

NOTICE OF PROPOSED LOCAL RULES
CHANGES/AMENDMENTS

The Judges of the Franklin County Common Pleas Court, General Division, propose to adopt the amendments to Local Rules summarized below. The actual draft language is available on the Court's website.

Pursuant to Ohio Civ. R. 83(B) and Sup. R. 5(A), comments by the bar and any other interested citizens may be submitted before these new or amended Rules are adopted. Comments should be submitted by email or letter no later than **MAY 1, 2017** to:

Judge Richard A. Frye
Chair, Local Rules Committee
345 S. High Street, Courtroom 5F
Columbus, OH 43215
Richard_Frye@fccourts.org

with a copy to:

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1. AMENDMENT OF LOCAL RULE 31.03.

Local Rule 31.02 controls the random assignment of criminal cases among judges of the General Division.

The court proposes to update this Local Rule consistent with anticipated amendments to Supreme Court of Ohio Superintendence Rule 36. In addition, the amended Local Rule makes clear that felony cases will, generally speaking, be randomly assigned as follows: Re-Indicted cases go back to the previous judge; a judge with a defendant on active community control will be assigned newly filed charges against that person; indictments with multiple co-defendants normally are assigned to the judge with the lowest numbered case; if none of those criteria apply, a new indictment will be assigned to a same judge assigned to an already-pending

case of that defendant. As there are any number of odd situations that can arise, the Local Rule also clarifies the authority of the Administrative Judge to sort out case assignment issues.

2. POSSIBLE REPEAL OF RULE 103.

Local Rule 103 was adopted in 1993, last amended in 2000, and provides for Compulsory Arbitration of civil cases in which less than \$50,000 was in issue. However, mandatory mediation has only been used twice since 2012. The court is considering repealing this Local Rule but invites comments from the bar.

3. AMEND RULE 96 - APPRAISER FEES IN JUDICIAL SALES.

For decades the Franklin County Sheriff's Office has utilized one or more internal fee schedules to set fees for property appraisers. The fee schedule is managed primarily by the Sheriff's Office, but local practice has been to have motions filed in each individual case of foreclosure or other judicial sale by the Prosecutor's Office, on behalf of the Sheriff, seeking formal court authorization to pay appraisers.

Some Ohio courts operate differently. Some set such fees based on a percentage of appraised value (*i.e.*, \$1 per thousand up to \$50,000, plus .50 per thousand up to \$100,000, etc.). Others set the fee based upon the Auditor's last appraised value scaled against a fee schedule on file with the court (avoiding any risk of higher valuations merely to trigger higher appraiser fees). A few ignore appraised valuation entirely, and simply pre-authorize a flat fee (*i.e.* \$125 per appraisal) or require fee applications based upon a maximum hourly rate.

This court proposes to adopt a new subsection of Local Rule 96 providing that property appraisers shall be paid a flat fee deemed reasonable by the Sheriff's Office, not to exceed \$125 per appraisal. Rule 96.06 would further provide that, so long as appraisal fees fall below that cap, the Sheriff may simply certify the fees in

writing to the Clerk, who shall then automatically tax such fees as costs in the case without additional formal approval by the Prosecutor's Office or the court.

New Rule 96.06 would further provide that, in unusual situations in which an appraisal is complicated and requires exceptional research and field work, any appraiser may submit an affidavit attesting to the additional complexity together with an individual fee application specific to that particular case. By that means appraisers could request a fee higher than the normal fee cap. The Prosecutor's Office and any party to such a case could then challenge the fee application, which would be decided by the assigned judge.

Other than adding section 96.06 to the Local Rule, and renumbering old section 96.06 as 96.07, no other changes are contemplated.

4. UPDATE JUROR COMPENSATION - RULE 27.29.

Existing Rule 27.29 is out of date. Jury compensation recently was raised to \$20 per day, and now includes an arrangement whereby jurors can receive part of their compensation as discounted parking in a County garage. In addition, the amendment to this Rule will delete references to the Ohio Revised Code as unnecessary.

5. AMEND RULE 39 - DELETE "TRIAL CONFIRMATION" DATE.

Members of the Common Pleas Court committee of the Columbus Bar Association recently suggested that the "Trial Confirmation Date" used as one interim deadline on civil Case Schedules issued by the Clerk is both confusing and unnecessary. Subject to public comment, Local Rule 39 would be amended to eliminate all references to "trial confirmation" dates going forward.

6. AMEND RULE 67 - BAIL FORFEITURE.

The court proposes to make non-substantive changes to the Local Rule on bail forfeiture in criminal cases.

7. AMEND RULE 90.02 - COURTHOUSE SECURITY.

This Local Rule is outdated. There no longer is a “Local Security Advisory Committee” since the Franklin County Sheriff is responsible for all building security at 345 South High Street.

New language clarifies that the Sheriff is responsible for security within 345 South High Street, but that the Sheriff shall coordinate overall security arrangements for the courthouse complex with separate security for Franklin County Municipal Court building and any other security controlling entry points to individual parts of the courthouse complex. Furthermore, 90.03 would clarify that extra security screening may be employed in connection with high profile trials or proceedings. Last, if threats or overt misconduct, or extreme weather conditions are believed to exist which present a genuine risk to the safety of those using the common pleas courthouse, the Administrative Judge and, in his or her absence, the Executive Director in consultation with the Duty Judge, will have explicit authority to respond appropriately.

LOCAL RULE 31.03

A. CRIMINAL CASE ASSIGNMENT GENERALLY.

1. Assignment of criminal cases shall be random to all active judges of this division of the court, and shall occur no sooner than indictment or the presentation of a bill of information and no later than upon arraignment. Pursuant to Sup. R. 36, the assignment process followed in this court is intended to ensure judicial accountability for the processing of individual cases; timely completion of cases through prompt judicial control over the pace of the litigation; and equitable distribution of cases between and among all judges.

2. The name of the assigned trial judge shall be publicly identified on the case management system promptly following assignment or transfer of every case.

3. The only exceptions to the random assignment system are for:

- a.** Aggravated murder cases indicted with death penalty specification(s), which shall be evenly distributed among all trial judges of this division of the court by special draw done in accordance with Local Rule and Sup. R. 36.013; and
- b.** Any other individual cases in which the Administrative Judge deems it essential to order a reassignment by lot among all remaining judges of the court pursuant to Sup. R. 36.015 (case management) or Sup. R. 36.018 (following recusal).

4. In the event a case is subject to more than one criterion for assignment, the following priority applies:

- a.** Re-Indicted cases;
- b.** Active Community Control cases;
- c.** Co-Defendant cases;

d. Already pending trial cases.

5. Except in cases specially assigned or reassigned under Section (A) (3) or Section (F) of this Local Rule, the Assignment Commissioner shall originally assign all cases and, as appropriate, transfer cases without explicit prior approval of the Administrative Judge. When cases are transferred after initial assignment to a judge, the Assignment Commissioner shall publicly file a “Notice of Criminal Case Transfer” with the Clerk, listing each case transferred, and the reason(s) for each transfer. Such a Notice shall be signed electronically by an authorized representative of the Assignment Commissioner. Electronic copies will promptly notify both the trial judge to whom the case has been transferred, and the judge from whose docket the case was transferred.

B. RE-INDICTED CASES.

[NO CHANGES]

C. ASSIGNMENT OF CASES WITH ACTIVE COMMUNITY CONTROL.

[Formerly D]

1. When a single defendant is indicted in a new case, and he or she is already subject to active community control sanctions in this court, that defendant’s newly filed case shall be assigned to the same judge already exercising jurisdiction over defendant’s community control case(s).

2. If multiple defendants are indicted in a new case or related cases and one or more of them also have active community control cases with judges of this court, all such co-defendants’ new trial cases shall be assigned to the judge having the lowest case number with an active community control case. That judge shall also be assigned all

additional co-defendants' cases indicted thereafter. Absconding defendants are ***not*** deemed to be on "active" community control for the purpose of this Local Rule, and such cases shall be disregarded.

D. ASSIGNMENT OF CASES WITH CO-DEFENDANTS.

1. Absent active community control cases as addressed under Section C above, co-defendants indicted in a multi-defendant case or cases arising from substantially the same alleged crime(s) shall all be assigned to the trial judge randomly drawing the lowest numbered case.

2. Upon arraignment of additional co-defendants, all new cases shall also be assigned to the trial judge who received the lowest numbered original case. At the time of filing new indictments of additional co-defendant(s), the Prosecutor's Office shall include the name and case numbers of all other co-defendants on each indictment for case assignment purposes.

E. ASSIGNMENT WHEN DEFENDANT HAS PENDING CASES.

1. If a defendant already has a case open on the active trial docket when he or she is arraigned on a new case, and there is neither active community control nor co-defendants as addressed above, the new case shall be assigned to the same trial judge assigned to the already-pending trial case.

2. In the event that a defendant is newly arraigned after related cases with co-defendants have begun, that defendant's new case(s) shall be assigned to the trial judge previously assigned to hear all related cases. For assignment purposes, active community

control and active co-defendant cases have priority in assignment over active individual trial cases.

F. ADMINISTRATIVE JUDGE DETERMINATIONS.

The Administrative Judge shall adjust case assignments in the event unusual situations arise, and is the final arbiter of any questions arising under this Local Rule or Sup. R. 36.

Formerly G. TRANSFERS BY THE ASSIGNMENT COMMISSIONER.

[Now covered by Paragraph (A) (5) above.]

**G. REMOVAL OF A TRIAL JUDGE FROM THE RANDOM DRAW.
[Formerly H]**

If a criminal case other than an aggravated murder case with death penalty specifications is transferred from the docket of another judge, the receiving judge shall be removed from the random draw for new criminal cases for one assignment cycle. When an aggravated murder case with death penalty specifications is transferred, Section (H) (4) shall apply.

H. ASSIGNMENT OF MURDER CASES WITH DEATH SPECIFICATIONS.

1. All aggravated murder cases with death penalty specifications will be assigned pursuant to this Local Rule.

2. Each sitting Judge will be assigned a number from 1 through 17. To commence the assignment process 17 dies, separately numbered from 1 to 17, will be

placed in a leather bottle. Promptly after shaking, a single numbered die will be dropped out. The Judge assigned that number will be assigned the first murder case with a death penalty specification, and their number will be retired and not returned to the bottle until all but one of the remaining numbers have been randomly drawn in this fashion. With the filing of the next murder case with death penalty specifications the remaining numbered dies will remain in the bottle and, after being shaken, another single number will be dropped out indicating the individual assignment of that murder case. The process repeats with each newly filed murder case carrying death penalty specifications until only one number remains in the bottle; at that point all 17 numbers are replaced in the bottle, and the process begins anew.

3. Random drawing of the assigned judge will be performed in public by the Executive Director of the court or his or her designee, in the presence of the Duty Judge, any member of the bar, and any member of the news media who affirmatively requests to witness the process.

4. If, after assignment in this manner, an individual judge recuses from a murder case with death penalty specifications to which they have been assigned that case shall be re-drawn randomly to all remaining judges using the original assignment procedure; following which, the numbered die for the judge who recused shall be returned to the bottle and be included among those available when the next murder case with death penalty specifications is assigned.

I. THREE-JUDGE MURDER CASES WITH DEATH PENALTY SPECS.

1. If a defendant in an aggravated murder case with death penalty specifications either seeks to enter a plea of guilty to one or more counts carrying death

penalty specifications, or to waive a jury trial in writing and on the record, the case shall then be submitted to a three-judge panel. The originally assigned trial judge shall serve as the presiding judge of the panel.

2. Two additional trial judges for a panel shall be selected by lot by the Executive Director of the court or his or her designee, using a random drawing of two numbered dies from a leather bottle containing dies for each of the other 16 judges. The process shall be observed by counsel for the state, counsel for the defendant, the assigned trial judge, the Presiding Judge (or if unavailable the Administrative Judge), any other member of the bar, and any member of the news media who affirmatively requests to witness the process. Following the draw, the two additional judges shall be formally designated in an Entry signed by the Presiding Judge and filed with the Clerk, pursuant to R.C. 2945.06. If, following assignment in this manner, an individual judge recuses from a murder case with death penalty specifications to which they have been randomly assigned, a replacement judge shall be re-drawn randomly from all remaining judges using the original assignment procedure.

EFFECTIVE DATE.

Amendments to this Local Rule 31.03 are effective _____, 2017, for all assignments made on and after that date.

**RULES OF PRACTICE
OF THE
COURT OF COMMON PLEAS**

STATEMENT OF PURPOSE

Delay in criminal and civil cases in the Courts of Common Pleas throughout the state of Ohio is a serious problem in the administration of justice. Constitutional courts were created to serve the litigants and the interest of the public at large, not for the convenience or benefit of judges and lawyers. Unnecessary delay erodes the public's confidence in the judicial system.

It is the obligation of the judges of the Court of Common Pleas, Franklin County, Ohio, to operate the Court in a manner that is lawful, fair, just, and efficient for the benefit of the citizens of Franklin County and all other litigants that come before it. To that end, the following rules are designed (1) to expedite the disposition of both criminal and civil cases in this Court, while at the same time safeguarding the rights of litigants to the just processing of their cases; (2) to expedite and make consistent the disposition of cases in the general branch of the Court; and (3) to serve the public interest which mandates the prompt disposition of all cases before this Court.

RULE 103 - COMPULSORY ARBITRATION - [11/1/93]

103.00 Introduction

A. Applicability. These rules shall proscribe the procedure to be followed in all Rule 103 Procedures.

B. Court Proceedings. Rule 103 Arbitration's are formal proceedings of the Franklin County Court of Common Pleas and all arbitrators, counsel, parties, witnesses and others shall conduct themselves accordingly.

C. Construction. These rules shall be construed and applied to effect just results by eliminating unfair surprise, unnecessary delay, unnecessary expenditures of time and money and all other impediments to the prompt and inexpensive administration of justice.

D. Purpose. The purpose of these rules is to serve the citizens of Franklin County, Ohio by providing a fair and impartial dispute resolution system that is dignified, faithful to the law and that is less time consuming and less expensive than a trial, and that may be used whenever appropriate.

E. Control by the Court. As indicated below, the Court maintains full supervisory power over all aspects of all Rule 103 proceedings including, but not limited to, the application and the interpretation of these rules. Therefore, the Court, for good cause shown, may modify and amend these rules in appropriate cases in order to do justice and/or avoid injustice.

103.01 Cases for Arbitration

A. Any judge of the general division of the Court of Common Pleas may, at any time, by a general entry, order any case assigned to that judge to be heard and decided by a Board of Arbitration, consisting of three (3) members who are licensed attorneys and members of the Columbus Bar Association, and the Bar of Franklin County, Ohio, to be selected as provided in this rule (except cases involving title to real estate, equitable relief and appeals), provided the following conditions are satisfied:

- (1) The case must be at least 60 days old; and
- (2) All of the parties must have appeared in the case; and
- (3) The apparent value of the claim or claims of the plaintiff or the plaintiffs shall not exceed Fifty Thousand Dollars (\$50,000.00) exclusive of interest and costs; and
- (4) Generally, the case should not involve any complicated issues of significant fact; and
- (5) The case should not involve any complicated legal issues that are central to the case; and
- (6) The case should be of the type that is capable of being arbitrated pursuant to these rules, including, but not limited to, the rules regarding evidence and time limitations.

B. **(04-26-00)** Cases in which the apparent value of the claim or claims of the plaintiff or the plaintiffs is less than fifty thousand dollars (\$50,000) shall be referred for arbitration as required by Ohio Rules of Superintendence Rule 15(a)(1).

C. **(04-26-00)** Anytime after all parties have appeared in the case, up to ninety (90) days before trial, any party may file a motion to arbitrate. Regardless of the apparent value of the claim or claims.

D. **(04-26-00)** A party who wishes to oppose arbitration shall file a memorandum contra within 14 days of the service of the Entry to Arbitrate or the motion to arbitrate.

The Court shall then determine whether the action is ready and appropriate for arbitration in accordance with the standards listed in Rule 103.01(A).

103.02 Selection of Arbitrators

A. **(04-26-00)** When the order of arbitration is made by the judge, the judge shall select the chairperson, and forward the entry to the arbitration clerk who shall select the time and location of the hearing, file the entry and forward a copy of the entry to all parties.

B. The chairperson shall have at least three (3) years of legal experience, and shall be appointed on a rotating basis from a list of volunteers created by the Court of the Columbus Bar Association and maintained by the Arbitration Clerk.

C. **(04-26-00)** Within fifteen (15) days of the filing of the entry, each side shall appoint an arbitrator who can be available for the scheduled date, and shall notify all parties and the Arbitration Clerk in writing. A party's failure to comply with this rule constitutes a waiver of their right to so appoint and the assigned judge shall appoint their arbitrator for them.

D. Where there is more than one plaintiff or more than one defendant, each side shall nominate one arbitrator. If any conflict arises out of the differing interests of the parties, the judge shall make appropriate rulings.

E. By agreement or by waiver, the parties may proceed with the chairman as the sole arbitrator.

F. On the day of the hearing, the chairperson shall obtain the Court file on the case, along with the appropriate forms for the required Report and Award.

No disclosure shall be made to an arbitrator prior to the filing of the report and award of any offers of settlement made by either party, except by agreement of the parties. Prior to the delivery of the court file to the Chairman of the Board of Arbitrators, the Arbitration Clerk shall remove from the file and retain all papers or any notations referring to demands or offers for settlement.

G. No more than one member of a law firm or association of attorneys shall be appointed to the same board, nor shall any attorney be appointed to a board who has a specific interest in the determination of the case or a relationship with the parties or their counsel which would interfere with the fair and impartial consideration of the case.

103.03 Compensation of Arbitrators

A. Each member of a board who has signed an award or files a minority report shall receive as compensation for his or her services in each case a fee of One Hundred Dollars (\$100.00). When more than one case arising out of the same transaction is heard at the same hearing or hearings, it shall be considered as one case insofar as compensation of the arbitrators is concerned.

In cases requiring hearings of unusual duration involving questions of unusual complexity, the assigned judge, on motion of the members of the board and for cause shown, may allow additional compensation. The members of a board shall not be entitled to receive their fees until after filing the Report and Award with the Court. Fees paid to arbitrators shall not be taxed as costs.

B. The chairman shall receive as additional compensation the sum of Fifty Dollars (\$50.00) for each case heard by the board. If the chairperson serves as a sole arbitrator, he or she shall receive compensation of the entire Three Hundred Fifty Dollars (\$350.00) deposited.

C. Each side shall be responsible for paying the fee of one arbitrator and one-half the fee of the chairperson. Payments shall be made to the Clerk of Courts no later than fourteen (14) days before the date set for the arbitration hearing or a show cause hearing may be scheduled anytime after the report and award is filed with the Clerk of Courts. After the show cause hearing, the Court may order the delinquent party to pay the entire cost of the arbitration and at such time order the Clerk of Courts to refund the fees deposited by the non-delinquent party.

In the event that one or more parties is unable due to poverty to make the payment for arbitrators' fees, he may file a motion and affidavit under Rule 103.14(A)(1)(c) herein, and all of the provisions of that rule shall apply.

D. If a case is settled or dismissed more than two (2) days prior to the date scheduled for the hearing, the board members shall not be entitled to any fee except in cases where the arbitrators are not notified of the settlement or dismissal by that date. If a case is settled or dismissed within that two-day period, the board members shall be entitled to receive the fee. The parties are required to notify the chairperson and the Arbitration Clerk immediately of settlement or dismissal.

E. If a case is settled or dismissed more than two (2) days prior to the date scheduled for the hearing, the parties shall file the standard settlement and dismissal entry, shall serve the Arbitration Clerk with a copy, and shall notify all of the arbitrators of the settlement. If the settlement is within two (2) days or less prior to

the arbitration, the settlement and dismissal entry, shall also contain an order for payment of fees to the arbitrators, designating their names, addresses and amount due.

103.04 Hearing: When and Where Held - Notice

A. Hearings shall be held at a time scheduled by the Arbitration Clerk at a courtroom or hearing room unless the chairperson, upon agreement by all parties, shall designate another place, such as a law office, a Columbus Bar Association office or room, or another appropriate office. A hearing shall be scheduled not less than forty-five (45) but no more than sixty (60) days after the appointment of the chairperson.

The sixty (60) day period may be extended only by the Court. No hearing shall be fixed for Saturdays, Sundays, legal holidays, or evenings, except upon agreement of counsel for all parties, the board, and the Arbitration Clerk.

B. Since sufficient notice is given to the parties prior to the hearing date, the hearing should proceed at the scheduled time.

103.05 Duties and Oath of Arbitrators

A. The Arbitrators shall:

1. Perform their duties fairly, impartially and diligently; and
2. Be patient, dignified and courteous to all who come before them; and
3. Be faithful to the law; and
4. Be unswayed by personal interests or fear of criticism; and
5. Not identify themselves as Plaintiff or Defendant's Arbitrator.

B. The Arbitrator's sole function is to consider the evidence, to apply the facts to the law in a fair and impartial manner and to render a just decision.

C. When all the arbitrators are assembled and before the hearing begins, each arbitrator shall take an oath or affirmation, as follows:

"I solemnly affirm that I will faithfully and fairly hear and examine the matter in controversy and that I will make a just award to the best of my understanding and ability."

This oath shall not be waived. Any arbitrator who fails to take this oath shall not be entitled to any compensation for serving as an arbitrator.

D. There shall be no communications by counsel or the parties with any arbitrator concerning the merits of the controversy prior to the commencement of the arbitration hearing nor following the conclusion of the arbitration hearing until the Report and Award has been filed and served on all parties.

103.06 Default of a Party

The arbitration may proceed in the absence of any party who, after due notice, fails to be present,

appoint its arbitrator, obtain a continuance, or to present evidence. An award shall not be made solely on the default of a party. The board shall require the other party to submit such evidence as it may require for the making of an award.

103.07 Supervisory Powers of the Court

The assigned judge, or when he or she is unavailable, the Administrative Judge of the General Division of the Court of Common Pleas, shall have full supervisory powers with regard to any questions that arise in all arbitration proceedings and in the application of these rules.

103.08 Witness Fees, Written Depositions, Videotape Deposition

Witness fees in any case referred to arbitration shall be in the same amount as now or hereafter provided for witnesses in trials in the Common Pleas Court. Costs of witness fees may be ordered taxed as costs. The costs in any case shall be paid by the same party or parties by whom they would have been paid had the case been tried.

103.09 Transcript of Testimony

The arbitrators shall not be required to make a transcript of the hearing. If any party desires a transcript, that party shall provide a reporter and cause a record to be made. The party requesting the record shall pay the expenses, which shall not be considered costs in the case. Any party desiring a copy of any transcript shall be provided with it by the reporter upon payment of the usual charges for a copy of a deposition, plus the party's proportionate share of the cost of the reporter's attendance.

103.10 Continuance of Hearing, Inability of Hearing to Proceed

A. The chairperson may continue a hearing date only upon a showing by a party or parties of extraordinary reasons. In such event, it shall be the responsibility of the party requesting the continuance to reschedule the hearing at a date and time not later than forty-five (45) days, mutually agreeable to the Arbitration Clerk, the arbitrators and the parties, and provide written notice of the rescheduled hearing date to the Arbitration Clerk, the arbitrators and the parties. In no event shall a case be continued more than twice without a Continuance Entry and the approval of the trial judge.

B. If one or two members of the arbitration board are unable to attend the hearing, the parties shall obtain a substitute arbitrator, or may agree that the hearing proceed before a board of less than three arbitrators.

In no event shall the hearing proceed in the absence of the assigned chairperson. If the assigned chairperson cannot attend the hearing, the arbitration clerk shall attempt to locate a substitute chairperson whose appointment will not cause any conflict of interest. If no substitute can be located, the hearing shall be continued to a date and time mutually agreeable to the arbitrators, the parties, and the Arbitration Clerk.

C. If the hearing is unable to proceed as a result of the death or long-term illness or disability of a party, or counsel, the chairperson shall return the case file to the Court with notice of such fact. The judge shall summon the parties or their counsel and make such orders as are just relative to further proceedings in the case.

D. Any motion that has not been ruled on prior to the date of the arbitration shall be disregarded by the board for the purposes of arbitration. Any motion objecting to the referral of the case to arbitration that has not been ruled on prior to the date of the arbitration shall, at the request of any party, cause the hearing to be continued.

103.11 Conduct of Hearing - General Powers

A. Strict conformity to the Rules of Evidence is not necessary. However, except as indicated below, there shall be substantial compliance with the Ohio Rules of Evidence and inadmissible hearsay shall be kept to a minimum. Evidence received shall be given such weight as the board deems appropriate after consideration of any objections. Rulings upon objections shall be made by the chairperson. All evidence shall be taken in the presence of the arbitrators and all the parties except where any of the parties is absent and consents, or is in default, or has waived the right to be present. The board may receive evidence in the following forms:

- (1) Testimony. Testimony by competent witnesses, whether live or by deposition, signed and dated witness statements or transcripts of the same, or affidavits. The chairperson shall administer oaths or affirmations to all live witnesses;
- (2) Documentary Evidence.
 - (a) In actions involving personal injury and/or damage to property, the following documents may be offered and shall be received into evidence.
 - (b) Medical bills, including the following:
 - (i) Health Care Providers. Bills of hospitals, doctors, dentists, nurses, therapists, and all other health care providers, on the proper form or letterhead, when itemized and dated.
 - (ii) Bills for Medicines, etc. Bills for medicines, eye glasses, prosthetic devices, medical appliances, or similar items.
 - (c) Property Repair Bills or Estimates. Property repair bills or estimates, when identified and itemized setting forth the charges for labor and material used in the repair of the property, provided that sufficient proof of ownership is offered by the party seeking to introduce such bill or estimate.
 - (d) Procedure in Case of Estimate. In the case of an estimate, the party intending to offer the estimate shall forward with his or her notice to the adverse party, together with a copy of the estimate, a statement indicating whether or not the property was repaired, and if it was, whether the estimated repairs were made in full or part, attaching a copy of the receipted bill showing the

items or repair made and the amount paid.

- (e) Records and Reports.
 - (i) Police, sheriff and highway patrol reports.
 - (ii) Hospital, medical, therapy, doctor's reports, and x-rays.
 - (iii) Employer's reports on lost wages and economist reports.
- (f) Similar materials. Any reports and/or records and/or other materials that are substantially similar to any of the items specifically set forth in Rule 103.11 may be offered and shall be admitted into evidence.

B. All written or documentary evidence as listed above must be served upon the adverse parties or their counsel at least fourteen (14) days before the hearing, unless counsel otherwise agrees. Failure to give such notice or serve that evidence upon opposing parties can be sufficient grounds for exclusion of the evidence, at the discretion of the chairperson. The chairperson shall not exclude evidence unless it unfairly surprises the non-offering party or otherwise unfairly prejudices the non-offering party.

C. Counsel shall, upon request, whenever possible, produce a party or witness at the hearing without the necessity of a subpoena. Subpoenas are to be issued as provided in Civil Rule 45 through the Clerk's office as in any other case. Except as indicated above, the parties are not required to appear at the hearing and such absence shall not be held against them.

D. The chairperson may compel the reasonable production of books, papers and documents which may be material to the case.

Should a party or witness fail to produce documents or to testify as to a matter after being ordered to do so by the chairperson, the board may treat that particular matter as not controverted and proceed to make a final award without the necessity of issuing a citation for contempt.

E. Where documentary evidence including, but not limited to, the types of evidence referred to above, will be offered for admission at the hearing, counsel for the party offering the evidence shall provide a copy of each document to each arbitrator.

F. The chairperson, may request that counsel provide the board with brief written or oral arguments of law, together with supporting authorities, if necessary to a just determination of the issues. The board shall decide the case submitted to it in accordance with their duties and oath as specified above in Rule 103.05.

G. The hearings should last not more than three (3) hours total except for good cause shown, and the chairperson shall divide the hearing time fairly among the parties.

103.12 Report and Award (04-26-00)

Within thirty (30) days after the hearing, the chairperson shall file a Report and Award with the Clerk and the Arbitration Clerk, and on the same day shall mail or otherwise forward copies to all parties or their counsel. An award may exceed \$50,000.00 exclusive of interest. The Report and Award shall be signed by all of the members of the board. In the event all three members do not agree on the findings and award, the dissenting member shall write the word "Dissents" before his or her signature. A minority report shall not be required unless the dissenting arbitrator elects to submit one. The Clerk of Courts shall note the Report and Award on the docket, and shall provide a copy to the assigned judge.

103.13 Legal Effect of Report and Award: Entry of Judgment

The Report and Award, unless appealed from, shall be final. If no appeal is taken within the time and in the manner specified, the Court shall enter judgment on such award. After the appeal time runs, the prevailing party shall prepare a judgment entry, which shall be submitted to opposing counsel for approval and to the assigned judge for signature. If no entry has been submitted to the Court as set out in Rule 25.01 of the Local Rules, from the date of the filing of the Report and Award, the Court will file its own entry. The Court shall order the Clerk of Courts to pay the arbitrators, as soon as practicable, following the filing of an Award by the chairperson, or a settlement or dismissal entry or stipulation entitling the arbitrators to payment under these rules.

103.14 Appeals

A. Right of Appeal de Novo. Any party may appeal from the action of the board to the Common Pleas Court. No appeal can be withdrawn without the consent of all parties. The filing of a single appeal shall be sufficient to require a de novo trial of the entire case on all issues and as to all parties without necessity of each party filing a separate notice of appeal. The right of appeal shall be subject to the following conditions, all of which shall be complied with within thirty (30) days after the filing of the award with the Clerk of Courts.

- (1) (a) Notice of Appeal and Costs. An appellant shall file a Notice of Appeal de novo, in the office of the clerk, together with an affidavit indicating that the appeal is not being taken for delay but because the appellant believes an injustice has been done. The appellant shall pay to the Clerk of Courts the sum mentioned in (1)(b) below. The appellant shall serve a copy of the notice of appeal and affidavit upon all parties or their counsel and the Arbitration Clerk.

(b) (04-26-00) Payment of Appeal Fees. The party filing the appeal shall reimburse the county for all fees paid to the arbitrator or arbitrators in the case. Further, the appellant shall pay to Franklin County, Ohio, by depositing with the Clerk of Courts, One Hundred Fifty Dollars (\$150.00). The sum so paid shall not be taxed as costs in the case and shall not be recoverable by the appellant in any proceeding. Expenditure of these funds shall be at the discretion of the court

(c) Poverty Affidavit and Notice. A party, desiring to appeal an award, may concurrently with the filing of a Notice of Appeal de Novo file with the assigned judge a written motion and affidavit averring that by reason of poverty the party is unable to make the payments required for an appeal and requesting the Court to allow an appeal de novo without payment of the amount specified above in (1)(b). If after due notice to the opposing parties, the judge is satisfied with the truth of the statement in the affidavit, the judge may order that the appeal of such party be allowed although the amounts are not paid by the appellant. If, however, the plaintiff or party appealing, who has filed a poverty affidavit as described above, receives a settlement, or judgment in the case, the defendant or party who agrees to or is ordered to pay the judgment, shall pay first to the Clerk of Courts out of the settlement or judgment, before making payment to anyone else, an amount equal to all arbitration compensation fees and appeal de novo fees previously waived by an affidavit of poverty.

(2) Return to Assigned Judge. After perfection of the appeal, the case shall be returned to the assigned judge for trial.

B. Appeal De Novo. All cases which have been duly appealed shall be tried de novo. No mention of the arbitration or its result shall be made at the time of trial. However, this section shall not be construed to prohibit a party from employing the transcript of testimony of a witness or party made at the arbitration hearing for the purpose of impeachment, or for any other purpose allowed by law or the Ohio Rules of Civil or Criminal Procedure, or the Ohio Rules of Evidence.

C. Testimony of Arbitrators on Appeal. In the event of an appeal from the award or decision of the board, the arbitrators shall not be called as witnesses as to what took place before them in their capacity as arbitrators.

D. Exceptions and Reasons Therefor. Any party may file exceptions with the Clerk of Courts from the decision of the board, within thirty (30) days from the filing of the Report and Award for reasons set out in O.R.C. 2711.10.

Copies of the exceptions shall be served upon each arbitrator within three (3) days after filing and shall be forthwith assigned for hearing before the Administrative Judge or a judge assigned by him or her to conduct a hearing.

If the exceptions are sustained, the report of the board shall be vacated by the Court and the Court shall return the case to the trial docket for trial or assign the case again to arbitration before a new board of arbitrators. The judge vacating the Report and Award may also withhold arbitrator's compensation, or require a refund of compensation, from any one or more of the arbitrators. The filing of exceptions shall toll the running of the

thirty (30) day appeal period provided in (A) above until a determination of the exceptions by the Court.

103.15 Misconduct of Arbitrator(s) (04-26-00)

Exceptions to the decision of the board or single arbitrator based on either misconduct or corruption of the board or single arbitrator may also be filed by any party within thirty (30) days after the filing of the report, and, if sustained, the report shall be vacated.

LOCAL RULE 96

JUDICIAL SALES / TITLE INSURANCE

Existing 96.01 - 05 [Unchanged]

96.06 Compensation for Property Appraisers.

A. Appraisers of property for cases pending in this court shall be paid a flat fee deemed reasonable by the Franklin County Sheriff's Office, not to exceed \$125 per appraisal.

B. So long as the compensation falls below that cap, the Sheriff may simply certify the fee in writing to the Clerk, who shall then automatically tax the fee as costs in the case without additional formal approval by the Prosecutor's Office or the court.

C. In unusual situations in which an appraisal is complex, and requires exceptional research and field work, as an alternative to the flat fee any appraiser may submit an affidavit explaining in detail the additional complexity of the work as part of an individual fee application specific to that particular case. The application shall be filed in the case for which the appraisal was done, with copies contemporaneously provided to the Prosecutor's Office and the Sheriff's Office. The Sheriff, the Prosecutor's Office and any party to such a case may then recommend, or challenge the fee application, which shall be decided by the assigned judge.

96.07 [Existing 96.06 is simply re-numbered as 96.07.]

LOCAL RULE 27.29

27.29 Juror Compensation and Protection from Discrimination.

A. Persons called for jury service shall receive fees or other compensation such as discounted parking on terms set from time to time by the Administrative Judge and approved at a full meeting of all judges, within the limits of funding provided by the Board of County Commissioners.

B. Such compensation shall be paid weekly by the Clerk of Courts.

C. No employer of a person summoned for jury service in this court shall discharge, demote, lay-off, deny advancement opportunities to, or otherwise penalize or discriminate against any employee who misses work because of a duly-issued juror summons. Any violation of this Local Rule will constitute a contempt of this court. Such contempt proceedings shall be heard by the Administrative Judge, or another Judge designated by the Administrative Judge.

**RULES OF PRACTICE
OF THE
COURT OF COMMON PLEAS**

STATEMENT OF PURPOSE

Delay in criminal and civil cases in the Courts of Common Pleas throughout the state of Ohio is a serious problem in the administration of justice. Constitutional courts were created to serve the litigants and the interest of the public at large, not for the convenience or benefit of judges and lawyers. Unnecessary delay erodes the public's confidence in the judicial system.

It is the obligation of the judges of the Court of Common Pleas, Franklin County, Ohio, to operate the Court in a manner that is lawful, fair, just, and efficient for the benefit of the citizens of Franklin County and all other litigants that come before it. To that end, the following rules are designed (1) to expedite the disposition of both criminal and civil cases in this Court, while at the same time safeguarding the rights of litigants to the just processing of their cases; (2) to expedite and make consistent the disposition of cases in the general branch of the Court; and (3) to serve the public interest which mandates the prompt disposition of all cases before this Court.

RULE 39 CASE SCHEDULE

39.01 Case Schedule

When an initial pleading is filed and a new case file is opened, the Clerk of Court shall prepare and file a paper entitled "Case Schedule" and shall provide one copy to the plaintiff or the plaintiff's agent. The Clerk shall serve a copy of the Case Schedule on the defendant(s) along with copies of the pleading and summons.

39.02 Service on Additional Parties Upon Joinder

A party who joins an additional party(s) shall be responsible for serving the additional party(s) with the current Case Schedule.

39.03 Form of the Case Schedule

The Case Schedule will be in the following form:

CASE SCHEDULE

**Latest Date
of
Occurrence of
the event**

Case filed

Initial Status Conference

Initial Joint Disclosure of All Witnesses

Supplemental Joint Disclosure of All Witnesses

Trial Confirmation Date

Dispositive Motions

Discovery Cut-off

Decisions on Motions

Final Pre-trial Conference or Pre-trial Order (or both)

Trial Assignment

NOTICE TO ALL PARTIES

All attorneys and parties should make themselves familiar with the Court's local rules, including those pertaining to this Case Schedule. In order to comply with the Case Schedule, it will be necessary for attorneys and parties to pursue their cases vigorously from the day the cases are filed. Discovery must be undertaken promptly in order to comply with the dates listed in the right-hand column.

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

Date

Clerk of Courts

39.04 Amended Case Schedule. (Amended 5-23-02)

- A. The Trial Judge, either on motion of a party or sua sponte, may modify any date in the Case Schedule for good cause and on terms as are just, except that the trial date may be changed only as provided for in Loc. R. 37. A modification may extend or reduce the time for any event or the entire track. If the Case Schedule is modified upon the motion of a party, that party shall prepare an amended case schedule and present it to the Trial Judge for signature. The amended case schedule shall be promptly filed and served on all other parties. If the Case Schedule is modified on the Trial Judge's own motion, the Court shall prepare, file, and promptly serve the "Amended Case Schedule" to all parties.
- B. When a case is stayed, the original case schedule shall be stayed. When the stay is lifted, trial counsel shall submit an amended case schedule extending the deadlines by the length of the stay, designating a trial date convenient to the trial judge.

39.05. Time Limits.

A. All civil cases, except Professional Tort and Product Liability, shall be placed on the primary track of 12 months with event and time intervals included in the original "Case Schedule" as follows (measured in weeks from the date of filing):

	<u>12-Month Track</u>	Latest date of Occurrence <u>(in weeks)</u>
Case filed		0
Initial Status Conference		10
Initial Joint Disclosure of All Witnesses		20
Supplemental Joint Disclosure of All Witnesses		28
Trial Confirmation Date		30
Dispositive Motions		40
Discovery Cut-off		42
Decisions on Motions		48
Final Pre-trial Conference or Pre-trial Order (or both)		50
Trial Assignment		52

B. All Professional Tort (A) and Product Liability (B) civil cases shall be placed on the 24-month track with event and time intervals included in the original "Case Schedule" as follows (measured in weeks from date of filing):

<u>24-Month Track</u>	Latest date of Occurrence <u>(in weeks)</u>
Case filed	0
Initial Status Conference	12
Initial Joint Disclosure of All Witnesses	44
Supplemental Joint Disclosure of All Witnesses	56
Trial Confirmation Date	70
Dispositive Motions	88
Discovery Cut-off	90
Decisions on all Motions	96
Final Pre-trial Conference or Pre-trial Order (or both)	100
Trial Assignment	104

C. Sanctions. For purposes of these local rules, the Trial Judge shall have the power, coextensive with the inherent powers of the Court and the enumerated powers in the Revised Code and the Civil Rules, to impose sanctions on attorneys, parties, or both. Sanctions can be monetary, non-monetary, or a combination of monetary and non-monetary. No sanction shall be imposed without the offending party and/or attorney being given an opportunity to be heard, unless the conduct giving rise to the sanction amounts to a direct contempt.

i. "Monetary Sanction" means a monetary cost imposed upon a party and/or an attorney by the Trial Judge for violation of the local rules and/or a case schedule and/or the Civil Rules. "Monetary sanction" includes, but is not limited to, a specific dollar amount payable to another party or parties or to the Court, actual costs of discovery, extra attorney's fees incurred, court costs, or other liquidated sum.

ii. "Non-monetary sanction" means a legal ruling contrary to the interest of a party and/or an attorney imposed by the Trial Judge for violation of the local rule and/or a case schedule and/or the Civil Rules. "Non-monetary sanction" includes, but is not limited to, dismissal with or without prejudice of the case or any claim or counterclaim, or any part of the case or claim, default judgment, exclusion of evidence, issues, or testimony, an order that certain issues or facts be taken as established for the balance of the case, an order striking pleadings or parts of pleadings, and a stay pending compliance with a court order.

D. Enforcement and Monitoring. The Trial Judge, upon motion of a party or sua sponte, may impose sanctions for failure to comply with the local rules and/or a case schedule and/or the Civil Rules. If the Trial Judge, finds that a party or attorney has failed to comply with the local rules and/or a case schedule and/or the Civil Rules without reasonable excuse or legal justification, the Trial Judge may impose sanctions proportional to the extent or frequency of the violation(s). The Trial Judge and bailiff will monitor cases on an ongoing basis to determine compliance with the case schedule and these local rules.

RULE 67 - BAIL FORFEITURE

67.01 Bail shall be adjudged forfeited upon the nonappearance by a defendant at any scheduled hearing before any judge or at any other time when ordered by said judge. Except as provided herein, appearance, surety, property, and cash bonds shall be subject to the same procedures.

A. Forfeiture of Bail; Hearing; Remittance Procedures.

1. In the case of appearance, property, and cash bond, the court may order the entire bond forfeited and shall notify the clerk to proceed to collect the unfunded bond that is due. If the court determines that the defendant's failure to appear was justified, or if good cause is shown to mitigate the forfeiture as provided in sections (A)(7) and (8) herein, the court may order a lesser amount to be forfeited.
2. In the case of surety bonds, if good cause is not shown at the forfeiture hearing, judgment shall be rendered against the surety for the face amount of the bond. Twenty percent (20%) of the amount is to be paid within fifteen (15) days from the date of judgment. If such twenty percent (20%) is not paid within fifteen (15) days of judgment, then execution shall be levied against the surety for one hundred percent (100%) of the amount of the bond.
3. Judgment entries referred to in this rule shall be prepared by the clerk's office, signed by the Court and served by regular mail upon both the defendant at his last known address and upon the surety and/or other persons responsible on the bond.
4. If the defendant is returned to the custody of the Court within three hundred sixty-five (365) days from the date of judgment, the Court may, upon application and applying the factors set forth in (A)(7) herein, remit all or any part of the amount paid by the surety or other persons responsible on the bond.
5. In the case of surety bonds, if the defendant has not been returned to the custody of the Court within three hundred sixty-five (365) days from the date of judgment, the remaining eighty percent (80%) of the amount of the bond

shall be paid into Court. The Court will not be required to, but will attempt to notify the surety of its duty to pay the balance of the bond.

6. If after the expiration of three hundred sixty five (365) days and payment of the above, the defendant is returned to the custody of the Court, the surety or parties responsible on the bond may, upon Application, have returned up to ninety percent (90%) of the bond paid.
7. Factors the Court shall consider in mitigating the forfeited bond are as follows:
 - a. The circumstances surrounding the subsequent reappearance of the defendant, including the timing and whether reappearance was voluntary;
 - b. The reasons for the defendant's failure to appear;
 - c. The inconvenience, expense, delay and any other prejudice to the Court and/or prosecution;
 - d. Whether the surety was instrumental in securing the appearance of the defendant;
 - e. The costs and inconvenience incurred by the County and Court in gaining custody of the accused and again preparing for trial.
 - f. Any circumstances that the Court determines should mitigate the obligation owed to the Court;
8. "Good Cause" as it is used in this rule includes the return of the defendant to the Sheriff and/or the Court on or before the date of the forfeiture hearing and the factors set forth in (A)(7)(a-f).
9. If the surety returns the defendant to the Sheriff before the show cause hearing, and if the Court is in receipt of an affidavit from the surety stating that the surety turned the defendant over to the Sheriff, the Prosecutor can request the Court to relieve the surety of its responsibility before the hearing date.

B. Custody in another jurisdiction.

1. If the defendant is arrested in another jurisdiction before the hearing date which leads to the forfeiture and continues to be incarcerated outside of Franklin County, judgment shall not be rendered if the surety and/or other

- persons responsible on the bond agrees in writing to pay for the defendant's return to the custody of this Court.
2. If the defendant is arrested in another jurisdiction after the hearing date which leads to the forfeiture, the surety or other person responsible on the bond may seek a remittitur as provided in this rule.
 3. If the defendant has not been returned to the custody of this Court within three hundred sixty-five (365) days from the date of judgment, but the defendant has been located in the custody of another jurisdiction prior to the expiration of three hundred sixty-five (365) days, the remaining eighty percent (80%) of the bond owed shall be held in abeyance if the surety agrees in writing to pay for the defendant's return to the custody of this Court. If the defendant is not returned to the Court within three (3) years, the eighty percent (80%) shall be due. If the defendant is or is not returned within the three (3) years, after payment of the amount due, the surety or responsible person may make an Application for a remittitur as provided in this rule.

C. Failure of Surety to Pay Obligation to Court.

1. If, at any time, judgment has been rendered and not paid by a surety within five (5) days of notice to the surety in accordance with this rule, the surety's general power to write bonds before this Court shall be revoked.
2. The Court shall notify the surety in writing, by regular mail, within five (5) business days of the revocation, after which the revocation becomes effective. Until payment is made in full, the surety will no longer be permitted to execute bonds before this Court.
3. If the surety makes full payment of the amount due plus interest at the rate of ten percent (10%) and demonstrates to the satisfaction of the Court that it was justified in not paying its obligation when due and the Court determines that the surety is safe and solvent, the surety may be reinstated and be permitted to execute bonds in this Court.

4. If, within one hundred eighty (180) days of its reinstatement, the surety defaults a second time, the Court shall permanently revoke the surety's permission to execute bonds.
5. In the event of permanent revocation, the surety may apply to the Court for reinstatement no sooner than one (1) year after the permanent revocation.
6. The Court reserves the right to regulate sureties, their contracts, agents, and procedures as the same shall affect the Franklin County Court of Common Pleas. If adverse action is taken against a surety, its contracts, agents or procedures, the surety has a right to request a timely hearing before the administrative judge to show cause why such action should be stayed or rescinded.

D. General Provisions

1. No oral hearing shall be held unless requested in writing and granted by the Trial Judge or in the case of an unassigned case, by the Administrative Judge. In a case where the forfeiture resulted from a failure to appear at Arraignment, the hearing shall take place before the Duty Judge assigned to the arraignment Court at the time of the failure to appear. If an oral hearing is held, the judge may request and/or permit witnesses to be called.
2. All Applications seeking a remittance or a release from a bond responsibility shall be made on a verified Application setting forth, in detail, the reason for the remittance. A copy of the Application must be filed with the Clerk in the case which gave rise to the Application. All Applications must be served upon the County Prosecutor. The Prosecutor may respond, in writing, to the Application. The Prosecutor shall represent the County at any hearing set on the Application.
3. The Clerk shall provide the Prosecutor with copies of the Application and any notices of hearings.
4. The Prosecutor is authorized to collect all bonds due under these rules by any method authorized under the Ohio Revised Code. The Prosecutor is also

authorized to contract with a collection agent or agents to collect the moneys owed.

5. Pursuant to Criminal Rule 46(H), the bond of surety shall continue until a verdict has been returned or a plea has been accepted. If the Court, in its discretion, continues the bond until sentencing or other disposition, the Clerk shall notify the surety as soon as practical of the continuance of the bond.

LOCAL RULE 90 - COURTHOUSE SECURITY.

90.01 COURT SECURITY GENERALLY.

[NO CHANGES]

90.02 RESPONSIBILITY OF THE SHERIFF.

The Franklin County Sheriff is primarily responsible for courthouse security within 345 South High Street, and adjacent grounds. Because common entry ways exist in many governmental buildings that are interconnected, the Sheriff shall coordinate overall security arrangements with the security service responsible for the Franklin County Municipal Court building and any other entry points to the courthouse complex.

90.03 ENHANCED SCREENING.

To assure maximum safety and security for all persons using the common pleas courthouse, extra security screening may be employed in connection with high profile trials or proceedings. In such situations, the Sheriff is authorized to require enhanced security procedures, including a requirement that those seeking to enter the vicinity of a courtroom sign-in using their legal name and address, after presenting a government-issued photo identity card. The Sheriff shall consult with the individual judge(s) in such situations to tailor security to the perceived needs of each case, and minimize inconvenience for members of the public seeking to observe public court proceedings.

90.04 AUTHORITY TO CLOSE, EVACUATE OR RESTRICT ACCESS.

1. If threats, overt misconduct, or extreme weather conditions are believed to present a genuine risk to the safety of those using the common pleas courthouse, the Sheriff shall promptly alert both the Executive Director and the Administrative Judge.

2. The Administrative Judge and, in his or her absence, the Executive Director in consultation with the Duty Judge, has full authority to close or evacuate the common pleas courthouse, restrict public access, or take other appropriate steps to respond to threats, overt misconduct, or extreme weather conditions.