

MAGISTRATE JONATHAN P. STARN

President, Ohio Association of Magistrates

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Jo Ellen Cline
Legislative Counsel
Supreme Court of Ohio
65 South Front Street, 7th Floor
Columbus, OH 43215-3431

Re: Comments on Proposed Amendments to Rules of Appellate Procedure, Criminal Procedure, and Civil Procedure; Traffic Rules; and Rules of Superintendence

Dear Jo Ellen:

As President of the Ohio Association of Magistrates, I am pleased to offer our Association's comments on the recently published proposed amendments to the Ohio Rules of Appellate Procedure, Criminal Procedure, and Civil Procedure, the Ohio Traffic Rules, and the Rules of Superintendence. As you are aware, our Association is comprised of almost 500 Ohio Magistrates representing all the practice areas to which these rules apply every day. We have therefore considered these proposed amendments, and the impacts they will have on our legal system and our duties within that system.

After careful consideration, the Association supports the adoption of the proposed amendments to these rules. We appreciate all of the time and work that has gone into their development. Although we support all of the amendments, we would offer a few specific comments on the following proposals.

- *Probate Form 15.9 – Oath of Guardian*: The Association would request that that signature line for the form be corrected to read “Judge/Magistrate” rather than using the term “referee.”
- *Civil Rule 34(A)(2) – Production of Documents*: The Association would suggest that language be added between the words “copy” and “test” on line 711 of the Rule as published for comment. Specifically, the Association would recommend that the words “electronically scan” be added in this location. The addition of this language would provide for those cases where a party wishes to scan a paper document electronically (as opposed to electronically stored documents) rather than photocopy them for purposes of inspection. Under the language as proposed, it appears that scanning of the documents would have to be done by agreement of the parties and could not be done without an agreement or a court order.
- *Superintendence Rule 19 – Magistrate – Qualifications*: The Association strongly supports the adoption of this Rule and proposed this standard to the Committee in February of this year. We are very pleased that the Committee agreed with this recommendation. The creation of minimum standards for Magistrates has been an issue

with which the Association has been concerned for several years. In 1999 the Ohio Association of Domestic Relations Judges approved a four-year requirement at their annual meeting. This requirement helps to ensure that both the legal system and the profession of Magistrate continue to improve in Ohio. Although the appointing Judge always has the ultimate responsibility for matters referred to a Magistrate, the fact that matters are referred to a Magistrate places in the Magistrate's hands significant responsibility and authority. It is essential that the Magistrate meet at least certain minimum standards for eligibility in terms of their experience in the practice of law.

The Association would also suggest that a comment be included as part of Sup.R. 19. The Association is aware that some courts currently have Magistrates that have been engaged in the practice of law for less than four years. It does not appear to be the intention of the Rule that it be applied in such a way that an already serving Magistrate could not continue to serve. Including a comment regarding existing Magistrates being 'grandfathered in' would serve to clarify that issue.

In closing, the Association wishes to thank the Court and the Commission on the Rules of Practice and Procedure for all their work, and for the opportunity to have our input considered.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Jonathan P. Starn, President
Ohio Association of Magistrates