



THE SUPREME COURT *of* OHIO

FORECLOSURES & CIVIL JUSTICE

REPORT & RECOMMENDATIONS



June 2020

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Report & Recommendations

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ACKNOWLEDGEMENT

The Supreme Court of Ohio wishes to acknowledge all the members that provided valuable input on this process. Thank you to all the members who shared and discussed ideas for consideration.

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INTRODUCTION

The emergence of the coronavirus has had many widespread effects throughout the court system and the economy. As many Ohioans face record unemployment rates, local court systems either have continued cases or drastically slowed their operations to hear only essential matters to comply with the State of Ohio Department of Health Emergency Order, and federal and state legislation, the Court anticipates an influx of foreclosure filings, as well as a backlog of civil cases generally.

In anticipation of the increase in these case types, the Office of Court Services convened stakeholders to analyze projected caseloads, create strategies for backlogs, and modernize court operations through technology.

The stakeholders reviewed historical statistics on foreclosures and focused on the annual statistics, while also reviewing statistics from the previous housing crisis of 2009. A review of other states compared how each state is handling foreclosures during various stay-at-home orders. The discussion and recommendations include recommendations for foreclosure mediation and settlement events; technology and access to courts; increasing capacity for mediators; and civil justice and data outcomes. These recommendations balance the backlog of cases, access to justice, and timely processing of cases.

OHIO STATISTICS

Shown in Table 1 are the number of new filings statewide of forcible entry and detainer (F.E.D.) and foreclosure cases filed each quarter between the first quarter of 2015 and the first quarter of 2020. To be sure, a portion of the decline in the first quarter of 2020 is due to some courts opting not to file their March 2020 caseload statistical reports pursuant to the Supreme Court's tolling order.

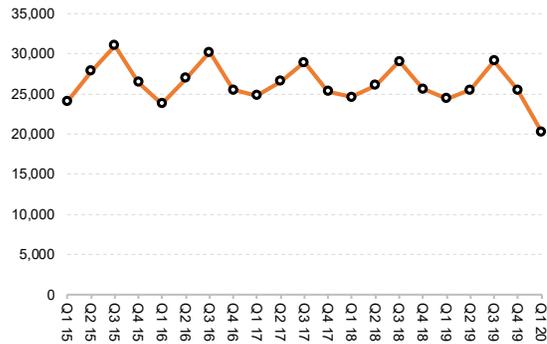
Table 1. New Filings of F.E.D. and Foreclosure Cases, Quarter 1, 2015 to Quarter 1, 2020

Quarter	F.E.D.	Foreclosures
Quarter 1, 2015	24,039	11,372
Quarter 2, 2015	27,834	9,499
Quarter 3, 2015	30,972	9,287
Quarter 4, 2015	26,431	10,321
Quarter 1, 2016	23,762	11,638
Quarter 2, 2016	26,950	9,582
Quarter 3, 2016	30,184	8,752
Quarter 4, 2016	25,481	8,991
Quarter 1, 2017	24,777	9,975
Quarter 2, 2017	26,560	8,528
Quarter 3, 2017	28,907	8,402
Quarter 4, 2017	25,269	8,264
Quarter 1, 2018	24,595	9,392
Quarter 2, 2018	26,031	8,745
Quarter 3, 2018	29,046	7,496
Quarter 4, 2018	25,593	7,894
Quarter 1, 2019	24,373	8,457
Quarter 2, 2019	25,463	7,125
Quarter 3, 2019	29,083	7,447
Quarter 4, 2019	25,502	7,574
Quarter 1, 2020	20,182	6,693

The new-filing data in Table 1 are displayed graphically in Figure 1 and Figure 2. As seen clearly in Figure 1, there is a seasonal peak in new filings of F.E.D. cases each year in the third quarter (July 1 through September 30). New filings of foreclosure cases also experience a seasonal peak each year, but instead in the first quarter (January 1 through March 31). Notably, for the first quarter of 2020, that seasonal peak was not realized, which again is due in part to some courts opting to not report their March statistics during the COVID-19 emergency period.

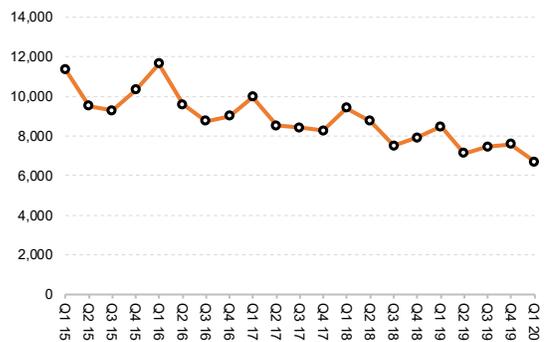
In addition to the seasonal peaks during each third quarter in new filings of F.E.D. cases, Figure 1 reveals that over the last five years, the number of new filings statewide remained fairly steady, other than the apparent decline in the first quarter of 2020, which may not stand once the Supreme Court receives all courts' March 2020 reports. As of May 18, 2020, 17 municipal and county courts — including some large metropolitan courts — had not submitted their March 2020 reports, representing 10 percent of the 164 courts.

Figure 1. New Filings of F.E.D. Cases, Quarter 1, 2015 to Quarter 1, 2020



New filings of foreclosure cases, shown in Figure 2, experienced a general decline over the last five years. Although not shown in this report, that general decrease has been steady since Ohio experienced its all-time high of more than 89,000 new filings in 2009. As of May 18, 2020, a total of 40 of the 244 judges (16 percent) with general division jurisdiction have not filed their March 2020 statistical reports.

Figure 2. New Filings of Foreclosure Cases, Quarter 1, 2015 to Quarter 1, 2020



NATIONAL STATISTICS

There is no Ohio-specific data on the number of mortgages in Ohio that are federally backed and, therefore, subject to certain protections under the federal Coronavirus Aid Relief and Economic Security Act (CARES).¹ However, there are several sources that indicate up to approximately 70 percent of mortgages nationally are federally backed.² If that national estimate is applied to Ohio county-level data concerning mortgaged housing units, a rough estimate can be calculated of the federally backed mortgage rate in each county.³

1 Pub.L. 116–136 (Coronavirus Aid Relief and Economic Security Act), 116th Congress (2019-2020).

2 Urban Institute, [urban.org/urban-wire/price-tag-keeping-29-million-families-their-homes-162-billion](https://www.urban.org/urban-wire/price-tag-keeping-29-million-families-their-homes-162-billion); National Consumer Law Center, [library.nclc.org/major-consumer-protections-announced-response-covid-19](https://www.nclc.org/major-consumer-protections-announced-response-covid-19); U.S. House Committee on Financial Services, financialservices.house.gov/news/documentsingle.aspx?DocumentID=406472.

3 Housing unit data from the U.S. Census Bureau, American Community Survey, 5-year estimates (2014-2018).

In 2009, Ohio experienced its all-time high of 89,061 new foreclosure filings. In 2019, Ohio saw the filing of 30,603 new foreclosure cases. Between 2009 and 2019, Ohio saw an annual average of 53,836 new filings each year. If that annual average is applied to the total number of housing units in Ohio that are subject to mortgages, one can calculate a foreclosure rate. To be sure, the number of mortgaged housing units is not fixed from year to year and neither is the actual rate of foreclosures. But this approach at least gives a general sense of the historical foreclosure rate since 2009.

Table 1 shows the currently available data concerning mortgaged housing units in Ohio and the estimated number of mortgages that are federally backed (using the 70-percent figure) along with the average annual number of new foreclosure filings and the calculated foreclosure rates per county.

Table 1. Mortgaged Housing Units, Average Annual Foreclosures, and Foreclosure Rates

County	Total Housing Units	Housing Units with Mortgages	Estimated Federally Backed Mortgages	2009-2019 Average Annual Foreclosures	Foreclosure Rate (2009-2019)	County	Total Housing Units	Housing Units with Mortgages	Estimated Federally Backed Mortgages	2009-2019 Average Annual Foreclosures	Foreclosure Rate (2009-2019)
Adams	7,498	3,918	2,743	88	2.2%	Licking	46,611	31,749	22,224	685	2.2%
Allen	26,952	15,869	11,108	396	2.5%	Logan	13,605	8,236	5,765	199	2.4%
Ashland	14,734	8,895	6,227	191	2.1%	Lorain	85,598	55,250	38,675	1,467	2.7%
Ashtabula	26,382	15,022	10,515	549	3.7%	Lucas	107,392	67,821	47,475	2,293	3.4%
Athens	12,698	6,489	4,542	116	1.8%	Madison	10,747	7,173	5,021	149	2.1%
Auglaize	14,323	8,734	6,114	148	1.7%	Mahoning	67,349	37,621	26,335	1,307	3.5%
Belmont	20,021	9,377	6,564	174	1.9%	Marion	16,717	9,807	6,865	328	3.3%
Brown	12,883	7,859	5,501	225	2.9%	Medina	54,937	37,264	26,085	650	1.7%
Butler	94,470	65,842	46,089	1,881	2.9%	Meigs	7,269	3,088	2,162	52	1.7%
Carroll	8,618	4,885	3,420	95	2.0%	Mercer	12,330	6,433	4,489	86	1.3%
Champaign	11,044	6,739	4,717	183	2.7%	Miami	28,728	19,366	13,556	403	2.1%
Clark	35,679	21,168	14,818	643	3.0%	Monroe	4,497	1,611	1,128	20	1.2%
Clermont	57,321	39,656	27,759	845	2.1%	Montgomery	136,552	86,742	60,719	2,771	3.2%
Clinton	10,723	6,920	4,844	204	3.0%	Morgan	4,788	2,167	1,517	36	1.7%
Columbiana	30,506	16,401	11,481	451	2.8%	Morrow	10,372	6,347	4,443	176	2.8%
Coshocton	10,602	5,504	3,853	198	3.6%	Muskingum	23,173	13,687	9,581	346	2.5%
Crawford	12,427	6,369	4,458	194	3.0%	Noble	4,172	1,547	1,083	41	2.6%
Cuyahoga	314,766	193,757	135,630	8,628	4.5%	Ottawa	13,919	7,893	5,525	158	2.0%
Darke	15,100	8,805	6,164	167	1.9%	Paulding	5,975	3,272	2,290	75	2.3%
Defiance	11,723	7,036	4,925	121	1.7%	Perry	10,061	6,099	4,269	149	2.4%
Delaware	55,800	42,936	30,055	534	1.2%	Pickaway	14,831	9,490	6,643	198	2.1%
Erie	21,602	13,104	9,173	403	3.1%	Pike	7,279	3,666	2,566	78	2.1%
Fairfield	40,508	27,799	19,459	605	2.2%	Portage	43,216	27,784	19,449	599	2.2%
Fayette	7,413	4,506	3,154	134	3.0%	Preble	12,443	7,281	5,097	227	3.1%
Franklin	269,515	196,220	137,354	5,720	2.9%	Putnam	10,684	6,277	4,394	58	0.9%
Fulton	12,677	7,701	5,391	140	1.8%	Richland	32,616	18,734	13,114	672	3.6%
Gallia	8,576	3,937	2,756	72	1.8%	Ross	20,077	10,973	7,681	285	2.6%
Geauga	30,380	20,486	14,340	303	1.5%	Sandusky	16,812	9,731	6,812	234	2.4%
Greene	43,414	28,372	19,860	526	1.9%	Scioto	20,402	9,838	6,887	273	2.8%
Guernsey	11,467	6,247	4,373	191	3.1%	Seneca	15,512	8,784	6,149	207	2.4%
Hamilton	196,427	135,216	94,651	4,185	3.1%	Shelby	13,168	7,931	5,552	172	2.2%
Hancock	22,074	14,192	9,934	268	1.9%	Stark	104,220	66,086	46,260	1,579	2.4%
Hardin	8,155	4,708	3,296	116	2.5%	Summit	147,453	95,248	66,674	2,912	3.1%
Harrison	4,851	2,500	1,750	42	1.7%	Trumbull	60,946	32,373	22,661	1,047	3.2%
Henry	8,569	5,195	3,637	89	1.7%	Tuscarawas	25,968	14,347	10,043	255	1.8%
Highland	11,524	7,181	5,027	188	2.6%	Union	15,111	11,470	8,029	192	1.7%
Hocking	8,396	4,843	3,384	123	2.5%	Van Wert	8,525	4,912	3,438	107	2.2%
Holmes	9,458	5,314	3,720	54	1.0%	Vinton	3,806	1,955	1,369	34	1.7%
Huron	16,066	9,593	6,715	246	2.6%	Warren	63,466	46,841	32,789	841	1.8%
Jackson	9,044	4,652	3,256	161	3.5%	Washington	18,571	9,182	6,427	121	1.3%
Jefferson	18,921	9,457	6,620	210	2.2%	Wayne	31,704	18,488	12,942	283	1.5%
Knox	16,731	10,790	7,553	270	2.5%	Williams	11,539	6,569	4,598	121	1.8%
Lake	71,396	45,481	31,837	1,159	2.5%	Wood	33,205	21,630	15,141	452	2.1%
Lawrence	16,847	8,289	5,802	199	2.4%	Wyandot	6,600	3,737	2,616	62	1.7%
						STATEWIDE	3,071,227	1,944,435	1,361,105	53,836	2.8%

STATE BY STATE

The following summarizes the findings of how states are responding to eviction proceedings in the United States, according to an ongoing research study conducted and supervised by Emily Benfer of Columbia Law School.⁴ The purpose of the study is to document the court, gubernatorial, and legislative COVID-19 actions taken throughout the United States that affect eviction and foreclosure cases at the state level.

The study includes 50 states and the District of Columbia. The majority of the states (37) currently are suspending eviction cases, enforcement, or both, through either gubernatorial orders, or judicial orders. Of the 37 states suspending eviction cases, enforcement of evictions, or both, 11 states (Alabama, Alaska, Arizona, California, Florida, Kansas, Montana, Nebraska, New Mexico, Oregon, and Wisconsin) require moratoriums to be based either on nonpayment of rent or demonstrated hardship as a result of COVID-19 (either loss of income, quarantine of self or a family member, or caring for a child out of school due to school shutdowns). Many of these states include the suspension of late fees and moratoriums on utility shutoffs. Nearly all states also have exceptions to these moratoriums for emergency matters, including potential harm to persons or property.

The remaining 14 states either leave eviction suspensions to local discretion, have no specific order/declaration, or are resuming eviction proceedings, both in person and virtually. Courts have stated evictions can resume in person in Texas, Virginia, and West Virginia. Courts have stated evictions can resume via remote proceedings in Arkansas, Idaho, North Dakota, South Carolina, and Utah. Missouri has no specific order on evictions; however, it is suspending in-person proceedings subject to some exceptions that do not include evictions. Finally, Georgia, Ohio, Oklahoma, South Dakota, and Wyoming are leaving these decisions to local discretion, with some states providing guidance and suggestions, but no binding orders.

FEDERAL MORATORIUM

On June 17, 2020, the U.S. Department of Housing & Urban Development extended the CARES Act moratorium on foreclosure filings in connection with the COVID-19 national emergency until August 31, 2020. The moratorium, originally issued in March, prohibits a mortgage servicer from initiating a foreclosure action for not less than the 60-day period beginning March 18, 2020, for all Federal Housing Administration (FHA)-insured single-family mortgages, except for vacant or abandoned properties, as well as loans back by Fannie Mae and Freddie Mac. This order applies to the initiation of foreclosures, move for judgment, and an order for a sale.

⁴ Columbia University, Office of the Executive Vice President for Research, Eviction Protection, research.columbia.edu/covid/community/evictionprotection (accessed June 15, 2020).

DISCUSSION AND RECOMMENDATIONS

Foreclosure

The recent economic disruption caused by the coronavirus pandemic (COVID-19) has had, and will continue to have, a wide-ranging impact on Ohioans. Among the ripple effects is the increase in unemployment. According to Ohio Department of Job and Family Services (ODJFS), the number of initial jobless claims filed in Ohio over the last 11 weeks (1,292,413) is more than the combined total of those filed during the last three years.⁵

Ohio unemployment has soared from 4.7 percent in February to 17.4 percent in April, with 24 counties reporting levels over 20 percent.⁶ During the Great Recession of 2007-2009, a decline in the housing market led to difficulties for homeowners, including payment defaults and foreclosures. Courts across the state were inundated with cases, as a result. It is reasonable to expect that, due to unprecedented unemployment rates that foreclosure actions will increase.

Foreclosure Mediation Framework

To aid courts in managing the influx of foreclosure-related cases, the Supreme Court of Ohio, in 2008, developed a Foreclosure Mediation Program Model framework for the mediation of foreclosure cases, which widely became known as Save-the-Dream. A foreclosure mediation framework also should be shared with local courts now, in anticipation of the need to offer mediation for an expected increase in the foreclosure cases. A discussion of key principles for a local court to consider in offering foreclosure mediation services at this time would be helpful, including templates as well. A sample Foreclosure Mediation Framework is attached to this report as Appendix A. Courts may want to consider establishing a pre-filing mediation or mortgage delinquency program to improve the likelihood of converting delinquent borrowers to performing status by offering mediation and related workout options in earlier stages of delinquency and facilitating a shorter timeline to foreclosure sale when mediation either is not accepted by the borrower or does not yield an agreement or workout. Collaboration with the local bar association and lending community is central to the pre-filing mediation program or mortgage delinquency program.

Settlement Events

Another solution is for local courts to conduct Settlement Events. A settlement event is a bench-bar collaboration using volunteer mediators to resolve pending civil cases. First popularized as Settlement Week in Columbus, Ohio in 1986, settlement events access the supply of experienced mediators or experienced trial lawyers trained in mediation to help meet the demand posed by pending civil cases in need of resolution.

In advance of the event, specialized trainings generate a wide pool of mediators to participate. The local courts and counsel identify and nominate cases that are ripe for settlement. A calendar of selected dates and times are scheduled for a settlement event. Mediators may volunteer to mediate matters within their professional expertise. After mediation, cases where settlements are

5 Gongwer News Service, Inc., *Ohio Initial Jobless Claims for Sunday, May 24, through Saturday, May 30, 2020*, (June 4, 2020) <http://gongwer-oh.com/public/133/jobless0604.pdf> (accessed June 15, 2020).

6 Ohio Department of Job and Family Services, Office of Workforce Development, Bureau of Labor Market Information *Ohio Unemployment Rates, February 2020*, ohiolmi.com/portals/206/LAUS/Archive/2020/ColorRateMap0220.pdf; *Ohio Unemployment Rates April 2020*, ohiolmi.com/portals/206/LAUS/Archive/2020/ColorRateMap0420.pdf.

reached are successfully removed from the court's docket; where resolution is not found, cases remain on the court's docket.

Building Capacity in Mediators

Currently, Sup.R. 16.23 prescribes the required education for mediators. In order to be nimble during this time, the Dispute Resolution Section, in conjunction with the Commission on Dispute Resolution could work with the Court to modify training requirements, and develop blended training to focus on foreclosures and settlements, including an asynchronous online module currently available and additional interactive training.

RECOMMENDATIONS:

1. The Court should consider adopting a toolkit that would set forth a uniform framework that courts could elect to adopt regarding foreclosure mediation. See **Appendix A Foreclosure Mediation**.
2. The Supreme Court should encourage and distribute **Appendix B Settlement Events** for local courts to use to prepare and implement a settlement event.
3. The Court should adopt a temporary Rule of Superintendence for Foreclosure Mediation Training, instead of the Fundamentals of Mediation Training pursuant to Sup.R. 16.23. The Fundamentals of Mediation is 16.25 hours and this newly developed training would be fewer hours and focus on the foreclosure special considerations. Below is a draft temporary Rule of Superintendence for consideration:

Rule 16.23 (A)(2)(d) For the purposes of helping with the backlog of cases due to COVID-19 and the State of Ohio Emergency, a mediator may complete the Foreclosure Mediation Training consisting of a pre-requisite of 2.25 hours of OhioCourtEDU Fundamentals of Mediation, and a minimum of 8 hours of training which may be offered through a blend of an online video-conference platform, face-to-face training, and recorded lecture, for a total of a at least 10.25 hours. The Foreclosure Mediation Training must be approved by the Supreme Court Dispute Resolution Section in accordance with standards established by the Commission on Dispute Resolution.

4. The Court should adopt a temporary Rule of Superintendence for Settlement Event Mediation Training, instead of the Fundamentals of Mediation Training pursuant to Sup.R. 16.23(A). The Fundamentals of Mediation is 16.25 hours and this newly developed training would be fewer hours and focus on the foreclosure special considerations. Below is a draft temporary Rule of Superintendence for consideration:

16.23 (A)(2)(e) For the purposes of helping with the backlog of cases due to COVID 19 and the State of Ohio Emergency, a mediator may complete the Settlement Event Mediation Training consisting of 2.25 hours of OhioCourtEDU Fundamentals of Mediation, and 4 to 6 hours of training which may be offered through a blend of an online video-conference platform, face-to-face training, or recorded lecture for a total of at least 6.25 hours. The Settlement Event Mediation Training must be approved by the Supreme Court Dispute Resolution Section in accordance with standards established by the Commission on Dispute Resolution.

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5. The Supreme Court should encourage use of a compendium of resources for local courts, including the D.O.L.L.A.R. program pursuant to R.C. 5315.01 - .05 (**Appendix C**). The acronym D.O.L.L.A.R. stands for Deed Program is a loss mitigation alternative to foreclosure. The acronym D.O.L.L.A.R. stands for **Deed** in lieu of foreclosure, **Option** for the homeowner to buy the home in the future, **Lender-Lease** where the bank immediately leases the property back to the borrower, **And** first **Refusal**.

Building Capacity in Mediation Services

Courts are continuing to adopt the use of mediation to efficiently resolve cases. A June 2020 survey of Ohio's courts found that mediation was widely in use within Ohio's courts of common pleas. In nearly all counties (95 percent), mediation was used for civil litigation in the general divisions of the courts of common pleas. In Ohio's 164 municipal and county courts, however, mediation was not as widespread. The survey revealed that cases are referred to mediation in 39 percent of municipal and county courts. Mediation of foreclosure cases was reported as occurring in 81 percent of counties, and mediation of eviction cases was reported as occurring in 28 percent of municipal and county courts. Among courts that did not report referring cases to mediation, 57 percent indicated that they did not do so because historically they did not believe there was enough of a need in their court. However, a lack of funding to pay mediators (40 percent) and a lack of qualified mediators (26 percent) also were cited as reasons for not referring cases to mediation.

The use of court-appointed mediators provides an opportunity for court users to resolve disputes without judicial intervention. Using volunteer mediators, dispute resolution students, and local practitioners increases the opportunities provided by the court to the community as they seek resolution. Mediation agreements can be adopted as judgment entries, which resolve formal disputes.

Courts should focus on building capacity for mediation. In the mortgage crisis, local courts trained additional court personnel, including magistrates, to mediate. Courts also could consider asking members of the local bar associations and members of the Ohio Mediation Association to serve as volunteer mediators and to donate their time for the backlog of cases in the court.

If budgets permit, local courts should consider hiring summer and fall law clerks to increase capacity. The court should plan for the increased volume of hearings by identifying local practitioners who may be available to hear case in a part-time or temporary capacity until the backlog is caught up. The local court could consider how law students may assist judicial officers in research or writing decisions.

Another way the local court can increase capacity for mediation services if the court does not have access to a mediator is to request visiting judges to hear cases as needed from the chief justice.

Another example of building capacity is developing a statewide pool of trained shared mediators. Florida developed this model.⁷ By sharing mediators across counties, trained mediators can be deployed to the counties needing them the most, at the times they are most needed.

⁷ *Final Report and Recommendations on Residential Mortgage Foreclosure Cases*, Supreme Court of Florida, No. AOSC09-54, floridasupremecourt.org/content/download/240684/2128935/AOSC09-54.pdf.

RECOMMENDATIONS:

- 1) The Advisory Committee on Case Management should develop and publish Strategies for Addressing a Backlog of Cases (**Appendix D**) as guidance for courts.
- 2) Local courts should develop time-certain scheduling for cases, especially for foreclosures.

Technology Enhancements and Access to Justice

According to the National Center for State Courts, five of the most common efforts state courts are taking to combat the coronavirus are:

- 1) Restricting or ending jury trials;
- 2) Restricting entrance into courthouses;
- 3) Encouraging or requiring teleconferences and videoconferences in lieu of hearings;
- 4) Generally suspending in-person proceedings; and
- 5) Granting extensions for court deadlines, including deadlines to pay fees/fines.⁸

One component of the Supreme Court of Ohio's response to the coronavirus health emergency is to encourage local courts to utilize technological solutions to maintain court operations. Supreme Court of Ohio Chief Justice Maureen O'Connor awarded more than \$6 million of her budget in emergency remote technology grants to 284 courts in 87 counties. The special grants were in addition to Chief Justice O'Connor's annual Ohio Technology Initiative, which has transferred more than \$17 million to local courts over the past six years.

The Supreme Court's emergency technology grants equipped courts with cameras, microphones, online platforms, video conferencing, software, and hardware for use in remote proceedings. These resources will modernize Ohio's courts allowing them to function under most any condition, while also increasing access to justice and complying with Ohio's Department of Health Emergency Order.

Conducting remote hearings can reduce barriers to in-person court appearances, such as transportation, child care, and time off of work. As courts shift to online platforms, courts can increase the rate of appearance, efficiency, safety, and decrease continuances. Some reports suggest that more litigants are showing up for those remote hearings than for in-person hearings before the pandemic. Judges and administrators in many of the 41 states and territories that mandate or urge their courts to use teleconferencing or videoconferencing to conduct remote hearings say they have noticed a difference.⁹

Virtual court proceedings also present challenges for courts. One such barrier is access to the internet and mobile devices. There still are many individuals and communities in need. Another challenge is ensuring parties are engaged in the virtual hearing or mediation. Finally, courts lack knowledge and familiarity with the new technology. The lack of comfort extends not only to

8 National Center for State Courts, *Coronavirus and the Courts*, ncsc.org/newsroom/public-health-emergency (accessed June 15, 2020).

9 National Center for State Courts, *Will Remote Hearings Improve Appearance Rates?* (May 14, 2020); ndcourts.gov/news/national/legal-issues/will-remote-hearings-improve-appearance-rates.

courts, but to judges, visiting judges, attorneys, and self-represented litigants. However, operator proficiency will improve over time as skills are gained.

Another challenge is ensuring public accessibility to courts through technology. As courts open to the public, the courts should adopt a local rule regarding remote hearings and events. This rule should state courts' expectations and promote accountability to the public. Courts should consider hearings and also those court events that are not public, as well as those events that are open to the public. The local rule also should indicate how public accessibility is conveyed, pursuant to Sup.R. 44-47. Finally, courts should consider a public announcement of this local rule to ensure the general public is informed.

RECOMMENDATIONS:

- 1) The Supreme Court should continue the annual Ohio technology grant effort. As a part of this initiative, the Supreme Court should prioritize funding e-filing, e-notarization, e-document signatures, online mediation platforms, apps,¹⁰ and texting capabilities to encourage courts to continue virtual capabilities. These technological solutions increase access to justice, modernization, and enhance the public's trust and confidence in the courts.
- 2) The Supreme Court should encourage the use of online dispute resolution (ODR) in foreclosures, landlord-tenant, and eviction cases. The Supreme Court seeks to reduce in-person mediations and hearings by having parties resolve their cases online without having to enter the courthouse or mediation facilities. ODR not only decreases in-person hearing dockets for the judges, but reduces in-person mediation needs, administrative tasks for mediation administrators and court staff, and the time it takes to resolve these cases.
- 3) The Supreme Court should pilot a secure, online ODR platform that is accessible and mobile-responsive. The ODR platform will be designed to be implemented in a nimble, flexible manner. There is precedent for this in 2008, when mediation program grants were given out through the Supreme Court.

Also, the ODR platform would be configured to collect data on an ongoing basis for research and analysis. The pilots would provide de-identified data for research teams based on ODR case/party activities and results along with end-user surveys that are easily configurable.

Target total pilot cases less than \$100,000. The estimated costs include:

- Set-up Fee: \$2,500 for per court (5-6 initial courts - similar setups, smaller set-up fees)
- Integration Fee: \$3,500 per integration (possibly 2 integrations)
- Subscription Fee (option for a transaction fee implementation)
 - a. Based on a 6-12-month volume that will be \$80,000

10 Cuyahoga County, Ohio, Office of the Executive, *Cuyahoga County Domestic Relations Court Launches Mobile App: CourtConnect*, (Aug. 9, 2019), executive.cuyahogacounty.us/en-US/DR-Launches-CourtConnect.aspx (accessed June 15, 2020).

This initial information with the teams would be gathered and then implemented on test and staging servers for testing, review, updates and final acceptance.

- 4) The Judicial College should develop webinars on diverse platforms;
 - a. Develop online platform “How-To” Guides (See **Appendix F** for Zoom instructions).
- 5) The Supreme Court should provide technical assistance for local courts to become more comfortable and proficient with online platforms.
- 6) The Dispute Resolution Section, in coordination with the Commission on Dispute Resolution, should develop an online foreclosure mediation simulation for use by courts, mediators, attorneys, and litigants.
- 7) The Supreme Court should adopt forms and ensure the forms are able to be populated easily to ensure access to justice.

Civil Cases and Civil Justice

Recently, the civil justice movement focused on the procedural issues in the American justice system that add complexity to civil litigation, resulting in additional cost and delay which undermines access to justice. Many commentators were alarmed by the increasing privatization of the civil justice system and particularly by the dramatic decline in the rates of civil bench and jury trials. In addition, substantially reduced budgetary resources since the economic recession of 2008-2009 have exacerbated problems in civil-case processing in many state courts.¹¹

In response to these concerns, state and federal courts have implemented a variety of civil justice reform projects over the past decade. Some have focused on particular types or characteristics of civil cases, such as business and complex litigation programs. Others have aimed at problematic stages of civil litigation, especially discovery.

In 2013, the Conference of Chief Justices convened a Civil Justice Improvements Committee (Committee) to assess the effectiveness of national reform efforts and to make recommendations concerning best practices for state courts. The 13 recommendations of the committee, as published in the Call to Action, included: a recommendation for courts to exercise ultimate responsibility over managing civil dockets (and recommendations of achieving this through pathway assignments for cases); the strategical deployment of court personnel and resources to manage the civil caseload; focusing attention on high-volume and uncontested cases to ensure timely progress toward resolution; and maintaining a litigant-focused system that simplifies court-litigation interface and creates on-demand court assistance services.

COVID-19 Business Interruption Litigation

In 2020, COVID-19 business-interruption cases are being filed in Ohio and across the U.S. with increased frequency. This litigation should be monitored to determine the impact to the Ohio court system. The volume and/or impact of the cases may require dispute resolution processes and dispute systems design to ensure the cases are resolved without unnecessary delay.

In Ohio, cases have been filed in common pleas courts and in federal district court and include class-action complaints and complaints for declaratory relief. Outside of Ohio, in the federal

11 National Center for State Courts and State Justice Institute, *Civil Justice Initiative: The Landscape of Civil Litigation in State Courts*, (2015), [ncsc.org/_data/assets/pdf_file/0020/13376/civiljusticereport-2015.pdf](https://ncsc.org/data/assets/pdf_file/0020/13376/civiljusticereport-2015.pdf) (accessed June 15, 2020).

court cases, there are three pending attempts to create Multi District Litigation (MDL) sites within which to consolidate all the federally filed COVID-19 business-interruption lawsuits across the country. The attempts to create federal MDL sites are in Illinois, Pennsylvania, and Florida. There is no move to create any MDL in the federal courts located in Ohio. On July 20, the Federal MDL Panel will conduct a hearing to consider the issue of whether an MDL should be created. It has been noted there are 13 cases in state court (Cuyahoga, Franklin, and Stark counties) and four cases in federal district court. Business interruption claims are being asserted under the property damage provisions of insurers' commercial policies.

Meet and Confer Conference and Reports

With the COVID-19 delays of civil trials, many courts may need to adjust the scheduling orders of civil cases. Courts should consider requesting litigants and counsel advise the court of their issues. The purpose of the Meet and Confer Report is to aid the court in assessing the amendments that may be needed to existing scheduling orders.

Case Management

To assist with the backlog of civil cases, the local courts should adopt a pathway¹² or differentiated case management to identify cases that can be streamlined. The pathway system targets to match case management practices to the needs of the case. For example, not all cases need a pre-trial hearing, while others will need more than one pre-trial hearing. Local courts should determine which cases need more oversight and which are ripe for settlement.

By applying the principles of differentiated case management, local courts will allow cases requiring fewer resources to be identified and resolved, thereby achieving a disposition quickly, and importantly, freeing up the court's valuable calendar for the scheduling of more complex new cases, as well as cases that have been pending for a significant period of time.

The National Center for State Courts identified a streamlined pathway model for civil cases that considered factors in the case. The Supreme Court should develop a bench card for civil cases on pathway assignments. The local court shall assign those cases for a streamlined pathway for civil cases based on these factors:

- 1) Limited number of parties
- 2) Simple issues related to liability and damages
- 3) Few, if any, anticipated pretrial motions
- 4) Little need for extensive discovery
- 5) Few witnesses
- 6) Minimal documentary evidence¹³
- 7) If both parties agree, courts should develop pathways for civil cases and forms to expedite timely case processing.

12 National Center for State Courts, *Call to Action: Achieving Civil Justice for All*, (2016), [ncsc.org/ data/assets/pdf_file/0021/25581/ncsc-cji-report-web.pdf](https://ncsc.org/data/assets/pdf_file/0021/25581/ncsc-cji-report-web.pdf) (accessed June 15, 2020).

13 The National Center for State Court adopted a Call to Action: Achieving Civil Justice for All.

RECOMMENDATIONS:

- 1) The Supreme Court should provide periodic data reports on civil caseload to monitor the landscape.
- 2) The Supreme Court should publish for local courts **Appendix G - Case Management Civil Justice Bench Card for Meet and Confer Reports and a Blanket Order Referral to Mediation.**
- 3) The Supreme Court should develop a bench card for civil cases on pathway assignments.

Reporting and Data Collection

The Court should track statistics to determine the success rate and how effective the mediation program is in easing the backlog of pending foreclosure and eviction cases in Ohio. The Court should collect data on the number of cases statewide that are referred to mediation programs and outcomes.

RECOMMENDATION:

- 1) The Supreme Court should consider requiring courts provide regular reporting to the Supreme Court concerning the use of mediation in managing their foreclosure and eviction caseloads. Measures to be tracked would include the number of cases referred to mediation and their outcomes, as well as measures relating to timeliness and program efficiency.



APPENDICES



Appendix A

FORECLOSURE MEDIATION FRAMEWORK

The principles underlying the foreclosure mediation framework include:

- Communicating with stakeholders regarding the availability of dispute resolution options for consumers facing mortgage payment defaults and foreclosure. These options could provide for improved, less-expensive and less-time-consuming outcomes for consumers facing hardships, and lenders seeking to preserve loan income.
 - Community and consumer protection groups (including legal aid) assisting or counseling consumers facing these issues.
 - The banking and lending community.
- The willingness of a court to offer pre-foreclosure mediation. Although typically a court may not offer its resources until an action is filed, pre-foreclosure mediation may be more effective than post-suit mediation in the foreclosure context. The goal of pre-foreclosure mediation is to improve the likelihood of converting delinquent borrowers to performing status by offering mediation and related workout options in earlier stages of delinquency and facilitating a shorter timeline to foreclosure sale when mediation either is not accepted by the borrower or does not ultimately yield an agreement or a workout.
 - A willingness to offer pre-foreclosure mediation would involve communication/coordination with mortgage lenders for the court to be given a “heads up” that a foreclosure lawsuit is imminent and endeavor to offer mediation resources at that time, pre-foreclosure.
- Identifying the necessary parties to the mediation.
 - On the “defendant” side is the homeowner/borrower. But are there other stakeholders, such as family members or tenants?
 - On the “plaintiff” side, there must be a recognition that the mortgage lending process can be complicated. Is it as simple as the local community bank that made the mortgage loan and continues to service the loan and collect payments? Has the mortgage loan been sold to a third-party servicer or other entity? Is the mortgage loan now part of a mortgage-backed securities trust? Ultimately, a “decision-maker” on the plaintiff/lender side must be identified and participate in the mediation.
- Identifying the range of outcomes. At one end of the range, the homeowner is able to stay in the home, and at the other end of the range, the homeowner must relinquish the home, with a range of options in between.
 - Is the homeowner able to become current on the mortgage loan, with some accommodations from the lender, such as forbearance or a creative payment schedule?
 - Can the mortgage loan be restructured or refinanced?

-
- If there are no circumstances under which a homeowner can continue the mortgage obligation, is there a way to end the mortgage in a way that is humane and minimizes the impact on the homeowner's credit history?
 - Identifying the applicable legal principles including the terms of the mortgage contract, federal laws and regulations, state laws and regulations, local court rules, the Ohio Mediation Act and applicable mediation rules and standards.
 - Identifying mediators and training them to oversee foreclosure mediation efforts.
 - Providing training about the mortgage lending process
 - Providing training about the foreclosure process
 - Providing training about the impact of the CARES Act
 - Reiterating training on mediation fundamentals
 - Considering what jurisdiction or authority the court would have to oversee or enforce a pre-foreclosure settlement.

Resources:

Ohio Legal Help: ohiolegalthelp.org/

Ohio State Bar Association: ohiobar.org/?nr

Ohio Legal Aid: Legal Aid: 1.866.LAW.OHIO (866.529.6446)

Six Legal Aid offices provide high quality legal services to Ohio citizens. Call 1.866.LAW.OHIO (866.529.6446) to contact the local office that serves your area.

Appendix B

SETTLEMENT EVENTS

COURTS OF COMMON PLEAS – GENERAL DIVISION

To: All Judges, Bar Presidents, Magistrates, and Court Administrators

SETTLEMENT EVENTS

With the outbreak of the coronavirus disease, courts have been impacted in their ability to handle normal litigation loads and are developing new ways to meet the needs of the public in providing a fair, impartial, and speedy resolution of cases without unnecessary delay.

One solution is to conduct settlement events. A settlement event is a bench-bar collaboration using volunteer mediators to resolve pending civil cases. First popularized as Settlement Week in Columbus, Ohio in 1986, settlement events mesh the supply of experienced mediators or experienced trial lawyers trained in mediation, (“mediators”) with the demand posed by backed-up pending civil cases in need of resolution.

How does it work? Both judges and the trial attorneys select civil cases that are ripe for resolution through mediation. Discovery does not have to be complete and trial-ready, but sufficient for evaluation and settlement. The cases can be personal injury, business, workers compensation, and other civil subject matters. Mediators volunteer their time and are assigned to resolve cases within their practice areas (i.e., personal injury attorneys on injury cases, business litigators on business cases.) The cases are screened by the local trial court and assigned at regular intervals in blocks by subject matter, so a mediator can work on similar cases back-to-back for a morning or afternoon session that meets their schedule.

How are the cases assigned? In addition to assigning cases by subject-matter blocks, the cases are grouped by degree of difficulty. Routine or small-dollar-amount cases are designated as “gold” cases and assigned to mediators with less experience. More complicated or high-dollar-value cases are designated as “diamond” because they are harder to resolve, and, thus, are assigned to more experienced mediators. As to the mechanics of assignment, using the court’s existing case scheduling mechanism can avoid reinventing the wheel and save the cost of creating a duplicate system.

What about mediation training for the volunteers? The local bar association can set up mediation training seminars prior to the mediators serving. A good focused introduction to the basics of mediation can be presented in a four- or six-hour format. Offering the course free in return for volunteered time and adding continuing legal education credit are good incentives for volunteers to take the course. Mediators who qualify to mediate for courts under Sup.R. 16.23 generally would meet training requirements for settlement events. Consistent with the ABA Model Standards of Conduct for Mediators, mediators should mediate only when the mediator has the necessary competence to satisfy reasonable expectations of the parties. The Dispute Resolution Section at the Supreme Court of Ohio will assist with making uniform training resources available to Ohio courts and bar associations.

Are the judges involved? Other than selecting cases, no. Local trial judges should encourage and promote mediation efforts of the volunteers. The volunteer mediators can engender candor and a “cards-on-the-table” approach to bargaining by assuring they will not communicate information learned in the conference to the trial judge. Ohio’s Uniform Mediation Act, R.C. 2710.01 *et seq.*, prohibits substantive communication about the merits between mediator and judge. With volunteer mediators working on civil cases, judges can devote their time to criminal cases and more complex civil matters.

How do the volunteer mediators learn about the facts of their assigned cases? The advocates can be required to submit one- to two-page summaries of their cases to volunteers at the start of the conferences. Court files also can be made available to the mediator, either in paper or online. Because one of the initial stages of the mediation conference is the oral presentations of the advocates giving the facts at hand, advance understanding of all alleged facts is not a necessity for mediators.

Do insurance companies support settlement events? Yes. Major casualty insurance carriers have supported settlement week events in the past.

How do the judges and their staffs learn the results? A standard form can be created that provides check-the-box simplicity for reporting results (occurred, settled, terminated, recessed for later discussions, settled in part, etc.) to the court for processing dismissal documents or setting next-step judicial involvement. No standard form should disclose settlement positions by any party, but it may have a line for the amount of an agreed settlement, unless the settlement amount is deemed confidential by the parties.

Should the mediation conferences be held in the courthouse? This will depend on local circumstances during or after the pandemic. Given that public buildings may not be fully open for public access, it may be advantageous to hold the conferences by video conference, phone, or at an alternate agreed-upon location.

How will the volunteers conduct conferences if courthouse access is limited due to the pandemic? The volunteer mediators may use several mechanisms as they see fit. If their office has a conference room that is big enough and they can maintain social distancing, and provided that their office regularly accommodates public guests with appropriate safety and security considerations, then they may use their offices. The advantages of holding mediations in the volunteers’ offices are flexibility of scheduling and a more relaxed atmosphere, which can be conducive to open discussions. The mediation can be conducted by one or a series of telephone conference calls. The mediators also may use video conferencing, which has the advantage of no-contact safety, reduced or no travel, and no need to sanitize a conference room(s) before and after.

How are video conferences conducted? The volunteer mediators may use any videoconferencing platform provided or approved by the court, such as Zoom, Meet, Go-To-Meeting, Web-Ex, FaceTime, Microsoft Teams, etc. Mediators must be proficient in using the chosen video-conferencing platform, including security settings. Resources for online mediation are available through the Supreme Court of Ohio Dispute Resolution Section or the video-conferencing platform.

How long are settlement events? In the past, settlement events usually were week-long events set aside during the regular statewide judicial conferences for volunteers to use idle conference rooms and jury rooms for the mediations at the courthouse. What would have been downtime became productive time for the justice system in the judges’ absence. More recently, courts and

bar associations saw the benefits of year-round availability of mediation and created ongoing programs. To catch up after a pandemic shutdown, it may be necessary to conduct mediations with volunteers for more than one week or even for a month or in ongoing intervals.

Is there a good time of year for Settlement Events? Any time of year is good for resolving cases by mediation, but December seems to have some advantages. Insurance companies often prefer to wrap up cases before the end of the calendar year, as may judges for their Supreme Court reports. Clients prefer to have settlements for holiday shopping and paying health care bills at year-end. Attorneys appreciate billing and receiving their fees in December.

Will mediation training be offered and, if so, what will it consist of? The Supreme Court's Dispute Resolution Section will work with local courts and bar associations to make available high-quality training in the fundamentals of mediation. A basic course would cover the difference between mediation and arbitration, the essential principles of mediation (such as self-determination, mediator neutrality, rational discussion and problem solving, candor, application of Ohio's Uniform Mediation Act), the six stages of mediation, differences in mediation styles such as facilitative and evaluative, and proper reporting of the outcome. The six stages are: pre-mediation preparation, introduction of people and process, factual discussion, issue identification, generating and selecting solutions (often through use of caucuses), and finalizing outcome and next steps. A standard course would include printed materials, presentation by the instructor(s) with questions from the attendees, a possible video, and role plays when time permits.

Are there forms available for settlement events? Yes. Attached to this memo are sample forms to enable a court and bar association to begin the process of planning and operating a settlement event without "reinventing the wheel." While the Supreme Court of Ohio provides these forms, they are not mandated as are the forms in the Rules of Superintendence. A local court and bar association should feel free to modify the forms as they see fit for local circumstances. To help organize case information, Excel spreadsheets can be used to track and utilize case data.

SETTLEMENT EVENTS

Table of Forms

The following are the suggested forms offered to trial courts and local bar associations around Ohio for the operation of settlement events:

- Form 1. Joint Bench-Bar Announcement
- Form 2. Settlement Events Standing Order
- Form 3. Case Nomination Form
- Form 4. Volunteer Mediator Form
- Form 5. Case Assignment Form
- Form 6. Sample Pre-conference Summary
- Form 7. Sample Press Releases (Prior to and after events)
- Form 8. Sample Volunteer Mediator's Report
- Form 9. Sample Bench-Bar Thank-You Letter
- Form 10. Instructions on Video Conferencing for Mediators
- Form 11. Sample Excel Spreadsheets

Form 1. Joint Bench-Bar Announcement

To: The Practicing Bar of _____ County, Ohio

From: Judge XXXXXXXX, Administrative Judge
XXXXXXXXXXXXXXXX, Bar Association President

Re: Settlement Events

The common pleas court and the XXXXXXX Bar Association are pleased to jointly announce that they will sponsor Settlement Events in the court on (Dates). With the outbreak of the Coronavirus Disease (COVID-19), courts are developing new ways to meet the needs of the public in providing a fair, impartial, and speedy resolution of cases without unnecessary delay.

Settlement events use the skill and experience of mediators and local attorneys trained in mediation donating their time and expertise as volunteer mediators. In settlement events, the court will assign cases to the mediators by subject matter so the parties and counsel will have the advantage of negotiating and resolving their cases, if they choose to do so on mutually agreeable terms, with the assistance of trained neutrals. Mediation is a process where a skilled neutral who makes no decision helps the parties and their counsel to negotiate better and analyze their cases more effectively in off-the-record discussions. The volunteer mediators will not report details of the candid discussions to the Court except to indicate the outcome of the talks.

If you are interested in volunteering as a mediator, there will be a free XX-hour training session on (Date, Time, Place). CLE credit will be offered.

It is the hope of both the court and the bar association that you will support this joint effort to improve the local justice system by: (1) screening and nominating your civil cases that are appropriate for mediation, (2) volunteering your time and skill as a mediator to assist your fellow bar members in resolving their cases, and (3) educating and advising your clients and the general public on the value of mediation as a more efficient and less expensive way to resolve cases. Thank you in advance for your efforts to enhance the process of justice in your community and our state.

Administrative Judge

Bar President

Form 2. Settlement Events Standing Order

IN THE COMMON PLEAS COURT OF _____ COUNTY, OHIO

Settlement Events Standing Order

S.O. 1.1. Authority. Pursuant to the Court's inherent authority to manage its docket, the court hereby issues this Standing Order, which applies to all Settlement Events conferences. Notice of the specific conference will be sent to counsel of record in the same manner as the court's usual trial and hearing notices. Such notices shall be official and shall be the only notices sent.

S.O. 1.2. Preparation. Counsel shall be prepared to negotiate in a mutual, good faith effort to reach a fair and reasonable settlement. Counsel for any party asserting a claim (complaint or counterclaim) shall transmit to opposing counsel fourteen days prior to the mediation a concise statement, not more than two pages in length, containing: (1) the essential facts of the case, (2) all special damages currently claimed by the party seeking a recovery, and (3) a current settlement demand. Counsel for any party defending a claim shall transmit to opposing counsel seven days prior to the mediation a concise statement, not more than two pages in length, containing: (1) the essential facts of the case, (2) a statement of all defenses currently pursued, and (3) a current settlement offer. The Settlement Events coordinator has the authority to waive this requirement in exceptional circumstances. Transmission of these statements may be by email, fax, hand delivery, or mail. These statements shall not be filed with the Clerk of Courts. Counsel shall present copies of their statements to the volunteer mediator at least 24 hours in advance of the mediation.

S.O. 1.3. Discovery. All necessary discovery shall be complete. Necessary discovery is defined as enough discovery to professionally evaluate the liability, causation, and damages issues of the case, and to make good faith demands and offers of settlement. Necessary discovery is not synonymous with full trial preparation. Lack of discovery and/or settlement authority is not a defense to the imposition of sanctions for failure to negotiate.

S.O. 1.4. Confidentiality. All settlement discussions, including pre-conference statements and follow-up discussions, shall be subject to Evid.R. 408 and the statutory mediation privileges in the Uniform Mediation Act ORC 2710.01 et seq. Mediation communications, as defined in R.C. 2701.01, are confidential and no one shall disclose any of these communications unless all parties and the mediator consent to disclosure. The court may impose sanctions for disclosures made in violation of this rule

S.O. 1.5. Attendance. Clients and insurance company representatives shall directly participate in the mediation conferences in one or more of these methods: (1) in-person presence in a safe conference room with physical distancing, (2) telephone conference call, or (3) video conference. The method or combination of methods used shall be determined by the volunteer mediator far enough in advance that the participants can prepare.

S.O. 1.6. Schedule Changes. As Settlement Events are a joint bench-bar effort, counsel shall be responsible for promptly notifying the court of all agreed-to schedule changes due to pending motions, early settlements, or requested adjustments. Counsel initiating a change shall inform the court and all opposing counsel by confirming email, text, or fax. Failure to notify opposing

counsel and the volunteer mediator of a schedule change may result in a cost-based sanction if the other side appears at the original conference date and time.

S.O. 1.7. Follow Up. As follow up discussions are an integral part of the mediation process, the volunteer mediators are authorized to schedule additional conferences as required after Settlement Events. Such conferences shall be held in a manner and on a schedule as set by the mediator. The volunteer mediator shall report the results of the follow-up to the court.

S.O. 1.8. Sanctions. Serious or blatant violations of this Standing Order or a failure to meaningfully prepare for and negotiate seriously may lead to the imposition of sanctions in the Court's sole discretion.

SO ORDERED.

Signed:

Dated:

Instructions to the Clerk:

Form 3. Case Nomination Form

IN THE COMMON PLEAS COURT
_____ **COUNTY, OHIO**
GENERAL DIVISION

Plaintiff(s),
Vs. _____
Defendant(s)

:
:
: Case # ____ CV__-_____
:
: Judge _____
:

MEDIATION CASE NOMINATION

Undersigned counsel hereby nominates this case for mediation in the court's upcoming Settlement Event and represents that the following information is accurate to the best of counsel's current knowledge. DO NOT file this form with the Clerk of Courts.

1. Discovery is sufficient for evaluation and settlement, even if it is not yet sufficient for trial preparation.
2. Counsel's client is willing and able to engage in mediation with opposing parties in an effort to settle the case.
3. At a minimum, counsel have exchanged the basic document discovery needed for all parties to understand and evaluate the case.

To assist the court in assigning this case, counsel indicates-

The basic nature of this case is: (examples, personal injury, workers comp, breach of contract, etc.) _____

The case requires an experienced mediator: No [] Yes []

Dispositive motions are pending: Yes [] No []

Liability is: Disputed [] Not seriously contested [] Admitted []

There are complex issues such as punitive damages: Yes [] No []

Opposing counsel knows of this nomination: Yes [] No []

Respectfully submitted,

Name _____

Firm _____

Address _____

City _____

State, ZIP _____, _____

Phone (____)- _____ - _____

Email _____

Return this form by email as a PDF to XXXXXXXXX@XXXX.XXX or USPS to: XXXXXXXXXX,
Street, City, Ohio, ZIP. Thank you.

Form 4.—Volunteer Mediator form

**IN THE COMMON PLEAS COURT
OF _____ COUNTY, OHIO**

VOLUNTEER MEDIATOR FORM

Please accept me for consideration as a volunteer mediator in the upcoming Settlement Events program.

Name _____

Firm/Office _____

Address _____ City, State _____ Zip _____

Best Phone (____)—_____ Email _____

For assignment purposes, please indicate:

I am an attorney Yes No

Years in practice: One to five five to fifteen fifteen to thirty over thirty .

I would feel comfortable mediating in these practice areas based on my experience: Personal injury Business Workers Comp Professional malpractice Any

Other areas _____

Prior mediation experience: Law school course work Law student experience Bar association training CLE course Supreme Court training Court volunteer

Part of my practice Major focus of my practice

I would be qualified for more difficult cases: No Yes

I will attend the free Bar Association mediation training seminar to be held [Date, Time, Place] No Yes I will request a waiver of the training requirement No Yes

I can be available for assignments (pick one or more):

Monday, Date: Morning Afternoon All day

Tuesday, Date: Morning Afternoon All day

Wednesday, Date: Morning Afternoon All day

Thursday, Date: Morning Afternoon All day

Friday, Date: Morning Afternoon All day

I am proficient in mediating on a video-conferencing platform: [] Yes [] No

If Yes, please specify the video-conferencing platform(s) on which you are proficient:
(Zoom, Microsoft Teams, Facetime, e.g. (list all that apply): _____

Other information the Court should know: _____

Respectfully submitted,

Form 5. Case Assignment Form

IN THE COMMON PLEAS COURT
_____ COUNTY, OHIO
GENERAL DIVISION

Plaintiff(s),
Vs. _____

Defendant(s).

:
:
: Case # ____ CV__-_____
:
: Judge _____
:

NOTICE OF SETTLEMENT EVENT MEDIATION

The court hereby gives notice that this case is assigned for mediation with a Settlement Event volunteer mediator. Counsel shall submit a Pre-Conference Statement to the volunteer mediator at least 24 hours in advance of the mediation. DO NOT FILE THIS FORM with the Clerk of Courts as it is a mediation communication under Ohio Uniform Mediation Act, R.C. 2710.01 et seq.

This case will be mediated on: _____, 20__ at _____AM/PM in the offices of or by video conference hosted by volunteer mediator _____

Firm _____

Address _____

City _____ St. ____, ZIP _____

Phone (____)- _____-_____

Email _____

This conference is subject to the Ohio Uniform Mediation Act, R.C. 2710.01 *et seq.* All parties and counsel shall be present in person or digitally as directed by the volunteer mediator. All counsel shall be familiar with video conferencing by Zoom, Go-To-Meeting, Meet, FaceTime, or such other platform as the volunteer mediator directs. The volunteer mediator is authorized to recess and resume the conference at a later date as appropriate.

Copies to all counsel.

SO ORDERED

Form 6. Sample Pre-Conference Summary

IN THE COMMON PLEAS COURT
_____ COUNTY, OHIO
GENERAL DIVISION

Plaintiff(s),
Vs. _____
Defendant(s).

:
:
: Case # ____ CV__-_____
:
: Judge _____
:

COUNSEL’S SETTLEMENT EVENTS MEDIATION SUMMARY

Counsel for Plaintiff Defendant hereby submits this summary to aid the volunteer mediator in the Settlement Events mediation of this case.

DO NOT FILE THIS FORM with the Clerk of Courts as it is a mediation communication under the Ohio Uniform Mediation Act, R.C. 2710.01 et seq.

This case involves: Personal injury Breach of contract Land use Consumer protection
 Other torts Employment Malpractice Insurance coverage Other cause of action
Specify _____

The basic facts are: _____

Special damages as claimed: _____

Robinson vs. Bates number, if applicable: _____

Summary of prior negotiations, if any: _____

Respectfully submitted,
Name _____
Firm _____
Address _____

City _____ St. ____, ZIP _____

Phone (____)- _____-_____

Email _____

Form 7. Sample Press Releases (Before and After the Events)

Sample press release *prior to* Settlement Event

FOR IMMEDIATE RELEASE

The _____ County Common Pleas Court and the _____ Bar Association are pleased to jointly announce that they will sponsor Settlement Event(s) in the Court on [Date(s)]. With the outbreak of the Coronavirus Disease (COVID-19), courts have been impacted in their ability to handle normal litigation loads and are developing new ways to meet the needs of the public in providing a fair, impartial, and speedy resolution of cases without unnecessary delay.

The bench and bar will team up with Settlement Events to resolve cases.

A Settlement Event is a bench-bar collaboration using volunteer mediators to resolve pending civil cases. Settlement Events mesh the supply of experienced mediators or experienced trial lawyers trained in mediation, (“mediators”) with the demand posed by pending civil cases in need of resolution.

In Settlement Events, the court will assign cases to the volunteers by subject matter so the parties and counsel will have the advantage of negotiating and resolving their cases, if they choose to do so on mutually agreeable terms, with the assistance of trained neutrals. Mediation is a process where a skilled neutral, who makes no decision, helps the parties and their counsel to negotiate better and analyze their cases more effectively in off the record discussions. The volunteer mediators will not report details of the candid discussions to the court so that every participant can speak freely in efforts to settle their cases.

[INSERT JUDGE AND BAR PRESIDENT QUOTES HERE]

For further information about Settlement Events, contact [Court contact person name, email, and number] or [Bar association contact person name, email, and number]

Sample press release *after* Settlement Event

FOR IMMEDIATE RELEASE

The _____ County Common Pleas Court and the _____ Bar Association are pleased to jointly announce the success of their recent Settlement Event, held in the court on [Date(s)]. Using the talents of [NUMBER] volunteer mediators and attorneys from the bar association, the court was able to settle [NUMBER] pending civil cases without the need for trials. A case might settle in a private conference lasting two to four hours, while a trial might take two to four days in court. Additional cases are set for subsequent follow up conferences. The Settlement Event was a joint bench-bar project utilized in response to the COVID-19 pandemic and the cessation for several months of the civil trial docket for safety reasons.

[INSERT JUDGE AND BAR PRESIDENT QUOTES HERE, ALSO POSSIBLE PARTY AND/OR VOLUNTEER MEDIATOR QUOTES]

During the Settlement Event, the mediators and local trial attorneys donated their time, skill, and legal expertise as volunteer mediators. In the Settlement Event, the court assigned cases to the volunteers by subject matter so the parties and counsel had the advantage of negotiating and resolving their cases, on mutually agreeable terms, with the assistance of specifically trained neutrals familiar with the types of legal issues presented.

Mediation is a process where a skilled neutral, who makes no decision, helps the parties and their counsel to negotiate better and analyze their cases more effectively in off the record discussions.

The volunteer mediators do not report details of the candid discussions to the court so that every participant could speak freely in efforts to settle their cases.

For further information about Settlement Events, contact [Court contact person name, email, and number] or [Bar association contact person name, email, and number]

Form 8. Sample Volunteer Mediator's Report

IN THE COMMON PLEAS COURT
_____ **COUNTY, OHIO**
GENERAL DIVISION

Plaintiff(s),
Vs. _____
Defendant(s)

:
:
: Case # ____ CV__-_____
:
: Judge _____
:

MEDIATOR'S REPORT

Pursuant to R.C. 2710.06, the volunteer mediator reports to the assigned judge on the Settlement Event mediation in this case. DO NOT file this form with the Clerk of Courts.

Present at the conference were: Plaintiff's counsel Plaintiff
Defendant's counsel Defendant/authorized representative

The conference was conducted: In-person By video By conference call By a combination of means

As a result of the conference, the case is:

Settled as to all issues.
 Settled as to some issues: If so, issues settled/unsettled- _____

In need of additional discussions after more discovery.

In need of additional discussions after motions practice.

Set for a follow up mediation with this mediator on _____, 20__ at __:__ AM/PM at _____ office.

Terminated without settlement. Do NOT list substantive positions or reasons for impasse.

Other: (Do NOT list substantive discussions): _____

Respectfully submitted,

Name _____ Firm _____

Address _____ City _____

State, ZIP _____, _____ Phone (____)-____-_____

Email _____

Return this form by email as a PDF to XXXXXXXXX@XXXX.XXX or USPS to: XXXXXXXXX,
Street, City, Ohio, ZIP. The Court thanks you for your service as a volunteer mediator.

Form 9. Sample Bench-Bar Thank-You Letter

LETTERHEAD

_____ **COMMON PLEAS COURT**

Dear Counselor/Mediator:

On behalf of the judges of the court and the members of our bar association, please let us extend our most sincere appreciation to you for your recent service as a volunteer mediator in Settlement Event. Through your efforts and those of your peers, the court, as of this writing, was able to settle _____ civil cases out of _____ scheduled, for a success rate of ___ percent. Many other cases were moved closer to eventual settlements. Your follow-up efforts, which we encourage, may further enhance those numbers.

Beyond the simple fact of easing the docket adversely affected by the pandemic, your mediation efforts have fostered a greater sense of cooperation and collaboration within the local legal profession. We are confident that the increased use of mediation will aid the caseload and promote justice through time efficient resolution of cases in the future.

Your volunteer service has upheld the highest ideals of the legal profession. We hope that you have experienced the personal satisfaction of being a legal peacemaker. Once again, we thank you for your time and expertise in the Settlement Event.

Sincerely,

Administrative Judge

Bar Association President

Form 10. Instructions on Video Conferencing for Mediators

sc.ohio.gov/coronavirus/resources/onlineMediationPracticalGuidance042720.pdf

sc.ohio.gov/coronavirus/resources/securitySafetyTips042720.pdf

Form 11. Sample Excel Spreadsheets

Holding Area for Nominated Cases

Judge	Case #	Plaintiff	Defendant	Pl. Atty.	Def. Atty.	Type	Class	Status	Mediator	Notes
								Set/ not set Cancelled Settled		

Add rows here as necessary.

Location: Court Room 1	Judge 1	Monday, Date	Plaintiff	Defendant	Pl. Atty.	Def. Atty.	Type	Class	Status	Mediator	Notes
Time	Case #										
	9:00										
	10:00										
	11:00										
	Lunch										
	1:00										
	2:00										
	3:00										
	4:00										

Location: Court Room 1	Judge 1	Tuesday, Date	Plaintiff	Defendant	Pl. Atty.	Def. Atty.	Type	Class	Status	Mediator	Notes
Time	Case #										
	9:00										
	10:00										
	11:00										
	Lunch										
	1:00										
	2:00										
	3:00										
	4:00										

Location: Court Room 1	Judge 1	Wednesday, Date	Plaintiff	Defendant	Pl. Atty.	Def. Atty.	Type	Class	Status	Mediator	Notes
Time	Case #										
	9:00										
	10:00										
	11:00										
	Lunch										
	1:00										
	2:00										
	3:00										
	4:00										

Location: Court Room 1	Judge 1	Thursday, Date	Plaintiff	Defendant	Pl. Atty.	Def. Atty.	Type	Class	Status	Mediator	Notes
Time	Case #										
	9:00										
	10:00										
	11:00										
	Lunch										
	1:00										
	2:00										
	3:00										
	4:00										

Location: Court Room 1 Time	Judge 1 Case #	Friday, Date Plaintiff	Defendant	Pl. Atty.	Def. Atty.	Type	Class	Status	Mediator	Notes
	9:00									
	10:00									
	11:00									
	Lunch									
	1:00									
	2:00									
	3:00									
	4:00									

Location: Court Room 1 Time	Judge 1 Case #	Follow Up Day, Date Plaintiff	Defendant	Pl. Atty.	Def. Atty.	Type	Class	Status	Mediator	Notes
	9:00									
	10:00									
	11:00									
	Lunch									
	1:00									
	2:00									
	3:00									
	4:00									

For cases with the same judge but a different location, simply copy and

When a case is assigned a time slot, copy and paste the data into the time slot and change the status of the case to "set."
 Diamond and Gold "D/G" in the class section is used to denote the degree of difficulty.



Location: Court Room 2		Judge 2	Monday, Date							
Time	Case #	Plaintiff	Defendant	Pl. Atty.	Def. Atty.	Type	Class	Status	Mediator	Notes
	9:00									
	10:00									
	11:00									
	Lunch									
	1:00									
	2:00									
	3:00									
	4:00									

Location: Court Room 2		Judge 2	Tuesday, Date							
Time	Case #	Plaintiff	Defendant	Pl. Atty.	Def. Atty.	Type	Class	Status	Mediator	Notes
	9:00									
	10:00									
	11:00									
	Lunch									
	1:00									
	2:00									
	3:00									
	4:00									

Location: Court Room 2		Judge 2	Wednesday, Date							
Time	Case #	Plaintiff	Defendant	Pl. Atty.	Def. Atty.	Type	Class	Status	Mediator	Notes
	9:00									
	10:00									
	11:00									
	Lunch									
	1:00									
	2:00									
	3:00									
	4:00									

Location: Court Room 2		Judge 2	Thursday, Date							
Time	Case #	Plaintiff	Defendant	Pl. Atty.	Def. Atty.	Type	Class	Status	Mediator	Notes
	9:00									
	10:00									
	11:00									
	Lunch									
	1:00									
	2:00									
	3:00									
	4:00									

Location: Court Room 2		Judge 2	Friday, Date							
Time	Case #	Plaintiff	Defendant	Pl. Atty.	Def. Atty.	Type	Class	Status	Mediator	Notes
	9:00									
	10:00									
	11:00									
	Lunch									
	1:00									
	2:00									
	3:00									
	4:00									

Location: Court Room 2		Judge 2	Follow Up Day, Date							
Time	Case #	Plaintiff	Defendant	Pl. Atty.	Def. Atty.	Type	Class	Status	Mediator	Notes
	9:00									
	10:00									
	11:00									
	Lunch									
	1:00									
	2:00									
	3:00									
	4:00									

Continue with Judge 3, add as many time blocks as there are judges. You also may add addition blocks if there different locations being used for the specific judge's case.

Appendix C

DOLLAR

As an alternative to traditional workouts, please carefully consider a proposed mechanism called **DOLLAR**, which stands for:

- Deed in lieu of foreclosure,
- Option for the homeowner/borrower to buy the home again in the future,
- Lender-Lease where the bank immediately leases the property back to the borrower,
- And First Refusal, where the lender and the borrower each have a right of first refusal before the other can transfer title to the property.

In the face of a delinquent mortgage where the homeowners living in the property want to keep the home and can pay something, but not the full amount of the monthly mortgage, the **DOLLAR** process would work as follows, with all the component steps agreed upon in advance as a package:

- 1) Preferably before filing a foreclosure action (in order to maximize the savings in fees) or very shortly after filing, the lender would accept a deed in lieu of foreclosure from the homeowners/borrowers. The lender then would have full title to the property as security.
- 2) The lender would immediately lease the property back to the borrowers at a monthly rate they could afford. The borrower retains uninterrupted possession so there is no diminution in value due to vacancy, lack of maintenance, or forced sale. There can be an opportunity for inspection of the property and an appraisal to establish a baseline for the condition and value of the property.
- 3) The lease can have protections for the lender that if the borrowers/tenants miss a single monthly payment they are evicted and lose all rights to the house now and in the future. The lease also can have provisions for the borrowers/tenants to pay taxes and casualty insurance, a requirement that the borrowers are responsible for all maintenance (so there is no problem with a distant lender being an absentee landlord), and a requirement that the borrower maintain liability insurance protecting both the lender and the borrower from liability suits (e.g., slip and fall, etc.). In effect, the arrangement would be similar to a triple net lease commonly used in commercial leases.
- 4) Concurrent with the lease, the lender and the homeowners/borrowers enter into an option for the borrowers to repurchase the home from the lender at market price or another agreed value in the future, generally two to five years hence.
- 5) Each party grants the other a right of first refusal, so the lender cannot sell to a third party without the homeowners/borrowers having the ability to match the price, and the borrowers cannot sell the house on the open market without lender approval.

The advantages of the **DOLLAR** mechanism are:

- The lender immediately gets title to the property as security without the delay or expense of starting a foreclosure or pursuing one to conclusion;
- The homeowners retain possession so there is no vacancy, no disruption of their family or the surrounding community, and no moving expenses;

-
- The property retains its value by avoidance of vacancy, a short sale, or a sheriff's sale at a depressed price
 - Taxes are paid to the local government units;
 - The homeowners have the ability to make their reduced monthly lease payments, plus a powerful incentive to do so in the automatic eviction clause;
 - The lender gets a steady stream of monthly lease payments instead of a growing arrearage and a difficult-to-collect deficiency judgment, thus mitigating its damages. The difference between the lease payments and the mortgage payments (which is less than the difference between the mortgage payments and zero) could be built into the option price or into a reworked mortgage when the borrowers have the ability to pay;
 - The borrowers have an opportunity to buy back the home after a few years pass and the economy, job market, and housing market improve;
 - The lender gets market value for the home (as compared to a sheriff's sale price) in a lump sum when the borrowers exercise the option and buy it back through a refinance with the original lender, or a refinance or purchase funded by a different lender;
 - Neither party can sell the home out from under the other without the first refusal review and sign off. The borrowers could not, for instance, sell to a family member or assign the option in a non-arms-length deal (they don't have title anyway). Instead of a short sale at a reduced price, the borrowers could negotiate a sale to a third party at market price with the lender's approval. While the lender after the deed in lieu has all title rights, the tenants' option and right of first refusal gives them security and an incentive to perform by paying taxes and maintenance without the risk of having the house yanked out from under them without a chance to match the price;
 - Both parties avoid costs, legal fees, and other foreclosure related expenses;
 - Lenders avoid the cost of securing, maintaining, paying taxes on, insuring, and listing a vacant home in a depressed market, and the borrowers maintain their credit rating without the blot of a foreclosure;
 - Court dockets (or non-judicial workloads) are drastically reduced;
 - More homeowner/borrowers can avoid bankruptcy while remaining residents of their existing homes;
 - No new legal instruments or concepts are required, just recognized legal documents such as deeds, leases, options, and rights of first refusal (which could be combined in one document), all of which could be recorded to maintain clear title records;
 - HUD would need to grant a waiver of its rule about a house being vacant for a deed in lieu of foreclosure, but there would be a savings to HUD and taxpayers as there would be no mortgage insurance payout to the lender for a foreclosure;
 - The **DOLLAR** mechanism, utilized in both judicial and non-judicial foreclosure states, would convert non-performing mortgages to valuable revenue generating assets on the lenders' books.

The **DOLLAR** mechanism is being put forth for discussion and possible use, not as a “one-size-fits-all” approach, but instead as a general concept to be adapted and negotiated to fit the circumstances of each particular case. Matters such as junior liens, taxes, specific maintenance requirements, how to handle prospective buyers, etc. can and would be negotiated (or mediated) between the lender and the homeowners before signing the documents to enter into the **DOLLAR** arrangement. There is no suggestion here that the **DOLLAR** concept will work in every case or be set up exactly the same way every time.

With the **DOLLAR** mechanism in wide usage, lenders and borrowers would have a shared interest in maintaining a business relationship with a mutual desire to see the residential property appreciate in value while striving to pay off the underlying obligation. Rather than increasing the lenders’ inventory of difficult-to-sell homes in a depressed market and simultaneously forcing borrowers out of homes they wish to keep and maintain, the **DOLLAR** mechanism can realign the parties’ risks, incentives, and benefits in a new approach to how delinquent mortgages are resolved without the “lose-lose” consequences of a sheriff’s sale. In contrast to the current foreclosure process, which pits lenders vs. borrowers in an adversary relationship, the **DOLLAR** mechanism is a potential “win-win” solution to delinquent mortgages.

Technology Resources

Cisco Webex: [Meetings Video Tutorials](#); [How to Use Webex Guide](#)

Lifesize®: [Support Center](#)

Zoom: [Zoom Video Tutorials](#); [Zoom Hearing Instructions](#)

GoToMeeting: Organizer Quick-Start Guide: support.goto.com/meeting/new-gotomeeting-guide

Participant Quick-Start Guide: gotomeeting.com/meeting/resources/gotomeeting-quick-and-helpful-guide-for-attendees

GotoMeeting Instructional Videos: support.goto.com/meeting/videos (Use left-side menu to navigate by function)

Appendix D

STRATEGIES FOR ADDRESSING A BACKLOG OF CASES

Tip Sheet for Ohio Courts

The COVID-19 pandemic has created unprecedented times for the judiciary and the bar of Ohio. Courts may face a backlog of cases due to continuances over the past few months paired with an influx of new filings. Litigants have justified expectations that their cases be heard as expeditiously as possible.

The following are case management tips courts can employ to address a backlog:

- Use the Pathways Approach to Case Management.** Match resources to the needs of each case. Triage civil cases into “streamlined,” “general,” and “complex” cases. For example, streamlined cases present uncomplicated facts and legal issues and require minimal judicial intervention, but close court supervision. Learn how to implement this smart approach at [ncsc.org/ data/assets/pdf file/0020/25724/ncsc-cji-appendices-c.pdf](https://ncsc.org/data/assets/pdf_file/0020/25724/ncsc-cji-appendices-c.pdf).
- Alternative Dispute Resolution Programs.** Mediators can resolve cases online, by phone, or by text-based mediation platform
- Settlement Events.** Hold a “Settlement Week” so mediators can help clear your docket
- Make your Court the Cleanest It’s Ever Been.** People need to feel safe at court if you want them to return
- Continue to Use Remote Hearings When Appropriate.** Remote hearings reduce travel time for busy attorneys. Plus, it’s safer for everyone and you’ll have fewer FTA.
- Simplify Entries.** Form-based entries that can be electronically generated save time
- Diversion and Intervention in Lieu Programs.** Reduce the number of hearings needed
- Hire Temps.** Appellate/visiting judges, magistrates and legal interns can help until the backlog is eliminated
- Run an Extra Docket.** Determine if you can increase your capacity
- Cross-Train Staff.** Write easy-to-follow instructions for common tasks, so anyone can complete them
- Listen before Planning.** Solicit ideas from the local bar, clerks, and judicial staff for creative ways to deal with the coming surplus of hearings
- Communicate.** Explain changes to stakeholders and everyone involved and update your court website WEEKLY
- Civil Jury Trials.** Try holding them virtually; many litigants would prefer that to having them postponed indefinitely
- Explore Off-Site Jury Trials.** Auditoriums allow parties and juries to sit farther apart

-
- **Night Court.** Can increase the number of hearing you can get to, if your budget and staffing allow for it
 - **“Catch-up Hours.”** Offer flexible, uninterrupted “catch-up” hours for staff to process filings
 - **Take a Webinar.** Current information offered by the Supreme Court of Ohio Judicial College in numerous courts and coronavirus webinars
 - **Offer Local Trainings or Tech Mentors.** If you plan to have video conference hearings, offer training to attorneys and judges who may be unfamiliar with the technology
 - **Establish a Commercial Docket.** Specialization and a dedicated, short-term judicial officer (such as an appellate judge by assignment) may help courts move through a backlog of these cases quickly (you must have six or more general division judges or county population of 300,000+ to run a commercial docket per Sup.R. 49.01)
 - **Pretrial Consideration.** Use virtual hearings for criminal-warrant hearings to reduce the delays that result from failure to appear, consider all alternatives to pretrial detention, and adopt text reminders

**With thanks to the Supreme Court of Ohio
Advisory Committee for Case Management - Covid -19 Backlog Workgroup**

Appendix E RESOURCES

Utilities Assistance

AEP Ohio: aepohiowire.com/financial-hardship-billing/

Dayton Power & Light: dpandl.com/Landing-Pages/COVID-19-Update/?utm_source=dpandl&utm_medium=homepage-alert&utm_campaign=covid-19-update

Cleveland Electric Illuminating Company: firstenergycorp.com/help/billingpayments/assistance_serviceprogram/illuminating_company.html

Ohio Edison: firstenergycorp.com/help/billingpayments/assistance_serviceprogram/ohio_edison.html

Toledo Edison: firstenergycorp.com/help/billingpayments/assistance_serviceprogram/toledo_edison.html

Duke Energy Ohio: dukeenergyupdates.com/?_ga=2.104342784.1644254520.1591210051-2130820438.1591210051

Columbia Gas of Ohio: columbiagasohio.com/campaigns/covid-19

Dominion Energy Ohio: dominionenergy.com/company/coronavirus

Vectren Energy Delivery Ohio: centerpointenergy.com/en-us/Corp/Pages/COVID-19.aspx?sa=mn&au=res

Housing Assistance

HUD Approved Housing Counseling Agencies: apps.hud.gov/offices/hsg/sfh/hcc/hcs.cfm?webListAction=search&searchstate=OH#searchArea

Ohio Housing Finance Agency: ohiohome.org/

Greater Ohio Policy Center Covid-19 Resources: greaterohio.org/covid19-relief

Technology Resources

Cisco Webex: [Meetings Video Tutorials](#); [How to Use Webex Guide](#)

Lifesize®: [Support Center](#)

Zoom: [Zoom Video Tutorials](#); [Zoom Hearing Instructions](#)

GoToMeeting: Organizer Quick-Start Guide: support.goto.com/meeting/new-gotomeeting-guide

Participant Quick-Start Guide: gotomeeting.com/meeting/resources/gotomeeting-quick-and-helpful-guide-for-attendees

GotoMeeting Instructional Videos: support.goto.com/meeting/videos (Use left-side menu to navigate by function)

Appendix F

ZOOM INSTRUCTIONS

A. Scheduling the Mediation

- 1) Conduct pre-mediation Zoom conference with counsel to explain Zoom controls and security features, exchange cell phones numbers for counsel and mediator in case technology fails.
- 2) Schedule Meeting/Go to Zoom/My account/Schedule Meeting/Select options
 - Require meeting ID and a password to enter the mediation (**Security Measure!**)
 - Enable waiting room and mute participants upon entry to mediation (**Security Measure!**)
- 3) Suggested Zoom Settings for Mediation: Go to Zoom Profile/Settings/Meeting tab
 - **Host and Participants Video:** Enable (allows parties to see and hear all participants)
 - **Join Before Host:** Disable (keeps parties from being in room together and no one can join without the mediator there to start the mediation) (**Security Measure!**)
 - **Use Personal Meeting ID (PMI) When Starting:** Disable
 - **Required a Password When Scheduling New Meetings:** Enable (only persons with password can join the mediation) (**Security Measure!**)
 - **Mute Participants upon Entry:** Enable
 - **Chat:** Enable and check box to prevent participants from saving chat
 - **Private Chat:** Disable (may be risky for parties to send private messages)
 - **Co-host:** Enable (May want assistant to participate in setting up mediation)
 - **Screen Sharing:** Enable for all participants (Shared documents and settlement agreement)
 - **Annotation:** Enable (edit information on shared documents/sign settlement agreement)
 - **Whiteboard:** Enable (allows parties to share white board during mediation)
 - **Breakout Room:** Enable (allows mediator to split parties into private rooms)
 - **Waiting Room:** Enable for all parties/customize the title and description of mediation
 - **Virtual background:** Enable (allows parties to replace background with professional image)
 - **Local Recording:** Disable in the Settings/Recording tab (Don't want parties to record the meditation)
 - **Cloud Recording:** Disable in the Settings/Recording tab

B. Preparation Prior to Starting Mediation

- 1) Test audio and video on computer/ensure computer is fully charged and/or connected to charger; also make sure cell phone is charged.
- 2) Start meeting 5 minutes early to check connection.
- 3) Choose professional background whether virtual or in a home office.
- 4) Silence other devices. (Cell phone)
- 5) Inform any persons in vicinity that you will be unavailable and in private mediation.
- 6) Check settings desired for Mediation. (Chat disable so parties can't send private messages, recording)

C. Mediation Session

- 1) Introduce parties/welcome them/make sure they all can hear and see each other.
- 2) Lock the meeting /explain if locked out that they need to contact the mediator on cell phone to get back in.
- 3) Remind parties to provide cell phone/email contacts in case of technology malfunction.
- 4) Explain security safeguards. (Password protected, lock meeting, meeting ID)
- 5) Confirm parties agree there is no recording of the session on Zoom or cell phones/Host disabled recording.
- 6) Confirm parties agree that only parties/counsel are in the room and no other persons may be in the room or within listening distance.
- 7) Confirm parties/counsel did not share Zoom invite, password, or meeting Id with anyone else
- 8) Review Zoom controls (View, mute, video, chat, participants, share screen and waiting room)
- 9) Explain Mediator disabled chat/counsel may want to enable
- 10) Explain break out rooms are separate private virtual rooms, delay in returning to joint session, can communicate with mediator by "Ask for Help" control and mediator can broadcast messages to parties/counsel.
- 11) Explain mediator has separate break out room for private causes with counsel.

D. Zoom Controls

- 1) Waiting Room
 - Upon arrival to waiting room, parties are greeted with the mediator's customized message.
 - Waiting-room guests are muted from communicating with each other
 - Guests cannot see who else is in the waiting room
 - Host determines whether to let in or remove a participant from the waiting room
- 2) Break out Rooms
 - Mediator clicks on break out rooms in control.

-
- Manually select the number of rooms to assign parties in.
 - Set up a room for mediator to enable private caucus with counsel.
 - Mediator names rooms for easy identification (Plaintiff's room, defendant's room and mediator room)
 - Click create rooms.
 - Mediator invites parties/counsel to join the break out room.
 - Parties will click Join Breakout room when invite arrives.
 - If parties need help or want mediator to go to their room, they can click on "Ask for Help" in Meeting Controls.

3) In-Meeting Chat Messages

The in-meeting chat allows the mediator to send messages to other people in the meeting, privately or to the entire group. Mediator also can disable chat entirely.

- While in the meeting, click CHAT in the meeting controls.
- This will open the chat on the right. You can type a message into the chat box or click on the drop-down menu next to it if you want to send a message to a specific person.
- When a new chat message is sent to you or everyone, a preview of the message will appear, and Chat will flash orange in your host controls.

Mediator controls and can change the settings in Chat

- While in a meeting, click Chat in the meeting controls.
- Click More to display in-meeting chat settings.
- You can access the following options:
- Save chat: Save all chat messages in a TXT file.
- Share file in meeting: Send a file in the chat.
- Allow attendees to chat with: Control who participants can chat with.
- No one: Disables in-meeting chat.
- Host only: Only the host can send messages to everyone. Parties still can send private messages to the host.
- Everyone publicly: Participants can only send public messages. Public messages are visible to all participants. Participants still can send private messages to the host.
- Everyone publicly and privately: Participants can send public or private messages. Public messages are visible to all participants. Private messages are sent to a specific participant.

Replying to a message

- Hover over the message to which you want to reply.
- Click the chat bubble icon.
- Type your reply, then press Enter.

***You can react to messages by adding an emoticon.**

- Hover over the message to which you want to react.
- Click the smiley icon.
- Select an icon. You can select from the same emoticons available when composing a chat message.

4) Document Sharing

There are three ways to share documents during a Zoom mediation:

Screen Share

- The mediator and the parties can share their screen during the mediation.
- Click on the Share Screen button located in meeting controls.
- Select the screen you want to share and click share
- Once the screen is opened and shared during the mediation, anyone can use the “annotate” tool (located at the top of the screen) to call attention to a particular part of the shared document by using the pen tool to “draw” on the document (Parties can sign the memorandum of understanding or settlement agreement at end of mediation)
- To exit the screen, click on Exit Full Screen in the top-right corner.

TIP 1: For ease of access, participants are encouraged to open/load any documents they want to share or reference during a mediation on their computer desktop before the Zoom mediation begins.

TIP 2: Before sharing your desktop, make sure any unnecessary or private windows are closed.

TIP 3: If the document you want to share is a video or has sound, you should click the “share computer sound” and video “optimize” buttons at the bottom of the screen.

TIP 4: If someone has difficulty with the Share-Screen feature, they can email the document to another participant (e.g., the mediator) and ask that person to share the document with everyone using Share Screen.

Chat

Chat is especially useful for sharing links to websites and also for sharing documents to be downloaded by the other participants.

- Click on **Chat** control.
- Select more and choose the option to **Share file**.
- Participants will see a notice when a file is sent and will be given an option to download the file.

Simply hold the document up to your web cam.

For additional support on Zoom go to support.zoom.us/.

For more information about online mediation resources, contact:

Peggy Foley Jones at pfjones@tddlaw.com;
Matthew D. Mennes at CPMXM@cuyahogacounty.us;
Douglas Godshall at dngodshall@gmail.com; or the
Supreme Court of Ohio Dispute Resolution Section
at Dispute.Resolution@sc.ohio.gov.



Appendix G

CASE MANAGEMENT FOR CIVIL CASES

Bench Card

For civil cases pending, the court should:

1. Order a Meet-and-Confer Conference Between Parties

- The attorneys of record and all self-represented parties that have appeared in the case, are jointly responsible for arranging a **Meet-and-Confer conference**, attempting in good faith to assess the practicality of maintaining the existing case schedule and, when appropriate, agreeing on a proposed revised case schedule.
 - This conference discusses:
 - Whether the case is appropriate for alternative dispute resolution, such as mediation or arbitration;
 - Issues, concerns, or anticipated delays associated with the management of the case due to COVID-19 (including experts, witnesses, parties, depositions and other discovery issues);
 - A proposed discovery plan;
 - The practicality of maintaining any existing case schedule;
 - If determined necessary, a (revised) proposed case schedule; and
 - Which side will prepare and submit the written report to the court

2. File a Written Report with the Court

- Following the meet-and-confer conference, the attorneys of record, and all self-represented parties who have appeared in the case, will submit a joint report with the court setting forth:
 - Results from the meet-and confer conference.
 - The report should be in a form and the form can be uniform for all counties, or specific to each county.
 - A report identifying:
 - Existing COVID-19 issues for the case;
 - The proposed discovery plan;
 - The proposed case schedule (identifying whether it is agreed that any existing case schedule can be maintained or that a revised case schedule is necessary);
 - What the parties have not agreed upon, if anything.
- If the parties fail to submit a Meet and Confer Report, the court should proceed in its discretion to amend the case scheduling order in accordance with its usual and customary case management practices.

3. Follow-up by the Court

- After counsel files the meet/confer reports, the court will then act on the reports.
 - If the reports are *fully agreed* upon when submitted and the court agrees with the proposed discovery plan and scheduling order:
 - The court may simply sign off on the report and, if necessary, set a scheduling conference to pick a new trial date.
 - If the court wishes to *modify* the discovery plan, scheduling order, or discuss any identified COVID-19 issues:
 - The court may set a telephone hearing involving all counsel and pro se parties to discuss and decide any such issues.
 - Similarly, if there are things identified in the reports that *the parties could not agree upon*, those could be handled via a telephone or video-conference hearing.
 - If the parties fail to submit a meet-and-confer report, the court should proceed in its discretion to amend the case scheduling order in accordance with its usual and customary case management practices.

4. Make Arrangements for Mediation - Blanket Civil Order

- Courts that refer cases to mediation should consider issuing **blanket civil orders** permitting parties to schedule mediations without waiting for referrals from the court.
 - This will ease the burden on the judiciary in issuing referrals, thus allowing parties to schedule mediations as soon as they are ready.

Cases Involving Torts	Time (mos.) ¹⁴	Meet/Confer	Permitted Stays for Dispute Resolution (Form A Instructions) ¹⁵
Professional tort	24	YES	60 days
Product liability	24	YES	60 days
Other torts	24	YES	60 days
Non-Tort Case Types			
Workers' compensation	12	YES	60 days
Foreclosures	12		60 days; State/federal law may require stays
Administrative appeals	9		60 days
Complex litigation	36	YES	60 days
Other civil	24	YES	60 days

14 sc.ohio.gov/JCS/casemng/statisticalReporting/Form_A.pdf.

15 sc.ohio.gov/JCS/casemng/statisticalReporting/formAInstruct.pdf.

Form — Sample Meet and Confer Conference Report

IN THE COMMON PLEAS COURT

_____ **COUNTY, OHIO**

GENERAL DIVISION

Plaintiff(s),
Vs.

Defendant(s).

:
:
: Case # ____ CV__-_____
:
: Judge _____
:

MEET AND CONFER CONFERENCE REPORT

Counsel for Plaintiff [] Defendant [] hereby submits this joint report of the Meet and Confer Conference. The purpose of the Meet and Confer Conference Report is to aid the Court in assessing the practicality of maintaining the existing case schedule and, when appropriate, agreeing on a proposed revised case schedule.

- The parties [] fully agree upon the discovery and proposed scheduling order
- The parties [] partially agree on the discovery and proposed scheduling order, and the parties could not reach an agreement on the following items:
 - [] Whether the case is appropriate for alternative dispute resolution, such as mediation or arbitration;
 - [] Issues, concerns, or anticipated delays associated with the management of the case due to COVID-19 (including experts, witnesses, parties, depositions and other discovery issues);
 - [] A proposed discovery plan
 - [] The practicality of maintaining any existing case schedule
 - [] Other (please specify)
- The parties agree on the following discovery and proposed schedule and submit same for the consideration of this honorable court:

-
- This case is appropriate for alternative dispute resolution: [] Yes [] No
 - If yes, include details such as the dispute resolution process requested (settlement conference, mediation, arbitration, neutral evaluation, etc.), dates, times, location, mediator, platform (in-person or video-conference)
 - If no, please explain
 - Issues, concerns, or anticipated delays associated with the management of the case due to COVID-10 (including experts, witnesses, parties, depositions, and other discovery issues)
 - Proposed discovery plan
 - Proposed case schedule
 - Other
 - The parties acknowledge that the Supreme Court of Ohio time guidelines for the disposition of civil cases are as follows: 24 months for professional tort (such as medical or legal malpractice), product liability, other torts, and other civil; 12 months for workers' compensation and foreclosure; 9 months for administrative appeals, and 36 months for complex commercial cases. In addition, for cases in which the parties engage in dispute resolution, the court may toll the time guidelines for up to 60 days during the life of the case. (Form A General Division Reporting Instructions)

Respectfully submitted,

Name _____

Firm _____

Address _____

City _____ St. ____, ZIP _____

Phone (____)- _____ - _____

Email _____



THE SUPREME COURT *of* OHIO

65 South Front Street Columbus, Ohio 43215-3431
