

STEUBENVILLE MUNICIPAL COURT
123 SOUTH THIRD STREET
STEUBENVILLE, OHIO 43952

LOCAL RULES OF COURT

JOHN J. MASCIO
MUNICIPAL COURT JUDGE

EFFECTIVE DATE: JANUARY 1, 2018

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INTRODUCTION

The Steubenville Municipal Court hereby adopts the following Rules, which shall be applicable in all cases filed in this Court.

HOURS: The office of the Clerk of Court shall be open Monday through Friday from 8:30 a.m. until 4:00 p.m. excluding legal holidays. All sessions of the Criminal Court shall begin promptly at 10:00 a.m. Monday through Friday and resentencing's to review unpaid fines, costs and community service shall be held Tuesday through Thursday of each week at 2:00p.m. All sessions of the Civil Court shall begin on Friday's promptly at either 8:30 a.m. or 9:00 a.m. as scheduled by the Court unless otherwise directed by the Judge. The Court may be closed or its hours of operation changed at any time without prior notice by order of the Court.

AUDIO RECORD: Unless otherwise provided in these rules, all proceedings before this Court shall be recorded by an audio electronic recording device provided by the court.

FEES AND COSTS: Pursuant to Ohio Revised Code Section 1901.26 and 1901.261, the Court hereby establishes the Schedule of Fees and Costs for each civil and criminal action and Bond Schedule for each criminal action and proceeding in this Court as set forth in attached Exhibits A and B, which may be modified from time to time. Each case shall be assessed one court cost per case. Bond schedule together with any amendments or modifications shall be posted in the office of the Clerk of Court. Fines and court costs are due in full at the time of dispositional hearing. If defendant needs time to pay, he/she must appear before the Judge and a review date will be set to have fines and costs paid in full. The Capital Recovery Systems, Inc. and Attorney General's Office are the Court's collection agencies.

COURT RECORDS: Inspection of records-all indexes, docket, journals, and file records maintained in accordance with law by the clerk of court shall be open to public inspection during regular business hours in a manner that does not interfere with the normal operation of the clerk's office. Transcription of records and/or the audio electronically recorded court proceedings shall not be inspected but may be transcribed by a certified court reporter approved by the Court upon request and upon payment of appropriate deposit. All inspections shall be made under the supervision of Court personnel. Original papers shall not be removed from the office of the clerk.

PUBLIC RECORDS REQUEST: Public records must be requested in writing listing the specific information needed. Since older records are not readily available, 48 hour advance notice must be allowed to compile and copy the information. The charge is 10 cents per page; a certified document is \$1.00 per certification. If a person wants documents mailed, there is a fee for mail costs. All costs must be paid before the documents will be mailed. No personal checks accepted. Cash or money order or certified bank check are required. If documents are to be mailed, the address must be provided.

RULE 1.0 CRIMINAL CASE MANAGEMENT

- I. The purpose of this Rule is to establish, pursuant to M.C.Sup.R.18, a system for criminal case management, which will provide the fair and impartial administration of criminal cases. These rules shall be construed and applied to eliminate unnecessary delay and expense for all parties involved in the Court Justice System.
- II. **SCHEDULING OF EVENTS:** The scheduling begins at arraignment. Thereafter, the case is managed as follows:
 - A. **ARRAIGNMENTS:** Arraignments are to be scheduled in traffic cases within seven days after the citation except for O. V. I. cases, which must be scheduled no later than five days.
All criminal cases and any traffic citation that carries a jail sentence must include a police report and a LEADS printout.

All traffic tickets and criminal complaint filings for warrants and summons must have the following information presented at the time of filing before the Court can file the new tickets and complaints.

The following is the probable cause checklist:

1. Criminal complaints must state "To Wit" followed by a short summary of the facts;
2. "Defendant committed an offense"
3. Date of offense
4. All traffic tickets and criminal complaints must be filled out completely including the Ohio Revised Code and/or City Ordinance number (and degree of offense for criminal complaints)
5. If degree of crime is enhanced because of prior conviction, it must be stated "previously convicted of the crime of _____" and set forth the applicable Court Caption and Case Number of the prior conviction.
6. Police/Incident report and/or a copy of the complaint intake filed in the Prosecutor's office.
7. Defendant's name on affidavit must match the name on the complaint.
8. Statement must match the charge on the complaint.
9. Complaint and affidavit must be signed by the Officer/Affiant or Prosecutor.
10. Officer/Affiant's signature must be sworn to a Deputy Clerk.
11. All traffic tickets must be filed with a LEADS printout.
12. All criminal complaints must be filed with a personal identifier.

Arraignments by written waiver of appearance are not acceptable in any traffic and criminal case unless the Judge has given prior approval, or Waiver of Appearance is authorized according to law or rule established by the Court.

- B. PRETRIALS:** All first degree and second degree misdemeanors shall be set for pretrial by the Court within thirty (30) days of the arraignment, unless otherwise ordered by the Court. All other misdemeanors shall be set for trial by the Judge unless the Judge orders a pretrial in said case. The defendant may only waive his/her right to a speedy trial in writing, on the record, and in open Court. Prior to the pretrial all discovery, if requested shall be exchanged among the parties. The Court has an open file policy, i.e. informal discovery. If the information requested is not contained in the file, that information may be discovered at the pretrial. All discovery must be completed by the end of the pretrial or a second pretrial must be requested and will be granted only for just cause. The pretrial shall be conducted in accordance with Criminal Rule 17.1. Any attorney who fails to appear for pretrial without just cause being shown may be punished for Contempt of Court. If the parties cannot resolve the case, then the case shall be set for trial to the Court unless a Jury Demand is filed in compliance with Criminal Rule 23. If the case is set no plea will be accepted absent consultation with the victim and arresting officer by the prosecutor.
- C. MOTIONS:** All Motions shall be made in writing and accompanied by a written Memorandum containing the arguments of counsel. All Motions must comply with Criminal Rule 47. The moving party must obtain a hearing date at the date of filing. Motions must be filed within the time limits established by the Ohio Rules of Criminal Procedure. **MOTIONS TO DISMISS OR SUPPRESS MUST BE FILED SEVEN (7) DAYS BEFORE THE HEARING DATE.** All Motions (except for a continuance) shall be set for hearing unless otherwise indicated by the Judge. A Motion may be decided without hearing at the joint request of both sides. **Any motion to be decided without a hearing must be accompanied by a proposed Judgment Entry from each party.**

- D. TRIALS:** Each case not resolved at pretrial shall be set for Trial to the Court unless a Motion is to be filed. If a Jury demand is timely filed, then the case will be moved to the Jury Trial schedule.
- E. STATUS:** A Status Conference will be held at least one week before all scheduled Jury Trials. **Counsel, clients, and victims as required by law must attend.** The purpose of the Status Conference is two-fold. One: to ensure the case cannot be settled. Two: to address all pre-jury trial issues: all Motions In Limine; proposed Jury instructions; copies of case law; or trial briefs, which must be filed and discussed at the Status Conference.
- F. JURY TRIALS:** The defendant or his/her counsel must notify the Court that a Jury is not needed by **3:00 p.m. on the day before** the Jury Trial. Failure to do so shall result in the defendant being assessed all Jury costs, subpoena fees, sheriff fees, witness and bailiff fees unless found to be indigent.
- G. SENTENCING:** Sentencing shall be done immediately upon conviction. The Court, upon good cause shown, may schedule a sentencing hearing within ten (10) days from the date of conviction.
- H. FINES AND COSTS/REVIEWS:** Fines and costs are due the day of hearing unless an arrangement is made. If fines and costs are not paid by the review date selected by the Court, the Court will afford the Defendant the opportunity to work the same off through Community Service. A Bench Warrant may be issued for any defendant for failure to appear for review to address unpaid fines, costs, treatment, restitution and lack of performance of community service and the court will further utilize license and registration blocks according to law. Unpaid fines and costs may further be referred to collection. Any Defendant jailed for non-payment of fines and costs will receive \$50 a day credit towards fines and costs, until all fines and costs are sat out or paid. Inability to pay heavy unpaid fines and costs may be waived based on Defendant's financial situation.

III. CONTINUANCES: (Same as Civil, see page 8).

IV. SERVICE: All warrants, complaints, traffic tickets, or minor misdemeanor citations must be properly served upon the defendant. A complaint or citation that has not been properly served will be dismissed for improper service.

V. JUDGMENT ENTRIES: All Judgment Entries for hearings will be prepared by counsel of record unless otherwise ordered.

VI. BOND SCHEDULE: The Court has adopted the attached Bond Schedule for criminal and traffic violations which is marked as Exhibit B. All Cash Bonds shall be posted in the name of Defendant only. See Warning Letter, Exhibit C. All Bond's for non moving violations shall be subject to the \$25.00 surcharge mandated by ORC 2937.22(B) to the State of Ohio. In addition Cash Bond's are subject to a \$25.00 processing fee to the City of Steubenville. All Bond's for moving violations are subject to the \$10.00 surcharge mandated by ORC Section 2949.094(C)

VII. OPERATING A VEHICLE WHILE UNDER THE INFLUENCE (O. V. I.) REQUIREMENTS FOR FILING LIMITED DRIVING PRIVILEGES

Limited driving privileges can only be granted for the following under 4510.021(A) of the Ohio Revised Code:

1. Occupational, educational, vocational, or medical purposes
2. Taking the driver's or commercial driver's examination
3. Attending court ordered treatment

Attending any court ordered proceeding related to the offense for which the suspension was imposed

4. Transporting minor child(ren) to a child care provider, day care, preschool or to any other location for purposes of receiving child care
5. Any other purpose approved by the court

The following is required:

1. Proof of insurance with effective date. (Effective from _____ to _____)
Both from date of offense and date of limited driving privilege.
 - A. Card or
 - B. Insurance policy
2. Proof of work.
3. Judgment entry granting limited driving privileges.
4. \$50.00 filing fee is required at the time of filing for 1st offense and \$55.00 for 2nd offense or higher.
5. ***YELLOW PLATES ONLY*** Defendant must fill out a "Restricted Plate BMV Application". It must be signed by the Judge. Defendant takes the application to the Deputy Registrar to get restricted plates. The restricted plates must be presented to the Clerk before the Limited Driving Privilege Judgment Entry will be signed by the Judge.
Conviction: _____ may be required on a high tier first offense
2nd Offense or more
 - A. Proof of vehicle registered in Defendant's name.
6. ***IGNITION INTERLOCK*** mandatory 2nd offense OVI within ten (10) years or more along w/ restricted license. Defendant must provide proof of installation of Ignition Interlock. Privileges revoked if violated.
ALS FOR REFUSAL (WITHIN 10 YEARS)
1st offense must wait 30 days
2nd offense must wait 90 days
3rd offense must wait 1 year
Underage OVI-must wait 60 days
FAILED TEST BEFORE AND AFTER CONVICTION
You must wait 15 days before applying for limited driving privilege on a first offense.
45 days for a second offense and 180 days on a third offense.
**Credit for any Pretrial Suspension*

The Deputy Clerk shall send notice of these privileges to the Ohio BMV electronically.

VIII. UNLIMITED DRIVING PRIVILEGES

Unlimited Driving Privileges shall be granted in accordance with ORC Section 4510.022 subject to installation of certified ignition interlock device, verification of a restricted driver's license, proof of insurance, proof of restricted plates if ordered, and payment of a filing fee with the motion the sum of \$52.50

VIV. PRETRIAL DIVERSION PROGRAMS FOR CERTAIN OFFENDERS

1. By Order Number 2016-10 dated May 17, 2016 the Court established conditions, limits and procedure for the pretrial diversion program. A copy of this Order is attached hereto in Appendix F. and incorporated by reference .

RULE 2.0 CIVIL CASE MANAGEMENT

- I. The purpose of this Rule is to establish, pursuant to M. C. Sup. R. 18, a system for civil case management, which will achieve the prompt and fair disposal of civil cases. Costs for civil cases are attached as Exhibit A.
- II. **SCHEDULING OF EVENTS:** The scheduling of a case begins when a civil case is filed. Thereafter, the case is managed in five (5) clerical steps and six (6) judicial steps:

III. CLERICAL STEPS:

- A. A summons for a complaint shall be served in accordance with the Ohio Rules of Procedure. If there is a failure of service, the Clerk shall immediately notify the Pro se Plaintiff or counsel. If Plaintiff fails to obtain service of Summons within six (6) months from the date the cause of action has been filed, the Clerk shall notify Plaintiff, in writing, that the case will be dismissed without prejudice after thirty (30) days unless good cause is shown to the contrary.
- B. After any responsive pleading is filed, the Clerk shall immediately schedule the matter for a hearing.
- C. If no action has been taken on a file for six (6) months and the case is not set for trial, then the Clerk shall notify the party that the matter will be dismissed within thirty days unless good cause is shown.
- D. When a file has been marked “settlement entry to come” and the entry has not been received within thirty (30) days, the Clerk shall notify the party in writing that their case will be dismissed unless the entry is received within fourteen (14) days.

IV. JUDICIAL STEPS:

- A. **MOTIONS:** All Motions must be in writing and accompanied by a written Memorandum containing citations and the arguments of counsel and a proposed Judgment Entry. Opposing counsel shall answer in like manner within fourteen (14) days thereafter. All Motions will be considered submitted at the end of said fourteen (14) day period unless the Court extends time.

Proposed Judgment Entries may be submitted with the Motion.

- B. **PRETRIALS:** For the purpose of this Rule, “pretrial” shall mean a Court supervised 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 the attorney of record. **(Pretrial conference by phone is permitted-except for F.E.D.s (Forcible Entry and Detainers); Court must be notified in writing 7 days before date and all parties must be on the phone before calling the Court.)**

Any attorney for a party to the action, who fails to attend a scheduled pre-trial conference, without just cause being shown, may be punished for contempt of this Court.

Notice of pretrial conference shall be given to all counsel of record by mail and/or telephone from the Clerk’s Office not less than fourteen (14) days prior to the conference. Any application for continuance of the conference shall be addressed to the Civil Deputy Clerks. See Rules for continuance.

Counsel attending the pretrial conference must have complete authority to stipulate on items of evidence and must have full settlement authority; otherwise, the parties shall be present.

The Judge shall have the authority to dismiss the action for want of prosecution upon Motion of the Defendant for failure of the Plaintiff, or his counsel to appear in person at any pre-trial conference or trial; to order the Plaintiff to proceed with the case and to decide and determine all matters ex parte upon failure of the Defendant to appear in person or by counsel at any pre-trial conference or trial as required; or to make such other order as the Court may deem appropriate under all the circumstances.

If the case cannot be settled at pretrial, then the case will be set for trial at a time agreeable to all parties and the Court.

- C. **STATUS CONFERENCE:** A Status Conference shall be held at least seven (7) days before the Jury Trial date to ensure that the case cannot be settled and to address all pre-Jury Trial issues.

D. **JURY TRIAL:** A Jury Demand Fee of Three Hundred and no/100 Dollars (\$300.00) must be posted by the party requesting same no later than ten (10) days before the scheduled Jury Trial date or the case will be set for trial to the Court.

E. **CONTINUANCES:** All criminal continuance requests and civil continuances shall be directed to the Deputy Clerks. No party shall be granted a continuance of a trial or a hearing without a Written Motion stating the reason for the continuance and a Judgment Entry for the Judge's signature. These may be faxed to the Court.

Originals to follow.

The following are six (6) possible reasons for a continuance:

1. Conflict with prior scheduled Court hearing.
2. Material witness is unavailable due to no fault of the Attorney.
3. Subpoena unable to be served.
4. Hospitalization or unexpected illness of the attorney or any party with proper medical excuse.
5. Death in the immediate family of the attorney, witness, or party.
6. Good cause shown as decided by the Court.

The granting of a request for continuance of a scheduled hearing is a matter within the discretion of the trial court.

The moving party making the written request must serve all parties, counsel, and subpoenaed witnesses of the continuance. The Court will serve the Judgment Entry denying or granting the continuance.

F. **JUDGMENT ENTRIES:** The parties as ordered shall prepare all Judgment Entries for hearings unless otherwise ordered. A proposed Judgment Entry must accompany Written Motions not requiring a hearing.

G. **DEFAULT JUDGMENTS:** Motions for Default Judgment will be called by the Court at the scheduled times. Plaintiff need not appear.

The party requesting Default Judgment must serve a written notice of the application for judgment upon the defaulting party at least seven (7) days prior to the hearing or order on such application. The party requesting the Default shall submit a proposed Judgment Entry at time of filing. (If damages are claimed, the Judge may hold a hearing regarding damages separately from liability, which does not need a hearing. The Clerk shall mail the Default Judgment Entry to all parties or, if represented, to their counsel of record.

The Court shall require a hearing on Default Judgments for the tear down and vacation of premises requests. No order shall be given solely on the Motion of Plaintiff. All parties must be notified of a hearing and testimony given by the Plaintiff even if the defendant is in default and does not appear at the hearing.

H. **SETTLEMENT ENTRIES** may be filed at any time before trial. All agreed judgment entries to be prepared by the parties must be filed fourteen (14) days after trial or the case will be dismissed.

I. **SERVICE BY PUBLICATION:** Any party requesting service by publication shall be responsible to oversee the publishing of the requisite legal notice and shall be responsible to pay all costs of publication in advance to the newspaper and/or other publisher. Service by publication shall be in accordance with Rule 4.4 of the Ohio Rules of Civil Procedure.

RULE 3.0 SPECIAL PROCEEDINGS CASE MANAGEMENT

I. The purpose of this Rule is to establish, pursuant to M.C.Sup. R. 18, a case management system for special proceedings to achieve a prompt and fair disposition of these matters. The following Civil matters are considered special proceedings: SMALL CLAIMS, FORCIBLE ENTRY AND DETAINER, DEFAULT HEARINGS, RENT ESCROW, REPLEVIN, MOTION TO CITE, GARNISHMENT HEARING, AND DEBTOR'S EXAMS.

The following criminal matters are considered special proceedings: PRELIMINARY HEARINGS, EXTRADITION HEARINGS, B. M. V. HEARINGS, and CONTEMPT PROCEEDINGS.

- II. SCHEDULING OF EVENTS:** Cases that have time limits established by the Ohio Revised Code shall be set within those time limits for hearing. In all other special proceedings, the case shall be set for hearing within a reasonable time not to exceed ninety (90) days.

RULE 3.1 FORCIBLE ENTRY AND DETAINER HEARINGS

- I. HEARING:** All forcible entry and detainer cases shall be set for hearing pursuant to the time limits set forth in the Ohio Revised Code and the applicable Ohio Rules of Civil Procedure. The Judge or prevailing party as ordered shall file a Judgment Entry within fourteen (14) days of the hearing and cause a copy to be served on the Plaintiff and Defendant.
- II.** If an Answer or Jury Demand is filed in a forcible entry and detainer case, then the Clerk shall schedule the appropriate hearing.
- III.** The Forcible Entry and Detainer (FED) complaint must include a copy of any Written Lease Agreements and The Notices to Leave Premises-3 day notice for back rent or drug activity and 30 day notice followed by a 3 day notice for any reason other than back rent or drug activity. The Plaintiff must have 3 full days in between serving the notice and filing the complaint with the Clerk of Court. **For purposes of computation do not count the day notice is served on defendant or place of abode or the date the FED was filed.** Likewise there must be 30 full days plus 3 full days between serving the notices and filing the complaint. **(Do not count the day of service or day complaint was filed).**
- IV.** All 3-day or 30-day notices must list the name of the person serving the notice and if not the complainant-the relationship to the complainant and the type of service, i.e. (a) posted at rental premises-place of abode or (b) certified mail or (c) personally served on whom.

RULE 3.2 SMALL CLAIMS COURT

- I.** A small claim action is commenced by filing a Small Claims Complaint, pursuant to Ohio Revised Code Section 1925.04. No Defendant is required to file an Answer or statement of defense. However, should the Defendant fail to appear for the hearing, after being duly served, then a default judgment will be entered against said Defendant. All pleadings will be construed to accomplish substantial justice. If the case involves a written contract or account, this document must be filed with the small claim's petition. A Small Claims information sheet is attached as Exhibit E.
- II.** Upon filing of a Motion and Affidavit, as required by Ohio Revised Section 1925.10, and upon payment of the required costs, the small claim will be transferred to the regular docket, if the Judge deems this to be necessary. No transfer will be granted until the filing's costs are paid. A regular Civil Complaint will need to be filed and served pursuant to the Civil Rules of Procedure.
- III. HEARING:** The Judge shall place all parties who plan to offer evidence under oath and then allow the Plaintiff and Defendant to state their case. The Plaintiff and Defendant may subpoena and call witnesses if they desire to do so. The Ohio Rules of Evidence and the Ohio Rules of Civil Procedure may not apply to a hearing in small claims court at the discretion of the Judge.

IV. COLLECTION OF JUDGMENTS: The Clerk of Court shall assist the prevailing parties in filing bank and/or wage garnishments to collect judgments pursuant to Ohio Revised Code Section 1925.13. No collection actions may occur until after thirty (30) days from the date of the Judgment pursuant to law. Deputy Clerks are not permitted to practice law and are not collection agencies. As to small claims judgments the Deputy Clerks shall provide the pro se Plaintiff with all forms to file garnishments upon request. The Plaintiff must provide the necessary information to fill out the garnishments or debtor's exams.

RULE 3.3 LANDLORD/TENANT: RENT ESCROW FEE

LANDLORD/TENANT-RENT ESCROW: The 1% charge by the clerk for rent escrow pursuant to ORC 5321.08 (D) is chargeable only to the landlord unless the Court dismisses the rent escrow case as a frivolous case. The tenant cannot be made to pay the 1% escrow fee.

3.4 LIMITED DRIVING PRIVILEGES PETITION

Defendant shall file a Limited Driving Privileges Petition with the Civil Division and pay the civil filing fee. These Limited Privileges are available only if permitted by law (if defendant otherwise has a valid operator license) : A written petition (Exhibit D) shall be filed listing with specificity the reason the Defendant is under suspension, the purposes, times and places the privileges are requested as listed in R. C. 4510.021. General Conditions for Limited Driving Privileges are given to Defendant to read and sign (Exhibit E).

Attached to the Petition must be:

1. Written proof (on letterhead signed by the appropriate party) of the hours, days and designation needed,
2. An accurate and current BMV form 2006,
3. Proof of payment of reinstatement fees if necessary to acquire privileges or payment plan entered into,
4. Proof of current insurance,
5. Proof of unexpired license status from BMV (if expired, must renew license before Petition is filed). A copy of the petition must be served by the Clerk upon the BMV by certified mail and via facsimile. The applicant must have a pending D. U. S. traffic case or a closed criminal drug case before the Court or be a resident of Jefferson County, Ohio to file a petition.
6. Proof of reinstatement fee payment plan if required

The Civil Clerk sends the privileges to the Ohio BMV by certified mail and facsimile.

RULE 4.0 FILING OF PLEADINGS, MOTIONS, AND DOCUMENTS

Every pleading, Motion, or document, filed with the Clerk of Court must include the Attorney's registration number issued by the Supreme Court of Ohio. No pleading will be accepted for filing without the registration number.

RULE 4.1 PRO HAC VICE

An attorney not licensed to practice law in the State of Ohio, but who is duly licensed to practice law in any other state or the District of Columbia, may, in the discretion of the Trial Judge, be permitted to represent a party or parties in any litigation pending or to be filed in this Court after completion of all of the following conditions:

- A. File a written oath substantially in compliance with Rule I, Section 8A of the Rules for the Government of the Bar as follows;

I, _____, hereby (swear or affirm) that I will support the Constitution and laws of the United States and the Constitution and the laws of Ohio, and I will abide by the Code of Professional Conduct;

In my capacity as an attorney and officer of the Court, I will conduct myself with dignity and civility and show respect toward judges, court staff, clients, fellow professionals, and all other persons.

I will honestly, faithfully, and competently discharge the duties of an attorney at law. (So help me God.)

- B. Certify in writing that he or she has familiarized himself or herself with Local Court Rules and will familiarize himself or herself with the appropriate Criminal or Civil Rules, the Rules of Evidence and the Code of Professional Responsibility;
- C. Be sponsored in writing by an attorney licensed to practice law in the state of Ohio. The motion made by the licensed attorney shall certify such out-of-state counsel's compliance with this rule and the Rules for the Government of the Bar;
- D. The sponsoring attorney shall submit with the motion and certification an entry authorizing the approval of the motion;
- E. The sponsoring attorney, or any other attorney licensed to practice law in the state of Ohio, shall be co-counsel with the attorney admitted pro hac vice.
- F. Provide the Court with a Certificate of Good Standing.
- G. Provide a certificate of pro hac vice registration per S.Ct R.XII(A)(3).

RULE 4.2 LEAVE TO PLEAD

Absent good cause shown, the Court will not grant a third party leave to plead without the parties or counsel seeking such leave by written Motion.

In all motions requesting leave to plead, counsel shall state the number of prior leaves to plead and proof of service to all parties or attorneys of record. A proposed Judgment Entry must accompany the Motion.

RULE 4.3 MOTION FOR SUMMARY JUDGMENT

The filing party must serve a copy of the Motion pursuant to the Ohio Rules of Civil Procedure upon the opposite party and show a proof of service on the Motion. The filing party must also attach a proposed Judgment Entry. The Court will permit a response to be filed pursuant to Civil Rule 56. After the response time of twenty-eight (28) days has passed, the Court will schedule a hearing or make a ruling.

No oral hearing will be held for a Motion for Summary Judgment unless requested by the parties in writing.

RULE 4.4 MOTION IN LIMINE

A Motion In Limine shall be filed not less than three (3) days prior to trial, except for good cause shown.

RULE 5.0 COURT FILES

No Court files will be removed from the Clerk's Office. Copies may be made in the clerk's office under the supervision of a Deputy Clerk.

RULE 5.1 COURT RECORDING

The Court's recording of proceedings shall not leave the custody of the Clerk of Courts except to be transcribed: by the Prosecutor or Law Director's office, this Court's Clerk, or Common Pleas Court Reporters. All attorneys may have the proceedings recorded by their own Court reporter at their expense in addition to the Court's recording.

RULE 6.0 LAW LIBRARY

No Law Library book shall be removed from the Law Library unless application is made by an attorney in writing and agreed to by the Court. Copies may be made by the attorneys themselves in the Clerk's office.

RULE 7.0 WITHDRAWAL OF COUNSEL

- A. Attorney of record wants to withdraw. Withdrawal of an attorney of record shall be made upon Motion with a Judgment Entry of Approval and, where possible, the name of the successor attorney shall be included in the judgment entry. The withdrawing Counsel shall serve a copy of said Motion and Judgment Entry on the client and the opposing party or counsel, if any, by regular U. S. mail and the Court will schedule a hearing unless the Entry is signed by the client.
- B. Defendant wants to substitute Counsel. The proposed substituted Counsel shall file an application with a Judgment Entry of Approval and the signature of the Counsel of Record agreeing to the withdrawal with a Judgment Entry. Upon allowance by the Court the substituted Counsel shall serve a copy of the judgment entry on the client and opposing counsel and file a proposed judgment entry rescheduling the case and serve a copy of the Judgment Entry on the client and opposing Counsel. The Court may schedule either application for a hearing. The Court will thereafter reschedule the matter.

RULE 8.0 EX PARTE COMMUNICATIONS

No ex parte communication is permitted with Judge. Any letters or any type of correspondence shall be given to the Clerk of Courts for approval.

RULE 9.0 INMATE LETTERS

Any letters received by the Court from a defendant for a modification of sentence will be given to the prosecutor for recommendations, if any, and then presented to the Judge.

RULE 10.0 FUNERAL REQUESTS BY INMATES

Inmates requesting any funeral requests must be in writing from the defendant (a faxed letter from defendant in jail is acceptable) along with proof of information i.e. obituary. Funeral request can only be for immediate family only (defined as spouse, children, brother, sister, mother, father, grandparents, grandchildren, mother-in-law, father-in-law, brother-in-law or sister-in-law). The Court will then consider the matter and issue a ruling.

RULE 11.0 FILMING AND RECORDING OF TRIALS AND OTHER HEARINGS

Broadcasting, televising, recording, and photographing by news media during Courtroom sessions shall be permitted under the following conditions:

- (1) There shall be no disruption to the proceedings.
- (2) The television broadcast and still camera operators shall position themselves in a location in the Courtroom, either standing, or sitting, and shall assume a fixed position within that area. Having established themselves in a shooting position, they shall act so as not to call attention to themselves through further movement. Sudden moves, pans, tilts, or zooms by the camera operators are prohibited. Operators shall not be permitted to move about in order to obtain photographs or broadcasts of Courtroom session, except to leave or enter the Courtroom.

- (3) Unless otherwise permitted by the Court, television cameras, microphones, and taping equipment shall not be placed in, moved during or removed from the Courtroom except prior to commencement or after adjournment of the session or during a recess. No television film magazine, rolls, or lenses, still camera film or audio portable tape cassettes shall be changed within a Courtroom except during a recess.
- (4) Proper Courtroom decorum shall be maintained by all media participants.
- (5) All media representatives shall be properly attired in a manner that reflects positively upon the journalistic profession.
- (6) There shall be no audio pickup or broadcast of conference conducted in a Courtroom between counsel and clients, co-counsel or the Trial Judge and counsel.
- (7) The Trial Judge shall prohibit photographing or televising by any means the victims of sexual assaults and undercover police officers. The Trial Judge shall retain discretion to limit or prohibit photography or televising of any victim, witness or counsel, or his work product, upon objection. NO JUROR SHALL BE PHOTOGRAPHED OR TELEVISED.
- (8) Upon failure of any representative to comply with the conditions prescribed by the Trial Judge, **the Rules of Superintendence of the Supreme Court or this Rule**, the Trial Judge may revoke the permission to broadcast, photograph, or record the Courtroom session at any time during such session.

RULE 12.0 JURY MANAGEMENT

INTRODUCTION

This local Rule of Practice is being implemented in compliance with Municipal Court Superintendence Rule 18 C, which requires that each Municipal Court, prior to July 1, 1994, develop and implement a Jury Management Plan. It is the purpose of this Rule to implement an efficient and comprehensive system of jury use and management for the Steubenville Municipal Court.

JURY ELIGIBILITY

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

- (1) Are less than 18 years of age or are 75 years of age or older.
- (2) Are not current residents of the City of Steubenville.
- (3) Are not United States citizens.
- (4) Are not able to communicate in English.
- (5) Have been convicted of a felony and have not had their civil rights restored.

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

PROCEDURE FOR JURY SELECTION

1. **Selection** of Jurors shall be done in accordance with the drawing and selection of Jurors for the Jefferson County Common Pleas Court and the procedures as directed by the Jefferson County Common Pleas Court Judge as prescribed by Chapter 2313.0RC and Section 1901.25 of the Ohio Revised Code.

Departures from random selection shall be permitted only as follows:

1. To exclude persons ineligible for service.
2. To excuse or defer prospective jurors.
3. To remove prospective jurors for cause or if challenged peremptorily.
4. To obtain sufficient jurors for a case through the talesman procedure.

Any person who fails to respond to a duly served summons shall be served with a citation for contempt of Court, and must appear to answer on said summons or, if appropriate, shall be arrested and detained for examination as to why they failed to attend.

2. **Confidentiality of Juror Questionnaires:** the Law Director and Defense Counsel as an aide in voir dire therein shall only use The Juror Questionnaire or information. No access shall be given to the defendant or any other individual as to Juror's address or phone number upon Contempt of Court charges. All questionnaires shall be returned to the Clerk of Courts after voir dire. Under no circumstances may counsel or a Party retain any Jury questionnaire. No copies may be made unless otherwise ordered by the Court.
3. **Juror Fees:** Jurors shall be paid \$10.00 per day for each day's attendance or as modified by ORC 2313.34. The County shall pay Juror fees for cases involving the State law and the City shall pay Juror fees for City ordinance cases pursuant to ORC 1901.25.

SUMMONING OF JURORS

Every effort shall be made to resolve cases prior to summoning juries. In Civil Case Jury Trials only, a \$300.00 deposit must be filed no later than ten (10) days before the scheduled trial date or the case will be tried to the Court. A person who is indigent may petition the Court for a waiver of the Civil Jury Trial deposit requirement.

All attorneys shall notify the Court by 3:00 p.m. of the preceding day of a Jury Trial of any changes in plea or Jury costs shall be assessed to their Case.

Jurors are instructed to call the Court before 3:00 p.m. before the Jury Trial date for instructions regarding being summoned for service.

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 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 in writing and shall be accompanied by appropriate documentation. The Court shall retain these documents.

The following factors constitute a partial, although not exclusive, list of excuses for which a person may be excused or deferred from jury service, in accordance with O.R.C.2313.16:

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.
3. Any person whose jury service would constitute a substantial economic hardship.
4. Any person whose 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 for whom it may be readily determined is unfit for jury service.
6. Any person for whom it is readily apparent would be unable to perform their duty as a juror.
7. Other valid excuses.

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

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.

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

The Court may conduct a preliminary voir dire examination. Counsel or parties shall conform their voir dire questioning to the following rules:

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

In the event there exists a potential for sensitive or potentially invasive voir dire 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 than the juror being questioned in order to protect juror privacy, or to avoid juror embarrassment.

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

Peremptory challenges shall be exercised alternatively as presently established by Revised Code 2945.23, and Civil Rule 47, and Criminal Rule 24, unless prior to trial the parties agree on the record to another method. Unless otherwise agreed, all challenges shall be made in open Court, but the basis for challenge for cause shall be made outside the hearing of the prospective jurors at side bar. There shall be no limit to challenges for cause, however peremptory challenges shall be limited to that number as established by the Rules of Civil and Criminal Procedure.

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

In criminal cases, the jury shall consist of eight regular jurors and one alternate juror. In civil cases, the jury shall consist of eight regular jurors and one alternate juror, unless by agreement, the parties stipulate to a lesser number. In special circumstances, additional alternate jurors may be selected.

JURY ORIENTATION

Jurors shall report for service no later than 8:30 a.m., unless otherwise directed. After orientation, voir dire shall commence promptly. All unresolved trial issues must be brought to the attention of the Court before the completion of orientation. No motions shall be entertained by the Court the day of trial, except those which the Court must consider by law or by Rule of Procedure. The status conference is the hearing where pre-trial motions are addressed.

Prospective jurors shall be provided an oral orientation by the Court upon their initial appearance and prior to service. The Court shall give preliminary instructions to all prospective jurors, as well as additional instructions following the impaneling of the jury to explain the jury's role, trial procedures of the Court, along with other basic and relevant legal principals.

Upon the completion of the case and prior to jury deliberations, the Court shall instruct the jury on the law and the appropriate procedures to be followed during 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. These special instructions must be given to the Court no later than the status conference.

A final jury charge shall, whenever possible, be committed to writing, and shall be provided to the jury for its use during deliberation. Jurors shall not be permitted to take notes.

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

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

All jury deliberations shall be conducted in the jury deliberation room. Jury deliberation rooms shall include 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 Jury room 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 halted, jurors shall be permitted to be separated, unless for good cause shown the Court finds that sequestration is necessary. If a jury is sequestered, the Court shall undertake the responsibility to oversee the conditions of sequestration and the transportation of all jurors.

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

CONCLUSION

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

RULE 13.0 JUDGMENT ENTRIES FOR SIGNATURE

All Judgment Entries to be signed are directed to the Clerk of Court who will provide them to the Court for review. No Judgment Entries shall be personally presented to the Judge. Any Entry which Counsel believes needs the immediate attention of the Judge shall be given to the Clerk of Court who will bring the matter to the attention of the Judge at the next available court break. No Judgment Entry shall be presented to the Judge without the entire file.

RULE 14.0 MAGISTRATE'S

The Court may appoint one or more Magistrate's who shall be attorneys at law admitted to practice in Ohio. A Magistrate appointed by the Court may also serve as a Magistrate under Civil Rule 19 or as a traffic Magistrate.

The Court currently has one Magistrate assigned to hear Civil and Small Claims matters.

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Proceedings before the Magistrate shall be governed by Civil Rule 53.

RULE 15.0 STATISTICAL REPORTS AND INFORMATION

Access to the IGOR and E-STATS and other reporting systems is limited to the Judge and Clerk of Courts and governed by M.C. Supr. 37. All access and password login information shall be kept confidential and not shared with other staff unless specifically authorized by the Court.

RULE 16.0 FACSIMILE AND E-MAIL FILINGS

The Court will not accept facsimile and e-mail filings except as provided for in these Rules.

RULE 17.0 POLICY OF PROTECTION AND MANAGEMENT OF CARDHOLDER DATA

Municipal Court accepts electronic payment of fines and costs in certain circumstances. The Court hereby adopted a Policy of Protection and Management of Cardholder Data by Order Number 2016-12 dated August 18, 2016. A copy of this policy is set forth in Appendix G.

RULE 18.0 PROPERTY MAINTENANCE

Property Maintenance cases are heard the third Wednesday of each month at 9:00 a.m. Filing prerequisites for all Complaints are set forth in Order Number 2016-11 dated July 21, 2016 set forth in Appendix H.

RULE 19.0 COURT APPOINTED COUNSEL

Indigent Court appointments and attorney qualifications shall be in accordance with Rule 8 of the Ohio Rules of Superintendence and OAC Section 120-1-10. This rule is enumerated in attached Exhibit I.

RULE 20.0 BAIL BOND AGENTS

A surety bail bond agent shall not file a Bond in this Court unless they are registered with the Clerk of Courts Office of the Jefferson County Common Pleas Court and approved by the Jefferson County Common Pleas Court to conduct business in that Court.

RULE 21.0 VIDEO ARRAIGNMENTS

At the discretion of the Judge, the court may conduct video arraignments, bond hearings and other hearings permitted by law by use of video conferencing between the court and Jefferson County Jail. Counsel may be present by joining their client at the jail. All video proceedings shall be interactive with two-way visual and audio communications. Audio shall be recorded. Accommodations shall be made for counsel to have private client communication.

RULE 22.0 CHILD RESTRAINT RULE

The Court hereby adopts the following Local Rule 22.0 to be incorporated into the Local Rules of Court in accordance with Rule 5.01 of the Ohio Rule of Superintendence which shall govern the use of physical restraints on children appearing in court proceedings before the Steubenville Municipal Court:

- (A) There shall be a presumption that physical restraint shall not be utilized unless the judge or Magistrate before whom the child is appearing makes an individualized determination on the record

that there is no less restrictive alternative to the use of physical restraint and that the physical restraint of the child is necessary because of either of the following: (1) The child represents a current and significant threat to the safety of the child's self or other persons in the courtroom; (2) There is a significant risk the child will flee the courtroom.

- (B) The the judge or magistrate shall permit any party to be heard on the issue of whether the use of physical restraint is necessary for that particular child at that particular proceeding.
- (C) If physical restraint is found necessary by the judge or magistrate, the restraint shall be the least restrictive necessary to meet the risk requiring the restraint and in a manner which does not unnecessarily restrict the movement of the child's hands.

SO ORDERED.

JOHN J. MASCIO, JUDGE

DATE

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