

**TOLEDO MUNICIPAL COURT  
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**RULES  
OF THE  
TOLEDO MUNICIPAL COURT  
JUDGES**

**Timothy C. Kuhlman, Administrative/Presiding Judge**

**Amy J. Berling  
Robert G. Christiansen  
Francis X. Gorman**

**Michael R. Goulding  
C. Allen McConnell  
Lynn H. Schaefer**

**MAGISTRATES**

**John A. Blaufuss  
Alan J. Michalak  
David E. Smith**

**Effective December 10, 2009**

In accordance with Rule 5 of the Rules of Superintendence for the Courts of Ohio, the following local rules of practice and case management program are adopted by the Municipal Court of the City of Toledo, Ohio, to ensure the readiness of cases for pretrial and trial, to facilitate the earlier disposition of cases, and to promote the administration of justice. All former rules and amendments of this court are hereby revoked.

## **Rule 1**

### **DIVISION AND BRANCHES OF COURT**

(A) The Toledo Municipal Court has a civil and a criminal division. Within the civil division there is a regular docket, a small claims docket, and a housing docket. Within the criminal division there are 3 branches: criminal court, traffic court, and housing court.

(B) The court building has 4 floors, and courtrooms are numbered in sequence, 1 through 4 and 6 through 12. There are 7 judges and 3 full-time magistrates.

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**Rule 2**  
**COURT SESSIONS**

(A) Court is in session daily, Monday through Friday, from 9:00 a.m. to 4:30 p.m. Court will be in session at 9:00 a.m. on Saturday mornings when there is a legal holiday on either the Friday preceding or on the Monday following, and as otherwise ordered by the court.

(B) Custody misdemeanor arraignments and arraignments for defendants charged with offenses included in Ohio Revised Code 2943.04.01 or comparable Toledo Municipal Code, repeat OVI's and vehicular or negligent homicides will be held in courtroom #4 at 9:00 a.m., Monday through Friday. Arraignments for persons summoned or released on personal recognizance or monetary bonds and Traffic court will be held in courtroom #4 at 1:00 p.m., Monday through Friday. Proceedings in aid of execution will be held in courtroom #9, Monday through Wednesday, at 8:30 a.m. Miscellaneous civil matters relating to garnishments, replevins and other attachments will be heard in courtroom #9, Monday through Wednesday at 8:30 a.m. License forfeiture hearings and Bureau of Motor Vehicle administrative hearings will be heard in courtroom #9 on Fridays at 8:30 a.m. Small Claims proceedings will be heard in Courtroom #9 at 9:00 a.m. Monday through Friday. Felony arraignments and preliminary hearings will be heard in courtroom #3 at 9:00 a.m., Monday through Friday. When a regularly-scheduled court day falls on a holiday weekend, felony cases will be merged with misdemeanor arraignments in courtroom #4, except that no preliminary examinations will be held on Saturdays.

(C) Housing court will be held on Wednesdays and Thursdays for criminal cases with full-day sessions on 4 out of 7 weeks in courtroom #2 at 9:00 a.m. The remaining Wednesday and Thursday sessions will begin at 1:30 p.m. The housing court magistrate will hear forcible entry and detainer cases in courtroom #9 at 1:30 p.m., Monday through Friday. Rent escrow cases will be heard by the magistrate in courtroom #9 at 1:00 p.m., Monday, Tuesday, Thursday, and Friday.

(D) The seven judges in Toledo Municipal Court hear cases on a rotation basis, except that all cases involving housing matters will be assigned to the housing judge. The 7-week rotation is as follows: 1 week in courtroom #4 misdemeanor arraignments; 1 week in criminal and civil trials; 1 week as duty judge; 1 week in criminal and civil trials; 1 week in courtroom #3 felony arraignments; and 2 weeks in criminal and civil trials. Court and jury trials will be scheduled on the dockets of the individual judges by the assignment commissioner.

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**Rule 3**  
**DUTY JUDGE**

(A) The duty judge hears matters not assigned to a particular judge, including consideration of prosecutor recommendations, acting on magistrate decisions, exclusive of housing matters, additional stays of execution, and withdrawal of bench warrants or arrest warrants in cases with a violent offense. The duty judge may sentence in unassigned cases or in assigned cases only when the assigned judge is unavailable.

(B) Except for matters assigned to the housing court judge, in the absence of the trial judge, motions for new trial and relief from judgment will be heard by the duty judge. The assignment commissioner shall be notified of any change in the trial date.

(C) The duty judge will also hear bench warrants, proceedings in aid of execution, matters relating to default judgments, as well as miscellaneous civil matters relating to garnishments and replevins.

(D) The duty judge will perform marriage ceremonies between 1:30 p.m. and 3:00 p.m. upon payment of the prescribed fee to the clerk of court.

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**Rule 4**  
**MAGISTRATES**

(A) In accordance with Rule 19 of the Rules of Superintendence for the Courts of Ohio, magistrates shall be appointed by a majority vote of the municipal court judges to hear the following cases: small claims proceedings, proceedings in aid of execution; miscellaneous civil matters relating to garnishments, replevins and other attachments; forcible entry and detainer proceedings in which the right of a trial by jury is waived or not demanded, rent escrow proceedings which have not been resolved through the Citizens Dispute Settlement Program; assessment of damages, criminal and traffic proceedings as defined in Local Rule 19(A) and (B) where there is a plea of guilty, not guilty or no contest and a written waiver by defendant of the right to a trial before a judge, and other duties assigned by the Judges, such as bench warrants and warrant blocks on non-violent offenses, and stays on fines and costs.

(B) Magistrates shall have the qualifications and the power to act as authorized and specified in Rule 53 of the Ohio Rules of Civil Procedure, Rule 19 of the Ohio Rules of Criminal Procedure, and Rule 14 of the Ohio Rules of Traffic Procedure as adopted by this court's order of reference and the Rules of Superintendence for the Courts of Ohio.

(C) All pretrial orders of the magistrate entered pursuant to Rule 53(C)(3) of the Ohio Rules of Civil Procedure and all decisions of the magistrate in referred matters shall be prepared, signed, and filed with the clerk who shall serve copies on all the parties or their attorneys.

(D) All proceedings referred hereunder to a magistrate shall be in accordance with the Civil Rules, any applicable statutes, these local rules, and the Rules of Superintendence, as if before the court. The magistrate is responsible for all further matters in connection with the case subject to appeal of pretrial orders pursuant to Civil Rule 53(C)(3)(b) and objections filed pursuant to Civil Rule 53(E)(3). The magistrate's decision shall be effective when adopted by the court pursuant to Civil Rule 53(E)(4).

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**Rule 5**  
**ATTORNEYS**

(A) Only attorneys regularly admitted to the practice of law in the State of Ohio, and registered and in good standing with the Supreme Court of Ohio, or those certified to specially practice by the Supreme Court of the State of Ohio, or those authorized by the court, are permitted to practice in the Toledo Municipal Court.

(B) This rule does not prohibit an individual from acting as his or her own counsel in any proceeding in this court. Corporations, partnerships, and an agent of the real party in interest shall, however, be represented by counsel.

(C) In civil cases, the attorney who is to try the case shall be designated as trial attorney on all pleadings. In criminal cases, except felonies, the attorney who is to try the case, upon being retained or appointed, shall notify the court that he or she is the trial attorney by filing a written statement with the Clerk of Court.

(D) An attorney who has entered an appearance as counsel of record must appear at all proceedings in the case unless an oral or written motion is granted by the judge assigned to the case, or by the duty judge in an unassigned case.

(E) Attorneys are directed to the Toledo Legal News which is the official daily journal of the Toledo Municipal Court.

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**Rule 6**  
**COURT DECORUM**

As a matter of respect, everyone inside the courtroom must stand during the opening and closing of court. Proper attire is required of all, particularly in the summer months. The courtroom space inside the railings is reserved for officials, counsel, parties, and witnesses. The bailiff shall see that no one impedes or disrupts the orderly conduct of the business of the court.

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**Rule 7**  
**MEDIA**

(A) In accordance with Rule 12 of the Rules of Superintendence for the Courts of Ohio, the procedures which follow are to be used when there is broadcasting or photographing of court proceedings.

(B) Media representatives must personally request permission of the assigned judge or magistrate for televising, recording, radio broadcasting, or photograph taking in a courtroom, before the court session. The assigned judge will then grant or deny permission for the proposed request. The court administrator will act as a liaison between the court and various media representatives to implement this rule.

(C) Media representatives are responsible for pooling without involving the court in any way, except to notify it of pooling arrangements. Television stations and radio stations must decide which of them shall cover the proceedings, and only one of each may then cover any one proceeding. The newsprint media must decide which of them shall cover the proceedings for photographic coverage, and only one photographer may then be allowed in the courtroom at any one time. If a dispute arises among or between the media representatives during any proceeding, the judge shall exclude contesting representatives from the remaining case proceedings.

(D) Media representatives must be in designated areas before court convenes and may leave only during a recess, lunch break, or afternoon adjournment. They are responsible for providing their own equipment, including sufficient equipment leads to ensure they are able to be stationed in the designated location. Only existing lighting within the courtroom may be used. Media representatives must wear appropriate attire when on courtroom assignment.

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**Rule 8**  
**CLERK OF COURT AND COURT RECORDS**

(A) The clerk of court shall maintain separate civil and criminal records and dockets as required by Ohio Revised Code Section 1901.31(E). Nothing in this rule prohibits recording and storage of the court's dockets and records by microfilming or computerization. The official court record shall be the data stored on the electronic systems.

(B) The orders of the court in the dockets shall be validated by the original or facsimile signature of the judge. The automated/computerized dockets and the original papers filed shall be the final record of the cases of this court. The administrative judge, or his or her designee, and the clerk of court, shall authenticate records with their signatures, with the court's seal attached. Any forms and stamps used shall be authorized by the court.

(C) The clerk of court may dispose of files of cases in accordance with the Supreme Court of Ohio Rules of Superintendence 26, 26.01, and 26.05. The Clerk shall notify the Court 30 days in advance of any record destruction.

(D) The Court Administrator shall have the authority to promulgate a retention schedule for all administrative records of the Court including records of the Probation Department. The Court Administrator may extend the retention period for a record, but shall not reduce the retention period below the standard set forth in the Rules of Superintendence 26, 26.01, and 26.05 for any record listed therein. Court reporters may dispose of their official transcripts and exhibits held pending appeal after 5 years.

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## **Rule 9**

### **LOCATION OF COURT RECORDS**

(A) In accordance with Ohio Revised Code, Section 1901.31(E), the clerk of court shall file and safely keep all journals, records, books, and papers of the court, except as provided in section

(B). As a result of this statutory responsibility, no affidavits, civil jackets, court transcripts, or any other court records shall be taken from the building by any person.

(B) Any authorized person wishing to obtain a criminal, traffic or civil case from the clerk's office or the assignment commissioner must have the case electronically scanned prior to taking the case. Authorized persons include attorneys, court personnel and all others authorized by journal entry.

(C) Any person who removes and conceals any official court record may be referred to the proper legal authorities for evaluation of criminal charges, and may further be referred to the Toledo Bar Association Grievance Committee.

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**Rule 10**  
**ORDERS OF COURT**

(A) Any order, decree, finding, or judgment shall be entered by the judge or magistrate upon the Court Proceedings Page in all cases. Any order pursuant to Ohio Rule of Civil Procedure 53(C)(3) or any decision shall be entered by the magistrate upon the complaint (affidavit in criminal or traffic case and upon the jacket in a civil case). The required service of notice of such journal entries shall be upon the parties by the clerk of court. Any appealable order shall also be prepared on a separate sheet and upon filing with the clerk for journalization will constitute the order in the case.

(B) The judgment specified in Rule 58 of the Ohio Rules of Civil Procedure shall be journalized within 30 days of the judgment. If the entry is not prepared by counsel, it shall be prepared by the court and filed with the clerk of court for journalization.

(C) If a judge's term expires, any unsigned judgments on the judge's assigned cases shall be presented to the administrative judge for approval. If any decision is so indefinite that the terms of the decree cannot be ascertained, the administrative judge may reassign the case for retrial.

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**Rule 11  
CIVIL FILING FEES**

(A) Civil court costs shall be paid at time of filing to the clerk of court as follows and shall be accompanied by a Civil Case Designation Form available from the clerk's office:

COMPLAINT FOR MONEY ONLY ..... \$96.00  
(All Claims on Regular Civil Docket - \$35.00 Filing,  
\$12.00 Legal News, \$36.00 Legal Aid, \$5.00 Computerization Clerk,  
\$2.00 Computerization Court, \$1.00 Legal Research, and \$5.00 Special Projects)  
(Plus [\$10.00 Certified Mail Service and \$1.00 Summons Fee] per Defendant)

SMALL CLAIMS ..... \$44.00  
(\$25.50 Filing, \$2.50 Legal News, \$11.00 Legal Aid, and \$5.00 Special Projects)  
(Plus [\$10.00 Certified Mail Service and \$1.00 Summons Fee] per Defendant)

COMPLAINT OR MOTION TO REVIVE JUDGMENT .....\$22.00  
(\$10.00 Revivor and \$12.00 Legal News)  
(Plus [\$10.00 Certified Mail Service and \$1.00 Summons Fee] per Defendant)

**RESTITUTION:**

FIRST CAUSE ONLY (EVICTION) ..... \$96.00  
(\$36.00 Filing, \$12.00 Legal News, \$36.00 Legal Aid, \$5.00 Computerization Clerk,  
\$2.00 Computerization Court, \$1.00 Legal Research, and \$4.00 Housing Special Projects  
plus Service and Summons described below)

COMPLAINT FOR MONEY ONLY (HOUSING ONLY).....\$96.00  
(\$36.00 Filing, \$12.00 Legal News, \$36.00 Legal Aid, \$5.00 Computerization Clerk, \$2.00  
Computerization Court, \$1.00 Legal Research, and \$4.00 Housing Special Projects plus Service and  
Summons described below)

FIRST & SECOND CAUSE (EVICTION AND MONEY).....\$108.00  
(\$36.00 First Cause Filing, \$12.00 Second Cause Filing, \$12.00 Legal News, \$36.00  
Legal Aid, \$5.00 Computerization Clerk, \$2.00 Computerization Court, \$1.00 Legal Research, and  
\$4.00 Housing Special Projects)  
(Plus \$10.00 per Defendant for Personal/Residence Service)  
(Plus \$10.00 per Defendant for Certified Mail Service)  
(Plus \$1.00 per Defendant Summons Fee)

**PRE-JUDGMENT ATTACHMENT:**

MONEY.....\$ 5.00  
PERSONAL PROPERTY .....\$ 5.00  
(Plus 3 Three Appraisals (\$25.00 each) for Total of \$75.00)

REPLEVINS.....	\$58.00
(\$12.00 Filing, \$12.00 Legal News, \$26.00 Legal Aid, \$5.00 Computerization Clerk, \$2.00 Computerization Court, and \$1.00 Legal Research plus Service and Summons described below) (Plus \$5.00 for Writ per case) (Plus \$10.00 per Defendant for Personal/Residence Service) (Plus \$1.00 per Defendant Summons Fee)	
TRUSTEESHIP FILING .....	\$25.00
CERTIFICATE OF JUDGMENT .....	\$ 10.00
PROCEEDINGS IN AID.....	\$10.00
AID OF EXECUTION (GARNISHMENT):	
WAGE GARNIS.....	\$40.00
(\$31.00 Filing, \$2.00 Computerization Clerk, \$2.00 Computerization Court, and \$5.00 Special Projects) (Certified Mail Service \$10.00 for Counties that are contiguous with Lucas County- Fulton, Henry, Ottawa, and Wood)	
NON-WAGE GARNIS.....	\$29.00
(\$25.00 Filing, \$2.00 Computerization Clerk, and \$2.00 Computerization Court) (Plus \$1.00 Respondent Fee) (Certified Mail Service \$10.00 for Counties that are contiguous with Lucas County - Fulton, Henry, Ottawa, and Wood)	
CREDITOR'S BILL (Using old Case Number).....	\$17.00
(\$7.00 Processing Fee plus \$10.00 Personal Service)	
CREDITOR'S BILL (New Case Number) .....	\$73.00
(\$17.00 Filing, \$12.00 Legal News, \$36.00 Legal Aid, \$5.00 Computerization Clerk, \$2.00 Computerization Court, and \$1.00 Legal Research plus Service & Summons described below) (Plus \$10.00 Personal Service and \$1.00 Summons per Defendant)	
WRIT OF RESTITUTION .....	\$ 20.00
MOTIONS .....	\$ 3.00
REVOCATIONS (DL6 CERTIFICATION) .....	\$ 6.00
ORDER OF SALE .....	\$ 5.00
TRANSCRIPT.....	\$ 25.00

EXECUTION .....	\$ 20.00
MUNICIPAL COURT TRANSFER (MCT) .....	\$15.00
( \$7.00 Filing, \$5.00 Computerization Clerk, \$2.00 Computerization Court, and \$1.00 Legal Research)	
CERTIFICATE OF JUDGMENT FROM FOREIGN COURT (MCT FILING).....	\$15.00
( \$7.00 Filing, \$5.00 Computerization Clerk, \$2.00 Computerization Court, and \$1.00 Legal Research)	
(Plus [ \$10.00 Certified Mail Service and \$1.00 Summons Fee] per Defendant)	
DEMAND FOR JURY .....	\$200.00
CHARGE FOR SERVICE (ORIGINAL FILING AND ALIAS)	
SUMMONS-PER DEFENDANT .....	\$ 1.00
(Certified Mail Service per Defendant).....\$10.00	
(Personal/Residence Service per Defendant).....\$ 10.00	
(Foreign Service-Service Outside Lucas Co. - No Refunds).....\$20.00	
SUBPOENA .....	\$ 10.00
DRIVER LICENSE APPEAL (12 Points & Implied Consent) .....	\$86.00
(\$43.00 Filing, \$12.00 Legal News, \$26.00 Legal Aid, and \$5.00 Special Projects)	
(Plus \$20.00 Certified Mail Service (2) and \$1.00 Summons Fee)	
LIMITED DRIVING PRIVILEGES .....	\$86.00
(\$43.00 Filing, \$12.00 Legal News, \$26.00 Legal Aid, and \$5.00 Special Projects)	
(Plus \$20.00 Certified Mail Service (2) and \$1.00 Summons Fee)	
PARKING TICKET APPEAL .....	\$86.00
(\$43.00 Filing, \$12.00 Legal News, \$26.00 Legal Aid, and \$5.00 Special Projects)	
(Plus \$10.00 Certified Mail Service and \$1.00 Summons Fee)	
OBJECTION TO MAGISTRATES REPORT.....	\$3.00
APPEALS TO THE APPELLATE COURT .....	\$175.00
(Deposit for Appeals Court \$150.00 and \$25.00 Transcript Fee)	
TRANSCRIPT TO COMMON PLEAS COURT .....	\$ 25.00
MARRIAGE FEE .....	\$15.00

(B) A \$200.00 deposit is required at the time of filing a counterclaim and/or a third party claim in which the prayer exceeds \$15,000.00. The clerk of Common Pleas Court, Lucas County, Ohio, will accept no transfers without payment in advance of the costs, unless such transfers are accompanied by a poverty affidavit, plus \$25.00 for a transcript.

(C) A \$300.00 security fee deposit is required at the time of filing an execution which involves the actual seizure of any motor vehicle by the civil bailiff's department to secure payment of vehicle towing and storage costs. Charges made against this deposit will be limited to the actual costs of towing and storage and may be recovered by the plaintiff as court costs.

(D) A \$100.00 deposit is required in the trial court for notice of appeal to the Court of Appeals.

(E) No costs shall be assessed or collected for the filing of a motion for a default judgment in accordance with Rule 55(A) of the Ohio Rules of Civil Procedure. An approved poverty affidavit will be accepted in lieu of civil costs in civil cases.

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**Rule 12**  
**FINES AND COSTS**

(A) The clerk of court accepts payment of fines and costs. Court costs in a criminal case will be \$79.00 at minimum, and may include cost of subpoenas issued, and jury costs. Court costs in a traffic case will be \$54.00 at a minimum, plus an additional \$34.00 for any moving violation conviction. A \$15.00 fee shall be assessed for each bench warrant issued. The Clerk shall add any other costs required by law.

(B) Failure to pay fine and costs when due may subject a defendant to sanctions of the court, including findings of contempt and/or to referral to the authorized collection bureau with additional fees. Installment payments will be accepted by the clerk without a judge's order before the date the payment is due.

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**Rule 13**  
**NUMBERING OF CASES**

As required by Rule 43(A) of the Rules of Superintendence for the Courts of Ohio, all cases shall be numbered in sequence annually starting with number 1, and cases shall be in separate categories as follows:

Example:	Civil -- Small Claims	CVI-80-00001
	Civil -- Other Civil	CVH-80-00001
	Civil -- F.E.D.	CVG-80-00001
	Civil -- Contracts	CVF-80-00001
	Civil -- Personal Property and Property Damage	CVE-80-00001
	Traffic -- Other	TRD-80-00001
	Traffic -- O.M.V.I.	TRC-80-00001
	Criminal -- Misdemeanor	CRB-80-00001
	Criminal -- Felony	CRA-80-00001

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**Rule 14**  
**FILING AND SERVICE OF COURT PAPERS**

(A) All papers filed with the clerk of court shall be originals or legible copies, handwritten in ink or typewritten on 8½ x 11 inch paper. Filings consisting of more than one sheet of paper shall be securely fastened together. The use of covers or jackets is not permitted.

With the exception of facsimile (fax) transmission filing pursuant to Section (C) of this Rule, no civil filing is to be accepted for filing with the Office of the Clerk after the close of the business day of the civil branch, which is deemed to be 4:30 P.M., Monday through Friday, legal holidays excepted. No civil filing is deemed to be filed pursuant to the Ohio Rules of Civil Procedure unless the pleading is date and time-stamped by the office of the clerk, civil division.

(B)(1) Every Document filed by a party represented by counsel shall designate in the caption a description of the filing itself and the name, address, direct telephone number (including extension), and the Supreme Court of Ohio attorney registration numbers of the attorney(s) responsible for the case. The correct mailing addresses, including zip codes, for all parties shall be listed in every pleading (as defined by Rule 7 (A), Ohio Rules of Civil Procedure). Pleadings which do not conform to this rule may be ordered stricken from the file by the court. Documents other than pleadings may state the identity of the parties in the case by name only.

(2) Pursuant to Rule 45(D)(1) of the Rules of Superintendence for the Courts of Ohio, when submitting a case document to a court or filing a case document with a clerk of court, a party to a judicial action or proceeding shall omit personal identifiers from the document. Personal identifiers are defined by Rule 44 (H) of the Rules of Superintendence to mean social security numbers, except for the last four digits, financial account numbers, including but not limited to debit card, charge card, and credit card numbers, employer and employee identification numbers.

(3) When personal identifiers are omitted from a case document submitted to a court or filed with a clerk of court pursuant to Rule 44 (D)(1) of the Rules of Superintendence, the party shall submit or file that information on a separate form. The court or clerk may provide a standard form for parties to use. Redacted or omitted personal identifiers shall be provided to the court or clerk upon request or a party to the judicial action or proceeding upon motion.

(4) The responsibility for omitting personal identifiers from a case document submitted to a court or filed with a clerk of court pursuant to Rule 44(D)(1) of the Rules of Superintendence shall rest solely with the party. The court or clerk is not required to review the case document to confirm that the party has omitted personal identifiers, and shall not refuse to accept or file the document on that basis.

(5) Every document filed by a prose litigant shall conform to the requirements listed above, with the exception of the inclusion of the attorney registration number, unless such pro se litigant is in fact an attorney admitted to the Bar of the State of Ohio.

(6) All parties shall, subsequent to entering an appearance, file with the court any change in contact information submitted pursuant to Rule 14(B)(1).

(C) A “facsimile transmission” (abbreviated “fax”) means the transmission of a source document by a facsimile machine that encodes a document into optical or electronic signals, transmits and reconstructs the signals to print a duplicate of the source document at the receiving end. Pursuant to Rule 5(E) of the Ohio Rules of Civil Procedure, the court will allow the filing on civil cases by fax transmission, through the clerk of court's office, of complaints, motions, pleadings, letters, documents and all other matters, not longer than ten pages (in addition to the cover sheet) in length which may be filed in person or by mail with the following provisions:

(1) The clerk shall maintain a dedicated phone line of (419) 245-1801 to accept fax

transmitted filings for traffic and criminal cases and (419) 936-7012 for civil cases. The fax machine will be available to receive facsimile transmission of documents on the basis of 24 hours per day seven days per week including holidays.

(2) An attorney must provide the name of the court, title of the case, case number (if known), judge's name (if assigned), title of document being filed, date of transmission, transmitting fax number, number of pages (including cover sheet), and the identification on the cover page of transmission in the format prescribed in Rule 14(B) above. Transmissions without such information will not be accepted. A transmitted document must be no longer than ten pages and must pertain to only one case. Service copies shall not be transmitted by fax. Standard fees for duplication by the Clerk of Court's Office for the creation of service copies shall apply. There is no charge for submitting filings via fax.

(3) Subject to the provisions of these rules, all documents sent by fax and received by the Clerk shall be considered filed with the Clerk of Court as of the date and time the Clerk time-stamps the document received, as opposed to the date and time of the date and time of the fax transmission.

(4) All filings made by fax transmission are considered to be the original document in the file and the source documents are not required to be filed. A party who wishes to file a signed source document by facsimile transmission shall either fax a copy of the signed source document or fax a copy of the document without the signature but with the notation "/s/" followed by the name of the signing person where the signature appears in the signed source document. A party who files a signed document by fax represents that the physically signed source document is in his/her possession or control. The sending party must maintain the source document, original signatures, and source copy of the cover page until all opportunities for post-judgment relief are exhausted. In addition, the filing party must make any original source documentation available for inspection by the Court upon request. Failure to do so will result in the filing becoming considered null and void.

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, or with incomplete information on the charge authorization or request, or which do not conform to applicable rules will not be filed.

(5) Electronic transmitted filings must contain all information in an original filing in addition to the transmitting phone number of the responsible attorney and the date and time of the electronic transmission.

(6) It is the responsibility of the sending party to confirm that the fax transmission was received. Any un-transmittable exhibits must be replaced by an insert page describing the exhibit and why it is missing. Unless the court otherwise orders, the missing exhibit shall be filed with the Clerk's Office not later than 5 days of the filing of the fax transmission. Failure to comply may result in the court striking the document or exhibit. Any exhibit filed in this manner shall be attached to a cover sheet containing the caption of the case which sets forth the name of the court, title of the case, the case number, name of the judge, and the title of the exhibit being filed and shall be signed and served in conformance with the rules governing the signing and service in conformance with the rules governing the signing and service of pleadings in this court.

(D) In a civil case, plaintiff, or plaintiff's attorney, shall file with the complaint as many copies as there are defendants to be served with a summons. A party may extend for 28 days the time required to file a response to a complaint, a counterclaim, crossclaim, or a third-party complaint if written application is made to the clerk of court beforehand. Additional extensions of

time may be granted by the court pursuant to Rule 6(B) of the Ohio Rules of Civil Procedure (or by written stipulation of the parties).

(E) Service shall be made in accordance with the applicable Ohio rules of procedure, whether civil or criminal. In civil cases, the bailiff will be the usual process server when court orders must be personally served.

(F) In any case, all motions, briefs, and memoranda in support shall be filed in duplicate with the clerk of court who shall then forward one copy to the assigned Judge's Courtroom Bailiff for referral to the assigned judge or magistrate. Any response to a motion shall be served within 17 days from the date the motion was filed, unless otherwise ordered by the court. Optional reply briefs must be filed within 10 days of the service of the response. Motions will normally be determined by the court without a hearing. The court may order a hearing on a motion at any time. The assignment commissioner shall notify all parties, in writing, of any ruling by the court except final and appealable orders for which the clerk shall serve all parties pursuant to Revised Code 2505.02.

(G) In all civil cases, when any party requests a continuance of a court event, such request must be filed in writing with the Clerk of Court under these rules at least seven calendar days before such court event and contain a certification by the moving party that either the other party or parties consent(s) to the request or has/have been notified of the request via telephone, facsimile, and e-mail, if such party(-ies) provided such contact information pursuant to Rule 14(B). It shall be the duty of the moving party to so notify the other party(-ies) of the Court's decision immediately upon receipt of the same in the same manner described above. Failure to do so may result in sanctions.

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**Rule 15**  
**CASE ASSIGNMENT CONSOLIDATION, AND TRANSFER**

(A) In all cases, the assignment commissioner will assign a case to a specific judge using a random selection method conforming with Rule 36(B)(1) of the Rules of Superintendence for the Courts of Ohio, or as otherwise provided in (C) below, except all housing cases, both civil and criminal, will be assigned to the housing judge.

(B) In civil cases, assignment will be made only after a responsive pleading or motion, other than one for default judgment, is filed by the defendant.

(C) In criminal and traffic cases, when a plea of not guilty is entered, the assignment commissioner will randomly assign the case to a specific judge except:

(1) If the defendant is on probation supervision, the new case shall be assigned to the "Link Judge." A Link Judge is established by an open probation file. On July 14, 2008, all probation files for each defendant will be consolidated to the judge who most recently placed the defendant on probation. On and after July 15, 2008, the Link Judge will not change until all probation supervision matters for a defendant are terminated.

(2) If the defendant is not on probation supervision and any other assigned case is pending involving the same defendant, the assignment office shall assign the new case to the judge with the oldest pending case as determined by the file stamp date.

(3) If a defendant has multiple charges with different case numbers, the cases will be assigned to a single judge.

(4) These cases will be set for pretrial or trial as provided for under Local Rules 19, 23, and 26.

(D) The assigned judge is responsible for all further matters in connection with the case.

(E) In criminal cases when more than one defendant is charged with a crime in which each is alleged to have acted in concert with another, a separate judge assignment will be made for each defendant unless the administrative judge approves, in writing, a written motion by the prosecutor or defense attorney to consolidate the charges.

(F) Any written motion for consolidation or transfer must include the reason for the request. Consolidations and transfers not approved in writing by the administrative judge are invalid and officially remain on the docket of the assigned judge. If a motion for consolidation or transfer is denied by the administrative judge, the cases shall remain officially assigned to the judge or judges to whom they were originally assigned.

(G) Except those cases assigned to the housing judge, in the unexpected absence of an assigned judge, the administrative judge may place that judge's case for trial or hearing on the docket of a different judge. The case is not transferred but remains assigned to the original judge who continues to be responsible for all further matters pertaining to the case.

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## **Rule 16**

### **APPEARANCE OF DEFENDANTS IN CRIMINAL CASES**

(A) Defendants in criminal cases shall be required to appear before the court by notice to appear, summons, arrest, or continuance from a former court date.

(B) When the defendant resides in the Toledo area (Lucas, Ottawa, Wood, and Fulton Counties, Ohio, and Bedford Township and Erie Township, Monroe County, Michigan), the citing officer shall issue a notice to appear as the standard means for requiring appearance in all traffic violations not involving intoxication or aggravated breaches of the peace by the defendant.

(C) A summons on forms approved by the court and available to police departments of the City of Toledo, Village of Ottawa Hills, Washington Township, the Lucas County Sheriff's Department, and State of Ohio Specialized Enforcement Forces shall be the standard means for requiring defendants to appear in criminal misdemeanor violations where it does not appear likely to the citing officer or prosecutor that a further aggravated breach of peace will occur.

(D) The prosecutor requesting a summons shall request the assignment commissioner to set a court date no more than 10 days from the date the complaint is filed to persons summoned to appear for arraignment in misdemeanor and felony cases as defendants.

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## **Rule 17**

### **APPEARANCE FOR TRAFFIC OR MINOR MISDEMEANORS**

(A) Those receiving traffic or minor misdemeanor citations in which a plea of guilty and payment of a set fine and costs may be mailed or paid to the clerk of court's office shall be given a court arraignment date by the citing officer no more than 10 calendar days from the date of citation unless the 10th day falls on a Saturday, Sunday, or court holiday. The court appearance for minor misdemeanors shall be scheduled for 1:00 p.m. in courtroom #4.

(B) Pursuant to Rule 4.1 of the Ohio Rules of Criminal Procedure, a defendant charged with a minor misdemeanor may, in lieu of appearing in court, sign a plea of guilty and pay out the fine in accordance with the schedule established by the court pursuant to Rule 4.1(E) and posted in the clerk of court's office.

(C) Those charged with operating a motor vehicle while under the influence of alcohol or any drug of abuse shall be given a court arraignment date no more than 5 calendar days from the date of the citation. Those charged as first offenders shall appear in courtroom #4 at 1:00 p.m. Repeat offenders shall appear in courtroom #4 at 9:00 a.m.

(D) All other traffic, including:

- (1) leaving the scene of an accident;
- (2) driving while under suspension or revocation of driver's or commercial driver's license;
- (3) driving without being licensed to drive, except where the driver's or commercial driver's license had been expired for six months or less;
- (4) a third moving traffic offense within a 12-month period;
- (5) failure to stop and remain standing upon meeting or overtaking a school bus stopped on the highway for the purpose of receiving or discharging a school child;
- (6) willfully eluding or fleeing a police officer;
- (7) drag racing;

and minor misdemeanor offenders shall be given a court arraignment date by the citing officer of at least 10 but not more than 14 calendar days from the date of citation at the 1:00 p.m. misdemeanor/traffic arraignment session.

(E) Where an on view stop by a citing officer would result in the issuance of a citation or complaint, of such a degree that a summons for a court appearance could be issued, and a record check of that person reveals active bench warrants on unrelated minor misdemeanors, the citing officer may issue a summons for those unrelated minor misdemeanors, in lieu of arrest.

The citing officer shall verify defendant's correct local address, phone number, and place of employment on the citation.

The citing officer shall inform the defendant that proof of compliance with the Financial Responsibility Act, Ohio Revised Code Chapter 4509, will be required at arraignment, and that a Bureau of Motor Vehicle report must be filed in the event of damage.

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## **Rule 18**

### **TRAFFIC COURT ARRAIGNMENT**

(A) At all traffic arraignments, defendants must be prepared to show proof of compliance with the Financial Responsibility Act, Ohio Revised Code, Chapter 4509.

(B) Minor misdemeanor traffic matters set for arraignment at the 1:00 p.m. docket, Monday through Friday, shall be conducted by the magistrate. In all other traffic cases, except repeat DWI offenses, arraignment shall be held before the magistrate at 1:00 p.m. in courtroom #4, Monday through Friday. The magistrate may take pleas of guilty, no contest or not guilty and, in minor misdemeanor cases, set fines as well as stays of execution. In other traffic cases, the magistrate may take pleas of guilty, no contest, and not guilty and recommend sentences as permitted in the Order of Reference. No defendant shall be required to have arraignment before a magistrate and may request the case reassigned to the duty judge for the same day.

(C) No magistrate shall make a finding of "not guilty" after a no contest plea is entered by the defendant or dismiss a case upon motion of the defendant without first allowing the prosecutor an opportunity to be heard. Pleas of not guilty shall be sent to the assignment commissioner for assignment to a trial judge.

(D) In traffic cases where not guilty pleas have been entered, the cases shall be assigned to a judge by lot and heard on the regular docket. Multiple charges against a defendant with different case numbers, as well as multiple charges against a defendant with the same case number, will be randomly assigned to a single judge. However, if any other case is pending trial involving the same defendant, the assignment office may assign all cases to the judge with the lowest numbered pending case. It shall be the responsibility of the attorney of record or the defendant acting pro se to present eligible cases for assignment. All cases, previously assigned and unassigned, must be presented at the same time for assignment to the lowest case number. These cases will be set for pretrial or trial as provided for under Local Rules 19, 23 and 26.

(E) All decisions and recommended penalties shall be adopted and affirmed by the presiding judge where no objections are filed. Objections to the magistrate's orders shall be filed, in writing, within 7 days after issuance of the order. Objections shall be referred to the duty judge for review.

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**Rule 19**  
**MISDEMEANOR ARRAIGNMENT**

(A) All in-custody criminal and traffic arraignment cases will be heard in courtroom #4 beginning 9:00 a.m., Monday through Friday.

(B) In cases where persons are out of custody and charged with the following offenses: vehicular homicide, negligent homicide, assault, menacing by stalking, aggravated menacing, menacing, arson, domestic violence, violation of a temporary protection order, intimidation of a crime victim/witness and repeat offenses of driving while under the influence of alcohol and/or drugs; arraignments will be heard in courtroom #4 beginning at 9:00 a.m., Monday through Friday.

(C) In cases where motions for temporary protection orders have been filed, the hearings will be held pursuant to statute in courtroom #4 beginning at 9:00 a.m., Monday through Friday.

(D) All other criminal and traffic misdemeanor arraignments will be heard by a magistrate in courtroom #4 beginning at 1:00 p.m., Monday through Friday.

(E) After giving all defendants an explanation of their rights, including the right to have counsel appointed if they are eligible, the judge or magistrate hearing misdemeanor arraignments may receive pleas of guilty, no contest, or not guilty. Magistrates accepting pleas may recommend sentences as provided in the court's Order of Reference. No plea shall be accepted by a magistrate without the defendant signing a waiver, of the defendants' right to a trial by judge or jury and agreeing to have a magistrate hear the defendant's case. In addition, in all M-1 through M-4 cases where the defendant is not represented by counsel, a waiver of attorney form is also required. No defendant shall be required to have an arraignment before a magistrate and may request the case be re-assigned to the duty judge for the same day. The defendant may have one continuance to obtain counsel for arraignment and further continuances only upon approval of the misdemeanor judge or magistrate or the duty judge.

(F) If a plea of not guilty is entered, the case shall be referred to the assignment commissioner for a trial date and a prosecutor pretrial if requested by the defendant. The assignment commissioner shall note the trial date on the complaint (affidavit) and then notify the prosecutor and complainant, and if they have not yet been notified, defendant and defense counsel, if any.

(G) All decisions and recommended penalties shall be adopted and affirmed by the presiding judge where no objections are filed. A motion to set aside the magistrate's order shall be filed, in writing, within fourteen (14) days after issuance of the order. A motion to set aside the magistrate's order shall be referred to the duty judge for ruling. The court may adopt the magistrate's decision and enter judgment if no written objections are filed or the parties have waived the filing of objections in writing or on the record in open court, unless the court determines that there is an error of law or other defect on the face of the magistrate's decision. No sentence recommended by a magistrate shall be enforced until the court has entered judgment.

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**Rule 20**  
**FELONY ARRAIGNMENT**

(A) Arraignment of felony cases will be heard in courtroom #3, 9:00 a.m., Monday through Friday. Custody cases will be arraigned first. The court shall set bail, grant a continuance if requested, accept waiver of preliminary examination if offered, or assign a date and time mutually convenient and within time limits for a preliminary examination, or enter a nolle prosequi at the request of the prosecutor.

(B) When in session on Saturdays, as set forth in Local Rule 2, “Court Sessions”, the felony arraignment session shall be merged with the misdemeanor session to be heard in courtroom #4, but no preliminary examinations shall be held.

(C) When a defendant is charged with more than one violation, including a felony, all matters related to the felony, including misdemeanors, shall be handled by the felony judge. All matters unrelated to the felony, including unassigned traffic, criminal cases, and unrelated bench warrants, may be brought before the judge of the misdemeanor session in courtroom #4.

(D) No defendant who has posted satisfactory bail in the Municipal Court or the Court of Common Pleas on a felony charge shall be held in custody to answer for contemporaneously filed misdemeanor charges.

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**Rule 21**  
**BENCH WARRANTS**

(A) Defendants who fail to appear in court for the first time who have properly been notified to appear for arraignment by means of citation or summons and for whom there is a mandatory court appearance may have bench warrants issued against them by the court.

(B) In those minor misdemeanor cases where defendants do not have a mandatory court appearance and fail to pay the fine and costs or to appear, bench warrants will be issued after 7 calendar days (or the next working day if the 7th day is not a working day), and the case will be referred to an authorized agency for collection, with the appropriate fee being assessed.

(C) In the case of bailed persons who fail to appear, the court shall issue a bench warrant and order a forfeiture of the bond posted.

(D) In cases where the defendant has failed to appear at the end of a stay of a jail sentence, the judge shall order the sentence enforced and further, that a bench warrant be issued for the arrest of the defendant.

(E) Where the court has issued a warrant for the arrest of a person who has previously failed to answer a notice to appear, citation, or summons, or where the court has issued a bench warrant upon the failure of a person to appear in accordance with bail release conditions, upon the apprehension or appearance of defendant upon the warrant, the case shall be brought before the next session of the court, whether or not the defendant is re-released on bond.

(F) In cases of defendants given a notice to appear, citation, or summons to court, who have been previously notified in accordance with Rule 19, an arrest warrant shall issue, subject to proof of service.

(G) In civil cases, bench warrants may be served by the bailiff.

(H) A fee of \$15.00 shall be applied to the case upon the issuance of a bench warrant.

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**Rule 22**  
**BAIL**

(A) Persons arrested and in the custody of the Lucas County sheriff before 9:00 a.m. shall be brought before the appropriate session of the court on the same day as the arrest, excepting most weekends and court holidays. Persons in custody who cannot be brought before one of the arraignment sessions within 4 hours shall have bail set either in accordance with the standard bail schedule established by the court pursuant to Rule 46 of the Ohio Rules of Criminal Procedure, or by order of the felony judge or any other judge of the court if the felony judge is unavailable. Bail may be posted with the clerk of court by credit card of recognized and established issuers.

(B) Bail set ex parte by a judge when court is not in session, or set by the standard bail schedule, shall not, remain in effect beyond the next regularly scheduled court session when a bail hearing shall be given the defendant. At the bail hearing, defendant, defendant's attorney, and the prosecutor may discuss reasonable bail, and the court will give careful consideration to reports which show a defendant's prior offense record.

(C) Defendants charged with misdemeanors who post bond with the clerk of court and are released shall be given a written notice to appear at the time and place of their arraignment. The notice shall also advise defendant of the right to counsel. The clerk shall not set an arraignment appearance date beyond 10 days, except that in cases where the charge is operating a motor vehicle under the influence of alcohol or any drug of abuse, arraignment must be set within 5 days of the arrest. The clerk shall also note the scheduled appearance date on the complaint (affidavit). Defendants released in accordance with Rule 4(F) of the Ohio Rules of Criminal Procedure shall be given a similar court date.

(D) Persons charged with a felony who are released on bail shall appear at a time and date set by the judge setting the bond or at a time and date set by the clerk of court.

(E) The bond schedule for the Toledo Municipal Court is as follows:

**A \$25.00 surcharge must be added on all bail postings consistent with House Bill 1, 128<sup>th</sup> General Assembly, Revised Code Section 2937.22.**

First Degree Misdemeanor	Local	\$ 500.00
	Ohio Resident	\$1000.00
	Out of State	\$5000.00
Second Degree Misdemeanor	Local	\$ 250.00
	Ohio Resident	\$ 500.00
	Out of State	\$2500.00
Third Degree Misdemeanor	Local	\$ 200.00
	Ohio Resident	\$ 400.00
	Out of State	\$1000.00
Fourth Degree Misdemeanor	Local	\$ 100.00
	Ohio Resident	\$ 200.00
	Out of State	\$1000.00

Minor Misdemeanor

Local	\$ 50.00
Ohio Resident	\$ 75.00
Out of State	\$ 250.00

This schedule shall not apply to any crime involving a human victim: Domestic Violence (M1 and M4), Assault, Child Endangering, Aggravated Menacing, Menacing, Violations of TPO, and Telephone Harassment. All such charges require judicial determination of bond.

Local: Lucas, Wood, Fulton, Ottawa Counties

Ohio: Shall also include Monroe County, Michigan

Out of State: Shall not include residents of other countries, whose bond must be set by a Judge.

**None of the bonds set above shall be posted at 10% without independent judicial determination.**

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## **Rule 23**

### **CRIMINAL PRETRIAL PROCEEDINGS**

(A) A prosecutor's pretrial will be set in any criminal or traffic case after a not guilty plea is entered and the assignment of a judge pursuant to Rule 15(C), unless speedy time is not waived and the defendant is in custody or in cases of a minor misdemeanor or when there is insufficient time to set both a pretrial and trial date within time pursuant to O.R.C. §2925.72. Defendant's failure to appear at a pretrial without just cause shall be grounds for a bench warrant.

(B) If not verbally made part of the court record, the prosecutor shall complete a written form stating the proposed settlement agreement, if any. The dated agreement shall be signed by both the prosecutor and defense counsel or defendant, if unrepresented, and shall note the presence or nonappearance of the complainant. The completed pretrial form and complaint (affidavit) shall then be taken to the assigned judge for consideration of the proposed settlement agreement. If the court approves the settlement agreement, a plea shall be entered and the trial date vacated. If the proposed agreement is not approved by the court, the case will be continued to the trial date, or set for further proceedings as the Court may direct.

(C) All motions shall be made on the record to the assigned judge. Continuances for pretrial will not be charged to the defendant in computing time limits, except as otherwise noted on the affidavit.

(D) All motions in criminal cases shall be governed by Rule 12 of the Ohio Rules of Criminal Procedure. Whenever a motion is filed, the clerk of court shall immediately transmit the motion to the assigned judge by delivering same to the assignment commissioner.

(E) A party shall, at the time of filing a motion, serve upon the opposing party a copy of the motion with supporting statement or memorandum and shall file proof of service with the clerk of court.

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## **Rule 24**

### **CASE MANAGEMENT PROGRAM**

(A) Pursuant to Rule 5(B)(1) of the Rules of Superintendence for the Courts of Ohio, requiring an early case management conference: In all civil cases other than FED's (first causes), and cases eligible for default judgment, a case management conference will be scheduled. Said conference will be initiated by the court and may be by telephone or otherwise as agreed to by the parties, or directed by the court. All parties or their attorneys of record at said case management conference shall indicate to the court that:

(1) A Certificate of Readiness for assignment of trial date signed by all parties will be filed by that date or within 30 days of said management conference.

(2) That the case is not ready for trial and the approximate time needed to complete discovery and/or to submit pretrial motions. The case will then be continued to a specific date for review by the judge assigned.

(3) That a pretrial conference hearing would be beneficial and a pretrial conference hearing date will be set.

(4) That the case, being appropriate for early dispute resolution, is referred for that purpose to the Citizens Dispute Settlement Program (CDSP).

(5) If all parties or their attorneys do not participate on the date assigned, the case will be referred to the assigned judge for further action at the judge's discretion.

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**Rule 25**  
**CIVIL PRETRIALS**

(A) In any civil action, the court may, in its discretion, with or without request or motion of a party, assign the case for pretrial conference. The assignment commissioner shall notify all counsel of record and any unrepresented parties, of the time and place of the pretrial conference. The parties and their counsel, if they are represented, shall appear before the court fully prepared to discuss and consider the following:

- (1) possibility of settlement of the case;
- (2) if a jury demand has been requested, the possibility of waiver of jury demand;
- (3) amendments to pleadings and outstanding motions;
- (4) any existing discovery problems;
- (5) stipulations of facts;
- (6) need for expert witnesses;
- (7) need for trial briefs;
- (8) determination of trial date and time required for trial;
- (9) jury instructions.

(B) The court may prepare a written order reciting the action taken at the pretrial conference. The order, when filed, shall control the subsequent proceedings in the case unless it is modified in order to prevent manifest injustice to any of the parties.

(C) Unless a settlement is agreed upon in the pretrial conference, the court shall not refer to any settlement negotiation either directly or indirectly in any later proceedings.

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**Rule 26**  
**TRIAL ASSIGNMENTS**

(A) The assignment commissioner shall schedule criminal cases within the time limits of Ohio Revised Code, Section 2945.71. Any request by a defense attorney or the prosecutor to set a criminal trial date beyond legal time limits must be in writing and must state the reason for the request. A written waiver of time, once made, constitutes a waiver of time for the duration of the whole case, not just until the next available trial. The only valid procedure for withdrawing the written waiver or for objecting to any further continuance is for the defendant to file with the trial court a formal written notice of withdrawal of the waiver or a written objection to further continuances coupled with a trial demand. Such motion shall be ruled upon the assigned judge. Pending the ruling, the assignment commissioner shall set a trial date within legal time limits.

(B) Except in eviction matters, where upon oral motion a continuance of up to 8 days may be granted under Ohio Revised Code, Section 1923.08, no party shall be granted a continuance of a trial or hearing date without a written motion from the party or counsel stating the reason for continuance and noting the approval or objection of opposing counsel. Except for emergencies, no continuance will be granted within 5 days of the trial date. Upon vacation of a trial date, the assignment commissioner shall be notified.

(C) Each day, lists of cases scheduled to be tried in a judge's trial or felony session shall be posted conspicuously on each of the 4 floors in the Municipal Court building and shall be provided to each judge.

(D) The Legal News will publish daily the civil trial and pretrial assignments for the following week.

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## **Rule 27**

### **JURY TRIALS AND JURY MANAGEMENT PLAN**

(A) A criminal defendant charged with other than a minor misdemeanor is entitled to a jury of 8 pursuant to Rule 23(A) of the Ohio Rules of Criminal Procedure. In serious offense cases the defendant before commencement of the trial may knowingly, intelligently and voluntarily waive in writing his right to trial by jury. Such waiver may also be made during trial with the approval of the court and the consent of the prosecuting attorney. In petty offense cases, where there is a right of jury trial, the defendant shall be tried by the court unless he demands a jury trial. Such demand must be in writing and filed with the clerk of court not less than 10 days prior to the date set for trial, or on or before the third day following receipt of notice of the date set for trial, whichever is later. Failure to demand a jury trial as provided in this subdivision is a complete waiver of the right thereto.

(B) In a civil case, other than forcible entry and detainer actions, either party may demand a trial by jury with time specified by Rule 38 of the Ohio Rules of Civil Procedure by first filing a deposit of \$200.00 toward jury costs with the clerk of court. In forcible entry and detainer actions, a demand for trial by jury under Ohio Revised Code, Section 1923.10, shall be made and the jury cost deposit of \$200.00 shall be deposited with the clerk of court no later than 3 days before the date set for hearing. In any civil jury case, counsel for plaintiff must file a trial brief with the Clerk at least 20 days before the date of trial. Copies of the trial brief must be certified to all opposing counsel or parties unrepresented by counsel. Reply briefs must be filed with the clerk of court at least 10 days before the date of trial with copies certified to all opposing counsel or unrepresented parties. Said costs shall be refunded pursuant to Ohio Revised Code, Section 1901.26(A)(7).

(C) The costs of a jury trial shall include the costs for jurors charged to Toledo Municipal Court by the Lucas County Court of Common Pleas. The party demanding a jury shall be required to deposit an additional \$200.00 within 14 days after the receipt of a trial date and shall be charged with full jury costs regardless of the service of the jurors on a case unless a jury demand is withdrawn in writing pursuant to Rule 38(D) of the Ohio Rules of Civil Procedure before noon the prior business day before the scheduled trial date. If the jury demand is not withdrawn with the consent of all the parties in accordance with Rule 38(D) of the Ohio Rules of Civil Procedure, and a jury is called, the jury costs shall be assessed to the party that made the jury demand. Defendants who are acquitted in criminal trials will not be charged jury costs. As required by Ohio Revised Code Section 2947.23, in all criminal cases, the judge shall include in a sentence the costs of the prosecution and if a jury has been sworn, the fees of the jurors shall be included in the costs.

(D) Pursuant to Rule 5(B)(2) of the Rules of Superintendence for the Courts of Ohio, the court has adopted and implemented the following Jury Management Plan for the purposes of ensuring the efficient and effective use and management of jury resources. To that end, the Toledo Municipal Court has an agreement with the Lucas County Court of Common Pleas to provide, administer, and manage jury resources.

(1) Opportunity for Service. The opportunity for jury service shall not be denied or limited on the basis of race, national origin, gender, age, religious belief, income, occupation, disability, or any other factor that discriminates against a cognizable group in the jurisdiction. Jury service is an obligation of all qualified citizens. The court shall make reasonable accommodations for those jurors having special needs due to a physical impairment.

(2) Jury Source List. The names of potential jurors shall be drawn from a jury source list compiled from registered voters in Lucas County, Ohio. This list is maintained by the Lucas County Board of Elections. The list shall be representative and as inclusive of the adult population in the jurisdiction as is feasible. The Common Pleas Court will periodically request the Lucas County Board of Elections to review the Voter's Registration List to ensure the list is representative and inclusive of the adult population in Lucas County. If improvement is needed in the representativeness or inclusiveness of the source list, appropriate corrective action shall be taken. On a quarterly basis, the Lucas County Common Pleas Court will evaluate the demographic profile of jurors reporting for service. This will be used as an indicator of the representativeness and inclusiveness of the jury source list.

(3) Random Selection Procedures. Random selection procedures shall be used throughout the juror selection process pursuant to the agreement with the Lucas County Court of Common Pleas.

(4) Eligibility for Jury Service. All persons shall be eligible for jury service except those who are less than 18 years of age, are not citizens of the United States, are not residents of the jurisdiction, are not able to communicate in the English language, or have been convicted of a felony and have not had their civil rights restored.

(5) Term of and Availability for Jury Service. The time that persons are called upon to perform jury service and to be available is the shortest period consistent with the needs of justice. Citizens shall be called upon to perform jury service for a term of 2 days or the completion of 1 trial, whichever is longer. Persons are not required to maintain a status of availability for jury service for longer than 2 days.

(6) Exemption, Excuse, and Deferral. Eligible persons who are summoned for jury service may be excused from jury service only if: (a) their ability to receive and evaluate information is so impaired that they are unable to perform their duties as jurors and they are excused for this reason; or (b) they request to be excused because their service would be a continuing hardship to them or to members of the public and they are excused by the Lucas County Common Pleas Court. Deferrals for jury service for reasonably short periods of time may be permitted by that court. Requests for excuses, deferrals, and disqualifications and their disposition are recorded by that court.

(7) Voir Dire. Voir dire examination shall be limited to matters relevant to determining whether to remove a juror for cause and to determine the juror's fairness and impartiality. To reduce the time required for voir dire, basic background information contained on any juror questionnaire regarding panel members shall be made available to counsel in writing for each party on the day on which jury selection is to begin. This background information shall be handled in a manner to ensure privacy. When prospective jurors are initially sworn, the oath shall also indicate that the answers to any jury questionnaire are true. The trial judge may conduct a preliminary voir dire examination. Counsel shall then be permitted to question panel members for a reasonable period of time. The judge shall ensure that the privacy of prospective jurors is reasonably protected and the questioning is consistent with the purposes of the voir dire process. In criminal cases, the voir dire process shall be held on the record. In civil cases, the voir dire

process shall be held on the record unless waived by the parties.

(8) Removal from the Jury Panel for Cause. If the judge determines during the voir dire process that any individual is unable or unwilling to hear the particular case at issue fairly and impartially, that individual shall be removed from the panel. Such a determination may be made on motion of counsel or by the judge.

(9) Peremptory Challenges. The exercise of peremptory challenges shall be in accordance with the Ohio Revised Code, Civil Rules, and Criminal Rules.

(10) The responsibility for administration of the jury system is vested exclusively in the judiciary. All procedures concerning jury selection and service shall be governed by Ohio Rules of Court. Responsibility for administering the jury system is vested in the Court Administrator of the Lucas County Court of Common Pleas acting under the supervision of the administrative judge of the Lucas County Court of Common Pleas.

(11) Notification and Summoning Procedures. The notice summoning a person to jury service shall be done by the Lucas County Court of Common Pleas pursuant to the agreement between Toledo Municipal Court and Lucas County Court of Common Pleas.

(12) Monitoring the Jury System. The Lucas County Court of Common Pleas collects and analyzes information regarding the performance of the jury system on a regular basis in order to evaluate the representativeness and inclusiveness of the jury source list, the effectiveness of qualification and summoning procedures, the responsiveness of individual citizens to jury duty summonses, the efficient use of jurors, and the cost-effectiveness of the jury management system.

(13) Juror Use. The Lucas County Court of Common Pleas will determine the minimally sufficient number of jurors needed to accommodate trial activity and Toledo Municipal Court will coordinate with the Court Administrator of Lucas County Court of Common Pleas to make effective use of jurors pursuant to the agreement. If there are not enough persons to constitute the required panel, the court may order the panel filled from the bystanders, or from among the citizens from within the territorial jurisdiction of this court, or may order additional jurors from the Jury Commissioner of Lucas County.

(14) Jury Facilities. The court shall provide an adequate and suitable environment for jurors. The jury deliberation rooms shall include space, furnishings, and facilities conducive to reaching a fair verdict. The safety and security of the deliberation rooms shall be ensured. To the extent feasible, juror facilities are arranged to minimize contact between jurors, parties, counsel, and the public.

(15) Juror Compensation. Persons called for jury service shall promptly receive a reasonable fee for their service. Employers are prohibited from discharging, laying-off, denying advancement opportunities to, or otherwise penalizing employees who miss work because of jury service.

(16) Juror Orientation and Instruction. Juror orientation is designed to increase prospective jurors' understanding of the judicial system and prepare them to serve competently as jurors. Juror orientation shall be presented in a uniform manner using a combination of written, oral, and audiovisual materials. The Lucas County Common Pleas Court, pursuant to the agreement, shall provide some form of orientation or instructions to persons called for jury service upon initial contact prior to service and upon first appearance at the Common Pleas Court for juror orientation.

The trial judge shall give preliminary instructions to all prospective jurors upon reporting to a courtroom for voir dire.

The trial judge shall give instructions directly following impanelment of the jury to explain

the jury's role, the trial procedures including note taking and questioning by jurors, the nature of evidence and its evaluation, the issues to be addressed, and the basic relevant legal principles. Prior to the commencement of deliberations, the trial judge shall instruct the jury on the law, on the appropriate procedures to be followed during deliberations, and on the appropriate method for reporting the results of its deliberations. The trial judge shall within his or her discretion, make available to the jurors such written instructions during deliberations.

Before dismissing a jury at the conclusion of a case, the trial judge shall release jurors from their duty of confidentiality, explain their rights regarding inquiries from counsel or the press, and either advise them that they are discharged from service or specify where they must report.

All communication between the judge and members of the jury panel from the time of reporting to the courtroom for voir dire until dismissal shall be in writing or on the record in open court. Counsel for each party shall be informed of such communication and given the opportunity to be heard.

(17) Jury Size and Unanimity of Verdict. Jury size and unanimity in civil and criminal cases shall conform with existing Ohio law.

(18) Jury Deliberations. Jury deliberations shall take place under conditions and pursuant to procedures to ensure impartiality, secrecy, and to enhance rational decision-making. A jury should not be required to deliberate after a reasonable hour unless the trial judge determines that evening or weekend deliberations would not impose an undue hardship upon the jurors and are required in the interest of justice. Training shall be provided to personnel who escort and assist jurors during deliberation. Counsel and appropriate court personnel shall remain readily available during jury deliberations.

(19) Sequestration of Jurors. A jury shall be sequestered only for good cause, including but not limited to insulating its members from improper information or influences. The trial judge shall have the discretion to sequester a jury on the motion of counsel or on the judge's initiative and shall have the responsibility to oversee the conditions of sequestration. Training shall be provided to personnel who escort and assist jurors during sequestration.

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## **Rule 28**

### **WITNESSES AND SUBPOENAS**

(A) Witnesses must answer to their names or otherwise claim their attendance each day of trial or hearing in order to be entitled to witness fees.

(B) The clerk of court, criminal division, shall process subpoenas from a praecipe, filed at least 10 days in advance of the trial date. Subpoenas shall be served as follows:

(1) When a subpoena praecipe has been filed, except for members of the Toledo Police Division, all persons shall be served by regular U.S. postal service. The envelope shall bear a request for return to the clerk of court's office if it is not delivered at once. The clerk shall make a return on the reverse side of the subpoena showing the name and address where the subpoena was served. When the envelope containing the subpoena is returned by the U.S. postal service showing failure of delivery, the clerk shall attach the envelope to the complaint.

(2) Service of subpoenas to members of the Toledo Police Division shall be by delivery from the clerk of court's office to the desk lieutenant of the Toledo Police Division. The desk lieutenant shall make service and return in an appropriate manner.

(3) In any case, service of subpoena may be made by an attorney-at-law or by any person designated by the court pursuant to Rule 45 (B) of the Ohio Rules of Civil Procedure or Rule 17(D) of the Ohio Rules of Criminal Procedure. In civil cases, service of subpoena may be made by the bailiff's office.

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## **Rule 29**

### **DEFAULT JUDGMENT, DISMISSALS, AND REINSTATEMENTS**

(A) In a civil case, when the defendant is in default for appearance or answer, judgment shall be rendered in accordance with Rule 55(A) of the Ohio Rules of Civil Procedure.

(B) If the defendant has failed to plead or otherwise defend (having entered no appearance), the court may grant a default judgment immediately upon written or oral motion in a case involving a liquidated claim.

(C) If the defendant has failed to plead or otherwise defend, the court may grant a default judgment in the amount of the prayer if the action is for recovery of money only arising out of damages to personal property and if an affidavit with supporting documentation signed by a party with actual knowledge is filed verifying that the prayer of the complaint reflects a reasonable cost of repairing the property or its diminution in value, whichever is less.

(D) In a forcible entry and detainer action, if the defendant has failed to appear or otherwise defend on the second cause of action, default judgment may be entered upon oral or written motion when judgment is to be based upon a liquidated claim and when the motion is accompanied by an affidavit with supporting documentation signed by a party with actual knowledge verifying that the amount is accurate. A second cause of action claiming unliquidated damages will be set for an assessment hearing by the assignment commissioner before the housing court judge.

(E) There are no costs assessed or collected for filing a written motion for default judgment. The parties seeking relief by default judgment shall file with the clerk of court an affidavit in compliance with the Soldier's and Sailor's Civil Relief Act, 50 U.S.C. Section 520(1). Failure to file proper affidavits shall render the judgment voidable as provided by federal law.

(F) If defendant has entered an appearance in the action, in accordance with Civil Rule 55(A), a hearing shall be set on the application for the default judgment with defendant or defendant's representative being given at least 14 days notice before the hearing date.

(G) Except for cases awaiting trial, civil cases on the docket for 6 months without any proceedings shall be dismissed in accordance with Rules of Superintendence for the Courts of Ohio 40(A) after written notice to counsel of record, or to the plaintiff if plaintiff is unrepresented. If notice of dismissal is returned as undeliverable, the clerk will record this on the docket, and the case may be dismissed after notice is published in the Toledo Legal News, the official court journal. Notices on cases dismissed for want of prosecution pursuant to this rule will be by publication only in the Toledo Legal News.

(H) When the court dismisses an action without prejudice for want of prosecution, for failure to comply with an order of the court, or by the plaintiff voluntarily, all proceedings by the plaintiff in any later suit upon the same cause of action shall be stayed until the costs of the former action are paid, unless otherwise ordered by the court.

(I) Cases dismissed under this rule may be reinstated only upon written motion filed within 90 days of the dismissal and upon showing of good cause. If a motion to reinstate is granted, the movant shall pay appropriate filing fees to the clerk of court within 10 days from the date motion is granted. Upon full payment of costs, the clerk of court shall assign a new case number, but cases which have been reinstated shall remain on the docket of the originally assigned judge.

(J) The clerk of court shall not accept a conditional order of revivor of judgment until all accrued costs are paid.

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**Rule 30**  
**WORK RELEASE**

(A) A judge may sentence individuals who indicate they are currently employed to the Lucas County Common Pleas Court Work Release Program upon a proper funding agreement reached by and between the Lucas County Commissioners and appropriate city officials. Individuals are allowed to complete their term of incarceration in the Division of Work Release during good behavior as an alternative to incarceration in the Lucas County Corrections Center or the Corrections Center of Northwest Ohio.

(B) The Work Release Division Supervisor may refuse to accept an individual who does not meet established divisional policies.

(C) The Division Supervisor may order removal of any resident from the program to the Lucas County Corrections Center or CCNO for infractions of the Work Release regulations and may place residents under house arrest for violations of regulations. The Division Supervisor shall report such removal or house arrest to the sentencing judge for further action within the next working day.

(D) Nothing in this Rule shall be inconsistent with the policies and practices of the Division of Work Release or Rule 22 of the Rules of Practice of the Lucas County Court of Common Pleas, General Trial Division.

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### **Rule 31**

#### **POST-JUDGMENT PROCEEDINGS**

(A) Filing of a satisfaction of judgment entry with the clerk of court approved by plaintiff or plaintiff's attorney of record will satisfy judgments of this court. In the alternative, judgments may also be satisfied by plaintiff or plaintiff's attorney's endorsement on the civil docket and the presence of the clerk of court or one of the judges, and attested by the clerk of court or judge.

(B) Proceedings in aid of execution will be held on Wednesdays in courtroom #1 in accordance with the following schedule: first, third, and fifth Wednesdays of the month at 9:00 a.m.; second and fourth Wednesdays at 3:00 p.m. Contested matters are to be referred to the duty judge. Judgment debtors who have been personally served and yet fail to appear may be held in contempt of court with a bench warrant being issued for their arrest.

(C) If more than one garnishment is filed against a debtor on a specific day, the earlier time-stamped garnishment will have priority over the later filed.

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**Rule 32**  
**TRUSTEESHIP**

The following rules are promulgated pursuant to Ohio Revised Code, Section 2329.70:

(1) No payment will be accepted from a debtor without a payroll check stub or payroll statement of earnings.

(2) Debtor's payments must be made either in cash, with bank drafts, or by money order.

(3) Individuals with active trusteeship accounts must immediately notify the trustee clerk of any change in their work status, job, or personal address.

(4) A trusteeship account will be automatically canceled if there has been no payment received or no change in work status reported within 30 days of the last recorded payment.

(5) Debtors must make a minimum payment of \$3.00 from each check received regardless of the length of time worked.

(6) Interest must be paid outside of trusteeship on any interest-bearing accounts listed on the trusteeship account.

(7) The only creditors which may be added to existing trusteeship accounts shall be those which were past due and owed by the debtor at the time of filing the trusteeship but were not listed due to mistake, and any medical bills acquired by the debtor before or after the filing of trusteeship.

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**Rule 33**  
**SMALL CLAIMS**

(A) Any plaintiff may file in Small Claims for the recovery of money only when the prayer does not exceed \$3000.00. Small Claims proceedings shall be governed by Ohio Revised Code Chapter 1925. Cases will initially be heard by a magistrate of the court with sessions set by the administrative judge. Any change in the schedule of Small Claims hearings will be published in the Toledo Legal News.

(B) In all claims where defendant appears personally or through counsel or files an answer, the case will be assigned to the magistrates' Small Claims trial docket without further deposit of costs. Any written document received from the defendant before hearing will be construed to be an answer, and is to be considered as such in any application for a default judgment.

(C) A corporation may, through any bona fide corporate officer or salaried employee, file and present its claim or defense in any action in a small claims division arising from a claim based on a contract to which the corporation is an original party or any other claim to which the corporation is an original claimant, provided such corporation does not engage in cross examination, argument, or other acts of advocacy (Ohio Revised Code Section 1925.17).

(D) In all unliquidated damage cases in which the defendant has failed to appear or answer, the plaintiff shall have judgment in the same manner as provided in Rule 29 with regard to supporting documentation verified by affidavit or sworn testimony of the plaintiff.

(E) Once a hearing has been set before the magistrate, motions for a continuance must be filed within 7 days before the hearing.

(F) The Small Claims magistrate will conduct all proceedings in accordance with Ohio Revised Code Chapter 1925. The Ohio Rules of Evidence do not apply but certain rules of civil procedure do apply (Ohio Revised Code, Section 1925.16). No depositions or interrogatories shall be taken in Small Claims cases except by leave of the court, and all relevant evidence shall be admitted at the discretion of the magistrate.

(G) In all contested matters, the magistrate shall prepare, sign, and file a magistrate's decision with the clerk who shall serve copies on all the parties or their attorneys. If any party makes a request for findings of fact and conclusions of law under Civil Rule 52, the magistrate's decision shall include proposed findings of fact and conclusions of law.

Within 14 days of filing of a magistrate's decision, a party may file written objections to the magistrate's decision. If any party timely files objections any other party may also file objections not later than 10 days after the first objections are filed. If a party makes 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. Any extension must satisfy Civil Rule 53(E)(3).

Following the 14-day objection period, the magistrate's decision together with any motions and objections submitted by any party will be submitted to the duty judge who will then adopt, reject, or modify the magistrate's decision, hear additional evidence, recommit the matter to the magistrate with instructions, or hear the matter. If the judge orders a new hearing or if there are any post-judgment motions, those matters shall be referred to the judge who ruled on the magistrate's recommendations.

(H) If any defendant defaults on payments which have been ordered by the court, plaintiff may file garnishment or executions.

(I) Transfer - Crossclaims or counterclaims exceeding \$3000.00 shall be transferred to the regular docket. Motions to transfer a small claims case to the regular docket in the amount of

\$3000.00 or less shall be referred to the administrative judge for ruling. Where cases have been transferred to the regular civil docket, the party causing the transfer shall be required to pay the appropriate filing fee to the clerk within 10 days of the granting of the motion. Failure to pay the fee on time will cause the case to be assigned a new hearing date on the Small Claims docket.

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**Rule 34**  
**HOUSING CASES**

(A) In criminal matters, the housing court judge will hear arraignments, trials, motions, and sentencings.

(B) Building inspection cases will be heard at the 9:00 a.m. sessions. Health department, fire department, and police division cases will be heard at the 1:30 p.m. sessions. Jury trials will be scheduled on the regular jury docket of the housing judge.

(C) In civil matters, the housing referee will hear forcible entry and detainer actions under Ohio Revised Code Chapter 1923, Monday through Friday at 1:30 p.m. Rent escrow matters under Ohio Revised Code Chapters 5321 and 3733 as well as matters arising under Ohio Revised Code, Section 1923.15 will be heard by the housing referee, Monday, Tuesday, Thursday, and Friday at 2:00 p.m.

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**Rule 35**  
**LANDLORD/TENANT ACTIONS**

(A) Forcible Entry and Detainer

(1) In forcible entry and detainer (FED) actions under Ohio Revised Code Chapter 1923, summons shall be issued in the form as specified in section 1923.06(B) of the Ohio Revised Code and shall be served as in the Rules of Civil Procedure, except as set forth in subsection (3) therein. Service of summons shall be made at least 5 days before the hearing date.

(2) The summons shall state the hearing date to be 14 days from date of filing or as close thereafter as the court's docket permits, unless plaintiff requests a later hearing date in writing at the time of filing the complaint.

(3) Plaintiff shall request the Clerk to cause service of process for each defendant to be made by bailiff service and by ordinary mail service. If the plaintiff so requests, the Clerk shall also cause service by certified mail.

(a) The bailiff shall effect service at the premises that are the subject of the forcible entry and detainer action by the following means:

(1) The bailiff shall make service of process by locating the person to be served and tendering a copy of the summons and complaint to the person to be served (personal service) or shall leave a copy of the summons and complaint at the usual place of residence of the person to be served with some person of suitable age and discretion then residing therein (residence service).

(2) If the bailiff is unable to effect personal or residence service, the bailiff shall post the summons and complaint in a conspicuous place at the subject premises.

(b) The Clerk shall mail one copy of the summons and complaint by ordinary mail, certificate of mailing, to the address(es) set forth in the caption of the complaint and to any address(es) set forth in written instructions. If requested, the clerk shall mail by certified mail, return receipt requested, a copy of the summons, complaint, document, or other process to be served to the address set forth in the caption of the summons and to any address(es) set forth in any written instructions furnished to the clerk. The Clerk shall instruct the post office to return the certified mail within 10 days of mailing.

(c) Service of process shall be deemed complete on the date that either of the following has occurred:

(1) Service is made pursuant to section (A)(3)(a)(1) of this rule.

(2) Both ordinary mail service under section (A)(3)(b) and service by posting pursuant to section (A)(3)(a)(2) have been made.

(3) For service performed pursuant to certified mailing as described in this rule, on the date of mailing, if on the date of the hearing either of the following applies:

(a) The certified mail has not been returned for any reason other than refused or unclaimed.

(b) The certified mail has not been endorsed, and the ordinary mail has not been returned.

(4) Return of service of summons shall be made at least 3 court days before the hearing date. If service has not been completed and return made as provided herein, the plaintiff shall request that alias service be made, and the new summons shall state the hearing date as in (A)(2) above.

(5) The plaintiff shall furnish the Clerk with one original and two copies of the complaint for each defendant, unless the plaintiff requests service by certified mail in which case

the plaintiff must furnish the Clerk with an additional copy of the complaint for each defendant. The plaintiff shall staple to each original and to all service copies of the complaint any exhibits required to be attached to the pleading pursuant to Civ.R. 10(D). The Clerk may refuse to accept any pleadings that do not conform to this section.

(6) A demand for trial by jury under Section 1923.10 of the Ohio Revised Code shall be filed no later than 3 court days before the hearing date. Non-jury cases will be heard by the housing magistrate. No continuance shall be granted longer than 8 days but for good cause and only in accordance with Section 1923.08 of the Ohio Revised Code. At the time of hearing, both the plaintiff and plaintiff's attorney, if plaintiff is represented, shall be present in court or the case may be dismissed.

(7) If defendant fails to appear at the FED hearing for possession of the premises, no default judgment on the first cause of action shall be ordered unless testimony is taken from the plaintiff or witness having personal knowledge regarding the proper form and service of the 3-day notice upon the defendant and regarding the grounds for the request for restitution of premises.

(8) Where a second cause of action in a FED has been filed alleging money damages, the second cause shall be set on the docket of the housing judge. The answer date on the second cause shall be 28 days from completed service of the complaint. In cases where defendant files an answer, the case will be set for trial before the housing judge. If defendant fails to appear or otherwise defend, default judgment may be entered in accordance with Rule 29(A).

(9) In FED cases based upon failure to pay rent where a counterclaim has been filed, the defendant shall be entitled to a single trial consolidating all claims in accordance with Ohio Revised Code, Section 1923.061(B). The consolidated trial shall be set three weeks after the initial hearing date or as close thereto as the Court's docket permits, unless a later date is consented to by plaintiff or as determined by the magistrate. The magistrate may require the defendant to deposit rent during the pendency of the action.

#### (B) Rent Escrow Cases

##### (1) After rent escrow is filed:

(a) The Toledo Municipal Court civil clerk's office gives notice of rent escrow to the landlord; the clerk also notifies the Citizens Dispute Settlement Program (CDSP). (ORC §5321.08; §3733.121).

(b) The tenant continues to deposit rent until agreement of parties, further order of the court, or until tenant moves from dwelling unit.

(c) CDSP and the housing court magistrate screen the cases to determine whether the case is appropriate for mediation.

(d) If the case is appropriate for mediation, the clerk stamps on the jacket "referred to CDSP"; if not appropriate, the clerk schedules the case on the housing court docket. The assignment commissioner notifies the landlord and tenant of the hearing date.

##### (2) Cases diverted to CDSP:

(a) The first mediation session shall be set within 2-3 weeks after referral to CDSP.

(b) The case remains with CDSP until successful conclusion or mediation is no longer appropriate.

(c) At the conclusion of the case, the mediated contract setting out rights and obligations of parties and effecting deposit of rent in escrow is filed by CDSP with the civil clerk's office.

(d) If the case is not resolved through mediation, CDSP transfers the case back to the civil clerk's office for referral to the housing court magistrate's docket; the assignment commissioner notifies the landlord and tenant of the hearing date.

(e) The goal of CDSP is to assist parties in reaching a mutually satisfactory resolution.

(3) Cases heard on the housing magistrate's docket:

(a) The initial hearing will be set 2-3 weeks after the case is referred to the housing court magistrate's docket, at 2:00 p.m., Monday, Tuesday, Thursday, or Friday.

(b) At the initial hearing, the tenant shall establish compliance with ORC §5321.07 and must prove that:

(1) reasonable notice was given to the landlord 30 days prior to filing, or that an emergency situation exists;

(2) the tenant has reasonable grounds to believe the landlord violated a statutory or contractual duty which materially affects health and safety, and the condition remains uncorrected; and

(3) the tenant was current in rent before filing the rent escrow application.

(c) If the tenant fails to satisfy the burden of proof set forth in subsection 3(b) above, the magistrate shall proceed in accordance with ORC §5321.09(c) to have the rent less 1% costs released to the landlord.

(d) The purpose of the initial hearing shall be solely to verify the tenant's factual allegations which give rise to the application for rent escrow, and the issues which may be raised at this hearing shall be limited to those set forth in section 3(b) above.

(e) If the tenant satisfies the burden of proof set forth in section 3(b) above, the magistrate may request the housing specialist to inspect the premises, to file a report of the existence of code violation, and to recommend corrective actions, if necessary. The magistrate may make such other orders as appropriate, may set the matter for further testimony, or may refer the matter to CDSP.

(f) After hearing, the magistrate shall make orders or prepare decisions in accordance with Civil Rule 53(C) and (E).

(4) General:

(a) All rent monies held in escrow by the clerk's office will continue to be withheld until an agreed entry is filed by CDSP or until an order is made by the housing court judge or magistrate or until the tenant gives written notice to the clerk that the condition has been remedied, after which the clerk will refer the matter to the magistrate for an entry.

(b) The rent escrow will continue in effect for subsequent months and the tenant shall continue to deposit rent during those subsequent months, unless there is an agreement signed by the parties and filed by CDSP, or until an order is made by the housing court judge or magistrate, or the tenant vacates.

(c) All rent escrows where no action has been taken for a period of 6 months (i.e., action being defined as either payment, mediated agreement, hearing, or motion) shall be subject to dismissal by the court pursuant to Rule 40, Rules of Superintendence for the Courts of Ohio.

(d) The clerk's office shall deduct one percent (1%) of the deposited money as its fee prior to release of any rent escrow. ORC §5321.08(D); §3733.121(D).

(C) Housing Magistrate

(1) In all proceedings before the housing magistrate, the Ohio Rules of Civil Procedure, Ohio Rules of Evidence, and Municipal Rules of Court apply. Any party may appeal to the

housing court judge from any order of the housing court magistrate in accordance with Civil Rule 53(C)(3)(b) and from any decision of the housing court magistrate in accordance with Civil Rule 53(E)(3).

(2) The magistrate's orders are effective when entered. The magistrate's decision is effective when approved by the court.

(3) All appeals of magistrate's orders and objections to magistrate's decisions shall be referred to the housing court judge.

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**Rule 36**

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Parties requesting Findings of Fact and Conclusions of Law shall submit concurrently with their request proposed Findings of Fact and Conclusions of Law.

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## **Rule 37**

### **CITIZENS DISPUTE SETTLEMENT PROGRAM**

(A) Pursuant to Rule 16 of the Rules of Superintendence for the Courts of Ohio wherein referrals to appropriate and available alternatives dispute resolution programs shall be set forth in the local rules, the Citizens Dispute Settlement Program (CDSP) is recognized as providing the people living within the Toledo Municipal Court's jurisdiction an alternative means of solving interpersonal disputes other than by going through the judicial court system, i.e., resolutions through mediation. "Mediation" is a non-binding process involving a neutral mediator who acts as a facilitator to assist the parties to craft a mutually acceptable resolution for themselves.

(B) Case Selection. Cases considered appropriate for the program are those involving disputes with people having ongoing relationships such as family members, friends, neighbors, and civil cases identified for the Early Dispute Resolution Program. All civil cases may be referred to mediation. Before the initial pre-trial conference in a case, counsel shall discuss the appropriateness of mediation in the litigation with their clients and with opposing counsel.

Mediation shall not be used as an alternative to the prosecution or adjudication of domestic violence; to determine whether to grant, modify or terminate a protection order; to determine the terms and conditions of a protection order; or to determine the penalty for violation of a protection order.

(C) Sources of referrals to this program include the city prosecutor's office, the judges, magistrates, the police department, community agencies, attorneys, and individuals. Civil cases may be referred to the civil mediation program by sua sponte judicial order, by the granting of a motion of any party, or by agreement of the parties with the approval of the Judge.

(D) Agreements reached by the parties are written and signed. The case is disposed after payment of costs and a Judgment Entry reflecting the parties' written agreement is signed by a judge. All remaining court orders shall remain in effect. No order is stayed or suspended during the mediation process.

(E) Mediator's Duty. The Mediator shall inform the Court who attended the mediation, whether the case settled, and whether efforts to settle the case through mediation are being continued or if the case is being returned to the Court for further proceedings. No other information shall be directly or indirectly communicated by the Mediator to the Court, unless all who hold a mediation privilege, including the Mediator, have consented to such disclosure. The Mediator shall keep mediation communications confidential, unless all who hold a mediation privilege, including the Mediator, have consented to such disclosure.

The efforts of the Mediator shall not be construed as giving legal advice. The Court may have materials for legal or other support services available in the community. The Mediator is authorized to provide such resource information; however, such distribution shall not be construed as a recommendation of or referral to such resource. The recipient of that information is charged with the duty to evaluate those resources independently.

(F) Attendance. All participation in mediation is voluntary except in certain civil cases. Civil referrals made per TMC Rule 35 require mandatory participation. The parties may allow, if they wish, their attorneys or other individuals they designate to accompany them and participate in mediation.

(G) Administrative Dismissal. If the parties fail to dismiss a settled case within the later of sixty (60) days or the time noted in the entry that gave the Court notice of the settlement, then the Court may dismiss the case administratively. Upon such administrative dismissal, court costs shall be paid from the funds deposited. If court costs exceed the funds deposited, each party shall bear their own costs.

(H) Small claims court cases can also use CDSP's Alternative Dispute Resolution Program. Cases can be mediated either before the case is filed or after the filing fee is paid and the case has been put on the Small Claims court docket.

(I) The Check Resolution Service is offered by the Toledo Municipal Court to promote successful resolution of passing bad check complaints through mediation thereby providing an alternative to the criminal process.

The clerk's office, prosecutor's office, or Toledo Police Department shall refer all complainants who wish to file a complaint, affidavit or warrant for a misdemeanor charge of passing bad checks to the Citizens Dispute Settlement Program Check Resolution Service.

The complainant shall provide proof to the Check Resolution Service of notice to the drawer or endorser pursuant to Ohio Revised Code Section 2913.11(B)(2) or Toledo Municipal Code Section 545.09(b)(2) or similar ordinance. The Check Resolution Service shall require the complainant to complete an application form and to pay a case processing fee of \$15.00. A case is defined for purposes of this Rule as no more than 10 passing bad checks written by one individual. The Service shall send a letter by regular mail to the drawer or endorser advising the party of the complaint and to discharge the check by payment in full to the complainant. The payment to the complainant shall include the application fee. The letter shall also advise the drawer or endorser of a date scheduled for mediation. The drawer or endorser shall be advised to attend the mediation at the appointed time if payment has not been made to the complainant prior to the scheduled mediation date.

Mediations will be held in the offices of the Citizens Dispute Settlement Program. If an agreement is reached between the two parties, the endorser may pay the monies owed directly to the complainant or the parties may set forth the terms of repayment in writing. The application fee (\$15.00) shall be reimbursed by the endorser to the complainant. The Check Resolution Service shall not collect any monies for disbursement to the complainant. If the mediation is unsuccessful or if it is determined that the offender is ineligible to participate in the Program, the Check Resolution Service shall refer the complainant to the appropriate law enforcement agency to secure a police report, or if a report has already been filed, to the prosecutor's office.

Passing bad check cases which reach the court without a mediation through the Check Resolution Service may be referred to the Program for mediation at the discretion of the court. If a case is referred to the Service, no plea will be taken and the case will be scheduled for mediation. If there is a successful mediation, the Check Resolution Service shall recommend dismissal to the prosecutor who shall recommend dismissal to the court. The application fee shall be waived and the defendant will be required to pay court costs on at least one check. If the defendant shows proof of full payment to the court at the arraignment and prior to a referral to the Check Resolution Service, the case may be directly referred to the prosecutor's office for a recommendation. If the prosecutor recommends dismissal, the defendant shall pay court costs on at least one passing bad

check complaint.

(J) The Collection Mediation Service (CMS) is offered by the Toledo Municipal Court to promote successful resolution of delinquent unpaid accounts through mediation.

Collection Mediation Program will accept referrals from businesses, individual professionals or collection agencies. The complainant business must reside in the City of Toledo, Washington Township or Ottawa Hills. The service requires the complainant to complete an application form and pay a processing fee of \$15.00 per case. Per case is defined as one account per individual. The service shall send a letter to the respondent advising the party to discharge the delinquent account by paying the complainant in full, any restitution prior to mediation shall, include the court processing fee. If payment is not paid in full prior to mediation, the respondent is expected to attend the scheduled mediation set forth in the complaint letter. If a mediation is held and an agreement is reached the respondent may pay the complainant directly or set forth in writing restitution terms via payment plan. All payment plans must be voluntarily agreed to by both parties. The complainant is allowed to add the court filing fee to money owed. The Collection Mediation Service shall not collect any monies for disbursement to the complainant. If the mediation is unsuccessful either through failed negotiation, payment or non-attendance, the complainant shall be referred to the civil branch of the court system for further assistance.

(K) Civil Mediation. Cases referred to mediation shall be scheduled for mediation within thirty (30) days of referral. If necessary discovery is not completed, a case may be continued to a future mediation date with a judge's consent. If a party or attorney objects to the referral of his or her case to mediation, that person shall proffer a written objection for consideration of the assigned judge. A referral to mediation shall be reversed only under compelling circumstances.

Parties and/or parties' representatives with authority to settle a claim, and parties' counsel shall attend the mediation. If counsel or any necessary party fails to attend or attends and does not meaningfully participate in the process, the court may order sanctions including, but not limited to, attorney fees, other costs, contempt, dismissal or default judgment.

The court mediator shall promptly notify parties and counsel of a case referral. This notification shall include the date and time of mediation and a description of the mediation process.

In accordance with Ohio Revised Code, Section 2317.023, all written and oral communications made in connection with the mediation of a case shall be treated by the court as confidential. Said communication shall not be used for any purpose, including impeachment of a witness. No mediator may be subpoenaed to testify in any legal proceeding regarding the communications made in connection with the mediation.

If an agreement is reached through the mediation process, a corresponding settlement/dismissal judgment entry shall be submitted within thirty (30) days for court approval.

If an agreement is not reached or a necessary party did not appear, the court mediator shall advise the court within twenty-four (24) hours of the scheduled mediation. No other information shall be communicated to the court. Unresolved cases will be placed on the assigned judge's docket or referred to the assignment commissioner for assignment.

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**RULE 38**  
**COURT SECURITY**

(A) The Toledo Municipal Court is charged with dispensing justice, resolving disputes and protecting the constitutional rights of those who appear before the Court. The Court also recognizes, accordingly, that appropriate levels of security should exist in the Court for the safety and security of those who visit and work therein, pursuant to the Rules of Superintendence.

(B) A local security advisory committee shall be established, appointed by the court, consisting of a representative of each of the following: the Court, the Lucas County Sheriff, Toledo City Council, the Clerk of Toledo Municipal Court, the Public Defender, the City Prosecutor, the Toledo Bar Association, victims' advocacy groups, Toledo Police Department, ADA coordinator, employee organizations representing employees who work in the Toledo Municipal Court Building and other bar association or community groups as deemed appropriate by the court. This advisory group shall meet at least once yearly to assist the Court in meeting the Ohio Court Security Standards contained in the Rule 9 of the Rules of Superintendence for the Courts of Ohio. The court's Security Policy and Procedures Manual is a protected document and is not a public record.

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**Rule 39**  
**BOND FORFEITURES**

(A) When a bench warrant is issued for the non-appearance of a defendant, the clerk of court will determine if there is a bond posted by the defendant or a surety which is forfeitable. If the court's entry includes a direction to the clerk to set a bond forfeiture hearing, or if the clerk is so directed by the court, the clerk will set a bond forfeiture hearing before the judge issuing the bench warrant pursuant to Ohio Revised Code §2937.36(A). A date for the hearing may be set any day on the judge's docket except the individual judge's civil and jury days.

(B) If the bond is ordered forfeited by a magistrate, the clerk shall set the bond forfeiture hearing in Courtroom 4at 1:00 p.m. regardless of which magistrate is sitting in that courtroom on any particular day.

(C) The notice for hearing must be sent out 48 hours after the issuance of the bench warrant, weekends and court holidays excluded. Bond forfeiture hearings will be set no less than 20 days and no more than 30 days from the date that the notice was sent. Notice may be sent by ordinary mail. Notice must be sent to the defendant, the bailor and/or the surety. Notice must state the full amount of the bond for which judgment could be entered.

(D) At the bond forfeiture hearing, the individual judge will make a determination of the release of bond, a judgment of forfeiture, or a remission of the penalty. Also, each individual judge may, at the request of the surety, continue the case for the appearance of the defendant.

(E) If the surety returns the defendant to the custody of the court before the judge issues a judgment, that surety should take the defendant before the respective judge. If the court is closed, the surety should return the defendant to the Lucas County Correction Center and appear at the bond hearing so set to report the defendant's arrest and custody status to the judge and request discharge. It is the surety's responsibility upon receiving information that the defendant is in custody to request discharge or remission from the judgment of bond forfeiture.

(F) Upon declaration and judgment of a forfeiture of a 10% cash bond, the court will enter judgment for the entire bond, unless a lesser amount is specifically stated. The unpaid portion of that bond will be declared a judgment/fine (O.R.C. 2929.25(C)).

(G) The clerk shall forfeit any forfeitable cash bond in the full amount posted by the defendant, pursuant to Ohio Revised Code § 2329.25(C) without hearing unless ordered by a judge.

(H) The clerk may refer bond forfeiture judgments to the Law Department for further action.

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**Rule 40**  
**RECORDING OF PROCEEDINGS**

(A) All proceedings heard before this court may be recorded by any means and media approved by the Presiding Judge. Use or placement by the court of any type of recording in any location shall be deemed to be in compliance with the rule and approved by the Presiding Judge. Any form of recording of proceedings (including audio, video, or Court Reporter notes) is considered court property and shall not be released for any reason, to any person.

(B) Only transcripts of recordings will be issued to the public as the official record.

(C) The Chief Court Reporter shall be the custodian of all recording media. Transcripts of the recording media shall be made at the expense of the requesting party at the prevailing page rates for transcription. All transcripts from audio and/or video recordings shall be transcribed by a court-appointed Court Reporter.

(D) No recording devices other than court-approved recording devices shall be permitted in the courthouse.

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## **Rule 41**

### **BAIL BONDING COMPANIES AND AGENTS**

(A) For the purpose of this rule, "Surety Bail Bond Agent" is defined as an individual who is licensed to write bail bonds by the Ohio Department of Insurance. "Surety Bail Bond Agency" is defined as a business entity of more than one licensed Surety Bail Bond Agent.

(B) All agents or agencies who desire to write bail bonds in the Toledo Municipal Court must register with the Clerk of Court before a bond may be filed in this court. To register, a Surety Bail Bond Agent/Agency shall file the following with the Clerk of Court Office, Criminal Division:

- (1) A completed Toledo Municipal Court Surety Bond Registration Form.
- (2) A certified copy of the Surety Bail Bond Agent/Agency's appointment by power of attorney from each insurer the agent/agency represents.
- (3) A copy of the Surety Bail Bond License issued by the State of Ohio Department of Insurance.
- (4) A copy of the Certificate of Authority issued by the State of Ohio Department of Insurance.
- (5) A copy of the Certificate of Compliance issued by the State of Ohio Department of Insurance.
- (6) A copy of each agent's current Department of Insurance wallet identification card with photo.
- (7) Proof of registration with the Lucas County Common Pleas Court.

(C) The Surety Bail Bond Agent/Agency shall file the following to keep the registration current:

- (1) A certified copy of the renewed power of attorney by the first day of August each odd-numbered year.
- (2) A copy of the State of Ohio Department of Insurance License Renewal Form by March first of each year.
- (3) Written notification of any change in information contained on the Surety Bail Bond Registration Form within five working days of the change.

(D) Surety Bail Bond Agents/Agencies shall comply with any other requirements as ordered by the Court.

(E) When posting bond, a Surety Bail bond Agent must:

- (1) Produce a current State of Ohio Department of Insurance wallet ID card when requested.
- (2) Post a separate Power of Attorney on each case. A Power of Attorney that has been altered or erased will not be accepted by the Court.
- (3) Post a separate Bond Post Form on each case that contains an original signature of the Surety Bail Bond Agent.

(F) When a bond is ordered to be forfeited, the Clerk of Court shall provide notice the bond must be paid within 30 days of the order to forfeit the bond.

(G) If the Surety Bail Bond Agent/Agency does not pay the forfeiture by the due date, the Clerk of Court's Office shall not accept any bonds from that agent/agency until the forfeiture is paid in full. If the forfeiture is not paid for more than thirty (30) days after the due date, the Clerk of Court's Office shall not accept any bonds from that agent/agency until a majority of Toledo Municipal Court Judges vote to accept bonds from that agent/agency.

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