

**RULES OF PRACTICE
OF
COURT OF COMMON PLEAS
ERIE COUNTY, OHIO**

EFFECTIVE: JULY 15, 1981

UPDATED: AUGUST 1, 2007

IN THE COURT OF COMMON PLEAS, ERIE COUNTY, OHIO

IN THE MATTER OF :
THE RULES OF PRACTICE :
OF THE ERIE COUNTY :
COMMON PLEAS COURT :

JUDGMENT ENTRY

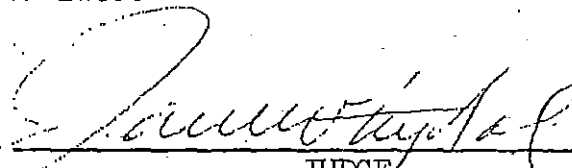
COMMON PLEAS COURT

1981 JUN 17 AM 10:26

FILED

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The attached Court Rules will become effective July 15, 1981. All existing Rules of Erie County Common Pleas Court are vacated as of that date.



JUDGE

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PLEADINGS AND OTHER PAPERS

1.01 Contents

All papers filed with the Clerk of Courts shall be of a suitable material, neatly and legibly printed, written in ink or typewritten. Documents consisting of more than a single sheet shall be fastened together in a secure and permanent manner. The caption of such papers shall contain the following:

- A) Docket Number
- B) Style of the cause
- C) Character of the contents (e.g., COMPLAINT, ANSWER, MOTION FOR SUMMARY JUDGMENT, MOTION TO DISMISS, etc.)
- D) Residence address of a party whose name appears in a pleading for the first time.
- E) Any hearing date and/or trial date that has been assigned, regardless of the nature of the pleading.
- F) The name of the judge handling the cause, after assigned.

1.02 Attachments

The following shall be filed with the complaint in all civil cases:

- A) A case designation form. (Appendix 1 - copies will be available in the Clerk's office until further notice.) Counsel will complete the top portion of the form where applicable.
- B) A pre-recorded videotape trial statement (Appendix 2).

The following shall be filed with the answer in all civil cases:

- A) A pre-recorded videotape trial statement (Appendix 2).

The Clerk is instructed not to accept a civil complaint unless the requirements of Rules 1.01 and 1.02, supra, are met.

1.03 Copies

Counsel shall provide the Clerk with copies of all pleadings requiring service by the Clerk.

Additional copies of all material papers or pleadings may be procured from the Clerk upon paying the proper fee.

1.04

Access to and Inspection of Files

The Clerk's office shall be answerable for all records and papers filed therein. Original papers shall not be taken or removed from the Clerk's office. Parties to a cause of action and their attorneys shall have access to, and the right to inspect, at all reasonable times, records and papers in said cause.

RULE 2

LEAVE TO PLEAD AND AMENDMENT OF PLEADINGS

2.01 General

A. Subject to the limitations of Rule 6 of the Ohio Rules of Civil Procedure, a reasonable extension(s) of time will be granted for the filing of pleadings provided the entry granting extension expressly provides that all parties consent and is signed by all parties or counsel. For good cause, the Court may grant extensions of time without consent of opposing counsel.

B. In no case after pleadings are amended shall the original pleading be withdrawn from the files or any part be obliterated unless leave be given by written order of the Court to substitute the amended for the original pleading; nor shall the amendment be made by interlineation except by written order of the Court.

C. When a pleading is not filed within the rule day provided by Ohio Rules of Civil Procedure or within any further extension of time granted by the Court, leave to file such pleading shall not be granted unless the pleading is submitted with a request for leave to file the pleading instanter.

2.02 Cases Assigned for Trial.

In all cases assigned for trial wherein a party is in default for an answer or reply, no affirmative defenses or new matter may be inserted in the answer or reply unless the same is filed within ten (10) days from the date of the assignment. If an answer is filed within the ten (10) day period containing new matter or affirmative defenses, a reply setting forth further new matters or affirmative defenses must be filed within ten (10) days of the filing of the answer. A reply filed after the ten (10) day period will be permitted to contain only a general denial.

RULE 3

ASSIGNMENT OF CASES TO BE PRERECORDED; OBJECTIONS TO

3.01

Cases will be assigned to be prerecorded on videotape pursuant to Civ. R. 40 and C.P. Sup. R. 12 (B); or upon request pursuant to Appendix 2. Such assigned cases will usually arise out of auto collisions, contracts, collections or other cases which in the Court's opinion are adaptable to the videotape medium.

3.02

If counsel objects after a case has been assigned to the videotape docket, such objections are to be specifically enumerated in writing and filed within 10 days after the assignment. Inexperience with the use of videotape as a medium for recording testimony will not be considered a valid objection.

(Use of Videotape - See Rule 18 infra.)

RULE 4

CIVIL MOTIONS

4.01 Memoranda and Oral Arguments

A memorandum citing the authorities relied upon must be filed with all civil motions, including motions for summary judgment raising questions of law or fact for determination. If oral argument is requested, such will be noted on the motion at the time of filing. Failure to make such request will be considered a waiver of oral argument. The Court, in its discretion, may grant or deny a request for oral argument.

Opposing counsel will file a memorandum contra or request oral argument within fourteen (14) days of the filing of the motion or it will be assumed that the motion is to be submitted on the moving party's memorandum only. A reply memorandum may be filed within seven (7) days of the filing of the memorandum contra.

4.02 Motions Requiring Immediate Attention of Court

When a motion requires the immediate attention of the Court, a copy shall be hand-delivered to the Judge's office or mailed directly to the Judge.

4.03 Procedure Subsequent to Filing Motion

Subsequent to the filing of any motion, all correspondence and communication relative to the case shall be directed to the Judge or Law Clerk.

RULE 5

APPEALS TO THE COMMON PLEAS COURT

All cases filed by way of appeal from administrative agencies, with the exception of Workers' Compensation cases, shall be governed by the following procedure.

5.01 Briefs

- A) Within fourteen (14) days after the filing of the record of proceedings with the Clerk of the Common Pleas Court, the appellant shall file assignments of error and a brief.
- B) Within fourteen (14) days after the appellant's brief has been filed, the appellee shall file its brief and assignments of error, if any.
- C) A reply brief may be filed within seven (7) days after the filing of the appellee's brief.

5.02 Oral Arguments

Upon expiration of the time for filing of the last brief as set forth in 5.01, the case will be considered submitted upon the briefs unless oral argument is requested in writing and granted by the Judge, or is required by law.

IN THE COMMON PLEAS COURT OF ERIE COUNTY, OHIO

IN THE MATTER OF

RULE 6.01 OF THE RULES OF
PRACTICE OF THE COURT OF
COMMON PLEAS,
ERIE COUNTY, OHIO

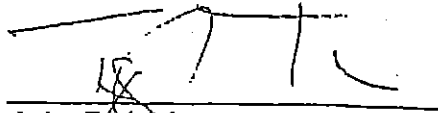
REAL ESTATE PROCEEDINGS

2005-175-040
JUDGMENT ENTRY

FILED
COMMON PLEAS COURT
ERIE COUNTY, OHIO
2005 APR 11 AM 10:29
BARBARA J. JENKINS
CLERK OF COURTS

The existing Rule 6.01(A)(5) of the Rules of the Court of Common Pleas, Erie County, Ohio, shall be vacated, effective immediately. All other provision contained in Rule 6.01 shall remain in full force and effect.

IT IS SO ORDERED.



Judge Tygh M. Tone

J487/1393
4-11-05

RULE 6

EQUITY

6.01

REAL ESTATE PROCEEDINGS

A. FORECLOSURE, QUIET TITLE AND PARTITION ACTIONS.

1. In any action wherein the title to real estate will be affected, such as actions for the marshalling and foreclosure of liens, actions to quiet title, actions for the partition of real estate, actions based upon use restrictions, etc., the plaintiff shall file with the Clerk at the time of filing the petition an abstract, policy of title insurance, guaranteed statement of title, or other adequate statement of title showing the record condition of the title to the premises concerned in the action and/or such other matters apparent from the county records as may be necessary or convenient for the intelligent and accurate determination of the issues in the action. Such indicia of title shall be prepared by a competent abstractor or attorney-at-law, and shall be extended to a date not more than thirty (30) days next preceding the commencement of the action.
2. If the plaintiff shall fail to comply with the foregoing requirement, any party may cause such indicia of title to be prepared and filed with the Clerk.
3. No orders, judgments or decrees affecting the title to such real estate shall be made and entered in the case until such indicia of title shall have been filed with the Clerk, and if the plaintiff and/or other party (ies) shall fail to supply such indicia of title within thirty (30) days after having been notified by the Court to do so, the cause may be dismissed as for want of prosecution, but without prejudice to a future action based upon the same subject matter.
4. If the action shall result in a change of ownership of the real estate concerned, or if the title to said real estate or part thereof shall be quieted, the abstractor or attorney who prepared such indicia of title shall, after the recording of the deed conveying such real estate, or after the entry of the order quieting title, extend such indicia of title to include such deed or order quieting title.

-
5. No order of sale shall be issued by the Clerk to the Sheriff unless there is filed with the Clerk an abstract, statement of title, et cetera, as set forth in Paragraph 1 of this Rule, extended to within ten (10) days of the issuance of the order of sale. Such abstract, statement of title, et cetera, will accompany the order of sale when it is issued to the Sheriff.

B. SHERIFF'S SALES

1. In every Sheriff's sale of real property the purchaser, as soon as his bid is accepted, shall be required to deposit in cash or by certified check payable to the Sheriff ten per cent (10%) of the amount of such accepted bid. The maximum amount of such deposit in any case shall be \$10,000.00. Where amount bid is \$3,000.00 or less, the minimum amount of such deposit shall be \$300.00. The unpaid balance of the purchase price shall be due and payable to the Sheriff within thirty (30) days from the date of sale. The purchaser shall be required to pay interest on said unpaid balance at eight per cent (8%) per annum from the date of sale to the date of payment of the balance unless the balance shall be made within eight (8) days from the date of sale. Any interest received shall be distributed by the Sheriff to the parties entitled to distribution of the proceeds of sale in the proper order of priority.
2. If the first lienholder is the successful bidder at sale, the required deposit will be waived on condition that all costs, taxes and assessments are paid.
3. Within seven days from the date of the sale the Sheriff shall make his return to the Court, whereupon the attorney for the plaintiff shall forthwith prepare a judgment entry confirming sale, ordering deed and distribution. Upon filing of such entry the Clerk shall notify the Sheriff to prepare a deed. Such deed shall be prepared in conformity with R.C. §2329.36 and shall be delivered to the purchaser upon payment of the full purchase price and interest, if any.
4. In the event a purchaser fails to pay the balance due on the purchase price within said thirty (30) days after the date of sale, he shall be in contempt of this court and the Sheriff shall forthwith cause a citation to issue commanding such defaulting purchaser to appear before the judge of this court and show cause why he should not be punished. Upon a finding of guilt or contempt, the Court shall proceed in accordance with R.C. §2327.04.
5. In each advertisement of sale the Sheriff shall cause to be included notice that the full purchase price shall be paid within thirty (30) days from the date of sale, otherwise the purchaser shall be adjudged to be in contempt of court; and unless paid within eight (8) days after sale shall bear interest at eight per cent (8%) until paid. The Sheriff shall also keep a copy of this entire rule conspicuously posted at the place where he conducts sales and shall call attention thereto before receiving bids.

6.02

Restraining Orders and Injunctions

All restraining orders, temporary injunctions and permanent injunctions must be submitted by counsel in judgment entry form. No orders will be issued by endorsement on the complaint or other pleadings.

RULE 7

COUNSEL

7.01 Appearances

It shall be the duty of the Clerk of Courts to enter on the appearance docket the name of the attorney filing a pleading on behalf of any party to an action.

Attorneys who are members of a firm or partnership representing parties shall, in addition to listing the firm or partnership name on all pleadings, list their own name separately, as trial counsel, together with address and phone number.

7.02 Withdrawals

In any action before this Court in which an attorney has entered an appearance, and, thereafter desires to withdraw, the attorney shall request the Court's approval of such withdrawal by motion. Counsel shall further secure a judgment entry containing the Court's order that their name be withdrawn as counsel therein, and that further activity in said action be continued for thirty days in order to give the applicable parties an opportunity to obtain new counsel. The attorney desiring to withdraw shall further deliver a copy of said judgment entry to the parties whom he represented by certified mail sent to their last known address.

(For Criminal cases - See Rule 17.03, infra.)

RULE 8

DEFAULT

Judgment by default shall be entered only as provided in Civ. R. 55. A judgment entry shall accompany the application for default. If it is necessary to take an accounting or determine the amount of damages, a hearing date should be obtained from the Assignment Commissioner and noted on entry of default.

RULE 9

JUDGMENT ENTRIES

9.01 Counsel for the party in whose favor an order, decree or judgment is rendered shall prepare a judgment entry expressive of such order, decree or judgment and submit such entry to the counsel of the adverse party within ten (10) days after receipt of notice by counsel of such order, decree or judgment, unless further time for the preparation of said entry and submission of same to the adverse party be granted by the Court. Counsel for such adverse party shall approve or reject the same within three (3) days after its receipt.

9.02 If within the time limits herein prescribed counsel are unable to agree upon a satisfactory entry, such fact shall be made known to the Court immediately, and each counsel shall submit to the Court a proposed entry. The Court may schedule a hearing thereon or prepare its' own entry forthwith.

9.03 Upon the approval of the entry within the time limits hereinbefore prescribed, counsel for the prevailing party will cause such approved entry to be delivered to the Court. Said entry shall forthwith be entered in the Clerk's Journal upon the approval and signature of the Court.

9.04 In the event of non-compliance with this rule, the Court may make such order and further orders in the case as may appear proper.

— 30 days
to file entry
after verdict

IN THE COMMON PLEAS COURT OF ERIE COUNTY, OHIO

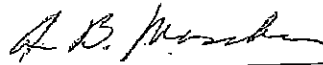
IN THE MATTER OF

JUDGMENT ENTRY

RULE 10 OF THE
RULES OF PRACTICE
OF THE COURT OF
COMMON PLEAS,
ERIE COUNTY, OHIO

The attached Rule shall become Rule 10 of the Rules of Practice of the Court
of Common Pleas, Erie County, Ohio, effective immediately. IT IS SO ORDERED.

The existing Rule 10 is vacated. IT IS SO ORDERED.



Ann B. Maschari, Judge

FILED
COMMON PLEAS COURT
ERIE COUNTY, OHIO
2002 APR 5 PM 5:19
BARBARA J. JOHNSON
CLERK OF COURTS

RULE

DEPOSIT FOR COSTS

Subject to the provisions of the OHIO REVISED CODE none of the following actions shall be accepted By the Clerk for Filing unless there is deposited a sum to secure the payment of costs which may accrue in such action or proceeding. Such deposit shall be in accordance with the following schedule:

Administrative Appeal to Common Pleas Court.....	250.00
Appeal to Court of Appeals and cross-appeal.....	150.00
Certificates of Judgment, releasing.....	5.00
Issuing.....	6.00
Filing.....	31.00
Certification fee, per document.....	2.00
Civil Actions.....	250.00
Cognovit.....	150.00
Contempt.....	50.00
Copies, not certified, per page.....	.25
Cross-complaint, counterclaim, third party complaint or intervener's complaint... ..	50.00
Court of Appeals Original Action (habeas corpus, mandamus, writ of prohibition....	100.00
Debtor's Exam.....	100.00
Execution*	100.00
Exemplified copies, 1 st page.....	6.00
Each additional page.....	2.00
Foreclosure (eff. 8-01-07).....	650.00
Foreign Judgment.....	200.00
Garnishment (plus \$1.00 payable to garnishee).....	100.00
Jury view, deposit payable upon request of transportation.....	100.00
Medical Malpractice.....	300.00

CONTINUED ON NEXT PAGE.....

RULE

Motion to Expunge record.....	100.00
Order of Sale(when praecipe filed)including each appraiser's fee of \$75.00 for Residential property. Each appraiser's fee not to exceed \$ 350.00 for commercial Property as determined by Erie County Sheriff.....	800.00
Partial release of judgment lien, per page.....	3.00
Proceedings of Aid of Execution.....	100.00
Service by Publication.....	500.00
Subpoena (in county, per witness).....	50.00
Foreign county-add \$.10 per mile round trip	
Transfer Case from County or Municipal Court.....	250.00
Writ of Possession (praecipe required).....	100.00

*******Complete Instructions for execution required; exact location, serial number, detailed description and copy of title for motor vehicle or watercraft needed. WRITTEN instructions for sheriff MUST also be provided.**

Effective: 3-22-13

10.02

A Poverty Affidavit filed in lieu of a cash deposit must be executed in the presence of the Clerk of Courts or deputy clerk, and must state the reasons for the inability to prepay costs and is subject to court review at any stage of the proceedings. (Note: A poverty affidavit executed at the filing of an action does not relieve the party from the obligation to pay costs, should the costs be ultimately taxed against him.)

10.03

In the event that the costs in any of the foregoing actions are ultimately taxed against a party other than the party making such deposit, the Clerk, upon payment of the costs in such action, shall return such deposit to the party originally making it. In the event that costs remain unpaid, costs will be applied from the deposit and the balance returned to the party. Such action does not bar the eventual collection from the party against whom such costs are taxed.

RULE 11

BAIL OR SURETY

No attorney or officer of this court shall be received as bail or surety in any action or matter filed or pending in this court.

RULE 12

RECORDS

The Clerk of Courts shall make a record in all cases involving title to real estate. No record shall be required in any other case without a judgment entry signed by the Court ordering same.

RULE 13

TRANSCRIPTS OF PRE-TRIAL AND TRIAL TESTIMONY

13.01 In the event that counsel cannot agree on the transcribing of audiotape depositions filed with the Court prior to trial, the Court shall make the appropriate order and allocate the costs.

13.02 Anyone requesting a transcript of testimony shall deposit with the Court Reporter as security for costs such amount as the Court Reporter requires.

RULE 14

RELEASE AND DISPOSITION OF FILED EXHIBITS AND RECORDED TESTIMONY

A. Pending Cases

Exhibits and recorded testimony filed with the Clerk may be obtained by counsel upon the filing of a judgment entry signed by the Judge or a consent by all attorneys involved.

B. Terminated Cases

Within thirty (30) days of the filing of a final judgment entry, exhibits and recorded testimony may be obtained upon the filing of a judgment entry releasing same; otherwise said exhibits and tapes shall be destroyed by order of the Court.

RULE 15

PRE-TRIAL PROCEDURE

15.01 Exchange of Information Between/Among Counsel

A. At least three (3) weeks prior to trial counsel shall exchange the following:

A complete list of all medical, hospital, and other items of fixed damages which their client expects to offer at the time of trial. Failure to comply with this order will result in those items of damages not being admitted into evidence at trial.

1. Within one (1) week of service of such list opposing counsel must notify counsel if the reasonableness of the amount of such documents is disputed, otherwise reasonableness is admitted.
2. A bad faith refusal to admit reasonableness may result in monetary sanctions being assessed against counsel.

B. No medical or other expert witness will be permitted to testify either by deposition or at trial unless two (2) weeks prior to the expert's testimony a written or audiotape report relative to the expert's prospective testimony is served to opposing counsel. For purposes of this Rule an expert witness is one who has the knowledge, skill, experience, and training, adequate to make his judgment an intelligent one helpful to the

jury. An expert witness is to be distinguished from a specially qualified witness who merely has had special opportunities for observation and would be testifying as to facts based thereon.

C. At least one (1) week prior to trial, counsel shall exchange proposed exhibits. Failure to do so will result in their inadmissibility.

Except as to A(2), this Rule is self-executing and requires no further order of this Court. Counsel, by written stipulation, may request the Court to waive this Rule, or any part thereof.

15.02

Expert Testimony

No civil action that has been assigned a trial date will be removed from the assignment because of the inability of a medical or other expert witness to be present to testify. After a trial has commenced, reasonable effort will be made to accommodate the medical or other expert witness as to his appearance, but no unreasonable delays during trial shall occur for this reason. If videotape depositions are to be used during the trial, counsel's attention is directed to 18.01 (H), infra.

(Pre-trial Exchange of Expert Witnesses' Reports -
See Rule 15.01 (B), supra.)

15.03

Jury Questionnaires

It is the duty of counsel prior to trial to procure a set of questionnaires, which have been completed by prospective jurors. Such may be obtained from the law librarian or bailiff one week before trial.

(Use of Jury Questionnaires at Trial -
See Rule 16.01, infra.)

15.04

Out of State Witnesses

The Court will summon out of state witnesses in compliance with R.C. §§2939.25-2939.29 only upon written application by counsel, to the Court, stating the materiality and necessity of the witness. Such application shall be filed at least ten (10) days prior to trial, or the summons will not be issued.

15.05

Labeling of Exhibits

All exhibits intended to be used during trial shall be labeled prior to trial. Failure to do so will result in their inadmissibility. Plaintiff's exhibits shall be numbered and defendant's exhibits shall be lettered.

15.06

Jury Views

In any case where a jury view is requested and transportation is required, the party making the request must deposit at least seventy-five dollars (\$75.00) with the Clerk of Courts. This deposit will be applied by the Clerk to the transportation costs and the amount applied will be assessed as costs in the action.

RULE 16

TRIAL PROCEDURE

16.01 Voir Dire Examination

Questions answered on jury questionnaires may not be repeated by counsel on voir dire, unless the written answer necessitates a question for clarification purposes.

If there are any unanswered questions on a questionnaire, and counsel desire an answer to such question, he shall ask the Bailiff to secure the written answer from the prospective juror before the start of the trial.

(Pre-trial Availability of Jury Questionnaires -
See Rule 15.03, supra.)

When questioning jurors or witnesses or addressing the jury during any trial or hearing, counsel shall use the podium and approach no nearer to the witness or juror than the podium. If counsel is questioning concerning an exhibit this rule is not applicable.

RULE 17

CRIMINAL CASES

For purposes of this rule:

a "prisoner" is a person confined to the county jail;

a "defendant" is any person under arrest or indicted and released on bond or recognizance.

17.01 Court Appearances

A. Defendants on bond scheduled for court appearances, other than for sentencing, shall report directly to the third floor of the courthouse.

B. Defendants on bond scheduled to attend a hearing for sentencing will report to the Erie County Sheriff's office twenty (20) minutes prior to the scheduled hearing. Upon arrival at the Sheriff's office, defendants will be searched, and thereafter transported to the courthouse and remain in the court's detention room until their court appearance. A defendant who is sentenced or ordered to be held at the county jail will then be handcuffed in the manner as specified in (C) below, and taken to the jail.

C. Prisoners leaving jail confinement will be cuffed inside the jail. No prisoner shall leave the jail confines without being secured by the transporting officer. Prisoners shall be taken immediately to the courthouse detention room and remain there until their court appearance. The transporting officer shall not allow the public to ride the courthouse elevator with prisoners.

1. Prisoners being taken to and from court will be handcuffed in the following manner:

a. Cuffed with hands behind the back.

b. Security belts and leg shackles will be used for prisoners who are considered a security risk. Security belts and restraints shall remain on the prisoner until he/she enters the courtroom. The Judge may order the prisoners to remain in restraints.

c. Prisoners will be returned to the jail in the same manner as described above unless ordered released from detention by the court. Prisoners will be handcuffed inside the courtroom after a sentence has been imposed.

D. Once a prisoner or defendant awaiting sentencing is taken to the courthouse detention room, the following will apply:

- 1) visits with friends or relatives will not be allowed unless authorized by the judge;
- 2) conferences with attorneys will be held in the detention room or other designated place;
- 3) a thorough search will be conducted of the person if out of sight of the custodial officer for any period of time.

17.02 Defendants Applying for or Continued on Bond

Defendants about to be released on bond or continued on bond before or after indictment, must check both with the Clerk of Courts and the Adult Probation Department to insure that their bonds are in order and to insure that there is sufficient background and identifying data made available to effect their location should their presence be required for court appearances. All persons on bond shall maintain contact with the Adult Probation Department on the dates and times specified by the Adult Probation Department.

17.03 Attorney of record - discharge or resignation

An attorney appearing in an arraignment and entering a plea on behalf of a defendant, will serve as defendant's attorney of record in this Court until:

- 1) defendant's case is dismissed; or
- 2) defendant's period of probation or shock probation is terminated; or
- 3) defendant is permanently incarcerated in a State penal institution.

The attorney will only be relieved of the above obligations to represent defendant after another attorney is officially assigned by the Court or privately retained by the defendant.

(For Civil Cases - See Rule 7.02)

17.04 Motions

All motions to suppress shall bear the signature of the defendant.

All pre-trial motions shall be filed within three (3) days after arraignment for those defendants who are represented by counsel at the time of bind over to the grand jury. All other defendants shall file such motions within ten (10) days after arraignment. A brief statement of the issues involved and a memorandum shall accompany the motion.

For good cause, and with written consent of the Court, reasonable extensions will be granted.

When a motion requires the immediate attention of the Court, a copy shall be hand-delivered to the Judge's office or mailed directly to the Judge.

17.05 Applications for Probation

No defendant who has pleaded guilty or has been found guilty shall be placed on probation until his case has been referred to and reported on by the Adult Probation Department. (R.C. § 2951.03). All defendants making application for probation will be expected to be familiar with the Conditions of Probation of the Erie County Common Pleas Court. - Journal Vol. 177, Pg. 697 filed 7/18/80 - (Appendix 3) before sentencing date.

17.06 Applications for Diversion

A) Applications for diversion shall be made with the Adult Probation Department through the Prosecutor's Office. Such applications may be made before or after indictment, and diversions may be granted through a "no contest" plea to a bill of information or an indictment. (See Journal Vol. 166, Pg. 197 and Amendments, Journal Vol. 186.)

B) Applications for those defendants who are represented by counsel at the time of bind over to the grand jury shall be made within three (3) days after arraignment. All other defendants shall make application within ten (10) days after arraignment.

C) Filing of a motion to suppress or initiating discovery proceedings subsequent to making application for diversion, will result in the automatic revocation of such application for diversion.

D) No application for diversion will be entertained by the Court if made after the defendant has filed a motion to suppress or initiated any discovery proceedings.

E) Unless written consent of the Court is obtained, the above requirements shall be strictly complied with.

F) The general "Conditions of Diversion" are on file in the Erie County Common Pleas Court - Journal Vol. 177, Page 852 filed 7/25/80. (Appendix 4).

17.07 Mental Examinations

In criminal cases where a psychological and/or psychiatric examination or evaluation is requested by the defendant or the State, counsel will prepare a written request stating specifically the purposes of the examination, i.e.,

- A) Competency to stand trial, Section 2945.37
- B) Insanity at the time of act, Section 2945.40
- C) Drug dependence, Sections 2951.041 and 2951.04
- D) Mitigating Circumstances, Section 2947.06

and file same with the Adult Probation Department for referral to the appropriate agency.

A request for a mental examination for any of the above reasons shall be made within three (3) days after arraignment for those defendants who are represented by counsel at the time of bind over to the grand jury. All other defendants shall make such request within ten (10) days after arraignment.

Extensions will only be granted with the written consent of the Court.

FILED
92 APR 29 PM 3:47
COMMON PLEAS COURT
ERIE COUNTY, OHIO

IN THE COURT OF COMMON PLEAS, ERIE COUNTY, OHIO

*

IN THE MATTER OF

RULE 17.08 OF THE
RULES OF PRACTICE OF THE
COURT OF COMMON PLEAS,
ERIE COUNTY, OHIO.

J U D G M E N T

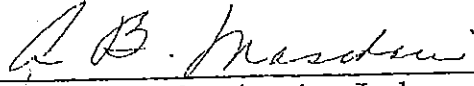
E N T R Y

*

-***-

Effective May 1, 1992, the attached Rule shall become Rule 17.08 of the Rules of Practice of the Court of Common Pleas, Erie County, Ohio.

The existing Rule 17.08 shall be vacated as of that date.


Ann B. Maschari, Judge

1203/1410 A

Assigned counsel for indigent defendants shall receive compensation for professional services in accordance with the following fee schedule set by the Erie County Commissioners by Resolution No. 81- , adopted pursuant to §120.33(c) and §2941.51.

- 1) All counsel eligible for payment under this schedule shall be appointed by a Judge of the Erie County Court of Common Pleas and said appointment shall be entered by signed journal entry recorded on the Court docket.
- 2) Reimbursement (Payment) for assigned counsel services shall be on the basis of Thirty (\$30.00) Dollars per hour for time in-court, and Twenty (\$20.00) Dollars per hour for time out-of-court, up to the following maximum amounts for the following offense classifications and other proceedings:

Aggravated Murder (w/o specs)	\$4,000 (1 attorney)
	\$6,000 (2 attorneys)
Murder	\$2,750
Felonies (degrees 1-4)	\$1,000
Misdemeanors (degrees 1-4)	\$ 400
Postconviction Proceedings:	
With Evidentiary Hearing	\$ 750
Without Hearing	\$ 300
Habeas Corpus, Parole, Probation and all other proceedings not elsewhere classified	\$ 300

- 3) Reimbursement (Payment) for the entrance of pleas in all cases will be made on the basis of Thirty (\$30.00) Dollars per hour in-court and Twenty (\$20.00) Dollars out-of-court, up to the prescribed maximums for each offense classification.

- 4) Reimbursement (Payment) for reasonable expenses associated with providing representation shall be made when submitted on the attorney's fee certificate and approved by the Court. Expenses include, but are not limited to, such items as expert witness fees, polygraph examination costs, long-distance phone calls, photocopying, certain travel expenses, and other necessary items as approved in the discretion of the Court.
- 5) Additional reimbursement (payment) shall be made for extra-ordinary cases when approved by the Court. Such reimbursement (payment) shall be made at the rate of Thirty (\$30.00) Dollars per hour in-court and Twenty (\$20.00) Dollars per hour out-of-court, up to Two Hundred (\$200.00) Dollars per day whenever a trial continues beyond the following periods:

Aggravated Murder	15 days
Murder	10 days
Felonies	5 days

The attorney's certificate when submitted shall include a separate written statement noting that the Court had allowed extraordinary fees, with the specific amount of the fee and the time involved indicated.

- 6) Compensation for services and expenses on appeal shall be as set by the Court of Appeals.

At such times as a criminal trial is about to commence or is in progress on the third floor of the courthouse, the trial judge may order the enforcement of the following rules:

- A. There will be no loitering in or about the corridor or offices on the third floor.
- B. Persons conducting business in the office of the Clerk of Courts shall do so in as expeditious a manner as possible and thereafter leave the floor. All other unauthorized persons will be asked to leave the floor.
- C. Witnesses, whether under subpoena or not, shall register with the office of the Clerk of Courts immediately upon arrival. They will then be told where they may await their call to enter the courtroom.
- D. These rules apply to all assistants, aides or staff personnel of any attorney, and police officers involved in a trial in progress on the third floor.
- E. At the discretion of the trial judge, all spectators will be searched prior to entering a courtroom by a deputy sheriff or matron.
- F. During any recesses in the trial, spectators leaving the courtroom will leave the third floor immediately and if they desire to return to the courtroom, they will be subject to a search as set forth in paragraph E.
- G. The use of the restrooms on the third floor will be limited to persons involved in the trial and regular employees of the Erie County Courthouse only.

17.10

Three Judge Panel

In any criminal case in which a three judge panel has been requested and granted, the presiding judge or another Common Pleas judge designated by him to be the presiding judge in the case, shall make all rulings on the admissibility, competency, and relevancy of evidence and exhibits. The presiding judge may request the assistance of and consult with the other members of the panel prior to making a ruling.

(For Videotape in Civil Cases, see Rule 18 infra)

17.11.1 Requests for Videotape

An application requesting the prerecording of any or all of the testimony in a criminal trial, must be filed within twenty days after arraignment. If the application is granted the presiding judge shall set the dates for the prerecording of the testimony. Except for good cause, the taping shall proceed from day to day and in the same order as set forth in O.R.C. § 2945.10 (C) and (D).

17.11.2 Prerecording Procedure

A. Testimony shall be prerecorded subject to the provisions of Superintendence Rule 10 and 12, Erie County Common Pleas Court Rule 18.01 and this Rule.

B. Testimony shall be prerecorded in a courtroom unless the Court, for good cause, permits the prerecording of the testimony at some other reasonable location.

C. No one other than the witnesses, the witnesses' attorney, the prosecutor, defense counsel and the operator of the video and audio equipment shall be permitted in the room where testimony is being prerecorded, except by stipulation of counsel and approval of the presiding judge.

D. Upon the request of the State or the defendant, and for good cause shown, the trial judge shall be present or readily available at the prerecording of the trial testimony of any witness including the defendant. The judge shall not appear or be heard on the taped testimony that is ultimately presented to the jury or trial judge or judges.

E. The defendant shall be present during the prerecording of all testimony. The defendant shall be shown on the tape at the conclusion of testimony of each witness and simultaneously a stipulation shall be recorded indicating that he was present during the entire testimony of the witness. The camera shall not otherwise focus on the defendant except at the request of his counsel or when the defendant testifies.

17.11.3 Filing, Copies, and Release of Videotapes

Upon the completion of the prerecording of each witnesses' testimony the original videotapes and audiotapes shall be filed with the Clerk of Courts.

A copy of the videotape testimony shall be made and filed with the Clerk of Courts as soon as possible after the testimony is originally recorded.

Original videotapes and audiotapes, and copies thereof, together with any transcripts or exhibits shall not be released by anyone including the parties or their attorneys except upon the express written consent of the presiding judge.

In any criminal case in which a request has been granted to have any or all of the testimony prerecorded on videotape, the presiding judge or another Common Pleas judge designated by him to be the presiding judge in the case, shall edit the testimony pursuant to Common Pleas Superintendence Rule 12. In the event that a three judge panel is requested and granted the presiding judge shall edit the testimony. The presiding judge may request the assistance of and consult with the other members of the panel prior to or during the editing process.

17.11.5

Motions to Suppress

If a motion to suppress is filed as a result of the introduction of evidence or testimony of which the defendant is first made aware during the videotaping process, then the defendant shall be present when the judge reviews the videotaped testimony to make a ruling on the motion, unless the defendant was present when the testimony was originally recorded.

17.11.6

Videotape Costs

Hourly rate or contract costs for prerecording testimony shall be approved by the presiding judge prior to the recording of any testimony. Approved costs shall be paid by the County.

RULE 18

VIDEOTAPE

18.01 Use of Videotape

A. Civ. R. 40 and Sup. R. 10 and 12, shall govern the recording of testimony by videotape. The Court has available equipment to play-back testimony recorded in either of the formats provided in Sup. R. 12(C)(1)(A) and (B). At the time of recording it will be the responsibility of counsel to instruct the Notary Public before whom the testimony is taken to note by the use of a date-time generator device connected with the tape the point on the videotape where objections are made. The Notary will then number the objections consecutively and attach this record to the certification when filed with the Clerk.

B. Objections must be made only at the conclusion of the question and answer. Counsel may state the basis for the objections and read citations into the record at this time. Any objections made prior to the completion of an answer may in the Court's discretion be considered overruled.

C. Stipulations and waivers shall be voiced on the tape itself or be made in writing and filed with the tape.

D. When cases are assigned for trial pursuant to Civ. R. 40 and Sup. R. 12 (B), separate dates will be assigned for the filing of plaintiff's and defendant's testimony. Failure of plaintiff to file said testimony on or before said date will cause the case to be dismissed for want of prosecution; failure of defendant to file his testimony on or before said date will result in a default judgment or the limiting of defendant to the testimony so filed.

E. The Court will review all objections at its convenience and without presence of counsel unless notice is filed with the Court within forty-eight (48) hours of filing of the testimony with the Clerk that counsel wishes to comply with the following:

1. When a proponent of testimony files a videotape with the Clerk, he shall also file in writing the numbered objections upon which he wishes a ruling by the Court, together with a brief statement of the basis for such objections. A copy of such

objections and a statement of reasons therefor shall be furnished opposing counsel within three days of the filing of such videotape-testimony. Within ten days of the receipt of notice by the Clerk that videotape testimony has been filed by the proponent of such testimony, opposing counsel shall file in writing the numbered objections upon which he wishes a ruling by the Court, together with a brief statement of the basis for such objections. A copy of such objections and statement of reasons therefor shall be furnished to counsel for the proponent of such testimony at the time of filing. The Court, on its motion, may require compliance with E(1).

2. Within ten days of receipt from opposing counsel of objections filed with the Court, counsel may file with the Court a brief statement setting forth any reasons why he believes such objections should be overruled.

F. A statement shall be attached to the cover of the videotape when filed, indicating the name of the case, docket number, name of witness and length of testimony.

G. After reviewing the objections, the Court in its discretion may order a trial tape prepared or the original tape shown to the jury under proper instructions. Counsel are admonished that frivolous, unfounded or unnecessary objections complicate the editing process and detract from the orderly and decorous presentation of testimony by videotape. Where the Court in its discretion finds that the number of objections which it would be required to overrule as a matter of law are too numerous to permit expeditious editing, it may order the original tape or a partially edited trial tape shown to the jury with instructions that objections appearing in the tape are overruled and are to be ignored.

H. No videotape deposition or trial testimony shall be filed less than seventy-two (72) hours prior to the date of trial, unless express permission is granted by the Court prior to the taking of the deposition or trial testimony. Any videotape depositions or trial testimony filed in violation of this rule will not be edited or presented to the jury.

In all cases assigned by the Court to be prerecorded on videotape pursuant to the provisions of Civ. R. 40, C.P. Sup. R. 12(B) and Erie County Common Pleas Court Rule 3, the costs of recording such testimony, exclusive of the cost of tape material, itself, shall be borne as follows:

1. The cost of medical or other expert testimony shall be taxed as costs in the case.
2. The cost of recording other testimony shall be borne by the proponent up to a maximum of \$150.00.
3. Costs in excess of \$150.00 incurred by any party shall be costs of the action and allocated between or among the parties in the discretion of the Court.
4. Such costs, otherwise, shall be treated in accordance with Sup. R. 12 (D) (1).
5. Statements of the recording charges of all testimony shall be filed by counsel prior to the disposition of the case by trial or otherwise.

In all cases where videotape testimony has been filed and the case is subsequently settled or dismissed the clerk will not assess costs for the videotape testimony unless the court so orders by appropriate judgment entry.

The aforementioned breakdown in costs is not to be affected by any method of cost calculation of a videotape studio.

RULE 19

BROADCASTING AND PHOTOGRAPHING COURT PROCEEDINGS

The broadcasting and photographing of court proceedings shall be governed by C.P. Sup. R. 11, subject to the adaptability to courtroom layout and type of proceedings.

RULE 20

JURY DRAWINGS

Computerized jury drawings may be conducted in accordance with R.C. §2313.21 and pursuant to appropriate judgment entries.

RULE 21

MEDICAL MALPRACTICE ARBITRATION

21.01 Cases for Arbitration

A. Upon filing of a medical malpractice case as defined in Section 2305.11 (D) (3) O.R.C. in the Court of Common Pleas, said claim shall be assigned by the assignment clerk and the assigned judge shall be immediately notified by the office of the Clerk of Courts of the filing of said action.

B. All pretrial matters relative to motions, pleadings, discovery, etc., and all matters subsequent to the arbitration proceeding shall be determined by the presiding judge.

C. Before referral is made to a medical malpractice panel, a pretrial conference shall be held, unless waived in writing by the parties with the consent of the Court. Said pretrial conference is to be held within 90 days from the date of filing of the action.

D. All times provided herein shall be computed from the date the entry is journalized in the office of the Clerk of Courts, except as otherwise specifically provided herein.

21.02 Selection of Arbitrator and Manner of Appointment

A. Pursuant to the provisions of Section 2711.21, the three members of the panel shall be appointed as follows:

1. The Court shall provide, at the pretrial conference, a list of a minimum of three (3) potential chairmen. Each party shall rate the potential chairmen in order of priority. These nominations must be forwarded to the assigned judge within ten (10) days after the date of the pretrial conference. The final selection of the panel chairman, based on the returns of the parties in interest, shall be made by the assigned judge.
2. The names of the two members of the panel to be appointed by the plaintiff and defendant, respectively, shall be forwarded to the Arbitration Commissioner within ten (10) days from the date of the pretrial conference.

B. If there is a failure of one or more parties to appoint one or more arbitrators as in (2) above, the Court shall, upon motion, appoint an arbitrator or arbitrators for the party or parties failing to so comply. Such appointment shall be made by the Court within five (5) days of the filing of said motion.

C. The Court shall maintain a list of medical malpractice arbitration panel chairmen consisting of attorneys authorized to practice law in Ohio and who have been approved by the Court after consent to serve.

D. Exceptions to an arbitrator shall be raised by motion filed within five (5) days of the mailing of notice of assignment and shall be heard by the assigned judge.

E. No party appointed as an arbitrator shall have any interest in the case being heard.

21.03 Assignment of Cases

No disclosure shall be made to the arbitrators prior to the filing of the report and award referred to in Section 21.14 of this rule infra of any offers of settlement made by any party. Prior to the delivery of the Court file to the chairman of the board of arbitrators, the presiding judge shall remove from the file and retain all papers or notations referring to demands or offers for settlement. Such file shall be forwarded to the chairman at the time of the assignment of the case.

21.04 Discovery

The assignment of a case to an arbitration board shall not limit the right of the parties to continue discovery pursuant to the Rules of Civil Procedure unless limit by court order resulting from pretrial.

21.05 Hearings; When and Where Held; Notice

A. Hearings shall be held at a place scheduled by the presiding judge. Unless counsel for all parties and the entire board agree otherwise, the place shall be the Erie County Court House. A hearing shall be scheduled normally not more than forty-five (45) days after the appointment of the board of arbitration and the court assignment clerk shall notify the arbitrators and the parties or their counsel in writing at least fifteen (15) days before the hearing of the time and place of the hearing. The forty-five (45) day period may be extended by the presiding judge upon written request. No hearing shall be fixed for Saturdays, Sundays, legal holidays or evenings, except upon agreement by counsel for all parties and the arbitrators.

B. Since sufficient time is available to the parties prior to the hearing date to settle or compromise a dispute, once a hearing date is set, the hearing shall proceed forthwith at the scheduled time. There shall be no communications by counsel or the parties with the arbitrators concerning the merits of the controversy prior to the commencement of the hearing.

21.06 Continuance Fee

Every request for a continuance of an arbitration hearing date shall be accompanied by an advance deposit of \$75.00 (Seventy-five dollars). Upon the granting of a continuance, the \$75.00 advance deposit shall be paid into the Erie County General Fund to partially offset the administrative costs of rescheduling the arbitration hearing. In the event that a party is unable to proceed when an arbitration hearing has been scheduled, and said hearing date as agreed upon by all parties, the presiding judge may mark the case continued and assess the \$75.00 continuance fee against such party.

21.07 Oath of Arbitrator

When the whole number of the arbitrators shall be assembled, they shall be sworn or affirmed justly and equitably to try all matters properly at issue submitted to them, which oath or affirmation may be administered to them by any person having authority to administer oaths.

21.08 Default of a Party

The arbitration may proceed in the absence of any party who, after due notice, fails to be present or fails to obtain an adjournment. The panel may proceed with the hearing in the absence of either party. Furthermore, the panel may require the other party to submit evidence for the making of an award. The

panel may recommend dismissal for want of prosecution in the event of default or absence of the plaintiffs.

21.09 Conduct of Hearing; General Powers

A. The three members of the panel shall be the judges of the relevancy and materiality of the evidence offered and conformity to legal rules of evidence shall not be necessary. All evidence shall be taken in the presence of the arbitrators, of all the parties, except where any of the parties is absent, in default, or any of the parties have waived the right to be present. In addition to oral testimony, the panel may receive the evidence of witnesses by affidavit, deposition, videotape deposition, interrogatories, or written report and shall give it such weight as the panel deems is justified after consideration of any objections which may be made to such evidence.

B. Counsel shall, upon request and whenever possible, produce a party or witness at the hearing without the necessity of a subpoena.

21.10 Specific Powers

The panel shall have the general powers of a court including, but not limited to, the following:

A. Subpoenas: To cause the issuance of subpoenas to witnesses to appear before the board and request the issuance of an attachment according to the practice of the courts for failure to comply therewith. Issuance of subpoenas will be done in the same manner as is used in other types of cases.

B. Production of Documents: To compel the production of all books, papers and documents which are deemed material to the case.

C. Administering Oaths; Admissibility of Evidence: To administer oaths or affirmations to witnesses, to determine the admissibility of evidence, to permit testimony to be offered by depositions and to decide the law and the facts of the case submitted the panel.

21.11 Supervisory Powers of the Court

The presiding judge or in his absence any judge of the Court of Common Pleas shall have full supervisory powers with regard to any questions that arise in all arbitration proceedings and in application of these rules.

21.12. Witness Fees

Witness fees shall be in the same amount as now or hereafter are provided for witnesses in trials in the Common Pleas Court of Erie County, Ohio, which shall be taxed as costs.

21.13 Transcript of Testimony

The Court shall provide, at the request of any party, an official reporter for each medical malpractice arbitration hearing. The cost shall be assessed pursuant to Section 2301.21 O.R.C.

21.14 Report and Award

Within thirty (30) days after the hearing, the chairman of the panel shall file a written report and award with the presiding judge and the Clerk of Courts and on the same day shall mail or otherwise forward copies thereof to all parties or their counsel. In the event that all three members do not agree on the finding and award, the dissenting member shall submit a written dissenting opinion to be filed with the majority report.

21.15 Legal Effect of Report and Award; Entry of Judgment

The report and award, unless rejected pursuant to law, shall be final. If no rejection is made within the manner specified by statute, the Court shall enter judgment in accordance therewith. After entry of such judgment, execution process may be issued as in the case of other judgments.

Subsequent to the time for rejection, the responsibility for the preparation of judgment entry and submission to the assigning judge rests with prevailing party or parties.

21.16 Compensation of Arbitrators

A. Each member of a panel who has signed an award or files a minority report, unless he has waived in writing his right to compensation prior to the hearing, shall receive as compensation for his services in each case, a fee of One Hundred Fifty Dollars (\$150.00) for the first day plus Seventy-five Dollars (\$75.00) for each fractional one-half ($\frac{1}{2}$) day thereafter. The Court, may approve the payment of fees in those cases where an award or a report has not been signed if the arbitrators rendered actual service in the case. Such compensation shall be based upon the extent and duration of actual service rendered. 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 the compensation of arbitrators is concerned.

This Rule shall remain in effect until revoked, suspended, or modified by the Judges of the Erie County Common Pleas Court, effective August 1, 1982.

The members of the Board shall not be entitled to receive their fees until after filing the report and award with the Clerk of Courts or unless the case has otherwise been disposed or prior to a hearing. Fees paid to the arbitrators shall be assessed in equal proportions to the parties in interest.

B. All compensation for the arbitrators shall be paid upon proper warrant from the funds of Erie County, Ohio.

21.17 Time Limit to Amend Pleadings

If the decision of the arbitrators is rejected pursuant to Section 2711.21 O.R.C., pleadings shall be amended and filed with the Clerk of Courts within forty-five (45) days. The parties making such pleading amendments shall serve other parties pursuant to Ohio Rules of Civil Procedure.

21.18 Poverty Affidavit

In a claim accompanied by a poverty affidavit supported by written motion, the cost of arbitration shall be borne by the Court.

APPENDIX

ACTION:

AMOUNT: _____

Case No. _____

Date _____

Req. VTF _____ Waived VTF _____

Check one of the Following or Specify in No. 8

- (1) Tort-Motor Vehicle Accidents
 - () Rear end
 - () Intersection
 - () Centerline
 - () Driver v. Driver
 - () Passenger v. Driver
 - () Pedestrian
 - () Other

(3) () Workers Compensation

(4) () Cognovit Notes

- (5) Contract
 - () Personal Property
 - () Insurance
 - () Other

- (6) Real Property
 - () Landlord-Tenant
 - () Condition of Premises
 - () Sales
 - () Building Contract
 - () Quiet Title
 - () Adverse Possession
 - () Foreclosure
 - () Other

- (2) Product Liability
 - () Warranty
 - () Negligence
 - () Strict Liability

(7) () Appeals from Administrative Agencies

(8) () Other - (specify)

PARTIES TO SUIT

ATTORNEYS

Terminated by:

- () Jury Trial _____
- () Court trial _____
- () Pretrial _____
- () Dismissal _____
- (a) Settlement _____

- 5) Default (incl. cognovits) _____
- 6) Arbitration _____
- 9) Trans. to other Court _____

APPENDIX 2

REQUESTS FOR PRE-RECORDED VIDEOTAPE TRIALS

In all civil cases filed in the Erie County Common Pleas Court each party shall sign and file with its Complaint or Answer the following statement:

"I (we) have been advised by my (our) attorney that the trial of this case will be advanced out of regular order if I (we) request that all of the testimony be pre-recorded on videotape pursuant to Civ. R. 40.

_____ I (we) request that the trial be advanced.

_____ I (we) do not want the trial to be advanced.

(Plaintiff) (Defendant)"

APPENDIX 3

CONDITIONS OF PROBATION
THE ERIE COUNTY ADULT PROBATION DEPARTMENT

Richard L. Glossa
Director of Probation
Courthouse
Sandusky, Ohio

TO _____

ADDRESS _____

DOCKET NO.

Your cause was heard on this date, _____, before
the HONORABLE JUDGE _____, ERIE COUNTY COMMON
PLEAS COURT, Sandusky, Ohio and sentence of _____
was imposed which was thereafter suspended and you were placed on
probation for a period of _____ years.

IT WAS FURTHER ORDERED; that you shall comply with the following
general and special conditions of probation during this entire period:

- (a) Shall not change your residence, employment, marital status,
or leave the County of residence without first procuring the
consent of the Court, which consent shall be obtained through
your Probation Officer.
- (b) Not later than the fifth (5th) working day of each month
you shall make a full and truthful report to the Adult
Probation Department office on the form provided for that
purpose. Such report to be delivered in person between
the hours of 8:00 AM and 4:30 PM on week days during the
first five (5) working days of the month only (SATURDAYS,
SUNDAYS AND HOLIDAYS EXCLUDED) - or as otherwise directed
by your Probation Officer.
- (c) Neither use nor have in your possession any narcotic or
drugs of abuse; nor visit places where intoxicants or
drugs are unlawfully sold, dispensed or used, nor use
intoxicants of any kind to excess.

- (d) Avoid injurious or vicious habits; avoid association with persons of harmful or questionable character or bad reputation, or any other person designated by your Probation Officer.
- (e) In all respects live honorably and work diligently at a lawful occupation. Support your family and those persons whom you are required by law to maintain and support, to the best of your ability and live within what income is available. If you become unemployed, immediately notify your Probation Officer and follow any suggestions thereafter issued by your Probation Officer. Make every effort to obtain employment. Failure to make such an effort will be sufficient cause for your return before this Court.
- (f) Neither carry nor own any weapons without first securing the consent of your Probation Officer, otherwise they will be confiscated.
- (g) Visit no gambling places, illegal after-hour establishments, or places where the law is knowingly being violated by others.
- (h) Live and remain at liberty without violating any law including city, county, state and federal laws.
- (i) Promptly and truthfully answer all inquiries directed by the Court, Director of Probation, and your Probation Officer; allow the Probation Officer to visit your home, place of employment, or elsewhere, and carry out all instructions issued by your Probation Officer.
- (j) Shall be subject to a urine and/or blood test at irregular, unscheduled intervals, at the cost and discretion of the Court, to insure that you are drug and/or alcohol free, if the offense for which you are on probation is drug and/or alcohol related.
- (k) Shall not be permitted to own or operate a motor vehicle without having a valid operator's or chauffeur's license together with evidence of liability and property damage insurance and display same to your Probation Officer anytime during your period of probation.

- (l) You understand, in order to effect your rehabilitation, that should your Probation Officer receive reliable information, or have reason to believe, that you are engaged in illegal activity, a Probation Officer may:
 - 1) Require that you take a polygraph examination and/or
 - 2) With or without the assistance of a duly authorized police officer, conduct a reasonable search of your person, premise, car and/or other personal property without a search warrant, to locate fruits of a crime, instrumentalities of a crime, contraband, and/or weapons. You waive your rights to deny such a search during the term of your probation.

- (m) Shall pay the following:
 - 1. Court costs of _____ before _
 - 2. Fine of _____ before _
 - 3. Restitution _____ before _

(n) SPECIAL CONDITIONS:

I understand that if I am granted permission to be in another state, I should be there without permission and my return to Ohio is authorized. I hereby waive extradition to the State of Ohio and agree not to contest efforts to effect such return.

The Court may at any time revoke, or modify any condition of this probation and reduce or extend the period of probation as provided by I realize that I am subject to arrest for a violation of any of these conditions herein stated at which time I will be returned before the Court. Following a probable cause hearing, the Court can, for any violation of these conditions, revoke my probation and execute the original sentence which was suspended.

I have read (or have had read to me) the above which my Probation Officer has explained to me. I understand these conditions and promise to abide by them.

(SIGNED) _____
 Probationer Date Probation Officer

REASON FOR AND EXPLANATION OF
CONDITIONS OF PROBATION

The Court has placed you on probation expecting you to use this opportunity to prove to yourself and others that you are capable of living a socially acceptable life as a productive and responsible law-abiding member of society. You may earn a final release from probation and retain the privileges and responsibilities of citizenship.

A Probation Officer will be assigned to work with you, to help you make an acceptable social adjustment. The officer will help you in every way possible, will be available for counseling when problems arise, and will submit regular reports of your progress to the Court.

It is also the Probation Officer's duty to require you to live by the conditions of probation. The officer has the authority and responsibility to enforce these conditions by notifying the Court of any violation and recommending your appearance before the Court as a probation violator. The Probation Officer has the power to arrest you without a warrant, or may order your arrest.

Your goal is to satisfactorily terminate your sentence on or before the maximum expiration date. This can be accomplished if you will demonstrate an acceptable attitude and responsible conduct while on probation. You may be asked by your Probation Officer to take a polygraph examination to effect your early release from probation. After you have completed your period of probation to the satisfaction of the Court, you will receive a written discharge from probation and restoration of all civil rights, for while on probation you may not have the right to serve on juries, or hold public office.

The conditions of probation have been carefully designed as guidelines for acceptable probation behavior. If you should violate one or more of these conditions of probation, the Court has the legal authority to revoke your probation and commit you to a penal institution to serve your sentence.

The above has been explained to me and I understand it.

(SIGNED).....Date.....
Probationer

.....Date.....
Probation Officer

APPENDIX 4

CONDITIONS OF PRE-TRIAL DIVERSION AND WAIVER OF RIGHTS

The Erie County Adult Probation Department
Richard L. Glossa
Director of Probation
Courthouse
Sandusky, Ohio

DEFENDANT _____ DOCKET NO. _____

This cause was heard on this date, _____
before the HONORABLE JUDGE _____, ERIE COUNTY
COMMON PLEAS COURT, Sandusky, Ohio.

The undersigned party does hereby agree to enter a no contest
plea to the charge of _____
in violation of Ohio Revised Code Section _____.

It is understood that the entering of the no contest plea
constitutes a waiver of the right of trial by jury wherein the party
would have the right to be represented by counsel which would be
provided by the State if unable to be afforded; that at such trial
the party would have the right to have guilt proven beyond a reasonable
doubt, to confront all witnesses, and to subpoena witnesses on his/her
own behalf.

It is understood that at that trial, the party may testify, but
if the party chooses not to, the Prosecutor may not comment on same.

The undersigned party does also herein agree to waive all time
limitations as to time of trial and sentencing which are accorded
him/her under the Ohio Revised Code and Rules of Criminal Procedure.

The party does further agree and understands that the court, acting through the probation department, imposes a _____ year period of supervision with the following general and specific conditions during the entire period of diversion:

- (a) Shall not change your residence, employment, marital status, or leave the County of residence without first procuring the consent of the Court, which consent shall be obtained through your Probation Officer.
- (b) Not later than the fifth (5th) working day of each month you shall make a full and truthful report to the Adult Probation Department office on the form provided for that purpose. Such report to be delivered in person between the hours of 8:00 AM and 4:30 PM on week days during the first five (5) working days of the month only (SATURDAYS, SUNDAYS AND HOLIDAYS EXCLUDED) - or as otherwise directed by your Probation Officer.
- (c) Neither use nor have in your possession any narcotic or drugs of abuse; nor visit places where intoxicants or drugs are unlawfully sold, dispensed or used, nor use intoxicants of any kind to excess.
- (d) Avoid injurious or vicious habits; avoid association with persons of harmful or questionable character or bad reputation, or any other person designated by your Probation Officer.
- (e) In all respects live honorably and work diligently at a lawful occupation. Support your family and those persons whom you are required by law to maintain and support, to the best of your ability and live within what income is available. If you become unemployed, immediately notify your Probation Officer and follow any suggestions thereafter issued by your Probation Officer. Make every effort to obtain employment. Failure to make such an effort will be sufficient cause for your return before this Court.
- (f) Neither carry nor own any weapons without first securing the consent of your Probation Officer, otherwise they will be confiscated.

Initial _____

- (g) Visit no gambling places, illegal after-hour establishments, or places where the law is knowingly being violated by others.
- (h) Live and remain at liberty without violating any law including city, county, state and federal laws.
- (i) Promptly and truthfully answer all inquiries directed by the Court, Director of Probation, and your Probation Officer; allow the Probation Officer to visit your home, place of employment, or elsewhere, and carry out all instructions issued by your Probation Officer.
- (j) Shall be subject to a urine and/or blood test at irregular, unscheduled intervals, at the cost and discretion of the Court, to insure that you are drug and/or alcohol free, if the offense for which you are on diversion is drug and/or alcohol related.
- (k) Shall not be permitted to own or operate a motor vehicle without having a valid operator's or chauffeur's license together with evidence of liability and property damage insurance and display same to your Probation Officer anytime during your period of diversion.
- (l) You understand, in order to effect your rehabilitation, that should your Probation Officer receive reliable information, or have reason to believe, that you are engaged in illegal activity, a Probation Officer may:
 - 1) Require that you take a polygraph examination and/or
 - 2) With or without the assistance of a duly authorized police officer, conduct a reasonable search of your person, premise, car and/or other personal property without a search warrant, to locate fruits of a crime, instrumentalities of a crime, contraband, and/or weapons. You waive your rights to deny such a search during the term of your probation.

Initial _____

(m) Shall pay Court Costs and Restitution as determined by the Probation Department.

1. Court Costs _____

2. Restitution _____

(n) Shall abide by any additional agreement which is in the best interest to successfully completing the Diversion Program.

The Court may at any time revoke, or modify any condition of the Diversion and reduce or extend the period of diversion as provided by law.

It is understood and agreed that any violation of the terms of the diversion will result in the Court's acceptance of the no contest plea, enter a finding of guilty based on the evidence presented by the Prosecuting Attorney at the time of the no contest plea, and will proceed with the sentencing of the party.

It is further understood that upon the successful completion of the above specified period of Diversion, the Prosecuting Attorney will file a motion to nolle prosequi all counts of the Indictment or a motion to dismiss the Bill of Information in the above noted docket number.

I further understand that if I am granted permission to be in another state, or if I should be there without permission and my return to Ohio is authorized, I hereby waive extradition to the State of Ohio and agree not to contest efforts to effect such return.

Initial _____

The above agreement has been fully explained to me and, through the advice of counsel, I do fully understand all of its terms and voluntarily agree to the same. I have initialed all pages.

DATE _____

DIVERTEE

Address

Counsel for Divertee

Probation Officer

Initial _____

REASON FOR AND EXPLANATION OF
CONDITIONS OF DIVERSION

The Court has placed you on Diversion expecting you to use this opportunity to prove to yourself and others that you are capable of living a socially acceptable life as a productive and responsible law-abiding member of society.

A Probation Officer will be assigned to work with you, to help you make an acceptable social adjustment. The officer will help you in every way possible, will be available for counseling when problems arise, and will submit regular reports of your progress to the Court.

It is also the Probation Officer's duty to require you to live by the conditions of diversion. The officer has the authority and responsibility to enforce these conditions by notifying the Court of any violation and recommending your appearance before the Court.

Your goal is to satisfactorily terminate your diversion on or before the maximum expiration date. This can be accomplished if you will demonstrate an acceptable attitude and responsible conduct while on diversion. You may be asked by your Probation Officer to take a polygraph examination to effect your early release.

The conditions of diversion have been carefully designed as guidelines for acceptable behavior.

The above has been explained to me and I understand it.

(SIGNED).....Date.....

DIVERTEE

.....Date.....

PROBATION OFFICER

IN THE COURT OF COMMON PLEAS, ERIE COUNTY, OHIO

IN THE MATTER OF
RULES OF PRACTICE

JUDGMENT ENTRY

FILED
1982 NOV 23 PM 3:41
ERIE COUNTY
COMMON PLEAS COURT

The following shall constitute the amendments, deletions, and additions to the Rules of Practice of the Erie County Common Pleas Court, General Division, effective 11/26/82.

Add to Rule 6.01 (B) (3):

"....whereupon the attorney for the plaintiff shall forthwith prepare a judgment entry in compliance with Rule 9.01, infra, confirming sale,..."

Delete from Rule 15.02:

"See Rule 15.01 (B), supra"

Replace with:

"See Rule 15.01 (C), supra"

Add to Rule 17.04 - 1st paragraph:

"Motions to suppress shall be accompanied by a statement of facts and brief."

Add to Caption of Rule 17.08:

"Assigned Counsel Fee Schedule and Applications"

Delete from Rule 17.08 - 1st paragraph:

"Resolution No. 81 -"

Replace with:

"Resolution No. 80-11."

Delete from Rule 17.08 - 1st paragraph:

"§ 120.33 (c)"

Replace with:

"§ 120.16 (E)."

Add Rule 17.08 (7) (attached hereto)

Add to Caption of Rule 18:

"Videotape in Civil Cases"

"(For Videotape in Criminal Cases

see Rule 17.11, supra.)"

Add Rule 18.01 (I) (attached hereto)

Add Rule 21 (attached hereto)

APPENDIX - Delete: page numbers

Rules 17.12 and 18.03 are repealed and reenacted as part of amended Rule 17.11.

Rules 3, 15.01, 17.10, and 17.11 are repealed and reenacted in the amended form attached.

JUDGE

RULE 6

EQUITY

6.01

REAL ESTATE PROCEEDINGS

A. FORECLOSURE, QUIET TITLE AND PARTITION ACTIONS.

1. In any action wherein the title to real estate will be affected, such as actions for the marshalling and foreclosure of liens, actions to quiet title, actions for the partition of real estate, actions based upon use restrictions, etc., the plaintiff shall file with the Clerk at the time of filing the petition an abstract, policy of title insurance, guaranteed statement of title, or other adequate statement of title showing the record condition of the title to the premises concerned in the action and/or such other matters apparent from the county records as may be necessary or convenient for the intelligent and accurate determination of the issues in the action. Such indicia of title shall be prepared by a competent abstractor or attorney-at-law, and shall be extended to a date not more than thirty (30) days next preceding the commencement of the action.
2. If the plaintiff shall fail to comply with the foregoing requirement, any party may cause such indicia of title to be prepared and filed with the Clerk.
3. No orders, judgments or decrees affecting the title to such real estate shall be made and entered in the case until such indicia of title shall have been filed with the Clerk, and if the plaintiff and/or other party (ies) shall fail to supply such indicia of title within thirty (30) days after having been notified by the Court to do so, the cause may be dismissed as for want of prosecution, but without prejudice to a future action based upon the same subject matter.
4. If the action shall result in a change of ownership of the real estate concerned, or if the title to said real estate or part thereof shall be quieted, the abstractor or attorney who prepared such indicia of title shall, after the recording of the deed conveying such real estate, or after the entry of the order quieting title, extend such indicia of title to include such deed or order quieting title.

B. SHERIFF'S SALES

1. In every Sheriff's sale of real property the purchaser, as soon as his bid is accepted, shall be required to deposit in cash or by certified check payable to the Sheriff ten per cent (10%) of the amount of such accepted bid. The maximum amount of such deposit in any case shall be \$10,000.00. Where amount bid is \$3,000.00 or less, the minimum amount of such deposit shall be \$300.00. The unpaid balance of the purchase price shall be due and payable to the Sheriff within thirty (30) days from the date of sale. The purchaser shall be required to pay interest on said unpaid balance at eight per cent (8%) per annum from the date of sale to the date of payment of the balance unless the balance shall be made within eight (8) days from the date of sale. Any interest received shall be distributed by the Sheriff to the parties entitled to distribution of the proceeds of sale in the proper order of priority.
2. If the first lienholder is the successful bidder at sale, the required deposit will be waived on condition that all costs, taxes and assessments are paid.
3. Within seven days from the date of the sale the Sheriff shall make his return to the Court, whereupon the attorney for the plaintiff shall forthwith prepare a judgment entry confirming sale, ordering deed and distribution. Upon filing of such entry the Clerk shall notify the Sheriff to prepare a deed. Such deed shall be prepared in conformity with R.C. §2329.36 and shall be delivered to the purchaser upon payment of the full purchase price and interest, if any.
4. In the event a purchaser fails to pay the balance due on the purchase price within said thirty (30) days after the date of sale, he shall be in contempt of this court and the Sheriff shall forthwith cause a citation to issue commanding such defaulting purchaser to appear before the judge of this court and show cause why he should not be punished. Upon a finding of guilt or contempt, the Court shall proceed in accordance with R.C. §2327.04.
5. In each advertisement of sale the Sheriff shall cause to be included notice that the full purchase price shall be paid within thirty (30) days from the date of sale, otherwise the purchaser shall be adjudged to be in contempt of court; and unless paid within eight (8) days after sale shall bear interest at eight per cent (8%) until paid. The Sheriff shall also keep a copy of this entire rule conspicuously posted at the place where he conducts sales and shall call attention thereto before receiving bids.

RULE 15

PRE-TRIAL PROCEDURE

15.01 Exchange of Information Between/Among Counsel

A. No party may serve on another party more than 20 interrogatories without the express written consent of the trial judge. Such interrogatories shall contain no sub-parts.

If written consent is requested the party must file a motion listing the interrogatories to be served and the relevancy or necessity of each.

B. At least three (3) weeks prior to trial counsel shall exchange the following:

A complete list of all medical, hospital, and other items of fixed damages which their client expects to offer at the time of trial. Failure to comply with this order will result in those items of damages not being admitted into evidence at trial.

1. Within one (1) week of service of such list opposing counsel must notify counsel if the reasonableness of the amount of such documents is disputed, otherwise reasonableness is admitted.
2. A bad faith refusal to admit reasonableness may result in monetary sanctions being assessed against counsel.

C. No medical or other expert witness will be permitted to testify either by deposition or at trial unless two (2) weeks prior to the expert's testimony a written or audiotape report relative to the expert's prospective testimony is served on opposing counsel. For purposes of this Rule an expert witness is one who has the knowledge, skill, experience, and training, adequate to make his judgment an intelligent one helpful to the jury. An expert witness is to be distinguished from a specially qualified witness who merely has had special opportunities for observation and would be testifying as to facts based thereon.

D. At least one (1) week prior to trial, counsel shall exchange proposed exhibits. Failure to do so will result in their inadmissibility.

Except as to A and B(2), this Rule is self-executing and requires no further order of this Court. Counsel, by written stipulation, may request the Court to waive this Rule, or any part thereof.

The attorney will only be relieved of the above obligations to represent defendant after another attorney is officially assigned by the Court or privately retained by the defendant.

(For Civil Cases - See Rule 7.02)

17.04 Motions

All motions to suppress shall bear the signature of the defendant.

All pre-trial motions shall be filed within three (3) days after arraignment for those defendants who are represented by counsel at the time of bind over to the grand jury. All other defendants shall file such motions within ten (10) days after arraignment. A brief statement of the issues involved and a memorandum shall accompany the motion.

For good cause, and with written consent of the Court, reasonable extensions will be granted.

When a motion requires the immediate attention of the Court, a copy shall be hand-delivered to the Judge's office or mailed directly to the Judge.

17.05 Applications for Probation

No defendant who has pleaded guilty or has been found guilty shall be placed on probation until his case has been referred to and reported on by the Adult Probation Department. (R.C. § 2951.03). All defendants making application for probation will be expected to be familiar with the Conditions of Probation of the Erie County Common Pleas Court - Journal Vol. 177, Pg. 697 - filed 7/18/80 - (Appendix 3) before sentencing date.

17.06 Applications for Diversion

A) Applications for diversion shall be made with the Adult Probation Department through the Prosecutor's Office. Such applications may be made before or after indictment, and diversions may be granted through a "no contest" plea to a bill of information or an indictment. (See Journal Vol. 166, Pg. 197 and Amendments, Journal Vol. 186.)

17.08

- 7) Application for assigned counsel fees shall be fully completed and contain the following:
 - 1) date of appointment;
 - 2) disposition including name of offense, type and degree of offense and the sections of the Ohio Revised Code that have been violated;
 - 3) detailed itemization of expenses;
 - 4) number of hours worked:
 - in Court @ \$30 hour
 - out of Court @ \$20 hour

Applications shall be submitted within 90 days from the date of disposition of the case.

RULE 18

VIDEOTAPE

18.01 Use of Videotape

A. Civ. R. 40 and Sup. R. 10 and 12, shall govern the recording of testimony by videotape. The Court has available equipment to play-back testimony recorded in either of the formats provided in Sup. R. 12(C)(1)(A) and (B). At the time of recording it will be the responsibility of counsel to instruct the Notary Public before whom the testimony is taken to note by the use of a date-time generator device connected with the tape the point on the videotape where objections are made. The Notary will then number the objections consecutively and attach this record to the certification when filed with the Clerk.

B. Objections must be made only at the conclusion of the question and answer. Counsel may state the basis for the objections and read citations into the record at this time. Any objections made prior to the completion of an answer may in the Court's discretion be considered overruled.

C. Stipulations and waivers shall be voiced on the tape itself or be made in writing and filed with the tape.

D. When cases are assigned for trial pursuant to Civ. R. 40 and Sup. R. 12 (B), separate dates will be assigned for the filing of plaintiff's and defendant's testimony. Failure of plaintiff to file said testimony on or before said date will cause the case to be dismissed for want of prosecution; failure of defendant to file his testimony on or before said date will result in a default judgment or the limiting of defendant to the testimony so filed.

E. The Court will review all objections at its convenience and without presence of counsel unless notice is filed with the Court within forty-eight (48) hours of filing of the testimony with the Clerk that counsel wishes to comply with the following:

1. When a proponent of testimony files a videotape with the Clerk, he shall also file in writing the numbered objections upon which he wishes a ruling by the Court, together with a brief statement of the basis for such objections. A copy of such

objections and a statement of reasons therefor shall be furnished opposing counsel within three days of the filing of such videotape testimony. Within ten days of the receipt of notice by the Clerk that videotape testimony has been filed by the proponent of such testimony, opposing counsel shall file in writing the numbered objections upon which he wishes a ruling by the Court, together with a brief statement of the basis for such objections. A copy of such objections and statement of reasons therefor shall be furnished to counsel for the proponent of such testimony at the time of filing. The Court, on its motion, may require compliance with E(1).

2. Within ten days of receipt from opposing counsel of objections filed with the Court, counsel may file with the Court a brief statement setting forth any reasons why he believes such objections should be overruled.

F. A statement shall be attached to the cover of the videotape when filed, indicating the name of the case, docket number, name of witness and length of testimony.

G. After reviewing the objections, the Court in its discretion may order a trial tape prepared or the original tape shown to the jury under proper instructions. Counsel are admonished that frivolous, unfounded or unnecessary objections complicate the editing process and detract from the orderly and decorous presentation of testimony by videotape. Where the Court in its discretion finds that the number of objections which it would be required to overrule as a matter of law are too numerous to permit expeditious editing, it may order the original tape or a partially edited trial tape shown to the jury with instructions that objections appearing in the tape are overruled and are to be ignored.

H. No videotape deposition or trial testimony shall be filed less than seventy-two (72) hours prior to the date of trial, unless express permission is granted by the Court prior to the taking of the deposition or trial testimony. Any videotape depositions or trial testimony filed in violation of this rule will not be edited or presented to the jury.

18.01

I. Upon the completion of the prerecording of each witnesses' testimony the original videotapes shall be filed with the Clerk of Courts.

Original videotapes and audiotapes, and copies thereof, together with any transcripts or exhibits shall not be released by anyone including the parties or their attorneys except upon the express written consent of the presiding judge.

RULE 21

MEDICAL MALPRACTICE ARBITRATION

21.01 Cases for Arbitration

A. Upon filing of a medical malpractice case as defined in Section 2305.11 (D) (3) O.R.C. in the Court of Common Pleas, said claim shall be assigned by the assignment clerk and the assigned judge shall be immediately notified by the office of the Clerk of Courts of the filing of said action.

B. All pretrial matters relative to motions, pleadings, discovery, etc., and all matters subsequent to the arbitration proceeding shall be determined by the presiding judge.

C. Before referral is made to a medical malpractice panel, a pretrial conference shall be held, unless waived in writing by the parties with the consent of the Court. Said pretrial conference is to be held within 90 days from the date of filing of the action.

D. All times provided herein shall be computed from the date the entry is journalized in the office of the Clerk of Courts, except as otherwise specifically provided herein.

FILED
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COMMON PLEAS COURT
ERIE COUNTY, OHIO

IN THE COURT OF COMMON PLEAS, ERIE COUNTY, OHIO

*

IN THE MATTER OF

RULE 17.08 OF THE
RULES OF PRACTICE OF THE
COURT OF COMMON PLEAS,
ERIE COUNTY, OHIO.

J U D G M E N T
E N T R Y

*

Effective May 1, 1992, the attached Rule shall become Rule 17.08 of the Rules of Practice of the Court of Common Pleas, Erie County, Ohio.

The existing Rule 17.08 shall be vacated as of that date.

Ann B. Maschari

Ann B. Maschari, Judge

3/14/92

Assigned Counsel Fee Schedule

Assigned counsel for indigent defendants shall receive compensation for professional services in accordance with the following fee schedule set by the Erie County Commissioners by Resolution 92-103, adopted pursuant to O.R.C. Sections 120.33 and 2941.51.

A. General Conditions:

1. Pursuant to Section 120.33 of the Ohio Revised Code, the Board of County Commissioners must establish a fee schedule in order for assigned counsel to receive payment. This fee schedule only pertains to violations of Ohio state law.
2. Counsel assigned by the Erie County Common Pleas Court, pursuant to Sections 2941.51 and 120.16(E) of the Ohio Revised Code and under Rule 17.08 of the Rules of Practice of the General Division of the Erie County Common Pleas Court, shall be paid according to this fee schedule.
3. All counsel eligible for payment under the authorized fee schedule shall be appointed by the Judge of the General Division of the Erie County Common Pleas Court and said appointment shall be entered by signed journal entry recorded on the Court docket.
4. All assigned defense counsel seeking payment under the authorized fee schedule shall submit a motion to approve the payment of counsel fees and an affidavit of indigency completed by the client or their defense counsel on forms prescribed by the State Public Defender. All forms must be completely filled out and must be submitted to the Court within thirty (30) days of the conclusion of the assigned case.
5. Those involved County officials, pursuant to Section 120.33 of the Ohio Revised Code, shall be responsible for following the proper procedure established by the State Public Defender's Office to maximize the County's reimbursement from the State for indigent representation.

B. Expense Schedule:

1. Travel Expenses:
 - a. Travel expenses incurred in any mode of travel shall be reimbursable only whenever the attorney travels outside of his or her home county or over 60 miles from the attorney's home or base of operations for purposes of representing an indigent client. If travel expenses are claimed, the points of departure and destination must be specified.
 - b. An attorney may bill for hours spent in transit between the specified departure and the specified destination. Once the destination has been reached, the attorney may not bill for hours spent at the destination as hours in transit. Hours spent working on a case at the specified destination, however, may be billed accordingly.

- c. Reimbursement for travel by personal auto shall be made at \$.225 (22 and 1/2 cents) per mile, or at the rate set by the Ohio Public Defender's Office.
- d. Reimbursement for travel by commercial airlines will be made so long as all fare does not exceed the maximum allowable for ground transportation. The lesser of the air fare and the maximum allowable for ground transportation will be the basis for reimbursement.
- e. Lodging expenses, when incurred during travel within the State of Ohio shall be reimbursed at no greater than \$45.00 per day, plus tax or at the rate set by the Ohio Public Defender's Office. Lodging expenses incurred during travel outside of the State of Ohio shall be reimbursed in full.
- f. Meal expenses shall be reimbursed at no greater than \$4.50 for breakfast and \$10.50 for dinner or at the rate set by the Ohio Public Defender's Office, and only when the attorney is on travel status.
- g. The attorney's certificate shall include an itemized statement of all travel expenses including mileage, air fare lodging, meals, and other miscellaneous items. All expenses submitted for reimbursement which exceed \$5.00 (except parking and taxicab fare) shall be accompanied by a receipt. Parking and taxicab fare expenses exceeding \$1.00 shall be accompanied by a receipt.

2. Other Expenses:

Transcripts, Experts, and Other Costs:

With prior court approval, reimbursement will be made for all expenses reasonably related and necessary to the defense of an indigent client. These expenses include transcripts, expert advice and testimony, polygraph examinations, phone calls, photocopying, and certain other items. Reimbursement for these expenses is subject to the following:

- a. Expenses submitted must be approved by the administrative judge of the Erie County Common Pleas Court.
- b. Expenses associated with transportation, lodging, and meals for non-expert, regular witnesses beyond the subpoena power of the court may be reimbursed.
- c. All expenses claimed under this section must be itemized. Expenses exceeding \$5.00 must be accompanied by a receipt or by affidavit of assigned counsel.
- d. Transcript expenses for one (1) original and one (1) copy of a transcript are reimbursable.

C. Fee Schedule:

1. The maximum payment fee per case will be based on the highest count in the case and NOT the total number of counts in the case, and shall be made on the basis of \$50.00 per hour for representation up to the following maximum amounts for the following offense classifications and other proceedings:

Offense/Proceeding	Hourly Fee Maximum per Case
Aggravated Murder (w/specs) as per O.R.C. 2929.04(A) and 2941.14(B)	\$20,000*
Aggravated Murder (w/o specs)	\$ 6,000/1 attorney \$ 8,000/2 attorneys
Murder	\$ 3,000
Aggravated Felonies (degrees 1-3)	\$ 2,000
Felonies (degrees 1-4)	\$ 1,500
Misdemeanors (degrees 1-4)	\$. 750
Extradition	\$ 500
Parole, Pardon, Probation, and all other proceedings not elsewhere classified:	\$ 500
Contempt of Court	\$ 200

* Ohio Supreme Court Rule 65 of the Rules of Superintendence for Courts of Common Pleas requires the appointment of two (2) attorneys in capital cases. This fee is the maximum that will be paid on the combined bills of both attorneys appointed to the case.

D. Appellate Level Cases:

1. Reimbursement for appellate representation shall be made on the basis of \$50.00 for both in and out of court representation.
2. Appeals of aggravated murder convictions where the defendant has been sentenced to death will be reimbursed at the rate of \$50.00 per hour. Reimbursement shall be made when submitted with the appropriate certificate (OPD-E-204 or OPD-1031) pursuant to the Ohio Public Defender Assigned Counsel Reimbursement Standards Rules and Regulations. The prescribed maximum fees permitted in appeals cases are as follows:

Offense/Proceeding	Fee Maximum*
Aggravated Murder (death penalty imposed)	\$10,000
Aggravated Murder (sentence other than death)	\$ 4,000
Murder	\$ 1,500
Felonies	\$ 1,000
Misdemeanors	\$ 750

* Applies to each level of appeal

E. Post Conviction and Habeas Corpus Cases:

1. Except in aggravated murder cases with a death sentence, post conviction proceedings and state habeas corpus proceedings shall be reimbursed at the rate of \$50.00 per hour to the following maximum amounts:

Offense/Proceeding	Fee Maximum
Post Conviction Proceeding with Evidentiary Hearing	\$1,000
Post Conviction Proceeding without Evidentiary Hearing	\$ 500
Habeas Corpus with Evidentiary Hearing	\$1,000
Habeas Corpus without Evidentiary Hearing	\$ 500

2. In aggravated murder cases with a death sentence imposed, reimbursement for post conviction and state habeas corpus shall be made at the rate of \$50.00 per hour to a maximum of \$10,000 for each stage of the post conviction or habeas corpus proceeding.

F. Extraordinary Fees:

1. Cases eligible for extraordinary fees are ones which, because of extraordinarily complex issues, multiple offenses, lengthy trials or other reasons verified by the Court, warrant compensation which exceeds maximums established by the County.
2. Counsel may make written application to the Judge of the General Division of the Erie County Common Pleas Court for consideration of payment of the extraordinary fees beyond the limits set herein. The Judge shall refer the request to a three (3) person panel for review and recommendation back to the Court. The three (3) person panel shall consist of a representative from each of the following:

- a. Erie County Bar Association President or designee.
- b. Erie County Commission Chairman or designee.
- c. A third representative shall be any Erie County resident mutually agreed upon by the representatives in a. and b. listed above.

A written recommendation of the panel, in an amount not to exceed thirty thousand dollars (\$30,000.00), shall be made to the Judge of the General Division of the Erie County Common Pleas Court and the Judge may choose to accept or reject the recommendation at its discretion. If the Judge accepts all or a part of the recommended fee allowance, the Board of Erie County Commissioners shall approve said extraordinary fees.

G. Changes in Appointed Counsel:

In the event that one attorney withdraws or is removed from a case, the newly appointed attorney is entitled to bill the County to the maximum fee schedule allowed for a particular proceeding.

H. Amendments to the Fee Schedule:

This fee schedule is subject to amendment by the Board of Erie County Commissioners at its sole discretion. Proper notice will be given when this fee schedule is amended or revised by the County Commissioners. The Departments or Agencies to receive notice include but are not limited to, the State Public Defender's Office, the General Division of the Erie County Common Pleas Court, the County Auditor, the Clerk of Courts, County's Public Defender and the Erie County Bar Association.