

**NOTICE**  
**MONTGOMERY COUNTY COMMON PLEAS COURT, GENERAL DIVISION**  
**AMENDMENTS TO LOCAL RULE 1.27, DEPOSITION TESTIMONY**

The General Division of the Montgomery County Common Pleas Court *adopted* amendments to Local Rule 1.27, Deposition Testimony, effective **Monday, August 9, 2010**.

Pursuant to Loc. R. 1.03 of the Local Rules of Practice and Procedure for the Montgomery County Court of Common Pleas and Rule 5 of the Rules of Superintendence for the Courts of Ohio, the adopted amendments are being published for a sixty-day comment period beginning **Monday, August 9, 2010, through Thursday, October 7, 2010**.

Comments regarding the adopted amendments to Loc. R. 1.27 can be submitted via email to [rulecom@montcourt.org](mailto:rulecom@montcourt.org) or in writing to:

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

**Comments must be received by 4:30 p.m. on Thursday, October 7, 2010**

**Rule 1.27 – Deposition Testimony**  
**(Emergency Status – Effective August 9, 2010)**

- 1 | I. FILING OF WRITTEN DEPOSITION TRANSCRIPT:
- 2 |     A. In addition to the requirements of Civil Rules 30 – 32 and Rule 13 of the Rules of
- 3 |         Superintendence for the Courts of Ohio, unless otherwise ordered by the Court, no
- 4 |         written deposition transcript shall be filed prior to the deadline for filing of any pretrial
- 5 |         statement or seven (7) days prior to trial, whichever is later.
- 6 |     ~~B. If a deposition in an electronic format is filed, then a paper transcript of the deposition~~
- 7 |         ~~must be filed simultaneously unless the transcript has been filed previously. The filing~~
- 8 |         ~~of the transcript must comply with Local Rule 2.09 (IV).~~
- 9 |     B. All written deposition transcripts, including attachments and/or exhibits, shall be
- 10 |         electronically filed by the attorney of record through the Court’s authorized electronic

11 filing system. Pursuant to Sup. R. 45(D), the attorney of record shall omit or redact all  
12 personal identifiers from the written deposition transcripts prior to filing the transcript.

13 C. The Clerk shall not accept for filing any written deposition transcript unless it is  
14 accompanied by a Notice of Filing Deposition Transcript and Certification of Compliance.

15 1. The Notice of Filing Deposition Transcript shall identify the deponent and the date  
16 the deposition was taken and include a certification that the written deposition  
17 transcript being filed is a true record of the deposition that was certified by the  
18 officer who took the deposition and that testimony has not been altered in any way.

19 ~~1.2.~~ The Certification of Compliance shall include a certification from counsel that  
20 the written deposition transcript is being filed in compliance with this rule and  
21 [Local Rule 2.09 \(IV\)](#).

22 II. FILING OF AUDIO/VIDEO VERSION OF DEPOSITION TRANSCRIPT:

23 A. If an audio/video version of a deposition transcript is to be presented during trial or  
24 hearing, the attorney presenting the audio/video version of the deposition transcript  
25 shall submit the audio/video version of the deposition to the Court (not the Clerk) three  
26 (3) working days prior to the trial or hearing.

27 B. The Court will not accept or permit the audio/video version of the deposition transcript  
28 to be presented during trial or hearing unless a written transcript of the deposition has  
29 been filed by the attorney of record through the Court's authorized electronic filing  
30 system.

31 C. The audio/video version of the deposition transcript shall include an attached written  
32 certification from the officer who took the audio/video deposition. The certification  
33 shall state that the witness was fully sworn or affirmed by the officer and that the  
34 audio/video version of the deposition is a true record of the testimony given by the  
35 witness. The officer's log of the deposition shall be included with the certification.

36 D. If the audio/video version of the deposition is presented at trial or a hearing and the  
37 proceedings are digitally recorded, the audio/video version of the deposition will be

38 returned to the attorney upon completion of the proceedings. If the proceedings are  
39 recorded by a Court Reporter, the audio/video version of the deposition shall be marked  
40 as an exhibit of the party who presented the deposition and shall be retained as  
41 evidence in the trial or hearing.

42 ~~II.~~ III. PRETRIAL REQUIREMENTS:

43 A. The Court has video equipment for use at trial. It is the responsibility of the using party  
44 to:

- 45 1. Notify the Bailiff of intended use within three (3) working days prior to trial;
- 46 2. Ensure that the format of the electronic version of the deposition is compatible with  
47 the Court's presentation equipment;
- 48 3. Be able to operate the Court's presentation equipment.

49 ~~III. POST TRIAL DISPOSITION OF DEPOSITIONS:~~

50 ~~A. The owner of any deposition and/or electronic version of the deposition shall take~~  
51 ~~possession of it within sixty (60) days of the following:~~

- 52 ~~1. The final disposition of the case where no trial is had;~~
- 53 ~~2. The expiration of the appeal time; provided no appeal is taken following trial; and~~
- 54 ~~3. The final disposition of the case, if an appeal is taken.~~

55 B. ~~If the owner fails to take possession of the deposition and/or electronic version, the~~  
56 ~~Clerk shall dispose of it in any manner the Clerk determines is proper.~~