

Chapter 2 – Pleadings and Motions

Rule 2.01 – Format

Every pleading, motion, brief or other papers filed in a cause, shall be identified by title and shall bear the name (written, typewritten or printed) of the individual attorney; the attorney registration number issued by the Supreme Court of Ohio; the firm, if any; office address, telephone number; facsimile number; and email address of counsel filing the same. If there is no counsel, the same applicable information is required of the party filing the document.

All pleadings, motions and other court filings shall be legibly typewritten or printed on one-sided letter (8 ½" x 11") paper and shall have a 2" top margin on the first page and subsequent pages shall have a 1" top margin. All original filings shall **not be bound by staples**. Service copies may be stapled.

The Clerk of Courts requires the original copy and one copy for the Judge of all pleadings. If service is requested to be performed by the Clerk of Courts, an adequate number of copies shall be provided to the Clerk of Courts. If additional copies are required for service, the Clerk will provide the necessary copies at \$.25 per copy, which will be taken directly from the deposit.

Rule 2.02 – Case Designation Forms

Every initial, non-criminal filing shall be accompanied by a Case Designation Form, which can be obtained in the office of the Clerk of Courts and available online. (See Forms). It will be the obligation of the attorney or unrepresented party filing pleadings, to identify the appropriate alphabetic designation on a designation form upon filing with the Clerk of Courts.

All complaints, post decree motions filed in domestic relation matters or motions that reopen a domestic case, the form shall include the caption, related pending or closed cases, and indicate one of the case types provided on the form. The Clerk of Courts may refuse to accept for filing any case that does not conform to this rule.

If a case seeks to be designated as complex litigation under Rule 42 of the Rules of Superintendence for the Courts of Ohio, the Plaintiff attorney(s) shall notify the Clerk of Courts within 60 days of filing a Complaint and Defense attorney(s) shall notify the Clerk of Courts within 60 days of service.

Rule 2.03 – Names, Addresses, and Phone Numbers of Parties

The address of the parties shall be listed in the caption on all pleadings and motions. If a party's address changes while the case is pending, the party shall report the change to the Clerk of Courts by filing a written Notice of Change of Address.

All individuals who are not represented by legal counsel shall include their telephone number on all pleadings and motions filed with the Court.

Rule 2.04 – Attorney Registration Number

The attorney signature blocks of all pleadings, motions and filings shall include the attorney registration number assigned by the Supreme Court of Ohio.

Rule 2.05 - Notice of Appearance

In all case types, (other than initial filings) the attorneys shall file a Notice of Appearance. Notices must be filed with the Clerk of Court.

Rule 2.06 – Motion Requirements & Practice

All motions shall be accompanied by an affidavit stating the grounds for the motion and citing relevant authorities, and **Proposed Order for signature of the Court**. The motion, together with the affidavit, whether supporting or opposing a motion, shall not exceed 20 pages, exclusive of any supporting documents. If a party fails to provide an affidavit or exceeds the 20-page limit, the Court may overrule the motion without consideration.

Any motions in any case, parties shall file with the Clerk of Courts in duplicate. The Clerk or a Deputy Clerk shall give the file- stamped duplicate copy to the Court for the assignment of hearing (if needed) and for the statistical reporting.

Courtesy copies of all dispositive motions and responsive documents shall be sent to the courtroom upon filing.

(A) Domestic Relations Proceedings

- 1) Required in all new Domestic Relations filings (Divorce or Dissolution) shall provide the full name of the parties; the complete addresses; date of birth; list the six (6) month in state residency; and the 90 days in the county residency; and the date and location of the marriage on the Complaints/Petition/ and Decrees.
- 2) An attorney or unrepresented party filing a new domestic relations action may obtain from the Judicial Assistant a date and time for hearing on motions for temporary orders and file the notice of such with the original pleadings to be served. At the time of initial filings, the attorney or unrepresented party must first ascertain whether the hearing date requested conflicts with any other matter previously assigned.
- 3) Hearings on motions for temporary orders shall be **assigned no earlier than seven days** from the date of filing.

(B) Post Decree Filing Requirements

- 1) Deposit paid to the Clerk of Courts
- 2) Full name, address and contact information of all parties on the pleading.
- 3) The Clerk of Court are required to provide service on any post decree pleadings put on the Court's docket.
- 4) Pleadings that do not require the Clerk of Court to serve the party, must include a proof of service.
- 5) Any request for service shall contain the party to be served with a current address.
- 6) Agreed post decree change filings require a deposit; the Motion; Affidavit and Agreed Entry. If the agreed post decree filing involves children, additional forms are required (Affidavit of Income and Expenses of both parties; Parent Proceeding Affidavit; and the Health Insurance Affidavit).

Rule 2.07 – Service on Opposing Parties

Every pleading, motion, affidavit filed with the Court shall be served on all opposing counsel or upon all parties not represented by counsel.

If the case is being opened, reopened, or if claims are being made against additional parties, the Clerk of Courts shall serve all opposing parties. The party filing the pleading or motion that opens or reopens the Court file must request that the Clerk of Courts serve the document by filing a Request for Service. The Request for Service may be filed as a separate document or at the end of the pleading or motion. **Every Request for Service must state the full names and addresses of those to be served.**

All other documents shall be served by the party filing the document as provided in Civil Rule 5. The pleading or motion must contain a Proof of Service, which is a statement notifying the Court that the opposing counsel or unrepresented parties have been sent or given a copy of the document. **Every Proof of Service must state the full names and addresses of those served.**

No filing will be considered by the Court, without a correct Request for Service or Proof of Service.

Rule 2.08 – Methods of Service and Publication

If the case is newly filed, the Clerk of Courts will do the service the same as and pursuant to the Rules of Civil Procedure. When filing a new case, a Request or Instructions for Service must be provided.

A. Certified Mail Service is a method of delivery that requires proof of receipt. The Clerk will send one copy of all the documents/forms filed to the opposing party at the address provided for that person. If the service is not successful, the Clerk of Courts will send a notice in the mail that service has failed. Unless instructed otherwise in writing, the Clerk of Courts will not do anything further. If no further instructions are given, the case could be dismissed.

B. Ordinary Mail Service is when the court documents are mailed to a person's last known or declared address. A request for ordinary mail service asks the Clerk of Courts to serve the person by mailing the court document to an address provided by the party.

Ordinary mail can only be used after a failure of service by certified mail of either "refused" or "unclaimed"; otherwise, certified mail or personal service must be reattempted. When the Clerk of Court issues service by ordinary mail, a return receipt card will be placed in the file and dated so that a record is made of the mailing date.

C. Personal Service is delivery of the court documents to the individual to whom it is directed or to someone authorized to receive it on his/her behalf. The court documents will be hand-delivered to the opposing party by someone who is a process server or the sheriff's department.

D. Publication: When service of process is required upon a party whose residence is unknown, service shall be made by publication, pursuant to the Civil Rules of Procedure.

Parties requesting publication shall prepare the legal notice and pay a deposit of \$500.00, to the clerk of courts; along with a Precipe for Service by Publication; specifying which legal publisher (The Carroll County Messenger or the Free Press Standard); and the length of time for publication. Service by publication fees will be taxed as court costs, unless the requesting party instructs the clerk's office otherwise.

An affidavit of the party requesting service or that party's counsel shall be filed with the Court. The affidavit shall aver that service of summons cannot be made because the residence of the party to be served is unknown to the affiant, all of the efforts made on behalf of the party to ascertain the residence of the party to be served, and that the residence of the party to be served cannot be ascertained with reasonable diligence.

Upon the filing of the affidavit and the proposed legal notice, the clerk shall cause service of notice to be made by publication in the newspaper specified in the Precipe for Service. The publication shall contain the name and address of the court, the case number, the name of the first party on each side, and the name and last known address, if any, of the person or persons whose residence is unknown. The publication also shall contain a summary statement of the object of the pleading or other document seeking relief against a party whose residence is unknown, and a summary statement of the demand for relief, and shall notify the party to be served that such party is required to answer or respond either within twenty-eight days after the publication or at such other time after the publication that is set as the time to appear or within which to respond after service of such pleading or other document.

The publication shall be published at least once a week for six successive weeks unless publication for a lesser number of weeks is specifically provided by law. Service of process shall be deemed complete at the date of the last publication. After the last publication, the publisher or its agent shall file with the court an affidavit showing the fact of publication together with a copy of the notice of publication. The affidavit and copy of the notice shall constitute proof of service of process.

E. Posting – This service is when a legal notice is posted on a designated public place at the courthouse as well as in two different locations in the community. This notice will be posted for six weeks.

Posting is permitted under the following:

1. Filing for a divorce, annulment, or legal separation, and
2. An affidavit of indigency with your request which allowed you to file without paying a filing fee/court cost deposit. If you did not file such an affidavit or the Court made you pay a filing fee, you must do service by publication if you have no address for the other side.

Rule 2.09 – Filing Instructions for Out of State Subpoena

A Petition for the Issuance of Subpoena pursuant to R.C. 2319.09; Commission from the Court in the State the lawsuit is pending; the original, issued subpoena from a foreign state and three copies; a new original Ohio subpoena which is identical in content to the foreign state subpoena and three copies; and a proposed court order for a Carroll County Common Pleas Judge to sign, directing the Clerk of Courts to issue the subpoenas; a deposit made payable to the Carroll County Clerk of Court.

Rule 2.10 – Leave to Plead

By agreement of counsel, a party may be granted leave to move or plead provided the total extension of time does not exceed (28) days. Such consent shall be signed by all counsel and filed with the Clerk of Courts. Where an extension of time beyond (28) days is needed, the appropriate motion must be filed and upon proper showing of good cause, the extension may be granted by the Court.

Rule 2.11 – Amendments

No pleading or motion shall be amended by interlineation or obliteration. A party filing an amended pleading shall re-file the entire amended pleading. Upon filing of an amended pleading or motion, the original shall not be withdrawn from the Court file.

Rule 2.12 – Complaint on a Cognovit Note

Before presenting a Complaint on cognovit note to the Court, a party must file the Complaint with the Clerk of Courts so that the case can be initiated. After initiated, the complaint and related filings must be brought to the Court by Clerk of Court's.

The attorney confessing Judgment on behalf of the Defendant must be present and sign in the Judge's presence or acknowledge the attorney's signature in the Judge's presence. The original cognovit note must be presented so the Court can endorse the note indicating the Judgment.

Rule 2.13 – Conflict of Trial Dates and Continuances

All motions for continuance must be **in writing** and shall set forth the reason for the continuance. Unless the Court otherwise directs, a motion for continuance shall be heard after proper notice is given to opposing counsel. All motions for continuance shall set forth a detailed explanation along with any supporting documentation if applicable.

Conflicts (C.P. Sup. R. 7-B)

When a continuance is requested for the reason that counsel is scheduled to appear in another case assigned for hearing or trial on the same date in another court of this State (including federal courts), the case which was first assigned for trial or hearing shall have priority.

Criminal cases have priority over civil cases.

No motion or request for a continuance due to a scheduling conflict will be considered by this Court unless a copy of the conflicting assignment is attached thereto, and shall contain or be accompanied by an entry approving it with provisions for the insertion of a new date.

Continuances (C.P. Sup. R. 7-A)

- 1) All continuances are matters within the sound discretion of this Court.
- 2) No party shall be granted a continuance of any hearing or trial without submitting to the Court a **written** motion of request therefore, with entry attached, stating therein the reason for the continuance, **endorsed in writing by the litigants or counsel**. This provision may be waived by the Court for good cause shown.
- 3) Motions for continuances, other than due to scheduling conflicts, the Court will be filed in writing within three days from the date of request and shall contain or be accompanied by an entry approving same with provisions for the insertion of a new date.

The Court will **not** assign a new date or re-issue notices until the required motion is received.

To the extent possible, parties or counsel requesting continuances shall consult with adverse parties or opposing counsel for mutually acceptable new dates **prior** to requesting a continuance so that further conflicts can be minimized and a new date can be expedited.

Rule 2.14 – Motions to Consolidate

Consolidation may be appropriate if two or more cases involve a common question of law or fact.

A. Motions to Consolidate - In General

A motion to consolidate in a civil case, unless otherwise specified by this rule, shall be filed in the case that was filed last. If the motion is granted, the cases will be consolidated into the case that was filed first, and subsequent filings will only be permitted in that case.

B. Motions to Consolidate in Cases Involving Certificate of Judgment Liens

In civil cases involving certificates of judgment liens, a motion to consolidate shall be filed in the case that was filed first. If the motion is granted, all relevant cases will be consolidated into the case that was filed first, and subsequent filings will only be permitted in that case.

Rule 2.15 – Motions for Default Judgment

Motions for default judgment shall be accompanied by an original affidavit in support of the requested judgment. If the affidavit is insufficient, the Court may request additional evidence by affidavit or set the matter for hearing. At the hearing, the moving party shall be prepared to offer testimonial and documentary evidence in support of the claim; if the claim is for damages, the moving party shall present evidence in support of damages.

Rule 2.16 – Motions to Compel Discovery

Absent extraordinary circumstances, the last date for any party to seek the involvement of the Judge in the Discovery process by way of motion seeking a ruling, an order, sanctions, or other court action, shall be 30 days after the Discovery cutoff date.

Rule 2.17 – Preparation of Entries

Every non-oral motion filed with the Court shall be accompanied by a proposed judgment entry suitable for use if the motion is granted. A party opposing a motion shall provide the Court with a proposed judgment entry. All submitted entries must include a listing of all attorneys and unrepresented parties who are to receive a copy of the docketed entry from the Clerk of Courts.