14) days of the filing of the Magistrate's Decision. Said time does not include extensions of time for service pursuant to Rule 6 of the Rules of Civil Procedure. Such time period may be extended for

good cause shown upon written motion filed prior to the expiration of the original fourteen (14) days and brought to the attention of the Judge or Magistrate.

(C) Brief in Response

If objections are timely filed and served by any party, the other party may file and serve objections within ten (10) days of the day on which the first objections were filed. A party may file a brief in opposition to objections within ten (10) days of the date on which the objections were filed. An extension of time for filing cross objections or a brief may be obtained for the same reasons and upon the same terms as set forth in sub-section (B) of this rule.

(D) Transcripts

If a record of proceedings is available and a party desires to support his objections with a transcript or parts thereof, such party shall file a written motion for an extension of time in which to have the transcript prepared.

Since preparation of transcript may cause delay in the final disposition of a case, the Judge or Magistrate, in granting an extension of time, may make such temporary orders as deemed necessary. Said orders may include an order requiring any objecting party to post bond to cover any damages the opposing party may suffer because of the delay or ordering partial performance of the Magistrate's Decision pending disposition of the objection.

(E) Ruling on Objections

A ruling on the objections will be made based on the objections, any brief in opposition to the objections, and any transcript provided to the Court. The Court shall prepare and file an entry reflecting the Court's ruling in all cases.

RULE 12 PLEADINGS

RULE 12.01 Complaints

No original action shall be docketed or processed by this Court unless the following is received by the Court at the initiation of the proceedings and is satisfactorily completed:

- (A) Delinquent Child – Juvenile Complaint
- (B) Unruly Child – Juvenile Complaint
- (C) Unruly Child – Juvenile Complaint (Truancy) and Student Information Summary
- (D) Dependent/Neglected/Abused – Juvenile Complaint
- (E) Juvenile Traffic Offender – Uniform Traffic Citation
- (F) Parent/Child Relationship – Affidavit/Complaint
- (G) Adult Criminal – Affidavit/Complaint
- (H) Other Civil Actions – Petition/Complaint

In all Delinquent, Unruly, Truancy or Juvenile Traffic Offenders cases, the State of Ohio or Plaintiff's discovery shall be filed with the complaint.

RULE 12.02 Subsequent Pleadings

This Court shall not accept any pleading which is incomplete in form. All Deputy Clerks shall refuse any pleadings which do not contain a full caption, including the pertinent case number and signatures of either trial counsel or the party.

RULE 12.03 Amendment to Pleadings

In no case when pleadings are amended shall the original pleadings be withdrawn from the files, nor shall any part be obliterated. In no case shall any amendment be made by interlineation without leave of Court and in all cases where an amendment is made by interlineation the Judgment Entry must state what changes were made in the original pleadings.

RULE 12.04 Responsive Pleadings

In cases alleging abuse, neglect or dependency, the answer or responsive pleading shall with specificity address each allegation contained in the complaint. General denials shall not be permitted.

RULE 12.05 Diversion

The Court may, in its discretion, divert any case, pursuant to Juv. R. 9, that is felt to be in the best interest of the juvenile. The juvenile and/or parent shall be assessed a fee of \$50.00 for each case so diverted.

RULE 13 PREPARATION OF JUDGMENT ENTRIES AND ORDERS

RULE 13.01 Filing of Judgment Entries and Orders

- (A) In all Juvenile Delinquency, Unruly and Traffic Offender cases, the Court will prepare all final orders, unless the Court otherwise directs. However, all preliminary matters decided by the Court prior to the final adjudicatory hearing which require journalization are the responsibility of counsel and all entries shall be drafted as designated by the Court.
- (B) In all Dependent, Neglected, Abused, Parent-Child Relationship and other civil actions, it is the responsibility of counsel for the party so designated by the Court to prepare the appropriate judgment entry. The counsel for the party so designated shall submit the proposed entry to the Court within thirty (30) days thereof.
- (C) In cases where agreement is reached prior to or at the final hearing, the parties shall prepare and execute a memorandum of agreement on a form provided by the Court setting forth the terms of the agreement, if no judgment entry has been prepared based on the agreement reached. Counsel designated by the Court shall prepare a judgment entry or magistrate's decision consistent with the terms of the memorandum of agreement and submit to the Court within thirty (30) days of the execution of the memorandum of agreement.

Signatures of the parties are unnecessary on any Judgment Entry or Magistrate's Decision submitted pursuant to a memorandum of agreement.

- (D) When counsel approves the entry, it shall be presented to the Court for approval and journalization of record. If counsel are unable to agree upon the entry, each counsel shall prepare and submit his/her own proposed entry for consideration by the Court, and either the approved proposed entry, or the two (2) proposed entries shall be presented to the Court within thirty (30) days after the decision of the Court is announced. Upon the expiration of thirty (30) days, if no entry has been submitted to the Court, all parties and counsel may be summoned to appear before the Court to show cause why they should not be held in contempt of court for failure to abide by the orders of the Court.

RULE 13.02 Notice of Filing

Within seven (7) days of the filing of an entry of any final appealable judgement or order, the Ex-Officio Clerk of the Juvenile Division of the Knox County Court of Common Pleas shall serve notice of the entry upon every party who is not in default for failure to appear and make notation of the service upon the docket.

RULE 14 TRUANCY

RULE 14.01 Complaint

(A) All truancy complaints shall be filed on the complaint form provided by the Court. In order to be accepted for filing, each complaint must contain the following information:

- (1) Juvenile's name and residence address,
- (2) Name and residence address of both parents,
- (3) Date of birth, and
- (4) Social security number.

The face of the complaint must contain an allegation that the juvenile is either habitually truant or chronically truant.

(B) All truancy complaints shall be filed prior to the end of the current school year.

(C) All truancy complaints must have one copy of discovery attached to the original complaint at the time of filing. Discovery shall include, but not be limited to:

- (1) Schedule of juvenile's attendance.
- (2) Current grades.
- (3) Disciplinary reports, if any.
- (4) Evidence of diversion hearing or attempt to hold diversion hearing.

RULE 14.02 Diversion

When the student misses all or a significant part of five (5) school days without a valid doctor's excuse, the school shall schedule a diversion hearing. This informal hearing shall include the student, parent(s), the appropriate school official and the Diversion Officer from the Court. If attendance issues cannot be resolved at diversion hearing, the school may file a formal complaint.

RULE 14.03 Scheduling

All truancy complaints will be processed and disposed of on a “fast track” schedule. Arraignment will be scheduled on the first available Wednesday following filing of the complaint. If the juvenile enters a denial, an attorney will be assigned to represent the juvenile and the case will be scheduled for a pretrial conference on the Monday following the arraignment. The case will be scheduled for adjudication and disposition, if necessary, as soon thereafter as possible.

RULE 15 TRAFFIC

RULE 15.01 Traffic Offenders

In each case that a juvenile is adjudicated a juvenile traffic offender, the juvenile will be placed on administrative probation for the length of time needed to complete any and all orders the Court may enter. Unless otherwise ordered by the Court, no probation officer will be assigned or reporting required. Administrative probation will automatically terminate upon the successful completion of all orders entered by the Court. Failure to complete a Court order will result in a probation violation being filed against the traffic offender.

RULE 15.02 Driving Privileges

- (A) In any case where the Court suspends the juvenile's permit or license, the Court may, in its discretion, award driving privileges during the period of suspension upon such terms as the Court deems appropriate. Any juvenile granted driving privileges will be required to remit the \$100.00 privilege fee to the Court.
- (B) Privileges awarded normally extend to:
- (1) to and from school, and designated school-related activities,
 - (2) to and from a place of employment,
 - (3) to such other privileges as the Court deems appropriate.
- All driving while under privileges must be by the most direct route, with no passengers other than members of the juvenile's immediate family.
- (C) The deputy clerk shall, within fourteen (14) days of the date of suspension, notify the appropriate law enforcement agencies of the suspension and scope of privileges extended.
- (D) Any juvenile wishing to amended driving privileges after being issued must submit a Motion to Amend Driving Privileges (Appendix E) and pay a \$50.00 motion fee.
- (E) Any juvenile wishing to petition for driving privileges after serving a 180-day suspension with no privileges on a third moving violation must submit a Motion to Obtain Driving Privileges (Appendix F) and pay a \$50.00 motion fee.

RULE 15.03 Seat Belt

Upon the appearance of the child and parent, guardian or custodian before the deputy clerk, if the child enters a written waiver of hearing and plea of admission to the allegations set forth in the complaint, the following dispositional orders will be entered:

- (A) For a first offense where it is alleged that the driver of a vehicle failed to use a seat belt, a fine in the amount of \$30.00, court costs and applicable state fees will be imposed.
- (B) For a first offense where it is alleged that the passenger of a vehicle failed to use a seat belt, a fine in the amount of \$20.00, court costs and applicable state fees will be imposed.
- (C) For a second or subsequent offense, an appearance before the Court by the juvenile and parent, guardian or custodian will be required. Adjudication or admission to the charge will result in the juvenile being adjudicated a juvenile traffic offender subject to disposition pursuant to Section 2152.21 of the Revised Code.

RULE 16 CURFEWS

RULE 16.01 Juvenile Curfew Offenders

Upon the appearance of the child and parent, guardian or custodian before the deputy clerk, if the child enters a written waiver of hearing and plea of admission to the allegations set forth in the complaint, the following dispositional orders will be entered:

- (A) For a first offense where it is alleged that the juvenile violated the curfew law, a fine in the amount of \$25.00 and court costs will be imposed.
- (B) For a second offense where it is alleged that the juvenile violated the curfew law, an appearance before the Court by the juvenile and parent, guardian or custodian will be required. Adjudication or admission to that charge will result in the juvenile being adjudicated an unruly child, subject to a \$50.00 fine, court costs, and other orders as imposed by the Court.
- (C) For a third offense where it is alleged that the juvenile violated the curfew law, an appearance before the Court by the juvenile and parent, guardian or custodian will be required. Adjudication or admission to that charge will result in the juvenile being adjudicated an unruly child, subject to a \$100.00 fine, court costs, and other orders as imposed by the Court.

RULE 16.02 Adult Aiding and Abetting Curfew Offenders

Upon the appearance of the adult before the deputy clerk, if the clerk enters a written waiver of hearing and plea of admission to the allegations set forth in the complaint, the following dispositional orders will be entered:

- (A) For a first offense where it is alleged that the adult violated the aiding and abetting curfew ordinance, a fine in the amount of \$25.00 and court costs will be imposed.
- (B) For a second or subsequent offense where it is alleged that the adult violated the aiding and abetting curfew ordinance, an appearance before the Court by the adult will be required.

RULE 17 SEALING AND EXPUNGEMENT OF RECORDS

- (A) Any delinquency/unruly case that is dismissed will be sealed immediately.
- (B) Any delinquency/unruly case which is handled as a diversion pursuant to Juv R 9 will be sealed upon successful completion of terms and conditions of diversion.
- (C) All other delinquency/unruly cases are subject to provisions as set forth in ORC 2151.358 regarding the sealing or expungement of records as applicable.

RULE 18 MEDIATION

RULE 18.01 General

- (A) The Knox County Court of Common Pleas hereby creates Local Rule 18 effective January 1, 2007. The Court of Common Pleas incorporates by reference the R.C. 2710 “Uniform Mediation Act” (UMA), R.C. 3109.052 Mediation Differences as to Allocation of Paternal Rights and Responsibilities and Rule 16 of the Supreme Court of Ohio Rules of Superintendence.
- (B) The Court may order the parties to participate in a mediation assessment after service of summons of a Complaint or at any time after filing of a post-judgment motion. The mediation assessment will be addressed at the pretrial conference or status conference scheduled in each case. The Court may waive the mediation assessment if the parties have entered into mediation prior to the commencement of the action.
- (C) If the case qualifies for medication after assessment, the parties will be directed to the Court Mediator. Mediation shall not exceed ninety (90) days. A fee may be charged for use of the Court Mediation Services at the discretion of the Court.
- (D) The Judge or Magistrate may refer any case for mediation by Court Order.
- (E) The Mediator shall notify the Court, upon the conclusion of mediation, if the parties have reached an agreement on all or some issues. Any agreement reached during mediation shall not be binding upon the parties until reviewed and approved by their counsel and the Court.
- (F) All communications related to mediation or made during the mediation process shall be pursuant to and subject to the provisions of the “Uniform Mediation Act” (UMA) O.R.C. 2710.01 top 2710.10, 3109.052, the Rules of Evidence, and any other pertinent judicial rule, and shall be governed by the privileges as set forth in the UMA, Rules of Evidence and other pertinent judicial rules.
- (G) Mediators will not be permitted to testify regarding the substance of the mediation negotiations, including but not limited to, cooperation or non-cooperation of the parties.
- (H) The efforts of the Mediator shall not be construed as giving legal advice.
- (I) The Court may refer the following cases for mediation:
 - (1) Allocation of parental rights and responsibilities.
 - (2) Reallocation/modification of parental rights and responsibilities.
 - (3) Allocation of parenting time.
 - (4) Reallocation/modification parenting time.
 - (5) Any other case the Court deems appropriate.

RULE 18.02 Procedures

- (A) The Court shall utilize procedures for all cases that will:
- (1) Ensure that parties are allowed to participate in mediation, and if the parties wish, that their attorneys and other individuals they designate are allowed to accompany them and participate in mediation.
 - (2) Screen for domestic violence both before and during mediation.
 - (3) Encourage appropriate referrals to legal counsel and other support services for all parties, including victims of and suspected victims of domestic violence.
- (B) Prohibit the use of mediation in any of the following:
- (1) As an alternative to the prosecution of adjudication of domestic violence.
 - (2) In determining whether to grant, modify or terminate a protection order.
 - (3) In determining the terms and conditions of a protection order; and
 - (4) In determining the penalty for violation of a protection order.

Nothing in division (B) of this rule shall prohibit the use of mediation in a subsequent divorce or custody case even though that case may result in the termination of provision of a protection order.

- (C) Mediation of allocation of parental rights and responsibilities or the case of, or visitation with, minor cases shall abide by all provisions set forth in (A) of this rule, mediation may then proceed, when violence or fear of violence is alleged, suspected, or present, only if the Mediator has specialized training set forth in “Qualifications” section 21.03 of this rule and all of the following conditions are satisfied:
- (1) The person who is or may be the victim of domestic violence is fully informed, both orally and in writing, about the mediation process, his or her right to decline participation in the mediation process, and his or her option to have a support person present at medication sessions.
 - (2) The parties have the capacity to mediate without fear of coercion or control.
 - (3) Appropriate procedures are in place to provide for the safety of the person who is or may be the victim of domestic violence and all other persons present at the mediation.
 - (4) Procedures are in place for the Mediator to terminate if her or she believes there is continued threat of domestic violence or coercion between the parties.
 - (5) Procedures are in place for issuing written Finding of Fact, as required by R.C. 3109.052, to refer certain cases involving domestic violence to mediation.

18.03 Qualifications

(A) General Qualifications and Training.

A Mediator employed by the division or to whom the division makes referrals for medication or allocation of parental rights and responsibilities, the care of, or visitation with, minor children, abuse, neglect and dependency, or juvenile perpetrated domestic violence cases shall satisfy all of the following:

- (1) Possess a bachelor's degree, or equivalent education or experience as is satisfactory to the division, and at least two years of professional experience with families. "Professional experience with families" includes mediation, counseling, casework, legal representation in family law matters, or such other equivalent experience satisfactory to the division.
- (2) Complete at least twelve hours of basic mediation training or equivalent experience as a mediator that is satisfactory to the division.
- (3) After completing the above training, complete at least forty hours of specialized family or divorce mediation training, which has been approved by the Dispute Resolution Section of the Supreme Court.

(B) Specific Qualifications and Training: Domestic Abuse.

A Mediator employed by the division or to whom the division makes referrals for mediation of any case shall complete at least fourteen hours of specialized training in domestic abuse and mediation through a training program approved by the Ohio Supreme Court.

RULES 19 – 20 RESERVED

RULE 21 JURY USE AND MANAGEMENT PLAN

The following is Local Court Rule 21 pursuant to the Rule of the Supreme Court of Ohio requiring a plan utilizing the Ohio Trial Court Jury Use and Management Standards as a guideline.

I. Opportunity for Service

- A. The opportunity for jury service shall not be denied or limited on the basis of race, national origin, gender, age, religious belief, income, occupation, disability, or any other factor that discriminates against a cognizable group in the jurisdiction.
- B. Jury service is an obligation of all qualified citizens of Knox County, Ohio.

II. Jury Source List

- A. Pursuant to Court Order, the jury source list shall be obtained from the Board of Elections' list of registered voters. The Court shall designate a key number based on the total number of registered voters and the number of jurors needed for a year of service. The Jury Commissioners shall then receive a computer printout from the Board of Elections (for example, every 14th name).
- B. The jury source list shall be representative and should be as inclusive of the adult population in the jurisdiction as is feasible.
- C. The Court shall annually review the jury source list for its representativeness and inclusiveness of the adult population in the jurisdiction as is feasible.
- D. Should the Court determine that improvement is needed in the representativeness or inclusiveness of the jury source list, appropriate corrective action shall be taken.

III. Random Selection Procedures

- A. The jury source list from Board of Elections shall be printed out. Names are then computer generated for random drawing during a public jury drawing.

IV. Eligibility for Jury Service

- A. All persons shall be eligible for jury service except those who:
 - 1. Are less than eighteen years of age;
 - 2. Are not citizens of the United States;

3. Are not residents of the jurisdiction in which they have been summoned to serve; to wit, Knox County;
4. Are not able to communicate in the English language; or
5. Have been convicted of a felony and have not had their civil rights restored.

V. Term of and Availability for Jury Service

- A. The time that persons are called upon to perform jury service and to be available should be the shortest period consistent with the needs of justice.
- B. Jurors shall be “on call” for a one year period. If a jury trial is scheduled, the jurors shall be notified by mail when they are to report. They do not report every day.

VI. Exemption, Excuse and Deferral

- A. Deferrals for jury service for reasonably short periods of time may be permitted by a judge or specifically authorized Court official.
- B. Requests for excuses and deferrals and their disposition shall be written or otherwise made or recorded.

VII. Voir Dire

- A. Voir dire examination shall be limited to matters relevant to determining whether to remove a juror for cause and to determine the juror’s fairness and impartiality.
- B. To reduce the time required for voir dire, basic background information regarding panel members should be made available to counsel in writing for each party on the day on which jury selection is to begin.
- C. The trial judge shall conduct a preliminary voir dire examination. Counsel shall then be permitted to question panel members for a reasonable period of time.
- D. The judge should ensure that the privacy of prospective jurors is reasonably protected, and the questioning is consistent with the purpose of the voir dire process.

E. In criminal cases, the voir dire process shall be held on the record. In civil cases, the voir dire process shall be held on the record unless waived by the parties.

F. Rules on Voir Dire

1. The case may not be argued in any way while questioning the jurors.
2. Counsel may not engage in efforts to indoctrinate jurors.
3. Jurors may not be questioned concerning anticipated instructions or theories of law. This does not prevent general questions concerning the validity and philosophy of reasonable doubt or the presumption of innocence.
4. Jurors may not be asked what kind of verdict they might return under any circumstance.
5. Questions are to be asked collectively of the entire panel whenever possible.

VIII. Removal from the Jury Panel for Cause

A. If the judge determines during the voir dire process that any individual is unable or unwilling to hear the particular case at issue fairly and impartially, that individual shall be removed from the panel. Such a determination may be made on motion of counsel or by the judge.

IX. Peremptory Challenges

A. Rules determining procedure for exercising peremptory challenges shall be in accordance with the Ohio Civil and Criminal Rules adopted by the Supreme Court of Ohio and applicable statutory authority.

X. Administration of the Jury System

- A. The responsibility for administration of the jury system shall be vested exclusively with the Knox County Common Pleas Court.
- B. Ohio Rules of Court shall govern all procedures concerning jury selection and service.

XI. Notification and Summoning Procedures

A. The notice summoning a person to jury service and the questionnaire eliciting essential information regarding that person should be:

1. Combined in a single document;
 2. Phrased so as to be readily understood by an individual unfamiliar with the legal and jury systems; and
 3. Prepared by the Sheriff and served by ordinary mail.
- B. A summons should clearly explain how and when the recipient must respond and the consequence of a failure to respond.
- C. The jury questionnaire should be phrased and organized so as to facilitate quick and accurate screening and should request only that information essential for:
1. Determining whether a person meets the criteria for eligibility;
 2. Providing a basic background information ordinarily sought during voir dire examination; and
 3. Efficiently managing the jury system.
- D. Policies and procedures should be established for monitoring failures to respond to a summons and for enforcing a summons to report for jury service.
- E. Jurors who fail to report for service are scheduled for a contempt hearing to inform the judge as to why they did not appear. Sanctions are imposed as warranted.

XII. Monitoring the Jury System

The Court shall collect and analyze information regarding the performance of the jury system annually in order to evaluate:

- A. The representativeness and inclusiveness of the jury source list;
- B. The effectiveness of qualification and summoning procedures;
- C. The responsiveness of individual citizens to jury duty summonses;
- D. The efficient use of jurors; and
- E. The cost-effectiveness of the jury management system.

XIII. Juror Use

- A. The Court shall employ the services of prospective jurors so as to achieve optimum use with a minimum of inconvenience to jurors.
- B. The Court shall determine the minimally sufficient number of jurors needed to accommodate trial activity. This information and appropriate management techniques should be used to adjust both the number of individuals summoned for jury duty and the number assigned to jury panels.

XIV. Jury Facilities

- A. The Court shall provide an adequate and suitable environment for jurors.
- B. The entrance and registration area shall be clearly identified and appropriately designed to accommodate the daily flow of prospective jurors to the courthouse.
- C. Jurors shall be accommodated in pleasant waiting facilities furnished with suitable amenities.
- D. Jury deliberation rooms shall include space, furnishings, and facilities conducive to reaching a fair verdict. The safety and security of the deliberation rooms shall be ensured.
- E. To the extent feasible, juror facilities should be arranged to minimize contact between jurors, parties, counsel, and the public.

XV. Juror Compensation

- A. Persons called for jury service should receive a reasonable fee for their service and expenses pursuant to statutory authority.
- B. Such fees shall be paid promptly.
- C. Employers shall be prohibited from discharging, laying off, denying advancement opportunities to, or otherwise penalizing employees who miss work because of jury service.

Note:

Upon completion of the jury term, the bookkeeper of the Juvenile Court shall mail checks to jurors (\$10.00 for each day served).

XVI. Juror Orientation and Instruction

- A. The Court shall provide some form of orientation or instructions to persons called for jury service.
- B. The trial judge should:
 - 1. Give preliminary instructions to all prospective jurors;
 - 2. Give instructions directly following empanelment of the jury to explain the jury's role, the trial procedures including notetaking and questioning by jurors, the nature of evidence and its evaluation, the issues to be addressed, and the basic relevant legal principles;
 - 3. Prior to the commencement of deliberations, instruct the jury on the law, on the appropriate procedures to be followed during deliberations, and on the appropriate method for reporting the results of its deliberations. Such instructions should be made available to the jurors during deliberations;
 - 4. Prepare and deliver instructions which are readily understandable by individuals unfamiliar with the legal system;
 - 5. Utilization of written instructions is preferable;
 - 6. Before dismissing a jury at the conclusion of a case, the trial judge should:
 - a. Release the jurors from their duty or confidentiality;
 - b. Explain their rights regarding inquiries from counsel or the press;
 - c. Either advise them that they are discharged from service or specify where they must report; and
 - d. Express appreciation to the jurors for their service; but not expressed approval or disapproval of the result of the deliberation.
- C. All communications between the judge and members of the jury panel from the time of reporting to the courtroom for voir dire until dismissal shall be in writing or on the record in open Court. Counsel for each party shall be informed of such communication and given the opportunity to be heard.

XVII. Jury Size and Unanimity of Verdict

- A. Jury size and unanimity in civil and criminal cases shall conform to existing Ohio law.

XVIII. Jury Deliberations

- A. Jury deliberations should take place under conditions and pursuant to procedures that are designed to ensure impartiality and to enhance rational decision-making and shall conform to existing Ohio law.
- B. The judge should instruct the jury concerning appropriate procedures to be followed during deliberations.
- C. A jury should not be required to deliberate after a reasonable hour unless the trial judge determines that evening or weekend deliberations would not impose an undue hardship upon the jurors and are required in the interest of justice.
- D. Training should be provided to personnel who escort and assist jurors during deliberations.

XIX. Sequestration of Jurors

- A. A jury should be sequestered only for good cause, including but not limited to insulating its members from improper information or influences.
- B. The jury shall be sequestered after a capital case is submitted to the jury in conformity with existing Ohio law.
- C. The trial judge shall have the discretion to sequester a jury on the motion of counsel or on the judge's initiative and shall have the responsibility to oversee the conditions of sequestration.
- D. Standard procedures should be promulgated to:
 - 1. Achieve the purpose of sequestration; and
 - 2. Minimize the inconvenience and discomfort of the sequestered jurors.
- E. Training shall be provided to personnel who escort and assist jurors during sequestration.