

CLINTON COUNTY MUNICIPAL COURT

Honorable David T. Henry, Judge

Sarah J. Avey, Clerk

Brian Kratzer, Chief Bailiff

(Effective January 01, 1986)

(Revised July 01, 1990)

(Revised April 01, 2002)

(Revised January 01, 2006)

(Revised September 19, 2014)

(Revised January 1, 2017)

Rule 1.00 **Scope and Effective Date.**

These rules are adopted as the local Rules of Court governing practice and procedure in the Clinton County Municipal Court. They are adopted pursuant to the Ohio Constitution, Section 1901.14, Ohio Revised Code, the Court's inherent authority as set forth in the Ohio Rules of Civil and Criminal Procedure and the Rules of Superintendence for Municipal Courts promulgated by the Ohio Supreme Court. 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 1, 2002 and govern all proceedings filed subsequent to that date and may be revised periodically as required. (Amended 05-01-2002)

Rule 2.00 **Court Sessions and Hours**

The hours for court sessions and for the Clerk of Court's Office shall be from eight o'clock a.m. until 4:00 p.m. Monday through Friday, unless otherwise ordered by the judge or said day is a legal holiday.

Rule 3.00 **Forms of Paper Filed**

All papers offered for filing with the Court shall be typewritten or printed on 8.5 inch x 11 inch paper. Original documents attached or offered as exhibits are exempt from the requirements of this rule. Only legible copies of the documents will be accepted. (Amended 7-1-90)

Rule 4.00 **Costs**

Court costs shall be determined from time to time by the presiding 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 Public Use of Courtroom

Questions of the admission of persons to a courtroom shall be the province of the Judge within the guidelines of public access to all Court proceedings, consistent with the order and dignity of the Court. 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. 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. All proceedings are recorded, and no other recording shall be made of any Court proceeding without approval of the Judge and within the Rules of Superintendence, Rule 9 of the Municipal Court Rules of Superintendence and Canon 3A (1) of the Code of Judicial Conduct. (Amended 04-01-2002)

Rule 7.00 Court Reporter

All proceedings involving the judge shall be tape 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 Duties of Counsel

(A) DESIGNATION OF TRIAL COUNSEL. Attorneys and not parties will designate their capacity as trial counsel on all pleadings in civil and criminal cases and shall include their office address, zip code, and telephone number. Normally, a law firm should not be named as trial attorney. However, substitution of counsel within the same law firm at hearings is authorized.

(B) WITHDRAWAL OF COUNSEL. Counsel shall be allowed to withdraw from trial counsel responsibility in cases where counsel was designated upon 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 with certificate of service on opposing counsel and/or client and time and date trial, if set. Withdrawal of counsel will not be approved if application is made within (5) working days of the trial date except for good cause shown. Approved withdrawal entries will be mailed immediately by the withdrawing counsel to his client's last known address.

(C) MOTIONS PRACTICE. All motions except those normally made at the 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.

(D) JURY TRIAL. When a jury trial in a civil case is demanded, an advance deposit in the amount prescribed by the Court's schedule of costs is required at time of filing. The Court will consider affidavits of hardship upon written motion timely filed.

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. (Amended 7 -31-86)

(E) CONTINUANCES. Every request for a continuance shall be by written motion and will only be granted upon showing of good cause. All requests shall be served on opposing counsel or party. The motion shall set forth the date from which a continuance is requested and reasons for continuance. If a prior trial conflict exists, the date of scheduling shall be stated. Entries shall accompany the motions with blanks for the new trial time and date, and if agreed to by opposing counsel. No requests for continuance will be considered if made less than two (2) business days before trial except for circumstances which by reasonable diligence could not be determined two (2) or more business days prior to trial.

Rule 9:00 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 10:00 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 M.C. Rule 8 (C) 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 11:00 Criminal Practice

(A) Pretrial Scheduling Conferences

When a person enters a plea of "not guilty", in an offense the Court will set the matter for pretrial 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 45 or thirty days after the citation or complaint, the matter will be set for court trial within such time period. In such cases, there will be no pretrial scheduling conference.

The following persons will attend the pretrial scheduling conference in all cases:

- (1) the prosecutor assigned to the case;
- (2) trial counsel for the defendant;
- (3) the defendant;

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

- (1) Whether a negotiated plea can be submitted instead of a trial;
- (2) Whether any pretrial issues must be resolved before setting the case for trial;
- (3) The amount of time it will take to try the case;
- (4) Whether this matter will be tried to the Court or to a jury.

At the conclusion of the pretrial scheduling conference, the parties shall submit a written report to the Clerk of the Court, signed by the attorneys and the Defendant, which sets the matter for either further hearing or for dismissal. Should the parties set the matter for evidentiary hearing on an anticipated pretrial motion (such as a motion to suppress evidence) the pretrial motion shall be filed no later than fifteen days after the pretrial scheduling conference. Should the matter be set for evidentiary hearing on an anticipated pretrial motion, and the motion is not promptly filed, the hearing may be converted to a final pretrial conference before the Court.

The Court Assignment Commissioner shall designate the date and time for 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 pretrial scheduling conference may result in a warrant for the Defendant's arrest.

(B) Continuances in criminal cases.

Continuances, of either pre-trials or trials in criminal cases shall be allowed to a date certain in conformity with Local Rule 8 (E). If Defendant or counsel for Defendant requests a continuance, speedy trial is tolled.

(C) Misdemeanor summons and arrest warrants upon complaint.

The Court adopts the following procedure for the issuance of summons and arrest warrants upon complaint for criminal offenses classified as misdemeanors, not including traffic offenses, under the Ohio Revised Code or a municipal ordinance:

(1) 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.

(2) Warrant

If at all 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 solicitor of a municipality for an offense under a city 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.

(D) 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 at all 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:

- (1) Issue a summons to the defendant, or
- (2) Issue a warrant for the defendant's arrest if the complainant is a law enforcement officer as defined in Section 2901.01 (K), O.R.C., or
- (3) 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 Section 2901.01 (K), O.R.C.

Rule 12:00 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:

(1) 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.

(2) The Clerk of Court shall accept for filing sworn criminal complaints for passing bad checks that do not meet the criteria established in section (1) 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.

(3) 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.

(4) 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.

(5) Absent unusual circumstances, absolutely 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 13:00 Minor Misdemeanors 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 therefore and render accounts of the bureau.

Rule 14.00 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 15.00 Procedure for Granting Occupational Driving Privileges

People who seek limited driving privileges may do so by written petition, filed pursuant to RC 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 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 15.01 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 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 stay with this court to cover administrative costs.

Rule 16.00 Civil Practice

(A) **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 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 pretrial 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.

(1) 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.

(2) All parties in interest must be present at the pre-trial unless such presence is excused by the Judge.

(3) 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.

(4) Each counsel shall bring to the pre-trial all exhibits which are to be offered in evidence at the trial.

(5) Each counsel claiming same shall present in writing to the court an itemization of all special damages claimed.

(6) 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.

(7) Each counsel shall come to the pretrial fully prepared and authorized to negotiate toward settlement of the case.

(8) The text of, and citations of authority for, instructions requested by counsel pursuant to Rule 51, Ohio Rules of Civil Procedure shall be provided the Court at least 14 days before trial. Counsel's best estimate of the time required to try the case shall be provided.

(9) The written statement shall be filed at or before the pretrial hearing.

The court may, and on the request of either party shall, make a written order which recited 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.

(B) **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 17.00 Trusteeships

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:

(1) The names of his secured and unsecured creditors with liquidated claims, their complete address, account number and amount due and owing to each. If account is being administered by someone other than the creditor, list their name and complete address.

(2) 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.

(3) 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 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 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 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 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 18.00 Forcible Entry and Detainer Actions

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

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

18.02 Pursuant to RC 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.

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

18.04 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 19.00 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, 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 20.00 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 21.00 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 of 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 defendants 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 22.00 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."

Clinton County Municipal Court Rules Small Claims Division

(A) 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.

(B) 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 hearing for a party, the court shall grant the other party a reasonable continuance to obtain legal counsel.

(C) Types of Cases

The Small Claims Division handles all types of cases involving amounts not exceeding \$6,000.00. (Such amounts as amended from time to time by the ORC) 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.

(D) Procedure and Limitations

A complaint is filed by 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 ORC) 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.

(E) Filing Fees

Filing deposit is pursuant to the Schedule of Fees and Court Costs

(F.) 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 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.

(G.) **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 in excess of the small claims jurisdictional limit fail to post the appropriate filing deposit, the Clerk shall not accept that claim for filing.

(H) **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 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.

(I) **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 continuances 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.

(J) **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)](Effective 03-01-2002)

(K) **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 23.00 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 24.00 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.