

Belmont County Common Pleas Court
- General Division -
Local Rules

Judge Frank A. Fregiato

Judge John A. Vavra

Cynthia L. Fregiato
Clerk of Courts

Effective March 1, 2020



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Preamble

These rules are designed and adopted to provide an orderly means of access to the Court and an efficient system for resolution of disputes within the Court. The purpose of the rules would be subverted if they are invoked by counsel for mere tactical advantage in a proceeding.

The rules are rules of reason. They shall be applied consistently with constitutional requirements, statutes, other court rules and decisional law in the context of all relevant circumstances. The rules are to be construed so as not to impinge on the essential independence of judges in making judicial decisions, or as a substitute for substantive law.

It is not intended that every transgression from the rules will result in sanctions against a party or counsel. The imposition of a sanction and the degree of such sanction shall be determined through a reasonable and reasoned application of the rules and should depend upon such factors as the seriousness of the transgression, whether there is a pattern of improper activity and the effect of the transgression on the rights of the parties and the merits of the cause before the court or the perception of the judicial system by the public.

However, in the event sanctions are deemed appropriate, the judge, in accordance with the inherent powers of the court and the enumerated powers contained in the Ohio Revised Code and/or the Ohio Rules of Civil and Criminal Procedure, shall have the power to impose sanctions on attorneys, parties, or both for failure to comply with these local rules. Sanctions may be monetary, non-monetary or a combination. No sanction shall be imposed without providing the offending party and/or attorney an opportunity to be heard, unless the conduct giving rise to the sanction amounts to a direct contempt.

Rules of Court

Pursuant to the authority granted in Article IV, Section 5(B) of the Constitution of the State of Ohio and the Rules of Superintendence for the Courts of Ohio, it is Ordered that the following be the Rules of Practice and Procedure in the Court of Common Pleas, Belmont County, Ohio.

Rule 1 – Term of Court

1.1 There shall be one (1) term of Court each year January 1st through December 31st of any calendar year, for continuous operation and transaction of judicial business. The term shall be divided into three (3) sessions, designated as Spring; Summer; and Fall. The Spring Session will begin in January; Summer Session in May; and Fall Session in September. Each Session shall commence on such date to be determined by the Administrative Judge of the Court.

Rule 2 – Address, Telephone Numbers, and Hours of Court

2.1 Sessions of Court generally shall be held daily, Monday through Friday, between the hours of 8:30 a.m. - 4:30 p.m. Said hours may be modified by the Administrative Judge and/or Judge Presiding over a case to meet circumstances or conditions.

2.2 Courthouse: 101 West Main Street, St. Clairsville, Ohio 439350

Internet Address: <http://belmontcountycommonpleas.org>

Judge Frank A. Fregiato's Office - Phone: (740) 699-2137; Facsimile: (740) 695-6242

Judge John A. Vavra's Office - Phone: (740) 699-2138; Facsimile: (740) 232-7232

Clerk of Courts' Office – Legal: Phone: (740) 699-2169 **Title:** Phone: (740) 695-5406

Internet Address: cfregiato@belmontcountycoc.org Facsimile: (740) 659-5305

Magistrate's Office - Phone: (740) 695-2121 ext. 1082; Facsimile: (740) 699-2632

Mediation Department - Phone: (740) 695-2121 ext. 1043; Facsimile: (740) 699-2659

2.3 Court Security

All persons entering the Belmont County Courthouse, including elected officials, attorneys, law enforcement and security officers will be subject to security screening. Screenings shall be conducted by Belmont County Sheriff's Department or other authorized security personnel.

2.4 Court Attire

All persons must dress in proper attire when entering a courtroom. No attorney, party or witness shall be permitted to appear in the courtroom while dressed in inappropriate attire (i.e., revealing, displaying offensive/derogatory images or statements)

Rule 3 – Pleadings and Motions

3.1 All pleadings, motions and other court filings shall be legibly typewritten or printed, displaying the case caption, case number (i.e., last two digits of current year, Supreme Court Designation of type of case (CV; CR; DR; ST; TL), and the one, two, three or four digit case designation. Example: 18 CV 351; 17 CR 25; 19 DR 02; 18 TL 1234),

3.2 All pleadings and motions shall include names, addresses and phone numbers of the attorney(s) or the individual filing the document, in the event the individual is not represented by counsel, along with a signature and the attorney's registration number.

3.3 Every pleading, motion, brief or memorandum filed with the Court shall be served on all opposing counsel or upon all parties not represented by counsel with an appropriate Proof of Service.

If the case is being opened, re-opened, or if claims are being made against additional parties, the Clerk of Courts shall serve all opposing parties. The party filing the pleading or motion that opens or re-opens a case must request that the Clerk of Courts serve the document by filing a Request for Service. The Request for Service may be filed as a separate document or at the end of the pleading or motion. Every Request for Service must state the full names and addresses of those to be served and shall be listed vertically.

All other documents shall be served by the party filing the document as provided in Civ. R. 5. The pleading or motion must contain a Proof of Service, which is a statement notifying the Court that the opposing counsel or unrepresented parties have been sent or given a copy of the documents. Every Proof of Service must state the full names and addresses of those served.

3.4 Stipulations and Agreements of Counsel: Stipulations and/or agreements of counsel or parties shall be submitted to the Court in writing and signed by the parties and/or their respective attorneys. If a Stipulation or Agreement is submitted as an oral motion in open court, the stipulation/agreement shall be dictated to the Court Reporter for the record or a written memorandum shall be submitted for filing.

Rule 4 – Sureties

4.1 No practicing attorney or officer of the court will be accepted as surety or a bondsman in any case. The Clerk of Courts shall not receive, accept, nor approve any such undertaking or bond given by or entered into by any attorney or officer of the court.

Rule 5 – Removal of Files, Pleadings or other Documents

5.1 No case files, pleadings or other original documents contained within the original file shall be removed from the Office of the Clerk of Courts without permission of the Clerk and under such rules as the Clerk may prescribe. This rule shall not apply for the use of any files, pleadings or documents in court; by the Judicial Office; or any removal pursuant to law.

5.2 No file or original documents shall be removed from the Clerk of Courts Office involving any case scheduled to commence to trial within seven (7) days prior to the trial date except by a Judge or Judicial Staff.

5.3 The Clerk of Courts shall document the removal of a file and shall provide upon request the name of the individual who has removed said file, its location, and the date of its removal.

5.4 Unauthorized removal of files from the Clerk of Courts Office may result in Contempt of Court and/or the imposition of appropriate sanctions.

Rule 6 – Motions

6.1 All Motions, excepting Motions for Judgment by Default or Temporary Relief in Domestic Relations cases, shall be accompanied by a Brief/Memorandum in Support, which shall state the reason(s) for the Motion and the legal authority relied upon. A Motion seeking Post-Judgment Relief, shall be accompanied by an appropriate deposit, in accord with a schedule adopted by the Clerk, to secure the costs thereof. The Clerk of Courts shall not accept any motion which is not accompanied by a brief and/or the appropriate deposit, as required by this rule.

6.2 Unless otherwise ordered, the non-moving party or their attorney may file a Response/Answer Brief within twenty-eight (28) days after the filing or service date of the motion, whichever is later. The moving party may file a Reply Brief not later than seven (7) days of the filing or service date of the Response/Answer Brief, whichever is later. Failure to file a Response/Answer Brief may constitute sufficient cause for the Court

to grant the Motion or Relief sought by the moving party in the appropriately filed Motion. Courtesy copies all Motions, Answer Briefs, Responses and Replies shall be submitted directly to the Judge at the time of filing or electronically through the Judicial Staff. Please contact the appropriate office for the preferred method of receipt of said copies.

6.3 All Motions requiring a Brief, as provided in Rule 6.1 and 6.2, shall be submitted for consideration by the Court, without oral argument, unless otherwise required under Ohio Rules of Civil Procedure, the presiding judge, or any provision of law.

Motions that require oral argument pursuant to law shall provide ample space within the document for the for the Court to insert the date and time of the hearing, or in the alternative, a separate document entitled “Notice of Hearing”, which may be obtained from the Clerk of Courts, and also needs to include sufficient blank space for the date and time of a hearing. Unless otherwise provided by law or Ordered by the Court, the moving party shall promptly notify the non-moving parties and/or their attorneys of the date and time of such hearing by serving a copy of the Motion, Notice of Hearing, and a Certificate of Service in accordance with the Civil Rules.

6.4 A party may file a “Demand or Request for Oral Hearing” on a Motion, Response, Answer Brief, or Reply, by endorsing such demand/request upon the respective document at the time of filing or by separate instrument, filed within the deadlines set forth in Local Rule 6.2. The Clerk of Courts shall immediately notify all parties or attorneys of record, on forms approved by the Court, of the date and time when the same is to be argued before the Court by sending a Notice by regular United States Mail at the addresses of record set forth in the file. An Oral Argument/Evidentiary Hearing shall be scheduled by the Court following the expiration of the due date of all responsive pleadings. A non-moving party may not oppose a Motion by simply filing a “Demand for Oral Argument” without also filing an Answer Brief. This shall not preclude the Court, in its discretion, to deny a request or demand for an oral hearing or for the Court to set an oral hearing.

6.5 Subject to the discretion of the Court, any party may request an expedited oral hearing by filing with the Motion a “Demand/Request for Expedited Oral Hearing”, pointing out that said request is in the interest of justice and for good cause shown by Affidavit of the moving party or attorney of record. At a minimum, the Affidavit must include the factual basis for expediting the hearing and the time period within which the moving party believes that the hearing should be held. Upon the filing of such demand/request, the Clerk of Courts shall immediately notify the Judge by providing a copy of the submitted documents. In the event the Court agrees that an expedited hearing is warranted, the Clerk of Courts shall notify all parties and/or attorneys of record of the date and time of such, in the same manner as provided in Local Rule 6.4. Should the presiding

Judge be unavailable at the time of filing or to address the Motion in the time period described in the Affidavit, the Clerk of Courts shall immediately notify and seek direction from the non-assigned Judge. The Judge may choose to conduct a telephone conference with the parties and/or their attorneys to resolve the issue of whether the Motion and the Demand for Expedited Oral Hearing demonstrate the need for immediate action.

6.6 Ex-Parte Orders may be issued (including Sua Sponte Orders from the Court) for scheduling, administrative purposes or emergencies that do not address substantive matters or issues on the merits under circumstances wherein the Judge reasonably believes that no party will gain a procedural or tactical advantage as a result of the said Order.

6.7 Unless otherwise provided for by law and/or Local Rule 12.8 thru 12.13 and/or Local Rule 6.6, no Motion involving the substantive rights of the parties shall be decided ex parte unless the filing party certifies this is an emergency and otherwise complies with the requirements of Ohio Civil Rule 65 (A) as if it were a Motion for a Temporary Restraining Order.

6.8 Pre-Trial Motions shall not be filed beyond the deadlines imposed by law or by the Court, or within twenty-eight (28) days of the trial without Leave of the Court. The Judge may, upon granting such leave, establish the times for the filing of Briefs and the submission of the Motion for Hearing.

Rule 7 – Criminal Case Discovery

7.1 The Court of Common Pleas shall hold a Pre-Trial Conference or Status Conference on all felony charges, at which time the Court shall review the production of Discovery by the State of Ohio and/or Defendant; schedule Hearings on any pending Motions and otherwise address procedural matters. The Court, in its own discretion, or upon request of the State or Defendant, may schedule additional Conferences or Hearings prior to Trial to address any pending matters.

7.2 The disclosures, set forth in Criminal Rule 16, shall be made by the Prosecutor in felony cases, on or before the date of the Pre-Trial/Status Conference. If a question of failure to provide complete disclosure, as required by Criminal Rule 16, arises, the Court shall address the issue at the Pre-Trial/Status Conference or upon filing of an appropriate Motion for Enforcement of said Discovery, which Motion shall be filed by Defendant not later than fourteen (14) days after the date of the pre-trial or the date discovery is provided, whichever date is later.

7.3 Upon the Defendant having received discovery from the State, said Defendant shall make the disclosures set forth in Criminal Rule 16 not later than fourteen (14) days after the pre-trial conference or after the date of receipt of discovery from the State, whichever is later, but not later than ten (10) days before trial.

No written request by the State is necessary to obtain such disclosures under this rule. If disclosures are not made by Defendant, the Prosecutor may apply to the Court for enforcement.

7.4 In the event of the failure of the State or the Defendant to provide discovery in accord with this rule, the Court shall decide whether such failure is the result of intentional, negligent, or otherwise inadvertent action and the imposition of a sanction, if deemed appropriate, that may include the imposition of fines, reasonable expenses, including attorney's fees caused by the failure; and/or an order prohibiting the introduction of designated matters into evidence.

Rule 8 – Judgment Entries

8.1 Unless otherwise directed by the Judge, counsel of the party in whose favor an Order, Decree, or Judgment is rendered, shall submit within seven (7) days thereafter, an appropriate Judgment Entry to counsel for adverse parties. Counsel for the adverse parties shall approve or reject the same within seven (7) days upon receipt thereof. Said Judgment Entry shall then be submitted to the Court for final review and signature. If counsel is unable to agree upon the language of the entry, the disputed entry shall be submitted to the Judge who will direct the parties as to the appropriate language.

8.2 The failure of counsel for the adverse party to return the Judgment Entry with the appropriate signature(s) endorsed thereon to the attorney for the prevailing party within seven (7) days provided for in Rule 8.1, shall constitute a rejection of the proposed entry. In such case, counsel for the prevailing party may submit the Entry to the Judge along with written certification that the entry was timely submitted to counsel for the adverse party, that it has not been endorsed by counsel and returned, and that notice has been given to counsel that the Judgment Entry is being submitted to the Court as drafted.

8.3 The Clerk may enter in the appearance docket any Docket Entry specifically designated as a “Special Entry”, but under no circumstances shall such an entry be journalized until an appropriate entry is signed by the Judge.

8.4 Except for Ex-Parte Orders obtained in accord with Civ. R. 65, Local Rules 6.6, 6.7, and 12.8 through 12.13, proposed Judgment Entries shall not be submitted to the Court without providing notice to other parties or their attorneys.

8.5 No Ex-Parte Order, excepting one resulting from motions submitted in accordance with Civ. R. 65, Local Rules 6.6, 6.7, and 12.8 through 12.13, shall be entered by the Court.

8.6 Counsel for the Plaintiff shall submit an Entry of Dismissal to the Judge within twenty-one (21) days following settlement of any case or within such time as the Judge may direct. If a Dismissal Entry is not submitted as required following the representation to the Court that a case has been settled, the Judge may Order the parties and/or their attorneys to appear to Show Cause as to why said Entry has not been submitted and may impose sanctions upon the dilatory party and/or their attorney.

8.7 Any Judgment Entry which includes an Order directing the Clerk of Courts to release or cause to be released any lien shall specifically describe the lien to be released, discharged or satisfied. Specifically, whether the release pertains to the entire encumbered real estate or is partial only in nature, the Judgment Entry must contain sufficient identifying information and instructions to enable the Clerk to perform his or her duties without the need for additional information or instruction from counsel or the Court. The Clerk, with permission granted by the Court, may refuse to accept a deficient entry for filing.

Rule 9 – Fees in Partition Cases

9.1 The apportionment of costs among the parties in a partition suit is not fixed by law, but under R.C. §5307.25, it is reposed in the discretion of the Court. The Court must take into consideration the benefits to the various parties and decide the issue according to equity. Pursuant to R.C. §5307.25, the Court can Order the payment of reasonable counsel fees for services rendered for the benefit of all, but not for services rendered in litigation between the parties.

9.2 Therefore, in a partition proceeding, under the provision of R.C. §5307.25, the Court shall allow fees to counsel for the Plaintiff, but shall not allow fees to counsel for the Defendant unless the Court finds that counsel for the Defendant has rendered service “for the common benefit of all the parties.”

9.3 At a Hearing on a Motion for Allowance of Reasonable attorney fees for Plaintiff’s counsel, the burden is upon Plaintiff’s attorney to introduce into the record sufficient evidence of the services performed to substantiate the award of fees as being reasonable.

9.4 The Court, for good cause shown, upon Motion and a Hearing, may allow reasonable additional fees to Defendant’s counsel who has performed services in the partition proceeding for the common benefit of all parties.

Rule 10 –Receivership

10.1 A Motion for Appointment of a Receiver in any proceeding, pursuant to Chapter 2735 or Section 1313.56 of the Ohio Revised Code, shall be submitted to the Judge to whom the case has been assigned. Notice of the date and time of the Hearing thereon shall be served upon all parties, or their counsel and no such motion shall be heard Ex-Parte unless it clearly appears from the affidavits filed with the motion that extraordinary hardship, loss, or prejudice would result to the moving party by any delay in the proceeding. Notwithstanding the issuance of an Ex-Parte Order as provided herein, a hearing on the continuance of such Order shall be scheduled at the earliest possible time by the Court in the same Entry appointing the receiver. Evidence upon any such hearing may be in the form of affidavits or depositions, which must be filed prior to the hearing. The Court shall determine if additional evidence, including oral testimony, shall be permitted at the hearing.

When a receiver is appointed by the Court, the Court will, whenever appropriate, appoint a receiver agreed upon by all parties. An attorney of record in a case shall not act as attorney for the appointed receiver, unless all parties agree, or the Court directs otherwise. Within a time period specified by the Court after being appointed, the receiver shall file a report to the Court, submitting the inventory and appraisal, including an account of receipts and expenditures to date. A receiver shall file reports of receipts and disbursements with supporting documentation of the receiver's actions and transactions within three months after the date of appointment or at such other times as the Court may direct. A receiver's compensation and the compensation of the receiver's attorney will be set by the Court as allowed by statute. Failure to file any report after the report is due or ordered shall be grounds for removal without notice and without compensation. Any person removed as receiver shall be ineligible for any subsequent appointment.

Rule 11 – Court Costs

11.1 Parties instituting actions in this Court shall deposit with the Clerk of Courts the appropriate sum in accord with the most recent schedule of costs adopted by the Clerk, as security for costs, provided, however, for good cause shown this requirement as to amount may be increased, decreased, or excused by the Court by an Entry filed therein. Said schedule of costs may be amended by the Clerk of Courts with written consent of the General Division Common Pleas Judges from time to time without need for amendment of these rules.

11.2 In actions wherein personal service or any kind of legal process is requested in another county, the party requesting such service shall deposit with the Clerk of Courts such sum of money as the Clerk may direct

to secure the costs and fees for such service. This rule applies to a Summons, Subpoena, Writ of Execution, or any other legal process required by law or Court Rule to be served in another County.

11.3 In actions for Judgment upon a Warrant of Attorney in a Cognovit Note, the Plaintiff shall deposit with the Clerk of Courts the appropriate sum in accord with the most recent schedule of costs adopted by the Clerk, to secure the accrued costs. From this amount, an appropriate sum shall be paid to counsel for Defendant as determined by the Court.

11.4 In actions wherein a party makes a Request for Publication in a newspaper of general circulation in this County, such party shall deposit directly with said newspaper, if direct payment is feasible, or otherwise with the Clerk of Courts, the appropriate sum, in accord with the most recent schedule of costs adopted by the Clerk, as security for publication costs, provided, however, and for good cause shown, this requirement as to amount may be increased, decreased, or waived by the Court by Entry filed therein.

Belmont County Clerk of Courts
Schedule of Costs and Deposits

No Civil Action or Proceeding shall be accepted for filing by the Clerk unless the party or parties filing the same have first deposited with the Clerk a sufficient deposit of money to secure the payment of costs that occur in such Action or Proceedings, except as otherwise provided by law or these Rules.

Civil		Release County Court	\$5.00
		Release State Tax	\$70.00
Complaint, Third-Party Complaint, Counter/Cross-claim with Jury Demand	\$525.00		
Complaint without Jury Demand* (Non-Domestic and Non-Foreclosure)	\$225.00	Release Worker's Compensation	\$70.00
		Domestic Relations	
Third Party Complaint Without Jury Demand*	\$225.00	Divorce/Dissolution Complaint	\$251.00
Answer without a Jury Demand*	-0-	Counterclaim/Cross-Claim	\$225.00
Answer with a Jury Demand	\$300.00	Poverty Affidavit (Subject to Financial Investigation)	\$11.00
Counterclaim without Jury Demand*	\$225.00	Criminal	
Cross-claim without Jury Demand*	\$225.00	Expungement	\$50.00
*Add \$10.00 per Defendant after first 3		Notice of Appeal	\$100.00
Additional Jury Cost (Due 30 days prior to Trial)	\$300.00	Miscellaneous Deposits	
Foreign Judgment	\$225.00	Subpoena for Out of County Sheriff Fee	\$50.00
Post-Judgment Motion (Certified Mail)	\$150.00	Publications Costs	
Post-Judgment Motion (Personal Service)	\$150.00	The number of weeks that a Legal Notice is to be published must be on the Notice when filed with the Clerk.	
Judgment Debtor's Exam (Certified Mail)	\$120.00	Civil Complaint Publication	\$1000.00
Judgment Debtor's Exam (Personal Service)	\$120.00	Divorce/Dissolution Complaint	\$500.00
Foreclosure Complaint	\$375.00	Executions	
Order of Sale (Deposit)	\$1000.00	Garnishment	\$100.00
Certificate of Judgment		Execution on Belmont County Judgment in Belmont County/Foreign Execution from Belmont County and Execution in Belmont County on Foreign Judgments	\$140.00
Common Pleas	\$60.00		
County Court	\$60.00		
Foreign Court	\$60.00		
Release Common Pleas	\$5.00	Writ of Possession	\$140.00

Rule 12 – Domestic Relations

General

12.1 A Complaint for Divorce, Dissolution of Marriage, Annulment, or Alimony shall not be accepted by the Clerk of Courts until a pre-payment or deposit has been received by the Clerk to secure the costs likely to accrue in such action exclusive of attorney fees. An indigent party must file an affidavit of the party's inability to pre-pay the filing costs required at the time of the pleading. In such cases wherein the Plaintiff has executed and filed a poverty affidavit, the Defendant filing a counterclaim shall comply with the provisions of this rule.

12.2 Upon the filing of the Final Judgment Entry in a domestic action, and in the absence of an express agreement to the contrary between the attorney and the respective client, the attorney representing a party shall no longer be considered counsel of record for such party. Any Post-Judgment Motion filed thereafter shall be served upon the adverse party as provided in the Civil Rules.

12.3 Unless otherwise Ordered by the Court, all payments of alimony or support (spousal/child), whether it being temporary or permanent, shall be payable by the obligor through the Belmont County Child Support Enforcement Agency of the Ohio Department of Job & Family Services, including administrative fees, equivalent of two percent (2%), as is presently provided in the Ohio Revised Code and subject to any future provisions to said Code.

12.4 In accord with Civil Rule 53, the Court refers all Divorces; Dissolutions; Legal Separations; Annulments; Motions for Ex-Parte Orders and/or Temporary Orders; Post-Decree Motions; Child Support Orders; and Petitions for Civil Protection Orders to the Magistrate that are filed in the Court of Common Pleas. **However, the Judge may exercise his/her discretion to directly handle any matter normally referred to the Magistrate due to special circumstances or the unavailability of the Magistrate.** Furthermore, the Court or the Magistrate may recuse the Magistrate for good cause shown and the Judge assigned to the case will handle the matter. All documents related to such actions must be filed by the parties or their attorneys with the Clerk of Courts' Office. Any such filings that may need immediate attention by the Magistrate should include a copy of said document, appropriately labeled or marked as a copy and given to the Magistrate or the Magistrate's staff member.

12.5 Notwithstanding the provisions of Rule 6 to the contrary regarding hearings on motions, all Post-Judgment Motions filed in a domestic action will be forwarded to the Magistrate for the scheduling of a Hearing, or for ruling without a Hearing unless the parties have submitted an Agreed Judgment Entry, prepared and signed by counsel for the parties or by a party who is not represented by counsel. **Any such Agreed Entry will be prepared for signature by both the Judge and the Magistrate.**

12.6 Unless an Order is issued by the Magistrate or a Judge indicating otherwise, all Domestic Relations actions (Dissolutions, Divorces, Legal Separations, and Civil Protection Orders) will be heard by the Magistrate. All documents related to such actions must be filed by the parties or their attorney with the Clerk of Courts' Office. Any filings the parties may want to bring to the Magistrate's attention immediately, a copy, clearly marked as "copy", must be provided to the Magistrate or the Magistrate's staff member.

12.7 Civ. Rule 53(C)(2)(e) allows the Magistrate to issue an attachment for an alleged contemnor who fails to appear at a scheduled court hearing and to set a bond to secure the alleged contemnor's presence in court in the future. Such bond may be set pursuant to Criminal Rule 46. Moreover, the Court/Magistrate may also in addition set a "special" personal recognizance bond without waiting to secure more of the information outlined in Criminal Rule 46 (C). Moreover, the Judge or Magistrate may also set a "special" personal recognizance bond without waiting to secure more of the information outlined in Criminal Rule 46(C). The Judge or Magistrate, in its discretion, may allow a special personal recognizance bond by fixing an amount not to exceed the arrearages alleged by the Ohio Department of Job & Family Services (ODJFS) which amount the alleged contemnor may post with ODJFS. The payment by the alleged contemnor is to be applied against his or her arrearages. Such an act by the alleged contemnor may be accepted by the Court as an act of good faith that he or she is willing to purge themselves of any contempt and may be the basis to justify a personal recognizance bond. When such payment to the ODJFS is made known to the Sheriff's Department by the ODJFS, then the Sheriff may release the alleged contemnor on his own personal recognizance, but only after the Sheriff's Office relays to the contemnor the date, time and place of the next scheduled court hearing at which the alleged contemnor is expected to appear.

Ex-Parte Motions

12.8 If an affidavit alleges a situation so dangerous that serious physical harm is likely to a household or family member, or alleges that the Affiant merely requests to continue the present status quo which has existed for a substantial period of time, then the Magistrate may grant an appropriate temporary Ex-Parte Order. However, the Magistrate will schedule an immediate hearing or provide an opportunity for a hearing. Such hearing date can be included in the Ex-Parte Entry or in the event no date is provided, such entry will reflect a hearing to be expeditiously scheduled if requested by the other party.

12.9 If an Affidavit or testimony established that one of the parties has already been removed from the marital residence by court order or has left the residence voluntarily, the Magistrate may issue an Ex-Parte Order granting exclusive possession of the home to the party remaining in home.

12.10 Ex-Parte Orders will be granted on Affidavits alone for mutual orders not to remove the pre-existing residence of the children from Belmont County, Ohio.

12.11 The parties may seek a Mutual Restraining Order as outlined below in 12.12 with an Affidavit so as to keep the peace between the parties regardless of a determination of fault, to immediately lessen the possible adverse impact of the divorce on children, to preserve the marital property for later division, and to preserve the status quo.

12.12 Either party may request the Magistrate by Affidavit that the parties are restrained from the following:

- a. Threatening, abusing, harassing, interfering with the other party or the parties' child(ren);
- b. Creating or incurring debt (such as credit card) in the name of the other party or in the parties' joint names, or cause a lien or loan to be placed against any of their real or personal property;
- c. Selling, disposing of, or dissipating any asset, real or personal property, including without limitation: bank accounts, tax refunds, and money (other than regular income) of either party or a child;

- d. Removing household goods and furnishings from the marital residence without approval of the Court or other party;
- e. Changing or failing to renew the present health, life, home, automobile or other insurance coverage; remove the other party as beneficiary on any life or retirement benefits without order of the Court;
- f. Changing or establishing a new residence for the parties' minor children without the written consent of the other party or permission of the Court;
- g. Lessening the time available for the other party to spend with the parties' minor children so that such time is much less than before the filing of the divorce complaint.

These restraints may be imposed by the Standard Mutual Restraining Order, which may be found on the Court's website. The document is a suggested format and may be modified to delete any restraints the party is not seeking but cannot be modified otherwise. The party securing the order is deemed to have notice of the Mutual Restraining Order when the Order is filed with the Clerk of Courts.

12.13 All other requested Ex-Parte Orders will not be granted without scheduling a hearing. All Ex-Parte Hearings will proceed with sworn testimony on the record and other appropriate evidence to show the need for the order. Local Rule 6 also applies for Motions before the Magistrate. A hearing date must be secured from the Magistrate's Office either by the moving attorney or by the Clerk of Courts. The moving party must make a good faith effort to serve notice of the hearing date on the opposing party and/or the attorney of record for the opposing party.

12.14 Plaintiff is required to list his/her date of birth on the Complaint, as well as the Defendant's date of birth, if known. If Defendant files an Answer he or she must list his/her own date of birth on the Answer.

12.15 Any Order which is not a Final Judgment, or a Final Resolution of a Post Judgment issue in a pending domestic relations action need only be signed by the Magistrate. Such Entries will be prepared by the Magistrate or one of the attorneys pursuant to the Magistrate's direction and submitted for the Magistrate's signature. Civ. R. 53(C)(3)(b) provides:

Any person may appeal to the Court from any Order of a Magistrate entered under division (C)(3)(a) of this rule by filing a Motion to set the Order aside, stating the party's Objection with particularity. The Motion shall be filed no later than **ten** (10) days after the Magistrate's Order is entered. The pendency of a Motion to set aside does not stay the effectiveness of the Magistrate's Order **unless the Magistrate or the Court grants a stay.**

12.16 The Magistrate shall issue a case management schedule in all domestic cases. Counsel for Plaintiff and Defendant shall submit a draft management schedule which shall include the following:

- 1) Temporary Orders shall be granted by Affidavit, unless otherwise requested
- 2) Pretrial Hearing
- 3) Settlement Conference
- 4) Final Hearing or Trial

At any hearing, the parties can notify the court of their final agreement and set the matter for a final hearing. The parties shall file a written settlement agreement with the Court no later than close of business the day before the hearing.

In the event the parties have not settled all issues, the following items will be addressed at the **Pre-Trial Hearing** by proffer from counsel, which the Court will issue a ruling. Counsel for the Plaintiff shall draft the Entry in accordance with the Court's ruling, obtain opposing counsel's signature and submit the entry to the Court within fourteen (14) days of the hearing. The Court will issue a Case Management Order based upon the issues in dispute to include:

- 1) Joint Statement of Contested Issues
- 2) Possession of the marital home
- 3) Possession of vehicles
- 4) Allocation of Custodial Responsibilities and Parenting Time
- 5) Child Support
- 6) Spousal Support

After the close of Discovery, the Court will send a notice for a Pre-trial Hearing. Prior to the pre-trial, the parties shall complete the Pre-trial Statement. (See attached) After the conclusion of the pre-trial hearing, the Court will issue a Final Order setting the matter for Trial. (See attached.)

Counsel shall comply with the deadlines in all Court Orders. Failure to comply with the deadlines shall result in the exclusion of witnesses and/or exhibits absent modification of the deadlines obtained with leave of the court.

12.17 When a Magistrate's Decision in a Domestic Relations Action or a Post Judgment Motion is made by the Magistrate, the status (waiver or non-waiver) of the fourteen (14) day period to object to the Magistrate's Decision will control how the Magistrate's Decision is prepared.

12.18 When the parties waive the fourteen (14) day Objection period of Civil Rule 53 in writing or on the record during a hearing, the Magistrate or the attorneys, at the direction of the Magistrate, will prepare:

- a) A Docket Entry for the Magistrate's signature memorializing the Final Hearing has been held.
- b) A Decision memorializing the Divorce, Dissolution, or Final Motion Ruling which includes the fourteen (14) day waiver for the signature of the Magistrate and the Judge.
- c) If the Judge chooses not to adopt the Magistrate's Decision, the Judge may direct the attorneys or the Magistrate's Office to prepare an appropriate Decree, Judgment or Special Entry memorializing a Final Motion Ruling, or the Judge will prepare his/her own Decree, Judgment or Final Motion Ruling.
- d) When the Decree, Judgment, or Final Motion Ruling is filed with the Clerk of Courts, the Clerk will serve it on each party and each attorney of record as required by law.

12.19 If either one of the parties does not waive the fourteen (14) day Objection period or if the matter is submitted to the Magistrate for a Decision after the Hearing, then the entry will be prepared as follows:

- (A) The Docket Entry memorializing the Hearing will be prepared by the Magistrate's Office, or by an attorney, as directed by the Magistrate, and submitted for the Magistrate's signature.
- (B) The Magistrate's Decision will be prepared by the Magistrate, or by an attorney as directed by the Magistrate, and submitted for the Magistrate's signature. The Magistrate's Decision shall conclude by stating each party has a right to object to the Magistrate's Decision within fourteen (14) days of its filing with the Clerk and include conspicuous language stating a party shall not assign as error on appeal the Court's adoption of any finding of fact or conclusion of law.

in that Decision unless the party timely and specifically objects to that finding or conclusion as required by Civ. R. 53.

- (C) The Magistrate's Decision will be filed with the Clerk and a time-stamped copy will be served on each party and/or attorney of record by the Clerk as required by law.
- (D) Any Objections filed by a party with the Clerk will be docketed by the Clerk and sent to the Magistrate's Office.
- (E) If the Magistrate's Decision was prepared by an attorney at the direction of the Magistrate, that attorney will also prepare a Decree, Judgment or Final Motion Ruling which conforms with the Magistrate's Decision for possible signature by the Judge. If the Magistrate's Decision was prepared by the Magistrate's Office, then the Magistrate will prepare a Decree, Judgment or Final Motion Ruling which conforms to the Magistrate's Decision for possible signature by the Judge.
- (F) The Magistrate's Office will diary the fourteen (14) day Objection period for follow up. After fourteen (14) days the Magistrate's Office will forward the file, any Objections, and the proposed Judgment, Decree or Final Motion Ruling to the assigned Judge for review. If no objection is filed, there will be no need for a further decree.
- (G) If the Judge chooses not to accept the Magistrate's Decision, the Judge will direct an attorney, or the Magistrate to prepare an appropriate Decree, Judgment or special entry memorializing a Final Motion Ruling, or the Judge will prepare his/her own Decree, Judgment or Final Motion Ruling.
- (H) When the Decree, Judgment, or Final Motion Ruling is filed by the Judge with the Clerk of Courts, the Clerk will serve it on each party and/or each attorney of record as required by law.

12.20 Any Entry, Order, or Decision the Magistrate has directed to be prepared by an attorney and circulated to opposing counsel is to be filed with the Magistrate within fourteen (14) days, or another designated timeline the Magistrate may fix. Failure to do so, without having received an extension, may result in the Magistrate's scheduling a Hearing for the attorneys and/or parties to show cause why one or more of them should not be held in contempt, and sanctioned appropriately. If the attorney who was directed to prepare the Entry, Order or Decision for the Magistrate submits to the Magistrate a letter (which has been copied to opposing counsel) indicating the following:

- a) The amount of time given by the Court to file the Entry has expired;
- b) The Entry has been forwarded to opposing counsel electronically or by regular mail on a specific date; and

- c) Opposing counsel has not approved the accuracy of the Entry by signing the Entry and has not notified opposing counsel that there are inaccuracies in the Entry;

the Magistrate may sign the Entry and file it without written approval of the Entry's accuracy by opposing counsel.

12.21 Any **Final Orders** recommended by the Magistrate's Decision do not become effective until the Court decides any Objections, and until they are adopted by the Judge issuing the Court's final Judgment entry.

12.22 Any **Temporary Orders** issued by the Magistrate ordering the parties to undertake certain actions pending the Judge's Final Judgment Entry will serve as the interim Order of the Court while awaiting a Court Ruling on any Objections to a Magistrate's Order or Decision. If an objecting party wants any or all parts from such Magistrate's Order or Decision suspended while that party's Objections are being considered by the Judge, then the party may so request in his Objections to the Court. The Court may grant such a request while considering the Objections and without a Hearing. The Court may issue new Interim Orders as the Court finds appropriate. Any Objection requesting Interim Orders different than the Magistrate's Decision should be accompanied by a proposed Entry for the Court's review reflecting the party's proposed Interim Orders.

12.23 Magistrate's Hearings will be transcribed on digital recording. If the objecting party does not indicate a written transcript will be filed, the Court **may** rely upon the recording when considering any Objections.

12.24 The objecting party should make specific reference to the specific testimony which purportedly supports that party's Objections. Civil Rule 54(E)(3)(b) provides:

Any Objection to a finding of fact shall be supported by a transcript of all the evidence submitted to the Magistrate relevant to that fact or an Affidavit of that evidence if a transcript is not available.

12.25 Any party has the option of paying to have the recording transcribed and filed with the Court. The party filing the Objection and indicating a written transcript will be filed has forty (40) days from the date the Objection is filed to file the transcript. If the transcript is not filed within forty (40) days, the Court can listen to the recording rather than waiting for the transcript to be filed. If a party is seeking to secure a written transcript, he must so advise the Court in writing when he files his Objection. If either the objecting or responding party seeks to submit a written transcript, that party must advise the Court within fourteen (14) days of the filing of the Objection as to what arrangements have been made to secure a written transcript and when it is expected to be filed.

12.26 The following procedure shall be undertaken by the party seeking a written transcript:

- A. The party shall confer with all the Court-Employed Court Reporter to determine arrangements for filing a transcript.
- B. If the Court-Employed Court Reporter is unable to complete the transcript within the time frame **required by this rule**, then the party seeking the transcript is to advise the Clerk of the Magistrate's Office in writing that the Court-Employed Court Reporter are unable to complete the transcript.
- C. If the Clerk of the Magistrate's Office has time and is able to prepare a transcript, the Clerk will proceed to do so. The Clerk of the Magistrate's Office may charge a reasonable fee for such a service.
- D. If the Clerk of the Magistrate's Office is unable to prepare the transcript, then the party seeking the transcript may hire a private Court Reporter to transcribe the proceeding.
- E. The Clerk of the Magistrate's Office will provide the recording of the proceedings to the appropriate Court Reporter when notified by the party in writing as to which Court Reporter will be doing the transcription.

Failure to expeditiously proceed to secure or to make arrangements to secure a written transcript for filing within the 40 days following filing of the Objection may be sufficient reason for the Court to proceed to address any Objections without a written transcript.

12.27 Objections must be filed with the Clerk and a copy sent to the Magistrate. Civil Rule 53 (E) (3) (b) requires Objections to “be specific and state with particularity the grounds of Objection.” However, the initial timely Objection may be non-specific and without particularity, if the Objection specifically states that such specificity or particularity will be forthcoming in a written brief which shall be filed within a specific time in the near future due to good cause. Such good causes may be, but are not limited to:

- (A) The attorney’s schedule.
- (B) The parties are discussing, resolving or settling some or all issues.
- (C) The parties are awaiting another Magistrate’s Decision or Order which may make the Objection moot.
- (D) The party is having a written transcript prepared for review and filing.
- (E) The opposing party has seven (7) days to respond to the Objection or the subsequently filed written brief. The opposing party may seek written extensions from the Court for good cause shown. However, if neither a timely written response nor a timely written extension is filed, the Court will proceed to review and decide the Objection as permitted by the Court’s schedule ten (10) days after the objecting party’s brief was filed.

12.28 The Court requests citations of authorities regarding any disputed legal issue which have not already been briefed in writing before the Magistrate.

12.29 If minor children are involved in a Domestic Relations case one or both of the parties must file an IV-D Application before there will be a Hearing before the Magistrate on **any** issue. Before the Magistrate will issue his Decision, one or both of the parties must file a Child Support Guideline, and each must file a Certificate of Attendance at the Helping Children Cope with Divorce Class or its equivalent. **A Child Support Guideline must be filed even if the parties have agreed to deviate from the results of a properly prepared guideline.** All parents of minor children who are parties to a Divorce, Dissolution, Legal Separation, or Post Decree Proceeding involving the custody of children must attend a Divorce education program offered by the Ohio State University Extension, Belmont County, Ohio or an equivalent program. Such attendance can be waived by Magistrate only for good cause shown.

12.30 If one or both parties want a Guardian Ad Litem (GAL) appointed, counsel should file a Written Motion with the Magistrate's Office for such an Appointment prior to Hearings being scheduled or conducted. The Magistrate may Order the party or parties who requested a GAL to post a deposit not to exceed \$1,000.00 for payment towards services rendered by the GAL. An additional sum of money may be Ordered by the Magistrate or Judge, if the Guardian Ad Litem's services have exceeded the initial deposited funds.

12.31 If one or both parties want the Magistrate to conduct an interview with one or more children, counsel should contact the Magistrate's Office to schedule such interview either before or after any Hearings scheduled before the Magistrate. The Magistrate shall determine the location of the interview. Counsel is to advise opposing counsel before making the request, and then is to advise opposing counsel as to the date, time, and location of any scheduled interview. If either counsel wants, they may submit questions of areas of concern to the Magistrate for his/her review before the interview. Such interviews will be recorded by the Magistrate.

12.32 A parenting proceeding information affidavit must be filed when the plaintiff files the complaint. A suggested format can be located on the Court's website.

12.33 When an attorney or party appeals to this Court a ODJFS Child Support Order or Modification Order, or when an attorney or party seeks a Child Support Order, or modification before this Court, the attorney is to prepare and submit to the Court before, or at the hearing a child support guideline with the figures the appellant contends are appropriate.

12.34 If a party seeks to have the Court divide marital property, then a property appraisal form for Divorces (hereinafter PAF) must be filed by each party within fourteen (14) days of the filing of the answer in a Divorce. Such PAF is attached to these rules as Divorce Form 103. The parties can complete it together or separately. The PAF must be notarized and filed with the Court and exchanged with the opposing counsel or an unrepresented litigant. If neither party files a PAF, the Court will view the record as reflecting the parties have resolved all property division issues. The Court is willing to accept the values presented on this form as being the testimony of the party as a non-expert witness. Obviously, if expert testimony is necessary for the Court to determine a disputed value, such expert witness must be presented at trial with the appropriate appraisal discovery to the other party's counsel before trial.

Moreover, each party has the right to cross-examine the other party about any values claimed on the PAF. Any boxes left empty on the PAF means either the box does not apply, or such property does not exist, or the value of such property is zero. A box may be filled with an “R” to reflect that an appraisal of value for that item HAS ALREADY BEEN REQUESTED FROM AN EXPERT BUT HAS NOT YET BEEN RECEIVED. The party must make the Decision to secure and must request such an appraisal before the PAF is filed. Such an “R” cannot be used if a party has not already requested an expert appraisal, or if the party is just thinking about what value to declare. After the time for submission of the PAF the Court will not continue Hearings or allow unexpected appraisals into evidence without a specific and clear showing of good cause as to why such appraisal was not declared on the PAF. Counsel is reminded that some parties may need to be reminded that the Court will not be concerned with trifles or items of minimal values even if listed on the PAF. If either party wishes to dispute evaluations by the other party on items not listed on the party’s first PAF, then that party may do so within 10 days if the filing of the other party’s PAF. See Divorce Form 104. Such “Response” PAF is limited to evaluating only those additional items listed on the other party’s original PAF which were not on the responding parties original PAF. Such response “PAF” cannot be used for items which the party initially forgot to include in his/her own PAF and which are not on the other party’s initial PAF. In appropriate cases the Court may Order all disputed property sold at auction and the proceeds divided or may Order the parties to mediation to divide the property.

12.35 When a party seeks spousal support or when a party has additional financial issues beyond child support (e.g. debt allocation), that party must file a Financial Affidavit before any Court hearing addressing any spousal support or such financial issue. Such Financial Affidavit must include at least the information outlined in Divorce Form 105. Such Financial Affidavit may be accepted by the Court as the party’s testimony if the party authenticates the Affidavit in open Court, and if the party is subject to cross-examination in open Court by the other party.

12.36 If Plaintiff files a Financial Affidavit with the Complaint, Defendant must file a Financial Affidavit with the Answer. If Defendant files a Financial Affidavit with the Answer, the Plaintiff must file a Financial Affidavit within fourteen (14) days.

12.37 The Magistrate will hear Pro Se Dissolutions and Divorces. However, Pro Se litigants must comply with all necessary laws, rules of procedure, and local rules as Ordered by the Court. In particular, Pro Se Dissolutions or Divorces involving children will not be heard unless an IV-D Application is filed; a Child Support Guideline is properly prepared and filed; and there has been attendance at the Divorce and Blended Family Program, or an equivalent program. However, the Court reserves the right to deny any Pro Se Dissolution or Divorce, if the Court believes that granting such Pro Se Dissolution or Divorce may not result in a just disposition of the apparent legal issues.

12.38 If a Legal Clinic is operating in Belmont County, any contested Pro Se filing must be discussed by the filing party with the Legal Clinic before the matter will be scheduled for Hearing. The filing party must file with the Clerk a written document within sixty (60) days of the filing from the Legal Clinic that the matter has been reviewed with the Clinic, and the manner in which the party now chooses to proceed before the Court e.g. the party has been advised how to proceed his/her self without counsel, or the party is securing counsel by a date certain. Failure to file such documentation may be sufficient reason to dismiss whatever the party has filed.

12.39 Motions for Contempt will not be scheduled for Hearing by the Magistrate unless (1) they clearly refer to the language of a specific Court Order which the contemnor violated, and (2) they clearly recite specific actions or non-actions by the alleged contemnor on specific dates which constitute the alleged contempt. Without specific written allegations, the Magistrate may dismiss the motion without a Hearing.

12.40 If jail time is a possible sanction, the Magistrate will appoint to an indigent, alleged contemnor, counsel at public expense. However, to secure counsel, the alleged contemnor must timely fill out the proper application which the Magistrate will review to determine if he/she qualifies for Court appointed counsel. No counsel will be appointed for a Pro Se party seeking to hold another party in contempt.

[Sample Documents shown below will be made available on the Court's website](#)

STATE OF OHIO, COUNTY OF BELMONT
IN THE COURT OF COMMON PLEAS

_____	:	
Plaintiff	:	
	:	MUTUAL RESTRAINING ORDER
Vs.	:	
	:	
_____	:	Case No. _____
Defendant	:	

Pursuant to Local Rule 12, and the Affidavit filed by the Movant, during the pendency of this Divorce or pending further Court Order, **neither** party shall:

1. Threaten, abuse, annoy or interfere with the other party or the parties' children;
2. Create or incur debt (such as a credit card) in the name of the other party or in the parties' joint names or allow a lien or loan to be placed against any of their real or personal property;
3. Sell, dispose of, or dissipate any of their real or personal property, including money (other than regular income) of either party;
4. Remove household goods and furnishings from the marital residence without approval of the Court or other party;
5. Change or fail to renew the present health, life, home, automobile, or other insurance coverage;
6. Remove the other party as beneficiary on any life or retirement benefits without further order of this Court;
7. Change or establish a new residence for the parties' minor children without the written consent of the other party or permission of the Court;
8. Lessen the time available for the other party to spend with the parties' minor children so that such time is much less than before the filing of the Divorce Complaint.

If either party requests a Hearing on any part of this order, that party's counsel is to contact the Magistrate's Office at 740-695-5034 for the scheduling of a Hearing as soon as the Docket permits.

IT IS SO ORDERED.

Dated: _____
_____ **Magistrate/Judge**

Proof of Service

A copy of the foregoing Mutual Restraining Order has been served on the other party (choose one of the following methods)

with Summons, with Complaint, with Answer, or other (describe)
--

_____ this ____ day of _____, 20 ____.

Attorney for Plaintiff / Defendant

STATE OF OHIO, COUNTY OF BELMONT
IN THE COURT OF COMMON PLEAS

Plaintiff	:	AFFIDAVIT
	:	CHILD CUSTODY INFORMATION
Vs.	:	Pursuant to R.C. §3109.27
	:	
Defendant	:	Case No. _____

_____, being duly sworn, states as follows concerning the reallocation of parental rights and responsibilities of the minor child(ren) in this action, to wit:

1. Beginning with the child(ren)'s present address, state where the child(ren) lived within the last five (5) years, the names and present addresses of the person with whom the child(ren) lived during that period.

Places the child(ren) have lived and duration:

Person(s) with whom child(ren) lived present address:

At: _____

With: _____

From: _____ **To:** _____

Now At: _____

At: _____

With: _____

From: _____ **To:** _____

Now At: _____

At: _____

With: _____

From: _____ **To:** _____

Now At: _____

At: _____

With: _____

From: _____ **To:** _____

Now At: _____

(Please circle the appropriate (have/have not) or (do/do not)):

2. I (have / have not) participated as a party, witness, or in any other capacity in any other litigation concerning the custody of the child(ren) in this or any other state. If so, list where and when.

3. I (do / do not) have any information about any parenting proceeding concerning the child(ren) pending in a Court of this or any other state. If so, indicate the case number, and the name and address of the Court.

4. I (do / do not) know of any persons to this proceeding who claim to have physical custody or claims to be the child(ren)'s parent, or is designated as residential parent and/or legal custodian, or visitation and/or parenting time with respect to the child(ren). If so, explain.

5. I (have / do not have) information about whether or not a party to this proceeding has been convicted or pled guilty to any criminal offense involving any act that resulted in a child being an abused child or a neglected child or in a case in which a child has been adjudicated an abused child or a neglected child, to be the perpetrator of the abuse or neglect that was the basis of the adjudication. If so, explain.

I understand that I have a continuing duty to inform the Court of any parenting proceeding concerning this or any other state of which I obtain information during this proceeding.

Dated: _____

Name (Affiant)

The Affiant being duly sworn under oath states that the information in this Affidavit is to the best of the Affiant's knowledge true and accurate.

Sworn to and subscribed before me this _____ day of _____, 20 ____.

Notary Public

Proof of Service

A copy of the foregoing Child Custody Information Affidavit has been served on the other party
(choose one of the following methods)

with Summons, with Complaint, with Answer, or other (describe)
--

_____ this ____ day of _____, 20 ____.

Attorney for Plaintiff / Defendant

PROPERTY APPRAISAL FORM

	Describe Item	Stipulated Value by Both Parties	Value maintained by Plaintiff	Value maintained by Defendant	Claimed as premarital or separate property by _____
Real Estate	1				
	2				
	3				
Motor Vehicles	1				
	2				
	3				
	4				
Defined Pension	1				
	2				
IRAs, 401K, other cash/ stock retirements	1				
	2				
	3				
Cash on deposit in banks, credit unions cash in hand, stocks, and bonds	1				
	2				
	3				
	4				
Major Household Goods and Furnishings	1				
	2				
	3				
	4				
	5				
	6				
	7				
	8				
	9				
	10				
	11				
Personal Property Of Substantial Value	1				
	2				
	3				
	4				
Joint / Individual credit card debt	1				
	2				
	3				
	4				
	5				
Animals of Value	1				
	2				

Other

1				
2				
3				

This form may be extended by using additional pages for additional items under these categories, or for additional categories.

Under oath I declare these property evaluations to be true and accurate to the best of my knowledge.

Plaintiff

Sworn to before me and subscribed in my presence this ____ day of _____, 20 ____.

Notary Public

Under oath I declare these property evaluations to be true and accurate to the best of my knowledge.

Defendant

Sworn to before me and subscribed in my presence this ____ day of _____, 20 ____.

Notary Public

Proof of Service

A copy of the foregoing Property Appraisal Form has been served on the other party (choose one of the following methods)

(with Summons), (with Complaint), (with Answer), or (other (describe))
--

_____ this ____ day of _____, 20 ____.

Attorney for Plaintiff / Defendant

RESPONSE TO PROPERTY APPRAISAL FORM

Describe Item		Stipulated Value by Both Parties	Value maintained by Plaintiff	Value maintained by Defendant	Claimed as premarital or separate property by _____
Real Estate	1				
	2				
	3				
Motor Vehicles	1				
	2				
	3				
	4				
Defined Pension	1				
	2				
IRAs, 401K, other cash/ stock retirements	1				
	2				
	3				
Cash on deposit in banks, credit unions cash in hand, stocks, and bonds	1				
	2				
	3				
	4				
MAJOR Household Goods and Furnishings	1				
	2				
	3				
	4				
	5				
	6				
	7				
	8				
	9				
	10				
	11				
Personal Property Of Substantial Value	1				
	2				
	3				
	4				
Joint / Individual credit card debt	1				
	2				
	3				
	4				
	5				
Animals of Value	1				
	2				

Other

1				
2				
3				

This form may be extended by using additional pages for additional items under these categories, or for additional categories.

Under oath I declare these property evaluations to be true and accurate to the best of my knowledge.

Plaintiff

Sworn to before me and subscribed in my presence this ____ day of _____, 20 ____.

Notary Public

Under oath I declare these property evaluations to be true and accurate to the best of my knowledge.

Defendant

Sworn to before me and subscribed in my presence this ____ day of _____, 20 ____.

Notary Public

Proof of Service

A copy of the foregoing Property Appraisal Form has been served on the other party (choose one of the following methods)

with Summons, with Complaint, with Answer, or other (describe)
--

_____ this ____ day of _____, 20 ____.

Attorney for Plaintiff / Defendant

STATE OF OHIO, COUNTY OF BELMONT
IN THE COURT OF COMMON PLEAS

Plaintiff : **FINANCIAL AFFIDAVIT**
vs. : Case No. _____

Defendant :

_____, being first duly sworn according to law, says that the following information is a full, complete and accurate statement of the facts presented, based upon the best knowledge and belief of the affiant.

1. **AGE:** _____ **D.O.B.:** _____
2. **INCOME:** Name and address of your employer: _____

How long have you been employed by the above: _____

Complete one: A, B, C or D.

- A. Your gross income per **year**: \$ _____
- B. Your gross income per **month**: \$ _____
- C. Your gross income per **pay**: \$ _____
- D. I am paid _____ times per year.
- E. If not presently employed, date of last employment: _____

3. Are you receiving unemployment compensation, workers' compensation, or any other form of income, including retirement benefits or social security disability or social security supplement income? If so, explain:

4. Any other sources of income e.g. stocks, bonds, investments, rental property, etc.? If so, explain:

5. Do you have any pension or retirement plans (401k, IRA) due to your present or past employment? If so, list the present location and value:

6. **SPOUSE'S INCOME:** Name and address of spouse's employer: _____

How long has your Spouse been employed by the above: _____

Complete one: A, B, C or D.

A. Spouse's gross income per **year**: \$ _____

B. Spouse's gross income per **month**: \$ _____

C. Spouse's gross income per **pay**: \$ _____

D. Spouse is paid _____ times per year.

E. If Spouse is not presently employed, date of last employment: _____

7. Is your Spouse receiving unemployment compensation, workers' compensation, or any other form of income, including retirement benefits or social security disability or social security supplement income? If so, explain:

8. Does your Spouse have any other sources of income e.g. stocks, bonds, investments, rental property, etc.? If so, explain:

9. Does your Spouse have any pension or retirement plans (401k, IRA) due to their present or past employment? If so, list the present location and value:

10. The highest grade or level of education you have completed.

11. The highest grade or level of education your spouse has completed.

12. After any divorce will you seek to acquire education, training, or job experience so as to get appropriate wage-earning employment? If so, how much time and expense is expected to be involved? Describe in detail:

13. Did you lose income production capacity during the marriage due to your marital responsibilities? If so, explain in detail:

14. Do you have any on-going physical, mental, and/or emotional condition and any medical treatment for such condition? Describe in detail:

15. Does your Spouse have any on-going physical, mental, and/or emotional condition and any medical treatment for such condition? Describe in detail:

16. Does any child who is issue of the marriage require special on-going medical attention? Give details, including costs per month:

17. Does any child suffer a mental or physical handicap or disability? Give details:

18. Do you now care for a minor child(ren) such that you believe it inappropriate for you to seek employment outside the home?

19. Are you living separate and apart from your spouse? _____.

How long have you been separated? _____

Your address: _____

Spouse's address: _____

20. List your monthly living expenses:

1. Rent/mortgage	\$ _____
2. Heat (Oil-gas)	\$ _____
3. Electric	\$ _____
4. Water	\$ _____
5. Sewage	\$ _____
6. Garbage	\$ _____
7. Phone/cell	\$ _____
8. Dental	\$ _____
9. Medical	\$ _____
10. Clothing	\$ _____
11. Food	\$ _____
12. School lunches	\$ _____
13. Transportation	\$ _____
14. Babysitter	\$ _____
15. Car insurance	\$ _____
16. Real estate taxes	\$ _____
17. Real estate insurance	\$ _____
18. TV cable	\$ _____
19. Life insurance	\$ _____
TOTAL MONTHLY EXPENSES	\$ _____

21. Debts

<u>Creditor</u>	<u>Balance</u>	<u>Minimum Monthly Payment Required</u>	<u>Name(s) are on the Account</u>
1. _____	\$ _____	\$ _____	_____
2. _____	\$ _____	\$ _____	_____
3. _____	\$ _____	\$ _____	_____
4. _____	\$ _____	\$ _____	_____
5. _____	\$ _____	\$ _____	_____
6. _____	\$ _____	\$ _____	_____
7. _____	\$ _____	\$ _____	_____
8. _____	\$ _____	\$ _____	_____
9. _____	\$ _____	\$ _____	_____
10. _____	\$ _____	\$ _____	_____

The Affiant being duly sworn under oath states that the information in this Affidavit is to the best of the Affiant's knowledge true and accurate.

Dated: _____

 Name (Affiant)

Sworn to and subscribed before me this _____ day of _____, 20__.

 Notary Public

Proof of Service

A copy of the foregoing Child Custody Information Affidavit form has been served on the other party (choose one of the following methods)

with Summons, with Complaint, with Answer, or other (describe)
--

_____ this ____ day of _____, 20 ____.

Attorney for Plaintiff / Defendant

RULE 13 – Mandatory Arbitration

13.1 The Court may, in its discretion, during the pre-trial stage, upon written motion of any party filed in accordance with this Rule, or upon the Court’s own Motion, Order a civil case submitted to Arbitration pursuant to the provisions of Sup. R. 15 and this Rule. This Rule shall apply to all civil cases including medical malpractice actions. **This Rule shall not, in any manner, limit the Court from requiring Mediation through the Court-Sponsored Mediation Service in any case.**

13.2 Cases involving an amount in controversy of \$25,000.00 or less may be Ordered submitted to mandatory Arbitration under this Rule. The amount in controversy may be determined by agreement of the parties, by the Pleadings, or by a finding of the Court. Cases involving an amount in controversy in excess of \$25,000.00 may be submitted to Arbitration only by agreement of the parties.

13.3 Actions involving Title to Real Estate, Equitable Relief, and Appeals **shall not** be Ordered submitted to mandatory arbitration pursuant to this Rule. However, those actions may be submitted to Arbitration by agreement of the parties.

13.4 Notwithstanding any other provision of this Rule, a case may be Ordered submitted to mandatory Arbitration only in the event that there is a likelihood that it will result in cost savings to the parties. The likelihood of cost savings may be determined by agreement of the parties or by a Finding of the Court.

13.5 Attorneys in good standing with the Belmont County and Ohio State Bar Associations shall be qualified Arbitrators. Upon Ordering a case submitted to Arbitration, the Court shall appoint a qualified Arbitrator who has no interest in the matter, no relationship to any party, no relationship to any attorney of record in the matter, and who is otherwise impartial with respect to the case. Upon written request of any party, the Court shall appoint a panel of three (3) qualified Arbitrators in the same manner a single Arbitrator is appointed. However, no more than one (1) member of a law partnership, firm, or association shall be appointed to serve on the same panel. If the matter is submitted to Arbitration pursuant to a Motion filed by a party, the written request for a panel of three (3) Arbitrators must be made by the moving party in the Motion or by the non-moving party in its Responsive Memorandum filed in accordance with Rule 6. If the matter is Ordered submitted to Arbitration pursuant to the Court's own

Motion, the Written Request for a panel of three (3) arbitrators must be made within fourteen (14) days from the date of the Order. If the matter is submitted to Arbitration by agreement of the parties, the parties may also agree upon an Arbitrator or panel of Arbitrators.

13.6 Unless otherwise Ordered, the fee paid to each Arbitrator shall be Eight Hundred Dollars (\$800.00) for each day or partial day of Hearing. In addition, the Chairperson of a panel of three (3) arbitrators shall be paid an additional One Hundred Dollars (\$100.00) flat fee. In the event a single Arbitrator is appointed, the single Arbitrator shall also be paid an additional One Hundred Dollars (\$100.00) flat fee. The flat fee paid either to the Chairperson of a panel or to a single Arbitrator shall remain the same regardless of the number of days or partial days required for Hearing. Unless the report and award of the Arbitrator(s) is Appealed, or unless otherwise ordered, the parties shall share equally the Arbitrator(s)' fee. Within ten (10) days following the Order submitting the case to Arbitration and/or appointing the Arbitrator(s), whichever is later, the parties shall pay to the Clerk of Courts equal shares totaling Eight Hundred Dollars (\$800.00) for each Arbitrator. If a party fails to do so, the Arbitrator(s) shall not schedule a Hearing but shall report the failure to the Court. In the event that the Hearing is in excess of one (1) day, within ten (10) days following the final day of Hearing, the parties shall pay to the Clerk of Courts equal shares totaling Eight Hundred Dollars (\$800.00) for each additional day or partial day of Hearing for each Arbitrator. Upon the filing of the report and award, the Clerk of Courts shall tender payment of the fee to the Arbitrator(s).

13.7 Within thirty (30) days following the Order submitting the case to Arbitration and/or the appointment of Arbitrator(s), whichever is later, the Arbitrator(s) shall confer with the parties through counsel, if any, and establish a date for the Hearing and any other dates deemed necessary by the Arbitrator(s). If a panel of three (3) Arbitrators is appointed, within thirty (30) days following their appointment, the Arbitrators shall confer and select one (1) member of the panel to be the Chairperson. The Chairperson shall be responsible for scheduling and shall preside over the Pre-Hearing Conference as well as the Hearing. In the event the members of the panel are unable to select a Chairperson within the time limit provided, the panel shall advise the Court, who will take such action as it deems necessary, including, but not limited to, appointing a Chairperson, and/or appointing a substitute panel, in whole or in part. Within thirty (30) days following the Hearing, the Arbitrator(s) shall file a report and the award

with the Clerk of Courts and shall serve copies on the parties through counsel, if any. The report and award shall be final and binding unless it is Appealed.

13.8 Any party may appeal the report and award to the Common Pleas Court if, within thirty (30) days following the filing of the report and award, the party files a Notice of Appeal with the Clerk of Courts and serves a copy on the other party(ies) through counsel, if any. The Notice of Appeal must be accompanied by an Affidavit signed by the appealing party swearing that the Appeal is not being taken for the purpose of delay. The Notice of Appeal must also be accompanied by the payment to the Clerk of Courts of the amount paid by the non-appealing party(ies) as and for the fee of the Arbitrator(s). The Clerk of Courts shall immediately reimburse the non-appealing party(ies) all such fees.

13.9 All Appeals shall be de novo proceedings. Evidence of Arbitration shall not be admissible. The Arbitrator(s) shall be barred as witnesses. A witness' testimony at the Arbitration Hearing may, however, be used for impeachment purposes at the trial de novo.

13.10 Notwithstanding any other provision of this Rule, the Court of Common Pleas shall have discretion to Order payment of the fees of the Arbitrator(s) by any party(ies).

13.11 The parties and the Arbitrator(s) shall confer with the Court with respect to scheduling the Hearing, the availability of a courtroom or other appropriate room for the Hearing, and the availability of a Court Reporter for the Hearing. The parties may agree to conduct the Hearing outside the courtroom before a private Court Reporter and shall share equally the cost of doing

Rule 14 – Attorneys

14.1 Any member in good standing of the Bar and who has registered with the Supreme Court of Ohio under and pursuant to Gov. Bar R. VI, shall be admitted and authorized to practice in this Court. The attorney responsible for the case shall sign all Pleadings, Motions, and other documents with the designation "Trial Attorney" together with his or her attorney registration number, office address, telephone number, facsimile number (if any), and e-mail address (if any). The Clerk of Courts **shall not** accept for filing any such documents without such designation.

14.2 An attorney, who has not been admitted and registered to practice law in the State of Ohio, but who has been licensed and admitted to practice law in the Courts of any other state which extends a similar courtesy or privilege to persons who are admitted and registered to practice law in the State of Ohio, and is in good standing as a member of the Bar in such jurisdiction may, within the Court's discretion, be admitted Pro Hac Vice upon complying with the following:

- A. A Motion to Admit the out-of-state attorney Pro Hac Vice along with a Memorandum in Support of the Motion must be filed with the Court as soon as possible, but no later than the date set by the Court for Pre-Trial Conference, by an attorney who is admitted and registered pursuant to Gov. Bar R. VI, who is, and shall be, the responsible attorney in the proceeding;
- B. The Motion must be accompanied by an Affidavit of the out-of-state attorney. The Affidavit must contain, at a minimum, the following information:
 - (i) The name, address, and telephone number of the registration agency and disciplinary agency (if different) of all Courts in which the person is admitted;
 - (ii) All matters before Ohio Courts, tribunals, or bodies in which such person is or has been involved in the twenty-four (24) months preceding the filing of the Motion;
 - (iii) A statement as to whether the person is in good standing with the Bar of every jurisdiction in which that person is admitted and whether that person has been disciplined in any such jurisdiction within the twenty-four (24) months preceding the filing of the Motion; and
 - (iv) A statement that the person shall comply with all laws, rules and regulations of Ohio State and local governments, where applicable, including taxing authorities.

14.3 Upon review of the Motion, Memorandum, and Affidavit, if it also appears to the Court that the following criteria are met, the Court may grant the Motion:

- (A) There exists a long-standing, close, personal relationship between the party and the out-of-state attorney;
- (B) The out-of-state attorney is the customary attorney for the party in jurisdictions in which the out-of-state attorney is admitted to practice;
- (C) The availability of attorneys admitted to practice in the State of Ohio who are competent to represent the party in the proceeding is limited; and
- (D) The out-of-state attorney has not been admitted to practice in any Court in the State of Ohio Pro Hac Vice on a recurring basis (i.e. more than once).
- (E) In the event the Court finds that, for good cause or reason, justice will be served by granting the Pro Hac Vice Motion.

14.4 If the Motion is granted, the responsible attorney shall be served with Notices, Pleadings, or any other documents required to be served. Such service shall be binding upon the party and the out-of-state attorney. The responsible attorney shall appear before this Court at all stages of the proceedings and shall be the designated "Trial Attorney" as set out in Rule 14.1 above. The responsible attorney shall sign all Pleadings and affix his or her Ohio Supreme Court Registration Number to all Pleadings. The responsible attorney shall attend the taking of depositions and other actions that occur in the proceedings which are not actually conducted before the judge. The out-of-state attorney admitted pursuant to this Rule shall be permitted to participate in the proceedings under the supervision of the responsible attorney.

14.5 The Clerk of Courts shall reject any Pleading or other document tendered for filing which is not signed or executed in conformity with this Rule, and provide Notice to all counsel of record and, as well, to the party or parties on whose behalf the document was tendered. Any document filed in violation of this Rule shall be expunged and held for naught. However, any party shall have a period of thirty (30) days after receiving Notice from the Clerk to comply with this Rule by filing a Certification signed by a responsible attorney and identifying the documents affected.

Rule 15 - Broadcasting/Photographing Proceedings

15.1 The Judge assigned to the Trial or Hearing shall permit the broadcasting or recording by electronic means and the taking of photographs in Court proceedings that are open to the public as provided by Ohio law and in conformity with Rule 12 of the Rules of Superintendence of the Courts of Ohio.

15.2 Requests for variance from this Rule shall be submitted to the Judge in writing, and the Court's ruling on the request shall be made a part of the record.

15.3 The Judge shall specify the place or places in the Courtroom where media representatives are to be seated or positioned.

15.4 For recording and broadcast purposes, microphones and other electronic equipment necessary for the audio pickup shall be as inconspicuous as possible but shall be visible.

15.5 Arrangements between or among media for "pooling" of equipment shall be the responsibility of the media representatives. "Pooling" arrangements are to be made outside the Courtroom and without imposing on the Judge or Court personnel. If disputes arise over arrangements between or among media representatives, the Judge may exclude all contesting representatives from the proceedings.

15.6 The Judge may prohibit the use of electronic or photographic equipment that produces distracting sound or light. No artificial lighting other than that normally used in the Courtroom shall be employed.

15.7 To the extent practicable, media representatives shall be afforded a clear view of proceedings, but shall not be permitted to move about in the Courtroom during proceedings from the places where they have been positioned by the Judge, except to leave or enter the Courtroom. Provided, however, that once proceedings have commenced, the Judge may restrict media representatives from leaving or entering the Courtroom until an appropriate break in the proceedings is recognized by the Court.

15.8 There shall be no audio pickup or broadcast of conferences conducted in a Court facility between attorneys and clients or of conferences conducted at the Bench between counsel and the Judge.

15.9 Media representatives shall not be permitted to transmit or record anything other than the Court proceedings from the Courtroom while the Court is in session.

15.10 The Judge shall inform Jurors, Victims and Witnesses of their right to object to being filmed, videotaped, recorded or photographed, and media representatives shall honor any such objection. This Rule shall apply not only in the Courtroom but also within the Court facility and grounds.

15.11 Any violation of this Rule by a media representative may result in exclusion of that media representative and media source from further proceedings; confiscation of the media equipment then being utilized by the representative pending conclusion of the proceedings and further Hearing; and such other sanctions as the Court may deem appropriate for contempt.

15.12 This Rule shall not be construed to grant media representatives any lesser or greater rights than permitted by law.

Rule 16 - Conference of Parties and Report; Pre-trial Conference and Procedures

16.1 Except in categories of proceedings exempted from the Pre-Trial Conference process under Rule 16.5, or when otherwise Ordered, the parties in every case must, as soon as practicable and in any event no later than one hundred-twenty (120) days after the Pleadings have closed, confer to consider the nature and basis of their claims and defenses and the possibilities for a prompt settlement or resolution of the case, to make or arrange for the disclosures of expert witnesses, and to develop a proposed discovery plan that indicates the parties' views and proposals concerning:

- (A) What should be the timing, form, or requirement for disclosures of experts, including a statement as to when disclosures were made or will be made;
- (B) The subjects on which discovery may be needed, when discovery should be completed, and whether discovery should be conducted in phases or be limited to or focused upon particular issues; and

- (C) What changes should be made in the limitations on discovery imposed under the Ohio Rules of Civil Procedure or by these local rules, and what other limitations should be imposed.
- (D) Any other orders that should be entered by the Court under the Civil Rules.**6.2.** The attorneys of record and all unrepresented parties that have appeared in the case are jointly responsible for arranging the conference, for attempting in good faith to agree on the proposed discovery plan, and for submitting to the Court within fourteen (14) days after the conference a Written Report outlining the plan. The Court may Order that the parties or attorneys attend the conference in person. A copy of the **mandatory form** is attached herewith as **Form 1 of Appendix A of Local Rule 16**. It must be completed in such format unless otherwise Ordered by the Court.

Scheduling and Planning

16.2 The Court shall, after receiving the report from the parties under Rule 16.1, or after consulting with the attorneys for the parties and any unrepresented parties by a scheduling conference, telephone, mail, or other suitable means, enter a Scheduling Order that limits the time to join other parties and to amend the pleadings; to file motions and to complete discovery.

- (A) To join other parties and to amend the pleadings;
- (B) To file motions; and
- (C) To complete discovery.

The Scheduling Order may also include, modifications of the times for disclosures and of the extent of discovery to be permitted; the date(s) or dates for conferences before trial, a final pre-trial conference(s); including a referral to Mediation and/or Settlement Conference, if appropriate, the trial date; and any other matters appropriate in the circumstances of the case

- (D) modifications of the times for disclosures and of the extent of discovery to be permitted;
- (E) the date or dates for conferences before trial, a final pretrial conference including a referral to Mediation and/or Settlement Conference if appropriate, and trial; and
- (F) any other matters appropriate in the circumstances of the case.

16.3 The Scheduling Order shall issue be issued as soon as practicable after the Court receives the report. A schedule so established shall not be modified except upon a showing of good cause and by leave of the Court or, when authorized by Local Rule or by the Civil Rule.

Pretrial Conference

16.5 All civil cases, excepting domestic relations cases, and administrative appeals, shall be assigned for a pre-trial conference at which the attorneys for all parties shall be present. Notice of the date and time of the pre-trial conference shall be given to counsel by the Clerk of Courts in this Court's order issued pursuant to Rule 16.3, or as the Court may otherwise direct.

16.6 The failure of the Plaintiff's counsel to participate in said conference and/or make a good faith effort to agree upon and submit a proposed discovery plan for submission to the Court as provided for in this Rule may constitute grounds for the dismissal of the action without prejudice and at the costs of the Plaintiff.

16.7 The failure of Defendant's counsel to participate in said conference and/or make a good faith effort to agree upon and submit a proposed discovery plan for submission to the Court as provided for in this Rule may result in the approval of the discovery plan submitted by Plaintiff's counsel.

16.8 The failure of the Plaintiff's counsel to appear for the Pre-Trial Conference or to submit the Final Pre-Trial Order, in accord with Rule 16.10, may constitute grounds for the dismissal of the action without prejudice and at the costs of the Plaintiff.

16.9 The failure of Defendant's counsel to appear for the Pre-Trial Conference or to submit the Final Pre-Trial Order, in accord with Rule 16.10, will result in the approval of the Final Pre-Trial Order submitted by Plaintiff's counsel.

16.10 The Final Pre-Trial Order shall be prepared by counsel for the parties, signed by said counsel, and filed as **one unified order** on a date certain, which date shall be set by the Court at the Pre-Trial Conference. A copy of the **mandatory form** can be found on the Court's website. It must be completed in such format unless otherwise Ordered by the Court.

16.11 Counsel for the parties shall attend the Pre-Trial Conference as scheduled by the Court. The amicable disposition of the case by settlement will be one of the subjects to be considered and counsel should be prepared to discuss settlement.

STATE OF OHIO, COUNTY OF BELMONT
IN THE COURT OF COMMON PLEAS

_____ Case No. _____
Plaintiff,

Vs.

_____ Judge _____
Defendants

REPORT OF PARTIES

1. Pursuant to Local Rule 16.1, a meeting was held on _____, 20____, at _____ a.m./ p.m. and the following were present:

_____, Attorney for Plaintiff _____

_____, Attorney for Plaintiff _____

_____, Attorney for Defendant _____

_____, Attorney for Defendant _____

_____, Attorney for Defendant _____

_____, Attorney for Defendant _____

2. Recommended cut-off date for filing any Motion to Amend the Pleadings and/or to add parties:

3. Recommended Discovery Plan:

a. Describe the subjects on which Discovery is to be sought and the nature and extent of Discovery that each party needs to: (1) make a Settlement evaluation, (2) prepare for case Dispositive Motions and (3) prepare for Trial:

b. What changes should be made, if any, in the limitations on Discovery imposed under the Ohio Rules of Civil Procedure or the Local Rules of this Court:

c. Additional recommendations or limitations on Discovery:

d. Describe the areas in which expert testimony is expected and indicate whether each expert will be specially retained within the meaning of the Ohio Rules of Civil Procedure.

e. Recommended date for Plaintiff's Expert Designation(s):

f. Recommended date for Defendant's Expert Designation(s):

g. Recommended discovery cut-off date: _____

4. Recommended Dispositive Motion date: _____

5. Counsel _____ a Status Conference/Scheduling Conference. If declined, the Court will
(requests or declines)

immediately publish the case management schedule, after considering the dates suggested herein by counsel.

6. Recommended date for a Final Pre-Trial Conference: _____

7. Has settlement demand been made? _____ A response? _____
(Yes or No) (Yes or No)

Date by which a Settlement Demand can be made: _____

Date by which a Response can be made: _____

8. The earliest Settlement Conference or Mediation referral reasonably likely to be productive is:

9. Other matters for the attention of the Court:

Signatures:

Attorney(s) for Plaintiff(s):

Attorney(s) for Defendant(s):

Ohio Bar # _____
Trial Attorney for Plaintiff

Ohio Bar # _____
Trial Attorney for Defendant

Ohio Bar # _____
Trial Attorney for Plaintiff

Ohio Bar # _____
Trial Attorney for Defendant

Ohio Bar # _____
Trial Attorney for Plaintiff

Ohio Bar # _____
Trial Attorney for Defendant

Ohio Bar # _____
Trial Attorney for Plaintiff

Ohio Bar # _____
Trial Attorney for Defendant

Following document to be included on website

**State of Ohio/County of Belmont
Court of Common Pleas**

Plaintiff (s)
Vs

FINAL PRETRIAL ORDER

Defendant (s)

Case No.: ____ CV ____

This action came before the Court on _____ at a Final Pre-Trial Conference pursuant to Rule 16 of the Ohio Rules of Civil Procedure and Local Rule 16.

Attorney (s) for Plaintiff (s): _____(Of Record)

Attorney (s) for Defendant (s): _____ (Of Record)

ACTION/JURISDICTION

This is an action for _____ and the jurisdiction of this Court (is /is not) disputed.

TRIAL INFORMATION

1. **Trial Date** has been set for _____ **at 8:30 a.m.** All parties and their counsel shall report to the Court on the date of the Trial at 8:15 a.m., unless otherwise directed.
2. The estimated length of Trial is _____ days.
3. The Trial shall be held **before** _____
A Jury or the Court

DISCOVERY

Discovery deadline is _____. The discovery deadline pertains to discovery of all lay witnesses, the Court understanding that Experts, who have been identified, may be deposed closer to the Trial date.

1. **WRITTEN DISCOVERY**

Plaintiff (s) first set of Interrogatories and Request for Production of Documents to Defendant (s) was filed on _____.

Defendant (s) Answers and Responses were filed on _____.

Defendant (s) Interrogatories and Request for Production of Documents to Plaintiff (s) was filed on _____.

Plaintiff (s) Answers and Responses were filed on _____.

With notification to the Court, the parties are at liberty to agree to vary the time tables of discovery set forth in this Order, provided the same does not delay the date for Dispositive Motions, or the Trial Date of _____.

2. **DEPOSITIONS** –

Depositions of _____ shall be taken by the Defendant(s) on _____.

Depositions of _____ shall be taken by the Plaintiff(s) on _____.

3. **PRODUCTION OF DOCUMENTS** - Counsel for Plaintiff(s) shall submit to Counsel for Defendant (s) copies of all reports, records, bills and any other evidence anticipated to be used at Trial in support of Plaintiff (s) claim (s) in a sufficient time frame to enable Defendant (s) to obtain necessary independent evaluations and/or to review such documents to determine settlement options. If Counsel for Plaintiff (s) is unable to

provide this information in response to Interrogatories directed to Plaintiff (s) or requests for production of documents directed to Plaintiff (s) within the time allowed for response, the Plaintiff (s) (are / is) under an obligation to secure said information through any means necessary, including use of depositions to enable Defendant(s) to be prepared for Trial on the date scheduled herein. In the alternative, Plaintiff (s) may provide release authorizations to Defendant (s), allowing Defendant (s) to obtain copies of all documents, if such authorizations are utilized, Defendant(s) shall provide copies of such documentation to Plaintiff (s) at Defendant (s) expense.

DISPOSITIVE MOTIONS

All parties are granted leave to file Dispositive Motions, including Motions for Summary Judgment, without additional leave of Court. **The Dispositive Motions** are to be **filed by _____**. (A courtesy copy of all dispositive motions, responses and replies, shall be submitted directly to the judge at time of filing.)

STATEMENTS/LISTS

The claim(s) of **Plaintiff** (s), Defendant(s), and any third parties, if applicable, are to be set out in a brief summary (without detail). An itemized statement of special damages must be included or be subject to exclusion at Trial.

1. Uncontroverted Facts - The following facts are established by admission in the pleadings or by stipulations of counsel. (Set out uncontroverted or uncontested facts.)
2. Issues of Fact and Law - **Contested Issues of Fact** remaining for decision are: (set out) **Contested Issues of Law** in addition to those implicit in the foregoing issues of fact, are: (set out) **OR** there are no special issues of law reserved other than those implicit in the foregoing issues of fact.

LAY WITNESSES

In the absence of reasonable notice to opposing counsel to the contrary, **Plaintiff** (s) and Defendant (s) **will call** or **will have available at Trial**: (Attorneys of record to provide witness list.)

OR

Plaintiff (s) **may call**: (list)

In the absence of reasonable notice to opposing counsel to the contrary, **Defendant** (s) **will call** or **will have available at Trial**: (list)

OR

Defendant (s) **may call**: (list)

A final witness list shall be prepared with the names and addresses of all witnesses (including those not previously known to counsel and discovered after discovery cut-off dates and determined necessary to be used) shall be disclosed to opposing counsel immediately upon discovery, but in no event later than fifteen (15) days prior to Trial. Failure to identify a witness/or witnesses as required herein shall preclude the testimony of such witness/or witnesses except for good cause shown to the Court. **(Please do not include names of anyone who is not expected to testify.)**

There is reserved to each party the right to call such Rebuttal Witness/or witnesses as may be necessary, without prior notice thereof to the other party.

TESTIFYING EXPERT WITNESSES

Plaintiff (s) is limited to _____ Expert Witnesses expected to testify at Trial (including treating physicians, if applicable) whose names have been disclosed to opposing counsel. Such Experts shall be identified on or before _____.

Defendant (s) is limited to _____ Expert Witnesses expected to testify at Trial (including treating physicians, if applicable) whose names have been disclosed to opposing counsel. Such Experts shall be identified on or before _____.

Written Reports, if any, and curriculum vitae shall be exchanged between parties as soon as available after identification of Experts. In the event a written Expert's report is unavailable, the party expecting to call that Expert at Trial shall clearly state in writing, in a most concise and complete detail, the subject matter upon which said Expert is expected to testify. This requirement does not preclude additional discovery pursuant to Civil Rule 26 (B)(4).

SUBROGATION

If subrogation claims for payment of (medical) expenses have been made against Plaintiff (s), **IT IS ORDERED** that Plaintiff (s) shall undertake efforts to resolve those claims without the necessity of joining the entities claiming to hold rights of subrogation as parties to this action. In the event said claims are not resolved by _____, Plaintiff (s) is Ordered to file an Amended Complaint joining said entities as parties to this action.

Plaintiff (s) is Ordered to provide Defendant (s) with the names and addresses of any entity who may have a claim based upon subrogation and if an agreement is reached by and between Plaintiff and entities holding subrogation rights, Plaintiff (s) shall be Obligated to resolve subrogation matters in the event of Judgment or Settlement of Plaintiff (s) claim (s), and shall hold Defendant (s) harmless from such claim (s).

EXHIBITS

All exhibits that are intended to be used at Trial, shall be pre-marked and exchanged with opposing counsel, are to be filed with the Court _____ days prior to Trial. Each party shall prepare and submit to the Court a typed Exhibit List (identified by an appropriate number or letter) _____ days prior to Trial. Failure to pre-mark or identify any exhibit shall be subject to exclusion at Trial. No objection as to the admissibility of any exhibit for any reason will be entered at Trial unless (a) the document was provided to opposing counsel as Ordered; or (b) the party opposing the introduction of the exhibit files a written objection to the introduction one (1) day prior to trial, setting forth particular legal objections raised. Except for good cause shown, the Court will not permit the introduction of any exhibits unless they have been listed in accord with the provisions of this Pre-Trial Order, with the exception of exhibits to be used solely for the purpose of impeachment.

DEPOSITIONS/INTERROGATORIES

Testimony by deposition of any witness intended to be used at Trial shall be taken in a sufficient time frame to allow the transcripts of said testimony to be filed _____ days prior to Trial in order to enable the Court to Rule upon objections without delaying the Trial. Identity of the witness shall be offered by (**deposition /videotape**). **Transcripts** of depositions **not filed** by _____ (date) **shall not be permitted to be used as evidence**. Use of depositions and/or interrogatories for the sole purposes of impeachment need not be filed prior to Trial.

SETTLEMENT ISSUES

The parties (have / have not) entered into “good faith” settlement negotiations.

Counsel is instructed to telephone the Court to set a date and time for a Settlement Conference, which is to occur during the month(s) of _____/_____, _____. Subject to leave of the Court, the parties or an agent of the parties (other than counsel) who is authorized to enter into meaningful settlement negotiations shall be present for the Settlement Conference. Counsel is instructed to provide the Court with copies of all depositions, (medical) reports, written reports of (medical) experts, (Independent Medical Examinations), compilations of (medical) specials, bills, lost wages, future projected damages (if any) and all other documents pertinent to settlement issues one (1) week prior to the scheduled Settlement Conference.

If settlement occurs at such a time that the Court is not able to call off a Jury panel which is required to be paid, the Court will assess those costs to either the party who was responsible for the late settlement or to both parties if the Court determines that both parties were responsible for the late settlement.

JURY INSTRUCTIONS

Counsel shall file a proposed Charge on all anticipated issues seven (7) days prior to Trial. Counsel will be afforded the right to submit supplemental requests for instructions during Trial, or at the conclusion of the evidence, on matters that cannot be reasonably anticipated. (**A courtesy copy of the charge should be submitted directly to the Judicial Office** (staff member) in Word format.)

JURY VIEW

A jury view (**is / is not**) requested.

MOTIONS IN LIMINE

All Motions in Limine are to be filed seven (7) days prior to Trial, unless a shorter time is approved by the Court.

APPLICABLE STATUTORY OR CASE LAW

All parties will set forth the statutory and/or case law applicable to the issues.

PROTECTIVE ORDERS

Before the Court will grant a Motion for Protective Order, the parties must confer and seek to resolve the matter without Court intervention.

MODIFICATION

This Final Pre-Trial Order may be modified at the Trial or prior thereto, to prevent manifest injustice. Such modification shall be made by application of counsel or by the Court’s own motion.

ADDITIONAL ACTION

Date: _____

Judge

Attorney for Plaintiff(s)

Attorney for Defendant(s)

Rule 17 - Separation and Exclusion of Witnesses

- 17.1** Except as provided in Rule 17.3, at the request of a party the Court shall Order witnesses excluded so that they cannot hear the testimony of other witnesses, and it may make the Order of its own Motion. An Order directing the “exclusion” or “separation” of witnesses or the like, in general terms without specification of other or additional limitations, is effective only to require the exclusion of witnesses from the Hearing during the testimony of other witnesses.
- 17.2** The Order of exclusion or separation of witnesses limits out-of-court contact between witnesses and/or third parties, while the matter is proceeding in the Courtroom. Violations of this Order shall result in sanctions, including monetary and/or non-monetary sanctions and/or contempt of Court.
- 17.3** This Rule does not authorize exclusion of any of the following persons:
- (A) a party who is a natural person;
 - (B) an officer or employee of a party that is not a natural person designated as its representative by its attorney;
 - (C) a person whose presence is shown by a party to be essential to the presentation of the party’s cause; and
 - (D) in a criminal proceeding, a victim of the charged offense to the extent that the victim’s presence is authorized by statute enacted by the General Assembly. As used in this Rule, “victim” has the same meaning as in the provisions of the Ohio Constitution providing rights for victims of crimes.

Rule 18 - Specialized Dockets

The general guideline for how a person is considered for a Specialized Docket Program as well as any disqualifying factors are set forth in the relevant Program Descriptions and Participant Handbooks.

18.1 Drug Court

The Belmont County Common Pleas Court, having initiated, adopted, and operated a Drug Court Program pursuant to R.C. §2951.041 and R.C. §2935.36, hereby adopts written treatment standards and requirements for participation in the Drug Court Program and/or Intervention in Lieu of Conviction Program.

18.2 Belmont County Veterans Honor Court

This Belmont County Common Pleas Court, having initiated and adopted a Veterans Honor Court Program according to the requirements as set forth in Sup. R. 36.02 through 36.28 and pursuant to O.R.C. §2951.041 and R.C. §2935.36, hereby adopts written treatment standards and requirements for participation in the Veterans Honor Court Program.

All necessary documents for admission into a Specialized Docket Program, along with Policy Manuals can be found on our website: <http://belmontcountycommonpleas.org>)

RULE 19 - JURY SERVICE

- 19.1** Jury service is a duty of all qualified citizens and shall not be denied or limited, in any way, on the basis of race, national origin, gender, age, religious belief, income, occupation, disability, or any other factor that discriminates against a cognizable group within the jurisdiction of this Court.
- 19.2** The names of potential jurors shall be drawn from a Jury Source List compiled from the poll list of registered voters obtained from the Board of Elections and may be obtained from the Ohio BMV list of Belmont County residents who hold a driver's license. The Jury Source List shall be representative and shall be as inclusive of the adult population of Belmont County as is feasible. This Court shall review the Jury Source List annually. Should the Court determine, upon review, that the Jury Source List is not sufficiently representative and inclusive of the adult population of Belmont County, the Court shall direct appropriate corrective action.
- 19.3** Except as otherwise provided, selection of prospective jurors from the Jury Source List, summoning them for service, assigning them to panels, and calling them for voir dire shall be conducted in a random manner, either manual or automatic, so that every person listed has an equal probability of selection. The method utilized shall be documented by the Clerk of Courts. However, departure from random selection shall be appropriate under the following circumstances:
- (A) To exclude persons ineligible for service in accordance with Rule 19.4;
 - (B) To excuse or defer prospective Jurors in accordance with Rule 19.6;
 - (C) To remove prospective Jurors for cause or, or if challenged peremptorily, in accordance with Rules 19.8 and 19.9;
 - (D) To provide all prospective Jurors with an opportunity to be called for Jury Service and to be assigned to a panel in accordance with Rule 19.13.

- 19.4** All persons on the Jury Source List shall be eligible for service except:
- (A) Persons under the age of 18 years;
 - (B) Persons who are not U.S. citizens;
 - (C) Persons who are not residents of Belmont County;
 - (D) Persons who are not fluent in the English language; and
 - (E) Convicted felons who have not had their civil rights restored.

- 19.5** Persons summoned for petit jury service shall remain on a panel until:
- (A) Their services are no longer deemed necessary by the Court;
 - (B) The term of Court has ended;
 - (C) Said juror has been summoned and has reported for service two (2) times without serving; or
 - (D) Said juror has served at least two (2) consecutive Trial days in one (1) Trial.

- 19.6** All persons on the Jury Source List shall be excused or deferred from jury service, in the discretion of the Court or the Jury Commissioners or their authorized representative. Request for an excuse or deferral of service shall be made in writing. Excuses or deferrals from jury service are as follows:

- (A) Over the age of 70, or physically unable to serve, and has made a request to be excused;
- (B) Death of a spouse or near relative or serious personal or family illness supported by a physician's certificate of inability to serve;
- (C) The juror is necessarily absent from the County for an extended period and will not return in time to serve;
- (D) Cloistered members of a religious organization (**does not apply to clergy**);

- (E) The juror previously has been called as a juror for trial in a court of record in the County within the same year;
- (F) The interest of the public or the juror will be materially injured by the juror's attendance.

Persons on the Jury Source List may be temporarily excused for a specified trial or deferred for a specific period by the Court, Juror Commissioners and/or their authorized representative, as follows:

- (A) The juror will be necessarily absent from the County on a temporary basis and will not return in time to serve;
- (B) The juror is a full-time student at a bona fide educational institution and has requested to be excused;
- (C) The juror will be on vacation during the period of their respective Jury service.

19.7

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. So as to reduce the time required for voir dire, basic written background information regarding prospective jurors shall be made available for review by counsel for all parties in the form of Juror Questionnaires three (3) business days before the jury selection is to begin. The final determination of whether to use written Juror Questionnaires in any individual case and the contents of the Questionnaires shall be left to the discretion of the Presiding Judge. Although photocopies of Juror Questionnaires shall be made available to trial counsel, said copies shall be returned to the Court or to the Clerk of Courts upon completion of the jury selection process and additional copies shall not be retained.

Juror Questionnaires, without responses, are subject to disclosure under the Public Records Act. Although, personal information provided by prospective jurors is subject to a constitutional presumption of openness, such personal information, in response to questions included in the Questionnaires, does not serve to document the activities of a public office and, therefore, such information does not constitute a public record subject to disclosure under the Public Records Act.

Therefore, so as to assure that the privacy interests of prospective jurors are sufficiently compelling to rebut the constitutional presumption of openness, **before release to the public of any information from Juror Questionnaires, each prospective juror shall first be informed of their right to request an in-camera hearing, on the record, with counsel present, regarding any written question and answer contained in the Juror Questionnaire or otherwise raised during the voir dire process.**

No release of information to the public from Juror Questionnaires shall be accorded until said prospective jurors have been afforded an opportunity for said in-camera hearing to determine whether the prospective juror has a legitimate privacy interest to warrant the non-disclosure of a response. In any event, there shall be no release of personal information which pertains only to juror identification and qualification, including, but not limited to, social security number, telephone number and operator's license number. In no event, shall the trial be delayed beyond the normal start time to permit a party, counsel or other authorized entity to review said Questionnaires with the intent of releasing such information to the public.

The presiding judge shall ensure that the privacy of prospective jurors is reasonably protected, and questions contained in Juror Questionnaires are consistent with the stated purpose of the voir dire process. Any party, legal counsel, or other entity, who violates this Rule shall be Ordered to appear before the Court to show cause as to why he or she should not be held in contempt and otherwise sanctioned for the unauthorized release of information.

19.8 Upon Motion or **Sua Sponte**, if the Court determines during the jury selection process that a prospective juror is unable or unwilling to hear the matter fairly and impartially, the Court shall excuse that person for cause.

19.9 The exercise of peremptory challenges shall be governed by the law of the State of Ohio.

19.10 During the voir dire examination, counsel shall not argue their case in any manner; nor shall they engage in efforts to indoctrinate the jurors; nor shall they ask questions concerning anticipated instructions or theories of law, except for general questioning on the validity and philosophy of the burden of proof and presumption of innocence; Jurors shall not be asked what kind of verdict they would return under any circumstances. Questions that may be put to the panel of the prospective Jurors as a whole must be asked in that fashion.

19.11 The responsibility for administering the Jury System shall be vested in a Jury Administrator (Deputy Clerk) acting under the supervision of the Administrative Judge and in conjunction with the Jury Commissioners. Pursuant to the above authorization, the Jury Administrator shall issue the notice summoning prospective jurors, Juror Questionnaires, and written requests for excuse or deferral, which documents shall be in a form approved by the Court and delivered by ordinary mail with readily understandable explanations for completion of the forms, return of the forms, and the consequences for failure to do so. Said explanation shall clearly advise each prospective juror of their right to request an **in-camera hearing** to determine whether their legitimate private interests warrant non-disclosure of their written responses in their Questionnaires. Any person summoned for jury service who fails to appear without an excuse or deferral shall be summoned to show cause as to why that person should not be held in contempt.

19.12 The Court shall collect and analyze information regarding the performance of the Jury System on an annual basis, but not later than December of each calendar year, in order to evaluate:

- (A) Whether the Jury Source List is representative and inclusive;
- (B) The effectiveness of the qualification and summoning procedures;
- (C) The responsiveness of individual citizens to jury duty summons;
- (D) The efficient use of jurors;
- (E) The cost effectiveness of the Jury Management System.

- 19.13** The Court shall utilize the service of jurors in such a manner as to achieve optimum use and minimum inconvenience. To that end, the Court shall determine the minimum number of prospective jurors necessary to accommodate trial activity. Until a prospective juror has been selected by the Court to participate in a trial activity, the information contained in the Juror Questionnaires shall not be subject to release to the public, since the presumption of openness does not apply until the minimum number of jurors needed to accommodate the prospective trial has been Ordered by the Court.
- 19.14** The Court shall provide an adequate and suitable environment for jurors. Clear directions for the time, place, and manner of checking in and information on parking shall be given to prospective jurors in advance. The jury deliberation room shall include space, furnishings and facilities conducive to reaching a fair verdict. The safety and security of the deliberation room shall be insured. To the extent feasible, jury facilities and procedures shall minimize contact between the jurors, parties, witnesses, counsel and the public.
- 19.15** Persons called for jury duty shall receive a reasonable fee for their services and expenses in accord with R.C. §2313.34 and appropriate resolution of the Board of County Commissioners of Belmont County, Ohio. Such fee shall be promptly paid.
- 19.16** In accord with R.C. §2313.18, employers shall be prohibited from discharging, laying off, denying advancement opportunities to or otherwise penalizing the employees who miss work because of jury service. Whoever violates R.C. §2313.18 and/or any provision of this Local Rule shall be punished as and for Contempt of Court pursuant to Chapter 2705 of the Revised Code.
- 19.17** The Court shall be responsible for providing instructions that are readily understood by individuals unfamiliar with the law and the legal system to prospective jurors appearing pursuant to summons. The Judge shall:

- (A) Provide preliminary instructions to all prospective jurors;

- (B) Provide instructions at the commencement of voir dire and/or immediately following the empaneling of the jury to explain the jurors' role, the trial procedure, the nature of evidence and its evaluation, the issues to be addressed and basic legal principles; and
- (C) Provide instructions, prior to deliberations, on the law, procedures that the jury must follow in deliberating, and the method for reporting the results of deliberation.

At the conclusion of the trial, after the jury has completed its service, the Judge shall:

- (A) Advise the jurors that they no longer have a duty of confidentiality;
- (B) Advise the jurors as to their rights with respect to inquiries from counsel, the press, or others;
- (C) Advise the jurors as to whether they are discharged from service or whether they will be required to report at another time;
- (D) Advise the jurors that their service is appreciated;
- (E) Not express approval or disapproval of the result of the jury's deliberation; and
- (F) Dismiss the jury.

19.18 All communication between the trial judge and the jurors, from the time prospective jurors report to the courtroom until the jury is dismissed, shall be either in writing or on the record. The parties shall be advised of such communications and shall be given an opportunity to be heard.

19.19 A jury shall be sequestered only for good cause. Good cause includes insulating members of a jury from improper information or influence. In a capital case, the jury shall be sequestered during deliberations of both the guilt phase and the penalty phase of the trial. The Judge shall have discretion to sequester a jury on motion or **sua sponte** and shall have the responsibility to set and manage the conditions of sequestration in order to achieve the purpose and to minimize the inconvenience and discomfort of Jurors.

[The following documents will be available on the Court's website and/or the Clerk of Courts'](#)

IN THE COURT OF COMMON PLEAS
BELMONT COUNTY, OHIO

REQUEST FOR EXCUSE OR DEFERRAL

I am **INELIGIBLE** for service because I am: (Please Circle)

- (1) under the age of 18 years;
- (2) not a U.S. citizen;
- (3) not a resident of Belmont County;
- (4) not fluent in English;
- (5) a convicted felon, and my social security number is _____.

I wish to be **EXCUSED** from service and do not want to serve because I: (Please Circle)

- (1) am at least 70 years old;
- (2) have attached a physician's certificate to document a serious personal or family illness that renders me unable to serve;
- (3) am a physician, firefighter, or lawyer;
- (4) am a cloistered member of a religious order (**does not include clergy**);
- (5) would suffer serious financial hardship if required to serve.

I request **DEFERRAL** for a specific period of time _____ because: (Please Circle)

- (1) I will be out of the country;
- (2) I am a student;
- (3) I will be on vacation.

**STATE OF OHIO
COUNTY OF BELMONT**

I do hereby solemnly swear or affirm that the answers to the foregoing questions are true and correct to the best of my knowledge and belief and that I understand my right to request a hearing to determine my legitimate privacy interest to warrant the non-disclosure of my responses to the public.

DATED: _____

Signature of Prospective Juror

**IN THE COURT OF COMMON PLEAS
BELMONT COUNTY, OHIO**

INTRODUCTION TO JUROR QUESTIONNAIRE

SO AS TO ASSURE THE APPEARANCE OF FAIRNESS AT A PROSPECTIVE TRIAL, PERSONAL INFORMATION CONTAINED IN JUROR QUESTIONNAIRES IS SUBJECT TO A PRESUMPTION OF OPENNESS (DISCLOSURE TO THE PUBLIC). HOWEVER, SUCH PRESUMPTION MAY BE OVERCOME WHEN A PROSPECTIVE JUROR HAS A LEGITIMATE PRIVACY INTEREST TO WARRANT THE NON-DISCLOSURE OF A RESPONSE. THEREFORE, THE INFORMATION CONTAINED IN THIS QUESTIONNAIRE WILL NOT BE RELEASED TO THE PUBLIC WITHOUT AFFORDING YOU THE RIGHT TO REQUEST A HEARING BEFORE THE COURT REGARDING ANY INFORMATION PROVIDED TO THE WRITTEN QUESTIONS IN THIS JUROR QUESTIONNIARE.

JUROR QUESTIONNAIRE

1. Name: _____

2. Home address: _____

3. Home telephone: _____ Mobile telephone: _____

Work telephone: _____

4. Number of years of residency in Belmont County, Ohio: _____

5. Number of years of education: Elementary School: ____
 High School: ____
 College: ____
 Graduate School: ____

6. Marital status: Married ____
 Single ____
 Divorced ____
 Widow/Widower ____
 Separated ____

7. For each of your children, please identify:

<u>Name</u>	<u>Age</u>	<u>Residence</u>	<u>Occupation</u>	<u>Employer</u>
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8. Your occupation and employer:

(If retired, write "retired" and identify most recent occupation and employer.)

9. Spouse's name, occupation, and employer:
(If widow/widower, divorced, or separated, identify most recent occupation and employer.)

10. For each person not identified above who resides with you, please state:

<u>Name</u>	<u>Age</u>	<u>Relationship</u>	<u>Occupation</u>	<u>Employer</u>
-------------	------------	---------------------	-------------------	-----------------

11. Have you ever been convicted of a felony? (YES) or (NO)
(If yes, identify the nature of the felony, the year of conviction, and the date of your release from any sentence.)

12. Have you ever served as a juror before? (YES) or (NO)
(If yes, identify the court(s) and the date(s))

13. Have you or any person that you have identified above (spouse, late spouse, former spouse, children, and any other person residing with you) been sued or have sued another party? (YES) OR (NO) (If yes, identify)

<u>Who</u>	<u>Nature of lawsuit</u>	<u>Court</u>	<u>Date</u>
------------	--------------------------	--------------	-------------

14. Have you or any person that you have identified above (spouse, late spouse, former spouse, children, and any other person residing with you) ever suffered a bodily injury? (YES) or (NO)
(If yes, identify)

Who Nature of injury How suffered Date

15. Have you or any person that you have identified above (spouse, late spouse, former spouse, children, and any other person residing with you) had a claim made against you or made a claim against another party that did not arise to a lawsuit? (YES) OR (NO) (If yes, identify)

Who Nature of claim Where Date

16. Have you or any person that you have identified above (spouse, late spouse, former spouse, children, and any other person residing with you) been a victim of a crime? (YES) OR (NO) (If yes, identify)

Who Nature of crime Where Date

17. Are you related to or do you have a close friendship with any law enforcement officer? (YES) OR (NO), if yes, please identify
-

18. Do you drive an automobile? (YES) OR (NO)

19. Do you have an attorney? (YES) OR (NO)

(Identify) _____

20. Are you, any of your relatives, or any of your close friends stockholders or employees of any insurance company? (YES) OR (NO)

(Identify) _____

21. Are you, any of your relatives, or any of your close friends employed by the Ohio Bureau of Workers' Compensation and Industrial Commission? (YES) OR (NO)

(Identify) _____

22. Identify your automobile insurance company:

STATE OF OHIO
COUNTY OF BELMONT

I do hereby solemnly swear or affirm that the answers to the foregoing questions are true and correct to the best of my knowledge and belief and that I understand my right to request a hearing to determine my legitimate privacy interest to warrant the non-disclosure of my responses to the public.

DATED: _____

Signature of Prospective Juror

RULE 20 - Mediation

Upon the request of any party to an action or upon its own motion, the Court, in its discretion, may refer the parties to participate in mediation. Mediation is any proceeding in which a mediator facilitates communications and negotiations between parties to assist them in reaching a voluntary agreement regarding their dispute. Statements made by the Mediator shall not be construed as giving legal advice. Any party may request mediation by filing a motion for mediation, which has also been served on all parties. A motion for mediation may be filed at any time after the commencement of an action, including during post-decree proceedings.

Counsel should take note that referral to Mediation does not suspend the progress of the case on the assigned judge’s civil docket. The assigned judge will continue to manage the case in the appropriate manner by setting a future trial date and establishing appropriate deadlines. Any previously issued court orders will remain in effect during the mediation process.

Belmont County Civil Mediation Program

**101 West Main Street
St. Clairsville, Ohio 43950
Phone: (740) 695-2121, Extension 1043 Fax: (740) 699-2659**

Mediation Case Summary

Please complete this form and return it to the Mediation Office no later than 7 days prior to the scheduled mediation session, along with any discoverable documents not in the court file. A copy of the summary should be provided to opposing counsel.

CASE CAPTION: _____ **CASE #:** _____

MATERIAL FACTS OF THE CASE: _____

LEGAL ISSUES TO BE RESOLVED: _____

DAMAGES: _____

SETTLEMENT OFFERS TO DATE: _____

POSITION OF THE PARTIES: _____

Submitted by: _____, Counsel for _____
Address: _____
Phone: _____ Fax: _____
Date submitted to mediator: ____/____/____ To opposing counsel: ____/____/____

***Attach additional pages if more space is necessary**

****Confidential material may be submitted if clearly marked and/or sent under separate cover**

RULE 21 - MISCELLANEOUS

- 21.1** Pursuant to R.C. §2303.201 (E) (1), the Court determines that for its efficient operation, additional fees are necessary to acquire and pay for General Special Projects of the Court that are permitted by the statute.
- 21.2** Therefore, effective January 1, 2002, it is Ordered that the Clerk of Courts is authorized and directed to charge as court costs a fee of \$10.00 per case for the General Special Projects Fund for the Common Pleas Court for each criminal, domestic, or civil cause of action or proceeding, or judgment by confession.
- 21.3** Pursuant to Rule 9 of the Rules of Superintendence for the Common Pleas Court and Rule 18 of the Rules of Superintendence for the County Courts, a Court Security Policy is hereby established effective July 1, 1995.
- 21.4** The Belmont County Court of Common Pleas shall provide language and sign interpreters for non-English speaking persons and those who are hearing impaired to insure that said individuals can clearly understand legal proceedings and are otherwise able to participate in court services and programs. Upon request, the Court shall require the services of an interpreter. Court interpreters are required, by law, to provide an accurate, impartial interpretations of court proceedings.

The Court is obligated to comply with the Americans with Disabilities Act (ADA). Deaf or hearing-impaired persons are to be given consideration in choosing auxiliary aides that are used in effective communication (28 C.F.R 35.160). Under the ADA, a court must determine what accommodations a court user might need. Said accommodations may include the need for an interpreter, if a person is deaf or hearing impaired. In addition, auxiliary aides for deaf or hearing-impaired individuals shall be provided at no cost to the person; rather, the costs shall be paid by the Court.

Attorneys who represent a client who is deaf or hearing impaired should contact the staff member for the Magistrate and/or Judge prior to any proceeding. In such cases, advance notice will enable the court to locate and make the necessary arrangements for a qualified interpreter to be present.

If you, or someone you know needs an interpreter for a court appearance as a party, witness or juror, please contact the Judicial Office to facilitate the acquisition of an interpreter.

Rule 22 – Refiled Cases

A case previously dismissed but re-filed shall be assigned to the original Judge on the first case. It shall be the obligation of the attorney for the dismissed case to list the original Judge’s name in the caption

Rule 23 – Foreclosure Actions

In any action filed in this Court to foreclose a lien, the Belmont County Treasurer shall be named as a Defendant in said action and shall be served with a copy of the Summons and Complaint. The Treasurer need not answer or otherwise appear, or respond to the summons. The parties to the action need not serve any subsequent pleadings on the Treasurer except for the Confirmation of Sale or other dispositive order of the Court.

All judgment entries in any action to foreclosure upon a lien shall include a finding that the Belmont County Treasurer has the first and best lien on the property for the real estate taxes and assessments due and payable, unless the lien of the Treasurer is superseded by a tax certificate holder pursuant to O.R.C. §5721.35. The Entry Confirming Sale shall provide for payment of real estate taxes and assessments as a first and best lien unless subject to the lien of the tax certificate holder as set forth above.

The Entry Confirming Sale shall provide for the payment of pro-rated real estate taxes through and including 45 days after the date of the Sheriff's Sale. Plaintiff's counsel shall confirm the amount of taxes due on each parcel with the Treasurer in writing on a form prescribed by the Treasurer. Thereafter, Plaintiff's counsel shall submit a completed copy of said form to the Clerk with a proposed Judgment Entry Confirming Sale. The Judgment Entry Confirming Sale shall conform to the form of the Judgment Entry Confirming Sale and Ordering Deed and Distribution of Sale Proceeds attached hereto as Exhibit A. The Judgment Entry Confirming Sale will be filed with the Recorder to evidence release of all liens to be released therein.

Following pages contain Proposed Form Judgment Entry Confirming Sale
to be made available on our website

IN THE COMMON PLEAS COURT OF BELMONT COUNTY, OHIO

_____	:	
Plaintiff	:	CASE NO. 15 CV _____
	:	
vs.	:	
	:	
_____, ET AL.	:	JUDGE FRANK A. FREGIATO
Defendants	:	JOHN A. VAVRA

JUDGMENT ENTRY CONFIRMING SALE AND ORDERING DEED AND DISTRIBUTION OF SALE PROCEEDS

This cause was heard on the return of the Sheriff of Belmont County of his sale of the real estate on _____, 2014, to _____, having a tax-mailing address of _____, _____, _____, for the sum of _____ Thousand _____ Dollars (\$_____.00).

On careful examination of the proceedings of the officer, the Court finds that the sale was made in all respects in conformity with law and the orders of this Court, and hereby approves and confirms the sale and these proceedings.

The Court further finds that this order shall constitute a judicial finding that the sale of the lands and tenements complied with the written notice requirements of ORC §§ 2329.26(A)(1)(a), 2329.26(A)(2) and 2329.27(A). The Court finds that any failure to give written notice pursuant ORC §2329.26(A)(1)(a) to a party was not required by law and has not prejudiced that party. The Court further finds that all parties entitled to notice pursuant to ORC § 2329.26(A)(1)(a) received adequate notice of the date, time and place of the sale of the lands and tenements; and that this Court’s order bars the filing of any further motions to set aside the sale of the lands and tenements subject of this action.

The Court finds that there is due and owing by the Defendant(s), _____, to date of sale, unpaid principal, interest and costs in the sum of \$_____, which is secured by the Mortgage foreclosed herein, which sum is the first and best lien upon the mortgaged premises herein, unpaid real estate taxes, assessments and court costs alone excepted.

The Court further finds that the purchasers have submitted all contact information required by ORC §2329.271.

1. It is hereby ORDERED that the Sheriff convey to said _____, a deed for the real estate located at _____, _____, Ohio, which is more fully described as being:

((Insert Description or attach as Exhibit A))

Deed Reference:

Auditor’s Parcel No.

2. It is further ORDERED that ___(Purchaser)_____ be subrogated to all the rights of the mortgagees and lien holders in the real estate to the extent necessary for the protection of its/his/her title. A WRIT OF POSSESSION is hereby awarded to put it in possession of the real estate. All occupants of said premises are to be immediately evicted by the Sheriff of Belmont County.

3. It is further ORDERED that the Clerk of Courts of Belmont County shall cause satisfaction and discharge of the mortgage and all liens to be entered on the records in the office of the Clerk and Recorder of Belmont County, Ohio, which shall cause evidence of the satisfaction and release of all liens existing prior to this Order upon the real estate foreclosed in these proceedings:

	Judgement Creditor	Mortgagor/Debtor	Volume/Page	Date Mortgage Filed
A.	_____	_____	____/____	___/___/___
B.	_____	_____	____/____	___/___/___
C.	_____	_____	____/____	___/___/___

D. _____ / _____ / _____

All liens of any persons who either defaulted for want of an answer in this action or who failed to intervene in this action, the latter being on notice subject to the doctrine of lis pendens.

4. It is further ORDERED that the Sheriff pay from the proceeds of the sale, amounting to _____ Thousand Dollars (\$_____), the following claims, heretofore declared valid and ascertained, the amounts thereof in the following order of priority:

First: To the Belmont County Clerk of Courts the costs of this action taxed at \$_____.

Second: To the Belmont County Clerk of Courts poundage in the amount of \$_____ computed as follows: (2% on the amount of costs distributed when plaintiff is purchaser) (2% of first 10,000 plus 1% of balance of purchase price if third party is purchaser)

Third: To the Belmont County Sheriff the sum of \$_____ as his costs in this matter.

Fourth: To the Plaintiff the sum of \$ _____ representing its costs for the Preliminary and Final Judicial Reports.

Fifth: To the Belmont County Treasurer the real estate taxes with assessments and penalties through the forty-fifth (45th) day after the date of sale amounting to \$_____, with respect to the following Auditor's Parcel Numbers:

Parcel No.	
_____	\$ _____
_____	\$ _____
Total Real Estate Taxes due	\$ _____

Sixth: To the Belmont County Auditor the sum of \$_____, representing the transfer fee of \$0.50 per parcel, plus the conveyance fee computed as follows: \$3.00 for each \$1,000.00 of purchase price. (I know the transfer fee is buyer's responsibility, but it is easier to include it. Technically the

Sheriff is required to have the buyer pay an extra \$75 to cover recording costs and the Sheriff is to do the recording.)

Seventh: To the Belmont County Recorder \$_____ representing the cost to record the Sheriff's Deed.

Eighth: To _____, the Plaintiff herein, shall remain the sum of _____ Thousand _____ Hundred _____ and _____/100 Dollars (\$_____). (_____ was discharged in U. S. Bankruptcy Court, Southern District of Ohio Case No. _____; and therefore, there shall be no deficiency judgment. OR There shall remain a deficiency judgment in favor of Plaintiff against _____ in the amount of \$_____.

Ninth: To _____ the sum of \$ _____ representing the balance of sale proceeds, if any. (This Ninth paragraph will be eliminated in most instances if the Plaintiff does not receive its judgment paid in full)

5. Finally, it is hereby ORDERED, ADJUDGED and DECREED that title to the premises described in the Complaint herein be, and the same is, quieted as against the Plaintiff and Defendants, and each of them, and as against all parties and all claimants are hereby enjoined from setting up any claim to said real estate or any part thereof adverse to the title of the purchaser herein, and its successors and assigns, EXCEPT FOR the right of redemption of the United States of America pursuant to 28 U.S.C. §2410(C).

_____, Esq.

Attorney for Plaintiff

Counsel for any answering Defendant

JUDGE FRANK A. FREGIATO
JUDGE JOHN A. VAVRA

Copies of Confirmation Entry to be served on:

David K. Liberati, Esq. (Asst. Prosecuting Attorney for Treasurer)

_____, Esq. (Attorney for _____)

_____, Ohio Tax Commissioner

_____, defendant

_____, defendant

Belmont Co. Sheriff's Dept., c/o Barb Blake

_____, Esq. (Attorney for Plaintiff)

NOTES:

In the Event TAX EASE OHIO, LLC has a lien this paragraph can be used:

Sixth: Payable to US Bank, as CF for Tax Ease Ohio, representing payment of the redemption price for the Tax Certificate in favor of Tax Ease Ohio, LLC, 14901 Quorum Drive, Suite 900, Dallas, Texas 75254, the sum of \$_____.

Oil & Gas: You may want to include something with regard to the oil and gas if there is a lease on the property. You may include a paragraph in the Judgment Entry and Decree in Foreclosure. Some Oil and Gas companies, if you name them to give them notice, may want to see something in the Entry Confirming Sale.

ORC § 1509.31(D)

(D) If a mortgaged property that is being foreclosed is subject to an oil or gas lease, pipeline agreement, or other instrument related to the production or sale of oil or natural gas and the lease, agreement, or other instrument was recorded subsequent to the mortgage, and if the lease, agreement, or other instrument is not in default, the oil or gas lease, pipeline agreement, or other instrument, as applicable, has priority over all other liens, claims, or encumbrances on the property so that the oil or gas lease, pipeline agreement, or other instrument is not terminated or extinguished upon the foreclosure sale of the mortgaged property. If the owner of the mortgaged property was entitled to oil and gas royalties before the foreclosure sale, the oil or gas royalties shall be paid to the purchaser of the foreclosed property.

IN THE COMMON PLEAS COURT OF BELMONT COUNTY, OHIO

_____ :
Plaintiff : CASE NO. CV
vs. :
 :
 :
_____, ET AL. : JUDGE FRANK A. FREGIATO
Defendants : JOHN A. VAVRA

TO THE CLERK OF THE COMMON PLEAS COURT:

ISSUE SUMMONS CERTIFIED COPY OF COMPLAINT
 CERTIFICATE OF JUDGMENT
 CERTIFIED COPY OF JUDGMENT JOURNAL ENTRY
 Please provide the costs in Foreclosure Case:

Clerk's costs: _____

Note:

- (1) The Judgment Entry Confirming Sale will be _____(_____) pages long;
- (2) There is/are _____ mortgage instrument(s) or _____ liens to be released in the Recorder's Office (to figure marginal references); and
- (3) There are _____ judgment liens or Federal Tax Liens to be released in the office of the Clerk.

TO THE SHERIFF OF BELMONT COUNTY.

VIA CERTIFIED MAIL

VIA REGULAR MAIL

ENDORSEMENT: Please provide Costs for the Sheriff's Sale held _____, _____, 20___. A self-addressed, stamped envelope is attached for your convenience. Thank you.

Respectfully submitted,

The Honorable Katherine J. Kelich
Belmont County Treasurer
Courthouse - 101 West Main Street
St. Clairsville, Ohio 43950

Re: **Request for Real Estate Taxes & Assessments Owed**

_____ v. _____

Case No. __ CV _____

Sheriff's Sale held: _____, 20__

Dear Ms. Kelich:

Please provide a breakdown of real estate taxes due for the following parcels through _____, 20__:

<u>Parcel No.</u>	<u>20__</u>	<u>20__</u>	<u>Total</u>
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____

The total real estate taxes due through _____, 20__ (must be calculated to 45 days after the date of the Sheriff's Sale) are: \$ _____.

You may email or fax back the completed information. It is my understanding that this form must be presented to the Clerk of Courts with the proposed Judgment Entry Confirming Sale and Ordering Deed and Distribution of Sale Proceeds.

My fax Number is: _____. My email address is: _____.

Very truly yours,

LAWFIRM

By:

PLAINTIFF'S LAWYER

_____, 20__