

1. Butler County Area I, III, and III Courts

<http://www.areacourts.bcoho.gov>

**Civil and Criminal Rules of Practice and Procedure,
Case Management Plan
And
Jury Management Plan**

Effective January 31, 2023

Area I Court
Judge Robert H. Lyons
118 West High Street
Oxford, OH 45056
(513)785-7644

Area II Court
Judge Kevin C. McDonough
Butler County Historic
Courthouse
101 High Street, First Floor
Hamilton, OH 45011
(513)887-3459

Area III Court
**Judge Courtney Caparella-
Kraemer**
9577 Beckett Road
West Chester, OH 45069
(513)867-5070

Judge, Butler County Area I

Judge, Butler County Area II

Judge, Butler County Area III

Filed with the Supreme Court of Ohio
Date: January 31, 2024

Signature page on file in the court.

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I. JURISDICTION OF THE COURT

Territorial Jurisdiction—Proper Venue

Pursuant to R.C. §1907.01, the Butler County Court shall have jurisdiction throughout the Butler County Court district that shall consist of all territory within Butler County, Ohio not subject to the territorial jurisdiction of any municipal court. The Butler County Court is also known as the Butler County Area Courts, consisting of Area I Court, Area II Court, and Area III Court.

The territorial jurisdiction of the Butler County Area I court includes the City of Oxford and all of Hanover, Milford, Morgan, Oxford, Reily, and Wayne Townships. The territorial jurisdiction of the Butler County Area II Court includes all of Fairfield Township, Liberty Township, and the City of Monroe. The territorial jurisdiction of the Butler County Area III Court includes all of West Chester Township, and that portion of Sharonville which is in Butler County.

Subject Matter Jurisdiction

Criminal Cases

Pursuant to R.C. §1907.02(A) (1), county courts have jurisdiction over all misdemeanor cases that occur in their territory. A county court has jurisdiction to conduct preliminary hearings in felony cases that occur in its territory, to bind over alleged felons to the court of common pleas, and to take other actions in felony cases as authorized by Criminal Rule 5.

Parking Violations

Pursuant to R.C. §1907.02(B), a County Court has jurisdiction over the violation of a vehicle parking or standing ordinance, as defined in R.C. §4521.01, if the violation is committed within the limits of the court's territory, and if the violation is not required to be handled by a parking violation bureau.

Civil Cases

Pursuant to R.C. §1907.031, a County Court has original jurisdiction within its district in all of the following actions or proceedings and to perform all of the following functions subject to the monetary limits as set forth in I(B)(4), (5) of these rules:

- a. In an action or proceeding at law for the recovery of money or personal property of which the court of common pleas has jurisdiction;
- b. In an action at law based on contract, to determine, preserve, and enforce all legal and equitable rights involved in the contract, to decree an accounting, reformation, or cancellation of the contract, and to hear and determine all legal and equitable remedies necessary or proper for a complete determination of the rights of the parties to the contract;
- c. In an action or proceeding for the sale of personal property under chattel mortgage, lien, encumbrance, or other charge, for the foreclosure and marshaling of liens on the personal property, and for the rendering of personal judgment in the action or proceeding;
- d. In an action or proceeding to enforce the collection of its own judgments and to subject the interest of a judgment debtor in personal property to satisfy judgments enforceable by the county court;
- f. In an action or proceeding in the nature of interpleader;
- g. In an action of forcible entry and detainer;
- h. In all civil actions pursuant to R.C. §3736.41(B) (1) that relate to public nuisance.

Monetary Limits - Civil Actions

Pursuant to R.C. §1907.03, County Courts have exclusive original jurisdiction in civil actions for the recovery of sums not exceeding five hundred dollars (\$500) and original jurisdiction in civil actions for the recovery of sums not exceeding fifteen thousand dollars (\$15,000).

Small Claims Division

Pursuant to R.C. §1925.02, the small claims division has jurisdiction in civil actions for the recovery of taxes and money only, for amounts not exceeding six thousand dollars (\$6,000), exclusive of interest and costs.

II. JUDGES AND MAGISTRATES

Presiding Judge/Administrative Judge

1. In accordance with Ohio R. Super. 3(C), the term of the presiding judge shall be not less than one year and not more than three years. The term of the presiding judge shall begin on January 1st of the year immediately following the designation or election of the presiding judge.

2. In accordance with Ohio R. Super 4(C), the term of the administrative judge shall be not less than one year and not more than three years. The term of the administrative judge shall begin on January 1st of the year immediately following the designation or election of the administrative judge. An administrative judge may serve consecutive terms.

Magistrates

1. Appointment and Use

Magistrates may hear cases assigned to them by an Area Court Judge in the following matters: (1) civil proceedings; (2) forcible entry and detainer proceedings under Chapter 1923 of the Revised Code; (3) small claims proceedings under Chapter 1925 of the Revised Code; (4) domestic violence prosecutions; (5) initial appearances in criminal cases; (6) traffic cases; and

(7) any other case that the area court judges refer to the magistrate.

2. Qualifications

Magistrates shall be attorneys at law admitted to practice in the state of Ohio and have the qualifications specified in Civil Rule 53, Traffic Rule 14, and Supreme Court Rules of Superintendence 19.

Transfer of Cases

In the event that a conflict arises out of a case originating in Area II or Area III, that case shall be transferred to Area I, due to case management and case load concerns. For the same reasons, in the event a conflict arises out of a case originating in Area I, that case shall be transferred to Area III.

III. FILINGS--GENERAL.

A. Costs/Federal Tax ID Documentation

1. No civil action or proceeding shall be accepted for filing by the Clerk unless the appropriate amount of court costs is also tendered to the court. In the event of claimed indigence, said indigent shall file an application to proceed in forma pauperis, accompanied by an affidavit of support thereof. The application to proceed in forma pauperis is subject to court approval.
2. An attorney filing an action for wage garnishment or bank attachment shall either provide a properly completed Form W-9 or other documentation required by the Butler County Auditor to set up the attorney as a vendor within the county Auditor's accounts payable database, or provide written verification that the attorney is already an established vendor with the county Auditor.
3. Pursuant to R.C. §1907.24, the court has established a fee and cost schedule, which is available at each court and on the court's website under Attorney Services. See www.areacourts.bcoho.gov. Pursuant to R.C. §1907.26, judges of county courts shall not retain any of the costs or fees.

B. Forms of Pleadings

All documents filed with the Court on behalf of clients represented by counsel shall contain the name, address, telephone number, email address, facsimile number and attorney registration number of the attorney primarily responsible for the case. If the party is not represented by counsel, he shall provide his name, address, telephone number, email address and facsimile number on every pleading he files with the court.

C. Return of Service

Parties who wish to receive a copy of the return of service must provide a stamped, self-addressed envelope to the clerk.

D. Preparation of Filings

The parties to a cause of action are responsible for the preparation of their own documents. Court personnel are not permitted to prepare or assist in the preparation of any complaint or pleading in any case pending in the Court, except as may be allowed by law in the Small Claims Division.

E. Copies of Filings

A party filing a Complaint with the clerk is required to present one copy of each document for each party to be served by the clerk, and one original of each document for the clerk to retain. The failure to provide sufficient copies may be cause for the clerk to return the unfiled documents to the party attempting to file the documents. If the clerk is required to make copies of any document, the expense associated with doing so will be charged as costs in the case. Original documents are not to be removed from the Court once they have been filed with the clerk. If a party wants additional file stamped copies, it is that party's responsibility to provide those copies to the court, along with a stamped, self-addressed envelope.

F. Notice of Appearance

When an attorney has been retained to represent a party, it is incumbent upon him or her to file a Notice of Appearance with the court prior to or simultaneously with appearing in court with that party. The failure to file a Notice of Appearance shall be cause to bar the attorney from representing that party.

G. Change of Address

If an attorney or unrepresented party changes his or her mailing address, telephone number, fax number, or email address, it is that person's responsibility to file a notice of that change with the court and with opposing counsel or unrepresented party. The failure to do so may result in that person not receiving notices or orders from the court and will not excuse that person from all ramifications arising out of that missed notice or order.

H. Certificate of Service

A certificate of service must accompany every pleading or document filed with the court after the Complaint and must be signed by the attorney or unrepresented party. The certificate of service must provide the date the pleading is sent, and must list the specific attorney or party to whom the document is sent, the address of the attorney or party, and the method of transmission, i.e., personal delivery, ordinary U.S. mail, facsimile transmission, e-mail, etc. The use of generic language to denote the recipient, such as "to all counsel of record," is not permitted.

Failure to abide by this rule may result in the filed document being stricken by the court and disregarded.

I. Time for Response to Pleading

Unless the Court orders otherwise or unless otherwise authorized by law, a party responding to a pleading shall file such response with the court within fourteen (14) days of service of that pleading upon the party.

J. Oral Hearing

1. A party filing a motion with the Court may request that the Court hear the matter on the record. Requests for an oral hearing must be made in writing and within seven days of the filing date of the motion. The request for an oral hearing may be made on the motion itself or on the responsive pleading. It is the duty of the party requesting the oral hearing to inform the adverse party, in writing.
2. The Court maintains the discretion to deny a request for an oral hearing. The Court, in its discretion, may order and schedule an oral hearing even in the absence of a request for such hearing by the parties.

K. Filing deadlines

In the event that the court should close early because of inclement weather, holiday time, or any other reason, the filing deadline for any civil or criminal case shall be extended until the next business day that the court is open.

L. Fax filings

1. Any person may file a pleading by facsimile transmission, so long as the pleading does not require the payment of fees or costs.
2. All documents sent by fax and accepted for filing shall be considered filed with the Clerk of Courts as of the date and time the Clerk time-stamps the document received, as opposed to the date and time of the fax transmission.
3. The Clerk of Courts need not acknowledge receipt of the fax filing. The risk of transmitting a document by fax to the Clerk of Courts shall be borne entirely by the sending party. Anyone using facsimile filing is urged to verify receipt of such filing with the Clerk of Courts.

M. Authorized Signature

Any signature of any judge, magistrate, or court employee on any document may be executed manually or by means of any device or machine, including electronic signature or signature stamp, as long as it reflects the present intention of the signor to authenticate the signature and the document. No document shall be signed for any judge, magistrate, or court employee without first obtaining permission from that judge, magistrate or court employee indicating the intention to authenticate the signature and the document.

N. E-CITATIONS

The use and filing of a traffic ticket that is produced by computer or other electronic means is authorized by the court. The electronically produced ticket shall conform in all substantive respects to the Ohio Uniform Traffic Ticket. If an electronically produced ticket is issued at the scene of an alleged offense, the issuing officer shall provide the defendant with a paper copy of the ticket.

IV. CASE MANAGEMENT PLAN

A. Purpose

The purpose of this rule is to establish, pursuant to Sup.R. 5(B)(1), a case management plan for the purposes of ensuring the readiness of cases for pretrial and trial, and maintaining and improving the timely disposition of cases.

B. Scheduling of events

The time within which an act is required to be done under these rules shall be computed in accordance with Ohio Civil Rule 6 and Ohio Criminal Rule 45. Cases that have time limits established by the Ohio Revised Code shall be set within those time limits for hearing. In all other proceedings, the case shall be set for hearing within a reasonable time.

C. Failure to Obtain Service of Process

In cases where counsel fails to obtain service of process within six (6) months, the clerk shall notify counsel that the case will be dismissed in thirty (30) days unless good cause is shown to the contrary.

D. Continuances

Continuances in Civil Cases

a. The continuance of a scheduled trial or hearing in a civil case is a matter within the sound discretion of the trial court for good cause shown. No party shall be granted a continuance of a trial or hearing without a written motion from the party or counsel stating the reason for the continuance, endorsed in writing by the party or counsel, provided that the trial judge may waive this requirement upon a showing of good cause. A proposed entry shall be filed with a motion for continuance, leaving the time and date blank for the court to set a new date. If the continuance is granted, the court shall set a definite date for the next trial or hearing.

b. Prior to filing a motion for a continuance, the movant shall contact the opposing counsel or unrepresented party regarding the request, and shall endorse on the motion the position of opposing counsel or unrepresented party regarding the request for a continuance.

Continuances in Criminal Cases

The continuance of a hearing or trial in a criminal case rests within the sound discretion of the trial court. Guidelines as to how each judge exercises his discretion are contained on the court's website, www.areacourts.bcohoio.gov and clicking on Court Services/Continuances.

E. Praecept for Witnesses

All praecipes for the issuance of subpoenas for witnesses in both civil and criminal cases must be made in writing to the clerk no later than seven (7) working days before trial. The court retains the discretion to deny a continuance if a witness fails to appear and this rule has not been complied with. All parties may cause subpoenas for witnesses to be issued by service in a manner and form as is consistent with the rules of service contained in Rule of Criminal Procedure 17(D) and Rule Civil Procedure 45(B).

F. Pretrial Procedures

1. Civil Cases

The Court may, at its discretion, and without a request or motion of a party, direct the attorneys for the parties to appear before it for a pretrial conference, either in person or by telephone, in order to consider and accomplish those objectives set forth in Rule 16 of the Ohio Rules of Civil Procedure. The failure of a party to attend a pretrial conference shall be cause for the court to either dismiss the Complaint or to grant a default judgment without further notice to the parties.

2. Criminal Cases

Pursuant to Rule 17.1 of the Rules of Criminal Procedure, the court shall not conduct pretrial conferences in any case in which a term of imprisonment is a possible penalty unless counsel represents the defendant or counsel has been waived pursuant to Crim. R. 44. In any case in which the defendant is not represented by counsel, any pretrial conference shall be conducted in open court and shall be recorded as provided in Crim. R. 22.

Jury Trial Demand or Waiver

a. Demand for a civil jury trial shall be made as required by Civil Rule 38. At the time a jury demand is made, the party requesting the jury shall deposit \$300.00 with the court for costs. The failure to pay the deposit may result in a waiver of the jury.

b. In a criminal case, once a written demand for a jury trial has been filed, any subsequent waiver of the jury trial shall be made in writing at least five (5) working days prior to the trial date. This waiver must contain the signature of the defendant and must be made in open court. Failure to abide by this rule shall result in the defendant paying all jury fees and expenses incurred by such jury demand.

Settlements

When a file has been marked “settlement to come” or a similar determination, and the entry has not been received within the time designated by the court, then the Clerk shall notify the party that his or her case will be dismissed unless the entry is received within ten (10) days of the party being notified. The court reserves the discretion to sanction any attorney or party who does not provide a dispositive entry pursuant to this rule.

Admissibility of Documents in Civil Cases

Objections to the admissibility of any document or exhibit in a civil case will be deemed waived at any court hearing under the following circumstances:

- a. If that document or exhibit was provided to opposing counsel or the opposing party, if pro se, at least fourteen (14) days before the hearing; and
- b. The proponent of the exhibit notifies the opposing counsel or party in writing of his intent to offer the exhibit into evidence; and
- c. The party opposing introduction of the document or exhibit into evidence has not filed a written objection to the introduction of the document or exhibit at least seven (7) days before the hearing, setting out the particular objection raised.

The failure of a party to abide by the procedure contained in this rule does not prevent the party from otherwise attempting to offer an exhibit into evidence.

Copies of Documents and Exhibits

In all civil cases, all counsel and unrepresented parties are required to provide sufficient copies of documents and exhibits for the court, the witness, and opposing counsel or unrepresented party. Neither counsel nor any unrepresented party shall be permitted to make copies of any document or exhibit on court copy machines, nor shall

any court employee assist counsel or an unrepresented party in making any such copies. The failure of counsel or an unrepresented party to comply with this rule may result in the document or exhibit being ruled inadmissible into evidence.

G. Trial Orders in Civil Cases

1. Pretrial Statement

For all civil trials, unless otherwise indicated by the court, counsel for both parties (and the parties themselves, if not represented) shall file a pretrial statement no later than ten (10) days prior to trial or at such other time as directed by the court. The pretrial statement shall contain the following:

- a. A concise statement of the claims and defenses of the parties;
- b. Those facts established by admissions in the pleadings, admissions by discovery, and stipulations of counsel;
- c. The contested issues of fact;
- d. The contested issues of law, together with counsel's (or unrepresented party's) citations of authority for his/her position;
- e. The names and address, together with a brief statement of the subject matter and expected testimony, of each witness;
- f. A list of all special damages being requested;
- g. A list of all exhibits that the party intends to offer into evidence;

h. Counsel's expectation of the trial time needed to present his/her side of the case.

2. Witnesses and Exhibits at Trial

Each party will be limited at trial to the witnesses and exhibits identified in discovery and provided in their pretrial statement.

3. Proposed Jury Instructions

If the case is to be heard by a jury, counsel for both parties (or an unrepresented party) is to provide a complete set of proposed jury instructions to the court by the date designated by the court.

4. Trial Exhibits

a. All exhibits are to be marked and exchanged prior to trial. Plaintiff is to use numbers and the defendant is to use letters. Joint exhibits are to be marked with Roman numerals. Each party must bring at least three sets of exhibits to trial (one for the proponent of the exhibit, one for the witness stand, one for the court).

b. It is the responsibility of each party to prepare, mark, and copy all of his/her exhibits in advance of trial. No party or person shall be permitted to use the court's copy machine for any purpose.

c. All multi-page documents shall be numbered.

5. Sanctions

The failure to submit a Pretrial Statement or otherwise comply with any other court order in a timely manner may result in the imposition of appropriate sanctions, including exclusion of witnesses or exhibits, dismissal of the claims, or the granting of a judgment.

V. FILING OF JUDGMENT ENTRIES

A. Court Order for Judgment

1. The judgment entry specified in Civil Rule 58 and in Criminal Rule 32 shall be prepared by counsel for the party in whose favor an order for judgment is rendered. Counsel shall prepare a journal entry and submit it to opposing counsel within five (5) days of the Court's decision. Opposing counsel shall approve or reject the entry within five (5) days of receipt. Within fifteen (15) days of the verdict, decree or decision, the judgment entry shall be filed and journalized. Failure of counsel to prepare and file the entry may be cause for the Court to impose sanctions to counsel or parties, including and up to dismissal of a party's claim. The Court has the discretion to require counsel and/or the parties to appear in order to show cause as to why the entry has not been prepared.

2. Approval of a judgment entry by counsel or party indicates that the entry correctly sets forth the verdict, decree or decision of the court and does not waive any objection or assignment of error for appeal.

B. Entry of Settlement

Subject to the provisions of Local Rule IV(F)(4), as soon as the parties are aware that a case has been settled, they shall promptly notify the court of the fact of the settlement in order for the court to vacate any scheduled hearing date. The parties shall also promptly prepare an entry disposing of the case. The failure of the parties to promptly notify the court and to file a dispositive entry may be cause for the imposition of sanctions upon the parties and/or counsel.

C. Default Judgment

In all cases where no answer, motion, or other pleading has been filed in response to a Complaint, it shall be the responsibility of the complainant to prepare the appropriate default judgment entry and provide it to the court.

An affidavit must accompany the entry for default judgment. If the claim is for liquidated damages, such as an account, the complainant must file an affidavit stating the balance due on the account before the court will render a default judgment. If the claimed damages are not liquidated, the plaintiff must so notify the court so that a hearing on damages can be scheduled.

D. Reviving Dormant Judgments

To revive a dormant judgment, a judgment creditor shall file a motion to revive dormant judgment, which the clerk shall serve in accordance with Civ. R 4(F). No conditional order of revivor will be granted.

1. If the judgment debtor fails to file a response within the time provided by the Ohio Rules of Civil Procedure, and if the judgment debtor is properly served, the judgment creditor shall present an entry granting the motion to the Clerk.
2. If the judgment debtor files a response to the motion, the case shall be assigned for a hearing before the magistrate.

VI. DESIGNATION OF TRIAL ATTORNEY & ASSIGNMENT SYSTEM

A. Assignment

Upon the filing or transfer of a civil case, or upon the filing of a Complaint in a criminal case, the case is immediately assigned to the judge presiding in the Area Court having jurisdiction over the case.

B. Designation of Trial Attorney

1. In civil cases the attorney who is to try the case shall be designated as trial attorney on all pleadings. Any such attorney shall file a Notice of Appearance as soon as he or she becomes the attorney of record. In criminal and traffic cases, except felonies, the attorney who is to try the case, upon being retained or appointed, shall notify the court that he or she is the trial attorney by filing a Notice of Appearance with the clerk of the court. See L.R. IV(F).
2. If a designated trial attorney has such a number of cases assigned for trial so as to cause undue delay in the disposition of any case, the

Judge may require the trial attorney to provide a substitute trial attorney.

3. If a designated trial attorney has such a number of cases assigned for trial so as to cause undue delay in the disposition of such cases, the administrative judge may summon such trial attorney who persistently requests continuances and extensions to warn the attorney of the possibility of sanctions and to encourage the attorney to make the necessary adjustments in the management of his or her practice. Where such measures fail, restrictions may be imposed by the administrative judge on the number of cases in which the attorney may participate at any one time.

VII. COURT APPOINTMENTS

In felony cases and misdemeanor cases where incarceration is a possible penalty, if a defendant is indigent, he or she may request the Court to appoint an attorney to represent him or her. To support this request the defendant must file an affidavit setting forth his or her financial standing. A Judge or authorized Court official shall review the affidavit. The Court reserves the right to conduct an investigation to determine if the facts stated on the affidavit, in support of the indigence, are true and accurate. The defendant will be notified if the facts do not support the appointment of counsel.

VIII. STANDARDS FOR COURT APPOINTED ATTORNEYS

A. All counsel appointed to represent an indigent defendant, whether counsel is part of the Butler County Public Defender or is on the Approved Counsel List of Conflict Attorneys, shall meet the minimum education and training requirements contained in OAC 120-1-10 for each type of case that any such attorney undertakes.

B. Each Area Court shall maintain a separate list of those attorneys who have been approved by the judge of that court to qualify as a conflict attorney. Only the judge of each Area Court has the authority to place an attorney on the Approved Counsel List of Conflict Attorneys. The court will use a rotary system from a graduated list that pairs the seriousness and

complexity of the case with the qualifications and experience of the person to be appointed.

C. Every attorney who is appointed to represent an indigent defendant, whether an attorney with the Butler County Public Defender or in private practice, must have malpractice insurance in order to be qualified to take any appointment. Each attorney must provide proof of malpractice insurance at the time he or she is placed on the court-appointment list, and at any other time that any judge of the Butler County Area Courts requests to see such proof.

D. In making an appointment, the court will contact an attorney from the Conflict List. If that attorney is not available, he shall provide his reasons. The court will then contact each successive attorney on the list until the court finds an attorney who is available to represent that particular defendant. After that appointment has been made, the court will contact the next attorney on the list for the next defendant in a rotating fashion. Each judge retains the discretion to vary from this procedure under extenuating circumstances.

E. It is the intention of the court to equitably distribute appointments for conflict attorneys who have been approved by the court in an objectively rational, fair, neutral and nondiscriminatory manner, although the court retains the discretion to deviate from the list when taking into account the factors contained in L.R. IX(B) and (F).

F In making an appointment for a conflict attorney, the court will consider the factors contained in Ohio R.Super. 8(D).

G. No attorney shall be required to join or pay a fee to any organization as a condition for inclusion in the appointment system.

H. No attorney on the conflict list is assured of any number of appointments or of a substantially equal number of appointments. No attorney is granted a legal right or claim by virtue of consideration for being on the conflict list, acceptance onto the list, or exclusion from the list.

I. In accordance with Ohio R. Super. 8(C), at least once every five years, the court shall review the compensation paid to court appointees in order to determine the compensation's adequacy and effect upon the availability of court appointments. The court shall provide the report to all funding authorities of the court. In conducting that review, the court may survey the compensation of appointed attorneys in other courts of similar size around the state; may take into account attorney comments; may consider how the amount of compensation affects the availability of qualified attorneys to take appointments; and may take any other steps reasonably calculated to provide a sufficient overview of the adequacy of the court's funding.

IX. BAIL BONDS

It is the policy of the court that recognizance bonds and property bonds shall be used whenever approved by the Judge. A bond schedule is available from a deputy clerk at each of the three area courts and at the Butler County Jail. If a defendant wishes to post property for bond, the equity in the property must be twice the amount of the bond, and the property must be located in Butler County, Ohio. Bond for each court may be posted at any of the three Area Courts.

X. VIOLATIONS FOR MINOR MISDEMEANORS

A. Pursuant to Sup. R. 18 and Crim. R. 4.1, there is established a Violation Bureau for Minor Misdemeanors. All minor misdemeanors are to be processed by the violation bureau.

B. The citation issued by a law enforcement officer upon the violation of a minor misdemeanor shall inform the defendant that, in lieu of appearing at the time and place stated, he may, within that stated time, appear personally at the office of the clerk of court and upon signing a plea of guilty and a waiver of trial, pay a stated fine and stated costs, if any.

C. The clerk of court shall maintain a fine schedule listing the fines and court costs for each minor misdemeanor and traffic offense. The fine schedule is available at each area court and on the court's website at: www.areacourts.bcoho.gov

D. Pursuant to Crim. R. 4.1(F), when a defendant fails to appear, the court may issue a supplemental citation or a summons or warrant under Crim. R. 4. Supplemental citations shall be signed by the clerk and served in the same manner as a summons.

XI. WRITTEN PLEA OF NOT GUILTY

A. A plea of not guilty may be entered in writing prior to the day of arraignment. The written plea of not guilty must be signed by the defendant or his counsel. Once a written plea of not guilty has been filed, neither counsel nor the defendant need appear in court for arraignment, unless any of the following apply:

1. The written plea of not guilty does not contain a time waiver;
2. The offense is domestic violence or another offense of violence;
3. The judge requires a personal appearance by the defendant.

XII. TRAFFIC VIOLATIONS

Pursuant to the Uniform Rules of Traffic Procedure, there is established a Traffic Violations Bureau with the main office of the Clerk. The hours of operation shall be from 8:30 A.M. to 4:30 P.M., Monday through Friday, except that the office is not open on federal legal holidays. However, all payable traffic violations may be paid on the Internet at the Area Court's Website. Payments can be made seven days a week, twenty four hours a day by visiting www.areacourts.bcoho.gov and clicking on "Make Payments". Area I Court in Oxford and Area III Court in West Chester also have payment drop boxes outside the entrance to the court. Drop boxes are available twenty-four hours a day, seven days a week.

XIII. SEALINGS/EXPUNGEMENTS

All sealings/expungements must comply with ORC. 2953.32 and 2953. 52. All requests for sealings/expungements must be filed in the proper Area Court and contain all of the information requested on the Sealing/Expungements Form found in the Forms section of the court's website at www.areacourts.bcohoio.gov. All costs associated with the filings must be paid at the time of the filing. No personal checks will be accepted.

XIV. PROBATION DEPARTMENT

Individuals sentenced to a term of probation are subject to the rules and regulations of the Butler County Area Court Probation Department.

XV NOTICE TO VICTIMS OF CRIMINAL OFFENSE

In accordance with Ohio R.Crim.P. 37, it is incumbent upon the prosecuting attorney to provide all necessary notices of all public proceedings and the right to be present for such proceedings to the victims of criminal offenses, provided that the victim requests such notices.

XVI. JURY MANAGEMENT PLAN

A. Purpose

The purpose of this rule is to establish, pursuant to Sup.R. 5(B) (2), a jury management plan for the purposes of ensuring the efficient and effective use and management of jury resources. This plan, as required by Sup.R. 5(B) (2), addresses the provisions of the Ohio Trial Court Jury Use and Management Standards adopted by the Supreme Court of Ohio on August 16, 1993.

B. Administration and Monitoring of the Jury System

All procedures concerning the jury selection and service shall be governed by the Ohio Rules of Court. The Clerk, acting under the supervision of the trial judge, shall be responsible for administering the jury system.

The Clerk, on a regular basis, shall request, collect and analyze information regarding the performance of the jury system in order to evaluate: 1.) whether or not the jury source list is representative of the potential pool of

jurors available in the area; 2.) the effectiveness of the notification and summoning procedure; 3.) the responsiveness of individual citizens to the jury duty summons; 4.) the efficient use of jurors; and 5.) the cost-effectiveness of the jury system as administered by the courts.

C. Opportunity for Service

The opportunity for jury service shall not be denied or limited on the basis of race, national origin, gender, age, religious belief, income, occupation, disability or any other factor that discriminates against a cognizable group in the jurisdiction, other than as specified in Local Rule XV(E), below.

D. Jury Source List

During the first week of August each year, by order of the Jury Commission of the Butler County Common Pleas Court, a list of jurors is provided to the Area Courts. The court may periodically review the list and determine whether or not it represents and includes the adult population in the jurisdiction.

E. Eligibility for Jury Service

All persons shall be eligible for jury service except those who are less than eighteen years of age; are not citizens of the United States; are not residents of the jurisdiction in which they have been summoned to serve; are not able to communicate in the English language; or have been convicted of a felony and have not had their civil rights restored.

F. Random Selection Procedure

Persons to be summoned for jury service shall be randomly selected by an automated mechanism from the list of prospective jurors. At least fifty persons per venire shall be summoned for jury service. The court shall ensure that each prospective juror who has reported to the court will be assigned for voir dire.

G. Notification and Summoning Procedure

A notice summoning each person selected for jury service, and a background information questionnaire, shall be delivered by first class U.S. mail to each prospective juror. The summons shall clearly explain how and when the recipient must respond and the consequences for failure to report for jury duty.

The background information questionnaire shall request only information essential for: 1) determining whether or not a person meets the criteria for eligibility for jury service; 2) providing the court and counsel with basic background information to be used during voir dire; and 3) efficiently managing the jury system.

H. Term and Availability for Jury Service

Persons summoned for jury service will be required to be available to serve on a jury for a maximum of thirty (30) days. Each juror may be asked to serve on a maximum of two (2) trials during the thirty-day period.

I. Exemption Excuse and Deferral

Eligible persons who are summoned may be excused from jury service for only one of two reasons. First, a person may be excused if his or her ability to receive and evaluate information is so impaired as to render him or her unable to perform their duties as juror. Only a judge can excuse a juror for the first reason. Second, a person may request to be excused because his or her service would be a continuing hardship to him or her or to members of the public. Either the judge or an authorized court official may excuse a juror for the second reason.

Performance of jury service may be deferred for a reasonably short period of time by the judge or by an authorized court official.

Requests for excuses and deferrals shall be written or otherwise recorded. All requests shall be reviewed by the judge or an authorized court official and answered at least seven days prior to the date of jury service. The disposition of each excuse or deferral shall also be written or otherwise recorded. Each juror requesting an excuse or deferral will be notified of the disposition of his or her request, either by telephone or in writing.

J. Cancellation

In the event that a case is settled or dismissed prior to trial and it is not possible to notify all jurors of the cancellation, the party who requested the jury trial shall bear the costs of juror fees of those jurors who report for the day of trial. Each court will update a recording on its Jury Service phone line to inform the public of the status of the trial if it has enough advance notice regarding cancellation.

K. Magistrate to Conduct Civil Jury Trials

Upon the written consent of both parties in a civil case, a magistrate of the Area Court has the authority to conduct a jury trial.

L. Jury Instructions

The court will prepare generalized jury instructions based on the elements of the crime(s) charged in the Criminal Complaint and based on the causes of action alleged in the civil Complaint and Counterclaim, if any. The court will forward a draft of these instructions to all counsel and unrepresented parties at least three weeks ahead of the scheduled trial. It will be incumbent upon counsel and any unrepresented party to file objections to the proposed instructions and to file a request for any specialized instructions, i.e., lesser included offenses, affirmative defenses, other acts evidence, etc., at least two weeks before the scheduled trial. The request must contain the exact wording that counsel and unrepresented party would like to have read to the jury. It is insufficient to provide just a general topic or heading. Absent unforeseen or extraordinary circumstances, the failure to provide the requested instruction will be deemed a waiver of that instruction.

M. Voir Dire

1. General Process

Voir dire examination shall be limited to matters relevant to determining whether to remove a juror for cause and to determining the juror's fairness and impartiality. In criminal cases, the voir dire shall be on the record. In civil cases, the voir dire process shall be held on the record unless waived by the parties. The trial judge shall conduct a preliminary voir dire examination and then counsel for each side shall be permitted to question panel members for a period of time deemed reasonable by the judge.

A copy of the background information questionnaire will be made available to counsel for each party three days prior to the day of trial. The judge will ensure that the privacy of prospective jurors is reasonably protected, and that the questioning by attorneys for both sides is consistent with the purpose of the voir dire process.

2. Removal for Cause

During the voir dire process, if the judge determines that any individual is unable or unwilling to hear the evidence presented and decide the particular case at issue fairly and impartially, the judge may remove that individual from the panel. Removal of a prospective juror for cause may be made on motion of counsel or by the judge.

3. Peremptory Challenges

In civil cases, counsel for each side is allowed no more than three peremptory challenges. If the court finds that there is a conflict of interest between parties on the same side, the court may allow each conflicting party up to three peremptory challenges.

In criminal cases, the number of peremptory challenges shall not exceed three for each side. One additional peremptory challenge shall be allowed for each defendant in a multi-defendant criminal proceeding.

In criminal and civil proceedings, each side shall be allowed one peremptory challenge if one or two alternate jurors are empanelled. These additional peremptory challenges shall be used against an alternate juror only, and the other peremptory challenges allowed by law shall not be used against an alternate.

N. Facilities

The court shall provide an adequate and suitable environment for jurors.

O. Compensation

Persons called for jury service shall receive a fee for their services. A juror who reports to the court, but is excused shall receive \$6.00 per day plus \$0.10 per mile for travel expenses incurred traveling to and from court. A person who is seated as a juror in a trial shall receive \$12.00 per day of service plus \$0.10 per mile for travel expenses incurred traveling to and from court.

Jurors will be paid by the Butler County Auditor's Office upon receipt of a voucher from the court stating the expenses were incurred.

P. Juror Orientation and Instructions

Persons called to serve as a juror will receive instructions: 1) upon initial contact prior to service; 2) upon first appearance at the court; and 3) upon reporting to a courtroom for voir dire.

Immediately following the empanelment of the jury, the trial judge shall give instructions directly to the jury explaining the jury's role, the trial procedures, including note taking and questioning by jurors, the nature of the evidence and its evaluation, the issues to be addressed by the jury, and the basic relevant legal principles to be applied by the jury. Prior to the commencement of deliberations, the trial judge shall instruct the jury on the law and appropriate procedures to be followed during deliberations, and on the method for reporting the results of its deliberations.

Before dismissing the jury at the conclusion of the case, the trial judge shall:

1) release the jurors from their duty of confidentiality; 2) explain their rights regarding inquiries from counsel or the press; 3) advise them that they are discharged from service; 4) express appreciation to the jurors for their service, but not express approval or disapproval of the result of the deliberation.

All communications between the judge and members of the jury panel, from the time of reporting to the courtroom for voir dire until dismissal, shall be in writing or on the record in open court. Counsel for each party shall be informed of such communication and given the opportunity to be heard.

Q. Presence of Witnesses

The names and addresses of witnesses shall be available and revealed to the Court and the jury prior to the commencement of trial.

R. Size and Unanimity

The size of the jury and unanimity, in civil and criminal cases, shall conform to existing Ohio law.

S. Jury Deliberations

Jurors shall be provided with a pleasant, comfortable, and secure place in which to conduct their deliberations. The judge shall instruct the jury concerning appropriate procedures to be followed during deliberations.

The jury shall not be required to conduct deliberations after normal business hours unless the trial judge determines that evening or weekend deliberations are required in the interest of justice, and would not pose an undue hardship upon the jurors. Counsel and court personnel shall remain readily available during jury deliberations.

T. Sequestration

The trial judge shall have the discretion to sequester a jury on the motion of counsel, or at the judge's discretion. The trial judge is responsible for overseeing the conditions of sequestration. A jury will be sequestered only for good cause, including but not limited to, insulating its members from improper information or influences.

Training shall be provided to personnel who escort and assist jurors during sequestration

XVII. RECORDING OF PROCEEDINGS

A. Recording Devices

In accordance with Sup.R. 11, proceedings in each area court are recorded by digital recording devices. Digital recording devices include systems for recording sound to storage devices.

B. Appeal

Transcripts of proceedings from digital media shall be prepared in accordance with Rule 9(A) of the Rules of Appellate Procedure.

C. Custody

Digital recorded transcripts of proceedings shall be maintained and transcribed in the manner directed by the trial court.

D. Expense of Digital Recorded Transcripts of Proceedings

The expense of copies of digital recorded transcripts of proceedings, or such portions as are considered necessary by a person, shall be borne by

the requesting person. There shall be no cost to any person who wants to listen to a proceeding at a court facility. Any person who wants to listen to a court proceeding must make arrangements with a deputy clerk of the court where the case was heard. If a person wants a Compact Disc (CD) of a hearing, he/she may purchase it from the court for \$.50 per CD.

E. Written Transcripts

1. Any person who wants a written transcript of a hearing must contact the court reporter directly in order to arrange the payment for and preparation of the transcript. The information for obtaining a transcript is contained on the court's website, www.areacourts.bcohio.gov, under the heading "Court Services." The court reporter is under no obligation to prepare and provide a transcript unless he or she is paid for the work.
2. In order to protect the integrity of the document, the court reporter must file the original transcript with the court and will provide a copy of it to the requester upon the payment of the reporter's fees.

F. Compensation for Reporters

The Area Court Judges shall determine the compensation to be paid to court reporters for making transcripts. Additional copies of a transcript will be provided in accordance with O.R.C. 2301.24.

G. Indigent Criminal Defendants

In felony and misdemeanor cases, in the event that a case is appealed or bound over to the grand jury, a transcript will be provided to the defendant at no cost if the defendant is deemed by the court to be indigent. The Court shall determine whether the defendant is indigent based on an affidavit of indigency filed by the defendant and a report filed by the defendant's probation officer. The Court reserves the right to conduct an investigation to determine if the facts stated on the affidavit, in support of the indigence, are true and accurate.

XVIII. PUBLIC RECORDS POLICY

A. Procedure for obtaining

1. Pursuant to O.R.C. 149.43 (B) (1), the Butler County Area Court will promptly prepare and make available a public record for inspection to any person at all reasonable times during regular business hours. Upon request, the Court will make copies of the requested public record at a cost of \$.25 a page and within a reasonable period of time. If a requester seeks a copy of a compact disc recording of any trial proceedings, the cost is \$.50 for each such disc. The Court will mail, transmit, or deliver copies of a requested court record to the requester within a reasonable time from the time of the request.
2. If a request for a public record is denied, in part or in whole, the Court will provide the requester with an explanation, including any legal authority, setting forth why the request was denied. If the initial request was in writing, the explanation will also be provided to the requester in writing.
3. If the requester makes an ambiguous or overly broad request, or has difficulty in making a request for public records, such that the court cannot reasonably identify what public records are being requested, the Court may deny the request but shall provide the requester with an opportunity to revise the request by informing the requester of the manner in which the records are maintained by the court and accessed in the ordinary course of the court's duties.
4. Unless specifically required by state or federal law, a requester is not required to provide his identity or the intended use of the public record. In order to enhance the Court's response to a public records request to help identify, locate, and deliver a public record to a requester, the Court may ask the requester to put the request in writing, may ask for the requester's identity, and may inquire about the intended use of the information, but the requester may refuse to put the request in writing, may refuse to reveal his identity, and may refuse to reveal the intended use of the information, subject to the limitation, set forth below, regarding commercial purposes. See Local Rule XVII(C)(1).

5. The Court may require the requester to pay a deposit, in advance, for the cost involved in providing a copy of the public record. The Court will permit the requester to choose to have the public record duplicated on paper, upon the same medium upon which the court keeps it, or upon any other medium which the court determines that it can reasonably be duplicated as an integral part of the normal operations of the Court. When a requester makes a choice as to the type of medium the record will be reproduced, the Court will provide a copy of it in accordance with that choice.

B. Exempt Information

1. When filing a case document as defined in Ohio R. Superintendence 44(C), it is the party's responsibility to redact all personal identifiers. A personal identifier means social security numbers, except for the last four digits; financial account numbers, including, but not limited to, debit card, charge card, and credit card numbers; and employer and employee identification numbers. When personal identifiers are omitted from a case document submitted to the Court or filed with the court, the parties shall submit or file that information on a separate form provided by the Court. The responsibility for omitting personal identifiers from a case document rests solely with the filing party. The Court will not review case documents to confirm that the party has omitted personal identifiers, and the Court will not refuse to accept or file the document on that basis.

2. If any party or person who is the subject of information in a case document requests that the Court restrict public access to information contained in a case document, the party and the court will follow the procedures contained in Ohio R. Superintendence 45(E) and (F).

C. Copies

1. The Butler County Area Court hereby limits the number of public records requested by a person to ten per month that the Butler County Area Court will transmit by United States mail, unless the person requesting the records certifies to the Butler County Area Court, in writing, that the person does not intend to use or forward the requested records, or the information contained in them, for commercial purposes. Commercial purposes does not include news reporting, the gathering of information to assist citizens in the understanding of Court activities, or non-profit educational research.
2. The Court hereby prohibits any person from making a copy of any public record at the Court. Instead, court personnel shall make a copy of a public record for any person who requests that public record.

D. Bulk Distribution

Any person, upon request, shall receive bulk distribution of information and court records, provided that the bulk distribution does not require creation of a new compilation, as defined in Ohio R. Superintendence 44(M). The court has no obligation to prepare a new compilation for any person. The requestor of bulk distribution shall choose how the information is to be provided, whether on paper, on the same medium upon which the court keeps the information, or upon any other medium that the court determines can be reasonably duplicated as an integral part of its normal operations, unless the choice requires a new compilation. The bulk distribution shall include a time or date stamp indicating the compilation date. The person who receives a bulk distribution of information in court records for redistribution shall keep the information current and delete inaccurate, sealed, or expunged information in accordance with Ohio R. Superintendence 26.

E. Scanned Documents

Although it is the court's policy to scan all filed documents in civil and criminal cases for viewing on the court's website, the court will not scan any document that contains the name, address, telephone number, or

email address of any alleged victim of an offense of violence, as defined in R.C. 2901.01(A)(9), or as subsequently amended. The court also retains the discretion to not scan other documents or to delete documents that are already scanned, pursuant to Ohio R. Super. 45(E), if there is a compelling reason.

XIX. DEBTOR EXAMINATION

All judgment debtor examinations shall be held as assigned by the Judge or Magistrate handling the case. If a judgment debtor fails to appear at a scheduled examination, and the debtor was personally served, the creditor or, the attorney for the creditor, may request that the Court issue a citation for contempt of court for failure to appear. If the citation is personally served on the debtor and contains a hearing date, and the debtor still does not appear, then the court may issue a bench warrant for the arrest of the debtor for failure to appear. In order for the court to issue a warrant for the debtor's arrest for failure to appear in court, the creditor must supply the debtor's social security number.

XX. SALE OF GOODS

A. Responsibility for Sale

The judgment creditor shall follow the rules prescribed by section 2329.13 et. seq. of the Ohio Revised Code, in the advertising and conducting of all sales on attachments, execution or foreclosure of chattel mortgages.

B. Personal Property

In all attachments or executions to be levied upon personal property, the attorney or party shall describe in detail those items which are to be levied upon and an instruction "levy upon all goods and chattels of the defendant" will not be sufficient. It is necessary for the Sheriff's Office to know the type, size and number of items to be levied upon so that they can make an accurate estimate as to the cost of the proceedings and estimate the amount of security deposit required.

C. Motor Vehicles

If the item to be levied upon is an automobile or other motor vehicle, the attorney or party shall furnish the Court with an accurate description of the vehicle including the license number and vehicle identification number. The attorney or party shall furnish the Court with a written statement as to whether or not there is a lien or record on the vehicle in the office of the Clerk of Courts, Common Pleas Court of Butler County or of any other county in the state of Ohio.

The Sheriff shall determine the fair market value and whether or not there are any liens on the vehicle before the vehicle is levied upon. Where a lien exists, the name of the lien holder shall appear on the notice of sale.

If the Sheriff estimates that the sale price of the vehicle will be less than the cost of towing, storage, advertising and other costs associated with the sale, he or she shall require the party to pay an additional deposit to cover the expenses before proceeding with the execution.

XXI. SPECIALIZED DOCKET FOR MENTALLY ILL OFFENDERS (TAC PROGRAM)

A. Establishment of the Butler County Area Courts TAC Program

The court hereby establishes the "TAC Program," (Treatment Alternative Court) effective January 2, 2018, for purposes of Certification. This specialized docket is created pursuant to the authority and requirements under Ohio R. Super. 36.20 through 36.29. The goals and objectives of the TAC Program are to provide seriously mentally ill, non-violent misdemeanor offenders with effective evidence-based intervention, court-monitored treatment supervision at the earliest stage of the proceedings in order to avoid the criminalization of mental illness, reduce recidivism, and empower the mentally ill to live a more clinically stable and law abiding life.

B. Placement in the TAC Program

Upon the request of the offender, prosecutor, defense counsel, community control officer, arresting officer, or by the Court, the judge may refer the offender to the TAC Community Control Officer for a prescreening to determine if the offender meets the criteria and legal eligibility.

C. Scheduling

If determined to be an appropriate candidate, having expressed a willingness to participate in the TAC Program, and having demonstrated an ability to comply with TAC Program expectations, the Defendant will be scheduled for an assessment and the matter will be continued for further proceedings.

D. Ineligible Candidate

If the offender does not meet the criteria or legal eligibility, the matter will be set on the Court's regular docket for further proceedings.

E. Eligibility Determination

1. The offender will complete a screening and assessment. The TAC Treatment Team will then determine the appropriateness for participation in the TAC Program based upon the specific eligibility criteria and make recommendations to the Judge. The Judge will determine whether to accept the offender into the TAC program. There is no substantive right to participate in the program.

2. In order to be referred to the program, the offender must:

- a. Meet certain legal criteria, more completely outlined in the TAC Program Description, including a misdemeanor conviction and approval of the judge;

- b. Meet certain clinical criteria, more completely outlined in the TAC Program Description, including an AXIS I diagnosis; be stable enough to understand and comply with program requirements; and not pose an unacceptable risk to program staff or the community. A candidate must be amenable to treatment and must be legally competent in order to enter the program. The primary reward for successful completion of the TAC Program is clinical stability and the reduction or avoidance of actual jail time served. The ultimate sanction for non-compliance is termination from the TAC Program and serving of any suspended jail time. The operation of the TAC Program shall be in accordance with the TAC Program Description, which may be amended from time to time.

F. Case Assignment

If an individual is accepted into the TAC Program, the case shall be set on the TAC Program Docket for further proceedings. The Judge shall sentence the Participant according to criminal sentencing laws, and shall have supervision responsibility over the Participant.

XXII. SPECIALIZED DOCKET FOR MULTI MISDEMEANOR OVI OFFENDERS

(ALERT PROGRAM)

A. Establishment of the Butler County Area Courts ALERT Program

The court hereby establishes the “ALERT Program,” effective January 1, 2024, for purposes of Certification. This specialized docket is created pursuant to the authority and requirements under Ohio R. Super. 36.20 through 36.29. The goals and objectives of the ALERT Program are to provide intensive court monitored supervision and effective treatment for multiple misdemeanor OVI offenders diagnosed with drug and/or alcohol dependency that are at a high to moderate risk for reoffending to reduce recidivism and enhance their ability to lead a law abiding lifestyle.

B. Placement in the ALERT Program

Upon the request of an OVI offender, arresting officer, community control officer, prosecutor, or defense counsel, the Judge may refer an individual to the ALERT Treatment Team for consideration to participate in the ALERT program. The offender will complete a screening and assessment. The ALERT Treatment Team will then determine appropriateness for participation in the ALERT Program based upon specific eligibility criteria and make recommendations to the Judge. The Judge will determine whether to accept the individual into the ALERT Program. There is no right to participate. The ALERT Program will consider offenders who meet the following eligibility criteria:

- Second or Third OVI offense charge within six (6) years
- First offense OVI charge within six (6) years with two (2) or more prior lifetime OVI convictions on a case-by-case basis
- Butler County resident eligible for treatment services at DeCoach Rehabilitation Centre and Modern Psychiatry and Wellness LLC, or

eligible for treatment services through health insurance coverage or who possess the financial resources to pay the cost of treatment

- Out of county resident who possesses the financial resources to pay the cost of treatment at DeCoach Rehabilitation Centre and Modern Psychiatry and Wellness LLC.

Offenders may be disqualified from participating in the ALERT Program based upon the following factors:

- Significant mental illness
- History of violent offenses
- Pending felony charges
- Sex offense convictions
- Previous prison and/or parole history
- Currently on post release control or felony supervision
- Significant drug related charges
- Substantial drug abuse history
- Highly resistant to changing behavior in spite of previous interventions and/or punishments
- Lack of transportation or support from family/family assistance
- Receiving developmental disability services or eligible for such services
- Transient residency, or temporary or unstable housing

Individuals unsuccessfully terminated from the ALERT Program are not eligible to re-enter the ALERT Program.

Offenders will not be eligible for the ALERT Program unless they have a diagnosis of alcohol and/or drug dependence.

C. Case assignment

If an individual indicates an interest in participating in the ALERT Program the case shall be set on the ALERT Docket for further proceedings. For purposes of Supreme Court statistical reporting, the case shall be

considered disposed by the Judge when the offender is found guilty of the offense.

D. ALERT Program Case Management

ALERT participants shall be placed on reporting community control supervision of the Butler County Area Court's Probation Department. Participants shall be placed in treatment with DeCoach Rehabilitation Centre and Modern Psychiatry and Wellness LLC., and attend sober support meetings. Participants will be monitored by the ALERT Community Control Officer, the Judge, and the Treatment Agency. Requirements of the ALERT Program are set forth in the ALERT Program Description, ALERT Participant Handbook, and the ALERT Participation Agreement, all incorporated herein and adopted by reference.

E. Termination from the ALERT Program

A Participant will be terminated from the ALERT Program when found to be in non-compliance with the terms and conditions of the ALERT Program.

Termination proceedings will occur before the Judge at an ALERT Status Review Hearing. A Participant could face the imposition of the balance of a jail sentence, transfer to an alternative supervision program, placement in a residential treatment program, or other penalties deemed appropriate by the Judge. Individuals terminated unsuccessfully from the ALERT Program are not eligible to participate in the future.

XXIII. SMALL CLAIMS DIVISION

A. Proceedings

Pursuant to R.C. §1925.01, each Butler County Area Court has established a small claims division. Proceedings in the small claims division are conducted by a magistrate appointed by the court. Decisions of the magistrate may be appealed to the judge by means of objections. The appearance of an attorney at law on behalf of any party is permitted but not required. Notice to the attorney of record for a party is equivalent to notice to the party.

B. Jurisdiction

The small claims division has jurisdiction in civil actions for the recovery of taxes and money only, for amounts not exceeding six thousand dollars (\$6,000), exclusive of interest and costs. R.C. §1925.02. A small claims division does not have jurisdiction in any of the following: 1.) libel, slander, replevin, malicious prosecution and abuse of process actions; 2.) actions on any claim brought by an assignee or agent, except a claim to recover taxes that is filed by any authorized officer or employee of the state; 3.) actions for the recovery of punitive or exemplary damages. See R.C. §1925.02(A) (2) for more detail.

C. Commencement of Action

1. Pursuant to R.C. §1925.04, an action is commenced in the small claims division when the plaintiff, or the plaintiff's attorney, files a pleading stating the amount and nature of the plaintiff's claim to the Court. The commencement of a small claims complaint constitutes a waiver of any right of the plaintiff to trial by jury upon such action.
2. The plaintiff, or the plaintiff's attorney, shall provide the Clerk of Courts, the plaintiff's and the defendant's places of residence, and also provide the military status of the defendant. The claim shall be reduced to writing in a concise, non-technical form. The writing shall be signed by the plaintiff or the plaintiff's attorney, under oath.
3. A memorandum of the time and place set for trial shall be given to the person signing the writing. The time set for trial shall not be less than fifteen (15) nor more than forty (40) days after commencement of the action.

D. Corporations

A corporation that is a real party in interest in any action in a small claims case may commence such an action and appear through an attorney at law. A corporation, through an officer or any salaried employee, may file and present its claim or defense in any action in a small claims case to which the corporation is an original party without being represented by an attorney at law, provided that the corporation does not, in the absence or representation by an attorney, engage in cross-examination, argument, or other acts of advocacy.

E. Fees

At the time of commencement of the action the plaintiff, or the plaintiff’s attorney, shall pay the filing fee determined by the court.

F. Notice

Pursuant to R.C. §1925.05, notice of the filing shall be served on the defendant as provided by the Rules of Civil Procedure. If the notice is returned undelivered or if in any other way it appears that the notice has not been received by the defendant, at the request of the plaintiff or his attorney, a further notice shall be issued, setting the trial for a subsequent date, to be served in the same manner as a summons is served in an ordinary civil action. The court may charge an additional fee if further notices are issued.

XXIV. WRITS OF RESTITUTION

In eviction cases, a landlord seeking a writ of restitution to set the tenant out must seek the writ within twenty-one days of the date that the tenant was ordered to vacate the premises. The failure of the landlord to seek the writ within the twenty-one day time period shall be cause for the court to deny the writ and to require the landlord to re-file his Complaint in Forcible Entry and Detainer.

XXV. TECHNOLOGY PLAN

The Butler County Area Courts will devise, implement, and follow a plan for the use of technology, as approved the Butler County Board of Commissioners.

XXVI. TRUSTEESHIP

A. Governing Law

Those provisions of sections 2329.70 and 2329.71 of the Ohio Revised Code and the rules herein established by the Court shall govern persons making application for a trusteeship.

B. Eligibility

To be eligible for the appointment of a trustee, the debtor must be a resident of Butler County, Ohio and must be earning wages which are subject to garnishment.

C. Application

1. A person making an application for a trusteeship must have in his possession a fifteen (15) day notice of garnishment that has been served on him or her by a creditor. The application for trusteeship must be made within fifteen (15) days from the date of the fifteen (15) day notice.
2. The application shall include the following information about the debtor: 1.) name and address; 2.) place of employment; 3.) present salary; 4.) statement as to whether or not debtor has previously been in trusteeship with this Court and if so, the date the trusteeship was closed out and reason for closing; 5.) all dependents claimed on most recent Federal Income Tax filing; 6.) names, addresses, account numbers and amount due to all secured and unsecured creditors with liquidated claims. The application shall be sworn to under oath, subjecting the party making the application to suffer the penalty of perjury if any false answers are given.

D. Addition of Creditors

1. If, after the trusteeship is opened, the debtor discovers that he or she has inadvertently omitted a creditor from the list included in the application, the debtor shall immediately submit a statement to the trustee clerk indicating the name, address, account number and amount due to the creditor and an explanation of why the creditor was omitted. It is within the discretion of the trustee clerk to either add or not add the creditor to the original list of creditors. If the creditor is added, it is the responsibility of the debtor to notify the creditor consistent with these rules.
2. If the trustee clerk refuses to add a creditor to the list, the debtor may appeal the clerk's decision to a Judge for a final determination. All requests for judicial review of trustee clerk decisions shall be in writing and filed with the Clerk.

3. Except as provided above, once an application for a trusteeship has been made and granted, the debtor may incur no additional debts. Once a debtor has been accepted into trusteeship, all of his or her transactions with merchants and professional or service providers shall be conducted in cash.

E. Proof of Employment

At the time of making the application, the debtor shall furnish the Court proof of earnings (i.e. a pay stub) to substantiate earnings for a thirty (30) day period prior to the application. If the debtor has been employed for less than thirty (30) days at the time of making the application, the debtor shall submit proof of earnings to the Court after making the application sufficient to substantiate earnings for a thirty (30) day period. Thereafter, every two (2) months the debtor shall submit proof of earnings to the Court. The trustee may increase or decrease the payment due the Court based on changes in the debtor's earnings.

F. Fee

The debtor shall pay a filing fee of Forty Five Dollars (\$45.00) and the costs of certified mail service to the creditors.

G. Notification of Creditors

1. Within two (2) days of swearing to the information in the application, the debtor shall notify all of the creditors listed in the application by certified mail, with return receipt, or in person, that the application has been made for appointment of a trustee. The notification shall include the amount claimed by the debtor that is due to the creditor and a request that the creditor notify the Court if the amount is incorrect. All secured creditors must be notified that they have ten (10) days from the receipt of the notification to notify the Court if they wish to opt out of the trusteeship, otherwise they will be included. A secured creditor included in the trusteeship is estopped from asserting its lien as long as the debtor maintains his or her trusteeship agreement.

2. Where creditors are notified in person, the notification and any acknowledgements and statements that are to be returned to the Court must all be accomplished within five (5) days after the application is filed with the Court.

H. Payments to the Court

Each debtor in trusteeship shall pay twenty five (25) percent of his or her monthly net income into the Court. Net income is defined as wages remaining after the following deductions: 1.) Federal Income Tax; 2.) City Income Tax; 3.) State Income Tax; and 4.) Social Security or other retirement amounts withheld. These are the only deductions that the Court will consider when calculating net income.

The debtor shall make payments to the Court on the same frequency as the debtor's employer pays the debtor. If the debtor is paid weekly, he or she shall make weekly payments to the court, etc. Payments to the Court must be made by cash, certified check or money order. No personal checks will be accepted.

I. Missed Payments

1. If the debtor misses two consecutive scheduled payments, the trusteeship may be cancelled, unless the reason the payments were missed was that the debtor has not worked and has not received wages from his or her employer. Where the debtor has not worked and has not received wages, the debtor must submit to the Court, on the date the wages are due to the Court, a written statement from his or her employer indicating that no wages were paid.
2. If a debtor becomes unemployed while subject to trusteeship, he or she is excused from making payments to the Court, even if the debtor is receiving unemployment benefits from the state of Ohio. However, at the time each trusteeship payment is due to the Court, the debtor must submit a statement in writing that he or she is unemployed and either receiving no income or receiving unemployment benefits. The amount of the unemployment benefit received and the frequency must be reported to the Court. The debtor must continue to submit the statements each week until he or she is employed again.
3. A debtor whose trusteeship has been cancelled for failure to make payments cannot make another application for trusteeship until six (6) months have elapsed from the date of the cancellation. During this six (6) month period, the debtor's wages will be subject to garnishment.

J. Payments Made To Creditors

1. Payments made by the debtor directly to any creditor do not excuse the debtor from making the full payment to the Court on the required date.
2. The debtor must make payments directly to any secured creditor who opted out of the trusteeship agreement. Failure to make payments to a secured creditor that holds a mortgage on property can result in the creditor repossessing the property.
3. The Court will make disbursements to creditors in April, August and December.

XXVII. LOCAL COURT SECURITY

The Butler County Area Courts are charged with dispensing justice, resolving disputes, and protecting the constitutional rights of those who appear before the Court. Accordingly, appropriate levels of security should exist in the Court to protect the integrity of Court procedures, protect the rights of individuals before it, deter those who would take violent action against the Court or litigants, sustain the proper decorum and dignity of the Court, and assure that Court facilities are secure for all those who visit and work there. Therefore, pursuant to the Rules of Superintendence for the Municipal and County Courts, Rule 18, which is hereby incorporated into these rules, it is the intention of the Butler County Area Courts to adopt and adhere to the Model Court Security Operations Manual as funding and facilities become available from the Butler County Commissioners. All standards not requiring funding and facilities are hereby adopted immediately.

XXVIII. COURTROOM DECORUM

A. Proper Attire

All individuals using the Court, including, but not limited to court employees, attorneys, prosecutors, defendants, jurors, witnesses, media, or observers will be properly attired.

B. Behavior

It is hereby declared to be the duty of every person in the courtroom to give respectful attention to the Court at all times when it is in session. Any person or persons may be found to be in contempt of court and subject to punishment by the Court for any person or persons, by conversation or otherwise, who disturbs the attention of the court or jury while Court is in session.

C. Electronic Devices

Individuals other than attorneys and on-duty police officers entering all courtrooms will turn electronic devices, such as cell phones, pagers, PDAs and portable computers, to silent mode or off. No cellular telephone calls shall be initiated or received in the courtroom while Court is in session. Except as provided in Local Rule XVII, recording of proceedings or taking of pictures from any electronic device is prohibited. A violation of this section may result in confiscation of the electronic device and a finding of contempt by the Court.

D. Contempt of Court

To ensure that the decorum and dignity which should characterize the practice of the law and to aid the Court at all times in the discharge of its duties, any person or persons may be found to be in contempt of court for using insulting, vulgar, or profane language in the presence of the Court while the court is in session.

XXIX. MEDIA IN THE COURTROOM

The presence of the media in the courtroom shall be governed by the limitations and parameters contained in Supreme Court Rules of Superintendence 12.

XXX. INTERPRETER SERVICES

When interpretive services are needed, the attorney or party requesting an interpreter shall make the request to the Deputy Clerk of the Court at least one week prior to the hearing. The Court will arrange for an objective interpreter to be present for the hearing, either in person or by telephone. It is the responsibility of the requesting party to notify the interpreter if there is any

change in the date or time of the hearing. Failure to do so may result in the requesting party being held responsible for payment of the interpreter's fee for time spent at court by the interpreter as a result of not being notified of the change.

In accordance with Rule 83 of the Ohio Rules of Civil Procedure, the above rules of local practice in this Court were filed with the Ohio Supre