

HOCKING COUNTY MUNICIPAL COURT  
105 West Hunter Street  
Logan, Ohio 43138

Judge Frederick T. Moses

Local Rules of Court  
Effective February 1, 2018

## Table of Contents

## I. Administrative Rules

### 1.00 SCOPE AND EFFECTIVE DATE

These rules are adopted as Local Rules of Court governing practice and procedure in the Hocking County Municipal Court. They are adopted pursuant to the Court's inherent authority as set forth in the Rules of Civil and Criminal Procedure and Rules of Superintendence. These rules may be cited as "H.C.M.C. Rule \_\_\_\_". They are effective as February 1, 2017 (or as later amended) and shall govern all proceedings filed subsequent to that date.

### 2.00 COURT SESSIONS

The hours for Court sessions and for the Municipal Court of Court's Office generally are: Monday through Thursday, 8:00 A.M. to 4:00 P.M. and Fridays from 8:00 A.M. to 4:00 P.M., except legal holidays and at such times deemed appropriate by the Court. In addition, the Judge shall have the discretion to schedule Court sessions at other times when necessary to conduct the business of the Court in a timely and efficient manner.

### 3.00 ASSIGNMENT OF CASES

Assignment of cases shall be governed by Rule 36 of the Rules of Superintendence of the Courts of Ohio.

### 4.00 CLERK OF COURT

The Clerk shall maintain such dockets, books of record and indices as are required by law or practical necessity as public record, utilizing digital files and computers for storage wherever possible. The Clerk shall permit any person to make a copy of any papers filed, but original papers files in any case shall not be removed from the office without prior authority of the Clerk. Officers or employees of the Court shall not prepare or help to prepare any pleading, affidavit, entry or order in any civil matter, except as provided under Section 1925 of the Ohio Revised Code. The Clerk shall immediately issue subpoenas upon receipt of a written preacipe.

### 5.00 COURT COSTS/FILING FEES

Costs shall be determined as appropriate by the Judge. A current schedule of Court Costs and Filing Fees can be found on the Court's website at [www.hockingcountymunicipalcourt.com](http://www.hockingcountymunicipalcourt.com)

### 6.00 COURT REPORTER/RECORDING OF ALL PROCEEDINGS

All proceedings shall be recorded either by an audio tape recording or digital recording system. If counsel or a party desires a court reporter then the counsel or party must take his or her own arrangements for the presence and payment of a Court Reporter.

Parties appealing a decision of the Trial Court shall file a praecipe advising the Court what portion(s) of the record they wish to transcribe. The Court Reporter, once a fee is paid, will provide a transcript to the attorney or party as a certified transcript of the proceeding. All payment arrangements shall be made with the Court Reporter. All audio records and tapes will be maintained on file for a period of one (1) year.

#### 7.00 COMPUTING TIMES

The time within which an act must be done under these rules shall be computed in accordance with Civ. R. 6 and Crim. R. 45

### II. CRIMINAL/TRAFFIC DIVISION

#### 8.00 DUTIES OF COUNSEL/PROSECUTION

- (a) Designation of Trial Counsel: Attorneys will designate their capacity as trial counsel on all documents in all criminal and traffic cases and shall include their office address, city, state and zip code, telephone & fax number, as well as counsel's e-mail address. In addition, the attorney's Supreme Court registration number shall be included on all documents filed.
- (b) Withdrawal of Counsel: Counsel shall be allowed to withdraw from trial counsel responsibility with the consent of the Judge. No such application will be considered unless a written entry or motion is presented stating the reasons for the application, certificate of service on opposing counsel and/or client and time and date of trial, if set. Withdrawal of counsel will not be approved if application is not made prior to five (5) working days of the trial date except for good cause shown. Approved withdrawal entries will be mailed immediately by the withdrawing counsel to his/her client's last known address.
- (c) Traffic/Criminal Filings: With the exception of traffic citations and minor misdemeanor citations, no criminal misdemeanor complaints shall be accepted for filing by the Clerk of Court until and unless the Prosecutor/Law Director Office has first approved the filing of the complaint.
- (d) Arresting Officer Duties: Statements/Reports/Videotapes: All law enforcement agencies shall file a statement of facts with charges filed at the Clerk's office. All traffic citations shall be timely filed pursuant to the Court's traffic court schedule. This schedule is provided to all law enforcement agencies in Hocking County on a yearly basis. All citations and complaints that do not comply with this schedule shall be dismissed.

In all cases where a defendant is charged with an offense of violence against a family or household member, the arresting officer shall provide, when the information is available, the following information: (1) whether the officer observed on the alleged victim objective manifestations of physical harm that the officer reasonably believes are results of the

alleged offense; (2) whether the arresting officer reasonably believes that the defendant possessed or used a deadly weapon or dangerous ordinance at the time of the alleged offense; (3) whether the arresting officer reasonably believes that the defendant presents a credible threat of serious physical harm to the alleged victim or to any person released on bail before trial and, if available, whether the defendant has a history of domestic violence or other violent acts; (4) the defendant's mental health; (5) whether the defendant has a history violating orders of the Court or other Government agencies; (6) whether the defendant is a potential threat to any person; (7) whether the defendant has access to any deadly weapons or has a history of using deadly weapons; (8) whether the defendant has a history of abusing drugs or alcohol; (9) the severity of the alleged offense; (10) the duration of the alleged offense; (11) whether the offense involved serious physical injury, sexual assault, strangulation, abuse during the alleged victim's pregnancy, abuse of a animals or forcible entry; (12) whether a separation between the defendant and the alleged victim has recently occurred; (13) whether the defendant has exhibited obsessive or controlling behavior toward the alleged victim; and (14) whether the defendant has expressed any suicidal or homicidal ideas. For all cases where the offender is incarcerated, the complete report, record check and recommendations on bond shall be left with the Court upon filing the complaint.

Failure to file this information with the complaint may be cause for dismissal of the charges. In all cases where a videotape is made by an arresting agency of the defendant's conduct immediately prior to and/or after arrest, the Prosecutor shall make available to the defendant or his/her attorney a copy of the tape. The copy shall be provided: (1) at least 14 days prior to trial; (2) 5 days prior to a suppression hearing; or (3) within 14 days after a request for discovery, whichever occurs earlier.

Defendants, or their attorneys shall timely provide a blank tape to the appropriate Prosecutor/Law Director's office so that a copy can be made. In lieu of making a copy, the Prosecutor/Law Director shall make available a viewing area for the defendant and his/her attorney to examine the videotape.

Failure to comply with this rule may result in a dismissal of the charge(s).

- (e) Written "Not Guilty Pleas & Time Waivers": Written "Not Guilty & Time Waiver" pleas may be entered prior to the date of arraignment in all cases, except those in which the defendant is charged with an offense that requires and appearance before a Judge in accordance with the Court's Bond Schedule. All written not guilty pleas shall be signed by the defendant or the defendant's attorney. If a written plea is entered, neither counsel nor the defendant needs to appear at the arraignment.

When filing written "Not Guilty Pleas & Time Waivers" on multiple charges, it is counsel's duty to insure that a plea form is signed and completed and file stamped for each offense (incident) and to notify the Clerk of the number of charges. If the plea form does not contain a case number, the following information shall be provided in the caption of the form:

- (1) Ticket number, if any;
- (2) Nature of offenses(s);
- (3) Code number of offense(s);
- (4) Date of offense(s); and
- (5) Date of arraignment(s).

- (f) Continuances: Every request for a continuance shall be by written motion and will only be granted upon showing of good cause and accompanied by the filing of a Time Waiver if time is not already waived in a case. All requests shall be served by the opposing counsel or the opposing party, and the party making the request shall make reasonable efforts to contact the opposing party or opposing counsel. The party requesting the continuance shall advise the court of the opposing party's or attorney's position. If the opposing party or attorney fails to respond or was unavailable, that information shall be communicated to the Court. The motion shall set forth the date from which a continuance is requested and reasons for the continuance. If a prior trial conflict exists, the date of scheduling shall be stated, with a copy of the notice attached to the motion. Entries shall accompany the motions with blanks for the new trial date and time and if agreed by opposing counsel. No request for continuance will be considered if made less than seven (7) days before trial except for circumstances which by reasonable diligence could be determined seven (7) or more days prior to trial. It is suggested that counsel provide available dates to the Assignment Commissioner.

When a continuance is requested for the reason that counsel is scheduled to appear in another case assigned for trial on the same date in the same or another trial Court of this state, the case which was set first for trial shall have priority and shall be tried on the date assigned. Criminal cases assigned for trial have priority over civil cases. The granting of any other request for continuance of a scheduled trial is a matter within the discretion of the trial court.

If a designated trial attorney has such a number of cases assigned for trial in courts of this state so as to cause undue delay in the disposition of such cases, may require the trial attorney to provide a substitute trial attorney. If the trial attorney was appointed by the Court, the Court may appoint a substitute trial attorney.

- (g) Motions Practice: All motions, except those normally made at the trial, shall be in writing, served on opposing counsel, and made within the time limits prescribed in the Ohio Rules of Criminal Procedure. Motions will be supported by Memorandum of Law containing applicable statutory and case law citations. (Copies of significant decisions shall be attached to the original filing only.)\_ All motions where an evidentiary hearing is not required shall be decided on the basis of the parties' brief written statements in support or opposition. Motions that do not require an evidentiary hearing shall be accompanied by a proposal entry.

- (h) Jury Trials: The Judge shall be responsible for all jury matters assigned to him/her. When a jury trial has been requested, trial counsel shall notify the Court as soon as possible if the jury is to be waived or the case has been settled.

Upon conviction after a jury trial in a Criminal/Traffic case, jury fees in the appropriate sums as set forth on the cost schedule will be categorized as court costs.

- (i) Court Appointed Counsel: Pursuant to Sup. R. 8, the appointment of counsel to represent indigent defendants shall occur as follows. No attorney will be assigned to defend any indigent person in a criminal or traffic case unless he or she has been approved as trial counsel by the Judge assigning counsel. Before counsel is appointed, each defendant must file an Affidavit of Indigency or Financial Disclosure form with the Municipal Court Clerk's office. In addition, each applicant shall be assessed a non-refundable fee of \$25.00 due upon submission of the Affidavit of Indigency or Financial Disclosure form. When it appears to the Court that the accused in a criminal case is indigent, the Court shall utilize and appoint an attorney from the approved Court Appointed Attorney list located in the Municipal Court Clerk's office to represent the defendant in the traffic or criminal case. Any eligible attorney who seeks approval for court appointed assignments, must submit a letter to the Judge requesting to be added to the approved court appointed attorney list. All counsel appointed by the Court shall be paid for their services by the County provided by the County Commissioners. No appointed counsel shall be paid for his or her services unless he or she makes a request for payment. All requests for payment shall be made by completing the Criminal Appointed Counsel form using the prescribed forms provided by the Ohio Public Defenders Commission. This application must be accompanied by a Financial Disclosure form or Affidavit of Indigency completed by the indigent defendant. The application shall be filed with the Clerk's office and presented to the Court for approval of compensation and expenses. The Court may withhold payment to appointed counsel until all necessary forms pertaining to the case are completed and correctly filed.

#### 9.00 VIOLATIONS BUREAU

A Traffic Violations Bureau is hereby established in accordance with Ohio Traffic Rule 13, with authority to process and dispose of those traffic offenses for which no court appearance is required by law or in the discretion of the arresting officer. In accordance with the Ohio Rules of Criminal Procedure Rule 4.1, there is hereby established a Violations Bureau, with authority to process and dispose of misdemeanors for which no court appearance is required either at the discretion of the arresting officer or the Court. A schedule of fines has been adopted and is posted in the Municipal Court Clerk's office.

#### 10.00 CRIMINAL/TRAFFIC DIVISION CASE MANAGEMENT

- (a) Purpose: The purpose of this rule is to establish, pursuant to Sup. R. 5, a system for criminal/traffic case management, which will provide the fair and impartial administration of criminal/traffic cases. These rules shall be construed and applied to eliminate unnecessary delay.

(b) Scheduling of Events:

- (1) Motions: All motions not heard or decided prior to trial will be disposed of at trial.
- (2) Court Trials: In all cases where a jury has not been demanded a court trial shall be scheduled by the Assignment Commissioner.
- (3) Pretrials/Jury Trials: In all cases where a jury demand has been filed, a pretrial may be scheduled by the Judge, or requested by a party. If scheduled, a pretrial conference shall be conducted in accordance with Crim. R. 17.1.
- (4) Sentencing: Upon a finding of guilty, sentencing shall occur immediately unless the court orders a pre-sentence investigation. In cases where a pre-sentence investigation is ordered, the Assignment Commissioner shall schedule a final disposition heading to be held within thirty-five (35) days.

11.00 SPECIAL PROCEEDINGS CASE MANAGEMENT

The purpose of this rule is to establish a case management system for special proceedings to achieve a prompt and fair disposition of these matters. Examples of special proceedings would include contempt hearings, preliminary hearings, extradition hearings, and bond hearings.

Cases that have time limits established by the Ohio Revised Code or the Ohio Rules of Criminal Procedure shall be set for hearing within those limits. In all other special proceedings, the case shall be set for hearing within a reasonable time not to exceed ninety (90) days.

III. CIVIL DIVISION

12.00 DUTIES OF COUNSEL

- (a) Designation of Trial Counsel: Attorneys and not parties will designate their capacity as trial counsel on all documents in civil cases and shall include their office address, city, state and zip code, telephone number, fax number and e-mail address. In addition, the attorney's Supreme Court registration number shall be included on all documents filed.
- (b) Withdrawal of Counsel: Counsel shall be allowed to withdraw from trial counsel responsibility with the consent of the assigned Judge. No such application will be considered unless a written entry or motion is presented stating the reasons for the application, certificate of service on opposing counsel and/or client, and time and date of trial, if set. Withdrawal of counsel will not be approved if application is not made prior to five (5) working days of the trial date except for good cause shown. Approved withdrawal entries will be mailed immediately by the withdrawing counsel to his/her client's last known address.



- (c) Continuances: Every request for continuances shall be by written motion and will only be granted upon showing of good cause. All requests shall be served on opposing counsel or party. The motion shall set forth the date from which a continuance is requested, reasons for the continuance and certificate of service on opposing counsel and/or client. If a prior trial conflict exists, the date of scheduling shall be stated, with a copy of the notice attached to the motion. Entries shall accompany the motions with blanks for the new trial date and time and if agreed to by opposing counsel. No request for continuance will be considered if made less than seven (7) days before trial except for circumstances which by reasonable diligence could not be determined seven (7) or more days prior to trial.

When a continuance is requested for the reason that counsel is scheduled to appear in another case assigned for trial on the same date in the same or another trial court of this state, the case which was set first for trial shall have priority and shall be tried on the date assigned. Criminal cases assigned for trial have priority over civil cases. The granting of any other request for continuance of a scheduled trial is a matter within the discretion of the trial court.

If a designated trial attorney has such a number of cases assigned for trial in courts of this state so as to cause undue delay in the disposition of such cases, the Judge may require the trial attorney to provide a substitute trial attorney.

- (d) Motions Practice: All motions, except those normally made at trial, shall be in writing, served on opposing counsel, and made within the time limits prescribed in the Ohio Rules of Civil Procedure. Motions will be supported by Memorandum of Law containing applicable statutory and case law citations. A date and time for evidentiary hearings shall be set by the Assignment Commissioner. Parties wishing to respond in writing to such motions shall do so no later than the fourteenth (14<sup>th</sup>) day following service of the motion or three (3) days prior to the oral hearing date, if an oral hearing has been requested, whichever is earlier. All motions not heard or decided prior to trial will be disposed of at trial. All motions where an oral hearing is not required shall be accompanied by a proposed entry.

### 13.00 TRIAL BRIEFS AND JURY INSTRUCTIONS

Trial Briefs and Jury Instructions shall be filed on all jury cases seven (7) days prior to trial and shall include the text and citations of authority for any instructions requested by counsel. Trial Briefs are also required for non-jury cases when there is substantial conflict of views as to specific questions of law or when the Judge so requests.

### 14.00 DEFAULT JUDGMENT

All Motions for Default Judgment shall be in writing and clearly state the date the complaint was filed, how service was made, proof of service and answer date. All Motions for Default Judgment shall also contain a list of all damages supported by documentary or other evidence. A proposed entry shall

accompany the motion. An oral hearing may be required at the discretion of the trial Judge or where an appearance has been made.

#### 15.00 FORCIBLE ENTRY AND DETAINER ACTIONS

- (a) Complaint: All Forcible Entry and Detainer Complaints must include a copy of any written lease agreement and notice to vacate the premises.
- (b) Appearance: Plaintiff's failure to appear will result in the case being dismissed without prejudice. Defendant's failure to appear after having been duly served will result in a Writ of Restitution for the premises.
- (c) Trial by Jury will be deemed waived unless demand is made and the appropriate deposit paid before date of appearance, as set forth on the summons.
- (d) The prevailing party shall prepare and submit a Judgment Entry to the Judge on the day of the hearing.
- (e) Praecipe for Writ of Restitution: The plaintiff shall file with the Clerk a praecipe for a Writ of Restitution within fifteen (15) days after the date of the judgment, unless the Judge issues the writ at the time of the hearing.
- (f) Writ of Restitution: Upon the receipt of the praecipe or order of the Court, the Clerk shall issue to the Hocking County Sheriff's Office a Writ of Restitution for the premises and the Sheriff shall execute the writ within ten (10) dates unless a written motion for stay has been filed.
- (g) Set-out Procedure: Should actual, physical eviction of property be required pursuant to Writ of Restitution of premises, plaintiff shall arrange for sufficient workers to be present to accomplish the set out, under the supervision of the Sheriff, subject to the appropriate security deposits.

#### 16.00 BMV PETITIONS

Counsel or a Petitioner who files a complaint appealing a BMV suspension shall attach an affidavit signed by the petitioner setting forth matters necessary to consider limited driving privileges. As examples only home address, employer's business name and address, days and hours, business vehicles and reasons for driving during work hours.

#### 17.00 DISMISSAL FOR FAILURE TO PROSECTUE

Civil cases in which service of summons has been perfected, which have pended for sixty (60) days and no answer or responsive pleading has been received, shall be dismissed after written notice to counsel of record or the parties, for want of prosecution, unless good cause is shown to the contrary.

#### 18.00 CIVIL CASE MANAGEMENT

- (a) Purpose: The purpose of this rule is to establish, pursuant to Sup. R. 36 a system for civil case management, which will achieve the prompt and fair disposal of civil cases.
- (b) Clerical Steps:

- (1) Complaint: The Clerk shall process all complaints within seven (7) days for service of summons. All cases filed will be tracked by event in accordance with the Supreme Court reporting requirements, utilizing the worksheet provided by the Ohio Supreme Court.
- (2) Summons: Summons shall be served in accordance with the Ohio Rules of Civil Procedure.
- (3) Failure of Service: If a service of the Summons and Complaint is not made upon a Defendant within six (6) months after the filing of the Complaint and the party on whose behalf such service was required cannot show good cause why such service was not made within that period, the action shall be dismissed as to that Defendant, without prejudice, upon the Court's own initiative with notice to such party of upon motion. This Local Rule shall not apply to out-of-state service, pursuant to Ohio CIV R 4.3 or to service in a foreign country, pursuant to Ohio CIV R 4.5. In the event there is a failure of service, the Clerk shall notify counsel immediately, in accordance within Rule 4.1 of the Ohio Rules of Civil Procedure.
- (4) Responsive Pleading: After any responsive pleading is filed, the Clerk shall immediately forward the file to the Judge for assignment and/or scheduling.
- (5) Motions: Upon the filing of a motion, the Clerk shall immediately forward the motion and case file to the Judge for review.

(c) Judicial Steps:

- (1) Motions: After review of Motion(s) filed, the Assignment Commissioner shall schedule an order or non-oral hearing, if appropriate. If a hearing is not scheduled, the file shall be returned to the Clerk's office after a ruling has been issued by the Judge.
- (2) Scheduling: In all cases where no answer, pleading or other pleading has been filed, or where no service has been obtained, it shall be the duty of the complainant or his/her attorney to file the appropriate default entry or attempt additional methods of service. After an answer is filed, the Clerk shall immediately forward the case file to the Judge so that the case can be assigned and set for trial by the Judge.
- (3) Pretrial Procedure: In cases where a jury has been demanded, the case shall be set for a pretrial conference. A pretrial may be scheduled in non-jury cases at the discretion of the Judge. It shall be the duty of counsel to do the following at civil pretrial hearings:
  - i. Appearance: The counsel who will be trial counsel and who is authorized to act and negotiate on behalf of the party must be present.
  - ii. All parties in interest must be present at the pretrial unless such presence is excused by the Judge. Telephone conferences may be arranged with approval of the Judge.

- iii. If the defense is being presented by an insurer, a representative of the casualty company should attend the pretrial conference and, in that event, it will not be necessary for the defendant to be personally present.
  - iv. Pretrial Statements: Each counsel shall present to the Court in writing three (3) days before a pretrial hearing, a statement of the issues involved; whether or not a jury trial previously demanded will now be waived and if not, the number of jurors demanded; whether the case is one where the issue of liability should be tried separately with a subsequent trial on the issue of damages, if liability should be found; estimate of trial time; discovery difficulties; exhibits; an itemization of special damages; witnesses; other matters which it is expected will be involved in the case; and whether a view is requested. Counsel will have in their Pretrial reasonable notice to opposing counsel to the contrary, only those witnesses listed in the Pretrial Order will be permitted to testify at the trial. The only exceptions will be witnesses solely for the purpose of impeachment, rebuttal, or other witnesses permitted to be called upon the showing of good cause. All Pretrial Statements must contain certificates of service.
  - v. Exhibits: Each counsel shall bring to the pretrial conference all exhibits that are expected to be offered in evidence at the trial. Except for good cause shown, the Court will not permit the introduction of any exhibits unless they have been listed in the Pretrial Order, with the exception of exhibits to be used solely for the purpose of impeachment.
- (4) Court Trials/Jury Trials: At the completion of the pretrial hearing, the trial date shall be scheduled by the Assignment Commissioner to be held within ninety (90) days of the pretrial conference. Trial by Jury will be deemed waived unless demand is made and the appropriate deposit paid before date of appearance, as set forth on the summons.

#### 19.00 SPECIAL PROCEEDING CASE MANAGEMENT

The purpose of this rule is to establish, pursuant to Sup. R. 36, a case management system for special proceedings to achieve a prompt and fair disposition of these matters. Examples of special proceedings would include default hearings, rent escrow, replevin, contempt hearings, garnishment hearings, debtor's exams, and BMV hearings.

Cases that have time limits established by the Ohio Revised Code or the Ohio Rules of Civil Procedure shall be set for hearing within those time limits. In all other special proceedings, the case shall be set for hearing within a reasonable time not to exceed ninety (90) days.

#### IV. SMALL CLAIMS DIVISION

##### 20.00 AUTHORITY

The Small Claims Division of the Hocking County Municipal Court is established and operated pursuant to Chapter 1925 of the Ohio Revised Code and the Rules of Court of the Hocking County Municipal Court.

##### 21.00 PURPOSE

The purpose is to allow the public to resolve minor money disputes quickly, inexpensively, and fairly without requiring an attorney's involvement.

- (a) Types of Cases: The Small Claims Division handles all types of cases involving amounts less than \$6,000.00. These include landlord-tenant, unpaid accounts, defective merchandise, minor traffic accident repair costs, overcharge of service, and minor property damage.

##### 22.00 JURISDICTION

- (a) Territorial: The defendant must live in Hocking County, have his/her place of business in the county, or the transaction has taken place in the county.
- (b) Monetary: It must be for money only and not exceed \$6,000.00 on plaintiff's complaint or \$6,000.00 on the defendant's counterclaim.

##### 23.00 DUTIES OF COUNSEL/PARTIES AND COURT

- (a) Filing of Complaint: A complaint is filed by the plaintiff along with supporting documents. The plaintiff must bring with him/her two (2) copies of any documents supporting his/her claim and plaintiff must have the current address of defendant. The plaintiff shall also file, at the time of filing the complaint, a request for regular mail service in the event of failure of certified mail service.
- (b) All Small Claims Complaints filed in this Court shall be numbered consecutively and shall carry the case suffix of CVI. Claims filed shall be entered into the Small Claims docket as numbered and indexed in the General Civil Index. The Clerk and her deputies shall assist persons in filing claims, docketing the same, setting them for hearing and receiving court cost deposits. In addition, the Clerk and her deputies are responsible for scheduling the case with the Judges calendar for hearing.
- (c) Failure of Service of Defendants: Upon failure of service on the defendant(s), the Clerk shall notify the plaintiff that the case will be dismissed within sixty (60) days unless the plaintiff has a new address for the defendant(s).

- (d) Counterclaims: Counterclaims filed by the defendant against the plaintiff for a sum arising out of the same incident are not to exceed \$6,000.00, in order to remain in the Small Claims Court. If you file a counterclaim with the Court, you must serve the plaintiff and all other parties with a copy of the counterclaim at least seven (7) days prior to the date of the Small Claims hearing.
- (e) Contested Hearings: Proceedings are informal and shall be recorded. Plaintiff's failure to appear will result in dismissal without prejudice. Defendant(s) failure to appear for the contested hearing will result in a default judgment for the plaintiff.

#### 24.00 TRANSFER TO THE CIVIL DIVISION

A transfer to the Civil Division is accomplished pursuant to Section 1925.10 of the Ohio Revised Code and the payment of the appropriate filing fee.

#### 25.00 SMALL CLAIMS CASE MANAGEMENT

Hocking County Municipal Court Rule 18 shall also apply to the management of the Small Claims cases.

### **V. TRUSTEESHIPS**

#### 26.00 AUTHORITY

This rule shall apply whenever a person applies to the Court for an appointment of a Trustee pursuant to ORC 2329.70

#### 27.00 DUTIES OF APPLICANT-DEBTOR, CREDITOR AND COURT

- (a) An applicant-debtor shall complete an application under oath containing names of all secured and unsecured creditors with liquidated claims, creditor's, or collector's complete mailing addresses, account numbers and amount due. Further, the debtor shall list his/her employer, the employer's address and telephone number, present salary, amount per pay period and the pay period, statement of dependents, if there was a previous trusteeship, and the reasons for the termination.
- (b) The applicant-debtor shall deposit the appropriate fee for processing, provide the clerk pay stubs from the most recent thirty (30) days of work, and a copy of the fifteen-day notice of garnishment (ORC 2716.02). The application and appointment of Trustee are approved upon the filing of the journal entry.
- (c) The application should be filed within fifteen (15) days of the service of the demand on the debtor. The debtor must be a resident of Hocking County or a non-Ohio resident earning wages in Hocking County.

- (d) No debt for less than \$50.00 shall be included in the Trusteeship. Once the debts are reduced to the amount of \$50.00, the Trustee shall pay that debt in full on the next distribution.
- (e) The Trusteeship Clerk shall notify each creditor listed on the application, by certified mail that an application of the appointment of a Trustee has been filed and require verification of all information regarding the account provided by the debtor.
- (f) Any creditor who holds a chattel mortgage or any other lien or encumbrance may elect to participate by filing the election and agreement with the debtor, or with the Court. If the secure creditor does not wish to participate, an objection shall be filed; otherwise, failure to answer within ten (10) days of the notice shall be held by the Court as an election to participate. Secured creditors will be stopped from asserting their liens as long as the debtor maintains his/her agreement. Unsecured creditors must answer or they will not participate in the distribution of funds. Creditors will be prohibited from garnishing personal earnings once the Judge approves the application for trusteeship. The trusteeship does not prevent collection against other non-exempt property.
- (g) The debtor shall pay to the Trustee the lesser of:
  - (1) Personal earnings less exemptions per law, or
  - (2) 25% of personal earnings

Withheld amounts such as union dues, credit union charges, insurance, or child support shall not be included in computation of personal earnings. Payments to the Trustee shall be made on the same basis as the debtor is paid.

- (h) Payment shall be made cash, check, certified check or money order on or before date due and not less than the amount specified by the Court. Direct payment to creditors will not be considered as an excuse. Reductions in pay, loss or change in employment, or change in address must be reported immediately in writing to the Trustee. In the event, a payment is unable to be made, a motion and affidavit shall be filed with the Court on or before payment is due. If the debtor is unemployed, a minimum payment of \$10.00 per week shall be paid. The debtor shall be required, to provide verification of personal earnings every six (6) months. Failure to do so will result in termination of the trusteeship.
- (i) Any trusteeship that has payments past due for a period of fifteen (15) days will be notified of pending dismissal. After sixty (60) days from a missed payment, the trusteeship will be terminated without notice. The debtor may not re-open or file for a new trusteeship within six (6) months unless the debtor can show that the failure to pay was not due to willful negligence.
- (j) Funds shall be distributed to creditors after a sum of \$750.00 has been accumulated or six (6) months has passed, whichever occurs first. A fee of two (2) percent of the distribution will be

assessed to cover the costs. The debtor shall receive notice of the amount distributed, and new balances due to the creditors.

- (k) If the debtor fails, through mistake of otherwise, to list a creditor, upon motion to the court, the creditor may be added to the list. The motion shall be in writing with notice to the non-moving party. Any creditor, who becomes a creditor after the appointment of the Trustee, shall share in distribution made by the Trustee after the next ensuing distribution. No debts incurred after the appointment shall be added and may result in termination of the trusteeship.
- (l) An attorney at law representing a debtor for the appointment of a Trusteeship shall be permitted to include his/her claim for services. The first \$150.00 of the fee shall be given priority in payment over all creditors. The balance fee shall be paid as all other creditors in subsequent distributions.
- (m) If any interest was included in the liquidated claim, said sums shall be collected and distributed unless otherwise agreed between the creditor and debtor. Penalties shall not be included or collected.
- (n) Married couples may file a joint application for appointment of a Trustee and each must provide wage stubs and make payments into the trusteeship. However, any subsequent divorce will terminate the trusteeship. The termination of the trusteeship shall not prevent an approval of a new trusteeship within six (6) months of termination.

## VI. COURT RECORDS MANAGEMENT AND RETENTION

### 28.00 GENERAL GUIDELINES

#### 28.01 Applicability

- (a) This rule and Local Rule 29 and 30 are intended to provide minimum standards for the production, maintenance, preservation and destruction of records within the courts and to authorize alternative electronic methods and techniques. Implementation of this rule and Local Rule 29 and 30 is a judicial governmental function.
- (b) This rule and Local Rule 29 and 30 shall be interpreted to allow for technological enhancements that improve the efficiency of the court and product, maintenance, preservation and destruction of court records.

#### 28.02 Definitions

As used in this rule and in Local Rule 29 and 30:

- (a) "Administrative record" means a record not related to cases of a court that documents the administrative, fiscal, personnel, or management functions of the court.



- (b) "Case file", means the compendium of original documents filed in an action or proceeding in a court, including the pleadings, motions, orders, and judgment of the court on a case-by-case basis.
- (c) "Index", means a reference record used to locate journal, docket, and case file records.
- (d) "Journal" means a verbatim record of every order or judgment of a court.
- (e) "OHS" means the Ohio Historical Society, State Archives Division.
- (f) "Record" means any document, device, or item, regardless of physical form or characteristic, created or received by or coming under the jurisdiction of a court that serves to document the organization, functions, policies, decisions, operations, or other activities of the Court.

#### 28.03 Combining records

Notwithstanding any other provisions of the law, a court may combine indexes, dockets, journals, and case files provided that the combination contains the component of indexes, dockets, journals, and cases filed as defined in this rule and Local Rule 29 and 30. A court may replace any paper bound books with an electronic medium or microfilm in accordance with this rule.

#### 28.04 Allowable Record Media

- (a) A court may create, maintain, receive record, copy, or preserve a record on traditional paper media, electronic media, including tax or digital images, or microfilm, including output to microfilm.
- (b) A court may create, maintain, receive, record copy, or preserve a record using any nationally accepted records and information management process, including photography, microfilm, and electronic data processing as a alternative to paper. The process may be used in regard to the original or a copy of a record if the process produces an accurate record or copy and the process complies with the American National Standards Institute (ANSI) standards and guideline, or, in the event that ANSI standards cease to exist, other nationally accepted records and information management process standards.
  - (1) If the court creates, maintains, receives, records, copies or preserves a record using a record and information management process in accordance with the schedules set forth in Local Rule 29 and 30, the court shall cause a back-up copy of the record to be made at periodic and reasonable times to insure the security and continued availability of the information. If Local Rule 29 to 30 requires the record to be retained permanently, the back-up copy shall be stored in a different building than the record it secures.

- (2) Records shall be maintained in conveniently accessible and secure facilities, and provisions shall be made for inspection and copying any public records in accordance with applicable statutes and rules. Machines and equipment necessary to allow inspection and copying of public records, including public records that are created, maintained, received, recorded, copied, or preserved by alternative records and information management process in accordance with division 28.04(b) of this rule shall be provided.
- (3) In accordance with applicable law and purchasing requirements, a court may acquire equipment, computer software, and related supplies and services for records and information management processes authorized by division 28.04(b) of this rule.
- (4) Paper media may be destroyed after it is converted to other approved media in accordance with this rule.

#### 28.05 Destruction of Records

- (a) Subject to the notification and transfer requirements of divisions 28.05(b) and (c) of this rule, a record and any back-up copy of a record produced in accordance with division 28.04(b) of this rule may be destroyed after the record and its back-up copy have been retained for the applicable retention period set forth in Local Rule 29 and 30.
- (b) If Local Rule 29 to 30 set forth a retention period greater than ten (10) years for a record, or if a record was created prior to 1960, the court shall notify the OHS in writing of the court's intention to destroy the record at least sixty (60) days prior to the destruction of the record.
- (c) After submitting a written notice in accordance with division 32.05(b) of this rule, the court shall, upon request of the OHS, cause the record described in the notice to be transferred to the OHS, or to an institution or agency that meets the criteria of the OHS, in the media and format designated by the OHS.

#### 28.06 Exhibits, depositions and transcripts

At the conclusion of litigation, including time for direct appeal, a court or custodian of exhibits, depositions, or transcript may destroy exhibits, depositions, and transcripts if all of the following conditions are satisfied.

- (a) The Court notifies the party that tendered exhibits, depositions, or transcripts within sixty (60) days from the date of the written notification.

- (b) The written notification required in division 28.06(a) of this rule informs the party that tendered the exhibits, depositions, or transcripts that the exhibits, depositions, or transcripts will be destroyed if not retrieved within sixty (60) days of the notification;
- (c) The written notification required in division 32.06(a) of this rule informs the party that tendered the exhibits, depositions or transcripts of the location for retrieval of the exhibits, depositions, or transcripts;
- (d) The party that tendered the exhibits, depositions, or transcripts does not retrieve the exhibits, depositions, or transcripts within sixty (60) days from the date of the written notification required in division 28.06(a) of this rule.
- (e) All audio/video tapes of court proceedings shall be retained permanently .

#### 28.07 Extension of retention period for individual cases files

All court may order the retention period for an individual case file extended beyond the period specified in Local Rule 29 to 30.

#### 29.00 RETENTION SCHEDULE FOR ADMINISTRATIVE RECORDS OF THE COURT

The following retention schedule apply for the administrative record of the court:

##### 29.01 Administrative Journal

Administrative journals that consist of court entries, or a record of court entries, regarding policies and issues not related to cases shall be retained permanently.

##### 29.02 Annual report and Auditor reports

Two copies of each annual report shall be retained permanently. One copy of the auditor report shall be retained permanently.

##### 29.03 Bank records

Bank transaction records, whether paper or electronic, shall be retained for three (3) years or until the issuance of an audit report by the Auditor of State, whichever is later.

##### 29.04 Cash Books

Cash Books, including expense and receipt ledgers, shall be retained for three (3) years or until the issuance of an audit report by the Auditor of State, whichever is later.

#### 29.05 Communication Record

Communication records, including routine telephone messages on any medium where official action will be recorded elsewhere, may be destroyed in the normal course of business as soon as they are considered to be of no value by the person holding the records.

#### 29.06 Correspondence and general office records

Correspondence and general office records, including all sent and received correspondence, in any medium, may be destroyed in the normal course of business as soon as they are considered to be of no value by the person holding the records.

#### 29.07 Drafts and informed notes

Drafts and informal notes consisting of transitory information used to prepare the official record in any other form may be destroyed in the normal course of business as soon as they are considered to be of no value by the person holding the records.

#### 29.08 Employment applications

Employment applications for posted or advertised positions shall be retained for two (2) years.

#### 29.09 Employee benefit and leave records

Employee benefits and leave records, including court office copies of life and medical insurance records, shall be retained by the appropriate fiscal officer for three (3) years or until the issuance of an audit report by the Auditor of State, whichever is later.

#### 29.10 Employee history and discipline records

Records concerning the hiring, promotion, evaluation, attendance, medical issues, discipline, termination, and retirement of court employees shall be retained for ten (10) years after termination of employment.

#### 29.11 Fiscal records

Fiscal records, including copies of transactional budgeting and purchasing documents maintained by another office or agency, shall be retained for three (3) years or until the issuance of an audit report by the Auditor of State, whichever is later. Rent escrow account records shall be retained for five (5) years after the last deposit.

#### 29.12 Grant records

Records of grants made or received by a court shall be retained for three (3) years after expiration of the grant.

#### 29.13 Payroll records

Payroll records of personnel time and copies of payroll records maintained by another office or agency shall be retained for three (3) years or until the issuance of an audit report by the Auditor of state, whichever is later.

#### 29.14 Publication received

Publications received by a court may be destroyed in the normal course of business as soon as they are considered of no value by the person holding the publications.

#### 29.15 Receipt records

Receipt and balancing records shall be retained for three (3) years or until the issuance of an audit report by the Auditor of State, whichever is later.

#### 29.16 Requests for proposals, bids and resulting contracts

Requests for proposals, bids received in response to a request for proposal, and contracts resulting from a request for proposal shall be retained for three (3) years after the expiration of the contract that is awarded pursuant to the request for proposal.

### 30.00 RETENTION SCHEDULE FOR THE JUDICIAL RECORDS OF THE COURT

#### 30.01 Definitions

- (a) As used in Sections 28.02 to 28.06, “divisions” means the Hocking County Municipal Court.
- (b) As used in sections 28.02 to 28.06 “docket” means the record where the clerk of the division enters all of the information historically included in the appearance docket, the trial docket, the journal and the execution docket.

#### 30.02 Required records

- (a) The division shall maintain an index, docket, journal and case files in accordance with Local Rule 28.02, 29.01 and this Local Rule 30.

- (b) Upon the filing of any paper or electronic entry permitted by the division, a stamp or entry shall be placed on the paper or electronic entry to indicate the day, month and year of filing.

### 30.03 Content of docket

The docket of the division shall be programmed to allow retrieval of orders and judgments of the division in a chronological as well as a case specific manner. Entries in the docket shall be made as events occur, shall index directly and in reverse the names of all parties to cases in the division, shall include:

- (a) Names and addresses of the parties in full;
- (b) Names, addresses, and Supreme Court attorney registration numbers of all counsel;
- (c) The issuance of documents for service upon a party and the return of service or lack of return;
- (d) A brief description of all records and orders filed in the proceeding, the time and date filed, and a cross reference to other records as appropriate;
- (e) A schedule for court proceedings for the division and its officers to use the case management;
- (f) All actions taken by the division to enforce orders or judgments; and
- (g) Any information necessary to document the activity of the clerk of the division regarding the case.

### 30.04 Retention schedule for the index, docket and journal

The index, docket, and journal of the division shall be retained for twenty-five (25) years.

### 30.05 Judge, Magistrate, Clerk notes, drafts and research

Judge, Magistrate, and Clerk notes, drafts, and research prepared for the purpose of compiling a report, opinion, or other documents or memorandum may be kept separate from the case file, retained in the case file, or destroyed at the discretion of the preparer.

### 30.06 Retention schedule for case files

- (a) Cases of matters that resulted in a final judgment determining title or interest in real estate shall be retained permanently.
- (b) Search warrant records shall be indexed and the warrant and returned retained in their original form for five (5) years after the date of service or last service attempt.

- (c) Case files of matters that are voluntarily dismissed shall be retained for three (3) years after the date of dismissal.
- (d) OVI cases files; during under the influence of alcohol or drug (“OVI”) case files shall be retained for fifty (50) years after the date of the final order of the court.
- (e) Civil cases for two (2) years after audit.
- (f) Parking tickets until paid or after audit.
- (g) Minor Misdemeanor Traffic and Criminal case files; Minor Misdemeanor traffic and minor misdemeanor criminal case shall be retained for fifty (50) years after the final order of the Municipal or County court or one (1) year after the issuance of an audit report by the Auditor of State, whichever is later.
- (h) First through Fourth Degree Misdemeanor Traffic and Criminal case files; First through fourth degree misdemeanor traffic and criminal case files shall be retained for fifty (50) years after the date of the final order of the Municipal or County Court or one (1) year after the issuance of an audit report by the Auditor of State, whichever is later.

## VII. JURY MANAGEMENT PLAN

### 31.00 ADMINISTRATION OF THE JURY SYSTEM

The responsibility for administration of the jury system shall be vested in the Bailiff of the Hocking County Municipal Court, who shall coordinate all procedures. All procedures concerning jury selection and service shall be governed by Ohio Rules of Court and appropriate statutes.

### 32.00 OPPORTUNITY FOR SERVICE

The opportunity for jury service shall not be denied or limited on the basis of race, national origin, gender, age, religious belief, income, occupation, disability, or any other factor that discriminates against a cognizable group in the jurisdiction.

Jury service is an obligation of all qualified citizens of Hocking County, Ohio.

### 33.00 ELIGIBILITY FOR JURY SERVICE

To ensure that the jury panels are representative of the adult population of Hocking County, Ohio, all qualified citizens of Hocking County are eligible to serve on a jury.

All persons shall be eligible for jury service except those who:

- (a) Are less than eighteen years of age;
- (b) Are not citizens of the United States;
- (c) Are not residents of the jurisdiction in which they have been summoned to serve, to-wit:  
Hocking County;
- (d) Are not able to communicate in the English Language; or
- (e) Have been convicted of a felony and have not had their civil rights restored.

All reasonable efforts shall be made to accommodate prospective jurors who have special needs.

#### 34.00 JUROR USE

The Court shall employ the services of prospective jurors so as to achieve optimum use with a minimum of inconvenience to jurors and prospective jurors.

The Court shall determine the minimally sufficient number of prospective jurors needed to accommodate trial activity. This information and appropriate management techniques should be used to adjust both the number of individuals summoned for jury service and the number of assigned to jury panels.

#### 35.00 JURY SIZE AND UNANIMITY OF VERDICT

Jury size and unanimity in civil and criminal cases shall conform to existing Ohio law.

#### 36.00 JURY FACILITIES

The Court shall provide an adequate and suitable environment for jurors. The entrance and registration area shall be clearly identified and appropriately designed to accommodate the flow of prospective jurors into the court facilities. Jurors shall be accommodated in pleasant waiting facilities furnished with suitable amenities. Jury deliberation rooms shall include space, furnishings, and facilities to conducive to reaching a fair verdict. The safety and security of the deliberation rooms shall be ensured. To the extent of feasible, juror facilities should be arranged to minimize contact between jurors, parties, counsel, and the public.

#### 37.00 JUROR COMPENSATION

Persons summoned for jury service shall receive a reasonable fee for their service and expenses. Such fees shall be paid promptly at the end of the juror's term of service.

Employers shall be prohibited from discharging, laying-off, denying advancement opportunities to, or otherwise penalizing employees who miss work because of jury service.



The term of service for any prospective panel shall be the shortest period consistent with the needs of justice.

#### 38.00 PROCEDURE FOR JUROR SELECTION

Upon request, Hocking County Board of Elections shall, by random selection from their source, provide to the Hocking County Municipal Court, a computer print-out and computer disk of a pre-determined number of prospective jurors for each term of court.

Further, random selection processes shall be utilized to assign prospective jurors to specific panels. Departures from random selection shall be permitted only as follows:

- (a) To exclude persons for ineligible for service.
- (b) To excuse or defer prospective jurors
- (c) To remove prospective jurors for cause or if challenged peremptorily.
- (d) To provide all prospective jurors with an opportunity to be called for jury service and to be assigned to a panel.

#### 39.00 NOTIFICATION OF SELECTION FOR JURY SERVICE

All prospective jurors shall be notified by regular mail of their requirement of service by the issuance of a summons directing them of their service term. Further, all prospective jurors shall be required to complete a Juror Questionnaire.

The summons shall be phrased so as to be readily understood by an individual unfamiliar with the legal process, and shall be delivered by ordinary mail. Said summons shall clearly explain how and when the recipient must respond and the consequences of his/her failure to respond.

The jury questionnaire should be phrased and organized so as to facilitate quick and accurate screening and should request only that information essential for determining whether a person meets the criteria for eligibility; providing basic background information ordinarily sought during voir dire examination; and efficiently managing the jury system.

#### 40.00 TERM AND AVAILABILITY FOR JURY SERVICE

The time that jurors are called to serve and be available for service should be the shortest period consistent with the needs of justice. Generally jurors shall serve one day unless required and ordered by the Court. Prospective jurors shall be summoned via telephone at the numbers listed on their questionnaire one week prior to the date in which they are needed to serve. If they are not needed to serve, prospective jurors shall be put back into the jury pool for potential service at a subsequent date.

#### 41.00 EXEMPTION, EXCUSE OR DEFERRAL

Prospective jurors with automatic exemptions shall be removed from the prospective panel by the bailiff. Eligible persons who are summoned may be excused from service only if it is determined that their ability to receive and evaluate information is so impaired that they are unable to perform their duties as jurors, or that service upon a jury would constitute a significant hardship to them or members of the public. Persons excused from service may be deferred and may be subject to jury service at a later time. All requests for excuse or deferral must be made on the form provided, and shall be accompanied by appropriate documentation. These documents shall be retained by the Court.

The following factors constitute a partial, although not exclusive, list of excuses for which a person may be excused or deferred from jury service:

- (a) Any person who suffers from a substantial physiological or psychological impairment.
- (b) Any person who has a scheduled vacation or business trip during potential jury service that was scheduled prior to receiving their summons.
- (c) Any person for whom jury service would constitute a substantial economic hardship
- (d) Any person for whom service on a jury would constitute a substantial hardship on their family, clients, or members of the public affected by the prospective juror's occupation.
- (e) Any person who has served on a jury within the last year.
- (f) Any person for whom it may be readily determined is unfit for jury service.
- (g) Any person for whom it is already apparent would be unable to perform their duty as a juror.
- (h) Other valid excuse.

No person shall be excused from jury service, except by the Judge or an individual specifically authorized to excuse jurors. Once a prospective juror has submitted his/her request for excuse or deferral, the prospective juror must report for service unless otherwise notified by the Court.

#### 42.00 JUROR ORIENTATION

The Court shall have an orientation program designed to increase prospective jurors' understanding of the judicial system and prepare them to serve competently as jurors. The orientation program shall be presented to prospective jurors in a uniform and efficient manner using a combination of written, oral, and audiovisual materials.

Jurors shall report for service no later than 8:45 a.m., unless otherwise directed. Upon appearance for service, all prospective jurors shall be identified by wearing a Juror Badge, be placed under the supervision of assigned personnel, and shall direct any questions or communications to such court personnel for appropriate action.

#### 43.00 VOIR DIRE

Examination of prospective jurors shall be limited to matters relevant to determining whether to remove a juror for cause, and to determine the juror's fairness and impartiality.

All prospective jurors shall be placed under oath in accordance with the Ohio Revised Code. The oath administered shall incorporate an oath to assure the truthfulness of the answers provided on jury questionnaires.

Juror Questionnaires containing basic background information concerning panel members shall be made

available to counsel seven (7) days prior to the trial. The Court's copies of questionnaires shall be returned to the Court immediately upon the completion of trial. Under no circumstances may counsel or a party retain any jury questionnaires or copies of questionnaires.

Neither counsel nor parties will be permitted to question prospective jurors as to matters contained in questionnaire, but are permitted to ask follow-up questions concerning such information.

Juror responses to questions contained in the questionnaires may be subject to public disclosure, except for phone numbers and e-mail addresses.

The Court shall conduct a preliminary voir dire examination concerning basic and relevant matters, and counsel shall be permitted a reasonable period of time to question panel members. Counsel or parties shall conform their voir dire questioning to the following rules.

- (a) Counsel may not examine prospective jurors concerning anticipated instructions or theories of law. This does not prevent general questions concerning the validity and philosophy of reasonable doubt or the presumption of innocence.
- (b) Counsel may not argue the case while questioning jurors.
- (c) Counsel may not engage in efforts to indoctrinate jurors.
- (d) Jurors may not be asked what kind of verdict they might return under any circumstance. No promises may be elicited from jurors.
- (e) Questions are to be asked collectively of the panel whenever possible.

In the event there exists a potential for sensitive or potentially invasive questions, the Court or the parties may request a hearing preceding voir dire to consider these questions. In all cases, voir dire shall be held on the record, but may be conducted outside the premises of other jurors in all to protect juror privacy, or to avoid juror embarrassment.

#### 44.00 REMOVAL FROM THE JURY PANEL FOR CAUSE

If it is determined by the Court during the voir dire process that an individual is unable to or unwilling to sit in a particular case fairly and impartially, the individual shall be removed from the panel. Such motion for revocation for cause may be made by counsel, a party if unrepresented, or upon the motion of the Court. Further, Ohio Revised Code Section 2313.42 and Ohio Criminal Rules of Procedure 24(B) set forth additional challenges for cause which may be made against potential jurors.

#### 45.00 PEREMPTORY CHALLENGES

Peremptory challenges shall be exercised alternatively as presently established by Ohio Revised Code Section 2945.23, Civil Rule 47, and Criminal Rule 24. All challenges shall be made on the record. In special circumstances, challenges may be made outside the hearing of the prospective jurors. There shall be no limit to challenges for cause; however, peremptory challenges shall be limited to that number as established by the Rules of Civil and Criminal Procedure.

Challenges to the jury array shall be made in accordance with established rules of procedure.

In criminal cases, the jury shall consist of eight regular jurors and one alternate juror. In civil cases, the jury shall consist of six regular jurors and one alternate juror. In special circumstances, additional alternate jurors may be selected.

#### 46.00 INSTRUCTIONS BY THE TRIAL JUDGE

The Court shall give preliminary instructions to all prospective jurors, as well as additional instructions following the impaneling of the jury to explain the jury's role, trial procedures, along with other basic and relevant legal principles.

All communications between the Judge and the members of the jury panel, from the time of reporting to Court through dismissal, shall be committed to writing or placed on the record. Counsel for each party shall be informed of any communication, and shall be given the opportunity to be heard as to such communication. Under no circumstances shall counsel, a party, or other witnesses, have any contact with jurors.

Upon the completion of the case and prior to jury deliberations, the Court shall instruct the jury on the law and the appropriate procedures to be followed during the course of deliberations. In accordance with the Civil and Criminal Rules of Procedure, the parties or their counsel may request in writing that special instructions be given to the jury.

The final jury charge shall be committed to writing, and shall be provided to the jury for its use during deliberation. The jury instructions shall be returned to the Judge with the verdict form(s) and all exhibits, to be included in the court file.

All jurors shall be permitted to take notes during the course of the trial after proper instruction by the Court.

#### 47.00 JURY DELIBERATION

All jury deliberations shall be conducted in the jury deliberation room. Jury deliberation rooms shall include space, furnishings, and facilities conducive to reaching a fair verdict. Court personnel shall endeavor to secure the safety of all prospective jurors, and shall arrange and conduct all activities so as to minimize conduct between jurors, parties, counsel, and the public. Upon the commencement of deliberations, all jurors shall remain in the care of court personnel and shall not be permitted to leave the Municipal Court without permission.

Deliberations shall not continue after a reasonable hour, unless the Trial Judge determines that evening or weekend deliberations would not impose an undue hardship upon the jurors and are required in the interest of justice.

If jury deliberations are adjourned, jurors shall be permitted to be separated, unless for good cause shown, the Court finds that sequestration is necessary. If a jury is sequestered, the Court shall undertake the responsibility to oversee the conditions of sequestration and the transportation of all jurors.

Upon reaching a verdict, all jurors shall return to the courtroom where the verdict or verdicts shall be read in open court. Upon the reading of the verdict, in criminal cases, either party may request that the jury be polled.

#### 48.00 DISMISSAL OF THE JURY

Before dismissing a jury at the conclusion of a case, the Court should:

- (a) Release the jurors from their duty of confidentiality;
- (b) Explain their rights regarding inquiries from counsel, parties or the press;
- (c) Either advise them that they are discharged from service or specify when they must report; and
- (d) Express appreciation to the jurors for their service, but not express approval or disapproval of the result of the deliberation.

#### 49.00 COMPLETION OF SERVICE

Upon the completion of service, each juror shall be awarded a check for payment of the number of days served.

#### 50.00 FACSIMILE FILING RULE

Pleadings and other papers may be filed with the clerk by facsimile transmission to (740) 385-3826 as provided in this rule.

50.01 **Applicability.** This rule applies to civil, criminal, and small claims proceedings in the Hocking County Municipal Court

50.02 **Original Filing.** A document filed by fax shall be accepted as the effective original filing. The person filing a document by fax is not required to file any source document with the clerk. The person filing the document shall maintain in his or her records and have available for production on request by the court the source document filed by fax, with original signatures a otherwise required under the applicable rules, the source copy of the facsimile cover sheet used for the subject filing.

50.03 The source document filed by fax shall be maintained by the person making the filing until the case is closed and all opportunities for post judgment relief are exhausted.

50.04 **DEFINITIONS.** As used in these rules:

- (a) "Facsimile Transmission" means the transmission of a source document by a facsimile machine that encodes a document into optical or electrical signals, transmits and reconstructs the signals to print a duplicate of the source document at the receiving end. "Facsimile transmission" does not include transmission by e-mail.
- (b) "Facsimile Machine" means a machine that can send and receive a facsimile transmission.
- (c) "Fax" is an abbreviation for "facsimile" and refers, as indicated by the context, to facsimile transmission or to a document so transmitted.

50.05 **Cover Page.** The person filing a document by fax shall also include a cover page containing all of the following information: (See appendix N for sample cover page form)

- (A) Name of the court;
- (B) Title of the case;
- (C) Case number;
- (D) Name of the judge to whom the case is assigned, if any;
- (E) Title of the document being filed, (e.g. Defendant Jones' Answer to Amended Complaint; Plaintiff Smith's Response to Defendants' Motion to Dismiss; Plaintiff Smith's Notice of Filing Exhibit "G" to Plaintiff Smith's Response to Defendant's Motion to Dismiss);
- (F) Date of transmission;
- (G) Transmitting fax number;
- (H) Indication of the number of pages included in the transmission, including the cover page;
- (I) If a judge or case number has not been assigned, state that fact on the cover page;

- (J) Name, address, telephone number, fax number, Supreme Court registration number, if applicable, and e-mail address of the person filing the fax document if available;
- (K) If applicable, a statement explaining how costs are being submitted.

50.06 (A) If a document is sent by fax to the clerk without the cover page information listed above, the clerk may do either of the following:

- (1) Enter the document in the case docket and file the document
- (2) Deposit the document in a file of failed faxed documents with a notation of the reason for failure;

(B) If the Clerk acts pursuant to division (A)(2) of this section, the document shall not be considered filed with the clerk.

50.07 The clerk may inform the sending party of a failed fax filing.

50.08 Signature. A party who wishes to file a signed source document by fax shall do either of the following:

- (a) Fax a copy of the signed source document
- (b) Fax a copy of the document without the signature but with the notation “/s” followed by the name of the signing person where the signature appears in the signed source document.

50.09 A party who files a signed document by fax represents that the physically signed source document is in his or her possession or control.

The foregoing Local Rules of Court are hereby adopted for the Hocking County Municipal Court this, 29<sup>th</sup> day of January, 2017.

---

Judge Frederick T. Moses