

**OPINION NO. 2000-041****Syllabus:**

1. Pursuant to R.C. 2303.201(A)(1), once a court of common pleas has determined to impose a fee thereunder and has directed the clerk of courts to collect such fee, the clerk of courts shall charge that fee on the filing of each cause of action or appeal under R.C. 2303.20(A), (Q), and (U), no matter which division within the court of common pleas will hear the action or appeal.
2. Pursuant to R.C. 2303.201(B)(1), once a court of common pleas has determined to impose a fee thereunder and has directed the clerk of courts to collect such fee, the clerk of courts shall charge that fee on the filing of each cause of action or appeal, on the filing, docketing, and endorsing of each certificate of judgment, or on the docketing and indexing of each aid in execution or petition to vacate, revive, or modify a judgment under R.C. 2303.20(A), (P), (Q), (T), and (U), no matter which division of the court of common pleas is assigned the underlying action or proceeding to which the filing, docketing, endorsing, indexing, or petition relates.
3. As used in R.C. 2303.201(A) and (B), the terms "the court" and "the court of common pleas" refer to all of the judges of a court of common pleas, regardless of which division of the court a judge serves.
4. The manner in which the judges of a multi-judge court of common pleas are to exercise the authority of "the court," under R.C. 2303.201(A)(2) or "the court of common pleas" under R.C. 2301.201(B)(1) to order the disbursement of funds is not provided for by statute, but is a matter that the judges of the court, in the formulation of rules for their government and in the exercise of a reasonable discretion, may determine.

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**To: Daniel J. Gattermeyer, Butler County Prosecuting Attorney, Hamilton, Ohio**  
**By: Betty D. Montgomery, Attorney General, December 29, 2000**

You have requested an opinion concerning certain filing fees that may be imposed by a court of common pleas pursuant to R.C. 2303.201. Included with the opinion request was a court order, signed by the Presiding Judge of the Butler County Court of Common Pleas, which appears to impose the computerization fees authorized by R.C. 2303.201(A) and R.C. 2303.201(B).<sup>1</sup>

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<sup>1</sup>An order signed by the Administrative Judge of the Domestic Relations Division concerning the collection of a fee under R.C. 2301.031 was also included with the opinion request. Your questions, however, do not concern the operation of R.C. 2301.031.

For purposes of addressing your concerns, we must begin by assuming the validity of this order.<sup>2</sup> See *State ex rel. Beil v. Dota*, 168 Ohio St. 315, 322, 154 N.E.2d 634, 639 (1958) (“[t]he interests of orderly government demand that respect and compliance be given to orders issued by courts possessed of jurisdiction of persons and subject matter. One who defies the public authority and willfully refuses his obedience, does so at his peril” (quoting *United States v. United Mine Workers of America*, 330 U.S. 258, 303 (1947))); *Board of Educ. v. Hamilton Classroom Teachers Ass’n.*, 5 Ohio App. 3d 51, 53, 449 N.E.2d 26, 29 (Butler County 1982) (“[a]n order issued by a court with jurisdiction must be obeyed until it is reversed by orderly and proper proceedings”). See also *Wind v. State*, 102 Ohio St. 62, 64, 130 N.E. 35, 36 (1921) (“[t]he power of a court to enforce its own proper orders is fundamental and inherent, as well as constitutional; necessarily so, to give it standing and afford respect and obedience to its judgment. This is upon the broad ground of public policy, and without which power the judicial edifice would fall”).

After discussing these matters with a member of your staff, we understand the questions presented to be as follows:

1. Are the fees imposed under R.C. 2303.201(A) or R.C. 2303.201(B) to be charged on domestic relations division cases?
2. If the fees imposed under R.C. 2303.201(A) or R.C. 2303.201(B) are charged in domestic relations cases, which division of the common pleas court, general or domestic relations, may authorize expenditures from this fund?
3. If neither of such fees may be charged on domestic relations cases, what actions must be taken on fees collected and expended since 1993 without statutory authorization?

Your questions concern the imposition of two of the court fees authorized by R.C. 2303.201. The first such fee is authorized by R.C. 2303.201(A)(1), pursuant to which a court of common pleas, upon determining that additional funds are needed to computerize the court or to provide computerized legal research services, or both, may direct the clerk of courts to charge a fee, not exceeding three dollars, “on the filing of each cause of action or appeal under [R.C. 2303.20(A), (Q), and (U)].”<sup>3</sup> The other fee about which you ask is imposed

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<sup>2</sup>See generally *State ex rel. Finley v. Pfeiffer*, 163 Ohio St. 149, 126 N.E.2d 57 (1955) (syllabus, paragraph one) (“[t]he legislative, executive and judicial branches of government are separate and distinct and neither may impinge upon the authority or rights of the others; such branches are of equal importance; and each in exercising its prerogatives and authority must have regard for the prerogatives and authority of the others”).

<sup>3</sup>R.C. 2303.20 states in pertinent part:

Under the circumstances described in [R.C. 2969.21-.27 (procedures for the filing of a civil action or appeal by an inmate against a governmental entity or employee)], the clerk of the court of common pleas shall charge the fees and perform the other duties specified in those sections. In all other cases, the clerk shall charge the following fees and no more:

(A) Twenty-five dollars for *each cause of action* which shall include the following:

....

(Q) Twenty-five dollars for *each cause of action for each judgment by confession*, including all docketing, indexing, and entries on the journal;

under R.C. 2303.201(B)(1), which authorizes a court of common pleas, upon making the appropriate finding concerning the office of the clerk of courts, to impose an additional fee, not to exceed ten dollars, “on the filing of each cause of action or appeal, on the filing, docketing, and endorsing of each certificate of judgment, or on the docketing and indexing of each aid in execution or petition to vacate, revive, or modify a judgment under [R.C. 2303.20(A), (P), (Q), (T), and (U)].”<sup>4</sup>

Your first question is whether the fees imposed under R.C. 2303.201(A)(1) and R.C. 2303.201(B)(1) are to be charged in domestic relations division cases.<sup>5</sup> R.C. 2303.201(A)(1) and R.C. 2303.201(B)(1) each describe specific events in an action or proceeding for which the clerk of courts shall charge the fees imposed thereunder.

Unlike the wording of other divisions within R.C. 2303.201, nothing within either R.C. 2303.201(A)(1) or R.C. 2303.201(B)(1) exempts from the fees imposed thereunder events related to actions or proceedings assigned to any particular division in the common pleas court, *cf.* R.C. 2303.201(C),<sup>6</sup> or limits the imposition of such fees to actions or proceedings assigned to a particular division or divisions within the court of common pleas, *cf.* R.C. 2303.201(D).<sup>7</sup> Had the General Assembly intended to limit the imposition of the fees charged under R.C. 2303.201(A)(1) or R.C. 2303.201(B)(1) to actions or proceedings within only certain divisions of the court of common pleas, it could easily have expressed that intention, as it did elsewhere within R.C. 2303.201. *See generally Metropolitan Securities Co. v. Warren State Bank*, 117 Ohio St. 69, 76, 158 N.E. 81, 83 (1927) (the legislature, “[h]aving used

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(U) Twenty-five dollars for *docketing and indexing each appeal*, including the filing and noting of all necessary documents.... (Emphasis added.)

<sup>4</sup>Pursuant to R.C. 2303.20(P), the clerk of courts is to collect “[t]en dollars for filing, docketing, and endorsing a certificate of judgment, including the indexing and noting the return of the certificate,” and under R.C. 2303.20(T), “[f]ifteen dollars for docketing and indexing each aid in execution or petition to vacate, revive, or modify judgment, including the filing and noting of all necessary documents.” *See also* note three, *supra*.

<sup>5</sup>Pursuant to R.C. 2301.03(K)(1), “[t]he judges of the division of domestic relations [of the Butler County Court of Common Pleas] shall have assigned to them all divorce, dissolution of marriage, legal separation, and annulment cases coming before the court, except in cases that for some special reason are assigned to some other judge of the court of common pleas.”

<sup>6</sup>R.C. 2303.201(C) states in pertinent part:

*This division does not apply to proceedings concerning annulments, dissolutions of marriage, divorces, legal separation, spousal support, marital property or separate property distribution, support, or other domestic relations matters; to a juvenile division of a court of common pleas; to a probate division of a court of common pleas, except that the additional filing fees shall apply to name change, guardianship, and adoption proceedings; or to an execution on a judgment, proceeding in aid of execution, or other post-judgment proceeding arising out of a civil action. (Emphasis added.)*

<sup>7</sup>R.C. 2303.201(D) states, in part, that the fee imposed under that division shall be collected “in each new action or proceeding for *annulment, divorce, or dissolution of marriage* for the purpose of funding shelters for victims of domestic violence pursuant to [R.C. 3113.35-.39]” (emphasis added). *See generally* note five, *supra*.

certain language in the one instance and wholly different language in the other, it will rather be presumed that different results were intended”).

In addition, it is a fundamental principle of statutory construction that, “[a] court should give effect to the words actually employed in a statute, and should not delete words used, or insert words not used, in the guise of interpreting the statute.” *State v. Taniguchi*, 74 Ohio St. 3d 154, 156, 656 N.E.2d 1286, 1287 (1995). R.C. 2303.201(A)(1) and R.C. 2303.201(B)(1) each prescribe specific events upon which each such fee shall be charged without mention of any division of the court to which the fee applies. In order to read R.C. 2303.201(A)(1) and R.C. 2303.201(B)(1) as having no application to actions or proceedings within the domestic relations division of the court of common pleas, we would have to read into both provisions a limitation that is not expressed in the words of either provision.

We conclude, therefore, that, if a court of common pleas directs the clerk of the court of common pleas to charge an additional fee, as specified in R.C. 2303.201(A)(1), the clerk is to collect such fee upon the occurrence of any of the events described in R.C. 2303.201(A)(1), no matter which division within the court of common pleas is assigned the action or proceeding to which the event is related. Similarly, if a court of common pleas directs the clerk of the court of common pleas to charge an additional fee, as specified in R.C. 2303.201(B)(1), the clerk is to collect such fee upon the occurrence of any of the events described in R.C. 2303.201(B)(1), no matter which division within the court of common pleas is assigned the action or proceeding to which the event is related.

The second question asks: “If the fees imposed under R.C. 2303.201(A) or R.C. 2303.201(B) are charged in domestic relations cases, which division of the common pleas court, general or domestic relations, may authorize expenditures from this fund?” Let us begin by examining the specific provisions within R.C. 2303.201(A) and (B) that address the manner in which the fees are imposed, deposited, and disbursed.

Pursuant to R.C. 2303.201(A)(1), the decision whether to impose a computerization fee is made by “[t]he court of common pleas.” As discussed above, the clerk of courts is directed to charge the fee imposed under R.C. 2303.201(A)(1) on the occurrence of the events described therein, regardless of which division of the court is assigned the action or proceeding to which the event is related. R.C. 2303.201(A)(2) provides for the placement of all the funds generated by this fee in a single, separate fund.<sup>8</sup> Such funds are “to be disbursed, upon an order of the court.” R.C. 2303.201(A)(2).

Similar provision is made in R.C. 2303.201(B)(1) for the “court of common pleas” to impose a fee that is to be charged on the occurrence of the events described therein, no matter which division is assigned the action or proceeding to which the event is related. Pursuant to R.C. 2303.201(B)(1), “[s]ubject to division (B)(2) of this section, all moneys collected under division (B)(1) of this section shall be paid to the county treasurer to be *disbursed, upon an order of the court of common pleas* and subject to appropriation by the board of county commissioners” (emphasis added).<sup>9</sup>

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<sup>8</sup>Cf. R.C. 2303.201(E)(1) (authorizing a court of common pleas to impose a fee to provide revenues for special projects of the court, and stating, in part, “[a]ll moneys collected under division (E) of this section shall be paid to the county treasurer for deposit into either a general special projects fund or a fund established for a specific special project”).

<sup>9</sup>R.C. 2303.201(B)(2) authorizes the board of county commissioners to issue general obligation bonds under R.C. Chapter 133 for procuring and maintaining computer systems for the clerk of courts’ office in the event that the court makes the finding described in R.C.

In contrast to the statutory schemes governing the imposition of fees by specific divisions within a court of common pleas,<sup>10</sup> the schemes established by R.C. 2303.201(A) and (B) clearly indicate that the fees charged thereunder are imposed by and for the court of common pleas as a whole, including all of its judges and divisions. R.C. 2303.201(A) and (B), however, do not dictate the manner in which a court of common pleas may proceed in ordering the disbursement of these funds. A brief examination of the establishment and operations of courts of common pleas may be useful in resolving this question.

Pursuant to Ohio Const. art. IV, § 4(A), “[t]here shall be a court of common pleas and such divisions thereof as may be established by law serving each county of the state.” Accordingly, R.C. 2301.01 establishes “a court of common pleas in each county held by one or more judges.” The number of judges assigned to each court of common pleas is prescribed by R.C. 2301.02.

The establishment of divisions within courts of common pleas is provided for in Ohio Const. art. IV, § 4(C), which states in part, “[u]nless otherwise provided by law, there shall be a probate division and such other divisions of the courts of common pleas as may be provided by law.” See R.C. 2301.03 (establishing divisions and assigning responsibility for domestic relations, juvenile, and probate matters in various courts of common pleas). In accordance with Ohio Const. art. IV, § 4(C), “[j]udges shall be elected specifically to such probate division and to such other divisions.”<sup>11</sup> Thus, a court of common pleas consists of multiple divisions and may have more than one judge.

In discussing the composition of the Cuyahoga County Court of Common Pleas, the court in *Foran v. State ex rel. Wilson*, 89 Ohio St. 127, 133, 105 N.E. 276, 278 (1913), characterized common pleas courts, as follows:

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2303.201(B)(1). If such bonds are issued, moneys collected under R.C. 2303.201(B)(1) may also be expended to pay debt charges on and financing costs related to any such bonds.

<sup>10</sup>R.C. 2101.162(A) (authorizing the probate judge to impose a fee for the computerization of the probate court. Such fee is “to be disbursed, upon an order of the probate judge”); R.C. 2151.541(A) (authorizing the juvenile judge to impose a fee for computerization of the juvenile court, and providing that the funds from such fee are “to be disbursed, upon an order of the juvenile judge”); R.C. 2301.031(A) (authorizing “the domestic relations judges of a domestic relations division created by section [R.C. 2301.03]” to impose a fee for computerization of the division, the revenues of which may be disbursed “upon an order of the domestic relations judges”).

<sup>11</sup>Pursuant to R.C. 2301.03(K), the Butler County Court of Common Pleas has both a domestic relations division and a juvenile division. Two of this court’s eight judges, see R.C. 2301.02(A), are judges of the domestic relations division, and one is judge of the juvenile division. As specified in R.C. 2301.03(K), these three judges “exercise the same powers and jurisdiction” as the other judges of the court of common pleas. The Butler County Court of Common Pleas also includes a probate division, see Ohio Const. art. IV, § 4(C); R.C. 2101.01, and, although not expressly provided for by statute, a general division. It is our understanding that there is one judge in the probate division, and the remaining four judges constitute the court’s general division. Not all courts of common pleas, however, consist of the same divisions as does the Butler County Court of Common Pleas. Cf. R.C. 2101.022 (referring to “the domestic relations-juvenile-probate division of the court of common pleas of Marion county”); R.C. 2301.03(V) (referring to “the probate-juvenile division of the court of common pleas of Fairfield county”).

There is but one common pleas court in Cuyahoga county. Under the constitution there can be but one. It is an entity made up of constituent parts, and consists of the entire judicial organization for the conduct of the business within the jurisdiction of the court. The twelve judges are all members of this single body. The authority to exercise the judicial power which is exercised in the trial and disposition of court proceedings rests in the court itself.<sup>12</sup> (Footnote added.)

Thus, a court of common pleas, although a single body, may be composed of multiple members.

No cases of which we are aware have addressed the precise issue of whether a division of a court of common pleas or the judges of such division are empowered to perform a function imposed by statute upon "the court" or upon "the court of common pleas." Rather, questions concerning the ability to exercise the authority of a court have arisen in the context of whether the act of a single judge of a court of common pleas constitutes the action of the court or whether some or all of the court's judges must participate in taking a particular action on behalf of the court.<sup>13</sup>

With respect to the judicial acts of a court, it is well established that the act of a single judge of a multi-judge court is the action of that court. *See, e.g., State ex rel. Williams v. Zaleski*, 12 Ohio St. 3d 109, 465 N.E.2d 861 (1984) (syllabus) (as used in R.C. 2941.63, which authorizes "[t]he court of common pleas," among others, to appoint an attorney to assist the prosecuting attorney in the trial of a case pending in such court, "it is not necessary for a majority of [the] judges [of a multi-judge court] to concur in the appointment of an attorney to assist the prosecuting attorney or to approve the compensation of that individual. The action of a single judge under this section is the action of the court"); *State v. Phipps*, 3 Ohio App. 2d 226, 228, 210 N.E.2d 138, 140 (Scioto County 1964) (interpreting the term "the court of common pleas," as used in R.C. 2939.17, concerning the appointment of a grand jury, and concluding that "the official act of an individual judge of a Common Pleas Court composed of more than one judge is the act of the court.... [I]t was never contemplated and is not necessary that a judge of such court would be required to confer with and have the concurrence of the other judge or judges in the performance of his *judicial duties*" (emphasis added)).

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<sup>12</sup>See *State ex rel. Hawke v. LeBlond*, 108 Ohio St. 126, 132-33, 140 N.E. 510, 512 (1923) ("[t]he court is a tribunal organized for the purpose of administering justice, while the judge is the officer who presides over that tribunal. The terms 'court' and 'judge' are sometimes used interchangeably and synonymously, but they are never technically the same in meaning. A court is an incorporeal, political being, composed of one or more judges, who sit at fixed times and places, attended by proper officers, pursuant to lawful authority, for the administration of justice").

<sup>13</sup>The word "court," as used by the General Assembly, has been interpreted even more broadly in certain instances. *See, e.g., Hubner v. Sigall*, 47 Ohio App. 3d 15, 20, 546 N.E.2d 1337, 1342 (Franklin County 1988) ("the word 'court' used in a statute may or may not refer to the judge. In some instances it does and others it does not. Quite clearly, a jury is an arm or part of the court, the same as the judge is one who presides over the court when the court is in session. Thus, in a very broad sense with respect to a trial, the word 'court' includes not only the judge, but also the jury, and all other persons involved in the administration of justice on behalf of the state").

There are other functions of a court, however, variously characterized as “administrative,”<sup>14</sup> “temporary and emergent,”<sup>15</sup> or “neither judicial nor quasi-judicial,”<sup>16</sup> that a single judge of a multi-judge court of common pleas, acting unilaterally, may be without authority to perform on behalf of “the court.” Instead, the General Assembly has exercised its power under article IV, section 18 of the Ohio Constitution,<sup>17</sup> to establish procedures for the administration of certain business of the courts.<sup>18</sup> See *State ex rel. Stanton v. Powell*, 109 Ohio St. 383, 387, 142 N.E. 401, 402 (1924) (“[t]he Constitution itself makes provision for additional judges in each county, as may be provided by law, and that provision would be impotent indeed if the Legislature could not provide the administrative machinery which will permit two or more judges in any county to organize for co-operation and co-ordination of effort”).<sup>19</sup>

Until its repeal in 1995-1996 Ohio Laws, Part II, 2177 (Sub. H.B. 151, eff. Dec. 4, 1995), former R.C. 2301.04 provided a mechanism through which the business of a multi-

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<sup>14</sup>*State ex rel. Stanton v. Powell*, 109 Ohio St. 383, 388, 142 N.E. 401, 402 (1924) (finding it within General Assembly’s power to enact statute providing for selection of chief justice of multi-judge court of common pleas to perform administrative acts); *State ex rel. Krakowski v. Stokes*, 16 Ohio App. 3d 62, 474 N.E.2d 695 (Cuyahoga County 1984) (finding statutory provision concerning handling of administrative matters in multi-judge municipal court to prevail over conflicting rule of superintendence).

<sup>15</sup>*State ex rel. Hawke v. LeBlond* (syllabus, paragraph one) (statute authorizing, among others, a “court of common pleas” to hear attorney discipline matter did not require hearing by all of the judges of the court; rather, “the ‘court of common pleas’ of such county may be constituted by one or more of the common pleas judges holding office in that county, and the judges so holding office have unlimited discretion to determine the number of judges who shall preside over any session of such court”).

<sup>16</sup>*State ex rel. Taynor v. Hysell*, 19 Ohio App. 3d 120, 122, 483 N.E.2d 156, 159 (Franklin County 1984) (concerning oral instructions given to clerk of courts at a meeting of the court’s judges).

<sup>17</sup>Ohio Const. art. IV, § 18 (“[t]he several judges of the supreme court, of the common pleas, and of such other courts as may be created, shall, respectively, have and exercise such power and jurisdiction, at chambers, or otherwise, as may be directed by law”).

<sup>18</sup>Although the General Assembly has prescribed certain duties to be carried out by specific judges within the Butler County Court of Common Pleas, see, e.g. R.C. 2301.03(K)(1) (assigning certain duties to the judge senior in point of service within the domestic relations division); R.C. 2301.03(K)(2) (assigning certain duties to the judge of the juvenile division), it has not provided for the exercise of the court’s power under R.C. 2303.201(A) and (B) by a particular judge or judges of that court.

<sup>19</sup>The General Assembly may not, however, direct, control, or impede the judiciary in the exercise of its judicial functions. *State ex rel. Johnston v. Taulbee*, 66 Ohio St. 2d 417, 423 N.E.2d 80 (1981); *Zangerle v. Court of Common Pleas*, 141 Ohio St. 70, 46 N.E.2d 865 (1943) (syllabus, paragraph two) (“[c]ourts of general jurisdiction, whether named in the Constitution or established pursuant to the provisions thereof, possess all powers necessary to secure and safeguard the free and untrammelled exercise of their judicial functions and cannot be directed, controlled or impeded therein by other branches of the government”). See *State v. Hochhausler*, 76 Ohio St. 3d 455, 464, 668 N.E.2d 457, 466 (1996) (“[t]he legislative branch has no right to limit the inherent powers of the judicial branch of the government” (citation omitted)).

judge court of common pleas was administered by majority vote of its judges.<sup>20</sup> See *State ex rel. Taft v. Shook*, 119 Ohio St. 546, 164 N.E. 760 (1929) (approving operation of former R.C. 2301.04 (then G.C. 1558), pursuant to which administration of the business of a multi-judge court was to be decided by a majority vote of its judges).

Since the repeal of former R.C. 2301.04 in 1995, however, multi-judge courts of common pleas have had no statutory mechanism for determining how the business of the court is to be administered.<sup>21</sup> In the absence of a statutory mechanism for the exercise of the power conferred upon "the court" by R.C. 2303.201(A) and upon "the court of common pleas" by R.C. 2303.201(B), we must refer to the principle set forth in *State ex rel. Hawke v. LeBlond*, 108 Ohio St. at 135, 140 N.E. at 513, as follows:

[C]ourts have the inherent right to formulate rules for their government, so long as such rules are reasonable and not in conflict with general laws. The right to make rules must be held to come within the implied powers of courts of justice. The Legislature has never prescribed in minute detail all of the procedure necessary in conducting courts of justice in an orderly manner, and many things must necessarily be left to the sound discretion of the court, and it is, of course, desirable that as far as possible those details be carried out in an orderly manner and according to a published rule.

Accordingly, it is within the discretion of all of the judges of the Butler County Court of Common Pleas, in the formulation of rules for their government, to determine the manner in which they, as "the court," R.C. 2303.201(A)(2), or "the court of common pleas," R.C. 2301.201(B)(1), will exercise the court's power to order the disbursement of funds under those statutory provisions.

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<sup>20</sup>Former R.C. 2301.04, see 1953 Recodification of Revised Code, Title 23, p. 7 (Am. H.B. 1, eff. Oct. 1, 1953), provided for judges of each multi-judge court of common pleas to select a chief justice, who was responsible for "the general superintendence of the business of the court," and for classifying and distributing it among the judges. Former R.C. 2301.04 also required the judges of the court of common pleas to "meet at least once in each month and at such other times as the chief justice of such court requires, and [to] prescribe rules regulating the docketing and hearing of causes, motions, and demurrers and such other matters as are necessary for the advancement of justice and prevention of delay, and for the government of the officers of the court."

<sup>21</sup>In contrast, R.C. 1901.16, concerning the exercise of authority by a multi-judge municipal court, has not been repealed, and states:

When a municipal court consists of more than one judge:

(A) The several municipal judges may sit separately or otherwise, as the presiding judge directs, and shall meet at least once each month, and at such other times as are determined, for consideration of the business of the court.

(B) Any order made by the presiding judge under the special powers conferred upon him may be vacated, amended, or modified by the vote of a majority of the judges of the court.

(C) The administrative authority vested in judges constituting a municipal court shall be exercised by a majority vote of such judges, including the presiding judge.



As a final matter, we note that, in accordance with Sup. R. 3(A),<sup>22</sup> each multi-judge court is to elect a presiding judge by majority vote of all of the court's judges.<sup>23</sup> Sup. R. 3(A) also provides a mechanism for designation of a presiding judge in the event of an equal division of votes among the judges.

The duties of the presiding judge are set forth in Sup. R. 3(B), in part, as follows:

In addition to the duties set forth in the Revised Code that do not conflict with the duties of the administrative judge set forth in Sup. R. 4,<sup>24</sup> the presiding judge of the court shall do all of the following:

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<sup>22</sup>The Rules of Superintendence for the Courts of Ohio were adopted by the Ohio Supreme Court pursuant to Ohio Const. art. IV, § 5(A)(1). *State v. Smith*, 47 Ohio App. 2d 317, 354 N.E.2d 699 (Cuyahoga County 1976). "The Superintendence Rules are applicable only so long as they are not in conflict with statute or other governing Supreme Court rules." *Krupansky v. Pascual*, 27 Ohio App. 3d 90, 92, 499 N.E.2d 899, 901 (Lorain County 1985) (citation omitted). See *State v. Mahoney*, 34 Ohio App. 3d 114, 116, 517 N.E.2d 957, 960 (Hamilton County 1986) (characterizing Rules of Superintendence as "administrative directives"); *State v. Gettys*, 49 Ohio App. 2d 241, 243, 360 N.E.2d 735, 737 (Seneca County 1976) (characterizing Rules of Superintendence as "internal housekeeping rules"). See generally Code of Judicial Conduct Canon 3(B)(8) (1997) ("[a] judge shall dispose of all judicial matters promptly, efficiently, and fairly and comply with guidelines set forth in the Rules of Superintendence for the Courts of Ohio").

<sup>23</sup>See generally Ohio Const. art. IV, § 4(A) (providing, in part, for the designation of a presiding judge in courts of common pleas having more than one judge, and stating that "[t]he presiding judge shall have such duties and exercise such powers as are prescribed by rule of the supreme court").

<sup>24</sup>Pursuant to Sup. R. 4(A)(1), in a multi-judge court and in a multi-judge division of a court, "the judges of the court or division, by a majority vote of the judges of the court or division, shall elect an administrative judge from the judges of the court or division." In the event that the judges are unable to elect an administrative judge, the rule also provides for designation of an administrative judge. Pursuant to Sup. R. 4 (B), "[t]he actions of the administrative judge may be modified or vacated by a majority of the judges of the court or division."

The powers and duties of the administrative judge, however, are generally viewed as being limited to directing case control and the disposition of cases. See *Rosenberg v. Gattarello*, 49 Ohio App. 2d 87, 93, 359 N.E.2d 467, 471 (Cuyahoga County 1976) ("Sup. R. 3 gives the administrative judge [of a division of a court of common pleas] full responsibility for and control over the administration, docket and calendar of the division which he serves"). In *State ex rel. Heeter v. Mullenhour*, 51 Ohio St. 2d 145, 148, 364 N.E.2d 1382, 1384 (1977), the court characterized the powers of the administrative judge of a municipal court under the former Rules of Superintendence for Municipal and County Courts as being limited to "matters affecting case control and case disposition," and not extending to "matters concerning the fiscal duties and responsibilities" of the court. Based upon the *Mullenhour* court's characterization of the powers of an administrative judge, it would appear that it is not within the power of an administrative judge to determine the manner in which a court of common pleas will exercise its power to order the disbursement of funds under R.C. 2303.201(A) and (B).

(1) *Call and conduct an annual meeting, and other meetings as necessary, of the judges of the court for the purpose of discussing and resolving administrative problems common to all divisions of the court;*

(2) Assign judges of the court on a temporary basis to serve in another division of the court as required by the business of the court. (Footnote and emphasis added.)

Thus, Sup. R. 3(B)(1) establishes a mechanism through which the presiding judge may call a meeting of all the judges of the court of common pleas to discuss and resolve any matter of common interest to all of the court's divisions. Because the manner in which funds derived from the fees imposed under R.C. 2303.201(A) and (B) are to be disbursed is a matter of common interest to all the court's divisions, Sup. R. 3(B)(1) may provide a method by which the judges of a multi-judge court of common pleas may decide how the court's authority in this regard is to be exercised.

In answer to the second question, we conclude, therefore, that, as used in R.C. 2303.201(A) and (B), the terms "the court" and "the court of common pleas" refer to all of the judges of a court of common pleas, regardless of which division of the court a judge serves. The manner in which the judges of a multi-judge court of common pleas are to exercise the authority of "the court," under R.C. 2303.201(A)(2) or "the court of common pleas" under R.C. 2301.201(B)(1) to order the disbursement of funds thereunder is not provided for by statute, but is a matter that the judges of the court, in the formulation of rules for their government and in the exercise of a reasonable discretion, may determine.

Because we have concluded that the fees imposed under R.C. 2303.201(A)(1) and R.C. 2303.201(B)(1) are to be charged on the occurrence of the events described therein, regardless of the division of the court of common pleas that is assigned the action or proceeding to which the events relate, we need not address the third question.

It is, therefore, my opinion, and you are hereby advised that:

1. Pursuant to R.C. 2303.201(A)(1), once a court of common pleas has determined to impose a fee thereunder and has directed the clerk of courts to collect such fee, the clerk of courts shall charge that fee on the filing of each cause of action or appeal under R.C. 2303.20(A), (Q), and (U), no matter which division within the court of common pleas will hear the action or appeal.
2. Pursuant to R.C. 2303.201(B)(1), once a court of common pleas has determined to impose a fee thereunder and has directed the clerk of courts to collect such fee, the clerk of courts shall charge that fee on the filing of each cause of action or appeal, on the filing, docketing, and endorsing of each certificate of judgment, or on the docketing and indexing of each aid in execution or petition to vacate, revive, or modify a judgment under R.C. 2303.20(A), (P), (Q), (T), and (U), no matter which division of the court of common pleas is assigned the underlying action or proceeding to which the filing, docketing, endorsing, indexing, or petition relates.
3. As used in R.C. 2303.201(A) and (B), the terms "the court" and "the court of common pleas" refer to all of the judges of a court of common pleas, regardless of which division of the court a judge serves.

4. The manner in which the judges of a multi-judge court of common pleas are to exercise the authority of “the court,” under R.C. 2303.201(A)(2) or “the court of common pleas” under R.C. 2301.201(B)(1) to order the disbursement of funds is not provided for by statute, but is a matter that the judges of the court, in the formulation of rules for their government and in the exercise of a reasonable discretion, may determine.