

CLINTON COUNTY MUNICIPAL COURT LOCAL RULES OF COURT

Hon. David M. Henry, Judge

Sarah J. Avey, Clerk

Brian Kratzer, Chief Bailiff

(Revised July 24, 2023)

LOCAL RULES INDEX

- Rule 1.00 SCOPE AND EFFECTIVE DATE**
- Rule 2.00 COURT SESSIONS AND HOURS**
- Rule 3.00 FORMS OF PAPER FILED**
- Rule 4.00 COSTS**
- Rule 5.00 FORM ENTRIES AND ABBREVIATIONS**
- Rule 6.00 DECORUM AND PUBLIC USE OF COURTROOM**
- Rule 7.00 COURT REPORTER**
- Rule 8.00 SECURITY**
- Rule 9.00 MEDIA COVERAGE OF COURT PROCEEDINGS**
- Rule 10.00 DUTIES OF COUNSEL**
- Rule 11.00 FILINGS BY ELECTRONIC TRANSMISSION**
- Rule 12.00 CRIMINAL PRACTICE**
- Rule 13.00 VICTIM NOTIFICATION**
- Rule 14.00 COLLECTION OF INDIGENT APPLICATION FEE**
- Rule 15.00 PROCEDURE IN BAD CHECK CASE**
- Rule 16.00 MINOR MISDEMEANOR VIOLATIONS BUREAU**
- Rule 17.00 TRAFFIC VIOLATIONS BUREAU**
- Rule 18.00 ELECTRONIC FILING OF TRAFFIC CITATIONS**
- Rule 19.00 PROCEDURE FOR GRANTING OCCUPATIONAL DRIVING PRIVILEGES**
- Rule 20.00 PROCEDURE GOVERNING PROOF OF FINANCIAL RESPONSIBILITY**
- Rule 21.00 CIVIL PRACTICE**
- Rule 22.00 DEFAULT JUDGMENT**
- Rule 23.00 SUMMARY JUDGMENT**
- Rule 24.00 TRUSTEESHIPS**
- Rule 25.00 FORCIBLE ENTRY AND DETAINER ACTIONS**
- Rule 26.00 PROCEDURE FOR RELEASE OF RENT DEPOSITS**
- Rule 27.00 DISPOSITION OF CASE FILES**
- Rule 28.00 SMALL CLAIMS DIVISION**
- Rule 29.00 GENERAL ORDER OF REFERENCE FOR MAGISTRATES**

Rule 1.00 SCOPE AND EFFECTIVE DATE

The following rules of the Clinton County Municipal Court are intended to be supplemental to and to be used in conjunction with:

- A.** The Ohio Rules of Civil Procedure as amended.
- B.** The Ohio Rules of Criminal Procedure as amended.
- C.** The Ohio Rules of Superintendence for Municipal Courts and County Courts as amended.
- D.** The Rules of Superintendence of the Supreme Court of Ohio as amended.

These rules shall be known as the "Clinton County Municipal Court Rules" and shall be cited as "C.C.M.C. Rule". They are effective as of July 24, 2023, and govern all proceedings filed after that date and may be revised periodically as required. Where these Rules refer to "Judge," they shall by reference incorporate magistrates where appropriate.

These local rules are not to be interpreted in any way that will conflict with the various Ohio Rules and should any conflict or contradiction be found, the Ohio Rules shall, in all cases, prevail over the Supplemental Local Rules as per Ohio Civil Procedure Rule 83. These rules shall supersede all previous rules adopted by any Judge or Judges of the Clinton County Municipal Court.

Rule 2.00 COURT SESSIONS AND HOURS

The general business hours of the Court shall be from Monday through Thursday 7:30 a.m. to 4:00 p.m., Friday 7:30 a.m. to 12:30 p.m. excepting legal holidays and other times as ordered by the Court.

The Court will be in session Monday through Friday until the completion of business of the day, excepting legal holidays and other times as ordered by the Court.

Rule 3.00 FORMS OF PAPER FILED

All documents offered for filing with the Court shall be typewritten or printed on 8 ½" x 11" paper, not less than 11-point and not greater than 12-point regular type font, paginated sequentially. Multi-page filings shall be stapled once in the upper left corner. Documents that are excessively stapled will not be accepted for filing and will be returned. Original documents attached or offered as exhibits are exempt from the requirements of this rule. Only legible copies of the documents will be accepted.

Rule 4.00 COSTS

Court costs shall be determined from time to time by the judge of this Court. A copy of the current schedule of costs may be obtained from the Clerk of Court at no charge upon request.

Rule 5.00 FORM ENTRIES AND ABBREVIATIONS

Form Entries are available from the Clerk. The Court will endeavor to use complete sentences in its journal entries, but where an abbreviation is used, the Court will amend its entry to clarify any abbreviation upon written request.

Rule 6.00 DECORUM AND PUBLIC USE OF COURTROOM

Rule 6.01 PROPER ATTIRE All individuals using the Court, including but not limited to Court employees, attorneys, prosecutors, defendants, jurors, media, or observers will be dressed appropriately. No tank tops, pajamas, or shirts exposing midriffs, or any clothing exposing any undergarments or private areas shall be permitted.

Rule 6.02 CONDUCT OF ATTORNEYS AND PRO SE LITIGANTS Attorneys and Pro Se Litigants alike shall always conduct themselves in conformity with the Ohio Rules of Professional Conduct.

Rule 6.03 SANCTIONS Failure to comply with the required behavior and conduct may result in contempt of Court. To ensure that decorum and dignity which should characterize the practice of law and to always aid the Court in the discharge of its duties, it could be contempt of Court for any person to use insulting, vulgar, or profane language in the presence of the Court while Court is in session.

Rule 6.04 PUBLIC USE OF COURTROOM Questions of the admission of persons to a courtroom shall be within the province of the Judge and within the guidelines of public access to all court proceeding consistent with the order and dignity of the Court.

Rule 6.05 RECORDINGS All proceedings are recorded by the Court. No recordings shall be made of any court proceedings without the approval of the Judge conducting the proceeding and pursuant to the Rules of Superintendence.

Rule 6.06 CHILDREN It is inappropriate for parties to bring children to court. Unless the child is a witness, children may be asked to leave. The Court will take into consideration the age of the child, the impact of the proceedings, and whether the child will cause a disruption.

Rule 6.07 STATEMENTS IN COURT Public statements by the Court, counsel, Court personnel, and witnesses shall be regulated by the Judge within the guidelines of public access to Court proceedings and the right of the parties to be free of improper publicity within areas protected by fundamental rights.

Rule 6.08 ANIMALS No animals are permitted in the Court other than service dogs as defined by the Americans with Disabilities Act.

Rule 6.09 ELECTRONIC DEVICES Individuals entering the courtroom shall turn electronic devices such as cell phones and laptop computers to silent mode or off. No cellular telephone calls shall be initiated or received while Court is in session. In the event of any electronic device makes an audible noise while Court is in session, the person possessing the device may be subject to confiscation of the device and subject to a \$25.00 fine for its release at the conclusion of the Court session.

Rule 7.00 COURT REPORTER

All proceedings involving the judge shall be electronically recorded unless counsel or both parties waive the recording. If a court reporter is desired, counsel must request in writing a court reporter not less than five (5) business days before the trial date.

Rule 8.00 SECURITY

Rule 8.01 COURT SECURITY STANDARDS The Clinton County Municipal Court is charged with dispensing justice, resolving disputes, and protecting the constitutional rights of those who appear before the Court. Accordingly, appropriate levels of security shall exist in the Court to protect the integrity of the Court proceedings, protect the rights of individuals before it, sustain the decorum and dignity of the Court and assure that Court facilities are secure for all those who visit and work there.

Rule 8.02 WEAPONS No weapons shall be permitted in the courthouse unless carried by a law enforcement officer, probation officer, bailiff, or parole officer acting within the scope of their employment, or others as authorized by the Court. The Court has the authority to enforce more restrictive measures regarding weapons in a courtroom or hearing room, on a case-by-case basis.

Rule 9.00 MEDIA COVERAGE OF COURT PROCEEDINGS

Rule 9.01 PERMISSION OF JUDGE The Judge assigned to the trial or hearing shall permit the broadcasting or recording by electronic means and taking of photographs in court proceedings that are open to the public as provided by Ohio law. After consultation with the media, the judge or magistrate shall specify the place or places in the courtroom where the operators and equipment are positioned. Requests for permission for the broadcasting, televising, recording, or taking of photographs in the courtroom shall be in writing and the written order of the judge shall be made a part of the record of proceedings. The media request shall be presented as far in advance as is reasonably possible but in no event later than twenty-four (24) hours prior to the trial or hearing to be recorded. All requests to record proceedings of arraignments shall be made in writing and presented to the arraignment Judge as far in advance as is reasonably possible but in no event later than one-half hour prior to the

arraignment session to be recorded. Upon a showing of good cause, the judge may waive advance notice provision.

Rule 9.02 PERMISSIBLE EQUIPMENT AND OPERATIONS

- A.** Use of more than one (1) portable television, videotape, or movie camera with one (1) operator shall not be allowed, without the permission of the Judge.
- B.** Not more than one (1) still photographer shall be permitted to photograph trial proceedings without the permission of the Judge. Still photographers shall be limited to two (2) cameras with two (2) lenses for each camera.
- C.** For radio broadcast purposes, not more than one (1) audio system shall be permitted in court. Where audio pickup systems are not available, microphones and other electronic equipment necessary for the audio pickup shall be as inconspicuous as possible but shall be visible.
- D.** Visible audio recording equipment may be used by news media reporters, with the prior permission of the Judge.
- E.** Arrangements between or among media for "pooling" of equipment shall be the responsibility of the media representative authorized to cover the proceeding. "Pooling" arrangements are to be made outside the courtroom and without imposing on the judge or court personnel. If disputes arise over arrangements between or among media representatives, the judge may exclude all contesting representatives from the proceedings.
- F.** The Judge shall prohibit the use of electronic or photographic equipment that produces distracting sound or light. No artificial lighting other than that normally used in the courtroom shall be employed. The Judge may permit modification, if the normal lighting in the courtroom can be improved without becoming obtrusive.
- G.** Still photographers and television and radio representatives shall be afforded a clear view but shall not be permitted to move about in the courtroom during court proceedings from the places they have been positioned by the Judge, except to leave or enter the courtroom.

Rule 9.03 LIMITATIONS

- A.** There shall be no audio pickup or broadcasts of conferences conducted in a court facility between attorneys and clients, or co-counsel or of conferences conducted at the bench between counsel and the Judge.
- B.** The Judge shall inform victims and witnesses of their right to object to being filmed, videotaped, recorded, or photographed.
- C.** Jurors shall not be filmed, videotaped, recorded, or photographed without the permission of the Judge.

D. Media representatives shall not be permitted to transmit or record anything other than the court proceedings from the courtroom while the court is in session.

E. This rule shall not be construed to grant media representatives any greater rights than permitted by law.

Rule 9.04 REVOCATION OF PERMISSION Upon the failure of any media representative to comply with the conditions prescribed by this rule or the Judge, the Judge may revoke the permission to broadcast or photograph the trial or hearing.

Rule 9.05 MEDIA REQUESTS TO INTERVIEW COURT EMPLOYEES A media representative may request to interview a court employee regarding an incident or story that involves the employee in his or her course of business as a representative of the Court. No interview shall be granted until the media representative requests such an interview in writing to the Court Administrator or Administrative Judge for review and approval.

Rule 10.00 DUTIES OF COUNSEL

Rule 10.01 DESIGNATION OF TRIAL COUNSEL Attorneys will designate their capacity as trial counsel on all pleadings in civil and criminal cases and shall include their office address, zip code, telephone number, email address, and Supreme Court of Ohio Bar Registration Number.

Rule 10.02 SUBSTITUTION OF COUNSEL **Once** counsel has been designated, such designation shall remain until termination of the case. A request to substitute counsel must be made by written motion and submitted to the Court accompanied by an entry containing the designation of new counsel, and where possible, the agreement of retiring counsel. Substitution may be permitted only by the Judge upon good cause shown.

Rule 10.03 WITHDRAWAL OF COUNSEL Counsel shall be allowed to withdraw from the case with the consent of the judge. No such application will be considered unless a written motion and entry are presented stating the reasons for the application of the motion contains a certificate of service on opposing counsel and on the client the motion states time and of the next scheduled court date if any has been set, the motion is filed five (5) days prior to the next scheduled court date except for good cause shown the motion contains counsel's statement that if allowed, the journal entry granting the request will be mailed immediately by the withdrawing counsel to his client's last known address.

Rule 10.04 SUBPOENA Praecipes for the service of subpoenas shall be filed within the following time limit:

A. In-County witness at least five (5) working days before the subpoenaed party is to appear.

- B.** Out-of-County witness at least fifteen (15) working days before the subpoenaed party is to appear.

If this rule is not complied with, the failure of the subpoenaed party to appear, because of failure of service, shall not constitute grounds for a continuance. This rule applies unless it can be shown that the person filing the precipice was unaware of the name or the location of the persons sought to be subpoenaed in sufficient time to comply and that such information could not reasonably have been obtained in time.

Rule 10.05 MOTIONS PRACTICE All motions except those normally made at trial shall be in writing, served on opposing counsel, and made within the time limits prescribed in the Ohio Rules of Civil and Criminal Procedure. Motions will be supported by Memoranda of Law containing applicable statutory and case law citations. (Copies of significant decisions shall be attached to the original filing only). Unless the following statement appears prominently upon the first page of the motion, no oral hearing will be allowed:

"Counsel requests an oral hearing of approximately _____ minutes at which time _____ witnesses are expected to be called."

A date and time for oral hearing on motions must be obtained from the Clerk of Court. Parties wishing to respond in writing to such motions shall do so not later than the seventh (7th) day following service of the motion or three days prior to the oral hearing date if an oral hearing has been requested. All motions not heard or decided prior to trial will be disposed of at trial. In **MOTIONS TO SUPPRESS**, the grounds must be stated with particularity and the items of evidence in question shall be specified. Any motions filed which are not in compliance with this rule may be summarily overruled. All motions where an oral hearing is not required should be accompanied by an entry.

Rule 10.06 JURY TRIAL

- A. JURY DEMAND** Jury demands shall be made pursuant to the Ohio Criminal and Civil Procedure Rules. If the withdrawal of a jury demand is made following the summoning of jurors, the party requesting the withdrawal shall be assessed the costs of notifying such jurors that their services will not be required. In civil cases if the request for withdrawal of a jury is agreed upon by more than one party, all consenting parties shall equally share such cost irrespective of the party prevailing at trial. Any juror who appears for service because of the inability of the clerk's office, after diligent efforts to notify such juror, shall be paid per diem fee for one half days service and such fee shall be chargeable as indicated heretofore.

- B. COSTS OF JURY FOR DELAYS DUE TO FAULT OF PARTY** In the event a panel of jurors appears for service and the trial is continued or postponed due to the failure of a party or his counsel to appear, such party shall be assessed the per diem cost of the panel unless such failure to appear is as a result of extreme emergency or condition beyond the control of the party or counsel, as the same may be determined by the Court.
- C. SECURITY DEPOSIT FOR JURIES IN CIVIL ACTIONS** Ohio Civ.R. 38 and 39 shall be followed. At the time of filing the civil jury demand, the party making the demand shall deposit the sum of one thousand two hundred dollars (\$1,200.00) with the Clerk unless an indigency affidavit approved by the court is filed in lieu of the monetary deposit. Failure to make the \$1,200.00 deposit or to file the indigency affidavit within thirty (30) days after filing the Jury Demand constitutes a waiver of trial by jury.
- D. FAILURE TO COMPLY WITH RULES** The failure of a party demanding the jury to comply with any provisions of the Ohio Rules of Civil Procedure or Ohio Rules of Criminal Procedure or these Local Rules, shall constitute a waiver of the jury and the matter may be submitted to and decided by the Court. After a jury has been demanded, unless the jury is waived in writing not less than seven (7) days prior to the date set for trial, the party who requested that jury and thereafter within seven (7) days prior, waives same, shall pay all jury fees and expenses incurred as a result of such demand. If jury trial in either civil or criminal trials is to be waived, it is the responsibility of counsel who demanded the jury trial to notify the Clerk of Court at least ten (10) days prior to the trial date.
- E. STATUS CONFERENCE** If a jury trial is scheduled, a status conference for the case shall be held no less than 21 days prior to the date of the jury trial. Attorneys and parties shall attend the scheduled status conference. If an attorney or party does not attend the status conference, the jury trial shall be continued on the Court's motion. If a negotiated plea is not entered at the status conference, the jury trial will proceed on the assigned date as to the allegations as originally filed. No negotiated plea will be accepted after the date of the status conference.

Rule 10.07 CONTINUANCES When notice of trial, scheduling conference or any other proceeding, that require personal appearance of the parties and/or counsel is mailed from this court, a motion for continuance shall be signed by both the Attorney filing the continuance and the party he represents and shall be filed with the Court within ten (10) days from the mailing date of such notice. If continuance is desired, notice of such motion shall likewise be served on opposing parties or counsel Such

motions shall set for the good cause; consent of opposing parties or their counsel shall not, in and of itself, constitute good cause for granting the motion for continuance. No continuance shall be granted by anyone except the assigned Judge or Magistrate. If a matter is set for hearing, it will remain set at that time and on that date, unless the continuance is granted by the Court. This procedure applies equally to all cases set before the Court. It is the rule of this court that continuances are granted only at the sole discretion of the Court and that no one is entitled to any continuance as a matter of right.

Rule 10.08 FAILURE TO COMPLY WITH REQUIREMENTS Any motion for continuance submitted beyond the ten (10) day period may be granted upon showing good cause constituting extreme hardship, unforeseen circumstances, or other unavoidable conditions. When a party or their counsel fails to comply with this rule and opposing counsel is present, the court may, upon its own motion, dismiss the case, enter a default finding, or proceed to hear evidence and render a final judgment.

Rule 10.09 EXHIBITS All evidence of a tangible nature to be offered at trial shall be:

- A.** Marked numerically and identified as "Plaintiff's Exhibit" or "State's Exhibit" or marked alphabetically and identified as "Defendant's Exhibit" and;
- B.** Prepared in numbers sufficient to provide one copy each for the Court, the witness and each party.

Rule 10.10 VIEWS A request for a view by a judge or jury will be made at the time of the scheduling conference.

Rule 11.00 FILINGS BY ELECTRONIC TRANSMISSION

Rule 11.01 Pleadings and other papers may be filed with the Clerk of Court by facsimile transmission to 937-383-0130 for filings from 7:30 a.m. until 4:00 p.m., Monday through Thursday, and 7:30 a.m. until 12:30 p.m. Fridays excluding holidays. A party filing by fax shall ensure that all fees are paid in a timely manner. A document shall not be considered filed until the document is received and all applicable fees are paid.

Rule 11.02 A document filed by fax shall be accepted as the effective original filing. The person making a fax filing need not file any source document with the Clerk of Court, but must maintain in their record, and have available for production on request by the court, the source document filed by fax with original signatures as otherwise required under the applicable rules and the source copy of the facsimile cover sheet used for the filing. The source document filed by fax shall be maintained by the person making the filing until the case is closed and all opportunities for post-judgment relief are exhausted.

Rule 11.03 A signature on an electronically transmitted document shall be considered that of the attorney or party it purports to be for all purposes. If it is established that the filing was transmitted without authority, the court may order the filing stricken from the record.

Rule 11.04 Any risk associated with transmitting a document electronically shall be borne by the sending party.

Rule 11.05 The Clerk of Court is not required to send any form of notice to the sending party of a failed fax filing.

Rule 11.06 No document filed by facsimile that requires a filing fee shall be accepted by the Clerk for filing until court costs and fees have been paid. Documents tendered to the Clerk without payment of court costs and fees will not be filed.

Rule 11.07 No additional fee shall be assessed for facsimile filings.

Rule 11.08 Facsimile filings shall not exceed fifteen (15) pages in length. The filer shall not transmit service copies by facsimile.

Rule 12.00 CRIMINAL PRACTICE

Rule 12.01 FAILURE TO APPEAR The Court shall order a Bench Warrant for any Defendant who fails to appear for his/her Court date.

Rule 12.02 SCHEDULING CONFERENCES When a person enters a plea of "not guilty" to an offense the Court will set the matter for scheduling conference at arraignment, and such conference will be held within a reasonable time after arraignment.

Except in cases where the Defendant waives the right to a speedy trial, where the Defendant has a right to speedy trial within forty-five or thirty days after the citation or complaint, the matter will be set for court trial within such time. In such cases, there will be no scheduling conference.

The following persons shall attend the scheduling conference in all cases

- A.** the prosecutor assigned to the case;
- B.** trial counsel for the defendant; and,
- C.** the defendant.

The purpose of a scheduling conference is for the parties to exchange discovery and determine the following:

- A.** Whether a negotiated plea can be submitted instead of a trial;
- B.** Whether any pre-trial issues must be resolved before setting the case for trial;
- C.** The amount of time it will take to try the case; and,
- D.** Whether this matter will be tried to the Court or to a jury.

Should the parties set the matter for evidentiary hearing on an anticipated pre-trial motion (such as a motion to suppress evidence) the

pre-trial motion shall be filed no later than fifteen days after the scheduling conference. Should the matter be set for evidentiary hearing on an anticipated pre-trial motion, and the motion is not promptly filed, the hearing may be converted to a final pre-trial conference before the Court.

The Court Assignment Commissioner shall designate the date and time for an additional hearing, and the Clerk shall serve a copy of the report upon the Defendant. This is the only notice of further hearing Defendant will receive. Failure to attend the scheduling conference may result in a warrant for the Defendant's arrest.

Rule 12.03 CONTINUANCES IN CRIMINAL CASE Continuances of either scheduling conferences or trials in criminal cases shall be allowed to a date certain in conformity with C.C.MC Rule 10.07. If Defendant or counsel for Defendant requests a continuance, speedy trial is tolled.

Rule 12.04 MISDEMEANOR SUMMONS/ARREST WARRANTS ON COMPLAINT

A. SUMMONS Pursuant to Rule 4 (A) (1) of the Ohio Rules of Criminal Procedure and Section 2935.10 Revised Code, the Clerk of Court shall issue a summons upon a complaint for all misdemeanor offenses, not including traffic offenses, under the Ohio Revised Code or a municipal ordinance, unless an arrest warrant is authorized or requested under paragraph two of this rule. The summons shall be served upon the Defendant by the law enforcement agency that filed the complaint unless the Court orders otherwise.

B. WARRANT If possible, all requests for arrest warrants in misdemeanor cases shall be reviewed by the Judge. In the absence of the Judge, the Clerk of Court may issue arrest warrants in the following circumstances:

The Clerk of Court shall issue an arrest warrant for the defendant when the defendant is in the custody of a law enforcement officer upon the charge contained in the complaint.

The Clerk of Court shall issue an arrest warrant for the defendant when the defendant is in the custody of a law enforcement officer or confined in any type of penal facility, on a charge other than the charge contained in the complaint.

The Clerk of Court shall issue an arrest warrant for the defendant upon the written request of the Wilmington City Prosecutor or the Clinton County Prosecutor.

The Clerk of Court shall issue an arrest warrant for the defendant upon the written request of the city/village solicitor of a municipality for an offense under a city/village ordinance of that municipality or for a violation of state

law occurring within that municipality. This subparagraph does not apply in cases transferred to this court from a mayor's court.

Pursuant to Section 2935.24, Ohio Revised Code, this Court hereby honors arrest warrants issued by this Court, and any other Court of competent jurisdiction of this state, and grants authority to serve such arrest warrants by teletype of all law enforcement agencies in Clinton County, Ohio, and hereby directs that any such arrest warrants issued by the clerk of the Clinton County Municipal Court pursuant to Chapter 2935 of the Ohio Revised Code, based upon probable cause that a crime has been committed and the defendant committed such crime shall carry with it the authority of this Court to be served by teletype.

Rule 12.05 CRIMINAL ARREST WARRANTS UPON FELONY COMPLAINTS The Court adopts the following procedure for the issuance of summons, arrest warrants, or scheduling a probable cause hearing upon a complaint for a criminal offense classified as a felony under the Ohio Revised Code. If possible, all requests for arrest warrants shall be reviewed by the Judge. In the absence of the Judge, the Clerk of Court may issue arrest warrants in the following circumstances:

If the Clerk of Court determines that the complaint states an offense, including all fact and elements, and that there is probable cause to believe that a crime was committed and that the defendant committed that crime, the Clerk of Court may:

- A.** Issue a summons to the defendant, or
- B.** Issue a warrant for the defendant's arrest if the complainant is a law enforcement officer as defined in Ohio Revised Code Section 2901.01 (K), or
- C.** Issue a warrant for the defendant's arrest upon written request of the Clinton County Prosecuting Attorney, or Wilmington City Prosecutor, when the complainant is not a law enforcement officer as defined in Ohio Revised Code Section 2901.01 (K).

Rule 13.00 VICTIM NOTIFICATION

Pursuant to Criminal Rule 37, the Court directs that the prosecuting attorney shall be responsible to provide **all** notices of public proceedings involving the alleged criminal offense against the victim and the opportunity to be present at all such proceedings to the alleged victim or victim's representative as is required in Ohio Constitution Article I, Section 10(A) and Ohio Revised Code Chapter 2930.

Rule 14.00 COLLECTION OF INDIGENT APPLICATION FEE

A \$25.00 per case application fee will be assessed as an additional court cost for any person who applies for services from the Clinton County Public Defender for a case in this Court.

Some cases are not eligible for services from the Clinton County Public Defender, nevertheless, the Defendant may be eligible for appointment of defense counsel. An example would be a defendant in a misdemeanor case brought under the ordinance of any municipality which does not contract with the Clinton County Public Defender for defense of indigent defendants. In cases such as that, any person applying for appointed counsel must complete the written application provided by the Clerk and must post a \$25.00 application fee with the Clerk prior to consideration of such application by the Court.

Rule 15.00 PROCEDURE IN BAD CHECK CASE

The Court adopts the following procedure for the filing of complaints for passing bad checks under Section 2913.11, Ohio Revised Code, Section 545.09 Wilmington City Ordinances, and any other similar ordinances of municipalities located in Clinton County:

- A.** The Clerk of Court shall not file a criminal complaint for passing bad checks and assign a case number to such complaint, placing the complaint upon the Court's docket, unless the prosecuting attorney with jurisdiction to prosecute such offense has endorsed his authorization upon the complaint or unless the complaining witness has first obtained a money judgment against defendant from a Court of competent jurisdiction involving the alleged bad check.
- B.** The Clerk of Court shall accept for filing sworn criminal complaints for passing bad checks that do not meet the criteria established in section (A) above but shall not assign a case number to the complaint. Such complaints shall be referred to the prosecuting attorney with jurisdiction to prosecute such offense for investigation and for determination if authorization should be endorsed upon the complaint.
- C.** After referral of an unendorsed complaint for passing bad checks, if the prosecuting attorney endorses authorization on such complaint, it shall be returned to the clerk's office, assigned a case number and process shall issue upon the complaint.
- D.** After referral of an unendorsed complaint for passing bad checks, if the prosecuting attorney does not endorse authorization upon such complaint, it shall be returned to the Clerk of Court. Upon return of such complaint with no authorization, the clerk shall assign a case number to the complaint and refer the complaint to the judge who shall consider the case submitted for decision as upon a motion to dismiss pursuant to Criminal Rule 48 by the prosecuting attorney.

- E. Absent unusual circumstances, no bad check case which has been filed shall be dismissed by the Court without provision being made first for the payment of all court costs.

Rule 16.00 MINOR MISDEMEANOR VIOLATIONS BUREAU

There is hereby established in accordance with Rule 4.1, Ohio Rules of Criminal Procedure a Minor Misdemeanors Violations Bureau with authority to process and dispose of minor misdemeanors other than offenses covered by the Uniform Traffic Rules. The Clerk of Court is appointed in the violation's bureau to collect fines, give receipts, and therefore render accounts of the bureau.

Rule 17.00 TRAFFIC VIOLATIONS BUREAU

There is hereby established a Traffic Violations Bureau in accordance with Ohio Traffic Rule 13 with authority to process and dispose of those traffic offenses for which no Court appearance is required. The Clerk of Court is appointed as the Traffic Violations Clerk to accept appearances, waivers of trial, pleas of guilty and payments of fines and costs for offenses within its authority. The schedule of fines and costs which shall be charged by the Traffic Violations Bureau shall be posted in a conspicuous place in the clerk's office and shall be provided upon request at no cost to any party.

Rule 18.00 ELECTRONIC FILING OF TRAFFIC CITATIONS

The use and filing of a traffic ticket that is produced by computer or other electronic means is hereby authorized in the Clinton County Municipal Court pursuant to Traffic Rule 3(F). The electronically produced traffic ticket shall conform in all substantive respects to the Ohio Uniform Traffic Ticket. If an electronically produced traffic ticket is issued at the scene of an alleged offense, the issuing officer shall serve the defendant with the defendant's paper copy of the ticket as required by division (E) of Traffic Rule 3. The court record of the ticket shall be filed with the Clinton County Municipal Court on paper of sufficient quality to allow the court record copy to remain unchanged for the period of the retention schedule for the various traffic offenses as prescribed by the Rules of Superintendence for the Courts of Ohio. The court record of the ticket may also be filed electronically with the court in lieu of the paper court record. A law enforcement officer who files a ticket with the court and electronically affixes the officer's signature thereto shall be considered to have certified the ticket and shall have the same rights, responsibilities, and liabilities as with all other traffic tickets issued pursuant to the authority granted by the Rules of Superintendence for the Courts of Ohio.

Rule 19.00 PROCEDURE FOR GRANTING OCCUPATIONAL DRIVING PRIVILEGES

People who seek limited driving privileges may do so by written petition, filed pursuant to Ohio Revised Code Section 4510.021. The petition shall be made on the form provided

by the Clerk, and shall include the first, middle and last names and the address of the petitioner. The petition shall also include the date of birth, the social security number, and the operator's license number of the petitioner. The clerk shall not accept for filing a petition the caption of which fails to contain every item of information required by this rule. In addition, the Petitioner must demonstrate proof of financial responsibility in a form acceptable to the Clerk of Court. A one-time fee of \$25.00 shall be paid by the Petitioner before the petition will be accepted by the Clerk for filing, said fee to be treated by the Clerk as additional court costs. There will be a \$10.00 fee for any subsequent amendment.

Rule 19.01 PROCEDURE FOR DRIVING PRIVILEGES WHEN PETITIONER WISHES TO PAY REINSTATEMENT FEES WITH THE INSTALLMENT METHOD

Per Section 4510 *et.seq.* of the Ohio Revised Code, effective 01/01/04 a defendant may get driving privileges on filing proper petition and pay reinstatement fees directly to the Ohio BMV after first petitioning the Court. The fee for such a petition is \$60.00. Petitioner must show proof of insurance. All monthly payments are then paid to the Ohio BMV directly. The above \$60.00 fee does not go toward any reinstatement fees but stays with this court to cover administrative costs.

Rule 20.00 PROCEDURE GOVERNING PROOF OF FINANCIAL RESPONSIBILITY

- A.** Any defendant who pleads guilty or is found guilty of a traffic offense specified in Ohio Traffic Rule 13 (B) that requires an appearance in Court may be required, as part of the sentencing procedures, to prove that the operation of the motor vehicle was covered by proof of financial responsibility, at the time of the offense in accordance with Section 4509.101, Ohio Revised Code. Upon oral motion, all such defendants shall be provided five (5) working days from entering of a conviction of guilty by the Court to said traffic offense to present evidence of proof of financial responsibility. The Clerk of Court shall provide each said defendant with a form which must be properly completed and must be filed with the Court within (5) working days to demonstrate prima facie that proof of financial responsibility existed at the time of the offense. Failure to file the form within five (5) working days shall be deemed by the Court as a failure to demonstrate proof of financial responsibility in accordance with Section 4509.101, Ohio Revised Code.
- B.** Procedure upon failure to demonstrate proof of financial responsibility.
Unless an oral hearing is requested by defendant in writing within five (5) working days after the entering by the Court of a conviction of guilty, a non-oral hearing shall be conducted by the Court thereafter to determine if defendant has complied with this section. If the record fails to demonstrate that defendant has complied with this section, has failed to demonstrate proof of financial responsibility and has failed to request an oral hearing, the Court shall issue all orders required by

Section 4509.101, Ohio Revised Code, *ex-parte*. A copy of the Courts Order shall be mailed by certified mail or otherwise served upon defendant and/or counsel for defendant with appropriate notice being provided to the Bureau of Motor Vehicles. In the event a convicted defendant as described in paragraph (A) of this Rule acknowledges at trial to the Court prior to sentencing that his operation of the motor vehicle which gave rise to his conviction was not covered by proof of financial responsibility, the Court may issue all Orders required by Section 4509.101, Ohio Revised Code, forthwith.

Rule 21.00 CIVIL PRACTICE

Rule 21.01 PRE-TRIAL PROCEDURE A pre-trial conference may be ordered by the Judge and shall be held upon request of a party. Upon notice of the scheduling of a pre-trial conference it shall be the duty of counsel to contact each other and make a sincere effort to dispose of the matter by settlement and to agree on any matters of evidence about which there is no genuine dispute. Prior to the date of the pre-trial conference, counsel shall exchange reports of expert witnesses expected to be called by each party and shall exchange medical reports and hospital records if such are involved.

It shall be the duty of counsel to do the following at the pre-trial hearing and failure to be prepared may result in dismissal of the case for want of prosecution or in a default judgment or such other action to enforce compliance as the Judge deems appropriate.

- A.** The counsel who will be trial counsel and who is fully authorized to act and negotiate on behalf of the party must be present and proffer in writing a statement indicating the status of settlement negotiations.
- B.** All parties in interest must be present at the pre-trial unless such presence is excused by the Judge.
- C.** Each counsel shall present to the court in writing a statement of the issues involved, of the matters stipulated and of all questions of law which it is expected will be involved in the case.
- D.** Each counsel shall bring to the pre-trial all exhibits which are to be offered in evidence at the trial.
- E.** Each counsel claiming the same shall present in writing to the court an itemization of all special damages claimed.
- F.** Each counsel shall present to the court in writing a statement indicating the names of all witnesses, both expert and non-expert, expected to be called at the trial; whether or not a view will be requested; whether or not a jury trial, if previously demanded, will now be waived, and if not, the number of jurors demanded, and whether

the case is one where the issue of liability should be tried separately with a subsequent trial on the issue of damages if liability to be found.

- G.** Each counsel shall come to the pre-trial fully prepared and authorized to negotiate toward settlement of the case.
- H.** The text of, and citations of authority for, instructions requested by counsel pursuant to Rule 51, Ohio Rules of Civil Procedure shall be provided to the Court at least 14 days before trial. Counsel's best estimate of the time required to try the case shall be provided.
- I.** The written statement shall be filed at or before the pre-trial hearing. The court may, and on the request of either party shall, make a written order which recites the action taken at the conference. The court shall enter the order and submit copies to the parties. The order, subject to Civil R. 60(A), shall control the subsequent course of the action, unless modified at the trial to prevent manifest injustice.

Rule 21.02 TRIAL BRIEFS Trial briefs shall be required on all civil jury cases within three (3) days of trial where there is a substantial conflict of views as to specific questions of law and may be required from case to case as ordered by the Judge.

Rule 22.00 DEFAULT JUDGMENT

All motions for default judgment shall be in writing and clearly state the date the complaint was filed, how service was made, proof of service and answer date. All motions for default judgment shall also contain a list of all damages supported by documentary or other evidence if not readily identified in the complaint. An entry shall accompany the motion. An oral hearing may be required at the discretion of the Judge. A form application may be obtained from the Clerk of Court upon request at no charge. The Clerk will not accept a Motion for Default Judgment unless it is accompanied by the filing deposit prescribed by the Schedule of Court Costs.

Rule 23.00 SUMMARY JUDGMENT

All motions for summary judgment filed pursuant to Ohio Civil Rule 56 are hereby set for non-oral hearing on the fifteenth day following service of the Motion upon the responding party. The adverse party shall file and serve opposing affidavits and memorandum prior to the day set for the non-oral hearing. An oral hearing on a motion for summary judgment shall not be held or scheduled unless counsel so requests in accordance with C.C.M.C. Rule 10.05 or unless the Judge so requires. The Clerk will not accept a Motion for Summary Judgment unless it is accompanied by the filing deposit prescribed by the Schedule of Court Costs.

Rule 24.00 TRUSTEESHIPS

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

- A.** The names of his secured and unsecured creditors with liquidated claims, their complete address, account number and amount due and owing to each. If the account is being administered by someone other than the creditor, list their name and complete address.
- B.** The disposable amount of money earned in a thirty-day period by the application, as set forth in Section 2716.02 Revised Code, the annual day or days applicant receives his pay, his place of residence, the number of his dependents, their ages and relation to the applicant.
- C.** The name of the person who made a demand upon him or her in accordance with Section 2716.02 Revised Code and date of such demand.

The applicant shall arrange with the Clerk of Court for a hearing of the application and shall be present at the time of such a hearing. Upon the filing of an application for trusteeship, no action to subject the personal earnings of the debtor shall be brought or maintained by any creditor, until such time as the application is dismissed or the trusteeship is terminated. The Clerk of Court shall notify each creditor, by registered letter or by personal service, of the time and place the application will be heard.

Such notice shall be mailed or served personally within two days after the date of filing the application. Mail service shall be supported by return registered receipts. Personal service shall be supported by an affidavit or signed receipt.

If a debtor fails, through mistake or otherwise, to list a creditor, said creditor or debtor, upon motion to the court, with notice to the other party, may be listed in the trusteeship. A creditor who becomes a creditor after the appointment of a trustee shall make an application to share in any distribution made by the trustee after the next ensuing distribution.

Any trusteeship that is in arrears for payments for sixty days shall be dismissed. Any trusteeship that is inactive for six months shall be dismissed. The attorney representing an applicant for trusteeship shall be permitted to include his claim for such service in the trusteeship and said claim for attorney fees shall be given priority over all other creditors in the amount not exceeding seventy-five dollars. Upon the first distribution of funds to creditors, the claim of such attorney shall be paid in accordance with this priority and shall not exceed an amount of seventy-five dollars.

Section 2329.66 of the Ohio Revised Code provides for exemptions and is based upon disposable earnings. The trustee is hereby authorized to require proof of

disposable earnings and eligibility for exemption of payment by affidavit or otherwise and at such times as he shall deem necessary.

An applicant may only make an application for trusteeship under Ohio Revised Code 2329.70 and 2329.71 twice in one calendar year without permission of the court in advance of subsequent applications.

Rule 25.00 FORCIBLE ENTRY AND DETAINER ACTIONS

The following procedure shall apply in forcible entry and detainer actions:

Rule 25.01 A complaint in Forcible Entry and Detainer shall contain a reason for the eviction, a copy of the notice given under Ohio Revised Code Section 1923.04 and a copy of the written instrument upon which the claim is founded (if any).

Rule 25.02 Pursuant to Ohio Revised Code Section 4705.01 and Cleveland Bar Assn. vs Picklo, (2002) 96 Ohio St. 3d 195, 2002-Ohio-3995, only a licensed attorney may sign a complaint on behalf of another person. No property manager or real estate agent may sign a complaint or represent an owner in court unless that property manager or real estate agent is also an attorney. When the plaintiff/owner is a corporation or limited liability company, the complaint must be signed by a licensed attorney. Any complaint signed by someone other than the owner or a licensed attorney will be dismissed without a hearing.

Rule 25.03 If the plaintiff fails to appear for the eviction hearing, the case will be dismissed without prejudice.

Rule 25.04 When a writ of restitution is granted, the bailiff will schedule the set-out within 10 days, as required by law. No plaintiff may begin removing the defendant's property until the bailiff arrives to execute the writ of restitution. The plaintiff is responsible for providing any necessary labor to remove the defendant's property, under the supervision of the bailiff, at the plaintiff's expense.

Rule 26.00 PROCEDURE FOR RELEASE OF RENT DEPOSITS

In cases of deposit of rent with the clerk of court pursuant to Section 5321.07, Revised Code, no money shall be released to the landlord except according to the provisions of Section 5321.09, Revised Code. Where the tenant does give written notice to the clerk k, the clerk may release the rent according to the agreement between the landlord and the tenant. Where the tenant does not agree to a release of the rent, the clerk shall release no funds to the landlord; but the clerk may advise the landlord of the necessity of filing the action required by Section 5321.09 (A) (2) and (3).

Rule 27.00 DISPOSITION OF CASE FILES

A. Pursuant to Section 1901.41, Ohio Revised Code, the Court hereby authorizes the Clerk of Court to destroy from time to time all files of

court cases that have been finally disposed of by this court for at least fifteen years. "Finally disposed of by the Court" shall be interpreted to mean that the case file has been closed and there exists no pending matters in the case file for resolution by the Court.

- B.** The Clerk of Court is further authorized to destroy from time to time all court case files which have been finally disposed of by this Court for at least five (5) years provided said files are copied or reproduced prior to their destruction consistent with Section 9.01 of the Ohio Revised Code. The copies or reproductions made consistent with this Rule shall be retained and preserved by the Court for 10 years after which the copies or reproductions themselves may be destroyed.
- C.** The Clerk of Court is further authorized to destroy from time to time all court case files which are solely concerned with criminal prosecutions for minor misdemeanor offense or with traffic prosecutions which have been finally disposed of by this Court for at least five (5) years, paragraph (b) herein, notwithstanding.

Rule 28.00 SMALL CLAIMS DIVISION

The practice and procedure in actions in the Small Claims Division shall be as provided under applicable statutes and rules of this court as set out separately under "Clinton County Municipal Court Rules Small Claims Division."

Rule 28.01 ESTABLISHMENT OF SMALL CLAIMS DIVISION The Small Claims Division of the Clinton County Municipal Court is established pursuant to Chapter 1925 of the Ohio Revised Code and the Rules of Court of the Clinton County Municipal Court.

A Small Claims administrator and deputy clerk position are established to assist persons in filing claims, and docketing the same, setting them for hearing and receiving court cost deposit.

Rule 28.02 PURPOSES OF SMALL CLAIMS COURT The purpose of the Small Claims Court is to allow the public to resolve minor money disputes quickly, inexpensively, and fairly without requiring an attorney's involvement. If an attorney enters his appearance at a hearing for a party, the court shall grant the other party a reasonable continuance to obtain legal counsel.

Rule 28.03 TYPES OF CASES The Small Claims Division oversees all types of cases involving amounts not exceeding \$6,000.00. (Such amounts as amended from time to time by the Ohio Revised Code) These include but are not limited to landlord/tenant, unpaid accounts, defective merchandise, minor traffic accident repair costs, overcharge of services, and minor property damages.

Rule 28.04 PROCEDURE AND LIMITATIONS A complaint is filed by the plaintiff along with an information sheet. It must be for money only and

not to exceed \$6,000.00. (Such amounts as amended from time to time by the Ohio Revised Code) Jurisdiction must be proper under the law. The Plaintiff must bring with him (2) copies of any documents supporting his claim and plaintiff must have the current address of defendant. The Clerk shall also have plaintiff sign a request for regular mail service in the event of failure of certified mail service.

Rule 28.05 FILING FEES Filing deposit is pursuant to the Schedule of Fees and Court Costs

Rule 28.06 FAILURE OF SERVICE ON DEFENDANTS Upon failure of service on defendant, the Clerk shall notify the plaintiff that the case will be dismissed within (60) days unless plaintiff provides the Clerk with a new address for defendant. Any pending case wherein service is not obtained within six months shall be dismissed by the Court sua sponte without prejudice.

Rule 28.07 COUNTERCLAIMS Counterclaims are claims filed by the defendant against the plaintiff for a sum arising out of the same incident not to exceed the small claims jurisdictional limit prescribed by the Ohio Revised Code. Any counterclaim filed shall be accompanied by such filing deposit as is prescribed in the Schedule of Fees and Court Costs. If a counterclaim exceeds the small claims jurisdictional limit, and the party asserting the counterclaim deposits the appropriate filing deposit, the matter will be transferred to the regular civil docket. Should the party asserting a counterclaim more than the small claims jurisdictional limit fail to post the appropriate filing deposit, the Clerk shall not accept that claim for filing.

Rule 28.08 DUTIES OF CLERK AND ADMINISTRATOR In addition to the duties as set forth in these rules, the administrator and Clerk shall provide the public with a proper explanation of procedures. The Clerk will not assist in completing forms and will not engage in the practice of law. Any person needing legal advice should seek it from a licensed attorney.

Rule 28.09 CONTINUANCES A request for continuance of a case set for trial should be directed to the Small Claims Division at least three (3) days prior to the trial date. Requests for a continuance shall be in writing which must include (1) reasons for the request, and (2) the date and time of the current assignment. No continuance shall be granted for more than thirty days, nor shall any party be entitled to more than one continuance except for good cause shown and with the express approval of the court. Failure of the plaintiff to appear at trial unless otherwise excused shall result in a dismissal of the case without prejudice.

Rule 28.10 TRIAL The court shall administer an oath to witnesses and proceed to a trial on the merits. Unless all parties are represented by counsel, trial shall be conducted in an informal manner with the purpose of accomplishing substantial justice. The Ohio Rules of evidence do not

apply in small claims court. Evidence Rule 101(C)(8)

Rule 28.11 COLLECTION OF JUDGMENTS Any party obtaining judgment in a small claims case shall collect in the same manner as any other party obtaining a civil judgment.

Rule 29.00 GENERAL ORDER OF REFERENCE FOR MAGISTRATES

To administer the duties of the Court effectively and expeditiously, all powers authorized in Rule 53 of the Rules of Civil Procedure, Rule 19 of the Rules of Criminal Procedure, and Rule 14 of the Ohio Traffic Rules, are hereby referred to the Magistrate.

Rule 29.01 CIVIL AND SMALL CLAIMS CASES The Civil and Small claims cases of the Court are hereby referred to the Magistrate. The Magistrate is hereby authorized to conduct the following hearings:

- A.** Any pre-trial or post judgment motion
- B.** The trial of any case that will not be tried to a jury.

Upon the unanimous written consent of the parties, the trial of any case that will be tried to a jury, The Magistrate shall regulate all proceedings in every hearing as if by the Court and do all acts and take all measures necessary or proper for the efficient performance of the Magistrates' duties under this Order. The Magistrate may do all the following:

- 1.** Issue subpoenas for the attendance of witnesses and the production of evidence.
- 2.** Rule upon the admissibility of evidence.
- 3.** Call the parties to the action and examine them under oath.
- 4.** Put witnesses under oath and examine them.
- 5.** In cases involving direct or indirect contempt of court, and when necessary to obtain the alleged contemnor's presence for hearing, issue an attachment for the alleged contemnor's and set bail to secure the alleged contemnor's appearance, considering the conditions of release prescribed in Criminal Rule 46.

The Magistrate may enter orders without judicial approval in pretrial proceedings under Civil Rule 26 to 37 and other as necessary to regulate proceedings.

Any person may appeal to the Court from any order of a Magistrate entered under the authority of the previous paragraph by filing a motion to set the order aside, stating the party's objections with particularity. The motion shall be filed no later than ten (10) days after the Magistrate's order is entered. The pendency of a motion to set aside does not stay the

effectiveness of the Magistrate's order unless the Magistrate or the Court grants a stay.

The Magistrate shall promptly conduct all proceedings necessary for decision of referred matters in civil and small claims cases. The Magistrate shall prepare, sign and file the Magistrate's decision of the referred matter with the Clerk. Findings of Fact and Conclusions of Law are not required unless requested by a party under Rule 52 or otherwise required by law or the court.

Within fourteen (14) days of the filing of a Magistrate's decision, a party may file written objections thereto. If any party timely filed objections, then any other party may also file objections not later than ten (10) days after the first objections are filed. If a party files a request for findings of fact and conclusions of law under Civil Rule 52, the time for filing objections begins to run when the Magistrate files a decision including findings of fact and conclusions of law. The filing of objections shall operate as an automatic stay of execution of the judgment until the Court rules on the objections.

Rule 29.02 CRIMINAL CASES In accordance with Rule 19, the criminal cases of the Court are hereby referred to the Magistrate.

Rule 29.021 The Magistrate is Hereby Authorized to Conduct the Following Hearings

- A.** Initial appearances and preliminary hearings pursuant to Criminal Rule 5.
- B.** Arraignments pursuant to Criminal Rule 10.
- C.** Proceedings at which a plea may be entered in accordance with Criminal Rule 11.
- D.** In felony and misdemeanor cases, the Magistrate may accept and enter not guilty pleas.
- E.** In misdemeanor cases, the Magistrates may accept and enter guilty and no contest pleas, determine guilt or innocence, receive statements in explanation and in mitigation of sentence, and recommend a penalty to be imposed. If the offense charged is an offense for which imprisonment is a possible penalty, the matter may be referred only with the unanimous consent of the parties, in writing or on the record in open court.
- F.** Motions filed pursuant to Criminal Rule 19 and Criminal Rule 47.
- G.** Proceedings for the issuance of a temporary protection order as authorized by law.
- H.** Proceedings to establish bail pursuant to Ohio Constitution Article I, Section 9.

- I.** The trial of any misdemeanor case that will not be tried to a jury. If the offense charged is an offense for which imprisonment is a possible penalty, the matter may be referred only with unanimous consent of the parties in writing or on the record in open court.
- J.** The magistrate shall regulate all proceedings in every hearing as if by the Court and do all acts and take all measures necessary or proper for the efficient performance of the Magistrate's duties.

Rule 29.022 The Magistrate May Do All the Following

- A.** Issue subpoenas for the attendance of witnesses and the production of evidence.
- B.** Rule upon the admissibility of evidence in misdemeanor cases.
- C.** Put witnesses under oath and examine them.
- D.** In cases involving direct or indirect contempt of court, and when necessary to obtain the alleged contemnor's presence for hearing, issue an attachment for the alleged contemnor and set bail to secure the alleged contemnor's appearance, considering the conditions of release prescribed in Criminal Rule 46.
- E.** The Magistrates may enter pre-trial orders without judicial approval which are necessary to regulate the proceedings and are not dispositive of a claim or a defense of a part.

Any person may appeal to the Court from any pre-trial order of a Magistrate entered under the authority of the previous paragraph by filing a motion to set the order aside, stating the party's objections with particularity. The motion shall be filed within fourteen (14) days after the Magistrate's order is entered. The pendency of a motion to set aside does not stay the effectiveness of the Magistrate's order unless the Magistrate or the Court grants a stay. A party's failure to appeal does not preclude review of the order on objections to the Magistrate's decision.

The magistrates shall promptly conduct all proceedings necessary for decision of referred matters in criminal cases. Within fourteen (14) days after the filing of a magistrate's decision, a party may file written objections thereto. If any party timely files objections, any other party may also file objections no later than seven (7) days after the first objections are filed. The Magistrate's decision shall become effective when adopted by the Court. No sentence recommended by a Magistrate shall be enforced until the Court has entered judgment.

Rule 29.03 TRAFFIC CASES In accordance with Rule 14 of the Ohio Traffic Rules, the traffic cases of the Court, including Driving Under the Influence Cases, are hereby referred to the Magistrate.

The Magistrates are hereby authorized to do the following:

- A.** Receive pleas, statements in explanation and in mitigation of sentence.
- B.** Recommend penalty to be imposed.
- C.** Hear contested cases for the taking of evidence and written report of findings and recommendations to the Court of guilty or not guilty and penalty, if consented to by the defendant.

The Magistrates shall promptly conduct all proceedings necessary for decision of referred matters in traffic cases.

Within fourteen (14) days of filing of a Magistrate's decision, a party may file written objections thereto. If any party timely files objections, then any other party may also file objection not later than ten (10) days after the first objections are filed. If a party makes a request for findings of fact and conclusions of law.

Rule 29.04 GENERAL AUTHORITY FOR ALL REFFERRED CASES Nothing in this order shall be construed as prohibiting a magistrate from the entry of orders when authority is specifically conveyed by statute to the Magistrate.

All orders of the magistrate shall be in writing, signed by the magistrate and identified as a Magistrate's order in the caption. The Magistrate shall prepare reports of his work, recommendations and orders as directed by the Court.

The proceedings before the Magistrate shall be in accordance with the Ohio Rules of Civil and Criminal procedure, the Ohio Traffic Rules, any applicable statutes, and the Rules of the Court, as if before the Court.

In cases of contempt in the presence of the Magistrate, the magistrate may impose an appropriate civil or criminal contempt sanction. Contempt sanctions may be imposed only by a written order that recites the facts and certifies that the Magistrate saw or heard the conduct constituting contempt. The contempt order shall be filed, and a copy provided by the Clerk to the appropriate judge of the Court. The contemnor may by motion obtain immediate review of the magistrate's order by a Judge, or the Judge or Magistrate may set bail pending judicial review.