

**TOLEDO HOUSING COURT
LOCAL RULES
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**RULES
OF THE
TOLEDO HOUSING COURT**

Judge Joseph J. Howe
Magistrate Alan J. Michalak

Effective October 1, 2020

Rule 5 amended December 23, 2020

Rule 1
GENERAL

(A) These rules prescribe the procedures to be followed in the Housing Division of the Toledo Municipal Court ("Housing Court") in order to insure uniformity and fairness in all operations of the Court.

(B) All inquiries from the media shall be referred to the Court Administrator's Office.

(C) Except where provided herein, the Housing Court will be governed by the Ohio Rules of Civil Procedure ("Civ. R.") and Criminal Procedure ("Crim. R."). All provisions of the Toledo Municipal Court Local Rules not in conflict with the rules herein are incorporated by reference.

(D) COUNSEL OF RECORD - EMAIL AND OTHER REQUIRED INFORMATION; NOTICES OF APPEARANCE

- 1) Pleadings, motions, or other documents of a party represented by counsel (attorney) shall be signed by at least one counsel of record in the counsel's individual name and must include his/her address, registration number, telephone number, telefax number (if any), and business email address.
- 2) Any counsel retained to represent a litigant in the Housing Division of the Toledo Municipal Court shall file a Notice of Appearance, or a Limited Entry or Appearance as outlined in Civ. R. 3(B).
- 3) Filing an answer or other responsive pleading does not constitute compliance with Rule 1(D)(2).

(E) EX PARTE COMMUNICATIONS

- 1) An "ex parte communication" is any direct or indirect communication on the substance of a pending case without the knowledge, presence, or consent of all parties involved in the matter.
- 2) Pursuant to rules governing judicial hearing officers, no one shall directly or indirectly initiate or solicit ex parte communications with the Judge, a Magistrate, or other judicial officer.

(F) CONSOLIDATED CASES

- 1) When 2 or more cases are consolidated, parties must file a signed original of any pleading, document, or other entry under each and every case number in which they wish the filing to be considered.

(G) LOCATION OF COURT RECORDS

- 1) 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 Rule 1(G)(2). 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.
- 2) Any authorized person wishing to obtain a criminal, or civil housing case from the clerk's office must have the case electronically scanned prior to taking the case. Authorized persons include attorneys, court personnel, and all others authorized by journal entry.

- 3) 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.

Rule 2
CRIMINAL HOUSING

(A) All criminal cases regarding violations of the City of Toledo's Building, Housing, Fire, Health, Sanitation, Safety, Zoning, Sidewalk, Environmental, and Title VII Business codes shall be assigned to the Housing Division for adjudication.

(B) SERVICE

- 1) Criminal summons and complaints (other than minor misdemeanor citations), including an arraignment date, shall be served on defendants by certified mail from the Clerk.
- 2) Pursuant to Crim. R. 4 and 4.1, the Court may obtain a defendant's appearance either by serving a summons upon the defendant or by issuing a warrant for the defendant's arrest.
- 3) When a defendant is notified of an outstanding arrest warrant and voluntarily reports to the Court as a result of this notification, the Court shall schedule a new court date by preparing and journalizing a judgment entry. The judgment entry may also recall any outstanding warrant and require defendant to post bond, as determined by the Judge. The Court shall inform the defendant of the new court date when the warrant is recalled and any required bond has been posted.

(C) MOTIONS

- 1) All motions, except those made during trial or hearing, shall be made in writing. Motions shall be filed within the time limits established by the Ohio Rules of Criminal Procedure. Where a continuance is sought because counsel is scheduled to appear in another case assigned for the same date and same time, the motion must include an attached copy of the conflicting assignment.
- 2) A party shall not file a motion prior to the entry of a plea, except those motions listed as exceptions in Crim.R. 12.
- 3) A copy of any motion filed with the Clerk must also be delivered contemporaneously to both the Judge and the prosecutor of the City of Toledo Law Department, 555 N Erie St., Room 405, Toledo, Ohio 43604. Failure to deliver a copy, as indicated herein, shall constitute a failure to file and may be grounds for striking the motion.
- 4) Upon the filing of a motion, the Clerk shall time stamp and file the motion, and forward the motion and the case file to the Housing Division within three (3) business days.
- 5) To expedite its business, the Court may rule upon motions based upon the briefs, memoranda and supporting affidavits, if any, without oral hearing.
- 6) Pretrial motions shall be ruled on within one hundred twenty (120) days of filing. Post-judgment motions shall be ruled upon within forty-five (45) days of filing.

(D) TRIAL

- 1) Every case not resolved at arraignment or pretrial shall be set for trial. Where the maximum sentence is One Hundred Fifty Dollars (\$150) or less, there is no right to a jury trial and the case shall be tried by the Court. Where the right to a jury trial does exist, a written demand must be made. If a jury demand is timely filed, the case shall be set for jury trial.

**Rule 3
CIVIL HOUSING**

(A) CIVIL CASE ASSIGNMENT

- 1) All forcible entry and detainer (F.E.D.) cases, rent escrow, security deposit claims, receivership cases, landlord-tenant cases, land contract, quiet title, City of Toledo Municipal Code nuisance violations, sign code violations, small claims cases involving housing disputes, and all other actions brought in the Toledo Municipal Court under R.C. Chapters 1923, 3733, and 5321 shall be assigned to the Housing Division for adjudication.

(B) FACTS NEEDED FOR F.E.D. ESTABLISHED BY PLAINTIFF CERTIFICATION OR JUDICIAL NOTICE

- 1) The following requirements for evidence in sections (C), (D), and (F) are justified by O.R.C. 1923.07, which requires a plaintiff to prove the requirements of an eviction even if the defendant fails to appear.
- 2) In addition to these requirements, the judge or magistrate may take judicial notice of facts that can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned, such as the Lucas County Auditor's Office and the Secretary of State's office.

(C) EVIDENCE OF CURRENT LUCAS COUNTY RESIDENTIAL RENTAL REGISTRATION STATUS TO BE FILED WITH COMPLAINT

- 1) When filing a forcible entry and detainer complaint, plaintiff must attach proof of documentary evidence from the Lucas County Auditor's Office verifying the active registration of the premises with the County's Rental Registration Program. See O.R.C. 5323.99.
 - a) If the property is not registered with Rental Registration Program, the filer shall file an affidavit of non-compliance in lieu of the verification.
- 2) Failure to include sufficient documentation may result in sanctions, up to the dismissal of the complaint without prejudice.

(D) EVIDENCE OF CURRENT OWNERSHIP TO BE FILED WITH COMPLAINT

- 1) When filing a forcible entry and detainer complaint, plaintiff must attach proof of current ownership of the premises that is the subject of a forcible entry and detainer action. Proof of current ownership may include, but is not limited to, a print-out of the "General Information" tab for the premises from the Lucas County Auditor's ("Auditor") website. <https://co.lucas.oh.us/377/AREIS-Information>
- 2) All plaintiffs must include the name, email address, and phone number of an individual to be the point of contact for all communications with the court.
- 3) Failure to include sufficient documentation may result in sanctions, up to the dismissal of the complaint without prejudice.

(E) CERTIFICATION REGARDING PLAINTIFF'S CRIMINAL HOUSING CASES

- 1) When filing a forcible entry and detainer complaint, all plaintiffs filing cases in the Toledo Housing Court must certify at filing that there are no Criminal Housing cases in this Court in which they are the defendant and have (i) failed to appear for a scheduled hearing (and have not corrected that failure) OR (ii) failed to make payments within the time required in the criminal case. All such failures are to be resolved prior to filing.
- 2) The criminal certification shall be made, conspicuously, on the face of the forcible entry and detainer complaint. Certification should conform to the following language;

- a) “By filing this complaint with the Clerk of Toledo Municipal Court, I hereby certify that the plaintiff, or any of the plaintiff’s representatives or affiliates, are not the named defendant in any pending criminal cases with the Toledo Housing Court where the plaintiff has failed to appear for a scheduled hearing OR failed to make payments within the time required in the criminal case. False or inaccurate certifications may result in sanctions, including, but not limited to, dismissal of the complaint, a continuance to allow plaintiff to appear for and resolve the outstanding criminal matter, or, where warranted, prosecution for perjury.”
 - 3) In order for the court to verify the criminal certification, plaintiff must provide the following information on the landlord complaint.
 - a) If the plaintiff is a private individual, sole proprietorship, estate, trust, or partnership, the complaint should include the date of birth for all plaintiffs.
 - b) If the plaintiff is a corporation or limited liability company, the complaint should include the names of any business aliases.
 - 4) Where a plaintiff has not resolved the failures described in (D) 1) above to the satisfaction of the Court. The Court will, pursuant to R.C. 1923.06(H)(1), continue any hearing that may be scheduled on the claim for restitution of the premises until the plaintiff resolves the failures to the satisfaction of the Court.
 - 5) False or inaccurate certifications may result in sanctions, including, but not limited to, dismissal of the complaint, a continuance to allow plaintiff to appear for and resolve the outstanding criminal matter, or, where warranted, prosecution for perjury.
- (F) CIVIL BAILIFF DEPARTMENT INFORMATION SHEET
- 1) When filing a forcible entry and detainer complaint, the plaintiff must complete the Civil Bailiff Department Information sheet and include their email address as well as a telephone number for;
 - a) an on-site property manager, or
 - b) custodian, or
 - c) where there is no contact person available on the premises, the plaintiff.
- (G) COURT COSTS
- 1) No pleading or motion shall be accepted for filing by the Clerk without the proper court cost, or a completed Poverty Affidavit, or as otherwise determined by the Court.
 - 2) All requests to waive filing fees are subject to a hearing. Hearings may be conducted by a magistrate to review the poverty affidavit and make a determination regarding indigency.
 - 3) The Court reserves the right to revoke a party's indigent status. If such status is revoked, the party shall be required to pay costs as provided.
- (H) SERVICE OF SUMMONS
- 1) All summonses shall be served in accordance with the Ohio Rules of Civil Procedure. If service of summons is not obtained within six (6) months from the date of filing, the Court or Clerk shall notify the party/counsel that the case shall be dismissed in seventeen (17) days unless good cause is shown to the contrary.
- (I) CONTINUANCES
- 1) No party shall be granted a continuance of a trial, pretrial, or a hearing without a written motion from the party/counsel stating the reason the continuance is sought. All motions to continue shall be accompanied with the \$3.00 filing fee unless otherwise waived by the court.
 - 2) Any request to continue a court event, should be filed 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. 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.

- 3) Notwithstanding the above, in forcible entry and detainer cases, the hearing on the claim for restitution of the premises shall be continued up to eight (8) days at the request of either party orally or in writing at any time before the hearing. No continuance shall be granted longer than 8 days but for good cause and only in accordance with Section 1923.08 and 1923.061 of the Ohio Revised Code. An oral motion of continuance of up to 8 days may be granted under Ohio Revised Code, Section 1923.08.

(J) CONTINUED FOR JUDGMENT ENTRY

- 1) Parties wishing to submit an agreed/consent judgment entry shall inform the Court, in writing, of the proposed deadline for submission. Parties must file a notice of settlement specifying the agreed/consent judgment entry shall be submitted in a time not to exceed thirty (30) days. If an entry has not been received by the stated date, all remaining claims case shall be dismissed without prejudice.

(K) PARTIAL DISMISSALS OF CLAIMS

- 1) Pursuant to Civ. R. 41(A)(2), a party wishing to dismiss one or more but fewer than all claims against one or more parties shall either;
 - a) file a written motion and proposed judgment entry with the Clerk or
 - b) make an oral motion for partial dismissal at a scheduled hearing before the Court.
- 2) Any party opposing a written motion for partial dismissal must file a written response with the Clerk within seven (7) days of the filing of the motion. If a motion for partial dismissal is opposed, it may be set for hearing before the Court.

(L) NOTICE OF BANKRUPTCY FILING; RELIEF FROM STAY

- 1) Most civil cases filed in Housing Court are subject to the automatic stay of the federal bankruptcy laws. Any action the Court takes while the automatic stay is in effect is unenforceable and must be vacated.
- 2) Where a bankruptcy petition is filed by a party to a pending case or a party against whom a judgment has been granted, a notice of the bankruptcy filing ("Notice") must be filed with the Clerk to allow a determination of whether the matter may proceed or whether the matter must be stayed due to the federal bankruptcy laws.
 - a) If a Notice of Bankruptcy filing is filed before a first cause hearing in a forcible entry and detainer action, the first cause may be stayed until the future court order.
 - b) If a Notice of Bankruptcy filing is filed after a first cause hearing in a forcible entry and detainer action, the first cause may be continue.
- 3) Any party in the matter may file the notice of bankruptcy, which may be submitted in writing to the Clerk. The notice must include the name of the party filing bankruptcy, the bankruptcy case number, and the date when the bankruptcy was filed.
- 4) In the event the matter is subject to the federal bankruptcy law's automatic stay, this Court must stay further action until the Bankruptcy Court;
 - a) grants a discharge or confirms a Chapter 13 plan,
 - b) dismisses the bankruptcy case or
 - c) grants relief from the automatic stay.
- 5) To reinstate a case that has been stayed, a party must file a motion with the Clerk. The moving party must attach documentation showing the movant either obtained relief

from the stay from the Bankruptcy Court or that the bankruptcy is no longer pending (completed or dismissed).

- 6) The Housing Court will review the status of each case subject to the automatic stay six (6) months after the initial stay. Upon the Court's review, if the automatic stay no longer applies and no party has filed a motion to have the case reinstated, the Court will dismiss the case without prejudice for want of prosecution.

(M) TRANSFER FROM HOUSING SMALL CLAIMS DOCKET TO HOUSING GENERAL DOCKET

- 1) Complaints heard on the Small Claims docket of the Housing Court are subject to a six thousand dollar (\$6,000.00) limitation in the prayer for relief. Where a complaint, counterclaim, or amended complaint on this docket exceeds the limitation, the matter must be transferred to the Housing Division's General Docket for resolution.
- 2) Upon the Court's determination that the prayer exceeds the limitation, the Court may issue an order directing transfer of the matter upon payment of the case transfer fee to the Clerk's Office by the party whose pleading exceeded the limitation. The party will then have fourteen (14) days to request transfer and pay the transfer fee. The opposing party may request the transfer and pay the fee if they wish.
- 3) Upon timely request for transfer and payment of the fee, the matter shall be transferred to the Housing Division's General Docket.
- 4) Upon a failure to timely request the transfer and pay the transfer fee, the improper claim shall be dismissed.

Rule 4

Housing Magistrate

- (A) In all proceedings before the housing magistrate, the Ohio Rules of Civil Procedure, Ohio Rules of Evidence, and Local Rules 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).
- (B) The magistrate's orders are effective when entered, if necessary to regulate the proceedings and if not dispositive of a claim or defense of a party. The magistrate's decision is effective when approved by the court.
- (C) All motions to set aside a magistrate's orders and objections to magistrate's decisions shall be referred to the housing court judge.
 - 1) The party objecting to the magistrate's decision shall file written objections within fourteen (14) days from the date of journalization of the decision by the Clerk.
 - 2) A party shall file a motion to set aside a magistrate's order within ten (10) days from the date of journalization of the decision by the Clerk.
 - 3) The objecting party must state with specificity his or her objections to the decision and the relief requested. A copy of the objections must be served upon the opposing party and so certified in the pleading. All objections must comply with the Ohio Rules of Civil Procedure, unless clearly inapplicable to Forcible Entry and Detainer actions pursuant to Civ. R. 1(C).
 - 4) Filing objections to a judgment on the first cause (for possession) in a forcible entry and detainer action does not operate as an automatic stay of enforcement of that judgment. A party seeking a stay of execution on the first cause judgment (i.e. stay of the execution of set-out) must file a written request for such stay. The set-out shall proceed unless the request for stay is granted. If a set-out has been scheduled, parties should file their motions promptly.
 - 5) When objections are made to findings of fact on the first cause in a forcible entry and detainer action, the objecting party is required to submit a transcript or affidavit of the proceedings contemporaneously with the objections. For good cause shown, and upon the objecting party so requesting, the Court may extend the timeframe to submit the transcript or affidavit. Failure to submit a transcript or affidavit may result in summary overruling of the objections.
 - 6) The filing of objections to a ruling other than as indicated above in paragraph (C)(3) of this Rule shall operate as an automatic stay pursuant to Civ. R. 53(D)(4)(e)(i). These objections shall be ruled upon within forty-five (45) days of hearing or assignment, where no hearing is to be held.

Rule 5
Forcible Entry and Detainer

(A) NOTICE TO LEAVE PREMISES (3 DAY NOTICE)

The language required by R.C. 1923.04(A) to be printed or written in a conspicuous manner in the notice to leave the premises ("Notice") will be presumed by this Court to be conspicuous where the printing or writing of that language is

- 1) at least twice as large as all other printing or writing on the Notice and
- 2) printed or written in contrasting, bold faced type or writing.
- 3) Other elements that may assist in meeting the requirement that the statutory language be conspicuous may include combinations of all capital letters, contrasting color, borders or other such elements to be determined on a case by case basis.

The three (3) days required in 1923.04(A) shall not include weekends or legal holidays.

(B) CLAIMS

For purposes of these rules, in a forcible entry and detainer (F.E.D.) case, the eviction (claim for possession) is designated as the first cause of action ("First Cause"). In an F.E.D. where plaintiff/landlord is seeking money damages, the claim for money damages is designated as the second cause of action ("Second Cause").

(C) SUMMONS SERVICE

- 1) In F.E.D. 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 7 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 at the time of filing the complaint.

(D) 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 issue service by certified mail.

- 1) The bailiff shall attempt service at the premises that are the subject of the forcible entry and detainer action by the following means:
 - a) 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).
 - b) 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.
- 2) 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.
- 3) Service of process shall be deemed complete on the date that either of the following has occurred:
 - a) Service is made pursuant to section (D)(1)(a) of this rule.

- b) Both ordinary mail service under section (D)(2) and service by posting pursuant to section (D)(1)(b) have been made.
 - c) 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.
- (E) 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.
- (F) 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.
- (G) 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.
- (H) If defendant fails to appear at a First Cause F.E.D. hearing, 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.
- (I) Where a second cause of action in a F.E.D. has been filed alleging money damages the answer date on the second cause shall be 28 days from completed service of the complaint absent court order. In cases where defendant files an answer, the case will be set for trial before the housing judge.
- (J) If the defendant fails to appear or otherwise defend the second cause of action, default judgment may be entered upon oral or written motion when judgment accompanied by an affidavit with supporting documentation signed by a party with actual knowledge verifying that the amount is accurate. If the party against whom judgment by default is sought has appeared or otherwise defended in the action, he or his counsel shall be served with written notice of the application for judgment at least seven days prior to the hearing on such application. Cases will be set for an assessment of damages hearing by the assignment commissioner before the housing court magistrate.
- (K) In F.E.D. 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 four 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.
- (L) ENFORCEMENT OF FIRST CAUSE JUDGMENT: WRITS AND MOVE-OUTS
- 1) If judgment is for plaintiff on the First Cause (possession), unless otherwise ordered by the Court, the plaintiff may immediately purchase a writ of restitution.

- 2) If a defendant files objections to the magistrate's decision. the writ of restitution shall be stayed until the Court enters an opinion on the objections in favor of the plaintiff.
- 3) Writs must be timely purchased. Timely purchase is determined according to the following;
 - a) Within thirty (30) days of the date of the judgment.
 - b) Where the judgment is more than thirty (30) days old, but less than one (1) year old, plaintiff must file a Motion for Leave to Purchase a Writ and serve a copy of the motion on the defendant(s). The Court may schedule a hearing on the motion or decide the motion on the filings of the parties. Upon the granting of the motion, plaintiff may purchase a writ.
 - c) Plaintiffs may not purchase a writ, or schedule a move-out, on judgments granted more than one (1) year prior to the date of purchasing the writ.
- 4) SCHEDULING THE MOVE-OUT
 - a) In order to arrange for the physical removal of the defendant and their belongings, the following must occur;
 - a. Landlord must purchase a writ of restitution from the Clerk's Office;
 - b. the Clerk's Office should deliver the writ to the Civil Bailiff Department within one (1) to four (4) business days, unless a stay has been grant by the Housing Court Judge.
 - c. Once the writ is received, the Bailiff's Office will notify the landlord and tenant, by mail or email, that the tenant has four (4) calendar days to vacate the premises.
 - d. If the four (4) calendar days expire and the tenant has not moved, it is the landlord's responsibility to call the Bailiff Department to schedule a Set Out/Lock Out date.

(M) MANUFACTURED HOME TITLE TRANSFER

- 1) Prior to filing the request for writ under R.C. 1923.13(B), the plaintiff shall conduct a search of the public records that relate to the home or vehicle, and make reasonably diligent inquiries for the purpose of identifying any persons who have an outstanding right, title, or interest in the home or vehicle.
- 2) Request For Writ
 - a) If plaintiff seeks a writ pursuant to R.C. 1923.13(B), plaintiff must file a request for a writ of execution with the Clerk. The request shall be in the form of a motion.
 - b) If the public records search described in 6.112(A) has revealed any person(s) who has an outstanding right, title or interest in the home or vehicle, the plaintiff shall list that person's name and the person's last known address on the request for the writ of execution.
 - c) If personal property has been abandoned on the residential premises and the park operator has knowledge of any person who has an outstanding right, title or interest in any of the personal property, the park operator shall list the item(s) of personal property and the name and last known address of each person with a right, title or interest on the request for writ of execution.
- 3) Praeipce
 - a) Upon the grant by the Court of plaintiff's request for writ of execution, plaintiff shall file a praecipce for writ of execution with the Clerk using prescribed forms.

- b) Concurrent with the filing of the praecipe for writ of execution under R.C. 1923.13(B), plaintiff shall deposit with the Clerk the sum of Two Hundred Dollars (\$200) which shall be applied to the cost of appraisal, advertisement fees, and any other sale costs. The Court may order the deposit of additional sums as needed. The costs shall be taxed as part of the costs in the action.
- 4) Certification
- a) The plaintiff shall certify on the request for the writ of execution that (i) the home or vehicle was abandoned or otherwise left unoccupied for a period of three (3) days following entry of judgment and (ii) subsequently, the plaintiff provided the titled owner of the home or vehicle a written notice to remove the home or vehicle from the manufactured home park within twenty-one (21) days from the date of the delivery of the notice. Plaintiff shall attach to the certification a copy of the notice provided to the titled owner.
 - b) If personal property has been abandoned on the residential premises and the park operator has no knowledge of any persons with an outstanding right, title or interest in any of the personal property, then plaintiff shall certify on the request for the writ of execution that it has no knowledge of such information.
 - c) If plaintiff seeks a writ of execution pursuant to R.C. 1923.12(E)(2), plaintiff shall indicate in its request for writ that no letters testamentary or of administration with respect to the resident's estate has been granted by the probate court within ninety (90) days of the date of the eviction of the resident from the manufactured home park pursuant to a judgment entered under section R.C. 1923.09 or R.C. 1923.11.

(N) MOTION TO SEAL RECORD

- 1) The court may entertain a motion to seal eviction record under the following circumstances;
 - a) The first cause case was dismissed.
 - b) Judgment was granted for the defendant on the first cause.
 - c) Plaintiff prevails on the merits on the first cause, and all of the following conditions are met.
 - a. At least five years have passed since the judgment for the Plaintiff.
 - b. At least 5 years have passed since Defendant has received an adverse judgment action in this court.
 - c. Defendant has satisfied the second cause judgment –if any- in the case where the defendant seeks to seal the eviction.
 - d) Plaintiff consents to sealing the record of eviction.
 - e) Judgment for possession for the plaintiff was granted improperly or,
 - f) At the discretion of the judge, sealing is appropriate under Rule 45 of the Rules of Superintendence for the Courts of Ohio.
- 2) Defendant must serve the plaintiff with a copy of the motion to seal. Plaintiff may file a response within seventeen (17) days of filing. Either party may request a oral hearing on the motion.
- 3) The Court may consider the following factors when considering a Motion to Seal.
 - a) Whether the sealing of the record is agreed to by the opposing party or council;
 - b) Whether there are unusual and exceptional circumstances;
 - c) The disposition of the first cause of action (i.e., which party prevailed; whether the matter was voluntarily dismissed);
 - d) Whether the opposing party has filed an opposition memorandum.
 - e) Legitimate need of the government to maintain a public record of the case;
 - f) Other information available in the totality of the circumstances.

- 4) If the Court grants a Motion to Seal Eviction Record, the Clerk shall forthwith cause the tenants name to be redacted from all public records it maintains, including the electronic case index system, to the same extent that it would for a criminal expungement.
- 5) The Court will only entertain sealing up to five (5) cases for any individual

Rule 6
RENT ESCROW

- (A) Any rent deposit pursuant to ORC 1923 ORC 5321 shall be paid to the Clerk in cash, check, money order, or any accepted credit or debit card. All tenants depositing rent into escrow shall provide the name and address for both the tenant and the landlord. If the landlord has failed to disclose his name or address to the tenant as required under ORC 5321.18, the tenant's failure to provide the landlord's name or address shall not be a bar to the rent escrow program.
- (B) After rent escrow is filed:
- 1) The Toledo Municipal Court civil clerk's office gives notice of rent escrow to the landlord; all cases shall be referred to Citizens Dispute Settlement Program (CDSP) for the purpose of providing the landlord and tenant an opportunity to resolve the dispute. (ORC §5321.08; §3733.121).
 - 2) The tenant continues to deposit rent until agreement of parties, further order of the court, or until tenant moves from dwelling unit.
 - 3) CDSP and the housing court magistrate screen the cases to determine whether the case is appropriate for mediation.
 - 4) If CDSP deems a case appropriate for mediation, participation in the program is mandatory for all parties.
 - 5) If CDSP determine a case is not appropriate for mediation, the clerk will schedule the case on the housing court docket. The Clerk will notify the landlord and tenant of the hearing date.
- (C) Cases diverted to CDSP:
- 1) The first mediation session shall be set within 2-3 weeks after referral to CDSP.
 - 2) The case remains with CDSP until successful conclusion or mediation is no longer appropriate.
 - 3) 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.
 - 4) 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 Court Services Office notifies the landlord and tenant of the hearing date.
 - 5) The goal of CDSP is to assist parties in reaching a mutually satisfactory resolution.
- (D) Cases heard on the housing magistrate's docket:
- 1) 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.
 - 2) At the initial hearing, the tenant shall establish compliance with ORC §5321.07 and must prove that:
 - a) reasonable notice was given to the landlord 30 days prior to filing, or that an emergency situation exists;
 - b) 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
 - c) the tenant was current in rent before filing the rent escrow application.
 - 3) If the tenant fails to satisfy the burden of proof set forth in Rule 6(C)(2) above, the magistrate shall proceed in accordance with ORC §5321.09(c) to have the rent less 1% costs released to the landlord.

- 4) 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 Rule 6(C)(2) above.
- 5) If the tenant satisfies the burden of proof set forth in Rule 6(C)(2) 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.
- 6) After hearing, the magistrate shall make orders or prepare decisions in accordance with Civil Rule 53(C) and (E).

(E) General:

- 1) 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.
- 2) 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.
- 3) 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.
- 4) 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).

Rule 7
TEMPORARY RESTRAINING ORDERS

- (A) Individuals who seek temporary restraining orders (“TROs”) may contact Legal Aid of Western Ohio for possible assistance with completing the proper forms and filing pleadings with the Court.
- (B) Prior to granting a TRO, the Court may order a housing specialist to inspect the premises.
- (C) Service of the complaint, motion for TRO, and the TRO (if granted), shall be made upon the defendant in a manner to be determined by the Court, and the manner of service shall be included in the order.
- (D) If a party fails to comply with the order, then the opposing party may file a Motion to Show Cause. A show cause hearing shall be scheduled by the Court. Notice of the show cause hearing shall be served upon the failing party in a manner to be determined by the Court.
- (E) Prior to the show cause hearing, the Court may order a housing inspector or court employee to inspect the premises to determine compliance or noncompliance with the Court order.
- (F) At the time of the ruling on the motion for TRO, the Court may schedule a hearing, within fourteen (14) days, on the request for a preliminary or permanent injunction and claim for money damages, if any.

Rule 8

RE-RENTAL PROHIBITED UNDER R.C. 1923.15

- (A) In forcible entry and detainer cases, the Court may order that a housing specialist or other appropriate governmental agency inspect a residential premise, such as when a tenant makes a counterclaim pursuant to R.C. 1923.061 or otherwise indicates that the land lord has violated R.C. 5321.04.
- (B) If it is established, during any action before the Court, that rental premises is maintained in violation of the Ordinances of the City of Toledo, R.C. 3733.10 or R.C. 5321.04, the Court may order the owner/landlord to refrain from re-renting the premises until the violations are repaired.
- (C) Upon completion of repairs, the party against whom the order issued must file a motion to vacate the order prohibiting re-rental. The motion must be granted prior to re-rental of the premises.
- (D) Issuance of an order prohibiting re-rental shall not affect the issuance of a writ of restitution.