# RULES OF PRACTICE JUVENILE COURT COMMON PLEAS COURT OF LICKING COUNTY



# FILED JAN 10 2018

SUPREME COURT OF OHIO

### FILING OF PLEADINGS, MOTIONS, ETC.

A. In every pleading, motion or document filed on behalf of a party or parties, where appropriate, there shall be set forth in the caption the names of all parties with their complete addresses, if known, whose names appear in the proceedings for the first time.

- B. Every pleading, motion or document filed on behalf of a party shall have printed or typed thereon the name, address and telephone number of counsel filing the same; and if filed by a law firm, it shall be indicated thereon the name of the particular attorney having primary responsibility for the case.
- C. It is requested that each complaint filed contain in the caption thereof a designation of the category of said action, which category shall be one of the following:
  - 1. Dependent
  - 2. Neglected
  - 3. Abused
  - 4. Unruly
  - 5. Delinquent
  - 6. Paternity
  - 7. Contributing
  - 8. Criminal Non-Support
  - 9. Complaint for Custody
- D. Sufficient copies of every pleading, motion or document to be served by the Clerk of the Juvenile Division or Sheriff shall be filed with the Clerk.

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E. The Clerk of the Juvenile Division shall make a copy of any pleading, motion or document for the use of any counsel of record who has not previously been supplied with a copy, and charge the expense thereof as costs in the case.

#### RULE 2

### TIME FOR FILING PLEADINGS

In all cases where the time for filing of a pleading or amended pleading is not fixed by law or another rule, the pleading or amended pleading shall be served on or before the fourteenth day after the date of the entry requiring or granting leave for the filing of such pleading or amended pleading or overruling or sustaining a motion, unless otherwise specified in the entry. The opposite party shall move or plead to the pleading or amended pleading so filed on or before the fourteenth day after such pleading or amended pleading is filed, unless otherwise ordered by the Court.

#### **RULE 3**

### PLEADING OUT OF RULE

- A. By agreement of counsel, additional time to move or plead may be granted to a party if the total extension of such time does not exceed twenty-eight days. Such consent shall be filed with the Clerk of the Juvenile Division in writing, signed by all counsel of record and need not be submitted to the Court for approval.
- B. Where an extension of time beyond twenty-eight days is required or where the parties cannot agree upon an extension of time, a party not in default for a pleading or motion may obtain leave to have the time extended for filing any pleading or motion, for such time as may be fixed by the Court.
  - C. A party in default for a pleading may file a pleading instanter without leave of

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court prior to two days before the date set for trial, with the written consent of opposing counsel attached to such pleading, but if the case has been assigned for trial, there shall be no continuance by reason thereof.

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D. A party in default for a pleading who cannot obtain the written consent of opposing counsel to file the same may obtain leave to file a pleading instanter by filing a written motion and by giving notice to opposing counsel that the same will be heard by the Court at nine o'clock a.m. on the third day the Court is in session thereafter, if he can show to the satisfaction of the Court at such hearing that he has a good reason for such default and that he has a meritorious cause. The granting of such leave shall not operate as a continuance of the case if the same has been set for trial.

### **RULE 4**

# WITHDRAWAL OF PLEADINGS AND AMENDMENTS BY INTERLINEATION OR OBLITERATION

- A. No pleading or motion subsequent to filing shall be amended by interlineation or obliteration except by leave of the Court, as shown by a Journal Entry.
- B. Upon filing of an amended pleading or motion, the original or any prior amendment thereof shall not be withdrawn from the files.

#### **RULE 5**

#### MOTION DOCKET

A. All motions except motions for support for minor children shall be accompanied by a brief or memorandum stating the grounds thereof and citing the authorities relied upon. In the absence of such brief or memorandum, such motion may be stricken from the files.

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- B. All motions will be set for hearing by the Clerk of the Juvenile Division and shall be heard on written briefs unless oral argument is requested by a party or otherwise required by law or the court.
- C. If oral argument of a motion is requested by a party, it shall be the responsibility of that party to schedule with the Court the hearing of said motion and to cause notice of the time and place thereof to be given to all other parties.
- D. Subject to the provisions of Rule 75 of the Ohio Rules of Civil Procedure, and unless otherwise allowed or ordered by the Court, all motions pursuant to Rule 75 for support or any modification thereof for minor children in domestic relations cases shall be decided on the basis of affidavits filed with the Court. When a party requests a court order for support, each party shall include in his/her affidavit a statement of all indebtedness of the parties and their last two month's gross earnings. The affidavits of parties applying for or opposing support for minor children shall be submitted on forms prescribed by the Court and fully completed. Either party may file other affidavits in support of or opposing said request. The request and affidavit of the party applying for support for minor children shall be served upon the opposing party or his counsel, if represented, by U.S. mail or otherwise.
- E. Unless the Court otherwise directs, an order for payment of support for minor children shall be payable in weekly installments in advance through the Bureau of Support, the first payment to be made on or before the dates fixed by the Court and poundage at the rate of two percent (2%) shall be added to such payments. Such payments shall be made by means of cash, postal money order, or certified checks. Personal checks may be refused by the Bureau.

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F. All motions when filed with the Clerk of the Juvenile Division shall be brought to the attention of the Court forthwith.

#### **RULE 6**

### PRELIMINARY CONFERENCES

- A. At any time after the filing of a complaint, the Court upon motion of any party or upon its own motion, may order one or more conferences to consider such matters as will promote a fair and expeditious proceeding.
- B. Preliminary conferences shall be held at such times as the Court shall direct.

  The Clerk of the Juvenile Division shall give notice to all known interested counsel and to all unrepresented parties.
- C. Such preliminary conferences shall be attended by counsel for the parties, who shall have their clients present or available by telephone for consultation and by all unrepresented parties.
- D. Counsel attending the preliminary conference shall have complete authority to stipulate matters of evidence, to make admissions and to discuss settlement.
- E. The parties shall, at the preliminary conference, submit to the Court, with a copy to all opposing counsel, a preliminary conference statement covering such matters as the Court directs.
- F. At the conclusion of the conference, the Court may cause to be prepared a memorandum or stipulation of the action taken at such conference and order it filed in the case. The matters therein stipulated shall thereupon be binding upon the parties. In lieu thereof, the Court may make an order which recites the action taken at the conference and the agreements of the parties, which order, when entered, shall control the subsequent course of the proceeding.

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#### **RULE 7**

#### **ASSIGNMENT OF CASES**

A. All assignments of cases for hearing shall be made by the Clerk of the Juvenile Division with the approval of the Court at least two weeks prior to the date set for trial, unless otherwise ordered by the Court. Provided, however, that no case shall be assigned for trial less than one week prior to the date set for trial without the consent of all counsel. Notice of the assignment of a case set for hearing shall be mailed or delivered forthwith to all interested counsel and parties not represented by counsel.

- B. All cases having priority under any statute, or juvenile rule and such other cases as the Court may direct may be heard at any time as may be ordered by the Court, after proper notice, without having been assigned by the Clerk of the Juvenile Division for hearing.
- C. A motion for a temporary restraining order or temporary injunction shall be presented to the Judge assigned to the case if available. If such Judge is unavailable, the matter may be presented to any Judge of the Common Pleas Court who is available.

#### **RULE 8**

#### CONTINUANCE OF A CAUSE

A. Except in cases of emergency or by order of the Court on its own motion, a motion for a continuance of a cause after it has been set for trial must be in writing which shall set forth the reason for a continuance. Unless the Court should otherwise

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direct, a motion for a continuance shall be heard forthwith after notice to opposing counsel.

- B. Continuance of a cause may be granted on the ground of inability to procure the testimony of an absent witness when it is made to appear that due diligence was used to procure such testimony. In order to obtain a continuance on this ground, the party making the application must support the same by affidavit stating therein what he expects to prove by such witness. If the Court finds the testimony so set forth to be immaterial or if both parties consent to the reading of the affidavit in evidence, the application will not be sustained and the cause will proceed to trial.
- C. Where a continuance of a cause is requested on the ground that an attorney interested in the case is already engaged on the date set for trial in another court of record or a governmental bureau, proof of such prior assignment shall be attached to the motion for continuance which shall be filed forthwith following notification of the assignment of the case in this Court.
- D. All motions for a continuance shall be accompanied by a proposed journal entry ordering the reassignment of said case for a date certain. In the event a continuance is granted, the Court may, in its discretion, assess costs and expenses against the moving party.

### **RULE 9**

### <u>JURORS</u>

Persons to be summoned for jury service may be served by United States mail as provided by Section 2313.25 of the Revised Code at the election of the Clerk of the Juvenile Division.

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#### **RULE 10**

#### **REQUESTS**

Attorneys shall be diligent in filing requests in the Clerk's Office for the subpoenaing of witnesses by the Sheriff or in causing subpoenas for witnesses to be served by other persons as authorized by law.

All subpoenas for witnesses must be filed no later than three working days prior to the assigned hearing date. Subpoenas will be accepted for filing after that deadline, however, should service not be perfected upon a witness, the non-appearance of that witness may or may not be considered as a reason for a continuance at the discretion of the Court.

#### **RULE 11**

#### RECORD OF HEARING

The Court shall utilize Sony Tape Recording Devices for preserving testimony at any hearing. All hearings are recorded. The tapes for traffic arraignments are preserved for a period of 60 days before they are erased and re-recorded. Non-contested juvenile matters are preserved for a period of 60 days before being erased and reused. All other matters are preserved until the appeal time has expired unless otherwise requested by a party for good cause shown. In certain matters such as temporary or permanent custody hearings, the Court shall order the tapes transcribed and made a part of the file, thereby preserving the record so that the tapes may be erased and re-used.

For any party wishing to have a stenographic recorder present, it shall be the responsibility of any party requesting such services to notify a shorthand reporter to be

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present in Court in the trial of any case, as provided by Section 2301.20 of the Revised Code. The compensation of such shorthand reporter shall be paid by the County, except that the Clerk of the Juvenile Division shall charge a shorthand reporter's fee as costs in the case as specified in Section 2301.21 of the Revised Code.

#### **RULE 12**

### INTERROGATION OF WITNESSES AND ARGUMENT

A. Except by permission of the Court, only one counsel for each party will be permitted to speak on any interlocutory motion, or upon any question arising during the trial of a cause or a proceeding, and but one counsel for each party will be permitted to examine the same witness in any trial or proceeding before the Court.

B. In any argument to the Court or jury upon the trial of a cause, only two counsel for each party will be heard unless for special reasons the Court permits otherwise. The Court may limit the time for argument as it may deem reasonable.

### **RULE 13**

#### **INSTRUCTIONS**

When written instructions are presented to the Court pursuant to Rule 51(A) of the Ohio Rules of Civil Procedure or Rule 30 of the Ohio Rules of Criminal Procedure by a party or his counsel, they shall be accompanied by a brief citation of the authority upon which each of such instructions is based, unless excused by the Court.

#### **RULE 14**

### PREPARATION OF ENTRIES

Except as to matters in which the Court prepares a proper entry, counsel for the party in whose favor an order, decree or judgment is rendered shall within five (5) days thereafter prepare the proper entry, and submit it to counsel for the adverse party, who

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shall approve or reject the same within five (5) days after the receipt thereof. If counsel for the prevailing party does not prepare an entry within the five (5) day period, counsel for the adverse party shall do so and submit it to counsel for the prevailing party who shall approve or reject the same within five (5) days after the receipt thereof. If approval or rejection of an entry is not communicated to the counsel preparing the entry, such counsel may after the passage of the five (5) day period forthwith present an entry to the trial court for signature and filing without such approval. When the entry is approved by counsel, it shall be so endorsed and presented to the Judge to whom the case is assigned for approval; and if signed by him, shall be forthwith filed with the Clerk of the Juvenile Division. If counsel is unable to agree upon an entry or fail to submit an entry within ten (10) days following such order, decree or judgment, the trial judge, after reasonable notice to the parties, may prepare and enter an entry, dismiss the case, or make such other disposition as he deems appropriate.

#### **RULE 15**

### SIGNING OF ENTRIES

Entries and applications for special orders may be presented by counsel in person for signing at the opening of a session or in chambers at the convenience of a Judge.

#### **RULE 16**

#### COURT COSTS DEPOSITS

A. A person filing a paternity complaint or a citation in contempt, motions requesting relief after judgment, and motion or complaint for change of custody shall deposit therewith the sum of \$20 as security for court costs. No deposit for costs shall be required in a proceeding filed by the prosecutor or the Bureau of Support.

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- B. In every case involving custody of a minor child transferred to the Juvenile Division by the General Division of the Court, there shall be deposited a sum of \$15 by each party as security for the costs of investigation unless the same has been posted in the General Division and remains unused.
- C. The Clerk of the Juvenile Division shall not accept for filing any of the above mentioned pleadings or motions without payment of the prescribed deposits unless:
  - An affidavit of inability to prepay costs as provided by Sections 2323.31 of the Ohio Revised Code is filed with the Clerk on a form prescribed by the Court; or
  - 2. The party filing such pleading or motion is exempt from such requirements by law or this rule.

#### **RULE 17**

#### STATEMENT FOR COSTS AND EXECUTION FOR COSTS

The Clerk of the Juvenile Division shall keep a list of all unpaid and accrued costs in all proceedings where costs have been taxed, and shall send statements to all persons against whom costs have been taxed in all proceedings that have become final, at least once every three months. After two such notices if the costs have not been paid, the Clerk of the Juvenile Division shall issue a certificate of judgment for the amount of such costs without further order.

#### RULE 18

### **COSTS OF EXAMINATION**

If an examination is made pursuant to Rule 35 of the Ohio Rules of Civil

Procedure, the cost of such examination and the expenses incurred by the plaintiff in going to the place of examination if located outside the county in which he is residing, at the time of such request, shall be paid by the requesting party.

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#### **RULE 19**

#### **CUSTODY OF FILES**

No papers or files shall be taken from the custody of the Clerk of the Juvenile Division without the expressed written approval of the Judge of the Juvenile Division. Permission to remove shall be granted only to an attorney of record for the parties for a period of no longer than 24 hours, but in any event, any file so removed shall be returned to the Clerk of the Juvenile Division 48 hours before any scheduled trial or hearing. The Court may determine what documents may or may not leave the Court. Before taking such papers or files, a receipt for the file must be given to the Clerk of the Juvenile Division. All files in the Juvenile Division involving delinquent, unruly, juvenile traffic offender, neglected, abused, dependent shall be secure and neither the general public nor attorneys shall have direct access to the same. Any request to view a file must be made to a deputy clerk. Only those persons who are direct parties to the case as defined by law or their attorney shall have access to the files in cases involving delinquent, unruly, juvenile traffic offender, abused, neglected and dependent.

#### **RULE 20**

### **PAYMENT OF SUPPORT**

Payments for support through the Juvenile Division shall either be made through the Office of the Clerk of the Juvenile Division or the Bureau of Support as ordered by the Court. All amounts ordered paid as support shall bear poundage at the current rate established by the Court.

Payments made through the Bureau of Support shall be subject to such rules and regulations as are established in Rule 25 of the Rules of Civil and Criminal Practice for the General Division of the Licking County Common Pleas Court.

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### **RULE 21**

#### **PRECEDENCE**

The rules set forth herein are promulgated pursuant to Section 2151.17 of the Revised Code and, in case of conflict, shall be subordinate to the Ohio Rules of Civil Procedure and the Ohio Rules of Juvenile Procedure.

#### **RULE 22**

#### **JURY**

The following procedure and use of Juror Questionnaires must be complied with.

Failure to comply with the procedure hereinafter outlined shall constitute contempt of court and possible personal liability in a suit for violations of a juror's privacy.

- 1. The original Juror's Questionnaire will be filed and maintained in the Clerk's Office of the General Division for the term of the juror's service. (3 weeks) An additional questionnaire relating to a specific trial matter such as paternity will be sent out by the Clerk of the Juvenile Division; and upon return shall be available at least seven days prior to the date of hearing.
- 2. There will be copies made of the Juror's Questionnaire and given to attorneys that have cases assigned for jury trials during the term of the juror's service. Each attorney may obtain the same one week in advance of their assigned trial date.
- The attorneys must not mark or make notations on the copy of the Juror's Questionnaire.
- 4. The attorney shall not copy the questionnaire or review the questionnaire with anyone other than their clients, and/or parties directly involved in the litigation.
- 5. The attorney shall not divulge the information contained in the Juror's Questionnaire to any persons, or organization other than as hereinabove stated.

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- 6. As soon as a Jury has been duly impaneled, the attorney shall immediately return the copies of the Juror's Questionnaires to the Office of the Clerk of the Juvenile Division.
- 7. Questions answered by the prospective juror in their Questionnaire shall not be subject to further voir dire examination unless for good cause shown.
- 8. When a Juror has completed his or her term of service, the Clerk of the Juvenile Division shall destroy the original Juror Questionnaire and all copies thereof.
- 9. The costs of reproducing or copying the Juror's Questionnaires that are furnished to counsel shall be taxed as a part of the costs in each case. A copy of this Court order will be given each attorney obtaining Juror Questionnaires.

### **RULE 23**

#### **CAPTION ON APPEAL**

In any juvenile matter in which an appeal is filed, the caption of the case shall not contain the full name of the child(ren). The reference shall be to the first name and first initial of the last name. The same designation shall be used for the name in the various papers filed in the appeal. The purpose of this rule is to preserve the anonymity of the child(ren).

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IN THE COMMON PLEAS COURT OF LICKING COUNTY, JUVENILE DIVISION

In re: Rules of the Juvenile Court Licking County, Ohio



JOURNAL ENTRY

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IT IS ORDERED, ADJUDGED, AND DECREED, that the following rule is hereby adopted and added to the existing Rules of Court (Juvenile Division) adopted May 20, 1981, and filed with the Supreme Court of Ohio on May 21, 1981. This rule is to become effective on January 1, 1985.

#### Rule I (F)

All pleadings and other documents filed in the Juvenile Division of this Court shall be on  $8\frac{1}{2}$ " x II" paper.

Further, a copy of this new rule shall be forwarded to the Ohio Supreme Court for filing.

Judge Robert J. Moore

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# IN THE LICKING COUNTY COURT OF COMMON PLEAS PROBATE-JUVENILE DIVISION

Amendment of Traffic Waiver Policy Statement Dated September 9, 1989 Regarding Court Costs Collected In Seat Belt Juvenile Traffic Offender Cases.

#### JOURNAL ENTRY

Whereas, R.C. 4513.263 (F) permits the Court to impose court costs in seat belt cases (R.C. 4513.263) when the complaint is dismissed after the child demonstrates that he or she has viewed an optional seat belt education film prior to the child's scheduled court appearance; and

Whereas, on September 8, 1989 this Court adopted its policy statement regarding the disposition of juvenile traffic cases by waiver, including the disposition of seat belt cases dismissed by waiver of appearance; and,

Whereas, it is necessary to clarify whether costs are to be collected in seat belt cases dismissed through the waiver of appearance procedure permitted by the September 8, 1989 policy statement.

Now, therefore, the Court hereby amends paragraph 4 of its September 8, 1989 policy statement. Paragraph 4 is hereby amended to read as follows

"4. Seat Belt: Must see the film to qualify for a waiver.

If no prior traffic record, case will be dismissed upon the payment of court costs. Court costs include the \$1.50 computerized legal research services fee assessed by this Court pursuant Journal Entry dated May 30, 1991. Total costs to be collected are \$16.50.

If child has had a previous seat belt violation processed by waiver of appearance, and if an additional seat belt violation is thereafter received by the child, such violation may be disposed of by waiver of appearance. However, in addition to the payment of the aforementioned court costs, a fine of \$20 (if charge is that driver failed to wear belt) or \$10 per passenger subject to a cap of \$30 (if charge is that passenger failed to wear belt) will be assessed."

It is so ordered

Judge Mike Radabaugh

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JUDGE MIKE RADABAUGH LICKING COUNTY JUVENILE COURT NEWARK, OHIO

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### In The Court Of Common Pleas, Licking County, Ohio

Juvenile Division

FILED

In the Matter of:

JUN 26 1991

Adoption of Rule 24 of Rules of Practice

JUDGE MIKE RADABAUGH LICKING COUNTY JUVENILE COURT NEWARK, OHIO

### Judgment Entry

The Rules of Practice for the Juvenile Division of the Court of Common Pleas of Licking County previously promulgated by the Court are hereby amended to include local rule designated 24. Rule 24 is hereby adopted by the court and shall become effective on July 1, 1991.

A copy of this amendment to the rules shall be filed with the Supreme Court of Ohio.

Mike Radabaugh, Judge

Judge Mike Radubaugh 614/349-6125

Courthouse Sewark, OH 43055

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AN AMENDMENT TO THE LOCAL RULES OF PRACTICE FOR THE COMMON PLEAS COURT OF LICKING COUNTY, OHIO, JUVENILE DIVISION ADOPTED IN RESPONSE TO AMENDED RULE 9 OF THE RULES OF SUPERINTENDENCE FOR COURTS OF COMMON PLEAS OF THE STATE OF OHIO EFFECTIVE JULY 1, 1991 TO BE REFERRED TO AS RULE 24, CASE MANAGEMENT.

Whereas, the Supreme Court of the State of Ohio has ordered that each court, by July 1, 1991, develop and implement a case management plan by local rule of court, the complete text of which may be found in the November 19, 1990 issue of the Ohio Reports Advance Sheets;

Now, therefore, be it Ordered that the following rule shall be added to the existing rules of practice of the court.

#### RULE 24

#### Case Management

For the purpose of insuring the readiness of cases in the Juvenile Division for pre-trial, final pre-trial, adjudication and disposition, the following procedures shall be observed:

- I. ALL CASES SUBJECT TO THE JURISDICTION OF THE JUVENILE DIVISION OF THE LICKING COUNTY COURT OF COMMON PLEAS.
  - A. The statutory times and times provided by appropriate rule for the processing of all cases subject to the jurisdiction of the Juvenile Division of the Licking County Court of Common Pleas shall be observed.

Adequate statutory provisions exist to control timeliness of filings. However, each case shall be reviewed not less than annually.

- B. Inventory.
- 1. An inventory of all open and pending cases as of September 1, 1991 must be made reporting the status of each case.
- 2. Each successive month thereafter, an account of the prior month will be made listing all new cases that were filed; removing any cases where final judgment has been rendered; and listing the status of every open case.

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### CERTIFICATION

The undersigned hereby certifies that a copy of the foregoing rule was filed with the Supreme Court of Ohio this 26th day of June, 1991.

Mike Radabaugh, Judge and Ex-Officio Clerk