

August 5, 2021

## OHIO LOCAL CIVIL RULES

### I HAVE A CASE...WHAT DO I NEED TO KNOW?

Besides knowing the elements of your case, it is important to know the rules that will govern your cases. This will depend on the court you are in. Each court has their own rules in addition to the Ohio Rules of Civil Procedure.

What is the Difference?

- i. The State of Ohio has its own Civil Rules. Most local courts follow these rules, but sometimes they change them, such as altering deadlines and other procedures.

### LOCAL RULES IN THE COURTS AND WHERE TO FIND THEM

- All levels/types of courts in Ohio have their own local Rules
  - Municipal Courts
  - Common Pleas Courts
  - Appellate Courts
  - The Supreme Court
  - Federal/Circuit Courts
- Remember that some courts have different divisions such as General, Domestic, Juvenile, Probate, etc. These divisions may have their own rules as well.
- The Ohio Supreme Courts has compiled a directory of these Rules

<https://www.supremecourt.ohio.gov/judsystem/trialcourts/>

- You can also access these rules directly through the court's website

## SO WHY ARE LOCAL RULES IMPORTANT

- Hours of Operation
  - Obviously, it is important to know when the Court and the Clerk's Office opens and closes.
  - You never know when you may have an emergency. Knowing when you can reach the court makes a difference
- Filing Requirements
  - Costs: Most courts charge for filings. The amount depends on the court and type of filing.
  - Courts have different rules on how things can be filed. Some require e-filing, which may need approval beforehand so you will have to reach out to the court in advance of trying to file something.
  - Some courts will take fax filings. Remember in Ohio, there are many small rural courts that may not have this technology.
  - With fax filing, some courts still require you to send an original copy and will not count your fax as filed until the original is received.
  - Lastly with fax filing, there are often fees associated with fax filing and courts will not accept until the cost is paid.
  - If you mail in a filing, courts may require that you include a self-addressed envelope with postage in order to get a time-stamped copy returned to you.
  - Format of filings (some courts have strange requirements)
  - Case designation sheets
- Pre-trial Procedures
  - Most courts will have explanations of what to expect at a pretrial
  - Some require pretrial forms to be submitted ahead of time

- Deadlines
  - The Civil Rules provide for general deadlines, such as responses to motions to dismiss or summary judgment.
  - Courts have the discretion to alter these deadlines, so don't ever think that you know the deadline. ALWAYS double check
  - Ex:
    - ❖ Rule 6 of the Ohio R. of Civ. Procedure states that a response to a motion for summary judgment may be served within 28 days after service of the motion.
    - ❖ Cuyahoga Common Pleas says 30 days
- Case Management
  - Many courts have specific case management schedules. This often includes deadlines for exchange of discovery and deadlines for filing for summary judgment.
  - If engaging in motion practice, some courts require oral hearings and some do not. If you want a hearing, you may have to request one.
- Trial procedures
  - Some courts have different trial procedures, including disclosures that need to be made in advance of trial (sometimes up to three weeks).
  - These can also be Judge specific so it never hurts to contact the court to verify in you know you are going to trial

### APPLICATION IN PRACTICE

- Filing a complaint in Franklin County:
  - Check your costs: In Franklin County they use e-filing so you can pay online.

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*CIVIL ACTIONS Civil Complaints - Filing Categories A,B,C,D, H and H3 \$225.00  
Civil Case Complaint (Foreclosure) - Filing Category E \$300.00 Administrative  
Appeals - Filing Category F \$100.00 Confession of Judgment (Cognovit) – Filing  
Category H1 \$100.00 Third Party Complaint with service upon each new party  
defendant \$ 25.00*

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- Case Designation
- Case Management
- Pleadings and Motions
- Case Schedules
- Notice of Settlement

#### APPLICATION IN PRACTICE CONT.

- Filing an Appeal
  - You need to know the local rules of the appellate court and the court you are appealing from.
  - Type of Docket (expedited?)
  - Deadline for Appeal. Notice filed within 30 days of decision
  - When appellate brief is due, often depends on transmission of record.
  - How to file, costs and # of copies
  - Format: Font, caption, # of pages.
  - Waiver of Oral argument

#### SO HOW CAN MISAPPLICATION OF LOCAL RULES TANK YOUR CASE?

- Not submitting in proper format
- Not submitting timely
- Not being prepared for court and its procedures
- My Experiences:
  - Driving last minute for filings
  - Not requesting a hearing

- *Bumpus v. Lloyd Ward, et al.*, 2014 Ohio 267 (2014)
  - Was not prepared to argue a pending motion to dismiss at a pretrial because there was no official hearing set
  - Local Rules stated that all pending motions may be discussed
  - Case was dismissed
  - We tried to get around it by filing a voluntary dismissal prior to the court's judgment entry being docketed.
- ORC 2505.02
  - (B) An order is a final order that may be reviewed, affirmed, modified, or reversed, with or without retrial, when it is one of the following:
    - (1) An order that affects a substantial right in an action that in effect determines the action and prevents a judgment;
    - (2) An order that affects a substantial right made in a special proceeding or upon a summary application in an action after judgment;
    - (3) An order that vacates or sets aside a judgment or grants a new trial;
    - (4) An order that grants or denies a provisional remedy and to which both of the following apply:
      - (a) The order in effect determines the action with respect to the provisional remedy and prevents a judgment in the action in favor of the appealing party with respect to the provisional remedy.
      - (b) The appealing party would not be afforded a meaningful or effective remedy by an appeal following final judgment as to all proceedings, issues, claims, and parties in the action.
    - (5) An order that determines that an action may or may not be maintained as a class action;

- (6) An order determining the constitutionality of any changes to the Revised Code made by Am. Sub. S.B. 281 of the 124th general assembly, including the amendment of sections 1751.67, 2117.06, 2305.11, 2305.15, 2305.234, 2317.02, 2317.54, 2323.56, 2711.21, 2711.22, 2711.23, 2711.24, 2743.02, 2743.43, 2919.16, 3923.63, 3923.64, 4705.15, and 5111.018 (renumbered as 5164.07 by H.B. 59 of the 130th general assembly), and the enactment of sections 2305.113, 2323.41, 2323.43, and 2323.55 of the Revised Code or any changes made by Sub. S.B. 80 of the 125th general assembly, including the amendment of sections 2125.02, 2305.10, 2305.131, 2315.18, 2315.19, and 2315.21 of the Revised Code;
- (7) An order in an appropriation proceeding that may be appealed pursuant to division (B)(3) of section 163.09 of the Revised Code.
- (C) When a court issues an order that vacates or sets aside a judgment or grants a new trial, the court, upon the request of either party, shall state in the order the grounds upon which the new trial is granted or the judgment vacated or set aside.
- (D) This section applies to and governs any action, including an appeal, that is pending in any court on July 22, 1998, and all claims filed or actions commenced on or after July 22, 1998, notwithstanding any provision of any prior statute or rule of law of this state.