

**Local Rule 1. SCOPE; APPLICABILITY; CITATION**

(A) Scope; Authority. These rules, promulgated pursuant to Article IV, Section 5(B) of the Constitution of the State of Ohio, Civil Rule 83, and the Rules of the Court of Claims of Ohio, govern local practice and procedure in the Court of Claims.

(B) Applicability. These rules govern all proceedings in actions brought after they take effect, and all further proceedings in actions pending when they take effect, except to the extent that their application in a particular action pending when these rules take effect would not be feasible or would work injustice, in which event the former rules apply. These rules supersede the Local Rules of the Court of Claims of Ohio effective January 1, 1975, and as amended on June 14, 1977, October 26, 1978, December 19, 1978, January 1, 1983, May 2, 1983 and July 21, 1983.

(C) Citation. These rules shall be known as the Local Rules of the Court of Claims of Ohio and shall be cited as "L.C.C.R. ."

**Local Rule 2. ADDRESS; COURT HOURS**

(A) Address. The court of claims shall be located at the The Ohio Judicial Center, 65 South Front Street, Third Floor, Columbus, Ohio 43215. All correspondence shall be directed to the following mailing address: Court of Claims of Ohio, The Ohio Judicial Center, 65 South Front Street, Third Floor, Columbus, Ohio 43215.

(B) Court Hours. The clerk's office of the court of claims shall be open from 8:30 A.M. to 5:00 P.M. Monday through Friday except for legal holidays. The clerk may adjust the hours of the clerk's office as necessary.

[Amended effective June 4, 1986.]

**Local Rule 3. FEES; COSTS**

(A) Fees. In civil actions, the fees charged shall be as provided in R.C. 2303.20.

(B) Poverty Affidavit. The clerk shall accept for filing all complaints accompanied by a poverty affidavit which states specific reasons for the inability to pay the filing fee. In an action in which a poverty affidavit has been filed, the clerk shall serve all process and pay the expense therefor from the funds of the court and tax such expenses as costs. The clerk or the court may at any time require additional information and a hearing, or both, to determine the validity of the poverty affidavit.

(C) Copying Fee. The clerk shall charge a reasonable fee for uncertified copies of pleadings, process, records, or files.

(D) Witness Fees, Service of Subpoena. Pursuant to R.C. 2743.06, in civil actions in the court of claims, the party at whose instance a witness is subpoenaed or a deposition is taken shall pay the witness fees and mileage set forth in R.C. 2335.06, except that the state may not pay the fees to its own employees. The witness fees and mileage shall not be taxed as costs.

Where a party requests service upon a witness who resides outside the county in which the trial will be located, the request shall, pursuant to Civil Rule 45(C), be accompanied by a check made payable to the requested witness, in the amount of one day's witness fees plus mileage. The clerk shall enter the fact of the receipt of the check, along with the request for service of the subpoena, in the docket and shall forward the subpoena and check, to be served by the sheriff of the county in which the witness resides or where service is directed by the party.

(E) Overpayment of Costs or Fees. If any party, including a claimant for an award of reparations, or counsel for any party tenders payment for more than the cost or fee to be assessed, the clerk may cause the entire amount tendered to be deposited or may refuse and return the amount tendered. Refusal and return does not constitute waiver of the payment of the required fee or cost. If the amount tendered is deposited and the overpayment is two dollars or more, a refund for the excess amount shall be processed. No refund shall be made for any overpayment of fees or costs if the amount of the overpayment is less than two dollars.

#### **Local Rule 4. PLEADINGS AND MOTIONS**

(A) Form of Pleadings and Motions; Copies of Complaint. Because of filing and binding requirements, the top one and one-half inches of all pages of all papers shall be left blank.

All pleadings and motions shall be typewritten or printed on 8½ by 11 paper, securely bound at the top.

The caption of every complaint shall state the name and address of each plaintiff and defendant. The only defendant in this court is the state but, pursuant to R.C. 2743.02(E) and R.C. 2743.13, the caption shall also name as defendant each state department, board, office, commission, agency, institution or other instrumentality whose actions are alleged as the basis for the complaint. The plaintiff shall file a sufficient number of copies of the complaint to permit the clerk to retain one copy and to serve a copy of the complaint upon each named defendant and upon the attorney general.

The caption of every motion and pleading subsequent to the complaint shall include the number of the case, the name of the first party plaintiff and the first party defendant. Each paper filed shall be identified by title and shall bear the name, Supreme Court Registration Number, address and telephone number of trial counsel. Where a paper is filed by a party without counsel, the paper shall bear the party's name, address and telephone number.

(B) Extension of Time. All extensions of time shall be made by written motion which states the specific basis of the extension and which is supported by documentation and, if appropriate, affidavit. Motions for extension of time may be determined ex parte in accordance with Civil Rule 6(B)(1). Motions for

extensions of time shall be accompanied by a proposed order which states the duration of the extension.

(C) Submission and Hearing of Motions. Unless otherwise ordered by the court, motions shall be determined without oral argument.

The movant shall serve and file with his motion a brief written statement of reasons in support of the motion and the authorities upon which he relies. If the motion requires the consideration of facts not appearing of record, the movant shall also serve and file copies of all the evidence which supports his motion.

Each party opposing the motion shall serve and file, within fourteen days after service upon him of movant's motion, a brief written statement of reasons in opposition to the motion and the authorities upon which he relies. If the motion requires the consideration of facts not appearing of record, he shall also serve and file copies of all evidence in opposition to the motion. Failure to file a written statement in opposition to the motion may be cause for the court to grant the motion as filed. Reply briefs or additional briefs may be filed only upon a showing of the necessity therefore and with leave of court.

(D) Motion for summary judgment, date of non-oral hearing. All motions for summary judgment filed pursuant to Civil Rule 56 are hereby set for a non-oral hearing date on the 28th day following the filing of the motion for summary judgment. Motions shall be deemed submitted to the judge for non-oral hearing on that date. Any party seeking to change the hearing date must do so by entry signed by the trial judge and served on all counsel.

(E) Page limitations. Supporting, opposing, or memorandum briefs shall not exceed fifteen pages in length, exclusive of attachments. Reply briefs shall not exceed seven pages in length, exclusive of attachments. Applications for leave to file a long brief shall be by motion that sets forth the unusual and extraordinary circumstances which necessitate the filing of a long brief.

#### **Local Rule 4.1 IMMUNITY DETERMINATIONS**

Any party may file a motion requesting that the court of claims make a determination, as required by R.C. 2743.02(F), as to whether the officer or employee is entitled to personal immunity under R.C. 9.86 and whether the courts of common pleas have jurisdiction over the civil action. If no motion for this determination is made, the court of claims may sua sponte set the matter down for the R.C. 2743.02(F) hearing.

Pursuant to R.C. 2743.02(F), eff. November 3, 2005, the officer or employee may participate in the immunity determination hearing before the court of claims to determine whether the officer or employee is entitled to personal immunity under R.C. 9.86. Notice of the immunity determination hearing shall be provided to the officer or employee in the manner ordered by the court.

(Effective 3-31-93; amended, eff 11-27-95)

#### **Local Rule 4.2 DISCOVERY MATERIALS**

(A) Filing of Discovery Materials. Depositions, interrogatories, requests for production or inspection, requests for admissions, and any answers or responses thereto, shall not be filed by the clerk unless they meet the requirements of Civil Rule 5(D). Parties may file with the court a one-page notice of service or notice of deposition.

(B) Interrogatories Submitted for Service With the Complaint. The clerk shall remove and discard any interrogatories attached to the original copy of the complaint before it is placed in the case file.

(C) Removal of Erroneously Filed Discovery Material. When previously filed discovery material is found which does not comply with this rule or Civil Rule 5(D), the clerk shall, without further order of the court, (1) prepare a notice which describes the material to be removed, (2) file and serve the notice, and (3) after 21 days, discard any material which has not been claimed.

(D) Motion for Relief. If relief is sought concerning any discovery matter, copies of only those portions of discovery material which are relevant to the dispute shall be filed with the motion for relief.

[Adopted effective November 16, 1989.]

#### **Local Rule 5. MOTION SUBMITTED TO CHIEF JUSTICE OF THE SUPREME COURT**

(A) Motion for Three-Judge Panel.

(1) Motion, When Filed, Contents. Not later than ten days after a notice of trial is served in an action filed in or removed to the court of claims, the claimant or the state may file a written motion requesting the chief justice of the supreme court to assign, pursuant to R.C. 2743.03(C)(1), a panel of three judges to hear and determine the action. The motion shall be accompanied by a memorandum indicating the novel or complex issues of law or fact present in the action. Two copies of the motion and memorandum shall be filed with the clerk of the court of claims. The movant shall serve all other parties pursuant to Civil Rule 5.

(2) Response to Motion, When Filed, Contents. Each party opposing the motion may file and serve, within fourteen days after service of the motion, a memorandum opposing the motion which shall state all reasons for opposition and authorities upon which the party relies.

(3) Duty of the Clerk. After all responses are received or the time for response has elapsed, the clerk shall forward to the chief justice of the supreme court the motion and all memoranda. The clerk of the court of claims shall journalize the decision of the chief justice and serve copies upon all parties.

(B) Motions for Change of Situs of Civil Action.

(1) Motion, When Filed, Contents. Not later than ten days after a notice of trial is served in an action in the court of claims, any party may file a written motion requesting the chief justice of the supreme court to direct, pursuant to R.C. 2743.03(B) that the court sit in a county other than Franklin County. The motion shall be accompanied by a memorandum showing the substantial hardship which will result if the action is tried in Franklin County or why the interests of justice dictate that the situs be changed. Two copies of the motion and memorandum shall be filed with the clerk of the court claims. The movant shall serve a copy of the motion and memorandum on all other parties pursuant to Civil Rule 5.

(2) Response to Motion, When Filed, Contents. Each party opposing the motion may file and serve within fourteen days after service of the motion a memorandum opposing the motion, which shall state all reasons for the opposition and authorities upon which the party relies.

(3) Duty of Clerk. After all responses, if any, are received or the time for response has elapsed, the clerk shall forward to the chief justice of the supreme court the motion and all memoranda. The clerk of the court of claims shall journalize the decision of the chief justice and serve copies upon all parties.

(C) Request for Referees.

(1) Motion, When Filed, Contents. Not later than ten days after a notice of trial has been served in an action filed in the court of claims pursuant to R.C. 153.12(B) either the state or a contractor may request that, pursuant to R.C. 2743.03(C)(3), the chief justice of the supreme court appoint a referee or a panel of referees. The request shall be accompanied by a memorandum which shows that the requesting party is entitled to the appointment of a referee or a panel of referees pursuant to R.C. 153.12(B) and 2743.03(C)(3). Two copies of the motion and memorandum shall be filed with the clerk of the court of claims. The movant shall serve all other parties pursuant to Civil Rule 5.

(2) Response to Motion, When Filed, Contents. Each party opposing the motion may file and serve, within fourteen days after service of the motion, a memorandum opposing the motion, which shall state all reasons for the opposition and authorities upon which the party relies.

(3) Duty of Clerk. After all responses are received or the time for response has elapsed, the clerk shall forward to the chief justice of the supreme court the motion and all memoranda. The clerk of the court of claims shall journalize the decision of the chief justice and serve copies upon all parties.

(D) Hearing on Motion to Chief Justice. Motions submitted to the chief justice pursuant to section (A), (B) or (C) of this rule shall be determined without an oral hearing unless a hearing is ordered by the chief justice. Unless ordered by the chief justice, no reply brief on behalf of the movant shall be filed.

(E) Affidavits of Bias and Prejudice. Affidavits of bias and prejudice filed against judges of the court of claims shall be processed in accordance with R.C. 2701.03.

## **Local Rule 6. RIGHT TO JURY**

(A) Right to Jury Trial Under R.C. 2743.11. Pursuant to R.C. 2743.11, a party who has filed a claim against the state is not entitled to a jury trial, but parties retain their right to jury trial in claims against parties other than the state.

(B) Jury Demand in Removed Actions. Removal of actions to the court of claims does not extend the time for jury demand specified in Civil Rule 38.

#### **Local Rule 7. PRETRIAL CONFERENCE AND PROCEDURE**

(A) Pretrial Conference. In accordance with Civil Rule 16, after a case is at issue, the court may, on its own motion or at the request of a party, fix a date and place for a formal pretrial conference, and may also fix a date and place for one or more informal pretrial status conferences.

(B) Pretrial Statement. Not less than seven days prior to the date of the formal pretrial conference, all trial attorneys shall file with the clerk and serve upon all other trial attorneys appearing in the action, a pretrial statement which:

Informs the court in detail of the factual and legal issues which the case presents;

Sets forth the party's position on legal issues, including any significant evidentiary questions, and the authorities in support thereof;

Includes a list of all witnesses expected to testify.

Includes a list of all exhibits which are to be introduced in evidence.

(C) Conference Procedure. Trial attorneys shall be prepared and present at the pretrial conference and shall have full authorization to negotiate a settlement from the parties they represent. Upon the request of a trial attorney or upon its own motion, the court may order the parties or their respective sureties, indemnitors or insurers to be present at the pretrial conference.

(D) Pretrial Order. The court may, and at the request of a party shall, prepare, or cause to be prepared, a written order which recites the action taken at the pretrial conference. The court shall enter the order and submit copies to the trial attorneys. The order, subject to Civil Rule 60(A), shall control the subsequent course of the action, unless modified at the trial to prevent manifest injustice.

(E) Expert Witnesses. Each trial attorney shall exchange with all other trial attorneys, in advance of the trial, written reports of medical and expert witnesses expected to testify. The parties shall submit expert reports in accordance with the schedule established by the court.

A party may not call an expert witness to testify unless a written report has been procured from said witness. It is the trial attorney's responsibility to take reasonable measures, including the procurement of supplemental reports, to insure that each such report adequately sets forth the expert's opinion. However, unless good cause is shown, all supplemental reports must be supplied no later than thirty

days prior to trial. The report of an expert must reflect his opinions as to each issue on which the expert will testify. An expert will not be permitted to testify or provide opinions on issues not raised in his report.

All experts must submit reports. If a party is unable to obtain a written report from an expert, counsel for the party must demonstrate that a good faith effort was made to obtain the report and must advise the court and opposing counsel of the name and address of the expert, the subject of the expert's expertise together with his qualifications and a detailed summary of his testimony. In the event the expert witness is a treating physician, the court shall have the discretion to determine whether the hospital and/or office records of that physician's treatment which have been produced satisfy the requirements of a written report. The court may exclude testimony of the expert if good cause is not demonstrated.

If the court finds that good cause exists for the non-production of an expert's report, the court shall assess costs of the discovery deposition of the non-complying expert against the party offering the testimony of the expert unless, by motions, the court determines such payment would result in manifest injustice. These costs may include the expert's fee, the court reporter's charges and travel costs.

If the court finds that good cause exists for the non-production of a report from a treating physician, the court shall assess costs of the discovery deposition of the physician equally between the plaintiff and the party or parties seeking discovery of the expert. These costs may include the physician's fee, the court reporter's charges and travel costs.

(F) Failure to Comply. The sanctions stated in Civil Rule 37(B)(2) may be assessed for failure to timely comply with this rule.

#### **Local Rule 8. [RESERVED]**

#### **Local Rule 9. [RESERVED]**

[Reserved effective November 16, 1989.]

#### **Local Rule 10. RECORDS OF THE CLERK**

The clerk of the court of claims shall prepare and maintain the following books:

A general appearance docket;

A receipt book;

A journal book.

In addition, the clerk shall keep a direct and reverse index to the appearance docket.

**Local Rule 11. RECORDING OF PROCEEDINGS; DISPOSITION OF EXHIBITS AND MATERIALS;  
VIDEOTAPED TESTIMONY AND EVIDENCE**

(A) Reporting and Recording Services. The clerk shall appoint a court reporter or enter into a contract on behalf of the court for court reporting services including recording of proceedings pursuant to subdivision (B).

(B) Methods of Recording. Proceedings before the court may be recorded by stenographic means, by phonographic means, by photographic means, by the use of audio electronic devices, or by the use of video recording systems. The clerk may order the use of any method of recording authorized by this rule.

(C) Payment. The party ordering a transcript of proceedings, or a copy thereof, shall pay the court reporter or reporting service the expense of such service. The reporter or the court reporting service shall not prepare transcripts of proceedings or copies thereof until satisfactory payment arrangements have been made.

(D) Custody; Disposition of Recordings. Electronically recorded transcripts of proceedings shall be retained by the clerk at the conclusion of the trial or hearing. Electronically recorded transcripts of proceedings shall be maintained by the clerk until the case is finally determined. The clerk, upon order by the court, may dispose of an electronically recorded transcript of proceedings or may cause the recording medium to be erased so that it may be reused after the expiration of three years from the conclusion of all proceedings in the action or claim.

(E) Inspection of Electronically Recorded Transcripts of Proceedings. In lieu of requesting a copy of an electronically recorded transcript of proceedings, or a portion thereof, a party may view or hear the transcript of proceedings on file with the clerk.

(F) Disposition of Exhibits and Materials. Except as provided by these rules, models, diagrams, depositions, photographs, x-rays, and other exhibits and materials filed in an action in the court or offered in evidence are not considered pleadings and, unless otherwise ordered by the court, shall be withdrawn by the parties within six months after conclusion of all proceedings in the action. Upon order by the court, the clerk may dispose of all models, diagrams, depositions, photographs, x-rays and other exhibits and materials not withdrawn by the parties within the six month period provided by this rule.

(G) Videotaped Testimony and Depositions. If videotaped testimony or videotaped depositions are used, the parties shall comply with the provisions of Rule 12 of the Rules of Superintendence for Courts of Ohio. If a trial or hearing in the action is to be held at a location other than the address stated in Rule 2 of these rules or if a motion to change the situs of the trial or hearing is pending, the party intending to use a videotape shall disclose that fact when contacting the clerk's office to determine the appropriate videotape format.

#### **Local Rule 12. TRIAL SCHEDULING**

(A) Sequence of Assignments. Trial assignments, when practical, will be made based on date of filing.

(B) Advancement for Trial. A motion may be addressed to the court to advance a case for trial stating the reasons therefore.

(C) Change of trial date. Any motion to modify the trial date shall be in writing. The motion will not be granted unless it is supported by a showing of good cause. A certificate of service shall be filed with the motion which shall be served upon all parties pursuant to Civil Rule 5. The court may sua sponte change the trial date upon reasonable notice to all parties.

(D) Conflict of Trial Assignment Dates. When a continuance of a trial is requested for the reason that counsel is scheduled to appear in another case assigned for trial on the same date in another court of this state, the case which was first set for trial shall have priority and shall be tried on the date assigned. Criminal cases assigned for trial shall have priority over civil cases assigned for trial.

#### **Local Rule 13. COURT FILES AND PAPERS**

Court papers, files of the court or parts thereof shall not be removed from the custody of the clerk without the consent of the clerk.

#### **Local Rule 14. TRIAL PROCEDURES**

(A) Engaged Counsel. If a particular attorney has such a number of actions pending in the court of claims that the disposition of the actions is unduly delayed, the court may require the attorney to provide a substitute trial attorney. If the original attorney fails to provide a substitute trial attorney, the court may remove the original attorney as counsel in the action.

(B) Examination of Witnesses. At a trial or hearing where witnesses are called, only one attorney for each party may examine or cross-examine a witness unless otherwise permitted by the trial judge or referee.

#### **Local Rule 15. REVIEW OF CASELOAD**

(A) Review of Pending Cases. The clerk of the court of claims shall from time to time review all causes pending in the court. In causes in which no proceedings have been undertaken within six months of the date of commencement, the clerk may give written notice to all counsel of record, or to a party if he has

no counsel of record, that the cause will be dismissed at a time certain unless before that time has expired good cause is shown that the cause should remain pending.

(B) Review of Newly Filed Complaints. The clerk of the court of claims shall review newly filed complaints to determine whether: a complaint inappropriately designates a defendant state department, board, office, commission, agency, institution, or other instrumentality; a complaint names as defendant a nonstate party over which the court of claims has no jurisdiction; or a complaint contains some ambiguity or other aberration. If any of these appear on a complaint, then the clerk, prior to the issuance of summons, shall refer the complaint to a judge of the Court of Claims for review and, if necessary, for the issuance of an appropriate order. No unnecessary delay in processing complaints shall ensue due to this process. This process is intended to reduce confusion, time, and expense in maintaining the court's case index, appearance docket, case files, and issuance of papers. The ultimate responsibility for correctly designating an appropriate defendant and filing a complaint which is free from error or ambiguity remains with the party filing the complaint. The failure of the clerk, deputy clerk, or court to act under this rule does not alter that responsibility.

(C) Information Concerning Cases, Claims Based on Essentially the Same Facts. Upon the filing of an original complaint, the clerk shall serve, by ordinary mail, a request for information about connected cases or claims (hereafter referred to as "request for information") upon the plaintiff's attorney or upon the plaintiff where plaintiff has no attorney. This division (C) does not apply to actions which must be determined administratively in accordance with R.C. 2743.10. The request for information shall, inter alia, require the plaintiff to state whether a case, claim, application, etc., based on essentially the same facts as the complaint or petition for removal filed in the court of claims, is pending in any court or any bureau, board, commission or agency. The clerk shall draft the request for information form and all necessary instructions for such form.

The plaintiff's attorney or the plaintiff shall complete the request for information form and file it with the court within twenty-eight days after the date the form was mailed by the clerk. The plaintiff's attorney or the plaintiff shall serve a copy of the completed form upon the attorney general and all other parties pursuant to Civil Rule 5. All other parties have the continuing duty to immediately inform the court in writing where the information stated in a request for information form is incorrect or incomplete and where there is a change in the status of the case, claim, application, etc., noted in a request for information form, or an additional case, claim, application, etc., based on essentially the same facts as the complaint or petition for removal filed in the court of claims, is filed with any court or any bureau, board, commission or agency. The sanctions stated in Civil Rule 37(B)(2) may be assessed for failure to timely comply with this rule.

#### **Local Rule 16. ASSIGNMENTS OF AWARDS OF REPARATIONS**

Assignments of awards of reparations in claims based on criminally injurious conduct which occurred prior to March 18, 1983, shall not be recognized by a panel of commissioners or the court. Assignments

of awards of reparations in claims based upon criminally injurious conduct which occurred on or after March 18, 1983, shall be recognized only as provided by R.C. 2743.66.

**Local Rule 17. ATTORNEYS NOT ADMITTED TO THE PRACTICE OF LAW IN OHIO**

(A) Nonresident Attorney, Request for Leave to Represent Applicant for Award of Reparations, Contents of Request. A nonresident attorney who is not admitted to the practice of law in Ohio may request leave to represent an applicant for an award of reparations before the court of claims.

The request must be made at the earliest opportunity in the proceedings. The request shall certify that the attorney is admitted to the practice of law in the highest court of another state or in the District of Columbia and that the attorney is not a resident of this state. The request must be cosigned by an attorney admitted to the practice of law in this state and registered under Rule VI of the Rules for the Government of the Bar of Ohio.

(B) Duty of Court Upon Filing of Request. A judge of the court of claims may grant or deny the request, and may reconsider and deny a request which was granted at an earlier stage in the proceedings. An attorney, who is a resident of this state, not admitted to the practice of law in this state or not registered under Rule VI of the Rules of the government of the Bar of Ohio, shall not be granted leave under this rule.

(C) Duty of Resident Attorney; Service of Papers; Attorney Fees. Where leave has been granted under this rule, the attorney at law of this state shall examine and cosign all motions, pleadings and other papers prepared by the nonresident attorney. The nonresident attorney shall not appear at oral hearings in the absence of the attorney at law of this state.

Service of orders, motions, pleadings and any other papers upon the nonresident attorney shall be upon the attorney at law of this state.

Any award of attorney fees pursuant to R.C. 2743.65(A) shall be made payable only to the attorney at law of this state.

(D) Failure to Comply, Claim Not Affected. The filing and processing of an applicant's claim for reparations shall not be affected or prejudiced by the failure of a nonresident attorney to comply with this rule.

**Local Rule 18. CONDITIONS FOR BROADCASTING AND PHOTOGRAPHING COURT OF CLAIMS PROCEEDINGS**

(A) Permission for Broadcasting, Recording by Electronic Means or Photographing. Except as supplemented by this rule, the provisions of Rule 12 of the Rules of Superintendence for the Courts of

Ohio shall be applicable to requests for permission to broadcast, record by electronic means or photograph proceedings in the court of claims.

(B) Administration.

Requests for Permission, When and Where Filed. Requests for permission to broadcast, televise, record or photograph in the courtroom shall be made in writing to the clerk as far in advance as reasonably practical, but in no event later than one work day prior to the courtroom session to be broadcast or photographed unless otherwise permitted by the trial judge. Request forms may be obtained from the clerk's office.

Duty of Clerk Upon Receipt; Duty of Court. The clerk shall immediately inform the trial judge of the request. The trial judge shall grant the request in writing consistent with Superintendence Rule 12, and this local rule. Written permission shall be made a part of the record of the proceeding.

(C) Pooling. Arrangements shall be made between or among media for pooling equipment and personnel authorized by this rule to cover the court sessions. Such arrangements are to be made outside the courtroom and without imposing on the trial judge or court personnel to mediate any dispute as to the appropriate media "pool" representative or equipment authorized to cover a particular session. In the event disputes arise between or among media representatives, the trial judge may exclude all contesting representatives from the proceeding.

(D) Equipment and Personnel.

Television, Videotape or Movie Equipment and Personnel. Not more than one portable camera (television, videotape or movie), operated by not more than one in-court camera person, shall be permitted without authorization of the trial judge.

Photographic Equipment and Personnel. Not more than one still photographer, utilizing not more than two still cameras of professional quality with not more than two lenses for each camera, shall be permitted without authorization of the trial judge.

Radio Equipment. Not more than one audio system for radio broadcast purposes shall be permitted without authorization of the trial judge.

Audio Tape Equipment. If audio arrangements cannot be reasonably made in advance, the trial judge may permit one audio portable tape recorder at the bench which will be activated prior to commencement of the courtroom session. Audio portable tape recorders may not be used without prior permission of the trial judge.

(E) Light and Sound Criteria.

**Distracting Equipment.** Only professional quality telephonic, photographic and audio equipment which does not produce distracting sound or light shall be employed to cover courtroom sessions. No motor driven still cameras shall be permitted.

**Artificial Light.** No artificial lighting device other than that normally used in the courtroom shall be employed. However, if the normal lighting in the courtroom can be improved without becoming obtrusive, the trial judge may permit modification.

**Audio Pickup.** Audio pickup by microphone for all media purposes shall be accomplished from existing audio systems present in the courtroom. If no technically suitable audio system exists in the courtroom, microphones and related wiring essential for all media purposes shall be unobtrusive and located in places designated by the trial judge in advance of any session.

**(F) Location of Equipment and Personnel.**

**Location of Equipment.** Court of Claims trials to be heard in Franklin County where media coverage is requested pursuant to this rule shall, to the extent possible, be held in Court Room 1 of the Court of Claims. In the event that the subject trial is a jury trial, one television camera shall be positioned on a tripod in the northwest corner of the court room, but shall not interfere with the jury's access to the jury room. If the subject trial is not a jury trial, one television camera shall be positioned on a tripod in the southeast corner of the jury box. Videotape recording equipment or other technical equipment which is not a component part of an in-court television or broadcasting unit shall be located in a room adjacent to or outside of the courtroom.

**Conduct of Operators.** The television, broadcast and still camera operators shall position themselves in a location in the courtroom as directed by the trial judge, either standing or sitting, and shall assume a fixed position within that area. Having established themselves in a shooting position, they shall act so as not to call attention to themselves through further movement. Sudden moves, pans, tilts or zooms by any camera operators are prohibited. Operators shall not be permitted to move about in order to obtain photographs or broadcasts of courtroom sessions, but only to leave or enter the courtroom.

**Time for Placing or Removing Equipment.** Television cameras, microphones and taping equipment shall not be placed in, moved about or removed from the courtroom except prior to commencement or after adjournment of the session (the trial judge has not gavelled the proceeding to order or adjournment), or during a recess. Neither television film magazines, rolls or lenses, still camera film, nor audio portable tape cassettes shall be changed within a courtroom except during a recess.

**(G) Miscellaneous.** Proper courtroom decorum shall be maintained by all media pool participants. All media representatives shall be properly attired, in a manner that reflects positively upon the journalistic profession.

**(H) Limitations.**

**Audio Pickup of Conferences.** There shall be no audio pickup or broadcast of conferences conducted in a courtroom between counsel and clients, co-counsel, or the trial judge and counsel.

Jurors; Witnesses. The photographing, filming, videotaping, televising or recording of any juror shall not be permitted. The trial judge shall inform victims and witnesses of their right to object to being photographed, filmed, videotaped, televised or recorded and shall prohibit the photographing, filming, videotaping, televising or recording of any victim or witness who does object.

Revocation of Permission. Upon the failure of any media representative to comply with the conditions prescribed by the trial judge, the Rules of Superintendence of the Supreme Court, or this rule, the trial judge may revoke the permission to broadcast, photograph or record the trial or hearing.

#### **Local Rule 19. SUBSTITUTION OR WITHDRAWAL OF TRIAL COUNSEL**

The substitution or withdrawal of trial counsel shall be permitted only (1) upon filing with the Court, with service on all other parties, a notice of substitution of trial counsel signed by withdrawing trial counsel, the client and substitute trial counsel. (The client's signature is not required if trial counsel is a member of the same law firm as substitute trial counsel and if it is affirmatively stated that the substitution is made with the client's knowledge and consent), or (2) upon written application served upon the client, showing good cause for substitution or withdrawal of trial counsel. Unless otherwise ordered, trial counsel shall not be permitted to withdraw from an action at any time later than twenty days in advance of trial or the setting of a hearing on any motion for judgment or dismissal. Substitution of trial counsel shall not in and of itself be sufficient cause for the granting of a postponement of any trial or hearing.

#### **Local Rule 20. [RESERVED]**

#### **Local Rule 21. RECORDS MANAGEMENT AND RETENTION.**

(A) Applicability.

This rule is intended to provide minimum standards for the production, maintenance, preservation, and destruction of records within the court and to authorize alternative electronic methods and techniques.

This rule shall be interpreted to allow for technological enhancements that improve the efficiency of the court and simplify the production, maintenance, preservation, and destruction of court records.

(B) Definitions. As used in this rule:

"Administrative record" means a record not related to cases of the court that documents the administrative, fiscal, personnel, or management functions of the court.

"Case file" means the compendium of original documents filed in an action or proceeding in the court, including the pleadings, motions, orders, and judgments of the court on a case by case basis.

"Docket" means the official summary of the proceedings in a case that is maintained by the clerk of the court and contains basic information regarding the case, including the case number and case type, the parties to the case, the attorneys of record, and the chronological list of all documents filed in the case, action taken by the court, and writs and processes issued in the case.

"Index" means a reference record used to locate journal, docket, and case file records.

"Journal" means a verbatim record of every order or judgment of the court.

"OHS" means the Ohio Historical Society, State Archives Division.

"Record" means any document, device, or item, regardless of physical form or characteristic, created or received by or coming under the jurisdiction of the court that serves to document the organization, functions, policies, decisions, procedures, operations, or other activities of the court.

(C) Combined records. Notwithstanding any other provision of the law, the court may combined indexes, dockets, journals, and case files provided that the combination contains the components of indexes, dockets, journals, and case files as defined in this rule. The court may replace any paper bound books with an electronic medium or microfilm in accordance with this rule.

(D) Allowable record media.

The court may create, maintain, receive, record, copy, or preserve a record on traditional paper media, electronic media, including text or digital images, or microfilm, including computer output to microfilm.

The court may create, maintain, receive, record, copy, or preserve a record using any nationally accepted records and information management process, including photography, microfilm, and electronic data processing, as an alternative to paper. The process may be used in regard to the original or a copy of a record if the process produces an accurate record or copy and the process complies with American National Standards Institute ("ANSI") standards and guidelines or, in the event that ANSI standards cease to exist, other nationally accepted records and information management process standards.

(a) If the court creates, maintains, receives, records, copies, or preserves a record using a records and information management process in accordance with division (D)(2) of this rule and the record is required to be retained in accordance with the schedules set forth in this rule, the court shall cause a back-up copy of the record to be made at periodic and reasonable times to insure the security and continued availability of the information. If this rule requires the record to be retained permanently, the back-up copy shall be stored in a different building than the record it secures.

(b) Records shall be maintained in conveniently accessible and secure facilities, and provisions shall be made for inspecting and copying any public records in accordance with applicable statutes and rules. Machines and equipment necessary to allow inspection and copying of public records, including public records that are created, maintained, received, recorded, copied, or preserved by an alternative records and information management process in accordance with division (D)(2) of this rule, shall be provided.

(c) In accordance with applicable law and purchasing requirements, the court may acquire equipment, computer software, and related supplies and services for records and information management processes authorized by division (D)(2) of this rule.

(d) Paper media may be destroyed after it is converted to other approved media in accordance with division (D) of this rule.

(E) Destruction of records.

Subject to the notification and transfer requirements of divisions (E)(2) and (3) of this rule, a record and any back-up copy of a record produced in accordance with division (D)(2) of this rule may be destroyed after the record and its back-up copy have been retained for the applicable retention period set forth in this rule.

If this rule sets forth a retention period greater than ten years for a record, or if a record was created prior to 1960, the court shall notify the OHS in writing of the court's intention to destroy the record at least sixty days prior to the destruction of the record.

After submitting a written notice in accordance with division (E)(2) of this rule, the court shall, upon request of the OHS, cause the record described in the notice to be transferred to the OHS, or to an institution or agency that meets the criteria of the OHS, in the media and format designated by the OHS.

(F) Exhibits, depositions, and transcripts. At the conclusion of litigation, including times for direct appeal, the court or custodian of exhibits, depositions, or transcripts may destroy exhibits, depositions, and transcripts if all of the following conditions are satisfied:

The court notifies the party that tendered the exhibits, depositions, or transcripts in writing that the party may retrieve the exhibits, depositions, and transcripts within sixty days from the date of the written notification;

The written notification required in division (F)(1) of this rule informs the party that tendered the exhibits, depositions, or transcripts that the exhibits, depositions, or transcripts will be destroyed if not retrieved within sixty days of the notification;

The written notification required in division (F)(1) of this rule informs the party that tendered the exhibits, depositions, or transcripts of the location for retrieval of the exhibits, depositions, or transcripts;

The party that tendered the exhibits, depositions, or transcripts does not retrieve the exhibits, depositions, or transcripts within sixty days from the date of the written notification required in division (F)(1) of this rule.

(G) Other records. Any record that is not listed in this rule but is listed in a general retention schedule established pursuant to section 149.331 of the Revised Code may be retained for the period of time set by the general retention schedule and then destroyed.

(H) Extension of retention period for individual case files. The court may order the retention period for an individual case file extended beyond the period specified in this rule for the case file.

(I) Retention schedule for the administrative records of the court. The following retention schedule shall apply for the administrative records of the court:

Administrative journal. Administrative journals that consist of court entries, or a record of court entries, regarding policies and issues not related to cases shall be retained permanently.

Annual reports. Two copies of each annual report shall be retained permanently.

Bank records. Bank transaction records, whether paper or electronic, shall be retained for three years or until the issuance of an audit report by the Auditor of State, whichever is later.

Cash books. Cash books, including expense and receipt ledgers, shall be retained for three years or until the issuance of an audit report by the Auditor of State, whichever is later.

Communication records. Communication records, including routine telephone messages on any medium where official action will be recorded elsewhere, may be destroyed in the normal course of business as soon as they are considered to be of no value by the person holding the records.

Copies and Duplicates. Copies and duplicates that are used for informational purposes and for which the official record is located elsewhere may be destroyed in the normal course of business as soon as they are considered to be no value by the person holding the copies and duplicates.

Correspondence and general office records. Correspondence and general office records, including all sent and received correspondence, in any medium, may be destroyed in the normal course of business as soon as they are considered to be of no value by the person holding the records.

Drafts and informal notes. Drafts and informal notes consisting of transitory information used to prepare the official record in any other form may be destroyed in the normal course of business as soon as they are considered to be of no value by the person holding the drafts and informal notes.

Employment applications for posted positions. Employment applications for posted or advertised positions shall be retained for two years.

Employee benefit and leave records. Employee benefit and leave records, including court office copies of life and medical insurance records, shall be retained for three years or until the issuance of an audit report by the Auditor of State, whichever is later.

Employee history and discipline records. Records concerning the hiring, promotion, evaluation, attendance, medical issues, discipline, termination, and retirement of court employees shall be retained for ten years after termination of employment.

Fiscal records. Fiscal records, including copies of transactional budgeting and purchasing documents, shall be retained for three years or until the issuance of an audit report by the Auditor of State, whichever is later.

Grant records. Records of grants made or received by the court shall be retained for three years after expiration of the grant.

Informational materials about the victims of crime reparations program. Informational materials about the victims of crime reparations program may be destroyed as soon as they are considered to be of no value by the person holding the materials.

Payroll records. Payroll records of personnel time and copies of payroll records maintained by another office or agency shall be retained for three years or until the issuance of an audit report by the Auditor of State, whichever is later.

Publications received. Publications received by the court may be destroyed in the normal course of business as soon as they are considered to be of no value by the person holding the publications.

Receipt records. Receipt and balancing records shall be retained for three years or until the issuance of an audit report by the Auditor of State, whichever is later.

Requests for proposals, bids, and resulting contracts. Requests for proposals, bids received in response to a request for proposal, and contracts resulting from a request for proposal shall be retained for three years after the expiration of the contract that is awarded pursuant to the request for proposal.

(J) Required records.

The court shall maintain an index, docket, journal, and case files in accordance with this rule.

Upon the filing of any paper or electronic entry permitted by the court, a stamp or entry shall be placed on the paper or electronic entry to indicate the day, month, and year of filing.

(K) Retention schedule for the index, docket, and journal. The index, docket, and journal of the court shall be retained permanently.

(L) Retention schedule for case files.

(1) Civil actions. All case files of civil actions shall be retained for three years after dismissal or final order.

(2) Claims for reparations.

(a) Case files of claims for reparations filed on behalf of a minor victim shall be retained for at least three years after the minor reaches the age of majority.

(b) Case files of claims for reparations filed with respect to deceased victims shall be retained for at least twenty-two years after the date of the death of the victim.

(c) All other case files of claims for reparations shall be retained for six years after the last court award or order.

(3) Judge and clerk notes, drafts, and research. Judge and clerk notes, drafts, and research prepared for the purpose of compiling a report, opinion, or other document or memorandum may be kept separate from the case file, retained in the case file, or destroyed at the discretion of the preparer.

#### **Local Rule 22. MEDIATION**

(A) Referral to mediation. At an initial conference with the parties, the judge shall determine whether a civil case is appropriate for mediation, and if it is referred to mediation, set the time limits within which mediation will occur.

At the request of a party or upon the court's own motion, the court may at any time refer a civil case to mediation.

(B) Discovery. Mediation shall not stay discovery, which may continue throughout the mediation process in accordance with the Rules of Civil Procedure.

(C) Statements of evidence. Statements made during mediation are subject to Evid. R. 408.

(D) Mediators. The court may appoint one or more mediators who shall serve at the pleasure of the court and may receive compensation as described in R.C. 2743.03(C)(3).

#### **Local Rule 23. VICTIMS OF CRIME DIVISION ASSIGNED COUNSEL APPOINTMENTS**

(A) Assigned Counsel Appointment Review Board. Members of the assigned counsel appointment review board shall be designated by the court and shall include a judge of the court of claims, two panel commissioners, a magistrate, and the clerk or his designee. The assigned counsel review board shall:

Set and publish qualifications of counsel eligible for appointment to represent claimants who have filed an appeal in the Court of Claims Victims of Crime Division;

Approve an application form and process to be utilized by applicants seeking appointment;

Approve applications for appointment;

Create a master appointment list of counsel eligible for appointment;

Evaluate the performance of appointed counsel representing claimants in the court of claims victims of crime division;

Remove counsel, if necessary, from the master appointment list;

Establish the requirements for reinstatement to the master appointment list.

(B) Appointment of Assigned Counsel. A judge or a panel of commissioners may appoint assigned counsel to represent a claimant if the interests of justice require the appointment. Assigned counsel shall be selected from the master appointment list maintained by the assigned counsel appointment review board. Unless otherwise ordered, assigned counsel shall continue to represent the claimant through all remaining proceedings in the court of claims.

(C) Compensation of Assigned Counsel. Assigned counsel shall be compensated pursuant to R.C. 2743.65.

#### **Local Rule 24. REPARATIONS APPEALS**

A) Appeals from decisions of the attorney general.

An appeal pursuant to R.C. 2743.61(B) shall be taken by filing a notice of appeal with the clerk of the court of claims within the time allowed under R.C. 2743.61. The notice of appeal shall be filed on a notice of appeal form prescribed by the clerk of the court of claims and provided to the claimant by the attorney general.

The clerk of the court of claims shall serve a copy of the notice of appeal upon the attorney general and upon appellant and appellant's counsel, if any. The clerk shall note on the copy of the notice of appeal the date on which it was filed.

If a party attempts to file a notice of appeal by delivering it to the attorney general instead of the court of claims, the attorney general shall forward the notice of appeal to the clerk of the court of claims within three days and the date of filing of the appeal shall, in the interests of justice, be deemed to be not later than the date the notice was received by the attorney general.

Pursuant to R.C. 2743.61(B), the attorney general shall file the record with the clerk of the court of claims within fourteen days after the appeal is filed. The appeal shall be heard within ninety days of receiving a fully completed notice of appeal form.

A notice of appeal filed prior to the final decision of the attorney general shall be treated as filed immediately after such final decision.

(B) Appeals from orders of the panel of commissioners.

An appeal pursuant to R.C. 2743.61(C) shall be taken by filing a notice of appeal with the clerk of the court of claims within the time allowed under R.C. 2743.61. The notice of appeal shall be filed on a notice of appeal form provided by the clerk of the court of claims.

The clerk of the court of claims shall serve notice of the filing of a notice of appeal by forwarding a copy to counsel of record of each party other than the appellant, or, if a party is not represented by counsel,

to the party at the party's last known address. The clerk of the court of claims shall note on each copy served the date on which the notice of appeal was filed. The clerk shall make a record of the parties served, the date served, and the means of service.

#### **Local Rule 25. EFFECTIVE DATE**

(A) Effective Date of Rules. These rules shall take effect on January 1, 1984. These rules govern all proceedings in actions brought after they take effect, and all further proceedings in actions pending when they take effect, except to the extent that their application in a particular action pending when these rules take effect would not be feasible or would work injustice, in which event the former rules apply. These rules supersede the Local Rules of the Court of Claims of Ohio effective January 1, 1975, and as amended on June 14, 1977, October 26, 1978, December 19, 1978, January 1, 1983, May 2, 1983 and July 21, 1983.

(B) Effective Date of Amendments. The amendments to these rules journalized on June 4, 1986, shall be effective on that date and shall govern all proceedings taken on and after the effective date.

(C) Effective Date of Amendments. The amendments to these rules journalized on November 16, 1989, shall be effective on that date and shall govern all proceedings taken on and after the effective date.

(D) Effective date of amendment. The amendment to these rules journalized on June 5, 1992, shall be effective on that date and shall govern all proceedings taken on and after the effective date.

(E) Effective date of amendments. The amendments to these rules journalized on March 31, 1993, shall be effective on that date and shall govern all proceedings taken on and after the effective date.

(F) Effective date of amendments. The amendments to these rules journalized on June 22, 1995, shall be effective on that date and shall govern all proceedings taken on and after the effective date.

(G) Effective date of amendments. The amendments to these rules journalized on August 10, 1995, shall be effective on that date and shall govern all proceedings taken on and after the effective date.

(H) Effective date of amendments. The amendments to these rules journalized on November 27, 1995, shall be effective on that date and shall govern all proceedings taken on and after the effective date.

(I) Effective date of amendments. The amendments to these rules journalized on July 11, 1997, shall be effective on that date and shall govern all proceedings taken on and after the effective date.

(J) Effective date of amendments. The amendments to these rules journalized on August 15, 1997, shall be effective on that date and shall govern all proceedings taken on and after the effective date.

(K) Effective date of amendments. The amendments to these rules journalized on October 1, 1998, shall be effective on that date and shall govern all proceedings taken on and after the effective date.

(L) Effective date of amendments. The amendments to these rules journalized on June 28, 2000, shall be effective on that date and shall govern all proceedings taken on and after the effective date.

(M) Effective date of amendments. The amendments to these rules journalized on April 12, 2001, shall be effective on April 30, 2001 and shall govern all proceedings taken on and after the effective date.

(N) Effective date of amendments. The amendments to these rules journalized on May 2, 2002, shall be effective on that date and shall govern all proceedings taken on and after the effective date.

(O) Effective date of amendments. The amendments to these rules journalized on May 12, 2004, shall be effective on that date and shall govern all proceedings taken on and after the effective date.

(P) Effective date of amendments. The amendments to these rules journalized on March 11, 2005, shall be effective on March 11, 2005 and shall govern all proceedings taken on and after the effective date.

(Q) Effective date of amendments. The amendments to these rules journalized on October 18, 2007, shall be effective on October 18, 2007, and shall govern all proceedings taken on and after the effective date.