

# Local Rules of Practice and Procedure for the Chardon Municipal Court

Effective January 1, 2018



These Rules have been promulgated in accordance with Rule 83 of the Ohio Rules of Civil Procedure, Rule 57 of the Ohio Rules of Criminal Procedure and Rule 5 of the Rules of Superintendence for the Courts of Ohio. These Rules should be followed when filing documents, practicing, appearing, or litigating in the Chardon Municipal Court in addition to and in conjunction with the Ohio Rules of Civil Procedure and the Ohio Rules of Criminal Procedure as applicable.

A handwritten signature in black ink, appearing to read "Terri L. Stupica".

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Judge Terri L. Stupica

Date: January 1, 2018

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# **Local Rules of Practice and Procedure for the Chardon Municipal Court**

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## **Rule 1. Scope and Effective Date**

- A. These Local Rules of Court are adopted for the governance of the practice and procedures in the Chardon Municipal Court. These rules have been promulgated in accordance with Rule 83 of the Ohio Rules of Civil Procedure, Rule 57 of the Ohio Rules of Criminal Procedure and Rule 5 of the Rules of Superintendence for the Courts of Ohio.
- B. The purpose of these rules is to facilitate the expeditious disposition of cases that come before the court. These rules of court shall apply in all proceedings in the Chardon Municipal Court of Geauga County unless inconsistent with any rules promulgated by the Supreme Court of Ohio, unless clearly inapplicable due to Ohio law, or unless inconsistent with any order of the Judge or Magistrate to whom the case is assigned.
- C. Except where otherwise noted herein, these rules are effective as of August 1, 2013, and shall supersede and replace any local rules previously entered by this court.

## **Rule 2. Court Administration & Citation**

- A. The sessions of the court shall be daily, Monday through Friday, 8:00 a.m. to 4:30 p.m.
- B. The court shall be in session at such other times and hours as necessary to meet special situations or conditions as prescribed by the court, or required by the Judge or Magistrate in a given case.
- C. The term of the court is a calendar year.
- D. These rules shall be known as the Local Rules of Practice and Procedure for the Chardon Municipal Court and may be cited as "C.M.C.R. \_\_\_\_".

## **Rule 3. Decorum and Conduct**

- A. Upon the opening of any court session, all persons in the courtroom shall stand except for those physically unable to do so. All persons in the courtroom shall conduct themselves with decorum and in such manner as to not interfere with the proper administration of the court's business.
- B. Dress Code: All persons appearing before the court shall, to the extent practicable, appear in appropriate and clean dress.
  - 1. Jurors: Jurors may wear casual business attire and should bring a sweater, as temperatures cannot be adjusted to meet each individual's need.
  - 2. Attorneys: Male attorneys are required to wear jackets and ties for all Court proceedings. Female attorneys are required to wear acceptable business attire and cannot wear shorts

or excessively short skirts. No bare shoulders are allowed. An attorney not appropriately dressed may be denied the rights to practice until properly attired.

3. Defendants / Witnesses:
  - a) All other participants or spectators may not wear clothing that depicts the use of drugs, alcohol, sex or disrespect for the law or the Court. All defendants and witnesses should wear casual business attire.
  - b) All clothing must be clean and everyone must remove excessive mud, grease or oil from his/her shoes prior to entering the Court.
  - c) No person will be allowed entry into the Court in attire or style, which displays undergarments.
- C. Unsupervised children are not permitted in the courtroom while the court is in session without the prior permission of the judge.
- D. No smoking, eating or drinking is permitted in the courtroom. No one is permitted to bring food or drink into the courtroom.
- E. No person shall loiter or behave in an unseemly or disorderly manner in the courtroom or in any hall, entryway or stairway, or otherwise interfere with or obstruct judicial activities or proceedings.
- F. All cell phones and pagers must be turned off.
- G. Non-Compliance: Failure to comply with any aspect of this rule may result in appropriate sanction by the court, including continuance or dismissal of the matter before the court, or a charge of contempt of court.
- H. Attorney Conduct: Attorneys shall at all times conduct themselves with dignity and propriety. When permission is granted for the jury to visit the scene, the bailiff, or acting bailiff, shall point out places or objects agreed to by counsel or ordered by the Court. No other person shall communicate with the jury. All counsel are directed to familiarize themselves with and conform to Rule 41 of the Rules of Superintendence for the Courts of Ohio.

#### **Rule 4. Recording of Proceedings**

- A. Pursuant to Ohio Revised Code 1901.33, the court does not employ a court reporter or stenographer. A record shall be made of proceedings by audio-video electronic recording device. In the event a party desires recording by stenographic means, such party must arrange for the presence and advance payment of a court reporter and further file a written motion requesting that such individual be named as the official reporter for the hearing.
- B. The court shall maintain exclusive custody and control of the electronic recordings of proceedings. The court will retain all electronic recordings of proceedings for one (1) year following the final disposition of a case or the completion of an appeal on a case.

- C. A party may have a full or partial transcript prepared from the electronic recordings of proceedings. Counsel or a pro se party must file with the court a motion to designate an official court reporter in which counsel or a pro se party requests the court appoint a private court reporting firm as the official court reporter for the purpose of reviewing the electronic recordings of proceedings and transcribing the testimony. Further, counsel or a pro se party must use a professional registered professional reporter or merit reporter, not a secretary or “contractor” working at counsel's firm.

## **Rule 5. Conditions for Recording and/or Broadcasting Proceedings**

### **A. Definitions and Application:**

1. For purpose of these rules, the terms “record and/or broadcast” shall be construed to include broadcasting, televising, and recording whether by video, movie, audio and/or photograph. The term “proceedings” shall be construed to include any public hearing held by the court.
2. Application for permission to record and/or broadcast proceedings shall be made in writing to the assigned judge as far in advance as reasonably practical, but in no event less than one-half hour prior to the proceeding unless otherwise permitted by the judge.
3. Although no special form of application is required, it must identify and be signed by the applicant and specify the type of equipment to be used. The “pooling” required by Rule 12 of the Rules of Superintendence for the Courts of Ohio shall be accomplished prior to submission of the application.
4. The judge shall grant or deny the application in accordance with Rule 12 of the Rules of Superintendence for the Courts of Ohio.

### **B. Permissible equipment and operators shall be as follows, unless otherwise permitted by the assigned judge:**

1. Not more than one portable television, videotape, or movie camera with one operator shall be permitted.
2. Not more than one still photographer, with not more than two still cameras, with not more than two lenses, for each camera shall be permitted.
3. For radio broadcast purposes, not more than one audio system shall be permitted.
4. No electronic or photographic equipment shall be permitted that produces distracting sound and light. No artificial lighting other than that normally used in the courtroom shall be allowed. No motor driven cameras shall be allowed.

### **C. Location of Equipment and Operators:**

1. The television, videotape or movie camera(s) shall be positioned on a tripod in an area designated by the Judge which provides reasonable access to coverage and shall remain fixed

in that position. Equipment that is not a component part of the in-court unit shall be located outside of the courtroom.

2. Equipment operators shall position themselves in a location in the courtroom either standing or sitting and shall assume a fixed position in that area. Operators shall act so as to not call attention to themselves through further movement. Sudden moves, pans, tilts or zooms by television or still camera operators are prohibited. Operators shall not be permitted to move about except to leave or enter the courtroom.
3. Cameras, microphones and taping equipment shall not be placed, moved or removed from the courtroom except prior to the commencement of or after adjournment of the proceedings or during a recess unless otherwise permitted by the assigned judge. Television film magazines, rolls or lenses, still camera film, and audio portable tape cassettes shall not be changed except during a recess.
4. Microphones shall be located only at the bench, witness stand, and attorney tables. Microphones shall be as inconspicuous as possible but shall be visible.

D. Limitations:

1. No media recording of proceedings in a judge's chambers or access to the same shall be permitted, unless expressly granted by the judge.
2. There shall be no audio pickup or broadcast of conferences conducted in court between attorneys and clients or co-counsel, or of conferences conducted at the bench between counsel and the judge.
3. No media recording shall be permitted in the jury deliberation room at any time during the course of the trial or after the case has been submitted to the jury. No pictures of jurors shall be permitted at any time.
4. The judge shall inform victims and witnesses of their right to object to being filmed, videotaped, recorded or photographed. Recording and/or broadcasting of victims of sexual assaults, informants and undercover police officers shall not be permitted.
5. No media recording shall be made of any document or exhibit before or after it is admitted into evidence, except those which are clearly visible to spectators (e.g. maps, charts, blackboards, etc.)
6. Media representatives shall not be permitted to transmit or record anything other than the court proceedings from the courtroom while the court is in session.

E. Revocation of Permission:

Upon the failure of any media representative to comply with the conditions prescribed by these Local Rules, the Judge, or of Rule 12 of the Rules of Superintendence for the Courts of Ohio, the Judge may revoke the permission to record and/or broadcast the proceedings.

## **Rule 6. Filing and Removal of Papers from Custody of Clerk**

### **A. Duties of Clerk:**

The Clerk of Courts ("Clerk") shall file and maintain all documents delivered to the Clerk's Office. No entry shall be accepted or docketed by the Clerk until it is approved by the appropriate Judge or Magistrate.

### **B. Size of Documents, Pagination and Heading Requirement:**

All pleadings, motions, briefs and other similar documents that are filed with the Clerk shall be typewritten or printed, double spaced, on 8 1/2 " x 11" paper, in at least a 12 point regular type font, and paginated sequentially. In all filings a blank space of at least one and one-half inches shall be left at the top of the first page for endorsements and shall have appropriate side and bottom margins of not less than one inch. Forms prescribed and approved by the Court in a form format shall reserve an adequate space in the top right-hand corner for endorsements or file stamps and shall have appropriate side and bottom margins proportional with the format of the form or document. Each consecutive page shall have appropriate top, bottom, and side margins of not less than one inch.

### **C. Documents Requiring Service or Notice:**

#### **1. All documents requiring service or notice by the Clerk upon filing shall:**

- a) Include the address of the plaintiffs, defendants, or third parties in the caption of the document; or
- b) Indicate that the addresses of the plaintiffs, defendants or third parties are unknown if such addresses are in fact unknown.

2. The Clerk shall not accept for filing any document that must be served by the Clerk upon counsel or parties which does not designate their names and addresses. In addition, the Clerk shall not accept a civil filing without instructions for service unless an attorney has obtained permission signed by the assigned judge or magistrate to defer service of summons for a specific period of time.

3. The Clerk may not accept third party pleadings on behalf of Pro Se litigants.

### **D. Attorney Registration Number:**

1. All attorneys shall include their attorney registration number issued by the Supreme Court of Ohio on all papers filed with the Court.

### **E. Personal and Private Information in Documents Filed with the Clerk:**

#### **1. Personal and private information includes, but is not limited to:**

- a) Social Security Numbers;
- b) Financial account numbers;

- c) Names of minor children;
  - d) Information protected by law from public disclosure;
  - e) Other personal identification numbers such as driver's license numbers.
2. Filing parties and/or legal counsel shall not include personal and private information in any paper filed with the Court unless such inclusion is necessary and relevant to the case. This requirement extends to and includes exhibits or addenda attached to filings such as preliminary and financial reports which itemize state liens that use Social Security numbers as case numbers, or medical records.
  3. If personal and private information is necessary and must be included in a paper, the filing party shall partially redact the following personal data and identifiers from the paper:
    - a) Social Security Numbers: If an individual's Social Security number must be included in a paper, only the last four digits of that number should be used.
    - b) Financial Account Numbers: If financial account numbers are relevant, only the last four digits of these numbers should be used.
    - c) Names of Minor Children: If the involvement of a minor child must be mentioned, only the initials of the child should be used.
    - d) The responsibility for redacting these personal identifiers rests solely with counsel and parties. The Clerk will not review each paper for compliance with this rule.
  4. Judgments, orders, or other journal entries that necessarily include personal and private information shall partially redact the personal data and identifiers as outlined in this rule unless it is absolutely necessary to include all digits in a personal data and/or identifier. In the event it is absolutely necessary to include all digits in a personal identifier, the judgments, orders, or other journal entries must be submitted to the Clerk's Office as follows:
    - a) The original document that includes the personal and private information; and
    - b) A redacted copy in the following format:
      1. The redacted copy will indicate in the caption, above the title of the action, "Redacted Copy, Personal and Private Information Redacted."
      2. The redacted copy of the document will have the notation "redacted" at all places in the document where such information was removed.
    - c) The Court will sign both journal entries.
  5. The Clerk may refuse to accept for filing any document that contains personal and private information that has not been redacted or submitted in accordance with this rule.

F. Original Documents:

1. Removal: No person except a Judge, Magistrate, or court employee shall remove any paper or case file from the custody of the Clerk.
2. Examination: Upon request, the Clerk shall allow any person to examine, but not remove, any original paper or case file that is maintained by the Clerk. Examination shall be allowed during regular business hours.

**Rule 7. Court Costs and Fees**

- A. Security fees shall be charged in accord with the schedules set forth by administrative order. The schedules of court costs for criminal/traffic cases as well as for civil/small claims cases are available at the Clerk's office and are posted on the Court's website at [www.co.geauga.oh.us/municourt](http://www.co.geauga.oh.us/municourt). At the conclusion of any matter, the Clerk shall determine if all costs have been paid. Unless otherwise set forth in the Court's order, the Clerk shall assess all excess civil court costs and fees to the plaintiff.
- B. Under the authority of Ohio Rev Code Sec. 1901.26(B)(1), the Court finds that, for its efficient operation, additional funds are necessary to acquire and pay for special projects. The special projects fee, in addition to all other court costs and fees, shall be collected on the filing of each criminal cause or civil action in the Court. Special projects fees shall be used for purposes, including, but not limited to, the hiring and training of court staff, staff attorneys/magistrates, facility renovations, and the acquisition of equipment for the court and its departments. The special projects fee collected shall be \$20.00. Fees collected by the Clerk under this rule shall be paid to the City of Chardon Treasury for deposit into a Chardon Municipal Court Special Projects Fund. Disbursements from this fund shall be upon an order of the Court.

Under the authority of Ohio Rev Code Sec. 1901.261(A)(1), the Court finds that, for its efficient operation, additional funds are necessary to obtain computerized legal research services. The computerized legal research services fee, in addition to all other court costs and fees, shall be collected on the filing of each criminal cause or civil action in the Court. Computerized legal research services fees shall be used to obtain computerized legal research services. The special projects fee collected shall be \$3.00. Fees collected by the Clerk under this rule shall be paid to the City of Chardon Treasury for deposit into a Chardon Municipal Court Computerized Legal Research Fund. Disbursements from this fund shall be upon an order of the Court.

Under the authority of Ohio Rev Code Sec. 1901.261(B)(1), the Court finds that, for its efficient operation, additional funds are necessary to acquire and pay to computerize the office of the Clerk of the Court. The computerization of the office of the Clerk of the Court fee, in addition to all other court costs and fees, shall be collected on the filing of each criminal cause or civil action in the Court. Computerization of the office of the Clerk of the Court fees shall be used to computerize the office of the Clerk of the Court. The computerization of the office of the Clerk of the Court fee collected shall be \$10.00. Fees collected by the Clerk of Courts under this Rule shall be paid to the City of Chardon Treasury for deposit into Chardon Municipal Court Clerks Computer Fund. Disbursements from this fund shall be upon an order of the Court.

### **Rule 8. Poverty Affidavit**

- A. If the party initiating a civil action believes that he/she is unable to pay the costs of filing a complaint in a civil action, a counterclaim and/or a third party claim, then such person shall submit a Poverty Affidavit on the form prescribed by the Court requesting to have such charges waived.
- B. The completed Affidavit shall be submitted to the Clerk, who shall conditionally accept the filing, and submit the Affidavit to Court. The Clerk shall process the filings without charge. The Court shall conduct a hearing in regards to the filing of the Poverty Affidavit and schedule the same by separate order.
- C. Once the case is assigned to a Judge or Magistrate, the Judge or Magistrate may, at any time in the proceedings, make further inquiry into the sufficiency or credibility of the Affidavit, or otherwise hold a hearing on the party's ability to pay the cost as referred to above. Should the Judge or Magistrate find that the Affidavit lacks credibility or veracity, the Judge or Magistrate may order the party filing such Affidavit to forthwith pay all such cost waived initially by the filing of the Affidavit, and if not done, then enter adverse judgment as to that party up to and including dismissal with prejudice.

### **Rule 9. Statement for Costs and Execution for Costs**

- A. The Clerk shall keep a list of all unpaid and accrued costs and fees in all proceedings where costs and fees have been taxed, and shall send statements to all persons against whom costs have been taxed in all proceedings that have become final. After two (2) such notices, if the costs have not been paid, the Clerk may issue a certificate of judgment for the amount of such costs without further order. Costs and fees may also be turned over to a collection agency and assessed an additional charge by such agency.
- B. When a case is finalized, the Clerk will use the deposits, if any, of all parties if necessary to close out the case on the Court's books. A thirty-day grace period from the date of the final entry will be given to the Clerk before unused court costs and fees deposits are refunded to the parties to allow for late costs such as bailiff's returns.

### **Rule 10. Pleadings and Motions**

- A. Initial Pleadings
  - 1. The caption of all initial pleadings shall contain the information required by Rule 10(A) of the Ohio Rules of Civil Procedure.
  - 2. A designation of primary counsel shall be manifest by the first name listed below a signature of counsel, regardless of the appearance of the signature. All court orders, decisions, opinions, or papers served by the Court or the Clerk shall be served only upon the primary counsel. Primary counsel is responsible for notifying and serving all parties or attorneys of record having

similar interests in the action with copies of the court's orders, decision, opinions, or other papers in a timely manner.

B. Pleadings Filed Subsequent to the Initial Pleading

All pleadings filed subsequent to the initial pleading shall specify:

1. Case number;
2. The name of the Judge or the name of the Magistrate the case is assigned to.
3. The name, address and telephone number of the attorney who is making the filing and the attorney registration number. The attorney's facsimile number should be included if available;
4. The name, address and telephone number of each pro se litigant.

C. Motions:

All moving parties shall file and serve their motions with the following:

1. A brief written memorandum which shall:
  - a) State with particularity the grounds in support of the motion;
  - b) Set forth the relief or order sought;
  - c) Specify the citations of the authorities upon which the motion is based.
2. No memorandum shall exceed fifteen (15) pages in length, exclusive of the table of contents, table of cases, statutes and other authorities cited, and appendices, if any, except by prior leave of the Court. Application for leave to file a longer memorandum shall be by motion specifying the unusual circumstances which necessitate the filing of a memorandum that exceeds the limits imposed by this rule. Copies of all photographs or documentary evidence that will be used in support of the motion if the motion requires the consideration of facts that do not appear in the record.
3. All parties opposing motions shall file and serve a memorandum in opposition to the motion that has been filed and served against them. All memoranda shall:
  - a) Be accompanied by copies of all photographs or documentary evidence that will be used in opposition to the motion if the motion requires the consideration of facts that do not appear in the record.
  - b) Be filed and served within fourteen (14) days from the time notice of the motion was received.
  - c) No memorandum in opposition shall exceed fifteen (15) pages in length, exclusive of the table of contents, table of cases, statutes and other authorities cited, and appendices, if any except by prior leave of the Court. Application for leave to file a longer memorandum

in opposition shall be by motion specifying the unusual circumstances which necessitate the filing of a memorandum in opposition that exceeds the limits imposed by this rule.

4. Moving parties may file a reply memorandum to the opposing party's memorandum in opposition to the motion. The reply brief must be filed within ten (10) days from the time notice of the opposing party's memorandum in opposition to the motion was received. If no memorandum is filed within this time limit, the motion may be decided forthwith. Except upon prior leave of the court, no reply memorandum shall exceed ten (10) pages in length, exclusive of the table of contents, table of cases, statutes and other authorities cited, and appendices, if any. The reply memorandum shall be restricted to matters in rebuttal of the memorandum in opposition.

D. Motions in Limine challenging qualifications of proposed expert witnesses:

1. Prior to the Final Pretrial Conference, a party that wishes to challenge the qualifications of an expert witness identified by another party, must file a Motion in Limine setting forth the facts and law in support of the Motion to disqualify the expert from testifying.
2. In cases where a party has not sufficiently described the qualifications of an expert witness expected to testify at trial, or has not provided an adequate summary of the expert witness' expected testimony, or in other cases at the discretion of the Court, the Court may allow a Motion in Limine to be filed before Trial.
3. A party's failure to file a Motion in Limine, in accordance with this rule, challenging the qualifications and/or anticipated testimony of the expert witness properly identified by another party, shall constitute a waiver of the right to challenge the qualifications of the expert witness at trial.

E. Decisions:

1. Motions shall be decided without oral hearings unless otherwise ordered by the Court, or unless required by law.
2. The Court may, for good cause shown, provide for an early disposition of any motion with or without the filing of memoranda by the parties. To expedite the business of the Court, the Court may decide any motion upon filing without notice to the parties when the motion addressed procedural matters only, is a request for an extension of time, is a request for leave to file Instanter, or is for a correction pursuant to Civ. R. 60(A) if supported by a showing of good cause made orally or in writing to the Court. In the event the opposing parties claim prejudice by the granting of such ex-parte relief, the Court will afford them, upon their request, an immediate oral hearing which shall be granted priority on the calendar of the Court.

- F. Every paper filed with the Clerk, Court, a Judge, or a Magistrate shall be served upon all opposing counsel and upon all parties not represented by counsel. Proof of service in writing shall be shown on or attached to the paper, or on a separate paper. No paper delivered to the Clerk, Court, Judge, or Magistrate without a certificate of service shall be considered by any Judge or Magistrate except trial briefs where it has been agreed by counsel that they shall not be exchanged.

- G. The Clerk may utilize service of process methods as outlined in Civil Rule 4.1, which methods shall include “virtual” service of process utilizing advanced postal technology for service by certified mail, including but not limited to, certified electronic return receipt technology. This advanced postal technology does not modify Civil Rule 4.1(1) Service by Certified Mail, but merely provides for advanced electronic and website technology in the sending of certified mail and receipt of confirmation utilizing the Court’s website to show to whom the mail was delivered, the date of delivery and address where delivered, all in accordance with the Civil Rules currently in existence.
- H. All service of process of complaints or other papers served with virtual service of process are subject to review and/or challenge as further outlined in Civil Rule 4.1, with confirmation of service of process being made available through the Clerk of Court’s office.

### **Rule 11. Facsimile Filing**

Civil Department documents transmitted to the Court by facsimile transmission that require a filing fee, will not be docketed as filed.

All pleadings, motions, or other documents other than the original complaint or any other pleading that joins or adds a new party, and documents requiring a filing fee, may be transmitted to the court by facsimile transmission, to (440) 286-2679, subject to the conditions set forth in this rule.

The following definitions shall apply herein, unless the context requires otherwise:

- 1. “Facsimile Transmission” means the transmission of a source document by a system that encodes a document into optical or electrical signals, and transmits and reconstructs the signals to print a duplicate of the source document at the receiving end.
  - 2. “Fax” is an abbreviation for “facsimile” and refers, as indicated by the context, to facsimile transmission or to a document so transmitted.
- A. A document filed by fax shall be accepted as original and the signature accepted as original pursuant to Civil Rule 5(E) and Criminal Rule 12 (B). The sender shall not be required to file the original source document with the clerk but must maintain the same in the sender’s records, and have the same available for production on request of the court, with original signatures as otherwise required under these or other applicable rules, together, with the original copy of the facsimile cover sheet used for the subject filing. Moreover, the sender shall maintain the source document until the subject case is closed and all opportunities for appeal have been exhausted.
  - B. The person filing a document by fax shall also provide a cover page containing the following information:
    - 1. Name of Court;
    - 2. Title of Case;
    - 3. Case Number;
    - 4. Assigned Judge;
    - 5. Title of Document being Filed;
    - 6. Date of Transmission;

7. Transmitting Fax Number;
  8. An indication of the number of pages included in the transmission, including the cover page;
  9. An indication that a judge or case number has not been assigned, if applicable;
  10. Name, Address, Telephone Number, Fax Number, and, if applicable, the E-Mail Address of Person Filing the Fax Document;
  11. For an Attorney, his or her Ohio Supreme Court Registration Number and Firm Name, if any; and
  12. A Statement explaining the manner in which costs are being submitted, if applicable.
- C. The facsimile shall not be longer than 10 pages.
- D. Documents tendered to the Clerk which do not conform to applicable rules, will not be filed.
- E. Each exhibit to a facsimile-produced document that cannot be accurately transmitted via facsimile transmission for any reason must be replaced by an insert page describing the exhibit and why it is missing.
1. Unless otherwise directed by court order, the missing exhibit shall be filed as a separate document not later than five days following the transmission of the fax document. Failure to file the same shall result in the court striking the document and/or exhibit in its sole discretion.
  2. Any exhibit filed as set forth above shall be attached to a cover sheet containing the information set forth in subsection (B) of this rule, and shall be signed and served in conformance with the rules governing the signing and service of pleadings in the court.
- F. Subject to the provisions of these rules, all documents sent by fax and accepted by the clerk shall be considered filed as of the date and time the clerk time-stamps the document received, rather than as of the date and time of the fax transmission.
1. Fax filing may only be transmitted directly through the facsimile equipment operated by the clerk and may not be sent directly to the court for filing.
  2. The clerk shall not be required to acknowledge receipt of a facsimile transmission.
  3. The risks of transmitting a document by fax to the clerk shall be borne entirely by the sender. Anyone using facsimile filing is urged to verify receipt of such filing with the clerk.
- G. No document filed by facsimile that requires a filing fee shall be accepted by the clerk for filing until court costs have been paid.
1. Documents tendered without payment of court costs will not be filed.
  2. No additional fee shall be assessed for facsimile filings.

## **Rule 12. Appearance and Withdrawal of Counsel**

- A. All entries of appearance of counsel in an action shall be in writing. Retained counsel in all cases shall file a Notice of Appearance which shall contain the following:
1. Attorney's Name and Signature;
  2. Supreme Court Registration Number;
  3. Business Address;
  4. Telephone Number;
  5. Fax Number;
  6. E-mail Address;
  7. Party or Parties' Attorney Represents.

Papers subsequently submitted to the Clerk for filing shall contain the same information as set forth above. Information set forth in the initial Notice of Appearance which is subsequently changed, such as attorney or address, shall be immediately reported by the filing of a new Notice of Appearance.

- B. Upon the entry of appearance of counsel, all documents filed with the court and entries of the Court shall be served upon said counsel. Notice to counsel shall be at the address on pleadings or the mailbox in the Clerk's Office. Notice to parties shall be mailed to the address on the pleadings or the Clerk's record of return of service.
- C. Once an appearance is made, counsel may withdraw from a case only by written leave of court for good cause shown. It is contemplated that counsel who has entered an appearance in a case shall remain in the case until concluded. However, upon written motion for leave to withdraw from the action for good cause shown, the Court may permit counsel to withdraw. In such case, counsel shall certify that the client and all other counsel-of-record have been notified. Unless oral notice is provided by the Court at a prior proceeding, the Court shall send written notice of all hearing dates to counsel and unrepresented parties and represented parties if so ordered. Notice to counsel shall be at the address on pleadings or the mailbox in the Clerk of Courts office. Notice to parties shall be mailed to the address on the pleadings or the Clerk's record of return of service.
- D. Attorneys are required to submit a written Notice of Appearance in addition to any personal appearance for arraignment or felony bond setting in which representation is made on the record. The court will not acknowledge the attorney present will be attorney of record without written notice.

## **Rule 13. Leaves to Plead**

In all cases, a party desiring a leave to plead shall adhere to the following procedures:

- A. First: By Certification

When no previous leave to plead has been taken, a party may obtain one automatic leave to plead by filing a certification stating that no previous extensions or leaves to plead have been obtained by that

party in that particular case. Such leave to plead may not be for more than twenty-eight (28) days, and a copy of the certification must be served upon opposing counsel.

**B. Second: By Stipulation**

One additional leave to plead may be obtained by a party for a period of not more than twenty-eight (28) days by the filing of a stipulation indicating consent by opposing counsel to the leave to plead. In such stipulation, the party obtaining the leave to plead shall certify the number of extensions of time previously obtained by that party in that case, and the total length of time of those extensions.

**C. Additional Extensions:**

Except as provided herein, additional extensions of time may be obtained only upon order of the assigned Judge or Magistrate. Application for such leaves to plead shall be made by written motion setting forth the number of previous extensions obtained by the moving party and the total length of time of those extensions.

**Rule 14. Continuance of Trial or Hearing**

- A. No party shall be granted a continuance of a trial or other hearing except upon written motion. The motion shall also indicate whether opposing counsel supports or opposes the motion.
  - 1. No third party pleadings will be accepted on behalf of Pro Se litigants.
- B. When a continuance of a trial is requested for the reason that counsel is scheduled to appear in another case assigned for trial on the same date in this Court or another court, the case which was set first for trial shall have priority and shall be tried on the date assigned. Criminal cases assigned for trial have priority over civil cases assigned for trial. The Court will not entertain any motion for a continuance due to a conflict of trial assignment dates unless a copy of the conflicting assignment is attached thereto and the motion is filed not less than thirty days prior to trial.
- C. The assigned trial Judge or Magistrate may waive any of the requirements listed above upon a showing of good cause.

**Rule 15. Rule Days Not Fixed by Law**

In all cases where the time for the filing and service of a notice or pleading is not otherwise fixed by law or applicable rule, a response to a pleading, motion, amended pleading, or other paper, shall be filed and served on or before the 14th day after the date of service of the pleading, motion, or other paper, requiring the response. Any reply to said response shall be filed and served on or before the seventh day after the date of service of the response.

**Rule 16. Application Procedure for the Approved Counsel List**

Attorneys who wish to be appointed to represent indigent defendants shall submit a resume and letter

requesting appointment. Attorneys approved for appointment will be approved for one calendar year and, thereafter, performance will be reviewed a minimum of once per year. Approved attorneys shall follow policies and procedures provided and approved by the court.

### **Rule 17. Procedure for Appointment of Counsel**

Counsel may be appointed by the court. Requests for appointed counsel for indigent defendants shall be directed to the Clerk. All appointments shall be made by entry prepared by the court and signed by the judge assigned to hear the case.

### **Rule 18. Procedure for Submission of Fee Applications**

- A. Appointed counsel shall submit a Motion, Entry and Certification for Appointed Counsel Fees, as prescribed by the Ohio Public Defender's Office, within thirty (30) days from the date of the final hearing. Fee applications submitted outside the thirty-day (30) guideline shall be subject to a reduction of the amount requested at the discretion of the judge assigned to hear the case. Motions for judicial release and other post-conviction motions shall be submitted on a separate fee application, which shall be submitted within thirty (30) days of the date of the entry of the judge's decision.
- B. In accordance with Ohio Public Defender Standards and Guidelines for Appointed Counsel Reimbursement, Section I(F)(2), counsel is required to prepare and maintain time records for each appointed case, showing the date of service, nature of services rendered, and hours worked. Time records shall be provided to the Court upon request.

### **Rule 19. Bail and Recognizance**

- A. Right to Bail and Purpose of Bail: All persons are entitled to bail. The purpose of bail is to insure that the defendant appears at all stages of the criminal proceedings and to protect the public. See Criminal Rule 47.
- B. Conditions of Release Upon Arrest: See Bond Schedule – Refer to Appendix C.
- C. Conditions of Pretrial Release: The court may impose any combination of the following conditions of pretrial release:
  - 1. Place the person in the custody of a designated person or organization agreeing to supervise him.
  - 2. Place restrictions on the travel, association, or place of abode of the person during the period of release.
  - 3. Require the execution of an appearance bond in a specified amount and the deposit with the Clerk a sum of money equal to ten percent of the amount of the bond, but in no event shall such deposit be less than \$25.00 which deposit is to be returned upon the performance of the conditions of the appearance bond.

4. Require the execution of a bail bond with sufficient solvent sureties, or the deposit of cash or the securities allowed by law in lieu thereof.
  5. Impose any other constitutional condition deemed reasonably necessary to assure appearance and to protect the public.
- D. Conditions of Release after Conviction: A person who has been convicted and is either awaiting sentence or has filed a notice of appeal shall be treated in accord with the provisions of subdivision (B), unless the judge has reason to believe that the person will flee or pose a danger to any other person or to the community. If such a risk of flight or danger is believed to exist, the person may be ordered detained.
- E. Sanctions: Any person, having been released pursuant to any provision of this rule, who fails to appear before any Court as required, shall be subject to any punishment provided by law and shall incur a forfeiture of any bail which was given for his release.
- F. Justification of Sureties: Every surety, except a corporate surety which is licensed as provided by law, shall justify by affidavit and may be required to describe in the affidavit the property by which he proposes to justify and the encumbrances on it, the number and amount of other bonds and undertakings for bail entered into by him and remaining undischarged and all his other liabilities. He shall provide such other evidence of financial responsibility as the Court or clerk may require. No bond shall be approved unless the surety or sureties appear, in the opinion of the Court or clerk, to be financially responsible in at least the amount of the bond. No licensed attorney of law shall be a surety.
- G. Forfeiture of Bonds: If there is a breach of condition of a bond, the Court shall declare a forfeiture of the bail. Forfeiture proceedings shall be promptly enforced as provided by law.
- H. Exoneration: The obligor shall be exonerated as provided by law.
- I. Verification of Bond Information: Before accepting any bond for bail or recognizance, the Clerk shall make certain that the affidavit of justification for suretyship shall contain all of the information required by R. C. 2937.24 and such additional information as the Court may require to be set forth. The Clerk shall also require compliance with every direction contained in R. C. 2937.21, et seq. Whenever the Clerk shall be in doubt as to the validity of the signature of any bondsman, he shall refer the matter to the Sheriff who shall promptly cause the subject to be investigated and make a report to the Clerk.
- J. Notification of Law Enforcement: Whenever a *capias* is issued by the Court, the Clerk shall promptly forward it to the Sheriff or other law enforcement agency whose information led to the indictment of the defendant of the Court's action.
- K. Bond Forfeiture Judgments: The Clerk of Courts shall forward to the Prosecuting Attorney a copy of every bond forfeiture judgment entry. Every bond forfeiture judgment entry shall include the following language: "It is further ordered by the Court that if the aforesaid judgment is not satisfied

within sixty (60) days, the Clerk of Courts is instructed to accept no further recognizance from said surety.”

Further the Clerk of Courts shall notify the Prosecutor at such time that a judgment is satisfied. If the judgment is not satisfied at the end of the sixty (60) day period, the Prosecuting Attorney shall immediately take the necessary action to collect the judgment.

When a bond forfeiture has been ordered in a criminal case with a judgment taken thereon, and a bondsman files a motion to vacate said judgment to remit all or part of the money paid or payable, the following procedure will be followed:

When the defendant has been returned to this jurisdiction, or where it has been ascertained that he is being detained in another penal institution outside of this jurisdiction, and the Court partially grants the motion, the following sums shall be deducted from the money to be remitted:

1. All Court costs;
2. All costs of extradition sustained by the County or State;
3. Ten percent (10%) of the total bond where the order is made within one year of the date of the bond forfeiture;
4. Where the order is made one year or more subsequent to the date of the bond forfeiture, such sum, if any, in excess of ten percent (10%) of the bond as the judge deems appropriate;
5. If good cause by production of the body of the accused or full payment of the reduced judgment is not made within thirty (30) days, the face amount of the bond or the full judgment will be reinstated;

No attorney, officer, or employee of the Court or of the sheriff shall be accepted as principal or as agent for bail or surety or any family members of such individuals as defined by the Ohio Ethics Commission, except upon application and approval of the court.

When the amount of bail has been fixed in a criminal case in a court other than the Court of Common Pleas, and either the State or the defendant desires to modify the amount or conditions thereof, such party shall make application to the Court. Notice shall be given to the adverse party prior to the filing of such application. The decision on the application shall be by entry.

## **Rule 20. Bond Deposits**

- A. The Clerk of Courts shall comply with R.C. 2937.40 and shall ensure that when cash or securities, which have been deposited as bail by a person other than the accused and such bail is discharged and released pursuant to R.C. 2937.40(A), the release shall be made only to the actual person who initially placed such cash or securities with the Clerk.
  1. Bond posted by a person other than the accused may only be returned prior to disposition if a replacement bond is deposited.

2. R.C. 2937.40(B) also provides a use of such funds to satisfy fines, court costs and other assessments against the accused person. Upon the expressed approval of the person who deposited such cash and securities, the following rule shall apply to such matters:
  - a) Wherefore, the Clerk of the Chardon Municipal Court shall release such deposited bail only to the person who initially deposited such bail in the form of cash or securities. Such return shall be made by a check issued by Clerk of Courts payable to the person who initially deposited such bail with the Clerk. Such check shall be mailed by the Clerk to the address initially provided to the Clerk by the person depositing such bail. No other release of such deposited bail is authorized.
  - b) The Clerk of Courts shall not apply any portion of the deposited bail towards the satisfaction of any penalty, fine or court costs as may be assessed upon that person's conviction or plea, unless the person other than the accused who initially deposited such bail with the Clerk, expressly and in written form and under oath before the Clerk authorizes such release of the deposited bail in full or in part and for one of the above designated purposes. The record of such release in regard to the application of such deposited cash or securities shall be filed with the record of the case. The Clerk of Courts shall provide appropriate forms to the satisfaction of the Clerk addressing such release of the deposited bail towards payment of any charges as aforesaid.
- B. When the accused who deposited the bail or securities initially with the Clerk is released and discharged of such bail pursuant to R.C. 2937.40, then in such cases all or some portion of the deposited bail shall be applied towards the payment of court costs, any penalty or fine as may be assessed against such accused, and monies left over as excess thereafter will be returned to the accused only after proper identification is made before the Clerk and under oath and in written form that the accused is in fact the person to apply for such bail. Such accused shall be provided a form identifying the amount of such bail previously applied and identify one of the purposes set out above to which such bail is directed. The written record of such activity by the accused shall be filed with the record of the case.

## **Rule 21. Appearance of the Defendant**

- A. Persons charged with traffic and/or criminal offenses must be present at the initial appearance as well as all subsequent hearings, except as set forth herein, or as set forth in the Rules of Criminal Procedure, or as set forth in the Traffic Rules, or as provided by law. Failure to appear will result in the issuance of an arrest warrant and/or other appropriate sanctions.
- B. The requirement of the defendant's initial appearance may be satisfied by counsel for the defendant with the exception of charges listed in (C) by filing a letter or notice of appearance with the court prior to the date of the initial appearance and setting forth all of the following:
  1. Notice of Appearance;
  2. Plea on the defendant's behalf;
  3. Waiver of the time for speedy trial;
  4. Request that a pretrial be set.

- C. Personal Appearance is mandatory for all first degree misdemeanors, including, but not limited to, charges of OVI, Physical Control Under the Influence, Domestic Violence, Violating a TPO, Underage Consumption, Theft and all Drug related charges except minor misdemeanors.

## **Rule 22. Failure to Appear**

If at any stage in the proceedings the defendant fails to appear as ordered, the Court may issue a warrant for the arrest of the defendant. Upon issuance of a warrant an Order may be filed setting forth that defendant is unavailable for trial and removing the case from the active docket.

## **Rule 23. Violations Bureau**

- A. Pursuant to Ohio Traffic Rule 13 and Criminal Rule 4.1, there is hereby established a Violations Bureau and the Clerk of Court is hereby appointed as clerk thereof.
- B. The Violations Bureau shall accept appearances, waivers of trial, pleas of guilty, and payment of fines and costs for offenses within its authority.
- C. The Violations Bureau shall have authority to dispose of traffic offenses and minor misdemeanor offenses with the exception of the following:
  - 1. Indictable offenses;
  - 2. Operating a motor vehicle while under the influence of alcohol or any drug of abuse;
  - 3. Leaving the scene of an accident;
  - 4. Driving while under suspension or revocation of a driver's or commercial driver's license;
  - 5. Driving without being licensed to drive, except where the driver's or commercial driver's license has been expired for six months or less;
  - 6. A third moving violation within a twelve-month period;
  - 7. Failure to stop and remain standing upon meeting or overtaking a school bus stopped on the highway for the purpose of receiving or discharging a school child;
  - 8. Willfully eluding or fleeing a police officer;
  - 9. Drag racing;
  - 10. Any violation in which the officer marked the notice as "personal appearance required".

- D. There is hereby established a waiver schedule of fines and costs for subject offenses. Such schedule shall be distributed to the law enforcement agencies operating within the jurisdiction of the court and shall be prominently displayed at the cashier's office of the court.
- E. At any time prior to arraignment, a defendant charged with an offense that can be processed by the violations bureau may:
  - 1. Appear in person at the violations bureau, sign a plea of guilty and waiver of trial, and pay the total amount of fines and costs; or
  - 2. Sign the guilty plea and waiver of trial, and mail the ticket and a personal check, certified check or money order to the bureau; or
  - 3. On line payment via the website with payment by VISA, MasterCard or Discover. Payment through website constitutes a guilty plea and waiver of trial.

Waivers in person or by mail must be accompanied by proof of financial responsibility which must have been in effect on the date of the violation.

#### **Rule 24. Video Hearings**

- A. At the court's discretion, hearings on criminal or traffic matters may be held by means of closed circuit video transmission to the court from the correctional facility where the defendant is being held.
- B. The attorney representing the defendant, whether retained or appointed, shall be notified of the time scheduled for the video hearing, and may be present either at the court or the correctional facility.
- C. Video hearings will be scheduled at times mutually convenient to the court and correctional facility involved.
- D. In the event the defendant personally or through counsel objects to the matter being held by video transmission, the proceedings shall take place in person in the courtroom.

#### **Rule 25. First Offenders Program**

The First Offender Program (FOP) is an alternative to prosecution of persons charged with certain misdemeanor crimes who have no prior criminal convictions. FOP informs defendants about the penalties if their actions result in the conviction of a crime, imposes consequences for their acts and, upon successful completion of FOP, provides for dismissal of the criminal charge(s) against them.

#### **Rule 26. Inactive Criminal Cases**

Criminal cases in which further proceedings are not presently possible shall be placed in a suspended file

by the Clerk and considered closed for statistical purposes either upon motion of the prosecuting attorney or the Trial Court's own motion and shall not be subject to dismissal for want of prosecution. A case shall be removed from that list when the defendant is available and proceedings resume or when the case is dismissed. Cases to which this rule is applicable shall include those in which the defendant is not competent to stand trial, is confined in a penal institution in another state, has not been served, or cannot be found. No case shall be placed on the suspended list until any bail has been forfeited and judgment entered.

#### **Rule 27. Criminal Pretrial and Trial**

- A. Defendant is required to be present at all scheduled pretrials. All pretrials in criminal and traffic cases must be had with the prosecutor's office only, and the court will not participate in any plea negotiation discussions. No pretrial will be scheduled in minor misdemeanors.
- B. No continuance will be granted on pretrials unless for good cause shown and waiver of the time limits by the attorneys and/or parties.
- C. Defendant should be prepared for trial at the time of pretrial and should have obtained all discovery.
- D. Changes of pleas and impositions of sentence shall be made either on the day of the pretrial or on the morning the case was originally set for trial. All changes of pleas are to be made prior to the date of trial, or on that day. Exceptions to this rule will be granted on express permission of the court prior to trial date. Failure of defendant to appear at such time will be cause for a warrant on contempt and/or withdrawal of bond. If a defendant decides to change his plea to guilty or no contest or pleads to another charge on the morning of the date of the jury trial, he may be taxed with the jury costs unless the jury is used by another case.

#### **Rule 28. Disclosure of Presentence Reports**

At the time a Judge orders a presentence investigation, a date for sentencing shall be established and noted on the Criminal Case Processing Sheet. Defense counsel will personally convey a copy of the processing sheet and the defendant to the Adult Probation Department Intake Office on the date the investigation is ordered. If the defendant is held in jail, defense counsel will personally convey a copy of the processing sheet to the Adult Probation Department Intake Office on the date the investigation is ordered. The date of the sentencing shall not be less than 60 days nor more than 90 days after the presentence investigation is ordered. The Probation Department shall have the report completed no later than ten days prior to sentencing. When the report is completed, it shall be sent to the assigned judge and made available, at the probation department for review by the defendant's attorney (or by the defendant if he is not represented by an attorney), and the prosecutor. No report shall be taken from the probation department without the written approval of the judge assigned to the case.

If the report contains information that is not available for review pursuant to R.C. Section 2951.03(B), such information shall be sent to the undersigned judge along with the report. The report made available for review by the attorneys shall reflect the fact that information, if any, has been deleted pursuant to R.C. Section 2951.03(B) and the general categories of the deleted information shall also be noted.

Any hearing and/or court findings necessitated as a result of the deleted information shall be held on the date of sentencing or at any other date designated by the assigned judge.

The probation officer assigned to the court or the case on the day of sentencing shall be responsible for obtaining all copies of the report immediately after the imposition of the sentence.

### **Rule 29. Sentencing**

- A. Upon a finding of guilty, sentencing shall occur immediately unless otherwise permitted by the court.
- B. Prior to sentencing and in its discretion, the court may refer the defendant to the probation department for a pre-sentence investigation. Upon completion of its investigation, the probation department shall prepare a written report. Such report shall be made available for review by the prosecution and defense prior to sentencing.
- C. Costs, fines and monies for restitution are expected to be paid immediately after sentencing unless otherwise permitted by the court. In the event the defendant is unable to make payment in full of all sums required, the defendant may, in the discretion of the judge, be granted time to pay.

### **Rule 30. Community Control Sanctions**

- A. The court will determine eligibility for community control sanctions (CCS). Any defendant who is referred to CCS shall meet with the probation officer immediately following sentencing. In the event the probation officer is unavailable to meet with the defendant, it shall be the defendant's affirmative duty to schedule an initial appointment.
- B. The probation officer shall provide a copy of the court's Standard Rules of CCS to each defendant referred for probation and secure the defendant's signature upon the same.
- C. The probation officer shall inform each defendant referred to CCS of the specific terms thereof. A complete and detailed CCS policy manual is available for inspection at the office of CCS.
- D. A determination by the probation officer that the defendant has failed to agree to or comply with the Standard Rules of CCS, or with the terms of CCS, shall result in the scheduling of a CCS violation hearing and may result in the imposition of the original sentence in whole or in part.

### **Rule 31. Requests for Jury Trial**

All criminal misdemeanor cases other than minor misdemeanors shall comply with Ohio Criminal Rule 23 concerning request of a jury trial, except in any case wherein a mandatory jail sentence is imposed by statute upon conviction, the right to trial by jury shall be automatic.

Request for Civil Jury Trial must be in writing and requires a deposit and fee to secure trial date.

## Rule 32. Exhibits

- A. Definition: For purposes of this Local Rule, "Exhibit" means any document or tangible item submitted at any hearing before a Judge or Magistrate.
- B. Exhibits offered at any hearing shall be taken into the custody of the bailiff. All exhibits shall be marked with an appropriate exhibit number.
  - 1. The bailiff shall complete an Itemized Evidence Inventory ("Inventory"), which shall contain the following information:
    - a) Caption;
    - b) Case number;
    - c) Judge or Magistrate;
    - d) Bailiff;
    - e) Counsel;
    - f) Each exhibit number;
    - g) Whether each exhibit was identified;
    - h) Whether each exhibit was admitted;
    - i) A brief description of each exhibit; and,
    - j) An annotation if the exhibit was photographed and returned.
  - 2. Each party's exhibits shall be enumerated on separate Inventory lists.
  - 3. Exhibits identified, but not admitted, shall remain in the custody of the bailiff and placed in a separate envelope.
  - 4. Exhibits withdrawn will be returned to the proffering counsel.
- C. The bailiff shall place all exhibits and Inventory lists, unsealed, in a court evidence envelope. The bailiff shall retain physical custody of exhibits in all cases, with the following exceptions:
  - 1. Dangerous and sensitive items, such as weapons; illegal drugs, hallucinogens, narcotics; narcotic paraphernalia; and exhibits which are oversized or bulky.  
These shall be photographed by the bailiff and returned to the attorney who proffered the exhibit and/or arresting agency. All photographed exhibits shall clearly show the exhibit number (Sup.R.26 (D) (1)). The attorney proffering and/or agency retaining custody of exhibits that have been photographed and returned shall be responsible for retention and/or destruction as provided by these Rules, the Rules of Superintendence and by the Ohio Revised Code.
- D. Oversized demonstrative exhibits, such as presentation boards, shall be substituted with a duplicate 8 1/2 " x 11" exact copy, which shall be provided by counsel introducing such exhibits, and shall be clearly marked with the exhibit number.
- E. Upon receipt of exhibits, the bailiff shall verify that the exhibits received correspond to the Inventory list. Exhibits shall be assigned a designation indicating placement with the bailiff, and this designation shall be entered into the court's docket. The bailiff shall seal the exhibits and copy of the Inventory in the exhibit envelope and place it in the exhibit room according to the indicated designation. The bailiff shall file a copy of the Inventory submitted in the case file with the Clerk of

Courts.

- F. Exhibits shall be removed from the evidence room only by the bailiff. Persons requesting exhibits must present an Entry Granting Request to Release, View, Copy or Listen to Evidence form, signed by a judge and presented to the bailiff. The bailiff shall make the evidence available within a reasonable period of time. The bailiff will note the date and time of compliance with the request.

**Criminal Cases:**

- A. Exhibits in misdemeanor cases all exhibits shall be retained for one (1) year following the final disposition of a case or the completion of an appeal on a case.
- B. In cases in which a defendant is acquitted, the exhibits shall be immediately returned to the parties.
- C. In cases of a hung jury, exhibits will be returned to the proffering counsel.

**Civil Cases:**

- A. Exhibits in all other civil cases shall be retained for one (1) year following the final disposition of a case or the completion of an appeal on a case

**Disposition of Evidence:**

- A. The bailiff shall cause exhibits to be destroyed in accordance with this Rule, when the following conditions are satisfied:
  - 1. The Court has sent a file-stamped notification to the party and/or attorney of record who submitted the exhibits indicating:
    - a) The exhibits shall be destroyed if not retrieved within sixty (60) days from the date of written notification; and,
    - b) The information as to where and when exhibits may be retrieved. Upon satisfaction of the foregoing conditions, the bailiff shall file an Order of Destruction, signed by the trial judge, magistrate or hearing officer.

**Rule 33. Civil Pre-Trial Procedures**

- A. At the pretrial conference a trial date may be scheduled.

Should either party desire the pretrial to be done by phone, it shall be agreed that the party so requesting this shall be responsible for contacting all parties and the court for the pretrial conference.

Any request to hold the pretrial conference by phone made after the status report hearing, shall be in writing, shall indicate that the requesting party has contacted opposing parties, and received their consent, and shall be filed no later than seven days before the scheduled pretrial.

- B. Trial counsel for each of the respective parties or only the respective parties if parties are not represented shall appear at the pretrial conference. A corporate or limited liability company party may appear by an officer or an employee having knowledge of the subject matter of the case. A party who is insured concerning the claim may appear by a claim representative from his or her liability carrier. In those instances when trial counsel can assure the court that a representative of an insurance carrier is available for immediate contact by phone, the trial counsel for an insured party may appear for the party and the carrier.

Trial counsel has a duty to make a full and fair disclosure of his or her views on the issues at the pretrial conference. If counsel does not disclose witnesses at the pretrial conference, they may be disallowed.

- C. At least seven (7) days prior to the pretrial conference, trial counsel for each of the parties shall file a pretrial statement. Unless otherwise ordered by pretrial order from the court, each pretrial statement shall contain a statement from trial counsel covering those of the following items as are appropriate to the pending litigation:
1. Discovery: Counsel shall advise the court of the status of discovery and, if not completed and a cut-off date for discovery has not been exceeded, counsel shall advise the court of the additional discovery anticipated and the time necessary to complete it. If a cut-off date for discovery has passed and no extension has been granted, the trial court may order additional discovery only upon good cause shown.
  2. The Status of Settlement Negotiations: Trial counsel shall advise the court of demands for, or offers of, settlement to date or the current status of settlement negotiations.
  3. Exchange of Medical and Expert Reports: Trial counsel for each of the parties shall advise the court of the expert or medical witnesses that counsel expects to testify at trial. A copy of each expert's written report or a summary of the expert's reports where no written report is available to counsel shall be furnished to opposing counsel prior to pretrial statement, along with the name of each expert from whom a report was received and a statement or notation that a copy was forwarded to opposing counsel or a statement as to why a report was not furnished.
  4. Special Damages: Where appropriate, trial counsel shall list all special damages and shall furnish to opposing counsel verification of these damages. Where lost wages or impairment of earning capacity are claimed, the basis on which the claim will be proven (i.e. testimony of the party, employee, etc.), shall be set forth.
  5. Exhibits: Trial counsel shall set forth those exhibits in existence which counsel expects to introduce during the trial of the case, such as photographs, plots, deeds, medical bills or expenses, etc. Except for medical, drug and hospital expenses, all listed documents shall be presented to the court at pretrial. Counsel shall also list those exhibits not in counsel's possession, which counsel expects to introduce at trial such as x-rays, diagrams, etc.

Each attorney should mark his or her own anticipated exhibits, plaintiff taking numbers 1, 2, 3, etc., and defendants taking letters A, B, C, etc. Each side should present exhibits to the other side before trial for examination so that time will not be consumed in the courtroom for

examination. Each party should date and initial the exhibits of the other side at the time of the examination. If the exhibit can reasonably be anticipated to be used during trial the court will not use court time for purposes of marking or examining the exhibits. Counsel shall furnish the bailiff and the court with a list identifying each exhibit with the accompanying identifying number or letter.

6. Other Matters: Trial counsel shall set forth those additional items or requests which may aid in, or affect, the trial of the cause such as:
  - a) Request for a view of the scene;
  - b) Any anticipated delay of trial because of a problem scheduling a witness;
  - c) Request for amendments of the pleadings, leave to file motion for summary judgment, dismissal, etc.
  - d) Requests for admissions;
  - e) Request for sanctions pursuant to Civ.R. 37.
- D. Pretrial Orders: At the completion of a pretrial conference, the court may prepare and file a pretrial order as set out in Civ.R. 16. Among other items, the court may order any or all of the following:
  1. A cut-off date for furnishing of the names and addresses of witnesses. A cut-off date may be extended only for good cause shown and upon written motion.
  2. An order for additional discovery and/or a new cut-off date for discovery.
  3. An order that counsel supply medical or expert reports and a date for compliance.
  4. An order permitting or denying requests for amendments of the pleadings or filings of motions.
  5. Memoranda on unusual evidentiary problems, which can be reasonably anticipated, in support of admission and/or non-admission into evidence.
  6. Any other order which memorializes the action at pretrial.
- E. Trial Date: Upon completion of the pretrial conference, counsel for the parties and the trial judge shall select or confirm a trial date. Once selected or confirmed, the trial date shall not be vacated except upon written motion and for good cause shown or upon order of court.
- F. Other: In addition to those sanctions provided in Civ.R. 37, the Court may order the dismissal of an action or the granting of all or part of the relief sought in a complaint or such other order as the Court deems appropriate for failure of trial counsel to comply with a pretrial order, including the exclusion of certain evidence or the disallowance of the testimony of any witness. An issue not covered in a pretrial order, but tried with consent of the parties, shall be treated as if such issue had been included in the pretrial order. Stipulations or agreements of facts, issues or exhibits by the parties and counsel in a pretrial order are binding on the parties and are admissible at trial

without further proof. The Court, upon timely motion or on its own motion, may modify a pretrial order where no substantial injury to another party is caused thereby to prevent a grave injustice to the injured party.

- G. Upon failure of plaintiff and his counsel to appear, the court may grant a dismissal on motion of counsel for the defendant. Upon failure of defendant and his counsel to appear, the court may proceed with the case, allow amendments, fix the number of witnesses, decide all other preliminary matters, hear evidence, make such findings as are proper, and grant judgment in favor of the plaintiff against the defendant. Upon failure of all the parties to appear, in person or by counsel, dismiss the case for want of prosecution, without prejudice, at plaintiff's costs, or to continue the case for further pretrial procedure.

### **Rule 34. Default Judgment**

Upon Plaintiff and/or Plaintiff's counsel receiving notice of good service and a filing of a motion for default judgment conforming to Rule 55 of the Ohio Rules for Civil Procedure - if the default is denied, the Court will notify the Plaintiff and/or Plaintiff's counsel as to the reason of the denial and allow a time frame for resubmission of an amended motion for default judgment. If Plaintiff and/or Plaintiff's counsel fails to comply with required resubmission, the Court may dismiss the case for want of prosecution, without prejudice, at plaintiff's costs.

- A. If the complaint involves a contract, attach copy of contract, or credit application;
- B. If a credit card case; an affidavit must be submitted by a person having personal knowledge of or custodian of records, as to application; \*
- C. If credit card case, please attach copies of monthly statements for a period of at least twelve months. Include first month's statement, most recent statements, and statements with activity (purchases, interest and fees);
- D. If assets or accounts have been transferred, assigned or sold, attach a copy of assignment, transfer or bill of sale;
- E. If complaint on account, complaint must have account balance attached with an affidavit of a person having personal knowledge of or custodian of records, as to application; \*
- F. Military Affidavit. \*

**\* An affidavit must be an original and no more than six months old.**

If the proper evidentiary documentation is not received with a motion or pursuant to the rule, or is incomplete, then the matter may be dismissed for failure to prosecute. Uncertified documents not accompanied by an affidavit or testimony, may not be considered proof of damages.

### **Rule 35. Judgment by Confession**

- A. No judgment on a warrant to confess judgment shall be granted until the answering and confessing attorney has informed the court in writing that:
  - 1. The warrant of attorney to confess judgment and the instrument to which it pertains appear in all respects on their face to be valid and in compliance with Revised Code Section 2323.13;
  - 2. He or she has personally reviewed the documents on which the Complaint and Answer and confession of judgment is based and is satisfied that there are no matters reflected in these documents or of which the attorney is aware which give rise to any defense on behalf of the defendant;
  - 3. He or she has reviewed all records of payments and all calculations and finds the amount prayed for to be accurate; and
  - 4. He or she is not associated in the practice of law with the attorney who filed the complaint.
- B. Counsel shall provide the court with the notice required by Revised Code Section 2323.13(C) and a properly addressed, prepaid certified mail envelope, return receipt requested.

### **Rule 36. Deposition Testimony**

- A. Filing:
  - 1. In addition to the requirements of Rule 13 of the Rules of Superintendence for the Courts of Ohio, unless otherwise ordered by the Court, no deposition shall be filed prior to the deadline for filing of any pretrial statement or seven (7) days prior to trial, whichever is later.
  - 2. If a deposition in an electronic format is filed, a paper transcript of the deposition must be filed simultaneously unless the transcript has been filed previously. The filing of the transcript must comply with Local Rule 2.09(IV).
  - 3. The Clerk shall not accept for filing any deposition unless it is accompanied by a certification from counsel that it is being filed in compliance with this rule and Local Rule 2.09(IV).
- B. Pretrial or Jury Trial Requirements:

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

  - 1. Notify the Bailiff of intended use within three (3) working days prior to trial;
  - 2. Ensure that the format of the electronic version of the deposition is compatible with the Court's presentation equipment;
- C. Post-Trial Disposition of Depositions and Videotapes:

The owner of any deposition and/or electronic version of the deposition shall take possession of it

within sixty (60) days of the following:

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

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

### **Rule 37. Trial and Hearing Rules**

- A. Defendant shall occupy the table nearest the bailiff's desk and Plaintiff shall occupy the other table.
- B. Except when making objections, counsel shall rise when addressing the Court or jury unless excused by the trial judge. All statements and communication by counsel shall be made from counsel table or the lectern, if one is provided. While the Court is in session, counsel shall not approach the bench unless the trial judge gives leave to do so. Arguments of counsel shall be addressed to the Court and at the proper time, to the jury. Arguments between counsels are not permitted.
- C. Arguments upon rulings or objections shall be permitted at the discretion of the trial judge.
- D. Only one attorney for each party may examine or cross-examine any particular witness, and only that same attorney may object during the testimony of that witness.
- E. Counsel and parties will be at their places in the courtroom at the time designated. Counsel shall have witnesses available during trial so that the case runs smoothly and without delay. Any anticipated delay in the appearance of a witness or the proposed calling of any witness out of turn shall be discussed in advance with the trial judge and opposing counsel.
- F. Counsel shall not approach any witness on the stand during trial except with leave of the trial judge.
- G. For every deposition to be used at trial, a transcript must first be filed.
- H. The parties shall prepare their trial exhibits prior to the hearing; Plaintiffs shall use numbers, and Defendants shall use letters.
- I. Only one counsel for each adverse party will be permitted to speak on any interlocutory matter, or upon any question arising in the trial or proceeding, and but one counsel for each adverse party will be permitted to examine or cross-examine the same witness. Exceptions by leave of court only.
- J. All counsel and parties shall remain seated except when addressing the Court, Jury or a witness. A witness shall not be approached except when examined regarding an exhibit or as otherwise permitted by the Court.

- K. Only one person may speak at a time.

### **Rule 38. Restitution**

If restitution is ordered, monies deposited shall be applied by the Clerk first to the court's costs, second to state costs, and third to fines, and fourth to restitution as ordered by the Court. A hearing on restitution is required to be conducted prior to sentencing, unless defendant stipulates to amount.

### **Rule 39. Discovery Disputes**

#### A. Certificate:

1. No application for protective order, objections to any form of discovery, motions for sanctions or the like shall be filed until the impasse which provoked it has been discussed with opposing counsel, and a diligent effort has been made to solve the problem informally.
2. A certificate to that effect shall be affixed to or made a part of the application or motion and it shall include the specific times and methods of attempted informal resolution.
3. The presentation of any insufficient or unwarranted application, objection or motion and any unwarranted opposition to discovery, formal or informal, will subject the offender to sanctions under Rule 37 of the Ohio Rules of Civil Procedure and this Local Rule, including the imposition of costs, expenses and reasonable counsel fees.

#### B. Policy of Local Rule:

1. It is declared policy of this Local Rule to encourage professional informal discovery wherever practicable in preference to formal discovery and to avoid the Court's involvement in the discovery process. Counsel shall make every effort to comply with this policy.
2. This policy is not intended to discourage the use of depositions to discover and to record evidence as provided in the Ohio Rules of Civil Procedure.

#### C. Informal Discovery:

Counsel will participate in discovery conferences with opposing counsel and shall freely exchange discoverable information and documents upon informal request. Counsel shall make every effort to resolve discovery disputes by agreement prior to filing motions with the Court.

### **Rule 40. Bailiff's Sale**

- A. See Civil schedule of fees (appendix A) for Execution cost.
- B. On all sales of goods and chattels, the purchase price shall be paid in cash or certified bank checks, unless otherwise ordered by the court.

C. The following rules will apply in any execution.

1. When executing upon household goods, creditor must name the exact items to be executed upon, also make and model of items if possible.
2. Executions upon industrial and commercial properties must have the exact items to be executed upon, also make and model of items if possible.
3. When executing upon automobiles, boats, and recreational vehicles you must obtain a copy of the title and Ohio registration number, if possible.

#### **Rule 41. Judgment Debtor Examinations**

- A. In accordance with the provisions of Revised Code Chapter 2333, a motion for order of appearance of judgment debtor shall be filed as all other motions with the Clerk of Courts (except that no memorandum in support thereof shall be required). If the judgment debtor appears on that date, the judgment debtor shall be examined at that time; if the judgment debtor fails to appear and it appears that the notice sent to the judgment debtor has not been returned or delivery thereof has been refused, or if the judgment debtor has been served personally and fails to appear, the judgment creditor shall have the option to file a show cause.

#### **Rule 42. Magistrates**

The Court may appoint a person or persons to serve as civil magistrate, and as criminal magistrate, and as traffic magistrate. Magistrates shall have all powers permitted by law and the court's inherent powers, including, without limitation, those powers as set out in Civ. R. 53, Crim. R. 19, and Traf. R. 14, respectively, unless limited in a specific order of the court.

#### **Rule 43. Notice Of Settlement**

The purpose of this rule is to (1) reduce the Court's expenditure of time on cases that have already settled, but no notice has been given to the Court; and (2) to facilitate the scheduling of other cases remaining on the Court's docket.

Whenever the parties have reached a settlement agreement prior to the hearing/trial date or when an action is voluntarily dismissed, it shall be the duty of plaintiff/plaintiff's counsel to immediately notify the trial court by FAX/email transmission, particularly if there are any pending motions that would involve the Court's time. If settlement has been reached between the parties, the electronic transmission shall state that settlement has been reached and the Court is to expect the dismissal and/or entry within 14 days. The Court must receive written notification to remove a hearing/trial from the docket.

If the case or any issue in the case has been referred to a magistrate, the magistrate likewise shall be immediately notified of the settlement or voluntary dismissal.

If a settlement or dismissal occurs within 24 hours of the scheduled trial date, counsel for the plaintiff shall

notify the court as soon as practicable, but no later than 8:30 a.m. on the day of trial. All CR. 41(A) dismissals, whether or not signed by the judge, must be presented to the court for termination before filing.

#### **Rule 44. Agreements**

No oral agreement of counsel with each other, or with a party or an officer of the Court will be regarded unless made in open court.

#### **Rule 45. Trial Briefs and Jury Instructions**

- A. Where a trial brief is required by order of court, counsel for each party shall file a copy with the clerk at least seven days prior to the commencement of trial.
- B. The brief shall state the issues involved, authorities upon which counsel intends to rely at trial, a list of witnesses the party intends to call and a list of all exhibits the party intends to introduce at trial.
- C. In all jury cases, all parties, or the attorneys for the same desiring specific jury instructions shall, at least seven days prior to trial, file proposed jury instructions with the clerk, and serve the same upon opposing counsel.

#### **Rule 46. Satisfaction of Judgment**

- A. No satisfaction of judgment shall be entered by the clerk unless all court costs have been paid.
- B. No person other than the clerk or deputy clerk may enter satisfaction of judgment upon the records of the court.

#### **Rule 47. Forcible Entry and Detainer Actions**

- A. Claims for forcible entry and detainer and claims for past due rent and money damages must be filed as separate counts in a single complaint and the court shall hear each count separately.
- B. Actions in forcible entry and detainer shall be set for hearing before a judge or magistrate approximately 14-21 days after the issuance of summons.
- C. Defendant(s) continuance requests will be granted for only one (1) week, unless written consent of Plaintiff/Plaintiff counsel. Further continuances requested by the Defendant(s) require a deposit of one month's rent escrow with the Court.
- D. At the conclusion of the hearing on the first count, the judge or magistrate shall file a judgment entry and cause a copy to be served upon all parties.
- E. If a second count for money damages has been filed, the hearing on the same shall be scheduled within sixty days of the hearing on the first count. The judge or magistrate shall file a judgment entry and cause a copy to be served upon all parties.

- F. Jury demands in forcible entry and detainer actions shall be filed and notice given to all parties not later than three business days before the trial date. A jury demand must be accompanied by payment of jury costs in accordance with Local Rule 31. Such a demand automatically continues the case and the moving party must post bond in accordance with R.C. 1928.08.

#### **Rule 48. Service of Process**

The Clerk of the Chardon Municipal Court may use service of process methods as outlined in Civil Rule 4.1 Process: methods of service, which methods include “virtual” service of process utilizing advanced postal technology for service by certified mail. This advanced postal technology does not modify Civil Rule 4.1, but merely provides for advanced electronic and website technology in the sending of certified mail and receipt of confirmation electronically to show to whom the mail was delivered, the date of delivery and address where delivered, all in accordance with the now-existing Civil Rules.

All service by virtual service of process is subject to review and/or challenge as further outlined in Civil Rule 4.1, with confirmation of service data available through the Clerk.

#### **Rule 49. Record Retention**

A Record Retention policy shall be established by the Court. Said policy shall be in accordance with Section 1901.41 of the Ohio Revised Code, and the record retention schedules in Rules 26, 26.01 and 26.05 of the Rules of Superintendence shall be followed. In the event of a conflict between Section 1901.41 and the Superintendence Rules then the provisions of Section 1901.41 shall govern.

Chardon Municipal Court adheres to the rules established by the Ohio Supreme Court that govern the duration in which official court records, including case files, must be retained.

#### **Rule 50. Reserved**

##### **Rule 50.1 Use of Electronically Produced Tickets/Citations**

The use and filing of a ticket/citation that is produced by a computer or other electronic means is hereby authorized in the Chardon Municipal Court.

The electronically produced ticket shall conform in all substantive respects to the Ohio Uniform Traffic Ticket. If an electronically produced ticket is issued at the scene of an alleged offense, the issuing officer shall provide the defendant with a paper copy of the ticket.

A law enforcement officer who files a ticket electronically, and electronically affixes the officer’s signature thereto, shall be considered to have certified the ticket and shall have the same rights, responsibilities, and liabilities as with all other tickets issued pursuant to these rules.