

**PROPOSED AMENDMENTS TO LOCAL RULES OF PRACTICE AND PROCEDURE
FOR THE GENERAL DIVISION OF THE MONTGOMERY COUNTY
COURT OF COMMON PLEAS**

COMMENTS DUE BY JULY 9, 2007

COMMENTS REQUESTED: Pursuant to Loc. R. 1.03, Local Rules of Practice and Procedure for the General Division of the Montgomery County Court of Common Pleas, proposed amendments to **Loc. R. 2.05, Pleadings and Motions**, are being published for a sixty-day public comment period beginning **Thursday, May 10, 2007, through Monday, July 9, 2007.**

Comments on the proposed amendments to the local rule can be submitted via email to rulecom@montcourt.org or in writing to:

James W. Drubert, Court Administrator
Montgomery County Common Pleas Court
41 N. Perry Street
P.O. Box 972
Dayton, OH 45422

Comments must be received by 4:30 p.m. on Monday, July 9, 2007.

EFFECTIVE AUGUST 13, 2007

The proposed amendments to the local rule will take effect on **August 13, 2007**, unless prior to such date the Court in its discretion amends, modifies, or withdraws the local rule. In the event the Court amends, modified, or withdraws the local rule, the revision will be published for a thirty-day notice period.

WordPerfect Document Compare Summary

Original document: H:\Me\Local Rule Information\Local Rule 2.05 Pleadings & Motions.wpd
Revised document: @PFDesktop\MyComputer\H:\Me\Local Rule Information\Local Rule 2.05 Pleadings & Motions - Updated.wpd

Deletions are shown with the following attributes and color:

~~Strikeout~~, Blue RGB(0,0,255).

Deleted text is shown as full text.

Insertions are shown with the following attributes and color:

Double Underline, Redline, Red RGB(255,0,0).

RULE 2.05 **PLEADINGS AND MOTIONS**

I. PLEADINGS

A. Initial Pleadings

1. The caption of all initial pleadings shall contain the information required by Rule 10(A) of the Ohio Rules of Civil Procedure.
2. A completed Civil Case Information Form shall be filed with all initial pleadings. The form includes a statement of the nature of the case. (See [Appendix H](#) Civil Case Information Form.) Copies of the form can be obtained from the Civil Division of the Clerk of Courts.
3. A designation of primary counsel shall be filed in the following types of actions:
 - a. A class of litigants represented by more than one attorney of record, or
 - b. Parties who are joined in an action and represented by more than one attorney of record, or
 - c. A party which is represented by more than one attorney of record.
4. The designation shall be signed by the designated primary attorney and all other attorneys representing any class member or party having interests in the same action as those of the class or party represented by the designated counsel. All court orders, decisions, opinions, or papers served by the Court or the Clerk of Courts shall be served only upon the designated primary counsel for the class, party, or parties.

24 5. Primary counsel is responsible for notifying and serving all parties
25 or attorneys of record having similar interests in the action with
26 copies of the Court's orders, decisions, opinions, or other papers in
27 a timely manner.

28 B. Pleadings Filed Subsequent to the Initial Pleading

- 29 1. All pleadings filed subsequent to the initial pleading shall specify:
- 30 a. The case number.
 - 31 b. The name of the Judge who was assigned to the case or the
32 name of the Judge who heard the case and the Magistrate if
33 applicable.
 - 34 c. The name, address and telephone number of the attorney
35 who is making the filing and the attorney registration number.
 - 36 d. The name, address and telephone number of each pro se
37 litigant.

38 C. Personal and Private Information in Pleadings and Exhibits

39 1. Filing parties and/or legal counsel shall not include personal and
40 private information in any document filed with the Court unless such
41 inclusion is necessary and relevant to the case.

42 2. If personal and private information is necessary and must be
43 included in a document, the filing party must file the document in
44 accordance with Loc. R. 1.15 (E), Filing and Removal of Papers
45 from Custody of Clerk.

46 II. MOTIONS

47 A. Moving Parties

- 48 1. All moving parties shall file and serve their motions with the
49 following:
- 50 a. One additional signed copy of the motion;
 - 51 b. A brief written memorandum which shall:
 - 52 (1) State with particularity the grounds in support of the
53 motion;
 - 54 (2) Set forth the relief or order sought; and
 - 55 (3) Specify the citations of the authorities upon which the

56 motion is based; and

57 c. Copies of all photographs or documentary evidence that will
58 be used in support of the motion if the motion requires the
59 consideration of facts that do not appear in the record.

60 d. A moving party may file an original and one additional signed
61 copy of a reply memorandum within seven days from the
62 date on which a memorandum in opposition is served.

63 B. Opposing Parties

64 1. All parties opposing motions shall file and serve a memorandum in
65 opposition to the motion that has been filed and served against
66 them. All memorandums shall:

67 a. Be accompanied by copies of all photographs or
68 documentary evidence that will be used in opposition to the
69 motion if the motion requires the consideration of facts that
70 do not appear in the record; and

71 b. Be filed and served within (14) days from the date on which
72 the motion was served. One additional signed copy of the
73 memorandum in opposition to the motion shall be filed with
74 the original memorandum. If no memorandum is filed within
75 this time limit, the motion may be decided forthwith.

76 C. Clerk of Courts

77 1. Motions

78 a. The Clerk shall deliver all motions that require the attention
79 of the Court to the Judges to whom they have been
80 assigned. All the motions shall be delivered to the assigned
81 Judge within three days after they have been filed.

82 2. Memorandums in Opposition

83 (1) The Clerk shall deliver all memorandums in opposition
84 to motions to the assigned Judge within three days
85 after they have been filed.

86 3. Reply Memoranda

87 a. The Clerk shall deliver all reply memoranda to the assigned
88 Judge within three days after they have been filed.

89 D. Order Memoranda

90 1. No other memoranda shall be filed without leave of Court.

91 E. Limitation Upon Length of Memoranda

92 1. Memoranda in support or in opposition to any motion or application
93 to the Court shall not exceed twenty (20) pages and otherwise shall
94 comply with [Mont. Co. C.P.R. 1.15\(I\)\(B\)](#). The page limitation may be
95 modified by the Court for good cause shown and upon such
96 conditions as set by the Court.

97 III. PROCESS SERVERS

98 A. One-time Appointment

99 1. If a party desires personal service to be made by a special process
100 server.

101 2. Pursuant to Civil Rule 4.1, that party or counsel must file with the
102 Clerk of Courts an entry appointing a special process server. The
103 following must be stated in the entry of appointment:

104 a. The name of the person to be appointed as process server;

105 b. That the person to be appointed as process server is 18
106 years of age or older;

107 c. That the person to be appointed as process server is not a
108 party in the action or counsel for a party in the action.

109 B. Standing Appointment

110 1. A person may be designated as a “Standing Special Process
111 Server” for cases filed in this Court by filing a combined affidavit
112 and order [\[Appendix I\]](#). The affidavit shall set forth the following
113 information:

114 a. The name, address, and telephone number of the person to
115 be appointed as a standard process server;

116 b. That the person is 18 years of age or older;

117 c. That the person agrees not to attempt service of process in
118 any case the server is a party or counsel for a party;

119 d. That the person agrees to follow the requirements of Ohio
120 Rules of Civil Procedure 4 through 4.6, and any applicable
121 local rule, and specific instructions for service of process as
122 ordered by the Court in individual cases.

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2. A standing appointment shall be for no more than a two-year period ending on December 31. Upon expiration of an appointment, a person must reapply. The Administrative Judge authorizes the appointment order for a standing process server.
 3. The order shall be captioned, “In Re the Appointment of (Name of Person Requesting Appointment) As standing Special Process Server”, and state the following:
 - a. *“It appearing to the Court that the following person has complied with the provisions of Local Rule 2.05 (Name of Person Requesting Appointment) is hereby designated as a Standing Special Process Server authorized to make service of process in all cases filed in this Court and to serve until December 31,____, or further order of the Court, whichever comes first.”*
 4. The Clerk shall record such appointment on the Court’s general docket, and shall retain the original Affidavit and Order. In any case thereafter, the Clerk of Courts shall accept a time-stamped copy of such and Affidavit and Order as satisfying the requirements of Civil Rule 4.1(2) for designation by the Court of a person to make service of process.