

HOCKING COUNTY MUNICIPAL COURT RULES

RULE 1:

The Criminal, Traffic and Civil Rules, Rules of Evidence and any other rules established by the Supreme Court of Ohio for the operation of Courts in Ohio shall be followed.

RULE 2: COURT SCHEDULE, HOLIDAYS AND TIMES OF OPERATION

The Hocking County Municipal Court shall maintain daily hours from 8:00 a.m. to 4:30 p.m. Monday through Friday except the following designated holidays:

New Year's Day	Martin Luther King Day
President's Day	Memorial Day
Independence Day	Labor Day
Columbus Day	Thanksgiving Day
Veterans Day	Christmas Day

Scheduled arraignments will begin at 8:30 A.M. Monday and Wednesday for state criminal and traffic code offenses, and 8:30 A.M. Tuesday for the city of Logan criminal and traffic code offenses. All pretrial and other hearings will generally be scheduled on the following days :

Monday:	State Code Offenses: Charges filed by Sheriff, Division of Wildlife, etc.
Tuesday:	City of Logan code offenses
Wednesday:	State Code Offenses: Charges filed by Ohio State Highway Patrol
Thursday:	Civil Claims, Small Claims, Drug Court (p.m.) and Mental Health Court Cases
Friday:	Criminal and Civil Jury Trials and Civil Weddings.

All persons incarcerated in the Southeastern Ohio Regional Jail shall be arraigned by live televideo conference, not later than approximately 2 PM the following business day after their arrest. With prior Court approval, a written plea of not guilty, accompanied by a written speedy trial waiver, may be submitted to the Court in lieu of a personal arraignment appearance. The Court may schedule arraignments at other times when necessary.

RULE 3: FILING OF COMPLAINTS

The Court finds that, the interests of an efficient and uniform administration of justice, require

a specific identification of alleged offenders to include, physical descriptions, dates of birth, social security numbers and other specific forms of identification to ensure that arrest warrants, bench warrants, and requests for service of summons, properly identify those defendants to be brought before the Court. To promote Court security, and to aid in the setting of bail, the following Rule of Court is hereby adopted.

(A) All long form complaints filed in the Municipal Court shall have typed thereon the name, address and telephone number of the complaining witness unless it is signed by an officer. If there is a "victim" of the alleged offense who is different than the complaining witness, the name, and some form of address, of the "victim" is also to be included on the complaint. The Prosecuting Attorney may list his office if the complaining witness requests that his/her address not be disclosed. The Defendant's name, physical description, social security number, date of birth, and address shall be included in the complaint. The Court shall attempt to safeguard the Defendant's personal identity data, however the interests of justice dictate that an accused be identified as specifically as possible. Law enforcement agencies are encouraged to obtain the Defendant's photograph from the Bureau of motor vehicles or other appropriate agency.

(B) All complaints filed by any law enforcement agency shall be promptly filed with the Court, but not later than 2:00 PM the next business day following the arrest of, or service of summons upon the defendant.

All traffic and criminal complaints or citations, except minor misdemeanors, filed with the Court shall have filed with them the following:

1. A copy of the L.E.A.D.S. traffic record when it is reasonably available.
2. A summary of the Defendant's criminal record, when reasonably available to the law enforcement or other agency filing the complaint.
3. A physical description, social security number and date of birth of the defendant when they are known or when they can be discovered with reasonable diligence (when available the Defendant's photograph from the Bureau of motor vehicles or other appropriate agency).

(C) The law enforcement agency filing the complaint or citation shall be responsible for providing the above information. The prosecutor's office shall provide the information when it initiates the complaint.

(D) When the Defendant enters a plea of not guilty or no contest the law enforcement agency (ies) shall furnish to the prosecution all information available to it and commonly subject to

discovery.

(E) The prosecutor or law enforcement agency shall attach a Domestic Violence field report (HC Form 3) to all complaints alleging Domestic Violence and/or assault . The Court will issue a temporary protection order in all cases alleging Domestic Violence; directing the Defendant to have no contact with the alleged victim until all parties have an opportunity to advise the Court of procedures and living arrangements that will not pose a risk of threat to any of the parties (including but not limited to: the Defendant, alleged victim(s) and family or household members).

RULE 4: MOTIONS TO SUPPRESS AND/OR DISMISS

The Court considers State vs. Shindler (1994) 70 O.S. 3d 54 as controlling on the issue of burden of proof and the burden of going forward at any pre-trial hearings to dismiss. The Court frequently must rule upon motions complaining that the BAC or other approved alcohol detection tests may not accurately reflect a Defendant's blood alcohol level. Therefore the Court encourages law enforcement officers to request breath, blood and/or urine specimens from suspects when the use of alcohol and/or drugs may have contributed to the commission of the alleged offense. Suspects/Defendants will be responsible for the costs of any blood and urine test not requested by the arresting agency.

RULE 5: TIME FOR FILING PRECIPE FOR SUBPOENA

All precipes for subpoenas shall be filed with the Municipal Court with sufficient time to allow the appropriate agency or process server adequate time for serving the subpoenas. Counsel and the respective law enforcement agency shall be responsible for monitoring the status of the service of such subpoenas. Parties are also responsible for monitoring and ensuring the service of criminal and civil complaints.

RULE 6: CRIMINAL & TRAFFIC DIVISION PRE-TRIAL HEARING & TRIAL PROCEDURES

(A) The Clerk will schedule a pre-trial hearing conference for all offenses which carry a possible term of incarceration.

(B) The pre-trial conference is expected to be a meaningful and mutual exchange of information between Counsel and/or the parties which will identify all prospective witnesses, the evidence of the offense and any legal issues or questions of likely to be raised at trial. The Parties shall

complete a pre-trial report (HCF 5) identifying issues, prospective witnesses and any speedy trial deadlines.

(C) If a pre-trial agreement is reached, the prosecutor shall submit the Memorandum in Support of Plea Bargain Recommendation (Hocking County form 4, HCF4), to the Court, for its consideration, but if no agreement is reached and the Defendant wishes to change his/her plea, then the Defendant or counsel shall submit HCF4 as an item in aid of sentencing, including therein such items as would be pertinent, in order that the Court shall be informed as to the important facts of the case. The submission of the HCF4 by Defendant and/or defense counsel does not preclude the Defendant from making a statement in mitigation of sentence. Although such memorandum may serve in lieu of such a statement.

(D) If no agreement as to the disposition of the case can be reached at the time of the pre-trial hearing conference, the pre-trial hearing may be continued to a later date, or a pre-trial report (HCF 5) will be submitted requesting the case be set for trial. The Court will establish a trial date and time, and no continuance of trial will be granted except upon motion with a time waiver, and entry with a showing of extraordinary circumstances to justify the continuance.

(E) A pre-trial hearing will be scheduled by the Court and results of the pre-trial conference are to be reported to the Court in a timely manner. It shall be the duty of the prosecutor's office to file, or cause to be filed the completed pre-trial hearing report. (HCF5). The parties and counsel shall fully complete the pre-trial report. If the Court finds omissions of a material nature, the Court may order an additional pre-trial conference with all parties and counsel required to attend.

Counsel shall notify the Clerk at the earliest opportunity that a case set for trial will not be tried. If there has been one or more pre-trial hearings, and the case will be resolved without a trial, the case shall be handled as follows:

1. If the Prosecution moves to dismiss the case, the motion shall be scheduled on the date and time originally set for hearing. The following persons shall be present: the prosecutor handling the case, the Defendant, and the Defense counsel if retained or appointed. The complaining witness shall be notified but need not attend the hearing.
2. If the defendant decides to plead guilty or no contest to the charge(s) filed, it shall be at the date and time set for trial. If jurors have been summoned, the defendant shall bear additional Court costs in the minimum amount of at least \$200.00.
3. If jurors have already been summoned for trial, the Court may direct the Prosecutor or the Defense counsel notify the jurors of the trial cancellation.

(F) If a case is to be resolved in a manner other than by a trial as requested on the pre-trial

report; opposing counsel and all witnesses shall be notified at the earliest possible time.

RULE 7: CONTINUANCES

(A) All motions for continuance shall be in writing, must state reasonable grounds for the requested continuance, and be accompanied by a time waiver for the entire length of the case. **Due to the volume of pending cases, restrictive time waivers cannot be accepted.** The Court routinely schedules all hearings by contacting the parties to avoid scheduling conflicts. It is an unfair burden on the Court for a party to request a continuance, and still demand a speedy trial.

(B) It shall be the obligation of the moving party moving to notify his/her witnesses previously called or summoned, and the Movant or Counsel for the moving party shall certify to the Court that all summoned witnesses were notified..

(C) The moving party shall also notify the opponent's witnesses of the continuance upon receipt of their names, addresses and phone numbers from said opponent and shall certify to the Court that such notice was accomplished.

(D) If the opposing party does not furnish the moving party the names, addresses, and phone numbers of his witnesses, then the opposing party has the obligation of notifying Its' witnesses of the continuance and shall certify to the Court that such notice was accomplished.

(F) The parties failing to properly notify parties and witnesses shall be responsible for the witness fees and reasonable expenses incurred by the appearance of summoned witnesses .

RULE 8: INDIGENT DEFENDANT FEES

(A) The Court will determine whether a defendant qualifies for appointment of counsel (pursuant to the guidelines of the State Public Defender's Office); will appoint counsel to represent the defendant so qualifying, and will select such counsel. The Court will make a written finding in certain misdemeanor cases that no incarceration will be awarded and thus no Counsel will be appointed.

(B) The Court will maintain a list of qualified defense Counsel and will attempt to utilize all attorneys on an availability basis. However, the Court reserves the right to appoint any qualified attorney to any pending cases based on the need for Justice and Court efficiency.

(C) Counsel fees and expenses will not be approved in excess of those set forth in the fee schedule listed below. The fee schedule applies to ordinary matters and circumstances only. As to extraordinary matters or circumstances, the Court reserves the right to approve fees in excess of the scheduled stated maximums in order that defendants may be properly represented. Any attorney who believes that it is necessary to exceed the maximum fees set forth in the schedule may apply to the

counsel's bill when it is submitted to the Court.

RULE 9: TEST RESULTS IN OVI CASES

(A) Every law enforcement officer issuing a uniform traffic ticket for operating a motor vehicle under the influence of alcohol in violation of ORC 4511.19 or comparable municipal ordinance section shall:

1. Indicate on the face of the ticket the result of any breathalyzer or intoxilyzer test that was administered to the defendant.

2. Indicate on the face of the uniform traffic ticket what tests were administered to the defendant to determine his/her blood/ alcohol content .

3. Indicate if a requested test was "refused" on the face of the ticket when applicable.

RULE 10: OBLIGATION TO ATTEND PRE-TRIAL HEARING

(A) Local Rule 6(B) states: "The pre-trial conference is expected to be a meaningful and mutual exchange of information between counsel and/or the parties_which will test the strengths and weaknesses of their respective cases", The Court requires that the defendant(s) personally appear at the pre-trial hearing, and the complaining witness be notified and given the opportunity to attend. The pre-trial conference is a forum for the "mutual exchange of information between parties", but it is not intended to be a substitute for discovery procedures outlined in the Criminal Rules. The pre-trial hearing is not the proper time for the interrogation of either the defendant or the complaining witness by opposing counsel.

(B) If a notified complaining witness does not appear at the pre-trial conference and makes no meaningful effort to acquaint the prosecuting authority with the facts of the case, the Court will consider this as prima facie evidence of lack of prosecution when considering a defense motion to dismiss.

RULE 11: PLEA BARGAIN AGREEMENTS

(A) The Court will consider, but is not obligated to honor, plea bargaining agreements between the parties.

(B) Plea bargaining agreements shall be in writing and shall be supported by a written memorandum. Both shall be on forms prescribed by the Court. The memorandum shall contain a certification that the plea bargain does not contravene a rule of Court.

(C) Upon a review of a plea bargaining agreement by the Court, formally or informally, counsel for the parties shall certify to the Court that all information in the memorandum and all

representations by counsel are accurate to the best of their knowledge, reasonable diligence having been exercised to ascertain their accuracy. Counsel's representations to the Court in pre-trial conference, hearing, or filings, must be true and Counsel must represent that all such information constitutes a fair and full disclosure of the material facts in the case which the attorney know or should know upon the exercise of reasonable diligence.

RULE 12: CONDUCT OF TRIAL COUNSEL

(A) VOIR DIRE EXAMINATION Counsel should not discuss the facts or argue their case to prospective jurors during the Voir Dire examination.

(B) OPENING AND CLOSING ARGUMENT

1. Counsel in opening and closing argument should use caution to stay within the proper bounds of comment on the facts and reasonable inference(s) to be drawn from the facts.
2. Counsel should not argue or insert into the trial their personal belief(s).

RULE 13: TIME LIMITS FOR PLEA NEGOTIATIONS AND WAIVER OF JURY

(A) When a jury has been demanded and called for service in a particular case, the Court will not accept any negotiated plea or waiver of the jury trial unless the defendant pleads "guilty as to the offense(s) charged" unless the particulars of the negotiated plea and/or waiver of the jury are entered upon the record in open Court before noon on the business day preceding the date set for jury trial. This rule does not relieve the defendant from the obligation of paying all Court costs incurred in the calling and appearance of any juror who appears as originally directed.

RULE 14: CASE MANAGEMENT SYSTEM

Pursuant to M.C. Supt. Rule 5 (B) (I), the Court hereby adopts this case management system, which will provide for the prompt disposition of criminal and civil matters filed with the Court.

TRAFFIC AND CRIMINAL CASES

(A) The scheduling begins once the cases have been docketed after being received from the appropriate law enforcement agencies. The Court shall hold arraignments on all traffic and criminal matters as provided for in the Court rules and as required by statutes.

(1) Pre-trials: After the arraignment, the Clerk shall schedule all first and second degree misdemeanors for pre-trial hearing within three to four weeks. Third and fourth degree misdemeanors will be set for a pre-trial hearing one week from date of arraignment and a trial will be set two weeks from the date of arraignment. All other minor or unclassified misdemeanors shall be set for trial within 30 days from

the date the citation was issued and/or service.

Pre-trial hearings shall be conducted in accordance with Criminal rule 17.1 and a memorandum of the matter agreed upon shall be filed in the case. Any attorney who fails to appear for pre-trial without just cause hereby shall be subject to punishment by the Court, as it deems necessary. If parties cannot resolve the case, then the case shall be scheduled for trial to the Court unless a written jury demand has been filed.

(2) Motions: All motions shall be made in writing and accompanied by a written memorandum containing the arguments of counsel. Motions must be filed with the trial limits established by the Ohio Rules of Criminal Procedure. All motions shall be set for oral hearing unless the Court determines it can be resolved without a hearing. The Clerk, upon receipt of all motions shall submit such paperwork for the Judge's review and then promptly set a motion hearing unless otherwise instructed by the Judge.

(3) Trials: Each case not resolved at pre-trial hearing shall be set for trial to the Court. If a written jury demand is timely filed the case will be set for a final pre-trial hearing. If the case is not resolved at the final pre-trial hearing, the case will be set for jury trial. All attorneys shall notify the Court by noon of the day preceding their jury trial of any plea change so that witnesses and jurors, if a jury trial, can be notified. The final pre-trial hearing will be scheduled ten days prior to the scheduled jury trial to resolve any pending issues. It is the responsibility of the Prosecutor and the Defense attorney to notify the Court not less than one week prior to the scheduled jury trial if the case is to be continued, or resolved in another manner.

(4) Sentencing: A sentence shall be imposed at the time of entering a plea of guilty or no Contest to a charge unless a pre-sentence report is requested by counsel and approved by the Court. A sentencing hearing shall then be conducted after the pre-sentence report is completed.

RULE 15 CIVIL CASES

(1) Summons: Summons shall be served in accordance with the Ohio Rules of Procedure. In the event that there is a failure of service the Clerk shall notify counsel promptly. If counsel fails to obtain service of summons within six months from the date the cause of action has been filed, then the Clerk shall notify counsel that the case will be dismissed in ten days unless good cause is shown to the contrary. All precipes for subpoenas shall be filed with the Municipal Court with sufficient time to allow the appropriate agency or process server adequate time for serving the subpoenas. Counsel and the respective law enforcement agency shall be responsible to monitor the status of the service of such subpoenas. Parties are also responsible for monitoring and ensuring the service of criminal and civil complaints. Private process servers may be able to serve process more timely than law enforcement agencies.

(2) Upon perfection of service and in the event an answer is not filed and therefore the case is eligible for a

default judgment, the Clerk shall notify counsel of the default and a failure to submit an entry within fifteen (15) days may result in the case being dismissed without prejudice.

(3) After a responsive pleading is filed the Clerk shall forward it to the Judge and schedule a pre-trial or final pre-trial hearing.

(4) Motions: All motions must be in writing and accompanied by a written memorandum containing appropriate citations or arguments of counsel. Opposing counsel shall answer in like manner within 14 days thereafter. All motions will be considered submitted at the end of said 14-day period unless the Court extends time. The Court shall either decide the motions or schedule them for hearing. There will be oral hearing to the extent required by the Rules of Civil Procedure unless waived by the parties.

(5) Pre-trials will be held in two parts and in the following order as follows:

a. Conference in chambers among the attorneys and the Court out of the presence of the parties at which conference the attorneys shall be prepared to discuss the law applicable to the case, facts expected to be proved, how the law would apply to the case, the witnesses to be called, and stipulations. The purpose of the conference is to resolve which issues are to be tried, the law which is to be applicable to the case, the stipulations that will be entered to, the witnesses who will testify and such other matters as the Court orders.

b. Conference in the Court room in the presence of the parties. The purpose of the open conference is to explain to the parties the results of the conference in chambers and such other matters as the parties or the Court may care to have discussed. Provided that, if any party requests to be present at the conference described in 5(a) above, the attorney(s) of record shall provide the Court with pre-trial briefs regarding the above mentioned matters seven days prior to pre-trial.

The attorneys of record in a civil case shall be present for all pre-trial hearing therefore, as shall the parties; provided that a party need not be present if represented by a person having full authority to settle the case. In the absence of a person having such authority at the pre-trial hearing, the opposing party, with the consent of the Court, may proceed to trial on the merits ex-parte, then or at such time as may be set by the Court, the absent party being deemed to have waived his rights to be present and to have his attorney appear in Court on his behalf.

(6) Continuances: No party shall be granted a continuance of a trial or hearing without a written motion setting forth the reason for the continuance. The granting of any other request for continuance of scheduled trial is a matter within the discretion of the trial court.

(7) Judgment Entries: Counsel for the moving party shall prepare the judgment entry. Entry of settlement may be filed with the Court at any time. If a settlement entry is not filed within 30 days after notifications to the Court of a settlement the case may be dismissed by the Court for want of prosecution.

(8) In all Civil actions and proceeding wherein a request or demand for trial by jury is made, the following shall apply:

a. A deposit of thirty dollars (\$30.00) shall be made with the Clerk upon filing such demand or request. Failure to make such deposit at the time of filing said written demand, and within three days thereafter, shall constitute a waiver thereof.

b. Jury Demand of Forcible Entry and Detainer (FED). The Court acknowledges the special time constraints that may arise in FED cases. The Plaintiff/Landlord may desire an expeditious resolution of his/her

right to possession and the Defendant/Tenant may assert a right to maintain possession of the rental premises. Therefore, the FED summons will now advise the parties of a right to request a jury trial. A jury request shall be made in writing at least three days prior to the scheduled hearing date; additionally the party requesting a jury trial must also comply with the cost deposits as set forth herein.

c. After the case is set for jury trial and notice given thereof to the party making the demand, or his attorney, such party shall deposit with the Clerk an additional sum of one hundred seventy five dollars (\$175.00) within three days after receipt of such notice from the Clerk. Failure to make such deposit shall constitute a waiver of said demand or request for jury trial.

In all civil actions and proceedings in this Court, the cost of summoning jurors, juror's fees and other costs incidental thereto, shall be taxed as part of the Court costs of said action or proceeding. All such costs are required to be secured in advance as provided in this subsection (8).

(C) Small Claims

(1) A small claims complaint shall be filed upon a petition as required by the Ohio Revised Code. The defendant is not required to file an answer or statement of defense. If a defendant fails to appear for the initial hearing after being properly served then a default judgment may be entered against said defendant. If either party files a motion and affidavit, in accordance with Section 1925.10, the case shall be transferred to the regular civil docket of the Court. No transfer to the Court; shall be granted until the filing fee is paid.

(2) Hearing: The deputy clerk of the Small Claims division shall set the time for hearing in accordance with the applicable statute. The first hearing scheduled will be a pre-trial at which time the parties will be encouraged to communicate and reach an agreement. Some parties may be asked to voluntarily participate in a mediation hearing with the Court's voluntary Mediation program. In the event this is not possible and the Judge is not available, another hearing will be scheduled for the Judge to hear the case and allow all parties the opportunity to state their case. The plaintiff and defendant may subpoena and call witnesses if they so desire. The Ohio Rules of Evidence do not strictly apply to a hearing in Small Claims Court; however, the Court is subject to the Ohio rules of Civil Procedure as per 1925.16. The Court shall render a decision within 30 days from the time of the hearing.

(3) The Court Magistrate may also be assigned to hear the small claims case. If after hearing the case on its merits, the Magistrate may announce the result at the conclusion of the case, or the result may be mailed to the parties in the form of a written opinion. Within fourteen (14) days from the filing of the Decision of the Magistrate, any party may serve upon the other party, and file with the court, written objections to the Magistrate's Decision. The objections and the case will then be assigned to the Judge for his consideration. The Judge may then modify the recommendation of the Magistrate, order a new hearing or approve the Decision of the Magistrate and enter a judgment.

(4) Filing fee for Objections to the Magistrate's decision will be \$10.00.

(D) FED/Evictions: All forcible entry and detainer (FED) cases shall be set for a pre-trial hearing pursuant to the time limits set forth in the Ohio Revised Code. If an answer or jury demand is filed then the Clerk shall schedule the case for an appropriate hearing. The FED initial hearing shall be governed by the Ohio Rules of Civil Procedure and the Ohio Rules of Evidence. The primary issue will be whether the Plaintiff is entitled to immediate possession (restitution) of the subject premises. At the conclusion of the hearing the Judge shall

enter a decision. A hearing regarding damages to the premises and counterclaims shall be determined later and the Rules of Civil Procedure shall govern the time for hearing relating to the matter.

1. Service of FED actions by process server. All personal service in Forcible Entry and Detainer Actions shall be served by a process sever, designated by the Court, to serve Court papers in actions pending before the Court (in which action's the process severers are not parties). In the event that a process server is not designated by the Plaintiff and/or Plaintiff's Counsel, the Court will appoint a process server.

2. Appendix B lists individuals designated by order of the Court pursuant to Civil Rule 4.1(2) and Civil Rule 45 (B) as persons who may serve summonses and subpoenas on behalf of the Court in actions pending before this Court in whom the process server is not a party:

(A) Regular Docket

(1) Summons: Summons shall be served in accordance with the Ohio Rules of Procedure. In the event that there is a failure of service the Clerk shall notify counsel promptly. If counsel fails to obtain service of summons within six months from the date the cause of action has been filed, then the Clerk shall notify counsel that the case will be dismissed in ten days unless good cause is shown to the contrary. All precipes for subpoenas shall be filed with the Municipal Court with sufficient time to allow the appropriate agency or process server adequate time for serving the subpoenas. Counsel and the respective law enforcement agency shall be responsible to monitor the status of the service of such subpoenas. Parties are also responsible for monitoring and ensuring the service of criminal and civil complaints. Private process servers may be able to serve process more timely than law enforcement agencies.

(2) Upon perfection of service and in the event an answer is not filed and therefore the case is eligible for a default judgment, the Clerk shall notify counsel of the default and a failure to submit an entry within fifteen (15) days may result in the case being dismissed without prejudice.

(3) After a responsive pleading is filed the Clerk shall forward it to the Judge and schedule a pre-trial or final pre-trial hearing.

(4) Motions: All motions must be in writing and accompanied by a written memorandum containing appropriate citations or arguments of counsel. Opposing counsel shall answer in like manner within 14 days thereafter. All motions will be considered submitted at the end of said 14-day period unless the Court extends time. The Court shall either decide the motions or schedule them for hearing. There will be oral hearing to the extent required by the Rules of Civil Procedure unless waived by the parties.

(5) Pre-trials will be held in two parts and in the following order as follows:

a. Conference in chambers among the attorneys and the Court out of the presence of the parties at which conference the attorneys shall be prepared to discuss the law applicable to the case, facts expected to be proved, how the law would apply to the case, the witnesses to be called, and stipulations. The purpose of the conference is to resolve which issues are to be tried, the law which is to be applicable to the case, the stipulations that will be entered to, the witnesses who will testify and such other matters as the Court orders.

b. Conference in the Court room in the presence of the parties. The purpose of the open conference is to explain to the parties the results of the conference in chambers and such other matters as the parties or the Court may care to have discussed. Provided that, if any party requests to be present at the conference described in 5(a), the attorneys of record shall provide the Court with pre-trial briefs regarding the above mentioned matters seven days prior to pre-trial.

The attorneys of record in a civil case shall be present for all pre-trial hearing therefore, as shall the parties; provided that a party need not be present if represented by a person having full authority to settle the case. In the absence of a person having such authority at the pre-trial hearing, the opposing party, with the consent of the Court, may proceed to trial on the merits ex-parte, then or at such time as may be set by the Court, the absent party being deemed to have waived his rights to be present and to have his attorney appear in Court on his behalf.

(6) Continuances: No party shall be granted a continuance of a trial or hearing without a written motion setting forth the reason for the continuance. The granting of any other request for continuance of scheduled trial is a matter within the discretion of the trial Court.

(7) Judgment Entries: Counsel for the moving party shall prepare the judgment entry. Entry of settlement may be filed with the Court at any time. If a settlement entry is not filed within 30 days after notifications to the Court of a settlement the case may be dismissed by the Court for want of prosecution.

(8) In all Civil actions and proceeding wherein a request or demand for trial by jury is made, the following shall apply:

a. A deposit of thirty dollars (\$30.00) shall be made with the Clerk upon filing such demand or request. Failure to make such deposit at the time of filing said written demand, and within three days thereafter, shall constitute a waiver thereof.

b. Jury Demand of Forcible Entry and Detainer (FED). The Court acknowledges the special time constraints that may arise in FED cases. The Plaintiff/Landlord may desire an expeditious resolution of his/her right to possession and the Defendant/Tenant may assert a right to maintain possession of the rental premises. Therefore, the FED summons will now advise the parties of a right

to request a jury trial. A jury request shall be made in writing at least three days prior to the scheduled hearing date; additionally the party requesting a jury trial must also comply with the cost deposits as set forth herein.

c. After the case is set for jury trial and notice given thereof to the party making the demand, or his attorney, such party shall deposit with the Clerk an additional sum of one hundred seventy five dollars (\$175.00) within three days after receipt of such notice from the Clerk. Failure to make such deposit shall constitute a waiver of said demand or request for jury trial.

In all civil actions and proceedings in this Court, the cost of summoning jurors, juror's fees and other costs incidental thereto, shall be taxed as part of the Court costs of said action or proceeding. All such costs are required to be secured in advance as provided in Section I above.

(B) Small Claims Complaints

(1) A small claims complaint shall be filed upon a petition as required by the Ohio Revised Code. The defendant is not required to file an answer or statement of defense. If a defendant fails to appear for the initial hearing after being properly served then a default judgment may be entered against said defendant. If either party files a motion and "affidavit, in accordance with Section 1925.10 the case shall be transferred to the regular civil docket of the Court. No transfer to the Court regular docket shall be granted until the filing fee is paid.

(2) Hearing: The deputy clerk of the Small Claims division shall set the time for hearing in accordance with the applicable statute. The first hearing scheduled will be a pre-trial at which time the parties will try to reach an agreement.

(a) All parties will be advised of the opportunity to voluntarily participate in a non-binding mediation hearing with the goal of settling the issues between the parties. In the event that any party declines mediation another hearing will be scheduled for the Judge and/ or Magistrate to hear the case and allow all parties the opportunity to state their case.

(3) The plaintiff and defendant may subpoena and call witnesses. The Ohio Rules of Evidence do not strictly apply to a hearing in Small Claims Court; however, the Court is subject to the Ohio rules of Civil Procedure as per 1925.16. The Court shall render a decision within 30 days from the time of the hearing.

(C) FED/Evictions:

All forcible entry and detainer (FED) cases shall be set for a pre-trial hearing pursuant to the time limits set forth in the Ohio Revised Code. If an answer or jury demand is filed then the Clerk shall schedule the case for an appropriate hearing. The FED initial hearing shall be governed by the Ohio rules of Civil Procedure and the Ohio Rules of Evidence. The primary issue will be whether the

Plaintiff is entitled to immediate possession (restitution) of the subject premises. At the conclusion of the hearing the Judge shall enter a decision. A hearing regarding damages to the premises and counterclaims shall be determined later and the Rules of Civil Procedure shall govern the time for hearing relating to the matter.

1. Service of FED actions by process server: All personal service in Forcible Entry and Detainer Actions shall be served by a process sever, designated by the Court, to serve Court papers in actions pending before the Court (in which action's the process severers are not parties). In the event that a process server is not designated by the Plaintiff and/or Plaintiff's Counsel, the Court will appoint a process server.

2. The below listed individuals are designated by order of the Court pursuant to Civil Rule 4.1(2) and Civil Rule 45 (B) as persons who may serve summonses and subpoenas on behalf of the Court in actions pending before this Court in whom the process server is not a party:

Joe Maze	Faith Todd	Kerry Kernen	Jeff Baron
P.O. Box 943	1064 Ohio Avenue	1065 Homer Street	755 E. Second Street
Logan, Ohio 43138	Logan, Ohio 43138	Logan, Ohio 43138	Logan, Ohio 43138

RULE 16: JURY MANAGEMENT PLAN

(A) Drawing of Petit Jurors

Pursuant to ORC Sections 1901.25 and 2313.19 and the Rule of Court relative to the choosing of jurors, it is hereby ordered that the Hocking County Jury Commissioners shall, in the manner prescribed by law, draw the names of three hundred (300) persons, whom they shall cause to be summoned to appear and serve as Petit Jurors for the Municipal Court of Hocking County, Ohio, for a partial term of four (4) months.

(B) Excuses from Jury Duty; prospective jurors may be excused for the following reasons:

1. Any person who suffers from a substantial physiological or psychological impairment.
2. Any person who has a scheduled vacation or business trip during potential jury service.

Prospective jurors shall note that as a general rule Jury Trials begin at 8:45 a.m. and are usually completed in one day. If it appears that the trial will exceed one day jurors will be advised of that possibility.

3. Any person for who jury service would constitute a substantial economic hardship.
4. Any person for whom service on a jury would constitute a substantial hardship on their

family, clients, or members of the public affected by the prospective juror's occupation.

5. Any person who has served on a jury within the last year.
6. Any person for who is unfit or unqualified for jury service.
7. Any person for whom it is readily apparent would be unable to perform their duty as juror.
8. Any person over the age of 70 is excused from jury duty but may serve if they feel they are able to do so.

No person shall be excused from jury service except by the Judge. A person who does not complete the jury questionnaire issued by the Court is not automatically excused. Once a prospective juror has submitted his/her request for excuse from jury duty, he must still report for service unless otherwise notified by the Court.

(C) Examination of prospective jurors shall be limited to matter 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. Jury questionnaires indicating basic background information concerning panel members shall be made available to counsel the day on which jury selection is to begin. The Court shall conduct a preliminary voir dire examination. Parties and counsel may be permitted to ask follow up questions concerning the questionnaire answers.

(D) Questions of a juror on voir dire shall be limited to those not asked on the questionnaire contained in the "Instructions to Jurors", provided that such limitation shall not extend to questions on the questionnaire left unanswered or answered incompletely, and shall not extend to any question the questionnaire is not completed by the juror.

(E) The aforesaid questionnaire shall be made freely available to the prosecution and the defense the day of the trial.

(F) Nothing herein shall be construed to prevent amplification of the answers given on the questionnaire.

(G) The excluded questions and answers may be the basis for challenge of the juror as if such questions had been asked on voir dire.

RULE 17: RECORD RETENTION POLICY

The Court hereby states that for the purposes of Record Retention. The Court shall follow Rule 26 and Rule 26.05 of the Supreme Court Rules of Superintendence regarding Records Retention and Management and a copy of such schedule is attached.

RULE 18: COURT REPORTER

Upon consideration by the Court, it is hereby ordered that Ellen Riggs shall be official Court Reporter for the purpose of transacting and any other official acts required by the Hocking County Municipal Court.

1. All tapes and exhibits shall be kept in the Bailiff's custody.
2. All tapes shall be _____ for a period of six months.
3. Tapes shall be _____ for longer periods upon request of the parties.
4. Tapes and exhibits shall be provided to the official Court Reporter when requested and upon the filing by _____ that a request for transcript.
5. Ellen Riggs, Hocking County Common Pleas Court, Logan, Ohio, hereby is appointed Court Reporter pursuant to App. Rule 9 (B), without compensation therefore except as hereinafter provided, which fees shall be paid by the persons requesting a transcript. No one shall make copies of the record without payment of the Court Reporter as set forth above.

The costs for tape recorded transcription shall be the same as provided in the Rules of Court of the Hocking County Common Pleas Court.

RULE 19: APPOINTING ACTING JUDGES AND MAGISTRATE

Attorneys William Henderson and Will Kernen, are eligible and willing to serve as acting Judges pursuant to Sections 1901.10 and 1901.12,. Therefore, I, Richard M Wallar, Judge of this Court, pursuant to the sections aforesaid, do hereby appoint William Henderson and Will Kernen, each being a qualified person , to serve as acting Judge, during my temporary absence, incapacity, or vacation, commencing March 28, 2002, and thereafter, upon the call of the clerk, the judge, or law enforcement agencies. All other appointments of acting or substitute judges hereby are terminated. Attorney Mary Ann Boone is eligible and willing to serve as the Hocking County Municipal Court Magistrate and is hereby appointed to such position.

RULE 20: COURT COSTS

Now comes the Court and establishes the Court costs that the Clerk shall collect in the cases of the Court. The Court finds as follows:

Pursuant to Section 1901.26, Ohio Revised code, the Court is commanded to establish a schedule of fees and costs to be taxed in civil or criminal actions or proceeding, (the later including

traffic proceedings which bylaw is deemed to be criminal). The Court, as commanded by Section 1901.26, O.R.C., establishes the costs and fees as set forth in Schedule A, (criminal/traffic matters), Schedule B, (civil matters, exclusive of small claims), and Schedule C, (small claims matters), attached hereto and incorporated herein by reference, as reasonable and necessary to the efficient operation of the Court.

Fees and Costs for computerized Legal research Services and Probation Costs:

Pursuant to Section 1901.261, (A), O.R.C., the Court is authorized to establish additional fees in the amount of \$3.00, [for actions equivalent to those described in divisions (A), (Q), or (U) of Section 2303.20, O.R.C., to make available computerized legal research services], if the Court determines that additional funds are required for the efficient operation of the Court.

The Court finds that increasingly it must resort to computerized legal research services and that establishing such a fee is required for the efficient operation of the Court. The amount is set at \$1.00.

Fees and Costs for Computerizing the Office of Clerk of the Municipal Court:

Under Section 1901.261, (B), O.R.C., the Court is authorized to establish an additional fee not to exceed \$10.00, [for each cause of action or appeal and for the filing, docketing and endorsing of each certificate of judgment, or on the docketing and indexing of each aid in execution or petition to vacate, revive, or modify judgment that is equivalent to one described in Division (A), (P), (Q), (T), or (U) of Section 2303.20, O.R.C.], where the Court finds it necessary for the efficient operation of the Court.

Therefore, the Court finds that additional funds are required to computerize the office of the clerk of Court for the efficient operation of the Court, and the following computerization cost is set for the matters wherein it may be imposed; \$4.00. Since more revenue is required to establish a new system in the initial years then in subsequent years, this cost shall decrease to \$3.00 the following year and to \$2.00 the year proceeding that one.

The foregoing hereby is adopted as a Rule of Court, and the Clerk hereby is ordered to collect the costs and fees ordered hereunder.

This order shall be entered in the Rules of Court and upon the Journal of the Court. Further, the Clerk shall file a copy of same with the clerk of the Ohio Supreme Court.

RULE 21: VIOLATIONS BUREAU, COURT FEES AND BOND SCHEDULE

Pursuant to Traffic Rule 13, and by authority vested in me, Judge of this Court, the order establishing a Traffic Violations Bureau. The Court hereby adopts and establishes the fine schedule set forth in the exhibit attached hereto. The Clerk also shall transmit copies of the schedule to the Ohio

Highway Patrol, Athens Post; the Sheriff of Hocking County; the Chief of Police of Logan; and such other parties as would be similarly interested.

BOND SCHEDULE

Violation

Degree M1- \$1,000.00 Recog.- \$1,000.00 Cash *plus* \$20.00

Degree M2- \$750.00 Recog.- \$750.00 Cash *plus* \$20.00

Degree M3- \$500.00 Recog.- \$500.00 Cash *plus* \$20.00

Degree M4- \$250.00 Recog.- \$250.00 Cash *plus* \$20.00

Degree MM \$80.00

***Bond for a Defendant who lives out of state is twice the amount shown for state residents for the basic bond amount PLUS \$20 for each offense.*

**** All minor misdemeanors are \$80.00 except as follows:****

(Not withstanding construction and school zone violations)

Speed 0-10 MPH over \$ 80.00

Speed 11-20 MPH over \$ 90.00

Speed 21-30 MPH over \$100.00

Speed 31-40 MPH over \$110.00

Speed in School Zone during restricted hours: \$80 plus \$2.00 for each mile above the 20mph limit.

Seatbelt-diver \$ 70.00

Seatbelt-passenger \$ 60.00

Child restraint \$ 70.00

Drug Abuse/Possession \$150.00

MM APV violations \$80.00

M4 APV tickets include \$150.00

Off trails, operate w/o valid license, unauthorized use on a highway or private property, capturing animals

Absolutely NO FELONIES or M1 DOMESTIC VIOLENCE charges are to be referred upon bond without the Judge's approval.

Domestic violence charges are subject to any additional conditions as set by the Court, on a case by case basis, pursuant to Ohio Revised Code 2919.251, which are as follows:

1. Whether the person has a history of domestic violence or a history of other violent acts

2. The mental health of that person
3. Whether the person has a history of violating orders of any Court or government agency;
4. Whether the person is potentially a threat to any other person;
5. Whether setting bail at a high level will interfere with any treatment or counseling that the person or the family of the person is undergoing.

FEES AND COSTS

Standard Court Costs-\$50.50

 \$15 General Revenue

 \$2.50 Legal Research

 \$9 Clerk's Computer Fund

 \$9 Victim's of Crime

 \$15 Indigent Counsel

Summons-\$10

Warrant-\$25

Commitment to Jail-\$8

Witness All day-\$12, ½ day-\$6

Juror seated-\$40, not seated-\$10

Expungement-\$60

Forfeiture Order-\$15

Non Sufficient Fund Check Charge-\$20

Subpoenas-\$2

Appeal--\$80

RULE 22:

HOCKING COUNTY MUNICIPAL COURT PREE-TRIAL DIVERSION PROGRAM AND PROBATION FEES

Because of the high cost of community control (probation), and budget constraints on the county, defendant-probationers will now be required to pay a portion of the cost of their probation program. It is the court's philosophy that individuals should experience the consequences for their actions, and by paying a portion of the cost of probation, the defendant-probationer will demonstrate their ability and willingness to change their behaviors, and be responsible to the community. Further, these consequences will enable the person to modify their current behavior and make positive life choices.

1. Pre-Trial Diversion Program – The pre-trial diversion program will be offered in limited circumstances only, and in isolated situations. The judge will decide if the pre-trial diversion program is applicable on a case-by-case basis, using, but not limited to the following criteria - That the offense was an isolated situation, first offense, and that the pre-trial diversion program will be sufficient to curtail any future problems.

- a. Fee: \$96.00 per year (or \$8 per month)
- b. Probationer may petition the court for community service in lieu of the probation fees or court costs; such shall be on a limited basis, and on a case-by-case basis determined by the judge. If the judge determines that community service is warranted in the situation, then the probationer shall serve Twelve (12) hours of community service for each year of non-reporting probation, credited at \$6.00 per hour.

Such community service must be completed no later than thirty (30) days upon either:

1. A judge determines that a probationer is indigent (from the date of the file stamp); or
 2. A probationer officer or the Clerk of Court determines that a probationer has not paid the probation fee. Such delinquent account may also be sent to a collection agency;
- c. If drug testing is necessary for the probationer's case, the cost of the drug testing shall be the county's, unless the probationer tested positive for an prohibitive or illegal drug. In this situation, the cost of the test shall be solely borne by the probationer, payable within 7 days of the test.

2. Non-Reporting Probation.

- a. Fee: \$6.00 per month; \$72.00 for one year; and \$144.00 for two years.
- b. Probationer may petition the court for community service in lieu of the probation fees or court costs; such shall be on a limited basis, and on a case-by-case basis determined by the judge. If the judge determines that community service is warranted in the situation then the probationer shall serve Twelve (12) hours of community service for each year of non-reporting probation, credited at \$6.00 per hour.

Such community service must be completed no later than thirty (30) days upon either:

1. A judge determines that a probationer is indigent (from the date of the file stamp); or
 2. A probationer officer or the Clerk of Court determines that a probationer has not paid the probation fee. Such delinquent account may also be sent to a collection agency;
- c. If drug testing is necessary for the probationer's case, the cost of the drug testing shall be the county's, unless the probationer tested positive for an prohibitive or illegal drug. In this situation, the cost of the test shall be solely borne by the probationer, payable within 7 days of the test.

3. Reporting Probation

- a. Fee: \$14.00 per month; \$168.00 for one year; and \$240.00 for two years.

NOTE: If the probationer initially has been placed on reporting probation and moves to a non-reporting probation at some future time, the fees of the reporting probation shall remain in effect.

b. Probationer may petition the court for community service in lieu of the probation fees or court costs; such shall be on a limited basis, and on a case-by-case basis determined by the judge. If the judge determines that community service is warranted in the situation then the probationer shall serve Twenty (20) hours of community service for each year of reporting probation, credited at \$6.00 per hour.

Such community service must be completed no later than sixty (60) days upon either:

3. A judge determines that a probationer is indigent (from the date of the file stamp); or
4. A probation officer or the Clerk of Court determines that a probationer has not paid the probation fee. Such delinquent account may also be sent to a collection agency;

c. If drug testing is necessary for the probationer's case, the cost of the drug testing shall be the county's, unless the probationer tested positive for an prohibitive or illegal drug. In this situation, the cost of the test shall be solely borne by the probationer, payable within 7 days of the test.

4. Drug Court

Drug Court is a specialized type of probation, entered into voluntarily by the participant at the suggestion of the judge. Probationers in this program are determined on a case-by-case basis, in accordance to the criteria set forth in the drug court curriculum.

a. Fees: \$15.00 per month during the first phase, \$12.00 per month during the second phase, \$10.00 per month during the third phase, and \$8.00 per month during the forth phase.

b. Probationer may petition the court for community service in lieu of the probation fees or court costs; such shall be on a limited basis, and on a case-by-case basis determined by the judge. If the judge determines that community service is warranted in the situation then the probationer shall serve Eight (8) hours of community service for each month in the drug court program, no matter, which phase the participant is in. No money credit is given.

Such community service must be completed no later than thirty (30) days upon either:

5. A judge determines that a probationer is indigent (from the date of the file stamp); or
6. A probation officer or the Clerk of Court determines that a probationer has not paid the probation fee. Such delinquent account may also be sent to a collection agency;

If drug testing is necessary for the probationer's case, the cost of the drug testing shall be the county's, unless the probationer tested positive for an prohibitive or illegal drug. In this situation, the cost of the test shall be solely borne by the probationer, payable within 7 days of the test.

- c. If drug testing is necessary for the probationer's case, then in the situation, of the probationer testing positive for a prohibitive or illegal drug, the cost of the test shall be solely borne by the probationer, payable within 7 days of the test.

NOTICE: THERE SHALL NOT BE ANY REFUNDS OF ANY PROBATION FEES.

*****THESE ARE ONLY SOME, NOT ALL, SANCTIONS THAT MAY BE PLACED ON A PROBATIONER BY THE COURT.**

*****VIOLATIONS OF COMMUNITY SANCTIONS (PROBATION) MAY LEAD TO JAIL, ADDITIONAL COMMUNITY SERVICE TIME BEING ORDERED, AND THE POSSIBILITY OF COMMUNITY SANCTIONS (PROBATION) BEING EXTENDED.**

FAILURE TO PAY THE PROBATION FEE OR COMPLETE THE COMMUNITY SERVICE SHALL RESULT IN A CONTEMPT OF COURT PROCEEDING OR PROBATION REVOCATION.

ALL PROBATIONERS ARE REQUIRED TO PROVIDE A CHANGE OF ADDRESS TO THE PROBATION DEPARTMENT.