

IT IS HEREBY ORDERED THAT THE ATTACHED Uniform Court Rules are adopted and applicable to the Vermilion Municipal Court and they shall govern the practices and procedures of the Court. Nothing in these rules shall be interpreted to conflict with the Ohio Supreme Court Rules of Civil and Criminal Procedure. **IT IS ORDERED** that on and after January 2, 2019 these rules are effective and all other rules previously established are expressly revoked. The newly invoked Rules of Court are attached.

W. ZACK DOLYK, JUDGE

**VERMILION MUNICIPAL COURT
COURT RULES**

GENERAL PROVISIONS

Rule 1. Scope and effective date

- (A) These Local Rules of Court are adopted for governance of the practice and procedures in the Vermilion Municipal Court until otherwise provided, pursuant to Article IV, Section 5(B) of the Ohio Constitution, Rule 83 of the Ohio Rules of Civil Procedure and Rule 5 of the Rules of Superintendence for the Ohio Rules of Superintendence. Whenever any Local Rule is inconsistent with any rule promulgated by the Ohio Supreme Court the rule promulgated by the Ohio Supreme Court shall govern.
- (B) The purpose of these rules is to facilitate the expeditious disposition of cases that come before the court.
- (C) These rules are effective as of _____, 2019, and shall supersede and replace any local rules previously entered by this court.

Rule 2. Hours of regular operation

The traffic/criminal/civil session of this Court shall be from 8:00 a.m. Tuesday until the cases scheduled for hearing on that day are completed, Thursday afternoon from 1:00 p.m. until the cases scheduled for hearing are completed, and such other days for trials and hearings as are specifically set by the Court.

The office of the Clerk shall be open to the public from 8:00 a.m. until 4:00 p.m. Monday, Tuesday, Wednesday and Friday and on Thursday from 8:00 a.m. until the business of the Court is concluded on that day, legal holidays excepted and such other times as the Court or the City of Vermilion may designate.

Rule 3. Jurisdiction of Court

The territorial jurisdiction of the Vermilion Municipal Court includes all of the City of Vermilion, Vermilion Township, Florence Township and Brownhelm Township. The monetary jurisdiction of the Vermilion Municipal Court shall be in an amount as provided for in Section. 1901.17 of the Ohio Revised Code.

Rule 4. Judge

Visiting and Acting Judges – Visiting and Acting Judges shall be appointed pursuant to Section 1901.10 of the Ohio Revised Code and shall serve at all times when the incumbent Judge is temporarily absent, incapacitated, or when a conflict of interest exists.

Rule 5. Clerk of Courts

- (A) The Clerk shall maintain such dockets, books of record and indexes as are required by law or practical necessity as public record, utilizing imaging and computers for storage whenever possible.
- (B) Upon written request the Clerk shall make a copy of any papers filed, but original papers filed in any case shall not be removed from the office without prior authority of the Clerk
- (C) Officers or employees of this Court shall not prepare or help to prepare any pleading, affidavit, entry or order in any civil matter, except as provided under Section 1925 of the Ohio Revised code.
- (D) Except for good cause shown, the Clerk shall not be required to issue subpoenas, nor shall the Bailiff be required to serve the same, unless requests are filed with the Clerk at least one (1) week prior to the trial date.

Rule 6. 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 so as not to interfere with or obstruct judicial activities or proceedings.
- (B) All persons appearing before the court shall, as far as practicable, appear in appropriate attire as determined by the Judge.
- (C) No smoking, eating, gum chewing or drinking is permitted in the courtroom. Attorneys and litigants involved in a trial or hearing may have water at the trial table. Witnesses shall be provided water when necessary. Jurors may have water in the jury box. The Judge, Magistrate, Prosecutor, Court Officer and Bailiff may have water on the bench.
- (D) No person shall behave in an unseemly or disorderly manner in the courtroom or in any portion of the court building, or otherwise interfere with or obstruct judicial activities or proceedings.
- (E) 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 for contempt of court.

Rule 7. Prohibited Electronics

All cell phones shall be silenced in the courthouse and turned off while in the courtroom. Failure to silence/turn off cellphone may result in an appropriate sanction by the court.

All tape recorders and cameras shall be prohibited in the courthouse.

Professional media equipment may be allowed upon prior approval by the Judge.

Rule 8. Recordings of proceedings

- (A) A record shall be made of traffic and criminal proceedings and all civil division trials before the court by audio electronic recording device. In the event a party desires recording by stenographic means, such party must arrange for the presence and payment of a court reporter and file a written motion and journal entry 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 recording of the proceedings. The court will maintain all recordings for a period of no less than one year. At the expiration of such period the recordings may be destroyed at the discretion of the court except in the instance of an appeal in which event the subject recording will be retained while the appeal is pending.
- (C) A party may obtain a copy of a recording by filing a request listing the case number and date of hearing and by providing an unsealed flash/thumb drive.
- (D) NO recordings of any proceedings shall be done by anyone other than the appropriate court staff or news media unless specifically allowed in advance by the Judge.

Rule 9. Court Costs/Filing Fees

Costs shall be determined from time to time by the presiding Judge as appended to these Rules.

- (A) Court fees and costs in both civil and criminal cases shall be established by the Judge of the Vermilion Municipal Court in conformance with the provisions of the Ohio Revised Code. Those costs shall be published by the Clerk of the Vermilion Municipal Court as a Traffic/Criminal Division Cost Schedule and Civil Division Cost Schedule and made available to the general public upon request.
 - 1. See Appendix A for Criminal/Traffic
 - 2. See Appendix B Civil Division
 - 3. See Appendix C for Bond Cost Schedule
 - 4. See Appendix D for Waiver Schedules
- (B) No action or proceeding shall be accepted for filing by the Clerk of the Court unless there first shall be deposited the filing fee required by this court in its latest revised schedule of costs. Upon the completion of an application of indigency and review and approval by the Judge, the fee may be waived. The Court shall maintain a current schedule of fees and costs for distribution to the public, not inconsistent with those of the Revised Code.
- (C) Deposits and advance payments of fees and costs shall be returned only by Order of the court, and only when the same have been paid by the party against whom they are assessed by the Court.
- (D) When a jury trial in a civil case is demanded, the party demanding same shall be forthwith required to make an advance deposit as security for costs in such sum as the

Court determines to be reasonable. The cost of summoning jurors and the fees of jurors shall be apportioned to the respective proceeding and shall be taxed as part of the Court costs. The minimum deposit for jury trial shall be \$500.00.

- (E) In the event a civil case is settled or dismissed prior to trial the Clerk shall make every attempt to notify jurors. In the event it is not possible to notify all jurors of such cancellation, the party who filed a jury demand shall bear the cost of any juror fees.

Rule 10. File Management

- (A) Court files may be examined at the office of the Clerk of Court under the supervision of the Clerk or Deputy Clerk. Upon written request, copies of documents will be provided at a cost as may be determined by the Clerk as permitted by law.
- (B) No document may be removed from a court file.
- (C) No file may be removed from the Clerk's office without the written consent of the Judge or Clerk. Any person seeking to remove a file shall set forth in writing the case name and number, the reason for removal and the destination where the file is being taken. Files must be promptly returned to the Clerk's office and may not be removed from the court building.

Rule 11. Record Retention Rule

A Record Retention policy shall be established by the Court. (See Appendix E.) 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.

All audio recordings shall be retained for a minimum of one year.

Rule 12. Facsimile/Electronic Filing

The Clerk of the Vermilion Municipal Court shall accept for filing, electronic transmissions, including, but not limited to, e-mail and facsimile transfers, as an alternative method for filing of not guilty pleas, time waiver, notice of appearance, motion for continuance, affidavit in lieu of appearance, proof of insurance and letters from employers.

- (A) Each electronic transmission shall include all of the following information in the transmission, except that in the event of a facsimile transfer all such information shall be included on a separate cover page:
 1. The date of transmission
 2. The name, telephone number, facsimile number and/or e-mail address of the originator of the document

3. The caption of the case
4. The case number, if assigned
5. The number of pages being transmitted

Documents without this information shall not be accepted for filing.

(B) Electronic transmissions shall also be subject to the following conditions:

1. Every document shall be legibly signed by the originator of the document.
2. Every electronic transmission shall be legible and complete when received.
3. Every document to be filed shall be transmitted in a format and manner that can be read or downloaded by the electronic equipment currently in use by the Court.
4. No electronic filing shall be made of a document which exceeds 8 ½" x 11" in size.
5. Every electronic filing shall contain a proof of service when applicable.

Documents that do not comply with all these requirements shall not be accepted for filing.

- (C) The transmitted document, once it is filed, shall be deemed and accepted as though it were the original. Neither the original nor duplicates shall be sent thereafter unless ordered. The person filing a document by electronic transmission shall retain the original document and make it available upon request to the Court.
- (D) Electronic transmissions received by the office of the Clerk of Vermilion Municipal Court on a Saturday, Sunday, legal holiday, or after 4:00 p.m. on a business day shall be considered filed on the next business day. The Clerk of Vermilion Municipal Court shall also time-stamp the facsimile copy received or the hard copy of the e-mail, which shall constitute "acceptance" by the Clerk. If the electronic transmission appears on its face to comply with this Local Rule it should be entered accordingly onto the docket.
- (E) If the Clerk of Courts determines that a document received by electronic transmission should not be filed for any reason, e.g. illegible, incomplete, or otherwise not in compliance with this Local Rule, the Clerk shall not time-stamp the document, unless directed by the Judge. The Clerk shall make reasonable efforts to contact the originator or the facsimile or computer operator at the telephone number in the transmission to advise that it has been rejected for filing. The Clerk of Courts shall not be required to return the documents transmitted, but may dispose of them after telephone, facsimile or e-mail notice of rejection is attempted on the party. If a document presented for filing is rejected, the attorney or party who transmitted the document for filing shall promptly notify all parties served with a copy of the

document that the document was not accepted for filing. The responsibility to verify that a document has been accepted for filing rests on the transmitting party.

- (F) No document requiring a filing fee may be filed by electronic transmission unless the filer has paid the fee prior to transmission. Such fee may be paid by credit card and will incur a credit card fee.
- (G) These requirements may be waived or modified within the sole discretion conferred by law upon the Judge or Clerk of Vermilion Municipal Court.

Rule 13. Appearance/Withdrawal of Counsel

- (H) All entries of appearance of counsel in an action shall be in writing and shall include counsel's name, Supreme Court number, mailing address, facsimile, and e-mail address. Any document that does not include this information may be refused by the clerk for filing or stricken by the Court.
- (I) Upon the entry of appearance of counsel, all documents filed with the court and entries of the court shall be served upon the designated counsel at the address provided.
- (J) Once counsel has entered an appearance counsel may withdraw from a case only by written leave of court for good cause shown. A copy of the written Motion to Withdraw shall be served upon the client and opposing counsel if applicable.

Rule 14. Non-appearance of counsel at pretrial, preliminary hearing or trial

It is the attorney's responsibility to provide substitute counsel or to obtain a continuance if unable to appear for a Court Hearing. In the event counsel fails to appear, without the court's consent, the court may schedule a contempt hearing.

Rule 15. Traffic/Criminal Division

- (A) Case Management
 1. Arraignment Schedule: Arraignments will be held Tuesday at 9:00 a.m. and Thursday at 4:00 p.m. and at such other times as designated by the court unless special arrangements have been made with the Court. Arraignment sessions shall include initial appearances of all persons charged with offenses listed in Local Rule 16B.
 2. Pleas: At arraignment, the Defendant or his/her counsel may enter one of the following pleas: (1) guilty; (2) no contest; (3) not guilty. Prior to arraignment, Defendant's counsel may file a written appearance and a plea of not guilty pursuant to Crim. R. 10(B), except for those offenses listed in Local Rule 15(A) 4 below. All pleas must be in person or in writing.

3. Continuances: In cases where a continuance is requested, the arraignment may be continued at the discretion of the Judge. Requests for continuances of arraignments may be made by telephone but a written motion must still be subsequently filed within 24 hours. In instances where mandatory time limits may create an issue for subsequent hearing scheduling and a time waiver has not been signed a continuance **will not** be granted. This excludes cases listed in Local Rule 15(A) 4. There shall be a fee for a continuance. (See Appendix A.)
4. Mandatory Appearances: All persons, regardless of residence and regardless of whether an attorney has entered an appearance must appear in court for arraignment if cited for the following offenses:
 - A. Felony offenses
If an attorney has entered an appearance than said **attorney must also appear** for the arraignment hearing.
 - B. Domestic Violence
 - C. Probation violation.

Failure to appear when required by this Rule may result in the issuance of an arrest warrant or contempt citation.

(B) Appearance of Defendant

1. 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. In lieu of the initial appearance and except as otherwise provided in these Rules, an attorney may enter a plea in writing provided the attorney waives the time for speedy trial, and requests that a pretrial be scheduled. A person charged with a traffic offense that may be waived may enter a not guilty plea in writing so long as they waive the right to a speedy trial and request a pretrial or trial. Such writing must be filed with the court prior to the date of the initial appearance.

(C) Pretrial Conferences

1. Misdemeanor criminal and traffic cases, where the defendant enters a plea of not guilty and waives the right to speedy trial at the initial appearance, may be set for pretrial hearing at the request of the defendant or in the court's discretion. Written notice of the pretrial hearing date shall be provided to the defendant and counsel, if present, prior to leaving the courthouse.
2. Defendant and counsel shall be required to personally attend the pretrial hearing as well as all other hearings unless after a written motion by defendant's counsel the court waives said requirement
3. In cases where a continuance is requested prior to the hearing date such request shall be made in writing unless the court waives said requirement.
4. There shall be a fee for continuances. (See Appendix A.)

Failure of the defendant to appear may result in the issuance of an arrest warrant.

(D) Discovery

- 1 Upon written motion by Defendant or Defendant's Attorney all motions for discovery shall be processed through the Prosecutor's Office.

(E) Pleadings and Motions

1. All motions shall be made in conformity with Crim R 12. All motions shall set forth clearly and specifically the grounds for the Motion and supporting citations (copies of foreign, federal and unreported decisions must be attached). In Motions to Suppress; the items of evidence shall be specified. Any motions filed, which are not in compliance with this Rule, or with the applicable Rules of Criminal procedure, or are untimely filed, may be summarily overruled.
- 2 Any motion that is capable of being determined without a Hearing may be ruled on without hearing.
3. All motions not heard or decided prior to trial will be disposed of at the time of trial.
4. In any case where a party or counsel anticipates that a Motion Hearing will require more than one hour, it is the responsibility of the party or counsel to notify the court so that adequate time can be scheduled.
5. A Motion to Suppress shall be filed within thirty-five (35) days after arraignment or seven (7) days before trial, whichever is earlier, in accordance with Criminal Rule 12(D).

(F) Trials

- 1 In any case where a time waiver has not been signed the case shall be set for Trial. Cases that are not disposed of at the conclusion of the pretrial conference will be set for trial unless the court specifically rules otherwise.
- 2 All trials will be scheduled before the Court unless the defendant files a timely written jury demand or is otherwise afforded a right to trial by jury pursuant to law.

(G) Jury Trials

See Rule 21

(H) Plea Bargains

All recommendations for withdrawal, reduction or dismissal of charges and the reasons therefore shall be made in open court by the Prosecuting Attorney, or shall be specifically set forth in writing in the case file or in the Judgment Entry setting forth the plea. No such recommendation shall be binding until, and only if, approved by the Court.

(I) Sentencing

- 1 Upon a finding of guilty, sentencing shall occur immediately unless otherwise ordered by the court.
- 2 The Court may, in its discretion, 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.

- 3 Costs, fines and the amount of restitution shall be paid immediately after sentencing unless otherwise permitted by the Court.

Rule 16. Violations Bureau

(A) Pursuant to 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. The court may appoint law enforcement dispatchers to act as violations clerks when the Violations Clerk is not available.

(B) The Clerk may accept waivers pursuant to Traffic Rule 13. There is hereby established a waiver schedule of fines and costs (Appendix D) for 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 Clerk's office that are waiverable. The following offenses shall not be processed by the Traffic Violations Bureau:

1. Felony traffic offenses
2. Operation of a motor vehicle while under the influence of alcohol or drugs
3. Leaving the scene of an accident
4. Accident without insurance
5. Driving under suspension or revocation of driver's license
6. Driving without being licensed to drive
7. Reckless Operation
8. Fictitious Plates/Operator's License
9. False information
10. A third (or more) moving traffic offense within a twelve (12) month period
11. Failing to stop for a school bus
12. Speeding in a school zone
13. Speeding more than 20 miles over the posted speed limit
14. Willfully eluding or fleeing a police officer
15. Drag racing
16. Any offense that has a possible sanction of jail, suspension of a person's operator's license.
17. Fail to yield for emergency vehicle
18. Railroad crossing when lights flashing/gates down

Rule 17. Civil Division

(A) Pretrial Procedure

For the purpose of insuring the readiness of cases for pretrial and trial the following procedure shall be in effect.

A pretrial conference shall be conducted in all contested civil cases prior to being scheduled for trial. The Judge may for good cause shown; waive the pretrial requirements.

1. For the purpose of this rule, “pretrial” shall mean a court conference chiefly designed to produce an amicable settlement. The term “party” or “parties” used hereinafter shall mean the party or parties to the action, and/or his/her or their attorney or attorneys of record.
2. Notice of the pretrial conference shall be given to all counsel of record by mail and/or by telephone not less than fourteen (14) days prior to the conference. Any application for continuance of the pretrial shall be filed in writing prior to the pretrial.
3. Attendance Required: The following are required to attend all pretrial conferences unless excused by the judge after prior notice to opposing counsel:
 - A. All parties in interest unless the claim for relief against the party is fully covered by insurance;
 - B. An insurance company representative in all cases in which the claim for relief is covered in whole or in part by insurance;
 - C. The attorney must have full authority to present and conclude all matters involved in the case.
4. The primary purpose of the pretrial conference shall be to achieve an amicable settlement of the law suit. If the court concludes that the prospect of settlement does not warrant further court supervised negotiations, then the court shall be made to narrow legal issues, to reach stipulations as to facts in controversy and, in general, to shorten the time and expense of trial. The court may issue a pretrial order stating all stipulations, admissions and other matters. The court shall determine whether or not trial briefs should be submitted and shall fix a date when they are to be filed. Subject to the provisions for arbitration hereinafter provided, the court may also order the case to be referred to arbitration.
5. After the pretrial conference, counsel may engage in further discovery proceedings, provided they do not result in delay of trial of the case. In the event counsel requests discovery proceedings that would cause a delay of trial, the right to such discovery shall be determined by the court. The court, however, reserves the right to set the case for trial before the completion of discovery and without additional pretrials.
6. All issues regarding consolidating or severing of cases shall be submitted to the judge. The court, however, on its own motion, may consolidate or sever cases at any time before trial.
7. The judge presiding at a pretrial conference shall have the authority:

- A. To dismiss an action for want of prosecution on motion of defendant upon failure of plaintiff or his counsel to appear at any pretrial conference.
- B. Upon failure of defendant or his counsel to appear at any pretrial conference, to order the plaintiff to proceed with the case and to the extent permitted by law to decide and determine all matters ex parte.

(B) Telephone Pretrials

1. Motions for telephone pretrials shall be filed a minimum of one week prior to the court hearing.
2. It is the responsibility of the filer to verify with the Court that the motion has been granted. If it is not granted the parties must appear.
3. If the motion is granted it is the responsibility of the filer to notify the other party of the right to appear by telephone and to initiate the call and join all parties, including the Court, by telephone at the time of the telephone hearing.

(C) Trial Procedures

1. Subject to Ohio Supreme Court Rules of Superintendence the court may permit the use of any procedure which would tend to facilitate the earlier disposition of cases.
2. The court may provide for the selection of the petit jury outside the courtroom and establish the procedure for the examination of the prospective jurors.
3. On the trial of an issue of fact, only one attorney for each party shall examine or cross-examine any witness, unless otherwise permitted by the court.

(D) Security for costs/deposit for jury trial

1. Except as hereinafter provided no action or proceeding shall be accepted for filing by the Clerk of Court unless there is first deposited the filing fee set forth in the schedule of costs established from time to time by the court. The court in its discretion may waive the deposit otherwise required for filings made by a public entity, provided that in the event costs are assessed against the entity upon conclusion of the case that the entity shall promptly pay any costs so assessed.
2. Upon representation that a party is indigent, such party shall file a written motion and affidavit setting forth his or her income and expenses, and the court shall rule upon the motion.
3. When a judgment for costs against a party appears unsatisfied, the clerk may refuse to accept for filing any new action or proceeding instituted by or on behalf of such party (unless otherwise ordered by the court) until the party satisfies the unpaid costs in full.
4. When a jury trial is demanded, the party requesting it shall tender the required deposit with the filing of the pleading that contains the jury demand. If the deposit is not timely made, the jury demand will be waived and the case will proceed as a trial before the court. See Rule 9(E).

(E) Discovery

1. Discovery shall be conducted in accordance with Civil Rules 26 through 37.

2. Pretrial Objectives:
 - A. Settlement of the case;
 - B. Agreement upon and simplification of the issues;
 - C. Obtaining admissions and stipulations of fact and making them part of the record;
 - D. The exchange, if necessary, of the names and addresses of witnesses; the names and addresses and specialties of expert witnesses; reports of expert witnesses; medical reports and hospital records.
 - E. Itemization of special damages and expenses;
 - F. Determination of the number of witnesses and exhibits to be introduced at trial and the probable length of trial;
 - G. Such other matters as may aid in the disposition of the case.
3. Further Assignments: At the pretrial conference, if no settlement has been reached, the judge may, by journal entry, assign another pretrial date or a trial date and the clerk shall give a copy of the entry to each attorney and party without counsel. Delivery of the copy shall constitute sufficient notice so that further notice under local Rule 17(A)2 shall be unnecessary.

(F) Pleadings

Pleadings shall be prepared, served and filed in accordance with the Ohio Rules of Civil Procedure. In addition the following rules apply:

1. Where service is requested or required by the Clerk, sufficient copies shall be delivered to the Clerk with the filing or the Clerk may either decline to process service or require payment of a reasonable copy fee.
2. In the event of failure of service, the Clerk shall send notice to the filing party. Cases in which service is incomplete within six months of filing shall be dismissed by the Court unless the court grants an extension for good cause shown.

(G) Motions

Motions shall be prepared, served and filed in accordance with the Ohio Rules of Civil Procedure. In addition the following rules apply:

1. Each motion shall include a certificate of service attesting to service upon the opposing party or, if represented by counsel, upon counsel for such party.
2. Motions shall be supported by a brief citing applicable case and statutory law.
3. Any motion, which is capable of being determined without a Hearing, may be ruled upon without Hearing.

(H) Leaves to Move or Plead

1. Except in actions for forcible entry and detainer, when a party is not prepared to move or plead on the answer day, one extension of time may be had upon application to the court and without notice for a period not exceeding thirty days.
2. Any leave to move or plead thereafter may be had only with the approval of the court, with notice to the opposing party or counsel, and for good cause shown. Consent of counsel maybe filed as a journal entry in the case. Consent

of the opposing party or counsel shall not, in and of itself, constitute good cause.

3. Applications for extensions of time, regardless of consent of opposing counsel must be filed at least one day prior to the date the filing is due.

(I) Continuances

1. All motions for continuances shall be submitted to the court in writing and shall include a brief in support setting forth the reasons for the continuance. Said motion shall be made no less than fourteen (14) days prior to the Hearing date. Continuances shall not be granted without reasonable notice or consent of the other party(s) or their counsel unless the court determines a continuance is necessary for good cause shown.
2. When a continuance is sought for the reason that counsel is scheduled to appear in another case assigned for hearing on the same date in another court, counsel shall attach a copy of the notice received from the other court. Motions for continuance sought due to a conflict in Hearing or Trial schedules shall be ruled upon in accordance with Rule 41(B) of the Rules of Superintendence for the Courts of Ohio.
3. Motions for continuance, when submitted in accordance with this rule, may be granted in the discretion of the court for good cause shown. A continuance that has not been ruled on by the date of the Hearing shall be considered denied.
4. Appearing at trial unprepared: If a party or counsel appears for Trial but indicates that he is not ready for trial without showing good cause, the court, if such party is one seeking affirmative relief, may enter an order dismissing the claim for want of prosecution, and if a party defending a claim, the court may order the party seeking relief to proceed with the case and may determine all matters ex parte.
5. Failure to appear at Trial: If a party seeking affirmative relief, either in person or by counsel, fails to appear for trial, the court may enter an order dismissing the claim for want of prosecution. If a party defending a claim either in person or by counsel, fails to appear for trial and the party seeking affirmation relief does appear, the court may order such party to proceed with the case and shall determine all matters ex parte.
6. Settlements prior to Trial: If a case set for trial is settled, trial counsel shall immediately notify the court and thereafter, as provided by these rules, file a proper entry disposing of all issues in the case.

(J) Briefs other than Trial briefs

1. Counsel filing any motion or exception shall file therewith a memorandum containing a short, concise statement of his position and the authorities supporting such contentions and a true copy of it shall be served forthwith upon each opposing counsel and each party not represented by counsel.
2. Unless time is extended by the Court, a Motion directed to any pleading shall be filed within the time allowed by the Rules of Civil Procedure for a responsive pleading.

3. Any Motion or exception to be heard upon evidence shall so state and shall be accompanied by requisite affidavits.
6. Opposing counsel may, within fourteen (14) days after receiving a copy of such Motion or exception, file an answer brief or memorandum. Copies thereof shall be furnished and delivered as provided in this rule.

(K) Hearings and Submission of Motion, Objections to Interrogatories

1. Motions, in general, shall be submitted and determined upon the motion and supporting documentation. Oral arguments may be permitted at the court's discretion on written request, or by mutual written request of the parties.
2. The moving party shall serve and file with his Motion a brief written statement of reasons in support of the Motion with supporting citations of the authorities on which he relies. If the Motion requires the consideration of facts not appearing of record, he shall also serve and file copies of all affidavits, depositions, photographs or documentary evidence he desires to present in support of the Motion.
3. Each party opposing the Motion may serve and file within fourteen (14) days after filing of the Motion, a brief written statement in opposition to the Motion with supporting citations of the authorities on which he relies. If the Motion requires the consideration of facts not appearing of record, he shall also serve and file copies of all affidavits, depositions, photographs or documentary evidence which he desires to submit in opposition to the Motion.
4. Reply or additional briefs upon Motions and submissions may only be filed with leave of the court only upon a showing of the necessity therefore.
5. Objections to interrogatories. Objections to interrogatories shall include, immediately preceding any discussions and citation of authority, the interrogatory in full to which objection is made.
6. All pleadings and briefs containing references to statutes or regulations shall have attached thereto a copy of the statute or regulation.

(L) Journal Entries

When ordered or directed by the court, counsel for the party in whose favor an entry, order, judgment or decree is entered in a civil case shall, within ten (10) days unless the time be extended by the court, prepare a proper journal entry and submit the same to counsel for the opposite party who shall approve or reject the same within seven (7) days after its receipt by him and may, in case of rejection, file objections thereto in writing with the court.

The judgment entry specified in Ohio Civil Rule 58 shall be journalized within thirty (30) days of the verdict, decree or decision. If such entry is not prepared and presented for journalization by counsel, then it shall be prepared and journalized by the court.

The court shall approve a journal entry, sign the same and cause it to be filed with the court.

1. Request for findings by the court: When a request for findings of fact and conclusions of law is made, the judge shall direct the party making the written request to prepare, within seven (7) days, proposed finding of fact and conclusions of law and submit them to the opposing counsel. Within ten (10)

days after its receipt by the opposing counsel, the proposed findings shall be submitted to the Court with objections and counter proposals, if any, in writing; however, only those findings of fact and conclusions of law made by the court shall form part of the record. The Court shall make its determination as soon as practicable after all documents are received.

2. Amendments: Upon motion of a party made within ten (10) days after the filing of the findings, the Court may amend the findings, make additional findings and may amend the judgment accordingly. The motion may be made with a motion for a new trial. When findings of fact are made in actions tried by the court without a jury, the question of the sufficiency of the evidence to support the findings may thereafter be raised whether or not the party raising the question has made in the trial court an objection to such findings or has made a motion to amend or a motion for judgment

(M)Trusteeships

An application by a debtor for a trusteeship under Section 2329.70 of the Ohio Revised Code must contain a full and complete statement, under oath, setting forth the following:

- a. The names of the secured and unsecured creditors, their complete address, account numbers and amount due and owing to each. If the account is being administered by someone other than the creditor lists their name and complete address.
- b. The disposable amount of money earned in a thirty (30) day period by the applicant, as set forth in Section 2329.62 of the Ohio Revised Code, the usual day or days applicant receives his pay, his place of residence, the number of his dependents, their ages and relation to the applicant.
- c. The name of the person who made a demand upon him or her in accordance with section 1911.40 of the Ohio Revised Code and date of such demand.
- d. Appointment: an order shall be prepared appointing the Clerk of Court to act as Trustee and shall be approved by the judge.
- e. Notice: The applicant shall furnish a notice of the appointment to each creditor showing the amount owed said creditor and the amount of total indebtedness, together with an addressed, stamped envelope. The notices to be mailed by the Trustee with notice to the creditor to answer within ten (10) days of mailing, or they will be included in the Trusteeship in the amount stated. If a debtor fails, through mistake or otherwise, to list a creditor, said creditor or debtor, upon motion to the court, with notice to the other party, may be listed in the trusteeship. A creditor who becomes a creditor after the appointment of a trustee, shall participate in any distribution made by the trustee after the next ensuing distribution. Upon the filing of an application for Trusteeship, no action to subject the personal earnings of the debtor shall be brought or maintained by any creditor listed.
- f. Terminations: Any trusteeship that is in arrears for payment for sixty (60) days shall be dismissed. Any trusteeship that is inactive for six (6) months shall be dismissed.

- g. Attorney fees listed: The attorney representing an applicant for trusteeship shall be permitted to include his claim for such service in the trusteeship and said claim for attorney fees shall be given priority over all other creditors. Upon the first distribution of funds to creditors, the claim of such attorney shall be paid in accordance with this priority.
- h. Applicable: Sections 2329.63 thru 2329.71 of the Ohio Revised Code provide for exemptions and are based upon disposable earnings. The Trustee is hereby authorized to require proof of disposable earnings and eligibility for exemptions by affidavit or otherwise and at such times as he shall deem necessary.

(N) Automatic Bankruptcy Stay

Upon written notification to the court of any pending bankruptcy proceeding and the bankruptcy case number affecting any litigant in this court, a journal entry shall be filed as follows:

“Defendant having filed a petition in the U.S. Bankruptcy Court, the Bankruptcy Act establishes an automatic stay of proceedings against the debtor, in 11 U.S.C. 362(a). It is hereby ordered that the commencement or continuation of any action to obtain or enforce any judgment against the defendant/debtor or his property is hereby stayed until the bankruptcy case is closed, dismissed, or a discharge granted or denied, or until defendant/debtor’s property is no longer property of the bankruptcy estate or until the Bankruptcy Court grants relief from its stay.” Clerk to send copy to counsel of record.

(O) Notification prior to default judgment for appearing parties

Each party litigant shall be charged with the responsibility of maintaining their own correct mailing address. In the event a forcible entry and detainer entry is issued causing the defendant to be removed from their residence, it will be deemed sufficient service and adequate notice for the Clerk to mail, by regular mail to the defendant, date of hearing to last known address notwithstanding the fact that said litigant does not reside at that address, unless the court is notified in writing of their new address.

(P) Dismissals

- a. All cases pending for a period of six (6) months on the docket of the Court in which service of summons or service by publication has not been made, shall be dismissed by the Court.
- b. If a party fails to comply with an order or decision of the Court, said case may be dismissed, or judgment may be rendered as upon default at the discretion of the Court.
- c. Cases assigned for trial, upon which no appearance is made on trial date may be dismissed for want of prosecution, or otherwise disposed of by the Judge.
- d. In forcible entry cases, if plaintiff fails to appear at the time set for hearing, the cause may be dismissed at Plaintiff’s cost.

(Q) Term

There shall be no term in these Municipal Courts, but for the purpose of computing time, ninety (90) days following judgment shall be considered within term and time thereafter shall be considered after term.

(R) Proceedings in Aid

1. All proceedings in aid of execution shall comply with the provisions of Revised Code 2333.01, et seq.
2. Sufficient copies of the order shall be filed for service upon such parties as are required to be served, and the applicable fees shall accompany the order.

(S) Miscellaneous Entries Part of Regular File

Stipulations, final entries, and other similar documents filed with the Clerk will be entered upon the regular docket as filed and become a part of the regular file of the case.

(T) Subpoenas

All subpoenas must be filed seven days prior to the scheduled hearing date with the filing fee and witness fees paid at the time of filing.

(U) Motions to transfer to the regular civil docket

1. A motion to transfer a small claims matter to the regular civil docket shall be filed at least seven days before the scheduled hearing date.
2. When a counterclaim, cross-claim or third party claim exceeds the jurisdiction of the Small Claims Division, the case shall be transferred to the regular civil docket.
3. Unless a motion is not filed or is stricken from the file, the damage recovery will be limited to the monetary jurisdiction of the Small Claims Division.

(V) Service of Process

The Clerk of the Vermilion Municipal Court shall accept service of process methods as contained in Civil Rule 4.1 Process: methods of service, which methods shall 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(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 facsimile copies to show to whom the mail was delivered, the date of delivery and address where delivered, all in accordance with the Civil Rules.

All service of process of complaints or other documents served with virtual service of process are subject to review and/or challenge as further provided for in Civil Rule 4.1, with confirmation of service of process being made available through the Clerk’s office.

(W) Satisfactions:

Satisfaction in whole or part of a Judgment may be entered on the docket by the attorney of record, attested to by the Clerk of Deputy Clerk, or by Journal Entry signed by the party or the attorney of record and approved by the Judge. No satisfaction shall be entered on the docket unless and until all court costs have been paid.

(X) License Suspension Appeals/Petitions for Driving Privileges:

All appeals filed from suspensions imposed by the Bureau of Motor Vehicles or petitions for driving privilege from suspensions imposed by the Bureau of Motor Vehicles shall contain the following information:

1. Copy of BMV Suspension Notice
2. Petitioner's Date of Birth
3. Driver's License Number

Appeals from Twelve (12) Point Suspensions will be set for hearing and assigned a Civil Case number.

Petitions for driving privileges from suspensions imposed by the Bureau of Motor Vehicles other than Administrative License Suspensions resulting from an OVI, will be set for hearing and assigned a Civil Case number.

Appeals from Administrative License Suspensions will be set for hearing in accordance with the law.

Petitions for limited driving privileges or for a stay of a suspension under Administrative License Suspensions resulting from an OVI arrest will be set for hearing or may be granted by the court without hearing unless an objection to the petition has been filed in writing by the prosecuting attorney. Said appeals and petitions are to be requested using the traffic case number and the person filing the request shall pay the court cost for filing it with the Appeal or Petition filing.

Rule 18. Arbitration-Mediation

In accordance with Rule 15 of the Rules of Superintendence for Municipal and County Courts, the following procedures for arbitration shall be followed in all civil cases until further order of Court:

1. Supervisory Power of the Court: The Judge or a Judge designated by the Judge in the Judge's absence shall have full supervisory power with regard to any questions that arise in all arbitration proceedings and in the application of these rules.
2. Cases for Submission to Arbitration:
 - a. Any civil case, except those involving title to real estate, equitable relief, or appeal, in which the amount actually in controversy (exclusive of interest and costs) has been determined at pretrial by the Judge to be Ten Thousand Dollars (\$10,000.00) or less may be submitted to compulsory arbitration pursuant to this rule. The court shall determine at pretrial whether a case is to be mandatorily arbitrated.
 - b. Without limitation as to amount, counsel in any civil action may stipulate in writing, before or after pretrial, that it may be submitted for compulsory arbitration in accordance with this rule. Upon the filing of such stipulation, together with the pretrial statements of the parties, the action shall be submitted to arbitration.
3. Arbitrators:

- a. Qualifications: In order to serve as an arbitrator, an attorney must have been admitted to the practice of law for more than two (2) years and have consented to act as an arbitrator.
- b. List of Arbitrators: The list of those consenting to be arbitrators shall be kept on file. The Judge shall maintain a record of all appointments. Attorneys subsequently desiring to be added to or eliminated from the list may so notify the Judge by letter.
- c. Manner of Appointment of Arbitrators: The Judge, on a case subject to arbitration, shall appoint three attorneys from the list to act as an arbitration board. One of the attorneys so appointed shall be designated as chairman of the board by the Judge. Prior to the appointment of the arbitration board, the parties may agree, in writing, to submit the case to a single arbitrator, rather than a board.
- d. Disqualification of Arbitrators:
 - i. Not more than one member of a law partnership or association of attorneys shall be appointed to the same arbitration board, nor shall an attorney be appointed to a board who is related by blood or marriage to any party to the case or to any attorney of record in the case or who is a law partner or an associate of any attorney of record in the case.
 - ii. No disclosure shall be made to the arbitrators, prior to the filing of the report and award, of any offers of settlement made by either party, except by written agreement of the parties. An arbitrator who has knowledge of settlement demands or offers shall be disqualified.
- e. Oath of Arbitrators: Prior to the arbitration hearing the arbitrators shall be sworn or affirmed to try all issues properly submitted to them pursuant to this rule. The oath shall be administered by the Judge or an authorized representative of the Judge who is a notary public.
- f. Compensation of Arbitrators:
 - i. Each member of an arbitration board who has signed an award or has filed a minority report shall receive compensation for his/her service. When more than one case arising out of the same transaction is heard at the same hearing, it shall be considered as one case insofar as compensation of the arbitrators is concerned. The members of an arbitration board shall not be entitled to receive their fees until after filing their report and award with the Clerk of Vermilion Municipal Court. Fees paid to arbitrators shall be taxed as costs.
 - ii. In the event that a case is settled and dismissed or a request for continuance is granted prior to fourteen days before the hearing, the board members shall not be entitled to the aforesaid fee and any deposit shall be refunded to the party making the deposit. In

- the event that a case is settled and dismissed, or a continuance is granted within the fourteen-day period, the board members shall be entitled to receive their fees.
- iii. All compensation for arbitrators shall be paid, upon certification by the Judge, from funds deposited with the clerk of court as provided in section J, below. If no such funds are available, then the Judge shall pay the arbitrator(s) from funds which have been allocated for the operation of the Vermilion Municipal Court.
 - g. Communication with Arbitrators: There shall be no unilateral communications by counsel or the parties with the arbitrators concerning the merits of the controversy at any time prior to the filing of the report and award of the arbitration board.
 - h. Arbitration Hearings:
 - i. Time and place of hearing; Notice: Hearings shall be held at a place designated by the Judge, preferably in the courthouse. The Court shall fix a time and date for the hearing and shall send written notice of the time, date, and place of the hearing to the members of the arbitration board and to the parties or their counsel in accordance with Civil Rule 5(B)
 - ii. Continuances: All requests for continuation of an arbitration hearing shall be addressed to the Judge and shall be by formal motion in compliance with Civil Rule 7(B). Only the Judge may grant a continuance. Any request for a continuance which is granted within 14 days of the scheduled arbitration shall result in payment to the members of the arbitration panel in accordance with section J. The Judge shall order funds deposited with the clerk of courts disbursed in accordance with section J, and the parties shall re-deposit additional fees in accordance with this rule upon rescheduling of the arbitration date.
 - iii. Default in Appearance: The arbitration hearing may proceed in the absence of any party or his counsel, who, after due notice, fails to be present or fails to obtain a continuance. An award shall not be made solely on the default of a party or his counsel. The arbitration board shall require the party present to submit such evidence as they may require for the making of the award.
 - iv. Conduct of Arbitration Hearing: The three members of the board, unless the parties agree upon a lesser number, shall determine the relevancy and materiality of the evidence offered and conformity to the legal rules of evidence shall not be necessary. All evidence shall be taken in the presence of the arbitrators. The board may receive the evidence of witnesses by affidavit or written report and shall give it such weight as they deem it to be entitled to after consideration of any objections made to its admission.

- i. Powers of Arbitration Board: The arbitration board shall have the powers of a court including, but not limited to, the following:
 - i. Subpoenas: To issue subpoenas for the attendance of witnesses at the hearing. Counsel shall, upon request and whenever possible, produce a party or witness at the hearing without the necessity of a subpoena.
 - ii. Production of Documents: To compel the production of all books, papers and documents which they shall deem material to the case.
- j. Administering oaths, Admissibility of Evidence: To administer oaths or affirmations to witnesses, to determine the admissibility of evidence, to permit testimony to be offered by deposition and to decide the law and the facts of the case submitted to them.
- k. Medical Bills; Property Damage Bills or Estimates: In actions involving personal injury and/or damage to property, the following bills or estimates may be offered and received in evidence without further proof, for purposes of proving the value and reasonableness of the charges for services, labor and material, or items contained therein, and, where applicable, the necessity for furnishing the same, on condition that one week's written notice has been given to the adverse party, accompanied by a copy of the bills to be offered in evidence.
 - i. Hospital Bills: Hospital bills on the official letterhead or billhead of the hospital, when dated and itemized;
 - ii. Bills of Doctors and Dentists: Bills of doctors and dentists, when dated and containing a statement showing the date of each visit and the charge thereof;
 - iii. Bills of Nurses, etc.: Bills of registered nurses, licensed practical nurses, or physical therapists, when dated and containing an itemized statement of the days and hours of service and the charges thereof;
 - iv. Bill for Medicines, etc.: Bills for medicines, eye glasses, prosthetic devices, appliances, or similar items;
 - v. Property Repair Bills or Estimates: Property repair bills or estimates, when identified and itemized setting forth the charges for labor and material used in the repair of the property;
 - vi. Procedure in Case of Estimate: In the case of an estimate, the party intending to offer the estimate shall forward a copy of the estimate, a statement indicating whether or not the property was repaired, and, if it was, whether the estimated repairs were made in full or in part by attaching a copy of the receipted bill showing the items repaired and the amounts paid.
- l. Record of Testimony: The arbitrators shall not be required to make a transcript of the proceedings. If any party shall desire a transcript, that

party shall provide a reporter and cause a record to be made. The party requesting it shall pay the costs thereof, which shall not be considered costs in the case. Any party desiring a copy of any transcript shall be provided with it by the reporter upon payment thereof, based upon the usual charges made for a copy of a deposition plus one-half of the cost of the reporter attending the hearing.

m. Report and Award:

- i. The report shall be a clear, concise statement of the board's findings of fact and conclusions of law on the issues presented to them.
- ii. Within thirty (30) days after the hearing, the arbitration board shall file a report and award with the Clerk of Vermilion Municipal Court and on the same day shall mail or otherwise forward copies thereof to the parties or their counsel in accordance with Civil Rule 5(B). An award may not exceed \$10,000.00 exclusive of interest and costs. The report and award shall be signed by all of the members of the arbitration board. In the event that all three members do not agree on the findings and award, the dissenting member shall write the word "Dissents" before that member's signature. A minority report shall not be required unless the arbitrator elects to submit the same due to unusual circumstances.
- iii. The report and award, unless appealed as hereinafter provided, shall be final and shall have the attributes and legal effect of a verdict. If no appeal is taken within the time and in the manner specified thereof, the Judge shall enter judgment in accordance with the majority report. After entry of such judgment, execution may be issued as in the case of any judgments.

n. Witness Fees: Witness fees in any case referred to an arbitration board shall be in the same amount as provided for witnesses in trials in the Vermilion Municipal Court they may be ordered taxed as costs in the case, and the costs in any case shall be paid by the same party or parties by whom they would have been paid had the case been tried in the Vermilion Municipal Court.

o. Appeals:

- i. Right of Appeal: Any party may appeal from the action of the arbitration board to the Judge of the Vermilion Municipal Court unless the right of appeal is waived by all parties and all counsel to the proceedings in writing prior to the arbitration hearing; said waiver shall be filed as part of the arbitration record. The right of appeal shall be subject to the conditions set forth in this rule, all of which shall be completed within thirty (30) days after the

filing of the report and award with the Clerk of Vermilion Municipal Court.

- ii. Notice of Appeal and Costs:
 - 1. The appellant shall file with the Clerk a notice of appeal, together with an affidavit that the appeal is not taken for delay but because the appellant or affiant believes that an injustice has been done. Copies of such documents shall be served upon opposing parties or their counsel in accordance with Civil Rule 5(B).
 - 2. The appellant shall, at the time of filing his appeal, repay to the City of Vermilion by deposit with the Clerk of Vermilion Municipal Court, all ordinary and extraordinary fees to be paid to the members of the arbitration board.
 - 3. A party claiming he is financially unable to pay the fees may apply, by written motion and affidavit, to the Judge, averring that by reason of poverty, the party is unable to pay the costs required for an appeal. Said motion shall be governed by the Civil Rules of Procedure and the Rules of the court.
- iii. Trial De Novo: All cases which have been appealed shall be tried de novo by the Judge.
- iv. Testimony of Arbitrators: In the event of an appeal from the award of the arbitration board, the arbitrators shall not be called as witnesses as to what took place before them in their official capacity as arbitrators upon any hearing de novo.
- p. Exceptions and Reasons Therefore:
 - i. Any party may file exceptions to the decision of the arbitration board within thirty (30) days after the filing of the report and award with the Clerk of Vermilion Municipal Court for either misconduct or corruption of the arbitration board or of a single arbitrator. Proof of service shall be endorsed thereon.
 - ii. Copies of said exceptions shall be mailed to each arbitrator on the board and to the opposing parties or their counsel within 48 hours after filing of the exceptions.
 - iii. The exceptions shall be forthwith assigned for oral hearing before the Judge.
 - iv. If such exceptions are sustained, the report and award of the arbitration board shall be vacated and the case either assigned to a new arbitration board or returned to the active civil docket.
- q. Deposit of Fees Prior to Arbitration: Each party shall deposit \$75.00, unless there are more than two parties involved in the arbitration in which case each party shall deposit an equal amount which totals \$150.00, with the office of the Vermilion Municipal Clerk of Courts seven (7) days prior to the arbitration. This

is a non-refundable deposit for the payment of the fees of the arbitrators, In the case of an award of extraordinary fees to the arbitrators due to an arbitration of unusual duration or complexity as provided in section (C)(6)(a) above, the extraordinary fee shall be assessed to the parties. Any party appealing the decision of the arbitrators shall first deposit with the Clerk of the Vermilion Municipal Court sufficient funds to cover the cost of all ordinary and extraordinary fees of the arbitrators.

Rule 19. Probation

- (A) The court will determine eligibility for any community control sanction including but not limited to intensive probation supervision, basic probation supervision, monitored time, or any other sanction provided by law. Any defendant who is referred to probation shall meet with the probation officer immediately after 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 appointment by contacting the probation officer.
- (B) The probation officer shall provide a copy of the court's Standard Rules of Probation to each defendant referred for intensive probation supervision and secure the defendant's signature upon the form.
- (C) The probation officer shall inform each defendant referred to probation of the specific terms of probation.
- (D) A determination by the probation officer that the defendant has failed to agree to or comply with the Standard Rules of Probation, or with the terms of community control, shall result in the scheduling of a probation violation hearing and may result in the imposition of the original sentence in whole or in part.
- (E) Any probationer charged with a probation violation has the right to counsel.
- (F) There shall be a fee assessed for any term of probation. Additional costs may be assessed for certain probation violations.

Rule 20. Security

All persons entering the court house shall be subject to search by the court's security officer.

Rule 21. Jury Management Plan

This local Rule of Practice is being implemented in compliance with Municipal Court Superintendence Rule 18c. It is the purpose of this Rule to implement an efficient and comprehensive system of jury use and management for the Municipal Courts.

A. Jury Eligibility

To ensure that the jury pool is representative of the adult population of the Court's jurisdiction, all persons are eligible to serve on a jury, except as follows:

1. Persons less than 18 years of age.
2. Persons who are not residents of the Court's jurisdiction.

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

B. Procedure for jury selection

Jurors shall be chosen and summoned as follows:

1. Certified Poll List

On or before the last day of December of each odd-numbered year, unless otherwise ordered by the Court, the Clerk of this Court or designated Deputy Clerk shall secure from the Lorain County Board of Elections and the Erie County Clerk of Court names of electors whose residence is located within the territorial jurisdiction of the Court. Such list shall be compiled by said Board of Elections utilizing the Board's automation data processing system, randomly selecting such list by a key number to be fixed by order of this Court. Such list shall be compiled on mailing labels, hereinafter referred to as "Ballots", and shall be certified to the Clerk of the Court. The Clerk shall provide a jury container, approved by the Judge of the Court, and shall be the custodian thereof. Upon receipt of the certified ballots, the Clerk shall separate and deposit the ballots into the jury container and shall secure such container. Such ballots remaining from the prior certified list shall be first removed from the container and destroyed.

2. Drawing of Jurors

No later than three weeks before a scheduled jury trial, upon order of the Court, the Bailiff or Deputy Clerk shall meet in the courtroom or at such other place as the Judge may designate, and, in the presence of the Clerk or Deputy Clerk, shall draw, one at a time, such number of ballots from the jury container as fixed by the Court. The ballots shall be handed to the Clerk or Deputy Clerk. Upon conclusion of the drawing, the container will be closed and sealed by the Clerk or Deputy Clerk.

3. Summoning Jurors

The Clerk or Deputy Clerk shall enter on a venire the name and address contained on each ballot drawn. The venire shall be signed and certified by the clerk or deputy clerk. A notice shall then be issued, directed to each name on the venire, each notice shall be

placed in an envelope of the Court, the label ballot affixed to the outside of the envelope, and placed in the U.S. mail for service or given to the Bailiff of the Court for service.

4. Fees of Jurors

Persons summoned for jury service shall receive compensation in the amount of thirty dollars (\$30.00) per day. Any person summoned and appearing for jury duty, or not selected as a juror, and is wholly discharged from service within three hours of appearance shall be paid fifteen dollars (\$15.00) per day. Such fees shall be promptly paid from the City or County Treasury, as appropriate.

5. Number of Jurors Drawn

When a jury of six (6) is demanded, not less than fifteen (15) names shall be ordered drawn and when a jury of eight (8) is demanded, not less than twenty (20) names shall be ordered drawn.

6. Challenge

If by challenge or otherwise, there shall not be left upon said venire a sufficient number of persons to make up the panel, or if the array be challenged and set aside, the Court shall order additional names to be drawn from the jury wheel as above provided. 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.

- a. Departures from random selection shall be permitted only as follows:
- b. To exclude persons ineligible for service.
- c. To excuse or defer prospective jurors.
- d. To remove prospective jurors for cause or if challenged peremptorily.
- e. 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 regular 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, and shall be delivered by ordinary mail. Said summons shall clearly explain how and when the recipient must respond and the consequences of his failure to respond. Any person who fails to respond to a duly served summons may 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.

7. Summoning of Prospective Jurors

Prospective jurors shall be summoned only upon the filing of a written jury demand, if required. In civil cases, if a jury demand is made an amount of \$500.00 shall accompany said demand. In the event the 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 requirement.

In criminal cases, no deposit shall be required.

Prospective jurors shall be summoned to appear in sufficient numbers as determined by the Judge.

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. The Clerk shall contact counsel, or the parties, whichever is appropriate, at least two weeks prior to the scheduled trial date. If it appears that trial will occur, a jury panel shall be summoned upon Court order, at least seven (7) days in advance of trial. Those costs associated with the summoning of a jury shall be assessed against the party requesting the trial.

If a trial is settled on the day of trial, all jury costs shall be assessed against the party who requested the jury.

The term of service for any prospective panel shall be until released by the court.

8. 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 shall be deferred and 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:

- a. Any person who suffers from a substantial physiological or psychological impairment.
- b. Any person who has a scheduled vacation or business trip during potential jury service.
- c. Any person for who jury service would constitute an undue or extreme physical or financial hardship to the juror or a person under their care or supervision of the jury.

- d. Any person for who service on a jury would constitute a substantial hardship on their clients, or members of the public affected by the prospective juror's occupation.
- e. Any person who has served on a jury within the last year.
- f. Any person for whom it may be readily determined is unfit for jury service.
- g. Any person for whom it is readily apparent would be unable to perform their duty as a juror.
- h. Other valid excuse, as determined by the Court.

No person shall be excused from jury service, except by the 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. If a prospective juror has submitted a request for excuse, the prospective juror must report for service unless otherwise notified by the Court.

9. 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 indicating basic background information concerning panel members shall be made available to counsel. All copies of jury questionnaires must be returned to the Court upon the completion of trial. Under no circumstances may counsel or a party retain any jury questionnaire.

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 shall conform their voir dire questioning to the following rules:

- a. Counsel may not examine prospective jurors concerning the law or possible instructions.
- b. Counsel may not ask jurors to base answers on hypothetical questions.
- c. Counsel may not argue the case while questioning jurors.
- d. Counsel may not engage in efforts to indoctrinate jurors.
- e. Jurors may not be asked what kind of verdict they might return under any circumstances. No promises may be elicited from jurors.
- f. Questions are to be asked collectively of the panel whenever possible.
- g. Counsel may inquire by general questions concerning the validity and philosophy of reasonable doubt or the presumption of innocence.

In the event there exists a potential for sensitive or potentially invasive questions, the Court or the parties may request a hearing preceding voir dire to consider these questions.

In all cases, voir dire shall be held on the record, but may be conducted outside the presence of other jurors to protect juror privacy, or to avoid juror embarrassment.

If it is determined by the Court during the voir dire process that any 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 motion of the Court. Further, Ohio Revised Code Section 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 Ohio Revised Code Section 2945.23, and Civil Rule 47, and Criminal Rule 24, unless prior to trial the parties agree on the record to use 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 (8) regular jurors and one alternate juror. In civil cases, the jury shall consist of eight (8) regular jurors and one alternate juror, unless by agreement, the parties stipulate to a lesser number. By order of the Court additional alternate jurors may be selected.

10. Jury Orientation

Jurors shall report for service as directed by the Court. 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 trial, except those which the Court must consider by law or by rule of procedure.

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 the course of 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 shall, whenever possible, be committed to writing, and shall be provided to the jury for its use during deliberation.

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. Under no circumstances shall counsel, a party, or other witnesses, have any unauthorized contact with jurors.

All jury deliberations shall be conducted in the jury deliberation room. Jury deliberation rooms shall include space, furnishings and facilities conducive to reaching a fair verdict. Court personnel shall endeavor to secure the safety of all prospective jurors and shall arrange and conduct all activities so as to minimize 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.

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 continued, 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 Court room where the verdict or verdicts shall be read in open Court. Upon the reading of the verdict, in criminal cases, either party may request that the jury be polled.

Upon the completion of service, each juror shall be given a certificate of appreciation.

11. Conclusion

The Court shall collect and analyze information regarding the performance of its 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; and overall juror satisfaction.

Rule 22. Interpreter

Where appropriate the court will supply an interpreter at no charge to the criminal defendant.

Rule 23. Court Appointed Counsel

The Court shall maintain a felony and misdemeanor list of attorneys who are qualified and approved to accept appointments for cases for persons charged with an offense for which there is a possible jail penalty. The Court will make changes to the appointed counsel list based on its current needs, counsel's credentials, and current standing with the Ohio Supreme Court

Pursuant to Sup R 8(B) and Administrative Rule 120-1-10 the following procedure for selecting attorneys to represent indigent persons shall be followed:

- (A) Where appropriate, the Erie County Public Defender's Office will take appointments for those cases occurring in Erie County and the Lorain County Court Appointment list shall be utilized for those cases occurring in Lorain County. Lorain County appointments will be made on a rotating basis.
 - 1. A non-refundable twenty-five dollar (\$25.00) application fee shall be paid prior to any court appointment being made.
 - 2. In certain instances this fee may be added to the court costs of the applicable case.
 - 3. This fee may be waived by Order of the Judge.

- (B) In order to be approved for inclusion on the Lorain County appointment list, an attorney must (except as set forth below) meet the following standards:
 - 1. Be a licensed Ohio attorney in good standing;
 - 2. Maintain professional liability (malpractice) insurance in the amount equal to the minimum coverage required by the Ohio Rules of Professional Conduct.
 - 3. The attorney shall have a working phone with an assistant and/or voicemail to be able to respond to calls from the Court or clients. The attorney shall inform the Court promptly of a change of address or phone number.

- (C) Appointments:
 - 1. The Judge shall use the Ohio Public Defender's Indigent Client Eligibility Guidelines when assessing whether the person satisfies the economic requirements for Court-appointed counsel.
 - 2. The Court shall maintain a list of attorneys qualified and approved to take appointments. The primary responsibility of a Judge in appointing counsel for an indigent person to provide competent counsel whose experience and expertise will provide the indigent client with reliable, competent representation.
 - 3. The Court, in making appointment, shall take into account all of the following:
 - i. The anticipated complexity of the case in which appointment will be made;
 - ii. Any educational, mental health, language, or other challenges facing the party for whom the appointment is made;

- iii. The relevant experience of those persons available to accept the appointment, including proficiency in a foreign language, familiarity with mental health issues, and scientific or other evidence issues;
- iv. With regard to the felony list certain attorneys are only qualified to accept appointments for certain levels of felony cases.

- 4. The Court shall use a rotary system when appointing counsel and will, whenever possible, attempt to equitably distribute Court-appointments among the attorneys on the Court-appointed Attorney List.
- 5. The Court shall review the distribution of assignments and shall, whenever possible, make or adjust assignments to cause equitable distribution of assignments.
- 6. Attorneys on a list maintained by the Court pre-qualified to serve are not assured a substantially equal number of appointments. No person is granted a legal right or claim by virtue of this rule.
- 7. At all times the Defendant's right to a speedy trial and right to a timely preliminary hearing shall be considered. If there is a speedy trial issue or another time sensitive issue then the Court shall appoint an available attorney qualified to represent the accused.
- 8. The Court shall at all times endeavor to substantially comply with Sup R 8 and OAC 120-1-10 if ethical and practical. In the event there is an inconsistency between the rules the Court shall at all times comply with Sup R 8.

(D) Appointed counsel shall be compensated upon approval of an application for fees. In fixing the amount of compensation, the Court shall be guided by the resolution of the Lorain County Commissioners. The appointed counsel shall be responsible for completed the application for fees and having the same approved by the Judge. The Court shall certify the application and return it to counsel whose responsibility it will be to forward to the County Auditor for payment.