

2019

# FINDLAY MUNICIPAL COURT



## Rules of Practice, Procedure and Administration

1/1/2019

**FINDLAY MUNICIPAL COURT, FINDLAY, OHIO**

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Rules of Practice, Procedure and Administration

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ORDER OF ADOPTION

**IT IS HEREBY ORDERED** that the following rules be adopted for conducting the business and regulating the practice and procedures of this Court, effective January 1, 2019, until otherwise ordered.

All previous rules are hereby rescinded.

These rules and orders shall be entered by the Clerk in the Journal.

APPROVED:



Mark C. Miller, Judge



Alan D. Hackenberg, Judge

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## **SECTION ONE: GENERAL RULES**

### **RULE 1.01 - COURT SECURITY**

The Findlay Municipal Court is charged with dispensing justice, resolving disputes and protecting the rights of those who appear before the Court. In fulfilling its obligations to the public, the Court recognizes that appropriate levels of security must exist in and around the Court for the safety and security of those who visit and work in the City of Findlay Municipal Building which houses the Court. The Court will endeavor to adhere to the Ohio Court Security Standards contained in Rule 9 of the Rules of Superintendence.

All persons entering the City of Findlay Municipal Building shall be subject to a security search regardless of whether they have business with the Findlay Municipal Court or elsewhere in the building. A security search shall occur for each visit to the City of Findlay Municipal Building, regardless of the visitor's purpose or the hour. Law enforcement personnel are exempt from this Rule when officers are acting within the scope of their employment. Persons accompanied by a law enforcement officer may also be exempt.

No weapons shall be permitted in the City of Findlay Municipal Building except those carried by court security officers, court probation officers, judges, and law enforcement officers who are acting within the scope of their employment. In all cases, law enforcement officers who are parties to a judicial proceeding as a plaintiff, defendant, witness, or interested party outside the scope of their employment are not permitted to bring weapons into the court facility.

### **RULE 1.02 - HOURS OF THE COURT**

The Findlay Municipal Court shall conduct its docket from 8:00 a.m. until 5:00 p.m. Monday through Thursday, and from 8:00 a.m. until noon on Friday. The Court shall conduct a Small Claims docket on Tuesdays commencing at 5:00 p.m.

The office of the Clerk of Court shall be open for business as follows:

Monday	8:00 a.m. until 5:30 p.m.
Tuesday	7:30 a.m. until 6:30 p.m.
Wednesday	7:30 a.m. until 5:30 p.m.
Thursday	7:30 a.m. until 5:30 p.m.
Friday	8:00 a.m. until Noon

The Court reserves the right to make temporary modifications based upon legal holidays, emergencies and any other unforeseen occurrences.

### **RULE 1.03 - TERM OF COURT**

There shall be no term of Court except in accordance with ORC §1901, except that for the purposes of computing time, 90 days following judgment shall be considered within term, and time thereafter shall be considered after term.

All actions, motions, or other business of the Court pending at the expiration of any term of court shall be continued to the following term without any special order.

### **RULE 1.04 - ASSIGNMENT OF JUDGE**

All cases shall be assigned to a judge by a random selection process approved by the Court, and which conforms to Rule 36 of the Rules of Superintendence for Municipal and County Courts, except as set forth herein.

Civil cases shall be assigned upon the filing of a complaint, however, if a civil case is dismissed other than on the merits and subsequently re-filed involving substantially all the same parties and/or issues, then said case will be re-assigned to the judge that the original case was assigned to. Upon the re-filing of a civil case, counsel shall notify the Clerk of Courts that the matter has been previously dismissed, whether it involves substantially the same parties and/or issues, and the judge to whom the prior case was assigned.

No complaint in a civil case shall be accepted for filing unless accompanied by a completed classification form known as the "Case Designation Sheet" that appears as Attachment A to these Rules. In the event of re-filing a matter that was previously filed and dismissed in the Findlay Municipal Court, the person filing the matter shall inform the Clerk of Courts of the re-filing and designate on the "Case Designation Sheet" the name of the Judge previously assigned to the matter. The Clerk of Courts may use the "Case Designation Sheet" for appropriate statistical purposes; however, the sheet need not be filed unless the included Request for Regular Mail Service is also signed.

Criminal and traffic cases shall be assigned upon the plea of not guilty. Traffic and criminal cases not subject to individual assignment shall be assigned to the "Duties Judge" as designated by the Court. Each judge shall be assigned to duties for a specified period of time as determined by the judges of the Findlay Municipal Court.

Cases assigned to different judges but involving the same parties or defendants may not be transferred without the approval of each judge. In the interests of justice, one judge of the Court may seek a transfer of a case or cases to another judge. All Orders of transfer shall bear a signature line for each judge. If, at the time of the filing of any traffic and/or criminal case, the defendant has a traffic and/or criminal case or cases pending, then the traffic and/or criminal case shall be assigned to the judge to whom the pending case(s) is/are assigned.

## **RULE 1.05 - MAGISTRATES**

The court may employ one or more magistrates, who shall be authorized to perform any duties permitted by the Ohio Rules of Civil Procedure and the Ohio Rules of Criminal Procedure. Magistrates are specifically authorized to hear the following matters unless otherwise ordered:

1. Small Claims proceedings under Chapter 1925 of the Ohio Revised Code;
2. Traffic misdemeanor arraignments, and dispose of such cases when there is a "guilty" or "no contest" plea;
3. Criminal misdemeanor arraignments, and dispose of such cases by way of a sentencing recommendation where there is a "guilty" or "no contest" plea;
4. Traffic minor misdemeanors trials when defendant waives trial by a judge;
5. Operator's license suspension hearings;
6. Status Conference hearings;
7. Forcible Entry and Detainer proceedings under Chapters 1923 and 5321 of the Ohio Revised Code, including second causes of action for money damages;
8. Other appropriate matters as referred by the Judges of the Findlay Municipal Court.

The magistrate in Traffic Court is designated an officer of the Court and is authorized to issue warrants and summons. [Crim. R. 4(A)(1)]

Objections to magistrate's report shall be made in accordance with the provisions of Civ. R. 53(E) and Crim. R. 19. In considering objections to magistrate's reports the Court shall only review evidence that was presented at the hearing before the magistrate. After considering the magistrate's report, the Court may adopt the report, sustain the objection, conduct an evidentiary hearing or remand the case to the magistrate for further fact finding.

## **RULE 1.06 - COURT EMPLOYEES**

No employee of the Court shall provide legal advice to any person in this court or any office connected to this court except in the Small Claims Court division, as specifically required by statute.

All employees shall be courteous to the public, and no court employee may reveal confidential matters to members of the public.

Any breach of employee conduct shall be reported to the presiding judge.

## **RULE 1.07 - COURT REPORTER**

Pursuant to Ohio Revised Code §1901.33, the Findlay Municipal Court may designate a person to act as the official court reporter.

Pursuant to Rule of Superintendence 11(A), all proceedings conducted in Findlay Municipal Court shall be recorded by audio electronic recording device. Transcripts from such

recordings may be obtained from the Official Court Reporter, if any, and costs for such transcripts may be set by the Court at a per page rate. Such costs shall not be taxed, but shall be paid directly to the official court reporter, except in cases where the defendant is indigent.

Any person who desires to have an official court reporter at any proceedings or trial shall make separate arrangements to have an independent court reporter in attendance. The name of such reporter shall be submitted to the Court, and prior approval for said person to transcribe the record must be obtained. In the event an independent court reporter is utilized, costs of said attendance and the transcription of any record, if necessary, shall be paid by the party requesting the independent court reporter.

Third parties seeking written transcripts of court proceedings shall contract directly with the court reporter, as prescribed in this Rule.

Upon application to the Court, and pursuant to ORC 2301.24, transcripts may be obtained at public expense for indigent criminal defendants. Costs of such transcript shall be paid for from the treasury of either the City or County, as the case may be. Such costs shall be taxed to the losing party.

#### **RULE 1.08 - RECORDS OF THE CLERK**

The Findlay Municipal Court Clerk's Office shall prepare and maintain the following dockets, books, and materials which shall be kept as public records of the Court:

- A. Criminal and Civil cases shall be accessible thru computerized records.
- B. A "General Index" series commencing with a "civil index" containing an alphabetical listing of all names of plaintiffs and defendants direct and reverse; a "small claims index" containing and an alphabetical list of all names of plaintiffs and defendants direct and reverse; a "criminal index" containing an alphabetical list of defendants names; a "traffic index" containing an alphabetical list of defendants names; "case files" consisting of a separate file folder, jacket or envelope for each case filed in which all individual documents filed in such case shall be securely inserted; "disposed of", such files shall be stored in numerical order until they can be lawfully discarded.
- C. A "Half Sheet" for each civil case shall be kept in the file. Each transaction and minute shall be entered upon said sheet by the trial judge or other authorized court personnel.
- D. A "Small Claims Court Docket" for the small claims court division.
- E. A "Trusteeship Record Book" showing receipts and disbursements in trusteeships.
- F. A "Record of Marriages" listing such ceremonies performed by the judges of this court.
- G. "Cash Books", one or more in the form approved by the Bureau of Inspections and Supervisors of Public Offices of the Auditor of the State showing all monies received by the Clerk's Office and disbursements and distributions of same and other data as may be required by the auditor's office.



- H. All information required by section 1901.14(D) of the Ohio Revised Code, and an annual report thereof to the judges of this court on or before January 25<sup>th</sup> of the succeeding year.
- I. All statistical data as the Judge may request shall be prepared and furnished by the Clerk's Office.
- J. Any other index or compilation as required by the Court.
- K. All records and transcripts of records of this Court shall be authenticated over the signature of the Clerk with the Seal of the Court affixed.
- L. Any dockets, books, and materials required by this Rule may be maintained by the Court Clerk in an electronic format, unless otherwise prohibited by law.

## **RULE 1.09 - RETENTION OF PUBLIC RECORDS**

### **Case Files:**

1. **Civil case files.** (A.) Civil case files for cases that have been dismissed or satisfied shall be retained for five years after the dismissal/satisfaction or issuance of an audit report by the Auditor of State, whichever is later. (B.) Dormant civil case files shall be retained for 15 years after dormancy, unless reactivated. (C.) Active civil case files shall be retained so long as they are active.
2. **Citizen Settlement Program** cases which shall be retained for 2 years.
3. **Minor misdemeanor traffic and minor misdemeanor criminal case files.** Minor misdemeanor traffic and minor misdemeanor criminal case files shall be retained for five years after the final order of the Court or one year after the issuance of an audit report by the Auditor of State, whichever is later.
4. **First through fourth degree misdemeanor traffic and criminal case files.** Except for OVI case files, first through fourth degree misdemeanor traffic files shall be retained for twenty-five years and criminal case files shall be retained for fifty years after the date of the final order of the Court or one year after the issuance of an audit report by the Auditor of State, whichever is later. After not less than 3 years after the date of the final order of the Court or one year after the issuance of an audit report by the Auditor of State, whichever is later, the original case file may be destroyed so long as the entire case file has been converted to an electronic storage format approved pursuant to the Ohio Supreme Court Rules of Superintendence.
5. **OVI case files.** Operating under the influence of alcohol or drug ("OVI") case files shall be retained for fifty years after the date of the final order of the Court.
6. **HTV cases** (Administrative License Suspension and Habitual Traffic Violator cases) shall be retained for two years after the date of the final order.
7. **OTH cases** (Foreign Bail Bonds, Application of Forfeiture, BMV Suspension request for driving privileges and Failure to Comply with Court Order cases) shall be retained for two years after the date of the final order.
8. **Extradition cases** shall be retained for two years after the date of the final order.
9. **Parking ticket records.** Parking ticket records shall be retained until the ticket is paid and the Auditor of State issues an audit report.
10. **Real Estate.** Case files of matters that resulted in a final judgment determining title or interest in real estate shall be retained permanently.

11. **Search warrant records.** Search warrant records shall be indexed and the warrants and returns retained in their original form for five years after the date of service or last service attempt.
12. All **sealed expungement records** shall be kept indefinitely.
13. Subject to all applicable provisions of the Ohio Revised Code and the Ohio Supreme Court Rules of Superintendence, all records may be converted to an electronic format for storage and retention. Unless a longer time is specified herein, once converted to an electronic format for storage and retention the original records may be destroyed as permitted by the Ohio Revised Code and the Ohio Supreme Court Rules of Superintendence.

#### **Court Administrative Records:**

1. **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.
2. **Annual reports.** Two copies of each annual report shall be retained permanently.
3. **Bank records.** Bank transaction records, whether paper or electronic, shall be retained for three years or until the issuance of an audit report by the Auditor of State, whichever is later.
4. **Cash books.** Cash books, including expense and receipt ledgers, shall be retained for three years or until the issuance of an audit report by the Auditor of State, whichever is later.
5. **Communication records.** 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.
6. **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.
7. **Drafts and informal 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 drafts and informal notes.
8. **Employment applications for posted positions.** Employment applications for posted or advertised positions shall be retained for two years.
9. **Employee benefit and leave records.** Employee benefit and leave records, including court office copies of life and medical insurance records, shall be retained by the appropriate fiscal officer for three years or until the issuance of an audit report by the Auditor of State, whichever is later.
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 years after termination of employment.
11. **Fiscal records.** Fiscal records, including copies of transactional budgeting and purchasing documents maintained by another office or agency, shall be retained for three years or until the issuance of an audit report by the Auditor of State, whichever is later.

12. **Grant records.** Records of grants made or received by a court shall be retained for three years after expiration of the grant.
13. **Payroll records.** Payroll records of personnel time and copies of payroll records maintained by another office or agency shall be retained for three years or until the issuance of an audit report by the Auditor of State, whichever is later.
14. **Publications received.** Publications received by a court 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 publications.
15. **Receipt records.** Receipt and balancing records shall be retained for three years or until the issuance of an audit report by the Auditor of State, whichever is later.
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 years after the expiration of the contract that is awarded pursuant to the request for proposal.

#### **Financial Records:**

1. **Auditor reports.** Auditor of State reports shall be retained permanently.
2. **Monetary records.** Monetary records shall be retained for three years after the issuance of an audit report by the Auditor of State.
3. **Rental escrow account records.** Rental escrow account records shall be retained for five years after the last date of deposit with the municipal or county court.
4. **Yearly reports.** Yearly reports shall be retained permanently.
5. **Retention schedule for the index, docket, and journal.** The index, docket, and journal shall be retained for twenty-five years.
6. **Judge, magistrate, and clerk notes, drafts, and research.** Judge, magistrate, and clerk notes, drafts, and research prepared for the purpose of compiling a report, opinion, or other document or memorandum may be kept separate from the case file, retained in the case file, or destroyed at the discretion of the preparer.

#### **Emails:**

Unless otherwise ordered by a Judge of the Court, it is the policy of the Findlay Municipal Court that emails will not be accepted for correspondence relating to administration of Court or case management. If the Court does consider an email for administrative or case management purposes, the communication shall be made into a hard copy, properly filed and then will be retained pursuant to this schedule. All other emails may be immediately disposed of by the recipient.

After the expiration of the above retention schedule, the Clerk of Findlay Municipal Court is authorized to destroy the record in any lawful manner deemed appropriate by the Clerk.

## **RULE 1.10 - PRESERVATION AND FILING OF PAPERS**

The Clerk's Office shall immediately file and carefully preserve all papers delivered to them for that purpose. Original papers shall not be taken from the files except by written order of the Court.

Original pleadings, documents, and required copies shall be retained by the Clerk's Office until a judge is assigned, pursuant to these rules. Additional copies may be file stamped and returned to counsel before the assignment of a judge; however, it shall be the obligation of counsel or complainant, pursuant to Local Rule 1.17, to ensure that subsequent pleadings bear the name of the assigned judge. Copies of all pleadings and other papers shall be filed with the Clerk's Office, and the number of copies shall be determined by the number of parties.

The Clerk of Courts will not accept unsigned or improperly designated pleadings.

All return receipt signatures for certified mail service shall be received and stored electronically. The return receipt will be docketed immediately upon electronic transmittal from the Postal Authority to the Clerk of Courts office. The return receipt shall be deemed electronically filed on the date and time it is docketed. The public and court personnel shall have access to view and copy the electronic return signature document at the Clerk of Courts office as well as by internet access. The Clerk of Courts will continue to notify parties of failed service as required by the Ohio Rules of Civil Procedure.

## **RULE 1.11 - CERTIFICATES OF DELIVERY BY COUNSEL**

The Clerk of the Findlay Municipal Court shall maintain a system of drawers for the use of attorneys who wish to effectuate the service of pleadings, motions, briefs, memoranda, and other legal papers.

When copies of pleadings, motions, briefs, memoranda and other papers have been placed in the appropriate attorney's drawer in the Findlay Municipal Court Clerk of Court's Office, Findlay, Ohio, and the Certificate of Delivery reflects such action, it shall be deemed by the Court as delivery to counsel, pursuant to the requirements of the Ohio Rules of Civil Procedure. The person responsible for placing said papers in the appropriate attorney's drawer in the Findlay Municipal Court Clerk of Court's Office shall, upon placing said papers in said drawer, note thereon the date of making deposit, together with his/her signature. All assignment notices generated by Findlay Municipal Court for Hancock County Attorneys who practice in Findlay Municipal Court will be placed in the respective drawers located in the Clerk's Office of Findlay Municipal Court.

This Rule will apply to all attorneys who routinely practice in the Findlay Municipal Court and have offices in Hancock County, Ohio. Further, this Rule will apply to all attorneys for whom a drawer is provided within the Findlay Municipal Court Clerk of Court's Office.

## **RULE 1.12 - SURETY AND BONDS**

Good and sufficient security shall be required in all matters where surety, bail, or bond is required. Bond may be satisfied by any method permitted by law.

Neither attorneys nor any officers of this Court shall be accepted as sureties, and no bond shall be approved with such person's names or addresses thereon. Any bond posted in the name of a defendant may be used to satisfy any unpaid fines or court costs. Remittance of bonds is subject to Criminal Rule 46. Bonds may be held at the discretion of the Court until a defendant has satisfied all appearance requirements.

## **RULE 1.13 - JURY MANAGEMENT**

### **A. JURY ELIGIBILITY**

To ensure that the jury pool is representative of the adult population of Hancock County, Ohio, all persons are eligible to serve on a jury, except as follows:

- 1) A person under the age of eighteen unless they are a qualified elector.
- 2) Persons who are not residents of Hancock County.
- 3) Persons who are residents of Washington Township, Hancock County, Ohio; or residents of Fostoria Precincts North and South.

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

### **B. PROCEDURE FOR JURY SELECTION**

Potential jurors shall be drawn from a jury source list, which shall constitute a list of all registered voters in Hancock County, excluding residents of Washington Township and of Fostoria Precincts North and South, by the use of random selection procedures using automated data processing equipment in conformity with ORC §2313.08, and ORC §2313.21.

In January of each year, Jury Commissioners, duly appointed by the Court pursuant to Revised Code §2313.01, shall convene and select 2500 jurors to cover potential jury dates throughout the calendar year. The jury source list shall be reviewed and unsuitable names purged from such list, in accordance with the powers accorded jury commissioners by ORC §2313.01.

In the event the 2500 jurors drawn are insufficient to meet the needs for the court in the calendar year, the Jury Commissioners shall reconvene as necessary to select additional jury panels, in accordance with ORC §2313.01.

If, in the opinion of the Court, this jury source list is not representative of the adult population of the jurisdiction, additional source lists shall be utilized as authorized by law.

Further, random selection processes shall be utilized to assign prospective jurors to specific panels and for assignment during voir dire.

Departures from selection shall be permitted only as follows:

- a. To exclude persons 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.

All prospective jurors shall be notified by first class mail of their requirement of service by the issuance of a summons directing them to appear on the date assigned. Further, all prospective jurors shall be required to complete a jury questionnaire and, if appropriate, a request for excuse, exemption or a deferral. Said summons shall be phrased so as to be readily understood by an individual unfamiliar with the legal process. Said summons shall clearly explain how and when the recipient must respond and the consequences of failure to respond. Each summons shall be accompanied by a parking pass for the day of service. Any person who fails to respond to a duly served summons shall be served with a citation for contempt of court, and must appear to answer on said summons or, if appropriate, shall be arrested and detained for examination as to why they failed to attend.

### C. SUMMONING OF PROSPECTIVE JURORS

Prospective jurors shall be summoned only upon the filing of a written jury demand, if required. In civil cases, a jury deposit of Seven Hundred and Fifty Dollars (\$750.00) shall be assessed. If the jury demand is made upon the filing of a complaint or made upon the filing of a responsive pleading, Five Hundred Dollars (\$500.00) of the deposit shall accompany said pleading. An additional deposit of Two Hundred and Fifty Dollars (\$250.00) shall be tendered no less than three weeks before trial date. In the event either deposit is not made, no jury will be summoned, and the failure to make said deposit shall be deemed a waiver of the right to trial by jury. A person determined to be indigent may petition the Court for a waiver of the jury deposit.

In criminal cases, no deposit shall be required.

Prospective jurors shall be summoned to appear in sufficient numbers to accommodate trial activity. Panels of forty-five (45) persons per trial shall be summoned for service unless the Court determines that a lesser or greater number is necessary for a particular trial.

Every effort shall be made to resolve cases prior to summoning juries. A jury panel shall not be summoned unless it appears that there is a substantial likelihood of trial. If it appears that trial is inevitable, a jury panel shall be summoned, at least twenty-one (21) days in advance of trial.

Persons summoned for jury service shall receive compensation in the amount of Fifteen Dollars (\$15.00) per day, plus mileage at the rate of fifty and one-half cents (\$.505) per mile. Such fees shall be promptly paid from the City or County Treasury, as appropriate.

Any juror wishing to waive his fee and/or mileage for service shall be permitted to do so in writing in the Clerk's Office. All waived fees shall be returned to the City or County Treasury, as appropriate.

The term of service for any prospective panel shall be one day or the completion of one trial, whichever is longer.

#### D. EXEMPTION, EXCUSE, AND DEFERRAL

All persons except those who exercise their right to exemption are subject to service. 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 subject to jury service at a later time. All requests for excuse, exemption, 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.

1. Any person who suffers from a substantial physiological or psychological impairment.
2. Any person who has a previously scheduled vacation or business trip during potential jury service.
3. Any person for who jury service would constitute a substantial economic hardship.
4. Any person for who 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.
5. Any person who has served on a jury within the last year.
6. Any person for whom it may be readily determined is unfit for jury service.
7. Any person for whom it is readily apparent would be unable to perform their duty as a juror.
8. Any other valid excuse.

No person shall be excused from jury service, except by a Judge or an individual specifically authorized to excuse jurors. No person who does not complete the jury excuse deferral or exemption form shall be excused from service. Once a prospective juror has submitted his request for excuse, the prospective juror must report for service unless otherwise notified by the Court.

## E. EXAMINATION OF PROSPECTIVE JURORS

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.

Jury questionnaires providing basic background information about panel members shall be made available to counsel at least one day prior to the day on which jury selection is to begin. Counsel is permitted to record or copy the information contained on the questionnaires, except addresses and telephone numbers, so long as all copies of jury questionnaires are returned to the Court upon the completion of trial. Under no circumstance may counsel or a party retain any jury questionnaire.

Neither counsel nor a party will be permitted to question prospective jurors as to matters contained in the questionnaire except to ask follow up questions concerning such information.

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 thereafter. Counsel, or parties if they are representing themselves without the assistance of legal counsel, shall ensure that their voir dire questioning conforms to the following rules:

1. Counsel or parties may not examine prospective jurors concerning the law or possible instructions.
2. Counsel or parties may not ask jurors to base answers on hypothetical questions.
3. Counsel or parties may not argue the case while questioning jurors.
4. Counsel or parties may not engage in efforts to indoctrinate jurors.
5. Jurors may not be asked what kind of verdict they might return under any circumstances. No promises may be elicited from jurors.
6. Questions are to be asked collectively of the panel whenever possible.
7. Counsel may inquire by general questions concerning the validity and philosophy of reasonable doubt or the presumption of innocence.

In the event there is a potential for sensitive or potentially invasive questions during voir dire, 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 presence of other jurors in order to protect juror privacy, or to avoid juror embarrassment.

If it is determined by the Court during the voir dire process that an individual is unable or unwilling to sit in a particular cause fairly and impartially, the individual shall be removed from the panel. Such motion for removal for cause may be made by counsel, a party if unrepresented, or upon the motion of the court. Further, Ohio Revised Code §2313.42 and Ohio Criminal Rule



of Procedure 24(B) set forth additional cause challenges which may be made against potential jurors.

Peremptory challenges shall be exercised alternatively as presently established by Revised Code §2945.23, Civil Rule 47, and Criminal Rule 24, unless prior to trial the parties agree on the record to another method. Unless otherwise agreed, all challenges shall be made in open court. 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 eight regular jurors and one alternate juror, unless by agreement, the parties stipulate to a lesser number. In special circumstances, additional alternate jurors may be seated.

#### F. JURY ORIENTATION

Jurors shall report for service no later than 8:30 a.m. unless otherwise directed. After orientation, voir dire shall commence promptly. All unresolved trial issues must be brought to the attention of the court before the completion of orientation. No motions shall be entertained by the court the day of the trial, except those which the Court must consider by law or by rule of procedure.

Prospective jurors may be provided by the Court with written or audio/visual orientation materials upon their initial appearance and prior to service. 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 of the Court, along with other basic and relevant legal principals.

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 deliberations. In accordance with the Civil and Criminal Rules of Procedure, the parties or their counsel may request that special instructions be given to the jury.

A final jury charge may be provided whenever possible, shall be committed to writing, and may be provided to the jury for its use during deliberation.

If the court so permits, jurors may be permitted to take notes during the presentation of evidence after proper instruction by the court. Further, jurors may be permitted to ask questions of witnesses subject to court approval, and upon appropriate instruction.

Upon appearance for service, all prospective jurors shall be placed under the supervision of assigned personnel and shall direct any questions or communications to such court personnel for appropriate action.

All communications between the judge and the members of the jury panel, from the time of reporting to the Court through dismissal, shall be committed to writing or placed on the record in open court. 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.

All jury deliberations shall be conducted in the jury deliberation room. Jury deliberation rooms shall include 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 contact 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 court without permission. Meals and refreshments, if any, shall be arranged by court personnel. Any juror who needs to leave the deliberation room after the commencement of deliberations shall at all times be accompanied by appropriate court personnel, unless an evening recess is called.

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. Jurors shall be consulted prior to any decision.

If jury deliberations are halted, 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. After the verdict is read, either party may request a polling of the jury.

#### G. CONCLUSION

The Court shall collect and analyze information regarding the performance of this jury management plan to evaluate the representativeness of the jury pool; the effectiveness of the summoning procedures; the responsiveness of individual citizens to jury summons; the efficient use of jurors; the cost effectiveness of this plan; and overall juror satisfaction.

To achieve these goals, the Court may adopt and utilize a juror exit survey, along with maintaining regular data on jury pools.

## **RULE 1.14 - ORDER AND DECORUM**

At the opening of each session of court, all persons in the courtroom shall stand, and during the session no person shall be permitted to wear any hat or headpiece, unless required by religious belief. All defendants and attorneys shall stand at the time of plea or sentencing. Attorneys shall rise when addressing the court for any reason.

No person shall be permitted to consume food, gum or beverages in the courtroom unless approved by the Court.

All persons shall be dressed appropriately. Clothing should not be excessively tight or revealing and shall not contain offensive and inappropriate slogans/pictures. Any persons found to be dressed inappropriately shall be removed from the Court and may not return until their attire conforms to the requirements of the Court.

All parties and counsel must turn off or deactivate all electronic devices, including but not limited to a cell phone, tablet, or any other electronic device, that may make any noise or otherwise interrupt the Court's session. No person shall be permitted to make use of any photographic or recording devices in the courtroom, except as provided in Local Rule 1.21 or with the prior written approval of the Court. Any violations may result in the device being confiscated until the end of the court session. Any unauthorized photos or recordings will be destroyed.

All persons shall conduct themselves with proper decorum and shall at all times be courteous and respectful to the Court, staff, and all other persons in attendance. All persons entering the area of the Court are subject to search. No weapons of any kind are permitted in any area of the Court, except as may be set forth in any Court Security Policy.

## **RULE 1.15 - PRACTICE OF LAW**

Only attorneys admitted to the practice of law in the State of Ohio shall be permitted to practice in this court. Any persons wishing to represent themselves may do so, but may not be assisted by family, friends, or other person, except as may be permitted in Small Claims Court or other special proceeding. No person who is not an attorney licensed to practice law in the State of Ohio may appear, file documents, or otherwise act on behalf of another individual or entity.

When the plaintiff is a corporation or similar legal entity, the complaint and all subsequent pleadings or filings must be signed and prosecuted by an attorney. Small Claims Court exceptions for corporate entities acting through non-attorneys do not apply to contested proceedings or to any actions taken after judgment has been obtained. Once a judgment is obtained in a Small Claims Court case, all efforts to collect said judgment on behalf of the corporate entity must be conducted by an attorney. This includes, but is not limited to, requests for debtor's examinations and garnishments/attachments. Non-compliance with this rule may result in dismissal of the complaint, pleading or other filing at issue.

Victims may be permitted to make statements to the Court, as permitted by law.

### **RULE 1.16 - DUTIES OF ATTORNEYS**

It shall be the duty of the complaining party or his/her legal counsel to file with the complaint, counterclaim, or cross claim, sufficient copies to effectuate service on all defendants.

All pleadings, motions, and other papers filed in an action must bear the case number and the name, address, telephone number, and Supreme Court number of the attorney filing same. A Certificate of Judgment for Lien or a Transfer Judgment shall be obtained only upon filing a praecipe therefore.

All pleadings subsequent to the complaint shall bear the name of the assigned judge.

It shall be the obligation of attorneys or the parties to prepare subpoenas, and file them with the Clerk of Court in a timely fashion, as required by Local Rule 1.19.

All papers filed in an action shall state in the caption the general nature of the pleading, such as "Complaint", "Answer", "Motion", or other appropriate designation.

All parties shall check in using the electronic kiosk located in the main hallway and all attorneys shall check in at Room 208 prior to the commencement of any hearing or trial.

Counsel shall file an entry of appearance in all traffic and criminal cases, as required by Rule of Superintendence 36.

Trial counsel shall be designated on all pleadings.

Counsel shall notify their clients of the dress code requirement for all proceedings as set forth in Local Rule 1.14.

### **RULE 1.17 - FORM OF MOTIONS**

All motions, not made in open Court, shall be submitted in writing on standard white paper, 8-1/2 x 11 inches in size. Motions shall be single sided and must be typewritten, prepared by word processor or legibly printed. Motions must contain sufficient facts to explain of the ruling sought. Appropriate documents in support of the motion may be attached.

All motions filed with the Clerk must contain the following information:

1. The case number;
2. The name of the judge assigned to the case, if any;
3. The current address and phone number of the person filing the motion. If an attorney is the person filing the document, the attorney registration number shall be included;
4. Nature of the motion, (i.e. Requests for driving privileges or Request for continuance).

Motions filed by legal counsel should be accompanied by a proposed entry that the party wishes the Judge to sign, with the exception that no proposed entry need be tendered with a motion to suppress in a traffic or criminal case.

It is the responsibility of the party filing the motion to follow up with the clerk of courts to see if the motion has been granted.

The Clerk of Courts shall not accept for filing any document that does not conform to these minimum requirements.

All papers shall remain in the Office of the Clerk of Courts except when required by the Court.

### **RULE 1.18 - FACSIMILE FILING**

Pleadings and other papers may be filed with the Clerk of Courts by facsimile transmission to (419) 424-7803 subject to the following conditions:

#### **APPLICABILITY**

These rules apply to all proceedings in this Court, except that appeals filed herein pursuant to Local Rule 2.17 cannot be filed by facsimile.

#### **ORIGINAL FILING**

A document filed by fax shall be accepted as the effective original filing. The person making a fax filing need not file any source document with the Clerk of Court but must, however, maintain in his or her records and have available for production upon request by the court the source document filed by fax, with original signature as otherwise required under the applicable rules, together with the source copy of the facsimile cover sheet used for the subject filing.

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.

#### **DEFINITIONS**

As used in these rules, unless the context requires otherwise:

A “facsimile transmission” means the transmission of a source document by a facsimile machine that encodes a document into optical or electronic signals, transmits and reconstructs the signals to print a duplicate of the source document at the receiving end.

A “facsimile machine” means a machine that can send and receive a facsimile transmission.

“Fax” is an abbreviation for “facsimile” and refers, as indicated by the context, to facsimile transmission or to a document so transmitted.

### **COVER PAGE**

The person filing a document by fax shall also provide therewith a cover page containing the following information:

- (I) The name of the court;
- (II) The title of the case;
- (III) The case number;
- (IV) The assigned judge;
- (V) The 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 Defendants’ Motion to Dismiss);
- (VI) The date of transmission;
- (VII) The transmitting fax number;
- (VIII) An indication of the number of pages included in the transmission, including the cover page;
- (IX) If a judge or case number has not been assigned, state that fact on the cover page;
- (X) The 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; and
- (XI) If applicable, a statement explaining how costs are being submitted.

If a document is sent by fax to the Clerk of Court without the cover page information listed above, the Clerk may, at its discretion:

- (I) Enter the document in the Case Docket and file the document; or
- (II) Deposit the document in a file of failed faxed documents with a notation of the reason for the failure; in this instance, the document *shall not* be considered filed with the Clerk of Courts.

The Clerk of Court is not required to send any form of notice to the sending party of a failed fax filing. However, if practicable, the Clerk of Court may inform the sending party of a failed fax filing.

### **SIGNATURE**

A party who wishes to file a signed source document by fax shall either:

- (I) Fax a copy of the signed source document; or
- (II) 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.

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

### **EXHIBITS**

Each exhibit to a facsimile produced document that cannot be accurately transmitted via facsimile transmissions for any reason must be replaced by an insert page describing the exhibit and why it is missing. Unless the court otherwise orders, the missing exhibit shall be filed with the court, as a separate document, not later than five (5) court days following the filing of the facsimile document. Failure to file the missing exhibits as required by this paragraph may result in the court striking the document and/or exhibit.

Any exhibit filed in this manner shall be attached to a cover sheet containing the caption of the case which sets forth the name of the court, title of the case, the case number, name of the judge and the title of the exhibit being filed (e.g., Plaintiff Smith's Notice of Filing Exhibit "G" to Plaintiff Smith's Response to Defendants' Motion to Dismiss), and shall be signed and served in conformance with the rules governing the signing and service of pleadings in this court.

### **TIME OF FILING**

Subject to the provisions of these rules, all documents sent by fax and accepted by the Clerk shall be considered filed with the Clerk of Courts as of the date and time the Clerk time-stamps the transmission. The office of the Clerk of Court will be deemed open to receive facsimile transmission of documents on the same days and the same time the court is regularly open for business.

Fax filings may NOT be sent directly to the court for filing but may only be transmitted directly through the facsimile equipment operated by the Clerk of Courts.

The risks of transmitting a document by fax to the Clerk of Courts shall be borne entirely by the sending party. Anyone using facsimile filing is urged to verify receipt of such filing by the Clerk of Court through whatever technological means are available.

### **FEES AND COSTS**

No document filed by facsimile that requires a filing fee shall be accepted by the Clerk for filing until court costs and fees have been paid. Documents tendered to the Clerk without payment of court costs and fees, or which do not conform to applicable rules will not be filed.

### **LENGTH OF DOCUMENT**

Facsimile filings shall not exceed 10 pages in length without prior approval by the court. The filer shall not transmit service copies by facsimile.

**RULE 1.19 - SUBPOENA FOR A WITNESS**

All subpoenas for witnesses must be filed in writing no later than seven days before trial, excluding Saturdays, Sundays, and holidays. Subpoenas submitted for service less than seven days before trial will be accepted and service may be attempted, but the failure of said service in a timely fashion shall not be grounds for a continuance of any trial.

**RULE 1.20 - ATTENDANCE AT PRE-TRIALS AND HEARINGS**

All parties and counsel of record are required to appear at all scheduled pre-trials and hearings, unless attendance is excused by the Court, in writing, prior to the scheduled pre-trial or hearing. All requests to appear for, or conduct, a pre-trial or hearing by telephone shall be filed with Court in advance of the hearing at issue. No request to appear by telephone will be granted in the absence of proof of reasonable notice to, or consent by, the adverse party or the party's legal counsel.

Any request by counsel to permit a party to be available by telephone rather than present for a pre-trial or hearing shall include a certification by counsel that the party will be available at all relevant times by telephone and that the party's appearance by phone will not in any way interfere with the ability to proceed with the pre-trial or hearing and/or any settlement negotiations. No party may appear by phone for mediation.

**RULE 1.21 - NEWS MEDIA, CAMERAS & RECORDING DEVICES IN THE COURTROOM**

The Court shall remain open to the public at all times unless by special order the courtroom is closed to the public. The presence of cameras, video tape recorders or other recording devices shall be permitted by the Court pursuant to Rule of Superintendence 12.

Requests to record court proceedings shall be made to the individual judge in writing, and filed with the Clerk before it will be considered. Requests for cameras in the courtroom shall be considered in their order of filing.



## **SECTION TWO: LOCAL RULES FOR CRIMINAL AND TRAFFIC PRACTICE**

### **RULE 2.01 - COMMENCEMENT OF CRIMINAL AND TRAFFIC PROSECUTIONS**

Every criminal and traffic prosecution shall be commenced by the filing of an affidavit or complaint with the Clerk's Office charging an offense in duplicate, unless a copy is furnished to the Defendant before he/she appears in court. The complaint shall be a written statement of the essential facts constituting the offense charged. It shall also state the numerical designation of the applicable statute or ordinance. It shall be made upon oath before any person authorized to administer such oath. The fact that the wrong section of either the statute or ordinance is stated shall not be deemed material, if the complaint otherwise states an offense. However, the Defendant shall be entitled to a continuance if it appears that they were misled in preparing their defense or understanding the nature of the charge.

Complaints shall not be received for filing unless approved by the municipal prosecutor, prosecuting attorney, village solicitor or other authorized person, except where executed by a regularly acting police or peace officer or an employee of the State of Ohio or any subdivision thereof.

All traffic cases shall be commenced by the filing and service of a traffic complaint and summons as prescribed by Traffic Rule 3. In specific instances, more than one count may be set forth on a traffic affidavit.

### **RULE 2.02 - USE OF ELECTRONICALLY PRODUCED TRAFFIC TICKET(S)**

The use and filing of a traffic ticket that is produced by computer or other electronic means is hereby authorized in Findlay Municipal Court. The electronically produced ticket shall conform in all substantive respects to the Ohio Uniform Traffic Ticket, including any modifications to the Ohio Uniform Traffic Ticket approved by the Ohio Traffic Rules relating to electronically produced tickets. If an electronically produced ticket is issued at the scene of an alleged offense, the issuing officer shall provide the defendant with a copy of the paper ticket.

### **RULE 2.03 - CIVIL RULES APPLY**

In cases not provided for by these criminal rules, if there is an applicable and relevant rule of civil procedure, it shall be followed by the Court.

### **RULE 2.04 - SECURITY FOR COSTS IN CRIMINAL CASES**

Where a law enforcement agency files a complaint, no security deposit or costs is required. Where an injured person or a person other than a law enforcement officer wishes to file a complaint, the Clerk's Office shall obtain a security deposit for costs, as authorized by law.

Upon completion of the prosecution of any case in which the security deposit for costs was required, the full amount of the deposit will be returned to the person who made such deposit, but only where the person has complied with all necessary appearances and costs are accessed to the defendant.

**RULE 2.05 - VIOLATIONS BUREAU AND WAIVER SYSTEM**

- A) The Violations Bureau of the Findlay Municipal Court is authorized to accept a waiver of appearance, plea of guilty, and the payment of all fines and costs for those traffic offenses which do not require an appearance in court. The Findlay Municipal Clerk is designated the Clerk of the Violations Bureau. If the party is unable to pay said amount for any reason, they must appear in court, but may be released pursuant to the practices and procedures established by this Court for continuance and bond. Payments shall be made in accordance with the latest schedule and instructions adopted by the Court for that purpose
  
- B) If a law enforcement officer issues a citation to a defendant for a minor misdemeanor offense and for which the citation is issued is an act prohibited by Chapter 4511., 4513., 4549., 2925., 2917., and 4301., of the Revised Code or an act prohibited by any municipal ordinance that is substantially similar to any section contained in Chapter 4511., 4513., 4549., 2925., 2917., and 4301., of the Revised Code, and the defendant is a resident of a state of the union that is not part of the Nonresident violator compact, the law enforcement officer shall require the defendant to post a cash or surety bond of sufficient security pursuant to the Court's bond schedule unless there are extenuating circumstances as determined by the law enforcement officer that make posting of the bond by the defendant unreasonable at the time.

**RULE 2.06 - POLICE OFFICERS AS DEPUTY BAILIFFS**

Every police officer of the City of Findlay and Trooper of State Highway Patrol is an ex officio deputy bailiff of this court, and shall perform such duties with respect to cases within their jurisdiction as required of them by the Judge, Clerk or Bailiff, or by rule of this Court without additional compensation. These duties may be performed for this Court by the Sheriff of Hancock County in respect to cases outside the City of Findlay.

Said officers shall perform the following specific duties:

- A. Accept bonds in accordance with the bond schedule and instructions adopted by this Court, and issue receipts therefore.
- B. Transmit to the Clerk of Court as soon as practicable a record of all transactions completed, including submission of all affidavits, bonds, waivers, and all moneys collected.

## **RULE 2.07 - MOTIONS**

All motions to the Court shall be made in writing and shall be accompanied by a written memorandum containing the statement of facts and the legal arguments of counsel and a proposed judgment entry. Motions must be filed within the time limits established by the Ohio Rules of Criminal Procedure, and further shall comply with Criminal Rule 47 and Traffic Rule 11. Motions shall be set for oral hearing only upon request of counsel and by order of the Court. Otherwise, all motions will be deemed submitted when filed. Motions requesting an oral hearing, where applicable, shall toll the time within which the Defendant must be brought to trial until a judgment entry is filed reflecting the Court's decision as to said motion.

## **RULE 2.08 - CONTINUANCE OF BOND**

Bond and recognizance for the appearance of a defendant on a day certain shall be deemed to extend to the next appearance date.

## **RULE 2.09 - FORFEITURE OF BOND: FAILURE TO APPEAR**

Any person released pursuant to any provision of Rule 46 of the Ohio Rules of Criminal Procedure and who fails to appear before the Court as required is subject to the punishment provided for by law, and any bail given for his/her release shall be forfeited in accordance with ORC §2937, et seq.

Any person released on his/her own personal recognizance shall be deemed to have been released pursuant to ORC §2937.29.

The Clerk's Office shall deal with the proceeds of bail upon adjudication of forfeiture as if the same were imposed as a fine for the offense charged, and shall distribute and account for same accordingly.

Forfeiture of bond and cash bail will not be relieved against any subsequent appearance of the defendant, unless he/she shall show good cause for his/her failure to appear, hardship or other basis.

If, after final appearance and full compliance with any sentencing order, a bond is discharged, the bond shall be disbursed in criminal and traffic cases pursuant to Criminal Rule 46.

## **RULE 2.10 - APPOINTMENT OF COUNSEL IN CRIMINAL AND TRAFFIC CASES**

In criminal or traffic cases, where the potential for a jail sentence exists, qualified indigent defendants may be appointed counsel to represent them. Generally, the Hancock County Public Defender will be appointed to represent indigent Defendants. However, if there is a conflict with the Public Defender's office, the Court may appoint alternate counsel. The

appointment list shall consist of qualified attorneys in good standing with the Ohio Supreme Court and this Court, who practice in the specific area of law, and agree to accept such appointments. All persons seeking the appointment of counsel must complete the required indigency forms, and in some cases, the Court may conduct a hearing to determine the person's eligibility. Once appointment of counsel is made, the appointed attorney must represent the Defendant at all stages of the proceeding, unless the court authorizes substitute counsel. After sentencing, unless otherwise specifically directed by the Court, said representation shall cease, and the attorney shall submit his or her application for the payment of expenses on the authorized form and at rates in accordance to schedule as established by the Hancock County Commissioners. Where a Defendant is granted leave of Court to file a motion for reconsideration, said representation shall continue until said motion is considered by the Court. In all other cases not authorized by the Court, representation shall cease, and the submittal of all attorney fee bills shall be made in accordance with established local rules.

Appointed attorneys shall maintain close contact with their clients. No attorney shall be permitted to withdraw unless it can be established that their client failed to maintain communication, failed to fully cooperate with them, or upon good cause shown. All motions to withdraw may be set for hearing, and will be granted only upon good cause shown.

#### **RULE 2.11 - WITHDRAWAL OF COUNSEL**

Where counsel has made an entry of appearance or appears with the Defendant in a criminal or traffic case, withdrawal of counsel shall not be permitted except for good cause shown. Any attorney seeking to withdraw as counsel from such case shall file a written motion and proposed judgment entry requesting withdrawal in the Clerk's Office at least fourteen days before trial, so as to afford Defendant reasonable time to obtain other counsel if the Court finds just cause for granting said motion. Any motion to withdraw from counsel must be served upon the defendant. Said motion may be set for hearing by the Court.

#### **RULE 2.12 - DISMISSALS OR NOLLE PROSEQUI**

No criminal or traffic case, once filed, shall thereafter be dismissed except on preliminary hearing, trial on the merits, motion by the prosecutor's office, or upon showing to the Court that the Defendant cannot, in all probability, be apprehended.

#### **RULE 2.13 - ARRAIGNMENTS**

##### **RULE 2.13(A) - CRIMINAL CASES**

Criminal arraignments shall be conducted Wednesday mornings at 8:30 a.m. until completed and at all other times as may be necessary. In conformity with the mandate of the U.S. Supreme Court, a Judge or Magistrate of the Findlay Municipal Court, or other judge, shall review reports related to all adult persons that have been arrested, incarcerated, and that are anticipated to be incarcerated for more than 48 hours prior to a court appearance for determination of probable cause. This finding of probable cause does not require an arraignment.

## RULE 2.13(B) - TRAFFIC OFFENSES

Practice and procedure in traffic cases shall be conducted in accordance with the Ohio Traffic Rules.

Arraignments for miscellaneous traffic matters are typically scheduled before a Magistrate. Arraignments for charges of Operating a Vehicle Under the Influence of Alcohol, Operating a Vehicle After Underage Consumption of Alcohol, Physical Control, Leaving the Scene of an Accident and Failure to Comply will typically be conducted by a Judge. These arraignments will be conducted on Tuesdays at 8:30 a.m.

Arraignments for Driving Under Suspension and No Operators License will be conducted on Thursdays at 8:30 a.m.. Such arraignments are typically heard by a Magistrate.

All persons who have not signed waivers must appear for traffic arraignment at the appointed time unless they are entitled to complete a Waiver of Arraignment pursuant to Traffic Rule 8.

Arraignment dates and times are subject to change at the Courts discretion to accommodate for legal holidays, emergencies and other unforeseen occurrences.

## RULE 2.13(C) - SPECIAL ARRAIGNMENT PROCEDURES FOR OVI & DUS OFFENSES

### Administrative License Suspension:

Pursuant to Ohio Revised Code §4511.191, a Defendant placed under Administrative License Suspension by an arresting officer may petition the Court for an appeal of such suspension by filing the appropriate notice. Upon request, said appeal shall be heard at arraignment pursuant to law, or continued by request of counsel or the Court. Appeal hearings shall be conducted at such times as are scheduled by the Court. The Administrative License Suspension appeal shall not be maintained on a separate docket. No additional fees or filing requirements shall be required.

### Innocent Owner or Pre-trial Vehicle Return:

Innocent owner or pre-trial seizure hearings shall be conducted by the Court at such times as are scheduled by the Court. Any party seeking a return of a seized vehicle must complete the appropriate motion. The Court may set forth its finding on the prescribed form unless counsel is directed to prepare a specific entry.

## RULE 2.13(D) - VIDEO ARRAIGNMENTS

In particular cases, arraignments may be conducted by video link up with the Hancock County Justice Center. The arraignment will be conducted in open court and the arraignment shall be open to the public.

## **RULE 2.14 - SCHEDULING OF PROCEEDINGS**

### **RULE 2.14(A) - PRE-TRIALS**

At or after arraignment for all misdemeanor cases, pre-trials shall be scheduled upon the motion or request of the defendant, his/her legal counsel, or Court. All such pre-trials shall be scheduled within 60 days of the Court docket date of arraignment or request, unless extended by the Court. Generally, a request or demand for a pre-trial shall be construed as a motion for a pre-trial, and as such, shall toll the time within which the defendant must be brought to trial, pursuant to ORC §2945.72(et seq.).

The pre-trial shall be conducted in accordance with Criminal Rule 17.1, and upon conclusion, a pre-trial report shall be filed on a form prescribed by the Court. Attorneys and the defendant shall appear at the pre-trial unless excused by the Court. All pre-trials will be held in person unless otherwise designated by the Court. Any party who fails to appear for pre-trial without just cause may be subject to a bench warrant or contempt of Court.

After the conclusion of the pre-trial the parties must submit a pre-trial report which includes the parties request for future scheduling. If the case is not settled, the judicial assistant is directed to set the matter for Trial, unless a different hearing is requested by the parties or ordered by the Court.

If a matter is set for pre-trial, no demand for discovery or motion to suppress need be filed until the pre-trial is concluded.

### **RULE 2.14(B) - TRIALS**

Any case not scheduled for or resolved at pre-trial or by motion to the Court shall be set for Trial to the Court in a timely fashion. If a jury demand is timely filed in the case, then the case shall be scheduled for Jury Trial on Thursday. Court trials are normally scheduled for Tuesday and Wednesday, but may be scheduled at other times. Jury demands for traffic and criminal cases are governed by Jury Trial Rule.

### **RULE 2.14(B)1 - SUBPOENAS FOR WITNESSES IN CRIMINAL AND TRAFFIC CASES**

It shall be the obligation of the attorney or party to prepare subpoenas for witnesses in criminal and traffic trials which must be filed in writing not less than seven days before trial, excluding Saturdays, Sundays, and holidays. Failure to do so shall not be just cause for a continuance. Failure to submit subpoenas within the time allotted shall not preclude the Court from ordering the issuance of subpoenas upon a showing of reasonable cause.

## **RULE 2.14(B)2 - SENTENCING**

If after the conclusion of a jury trial or court trial a defendant is found guilty, sentence shall be imposed forthwith. Upon good cause shown, the Court may schedule sentencing within 14 days of trial if no pre-sentence report is requested.

If a pre-sentence report is conducted, the matter shall be set for a sentencing hearing within seven days after the report is filed.

All fines and costs are required to be paid in full on the date of sentencing.

## **RULE 2.14(C) - PLEAS**

Once a plea date is set, no continuance of said plea date shall be granted unless a written motion and order is filed, setting forth the reasons for the continuance. Any party seeking to have a plea conducted on the date of trial must notify the Court the reasons therefore.

## **RULE 2.15 - PROBATION, COMPLIANCE AND OTHER POST TRIAL MATTERS**

Any defendant, who has a suspended sentence or is ordered to participate in any programs, including but not limited to Probation, a Driver's Intervention Program, Victim's Impact Panel, Domestic Violence Program, Community Service or any type of counseling, shall report to the probation officer or court administrative offices at the time of sentencing to register for said programs. Failure of any defendant to report as required shall be considered a failure to appear and may result in a bench warrant, the re-imposition of a jail sentence or a citation alleging contempt of Court, for which the defendant may also be fined and jailed.

Defendants shall be assessed as costs the probation fees as provided by the Court's Fee Schedule.

## **RULE 2.16 - FINES PAYMENT POLICY**

Unless otherwise ordered by the Court, all financial sanctions, including but not limited to all fines and court costs, are to be paid in full on the date of sentencing.

If a defendant is unable to pay all financial sanctions in full on the date of sentencing, the defendant shall enter into a payment plan that is approved by the Court. If a defendant is employed, a defendant is encouraged to sign a wage withholding order to allow the defendant's employer to withhold funds and pay them directly to the Court. If all financial sanctions are not paid in full at the time of sentencing, the Clerk of Courts shall issue to the defendant a Payment Hearing Notice and Notice RE: Failure to Pay Financial Sanctions form. The defendant shall sign the Notice acknowledging receipt. The Payment Hearing Notice and Notice RE: Failure to Pay Financial Sanctions shall advise the defendant that failure to pay all financial sanctions, or failure to comply with the terms of any payment agreement, may cause the Court to impose such sanctions as are provided by law, including but not limited to a vehicle registration block, forfeiture of driving

privileges and/or operator's license, and turning the case(s) over to a collection agency. The collection agency's fees are the responsibility of the defendant.

If a defendant does not pay all financial sanctions in full at the time of sentencing, the Court may schedule the defendant for a Status Conference hearing. If the defendant fails to appear for a Status Conference hearing a warrant may issue for the arrest of the defendant and/or the defendant may be cited for contempt for failing to appear for a hearing. If, prior to a scheduled Status Conference Hearing, the defendant has paid in full all financial sanctions owed in any and all cases of the defendant, then the defendant does not need to appear for the Status Conference Hearing and the hearing will be vacated.

Unless otherwise ordered by the Court, all payments by a defendant toward financial sanctions shall be applied in the following order: First, toward any outstanding restitution; Second, toward any outstanding court costs or fees; and Third, toward any outstanding fines.

### **RULE 2.17 - APPEALS**

When an appeal is taken from this Court to the Appellate Court, the Clerk's Office of this Court shall, upon payment of the necessary filing and docketing fees and the filing of a praecipe therefore, prepare an authenticated transcript of the proceedings containing the judgment or final order of this court, and shall transmit said transcript, together with all original papers filed in this case, to the Clerk of the Appellate Court.

If no praecipe for an authenticated transcript is filed within ninety days after the filing of the notice of appeal, and the fee for the authenticated transcript is not paid to the Clerk of Courts, the notice shall be stricken from the files.

Request for a transcript of proceedings shall be governed by Local Rule 7, Court Reporter.

No notice of appeal shall be accepted by the Court unless the appropriate filing fee is attached thereto or the Court permits the filing of said notice without the prepayment of the filing fee.



## **SECTION THREE: LOCAL RULES FOR CIVIL PROCEEDINGS**

### **RULE 3.01 - PROCEDURES FOR FILING COMPLAINTS OR OTHER PLEADINGS**

The complaining party shall file an original complaint or pleading and sufficient copies to effectuate service on all defendants. All pleadings, motions and other papers filed must bear the name, address, telephone number, and Supreme Court number of the attorney filing same. This rule, with respect to the Supreme Court number, does not apply to individuals acting pro se. The complaining party is also required to file a praecipe for means or method of service.

### **RULE 3.02 - COSTS AND FILING FEES**

Costs and filing fees in all civil actions are established by a schedule adopted by the judges of this court. A schedule for fees and costs is available at the Clerk's Office and is subject to change without prior notice. The Court will not accept a pleading for filing unless it is accompanied by the appropriate fee or deposit.

### **RULE 3.03 - COSTS NOT COVERED**

All costs not specifically provided for herein shall be the same as those provided for by law for similar actions or proceedings in the Court of Common Pleas.

When a judgment for costs against a party appears to be unsatisfied, the Clerk's Office may refuse to accept for filing any new action by such party unless otherwise directed by the Court for good cause shown.

### **RULE 3.04 - SCHEDULING OF EVENTS**

The scheduling of a case begins when it is filed. Thereafter, all civil cases shall be governed by the following procedures:

Summons shall be served in accordance with the Ohio Rules of Civil Procedure. In the event there is a failure of service, the Clerk shall notify counsel, or the party if pro se, immediately. If counsel, or the party if pro se, fails to obtain service of summons within six (6) months from the date of the filing of the action, the Clerk shall provide notice that the case will be dismissed within thirty (30) days unless good cause is shown to the contrary. If, within 30 days of the Clerk of Courts filing a notice of failure of service or otherwise notifying counsel or the party of the failure of service, no action is taken to perfect service, then the Clerk of Courts shall provide notice that the case will be dismissed within thirty (30) days for want of prosecution.

Upon perfections of service, the Clerk may notify counsel of any default. Counsel shall be required to submit a default entry within thirty (30) days of notification; otherwise the case may be dismissed for want of prosecution.

In the event a responsive pleading is filed, the Clerk shall forward the case file to the Judge for review. Unless otherwise directed by the Court, upon the filing of any responsive pleading the case shall be scheduled for a pre-trial hearing. Local Rule 1.20 shall govern the attendance at the pre-trial hearing.

If no action has been taken on a case for a period of six (6) months or more, and the case has not been set for trial, the Clerk shall notify the party or parties and counsel that the case will be dismissed within thirty (30) days for want of prosecution unless good cause is shown.

Pursuant to Rule 5 the Civil Rules of Procedure, it shall be the duty of the party filing a pleading, including written motions or briefs subsequent to the complaint, to mail or deliver immediately a copy thereof to each party or his attorney. This local rule authorizes the service of all documents subject to the filing of the original complaint by placing a copy of the same in counsel's Findlay Municipal Court box. However, questions concerning the service of documents subsequent to the original complaint shall be governed by Civil Rule 5. Failure to do so shall be sufficient cause to strike the pleading, motion or brief from the files, unless a copy of such pleading is to accompany a summons. In such case, it shall be deposited with the Clerk's Office with the praecipe. The mailing or delivery of a pleading, motion or brief to an adverse party shall be noted on the original document by way of certificate of service.

In all cases, for good cause shown and upon such terms as are just, and in accordance with the Civil Rules of Procedure the time for filing pleadings may be extended for such reasonable time as the Court may order.

Every extension of time pursuant to this rule shall be made by entry of the Court.

### **RULE 3.05 - PRE-TRIALS**

For the purpose of this rule, the "first pre-trial conference", shall mean a conference chiefly between the parties, designed to set discovery and motion deadlines and to discuss an amicable settlement of the case. Unless requested, the Court will not actively participate in the first pre-trial.

For the purpose of this rule, a "pre-trial with the court" means a court supervised conference chiefly designed to produce an amicable settlement and resolve any trial issues. The term "party" or "parties" used hereinafter shall mean the party or parties to the action, and their attorneys of record, if any.

Any attorney or party who fails to attend a scheduled pre-trial conference without just cause may be punished for a contempt of court, or otherwise sanctioned in accordance with Civil Rule of Procedure 37.

A notice of pre-trial conference designating the type of pre-trial shall be provided to all counsel of record or parties by mail or by telephone from the Court's Judicial Assistant. Any application for continuance of said conference shall be addressed to the Court by motion.

All attorneys/parties attending the first pre-trial must complete the appropriate Pre-Trial Report and file it with the Court and opposing counsel/parties at the pre-trial unless authorized by the Court.

At any pre-trial, the Court or Magistrate shall attempt to narrow legal issues, to reach stipulations as to facts in controversy and, in general, to shorten the time and expense of any proposed trial. The Court or Magistrate may file a Pre-Trial Order to become part of the record and may include all stipulations, admissions, and other matters which have been resolved at pre-trial. The Court shall determine whether or not trial briefs should be submitted and shall fix a date for their filing. The Court will further determine whether or not an additional pre-trial conference will be necessary before a trial is commenced. The Court shall have the authority to dismiss the action for want of prosecution on the motion of Defendant upon the failure of Plaintiff and/or counsel to appear in person at any pre-trial conference. The Court also retains full discretion to make other such orders as the Court deems appropriate and necessary under the circumstances, including sanctions to punish any party who fails to appear.

No additional pre-trials will be granted without prior court approval. Upon completion of the pre-trial with the court, the case will be set for trial if it is unresolved. Any request for a further pre-trial conference shall be made in writing and set forth the reasons therefore, and shall include whether or not the intervention of the Court is necessary.

### **RULE 3.06 - TRIAL**

If the case cannot be settled at pre-trial, the case will be assigned for trial at a time agreeable to all parties or determined by the Court. Unless a jury demand is timely filed with the appropriate deposits, all trials shall be to the Court.

All cases wherein no answer, motion, or other pleading has been filed shall be heard and disposed of after the appearance or answer date. All default judgments shall be resolved in accordance with Civil Rule 55.

### **RULE 3.07 - BRIEFS TO COURT BEFORE TRIAL**

Attorneys for each party of the action or the party if pro se shall, unless otherwise directed by the Court, furnish a brief of issues and authorities at least seven days before trial.

### **RULE 3.08 - JUDGMENT ENTRIES**

Counsel for the party in whose favor an order or judgment is rendered shall prepare the appropriate judgment entry unless the Court directs otherwise. That entry shall be submitted to opposing counsel within five (5) days of the Court's decision. Opposing counsel shall approve

or reject the entry within five (5) days thereafter. Within fifteen (15) days of the Court's decision, the journal entry shall be submitted to the Court.

Parties shall not be required to appear if a case has been reported to be settled, so long as an entry reflecting the settlement is filed. Parties shall submit a proposed entry reflecting the settlement within fourteen (14) days of the scheduled trial date. If the parties fail to file said entry in a timely fashion, the case may be dismissed by the Court on its own motion for want of prosecution after notice to the parties. All proposed Judgment Entries settling cases shall state which party will pay the costs. If an entry fails to state which party shall pay costs, such costs shall be assessed to the Plaintiff. Further, if directed counsel has prepared a proposed entry and submitted it to opposing counsel and it remains unsigned for a period of five days, such entry shall be submitted to the Court for approval, setting forth this refusal to approve by opposing counsel.

This rule shall not apply to Small Claims Court cases.

### **RULE 3.09 - ASSIGNMENT OF MOTIONS**

All motions must be in writing and accompanied by a written memorandum containing citations and the legal arguments. Opposing counsel or a pro se party shall answer in like manner within fourteen (14) days after receipt of said motion. All motions will be considered submitted at the end of the said fourteen (14) day period unless time is extended by the Court. No oral hearings will be granted in said motions unless ordered by the Court or specifically requested by a party and the Court deems said oral hearing necessary. This rule does not apply for motions for new trial and summary judgment.

A brief of authorities relied upon must be filed with each motion. Failure to do so shall be sufficient cause for overruling said motion.

All motions shall be accompanied by a proposed entry. Motions not accompanied by a proposed entry will not be considered by the court unless the court specifically directs that no proposed entry need accompany said motion.

### **RULE 3.10 - CONTINUANCES**

No party shall be granted a continuance of a trial or a hearing without a written motion from the party or his counsel stating the reasons for the continuance. The moving party shall contact the opposing party and note agreement or opposition to subject motion as required by the Rules of Superintendence.

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 first set for trial shall have priority and shall be tried on the date assigned. Criminal cases assigned for trial have priority over civil cases assigned for trial in accordance with the Rules of Superintendence. The granting of any other request for continuance of a

scheduled trial date is within the discretion of the court. Continuance requests made because of a prior scheduled hearing must be accompanied by the conflicting assignment notice.

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 counsel.

### **RULE 3.11 - MARRIAGE CEREMONIES**

The Court will perform marriage ceremonies in the Findlay Municipal Court as long as one party to the ceremony is a resident of Hancock County, Ohio. There shall be a non-refundable security deposit of \$50 that shall be paid in advance of the ceremony and at the time of scheduling the ceremony on the Court's docket. Both parties shall bring a photo ID along with their marriage license to the ceremony. Proper dress code is required of all attendees to the ceremony.

### **RULE 3.12 - RULE FOR SMALL CLAIMS COURT**

A Small Claims Division is hereby established pursuant to ORC. 1925.01 et seq., with jurisdiction in civil actions for the recovery of money only, excluding libel, slander, replevin, alienation of affections, malicious prosecution, abuse of process actions, actions on any claim brought by an assignee or agent, and actions for punitive damages.

The Clerk shall keep such records as are required by law, to be known as the Small Claims Division records.

Proceedings in the Small Claims Division of Findlay Municipal Court may be conducted by a Magistrate appointed by the Court pursuant to the Rules of Civil Procedure and Rules of Superintendence. All proceedings conducted by the Magistrate shall be governed by Rule 53 of the Rules of Civil Procedure.

A filing fee shall be paid to the Clerk of the Small Claims Division when the action is commenced by the plaintiff, or his/her attorney. The claim shall be reduced to writing in concise, non-technical form and signed by the plaintiff, under oath, or by his/her attorney. The claims shall also state the plaintiff's and defendant's place of residence and the military status of the defendant. All claims shall be filed on forms provided by or similar to those provided by the Clerk. Further, the commencement of such action or filing of a counterclaim constitutes a waiver of any right of the plaintiff to trial by jury.

All contested small claims cases shall be referred to mediation prior to being heard by the court, unless the Judge or Magistrate determines that such a referral would be inappropriate. If both parties appear at the initial small claims hearing and indicate to the Judge or Magistrate that the underlying issues are in dispute, the Court will immediately refer the parties to mediation with a trained mediator. The case will be mediated on the date of the originally assigned small claims hearing if possible. If the case, after good faith effort by the parties, is not resolved at mediation, the matter shall be re-scheduled on a different date for hearing on the small claims

docket. No subpoenas will be issued for the original small claims hearings in that no evidence will be submitted to the Court until the parties have attempted to mediate the case. The mediator will submit a report to the Court at the conclusion of mediation. The content of discussions will not be disclosed but the cooperation of the parties to the mediation process will be disclosed.

The procedure for the transfer of a case from the Small Claims Division to the regular docket is by written motion, which can be filed by a party at any stage in the proceeding. The motion shall be accompanied by an affidavit stating that a good defense exists, the grounds thereof, and an appropriate filing fee. An answer shall be filed within two weeks after the motion to transfer is granted. The Court may, in its discretion, grant or deny the motion. A case will also be transferred to the regular docket if a counterclaim is filed seeking damages in an amount greater than the statutory limit set for the Small Claims Division.

No actions on any claim can be brought in the Small Claims Division by an assignee or agent.

The case will be set for trial not less than 15 nor more than 40 days from filing date. Small Claims cases will normally be heard by the Small Claims Magistrate, at 5:00 p.m. on each Tuesday in the Findlay Municipal Court, Second Floor, Courtroom #1. If Courtroom #1 is unavailable for any reason, the cases will be heard in Courtroom #2.

All claims should be paid through the Court. Payment or settlement made directly from one party to the other will require that a dismissal entry be filed with the Court. Unless otherwise noted, the filing party shall be responsible for court costs.

At the commencement of the hearing, the Magistrate or Judge will explain the procedures of the Small Claims Court. Each party must be in attendance and present its evidence, which may include the following, if brought to the court:

1. All books, records, documents, mutual agreements, contracts, titles, receipts, checks, payment books, written estimates, bills, deeds, and any other writings which have a bearing on the issues of the case.
2. All objects which can be feasibly brought into the courtroom which have a bearing on the case.
3. Photographs of any object which are too big or inappropriate for the courtroom.
4. Any photographs of any subject matter which is in issue in the case.
5. Witnesses shall attend the hearing. If a witness is unable to appear voluntarily, a subpoena may be issued ordering his/her appearance. Subpoenas must be requested by a party and must be issued by the court seven (7) business days in advance of the hearing.

Continuances must be requested in advance of the Small Claims Court hearing. All continuance requests must be served upon all opposing parties. The Magistrate or Court will determine whether a continuance will be granted.

### **RULE 3.13 - ALTERNATIVE DISPUTE RESOLUTION / CITIZENS SETTLEMENT PROGRAM (CSP)**

Upon order of the Court, a civil action filed in this Court may be submitted to mediation as provided in this rule. By participating in mediation, a non-party participant, as defined by Ohio Revised Code Section 2710.01(D), submits to the Court's jurisdiction to the extent necessary for enforcement of this rule. Any non-party participant shall have the rights and duties under this rule as are attributed to parties, except that no evidence privilege shall be expanded.

"Mediator" is defined to mean any individual who mediates cases pursuant to an order of this Court, regardless of whether that individual is an employee of the Court, an independent contractor or a volunteer.

#### **Case Selection and Timing for Mediation**

Regular Docket: Small claims cases and all disputed cases filed in the small claims docket shall be mediated as provided in Local Rule 3.12.

All civil cases may be referred to mediation. Before the initial pre-trial conference in a case, counsel shall discuss the appropriateness of mediation in the litigation with their clients and with opposing counsel. At the initial pre-trial conference the parties and counsel shall advise the Court of the results of their discussions concerning mediation. At that time and subsequent conferences, if necessary, the Court may explore with the parties and counsel the possibility of using mediation. A party opposed to either the referral or the appointed mediator must file a written objection with the Court within seven days of receiving notice of the referral or provider and explain the reasons for any opposition.

Mediation shall not be used as an alternative to the prosecution or adjudication of domestic violence, to determine whether to grant, modify or terminate a protection order, to determine the terms and conditions of a protection order, or to determine the penalty for violation of a protection order.

#### **Referral to Mediation**

The case is referred to mediation by order of the Court. The Court may issue the order on its own motion, upon the motion of counsel or upon referral by the mediator.

#### **Continuance**

Continuances shall be granted only for good cause shown and after a mutually acceptable future date has been determined. No continuance will be granted if the mediation cannot be scheduled prior to the final pre-trial.

## **No Stay of Proceedings**

All remaining court orders shall remain in effect. No order is stayed or suspended during the mediation process.

## **Mediation Privilege**

Mediation communications are privileged as described in Ohio Revised Code 2710.03-2710.05.

## **Client Defined Confidentiality**

If the parties wish mediation communication to be confidential they will effect a written confidentiality agreement prior to mediation.

## **Mediator's Duty**

The mediator shall inform the Court who attended the mediation, whether the case settled, and whether efforts to settle the case through mediation are being continued or if the case is being returned to the Court for further proceedings. No other information shall be directly or indirectly communicated by the mediator to the Court, unless all who hold a mediation privilege, including the mediator, have consented to such disclosure. The mediator shall keep mediation communications confidential, unless all who hold a mediation privilege, including the mediator, have consented to such disclosure.

## **Duties of Attorneys/Parties**

All parties with authority to settle shall personally attend all mediation sessions prepared to discuss all relevant issues, including settlement terms. A party other than a natural person must be represented by a person other than counsel. Attorneys may be present, but the appearance of attorneys is not required.

If counsel or any mediation party becomes aware of the identity of a person or entity whose consent is required to resolve the dispute, but who has not yet been joined as a party in the pleadings, they shall promptly inform the mediator as well as the assigned Judge of such fact.

If the opposing parties to any case have either resided in a common residence or are related by blood, adoption, or marriage, and have known or alleged domestic abuse at any time prior to the mediation, then the parties or their counsel have a duty to disclose such information to the mediation staff. Such party shall have a duty to participate in any screening required by the Supreme Court of Ohio's Rules of Superintendence Rule 16 both prior to, and, in the mediator's discretion, during the mediation session(s).



## **Sanctions**

If any of the individuals identified in the above-paragraph fail to attend mediation without good cause or fail to mediate in good faith, the Court may impose sanctions, including the award of attorney's fees and other costs, contempt or other appropriate sanctions, including but not limited to the dismissal of some or all pending claims.

## **No Advice**

The effort of the mediator shall not be construed as giving legal advice. The Court may have materials for legal or other support services available in the community. The mediator is authorized to provide such resource information; however, such distribution shall not be construed as a recommendation of or referral to such resource. The recipient of that information is charged with the duty to evaluate those resources independently.

## **Administrative Dismissal**

If the parties fail to dismiss a settled case, then the Court may dismiss the case administratively. Upon such administrative dismissal, court costs shall be paid from the funds deposited. If court costs exceed the funds deposited, each party shall bear their own costs.

## **RULE 3.14 - TRUSTEESHIP REGULATION**

1. Trusteeships for the equitable distribution of non-exempt personal earnings of debtors among their creditors will be established and governed by the provisions of Revised Code Section 2329.70 and these rules.
2. An applicant must reside within the territory of this Court, and at the time of making application for appointment of trustee shall exhibit to the Clerk a 15 day legal demand for payment of debt and notice of garnishment proceedings, received by the applicant from a creditor listed in the statement.
3. The application shall contain:
  - a. An accurate statement of debtor's name, address, phone number, marital status, and names of his dependents;
  - b. Name and address of debtor's employer or employers; and
  - c. Amount or amounts of his gross and net earnings for the previous two pay periods;
  - d. It shall be accompanied by a sworn statement, disclosing names and addresses of all creditors holding liquidated claims, both secured and unsecured, with amount due each.

4. Upon the filing of such application and payment of the required filing fee, the Clerk will be designated to act as trustee, without additional compensation, and without bond other than any official bond, to receive and distribute to those creditors of the debtor at the time of filing the debtor's non-exempt personal earnings and such other funds as the debtor may voluntarily pay over or assign to said trustee.
5. The filing of such application shall stay all proceedings against applicant's personal earnings unless the proceeds under attachment or proceedings in aid of execution are already in the possession of the Court.
6. At time of application, the applicant debtor shall present to the Clerk a copy of the debtor's most recent pay stub. Applicant shall sign a wage withholding order directing applicant's employer to pay to the Court the non-exempt portion of applicant's wages (currently 25% of disposable income). It is the applicant's responsibility to make required payments until employer makes payments on applicant's behalf. Failure to make such payment or payments will be cause for termination of trusteeship.
7. Work stoppages without pay, for any reason, and changes of employment MUST be reported to the trustee on or before payment days. Failure to do so will be grounds for termination of trusteeship.
8. If the debtor fails to make a scheduled payment for a period in excess of 30 days, the Court shall terminate the trusteeship, unless, based on motion from applicant, the Court directs otherwise.
9. When a trusteeship is dismissed for non-payment, it shall not be reinstated and the debtor shall not be permitted to file a new trusteeship for six (6) months from the date of dismissal, unless upon motion supported by affidavit the debtor proves to the satisfaction of the Court that failure to maintain the trusteeship agreement was not due to willful neglect. Revised Code Section 2329.70. Before reinstatement will be made, all amounts required by law must be paid.
10. List of creditors filed by debtor shall show:
  - a. Name of creditor with the account number and/or the name of the court and case number for any judgments. If a judgment has been issued, the name and address of legal counsel for the plaintiff/creditor shall also be included
  - b. Creditor's business address.
  - c. Total amount due to creditor.
11. The Clerk shall cause Notice of Trusteeship to be forwarded to each creditor with request to verify account. No distribution or apportionment shall be made to any creditor until verification of account is filed with Clerk.

12. If a claim listed by debtor varies substantially in amount from that verified by creditor, the Clerk shall notify debtor of the discrepancy and require him to appear and amend his schedule, or to request a hearing for determination of true amount due. Notice of hearing shall be given to each party, a hearing had, and a judgment rendered as in other civil cases.
13. No trusteeship will be opened by the Court unless the applicant has disclosed more than one (1) creditor.
14. Voluntary payments in excess of the legal obligation may be made.
15. Debtor may list additional creditors omitted from his original statement through inadvertence, by application to the Court, with notice to such creditors, to list them in the trusteeship. If such application is made by a creditor, notice must be given to the debtor.
16. Any person, who becomes a creditor AFTER the appointment of trustee, may be listed in such trusteeship and share in any distribution made by the trustee AFTER the next ensuing distribution. Revised Code Section 2329.70.
17. False statements to the trustee by any creditor will be cause for disallowance of claim; false statements to the trustee by debtor will be cause for dismissal.
18. The trustee shall make no distribution to anyone except a creditor listed in the debtor's statement or any Attorney for a creditor.
19. The trustee shall make periodic distribution to creditors as the trustee deems reasonable. The trustee shall distribute two (2%) per cent of gross receipts to the City as a fee for collecting and dispensing funds. Distributions shall be made every 90 days or sooner if the creditors have been paid in full.