

PERRYSBURG MUNICIPAL COURT

RULES OF PRACTICE

TABLE OF CONTENTS

RULES OF PRACTICE OF THE PERRYSBURG MUNICIPAL COURT

PART 1 GENERAL RULES

Rule 1.01 Citation Form1
1.02 Court Record Books1
1.03 Record of Proceedings: Court Reporters2
1.04 Court Decorum2
1.05 Media2
1.06 Filing Requirements and Service of Court Papers6
1.07 Jury Use and Management Rules12
1.08 Court Costs and Security Deposits Generally16
1.09 Withdrawal of Trial Counsel19
1.10 Trusteeship19
1.11 Small Claims20
1.12 Annual Physical Case Inventory21
1.13 Court Security Standards21
1.14 Transportation of Persons in Custody22
1.15 Security Advisory Committee22
1.16 General Order of Reference for the Magistrate22

PART 2 CIVIL RULES

Rule 2.01 Civil Case Management26
2.02 Landlord/Tenant Actions29
2.03 Judgments31
2.04 Deposits of Costs for Jury32
2.05 Involuntary Dismissal of Actions33
2.06 Findings of Fact and Conclusions of Law33
2.07 Mediation33

PART 3 CRIMINAL AND TRAFFIC RULES

Rule 3.01 Case Management in Criminal Cases33
3.02 Appearance of Defendants in Criminal Cases34
3.03 Security Deposits for Costs35
3.04 Bench Warrants35
3.05 Minor Misdemeanor Appearance and Waiver Procedure36
3.06 Traffic Violations Bureau36
3.07 Criminal Court Costs36
3.08 Jury Trials38
3.09 Witnesses and Subpoenas39

PART 4 MEDIATION

Rule 4.01 – 4.0939

PART 5 PUBLIC ACCESS RULES

Refer to Sup. R. 44 through 4743

RULES OF PRACTICE OF THE PERRYSBURG MUNICIPAL COURT

PART 1. GENERAL

In accordance with the Rules of Superintendence for the Courts of Ohio, the following local rules have been adopted by the Municipal Court of the City of Perrysburg, Ohio to promote the administration of justice, to expedite and facilitate the disposition of cases, and to serve the public interest.

The Rules of Court set forth in Part 1, and bearing the designation “Rule 1.,”, pertain to procedures applicable to all proceedings of this court in the exercise of its civil, criminal, and traffic jurisdiction. The following Rules are effective July 18, 2008. All former Rules and Amendments of this court are hereby revoked.

RULE 1.01 CITATION FORM

These rules of practice shall be known as the Perrysburg Rules of Court and each rule may be cited as “Perrysburg Rule” or “P.R.”.

RULE 1.02 COURT RECORD BOOKS

- A. The court administrator 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 as permitted by law.
- B. The orders of the court in the dockets shall be validated by the original or facsimile signature of the judge. The dockets and the original papers filed shall be the final record of the cases of this court. The judge, or in his absence, one of the other judges, and the court administrator, 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 court administrator may dispose of files of cases in accordance with Ohio Revised Code Section 1901.41.

RULE 1.03 RECORD OF PROCEEDINGS: COURT REPORTERS

- A. All court proceedings which are required to be recorded shall be recorded by a videotape machine with an audio back-up. A court reporter may be supplied upon the written request of either party or his counsel, provided such request is filed in writing at least five (5) court days prior to the trial. The reporter's costs shall be borne by the party requesting the same, who shall pay the costs directly to the reporter. In small claims cases, parties shall request audio tape recording of the hearing at least one day prior to the hearing. All forcible entry and detainer cases shall be recorded by videotape if available. If videotape is not available, these cases shall be recorded by audiotape. Parties appealing a decision of the trial court shall file a praecipe advising the court what portions of the record they wish transcribed. Once a fee is paid, the court will provide a videotape to the attorney or party as the certified transcript of the proceeding.
- B. All audio and videotapes will be maintained on file for a period of three (3) years. These tapes will be recycled after three (3) years unless there is an appeal pending.

RULE 1.04 COURT DECORUM

Everyone in the courtroom shall stand during the opening and closing of court. Proper attire is required of all persons entering the courtroom. 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.

RULE 1.05 MEDIA

For the purpose of these rules, the term "media recording" shall be understood to include broadcasting, televising, recording, or photographs. The term "trial" shall be understood to apply to any public hearing held by the court.

- A. Requests for permission for the broadcasting, televising, recording, or taking of photographs in the courtroom must be submitted on Motion Form 1.05, provided in this section. Such form shall be presented to the judge before the scheduled time of commencement of the proceeding. The motion and the judge's ruling shall be made a part of the record of the proceedings. In the event of a continuance of a trial for a period of more than thirty (30) days, a new application shall be required.
- B. The judge presiding at the trial or hearing shall permit the broadcasting or recording by electronic means and the taking of photographs only where he/she determines that to do so would not distract the participants, impair the dignity of the proceedings, or otherwise materially interfere with the achievement of a fair trial.
- C. The judge, after consultation with the media, shall specify the place or places in the courtroom where the operators and equipment are to be positioned.

- D. The filming, videotaping, recording, or taking of photographs of victims or witnesses who object shall not be permitted.
- E. All pooling arrangements are the responsibility of the media representatives. Television stations and radio stations must decide which of them will cover the proceedings and only one of each may then cover any one proceeding. The newsprint media must decide which of them will cover the proceedings for photographic coverage, and only one photographer may then be allowed in the courtroom at any one time. Such arrangements shall be made without involving the court. If any disputes arise, the judge may exclude all contesting media representatives.
- F. Upon failure of any media representative to comply with the conditions prescribed by the judge or the Superintendence Rules of the Supreme Court, the judge may revoke the permission to broadcast or photograph the trial or hearing.

G. LIMITATIONS

1. Media representatives must be in designated areas before court convenes and may leave only during a recess, lunch break, or afternoon adjournment.
2. Media representatives are responsible for providing their own equipment, including sufficient equipment leads, to ensure they are able to be stationed in the designated location.
3. Only existing lighting within the courtroom may be used.
4. Use of more than one portable television, videotape, or movie camera with one operator shall be allowed only with the permission of the judge.
5. Still photographers shall be limited to two cameras with two lenses for each camera.
6. For radio broadcast purposes, not more than one audio system shall be permitted in court. Where available and suitable, existing audio pickup systems in the court facility shall be used by the media. If existing audio pickup systems are not available, microphones and other electronic equipment necessary for the audio pickup shall be as inconspicuous as possible but shall be visible.
7. Visible audio recording equipment may be used by news media reporters with the prior permission of the judge.
8. Any equipment which is nonportable shall be set up and ready for operation prior to the commencement of court sessions. In no event shall persons be permitted to bring equipment into the courtroom during trial unless such equipment can be easily carried by a single person and without causing a distraction or disturbance.

9. No media recording of proceedings in the judge's chambers or accesses shall be permitted except with the express permission of the judge. No media recording shall be permitted in the jury deliberation room at any time during the course of trial or after the case has been submitted to the jury. No pictures of jurors may be taken at any time.
10. Audio equipment shall be so controlled that it will not pick up conferences or conversations between counsel and client or between counsel and the judge at the bench.
11. The judge, counsel, and witness shall not address any remark to the media when the court is in session. In all respects, the trial shall proceed in exactly the same manner as though there was no media recording in the process.
12. No media recording shall be made of any document or exhibit before or after such document or exhibit is admitted into evidence, except those which are clearly visible to spectators; e.g., maps, charts, blackboards.
13. The judge shall inform victims and witnesses that they have the right to object to being recorded or photographed.
14. No photographic or electronic equipment may be used in the courtroom which causes distracting sound or light.
15. Media representatives must wear appropriate attire when on courtroom assignment.

IN THE MUNICIPAL COURT OF PERRYSBURG, WOOD COUNTY, OHIO

Name of Party,

Case No.

Plaintiff,

v.

MOTION FOR
MEDIA ACCESS

Name of Party,

Defendant.

Now comes (name of media representative) and applies to this Honorable Court for access to record the proceedings in the above-captioned matter using (indicate mode of media) on the following date: ____.

Applicant proposes the use of the following equipment in recording the proceedings: (specify the types of equipment to be utilized in the courtroom. Please indicate number of persons needed to run this equipment as well as outlet access required).

Applicant agrees to provide audio and video recordings to other media providers as a pool reporter.

Applicant acknowledges provisions of Local Rules of Practice of the Perrysburg Municipal Court regarding courtroom behavior.

Respectfully Submitted,

Name of Media Representative
or Attorney for the Representative

RULE 1.06 FILING REQUIREMENTS AND SERVICE OF COURT PAPERS
The provisions of this local rule are adopted under Civ.R.5 (E)

- A. All papers filed with the court administrator shall be originals or legible copies, handwritten in ink or typewritten, on 8 1/2 x 11 inch paper. Filings consisting of more than one sheet of paper shall be securely fastened together. The clerk will not accept for filing any document placed in a plastic binder or other covering.
- B. No written complaint, motion (except motion for continuance), brief, memorandum of law, or proposed journal entry shall be accepted by the court administrator or deputy clerk for filing unless the same is filed in duplicate and indicates the name, address, phone number, facsimile number, and e-mail address (where applicable) of the attorney filing same, as well as the responsible attorney's Supreme Court registration number. The court administrator must also be supplied with a list of the correct mailing addresses, including zip codes, for all parties and counsel. Pleadings which do not conform to this rule may be ordered stricken by the court.
- C. Neither written motion nor any other request for relief shall be accepted by the court administrator unless the same is accompanied by a proposed order.
- 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 twenty-eight (28) days the time required to file a response to a complaint, a counterclaim, cross claim, or third-party complaint if written application is made to the court administrator 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 Rule 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. FACSIMILE FILINGS

The court will accept the facsimile filing of motions and other documents which are relevant to, but do not initiate, the underlying action. This applies to all matters before the Perrysburg Municipal Court. The Court Administrator shall maintain a dedicated phone line of (419) 872-7905 to accept facsimile filings.

A document filed by fax shall be accepted as the effective original filing. The person making a fax filing need not file any source document with the court administrator, but must, however, maintain in his or her records and have available for production on request by the court the source document filed by fax, with original signatures as otherwise required under the applicable rules, together with the source copy of the facsimile cover sheet (example Form 1.06A follows this Rule) used for the subject filing. The source document filed by fax shall be maintained by the person making the filing until the case is closed and all opportunities for post judgment relief are exhausted.

1. DEFINITIONS - As used in these rules,

A “facsimile transmission” means the transmission of a source document by a facsimile machine that encodes a document into optical or electrical signals, transmits and reconstructs the signals to print a duplicate of the source document at the receiving end.

A “facsimile machine” means a machine that can send and receive a facsimile transmission.

“Fax” is an abbreviation for “facsimile” and refers, as indicated by the context, to facsimile transmission or to a document so transmitted.

2. COVER PAGE

The person filing a document by fax shall also provide therewith a cover page containing the following information (example Form 1.06A follows this Rule):

- a. the name of the court;
- b. the title of the case;
- c. the case number;
- d. the assigned judge;
- e. the title of the document being filed (e.g. Plaintiff Smith’s Response to Defendants’ Motion to Dismiss);
- f. the date of transmission;
- g. the transmitting fax number;
- h. an indication of the number of pages included in the transmission, including the cover page; and
- i. the name, address, telephone number, fax number, Supreme Court registration number, if applicable, and e-mail address of the person filing the fax document if available.

If a document is sent by fax to the court administrator without the cover page information listed above, the court administrator may, at her discretion:

- a. Enter the document in the case docket and file the document; or
- b. Deposit the document in a file of failed faxed documents with a notation of the reason for the failure; in this instance, the document shall not be considered filed with the court administrator.

The court administrator is not required to send any form of notice to the sending party of a failed fax filing. However, if practicable, the court administrator may inform the sending party of a failed fax filing.

3. SIGNATURE

A party who wishes to file a signed source document by fax shall either:

- fax a copy of the signed source document;
- 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 documents.

A party who files a signed document by fax represents that the physically signed source document is in his/her possession or control.

4. EXHIBITS

Each exhibit to a facsimile produced document that cannot be accurately transmitted via facsimile transmission for any reason 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 court, as a separate document, not later than five (5) court days following the filing of the facsimile document. Failure to file the missing exhibits as required by this paragraph may result in the court striking the document and/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 (Example Form 1.06B follows this Rule), and shall be signed and served in conformance with the rules governing the signing and service of pleadings in this court.

5. TIME OF FILING

Subject to the provisions of these rules, all documents sent by fax and accepted by the court administrator shall be considered filed with the court administrator as of the date and time the court administrator time-stamps the document received, as opposed to the date and time of the fax transmission. However, 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. The office of the court administrator will be deemed open to receive facsimile transmission of documents on the same days and at the same time the court is regularly open for business, Monday through Friday, 8:00 a.m. through 4:30 p.m. eastern standard time. Any facsimile filings received by the court after 4:30 p.m. eastern standard time will be file stamped the next business day.

Fax filings may NOT be sent directly to the court for filing but may only be transmitted through the facsimile equipment operated by the court administrator. The court administrator may, but need not, acknowledge receipt of a facsimile transmission. The risks of transmitting a document by fax to the court administrator shall be borne entirely by the sending party. Anyone using facsimile filing is urged to verify receipt of such filing by the court administrator through whatever technological means are available.

6. FEES AND COSTS

No document filed by facsimile that requires a filing fee shall be accepted by the court administrator. The Perrysburg Municipal Court will only accept facsimile filing of motions and other documents which are relevant to, but do not initiate, the underlying action.

7. LENGTH OF DOCUMENT

Facsimile filings shall not exceed ten (10) pages in length. The filer shall not transmit service copies by facsimile.

8. EFFECTIVE DATE

These local rules shall be effective November 1, 2004, and shall govern all proceedings in actions brought after they take effect and also further proceedings in pending actions, except to the extent that, in the opinion of the court, their application in a particular action pending on the effective date would not be feasible or would work an injustice, in which event, the former procedure applies.

**FACSIMILE FILING COVER PAGE
PERRYSBURG MUNICIPAL COURT
Phone: (419) 872-7900
Fax: (419) 872-7905**

RECIPIENT INFORMATION

NAME OF COURT: Perrysburg Municipal Court

FAX NUMBER: (419) 872-7905

SENDING PARTY INFORMATION

NAME: _____

SUPREME COURT REGISTRATION NO. (if applicable): _____

OFFICE/FIRM: _____

ADDRESS: _____

TELEPHONE NO. _____

FAX NUMBER: _____

E-MAIL ADDRESS (if available): _____

CASE INFORMATION

TITLE OF THE CASE: _____

CASE NUMBER: _____

TITLE OF THE DOCUMENT: _____

JUDGE: _____

FILING INFORMATION

DATE OF FAX TRANSMISSION: _____

NUMBER OF PAGES (including this page): _____

IN THE MUNICIPAL COURT OF PERRYSBURG, WOOD COUNTY, OHIO

JOHN SMITH, Plaintiff,

v.

Case No.: 1234567

BILL JONES, Defendant.

Judge _____

**PLAINTIFF SMITH’S NOTICE OF
FILING EXHIBIT “G” TO PLAINTIFF
SMITH’S RESPONSE TO
DEFENDANT’S MOTION TO DISMISS**

Plaintiff Smith, through counsel, hereby files Exhibit “G” to Plaintiff Smith’s Response to Defendant’s Motion to Dismiss. The referenced pleading was filed by facsimile transmission with the Court on [date]. Exhibit “G” could not be accurately transmitted by fax and is therefore being timely filed as a separate document with the Court pursuant to Perrysburg Municipal Court Local Rule 1.06(F)(4).

Respectfully Submitted,

Attorney Name (Sup. Ct. Reg. No.)
Office/Firm
Address
Telephone
Facsimile
E-mail
Counsel for Plaintiff John Smith

CERTIFICATE OF SERVICE

I certify that a copy of this Notice of Filing Exhibit “G” was sent by ordinary U.S. mail on [date] to counsel for defendant Bill Jones, [name and address of recipient].

Attorney Name

RULE 1.07 JURY USE AND MANAGEMENT RULES

A. The implementation and oversight of these rules shall be the responsibility of the judge. Oversight shall include, but not be limited to:

1. A periodic review of the jury source list for its appropriateness and sufficiency to meet the demands of the court and the ends of justice; and
2. A periodic review of the procedures used in selecting, notifying, and utilizing jurors to assure that jurors are being utilized efficiently and without unnecessary inconvenience.

B. GOALS OF JURY MANAGEMENT

1. These rules are intended to ensure that:

- a. Qualified Wood County residents within the court's jurisdiction meet their obligation to serve as jurors when summoned;
- b. Persons will not be excluded from prospective jury service because of improper or illegal discriminatory practices including, but not limited to, those matters related to race, national origin, gender, or age; and
- c. Every reasonable accommodation is made to secure the comfort and peace of mind of the jurors including, but not limited to, the following:
 - (1) Prospective jurors shall be informed of their duties and responsibilities prior to a call to service.
 - (2) Jurors shall be summoned as necessary for the administration of justice.
 - (3) The court will provide special accommodations for disabled prospective jurors who request such services in advance.

C. JURY ELIGIBILITY

1. All persons are eligible to serve on a jury except those who:

- a. Are less than 18 years of age;
- b. Are not residents of the Perrysburg Municipal Court jurisdiction;
- c. Are not citizens of the United States;
- d. Are not able to communicate in the English language; and/or
- e. Have been convicted of a felony and have not had their civil rights restored.

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

D. PROCEDURE FOR OBTAINING ANNUAL JURY LIST

1. In the month preceding the annual jury year, as determined by the court from time to time, the court administrator shall request from the Wood County Board of Elections to select such number of prospective jurors as the court may determine is needed by the use of automated data processing.
2. The names of potential jurors shall be randomly obtained from a list provided by the Wood County Board of Elections containing the most recent names and addresses of registered voters in the Perrysburg Municipal Court jurisdiction. The procedure shall provide for the retention of names of persons selected but not used as jurors, the printing of venires containing the names and addresses of the persons drawn, and reasonable safeguards against unlawful tampering or activation of the automated system. The list of required number of persons eligible to serve as jurors shall be compiled by the Wood County Board of Elections and shall be known as the Annual Jury List.
3. A duplicate of said Annual Jury List shall be certified by the Wood County Board of Elections and filed in the office of the court administrator of Perrysburg Municipal Court. The Wood County Board of Elections may, by order of the court, add to said list or enter on a supplementary list the names of persons who shall thereafter be qualified to serve as jurors.

E. PROCEDURE FOR SUMMONING JURORS

1. Appropriate management techniques shall be used to adjust the number of individuals summoned for jury duty and the number assigned to jury panels.
2. The Wood County Board of Elections shall randomly draw from the annual jury list the names of sufficient jurors to satisfy the needs of the court for the subsequent year.
3. The court's bailiff shall notify by ordinary mail prospective jurors of their selection for jury service and their requirement to respond. The notice to prospective jurors shall specify the period for which the juror was selected. The prospective jurors shall be given a telephone number to obtain answers to any questions and a trial verification number to use the day before the juror is scheduled to come to court.
4. Jurors for civil and criminal cases shall be chosen and summoned by the court administrator as provided by law. When a jury of eight or less is demanded, then at least fifty (50) qualified electors from within the territorial jurisdiction of the court are required as a venire.

5. If there are not enough persons to constitute the required panel, the court may order the panel filled from the bystanders, from among citizens within the territorial jurisdiction of the court, or may order additional jurors from the court administrator.
6. A notice shall be sent by the court administrator before a scheduled trial with the date, time, and location of the juror's required attendance, as well as information on parking facilities.
7. Departures from the random selection procedures may occur only when by reason of challenges or other causes; e.g., there are not enough jurors present to make up a jury panel.
8. Persons summoned for jury service shall be paid a reasonable fee for each one-half or full day. A full day is defined as a day of service from 8:00 a.m. to 5:00 p.m. Any time served by a juror after 5:00 p.m. is considered another half-day.

F. EXEMPTIONS, EXCUSES, AND DEFERRALS FROM JURY SERVICE

1. There are no exemptions from jury service. Eligible persons who are summoned for jury service may be excused from jury service by presenting a letter from a physician stating the reason why the individual is not mentally or physically capable of jury service. Excuses from jury service because of an unusual continuing hardship to oneself or to others may be granted by the court.
2. Deferrals for jury service to another period within the same jury year may be permitted by the judge for good cause shown.

G. VOIR DIRE

1. The trial judge may give the jurors preliminary instructions of law before the voir dire examination.
2. The trial judge shall conduct a preliminary voir dire examination and counsel then shall be permitted to question the panel for a reasonable period of time set by the judge. To ensure that the privacy of prospective jurors is reasonably protected, voir dire regarding personal or sensitive matters may be conducted in the judge's chambers.
3. To reduce the time required for voir dire, basic background information contained on any juror questionnaire shall be made available to counsel in writing 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.
4. Voir dire examination shall be limited to matters relevant to a determination of whether a particular juror can be fair and impartial. Counsel shall not be permitted to inquire of the

- jurors as to any legal issue, ask jurors argumentative or hypothetical questions, or elicit assurances.
5. 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.
 6. 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.
 7. The exercise of peremptory challenges shall be in accordance with the Ohio Revised Code, Civil Rules, and Criminal Rules.

H. JURY ORIENTATION

1. Jurors shall report for orientation on the date and time stated in the summons unless otherwise directed. Orientation shall be conducted by the judge in open court on the record.
2. The trial judge shall give instructions directly following empanelment of the jury to explain the jury's role, the trial procedures including questioning by the 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, within his or her discretion, may make available to the jurors such written instructions during deliberations.
3. Upon appearance for service, all prospective jurors shall be placed under the supervision of assigned personnel and shall direct any questions or communications to such court personnel for appropriate instruction.
4. All communications between the judge and the members of the jury panel, from the time of reporting to the court through dismissal, shall be committed to writing or placed on the record in open court. Counsel for each party shall be informed of any communication, and shall be given the opportunity to be heard as to such communication. Under no circumstances shall counsel, a party, or other witnesses have any contact with jurors.
5. All jury deliberations shall be conducted in the jury deliberation room. The deliberation room shall include space, furnishings, and facilities conducive to reaching a fair verdict. Court personnel shall endeavor to secure the safety of all prospective jurors, and shall arrange and conduct all activities so as to minimize contact between the jurors, parties, counsel, and the public. Upon the commencement of deliberations, all jurors shall remain in the care of court personnel and shall not be permitted to leave the court without permission. Upon reaching a verdict, all jurors shall return to the courtroom where the

verdict or verdicts shall be read in open court. Upon the reading of the verdict in criminal cases, either party may request that the jury be polled.

6. 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 advise them that they are discharged from service.

I. SATISFACTION OF JURY SERVICE OBLIGATION

1. Once an individual has been sworn as a juror, he/she is discharged of all obligations for the balance of that jury year. A juror is not subject to placement on an “Annual Jury List” for the two jury years following the year the juror was discharged if that juror was sworn in to hear the case at trial.

RULE 1.08 COURT COSTS AND SECURITY DEPOSITS GENERALLY

A. Civil court costs shall be paid at time of filing to the clerk of court as follows:

1. Complaint for money only including third party complaints, cross claims, and counterclaims involving new parties, but excluding cognovit complaints (up to two defendants).....\$85.00
Each additional defendant.....\$8.00
2. Complaints for money, cognovit note action (includes \$10.00 for attorney confessing judgment).....\$85.00
3. Complaint for money, small claims division only:
 - a. Original\$45.00
 - b. Amended and/or Counterclaims\$8.00
4. Complaint in forcible entry and/or detainer
 - a. Ejectment cause only\$95.00
 - b. Ejectment cause with 2nd cause for rent and/or damages.....\$105.00
Each additional defendant.....\$8.00
 - c. Writ of Restitution\$15.00
5. Complaint in replevin\$85.00
BMV petitions.....\$85.00
6. All other complaints and petitions\$85.00
7. Application for court trusteeship\$45.00
Adding creditor to trusteeship.....\$7.00
8. Petition or motion to revive judgment\$15.00

9. Motion to vacate judgment\$15.00
10. Certificates of judgment
 - a. Filing and docket certificate from another court.....\$10.00
 - b. Issuance from Perrysburg Court\$10.00
 - c. Exemplified transcript.....\$10.00
11. Post-judgment proceedings
 - a. Proceedings in aid of execution\$20.00
 - b. Garnishments (personal earnings).....\$75.00
 - c. Garnishments (other than personal earnings)\$20.00
 - Respondent's/Garnishee's fee (made payable to garnishee)\$1.00
 - d. Execution of judgments/attachments of property\$25.00
12. Subpoena.....\$5.00
13. Marriage Fee\$15.00
14. Jury Demand\$80.00
 - Jury Deposit – See Rule 2.04(B)\$500.00
15. Service of process after initial issuance of process
 - a. Certified mail\$8.00
 - b. Bailiff\$8.00

Plus mileage
 - c. Sheriff or foreign county.....\$20.00
 - d. Publication(calculated per case)
16. Appraisal fee – attachment and replevin cases\$250.00
17. Transfer from Small Claims to Civil\$40.00
18. Order granting execution and transfer of title on mobile homes
(Notification of interested parties sent certificate of mail)\$15.00
19. The failure of a party to advance the security for jury costs provided above at least ten
(10) days before the date set for trial shall constitute a waiver of trial by jury.
20. In all cases in which it shall be necessary to seize, move, remove, or store, or to provide a
custodian for any goods or property seized under any writ or order issued by the court, the
court administrator shall require an additional deposit in such amount as is deemed
necessary to cover all estimated costs and expenses to implement such writ or order. In
addition, the party requesting such writ or order may be required to supply such labor at
his expense, as the court administrator or bailiff deems necessary to enforce such writ or
order.

- k. Computer record checks by court personnel.....\$3.00
- l. Obtaining closed and stored case files\$15.00
(plus hourly rate after first hour of search)
- 2. The following items shall be assessed as costs in all civil cases:
 - a. Appraiser’s fee for attachment and replevin of property(calculated per case)
 - b. Certification of case to common pleas court, preparing file.....\$10.00
 - c. Amended complaints, small claims division only\$8.00
 - d. Computerized legal research fees on each cause, judgment by confession, and appeal\$3.00
 - e. Adding a creditor to court trusteeship.....\$7.00

RULE 1.09 WITHDRAWAL OF TRIAL COUNSEL

An attorney, having entered an appearance or being counsel of record in any matter before this court, shall appear at all hearings pursuant to proper notice. Such attorney may, upon motion timely filed and in accordance with Canon 2, Disciplinary Rule 2-110 of the Code of Professional Responsibility as adopted by the Supreme Court of Ohio, request permission of this court to withdraw from a matter pending in this court. Except for a withdrawal requested in open court when a counsel’s client fails to appear for a court proceeding, no motion for withdrawal will be considered unless: (i) a written request to withdraw is presented which states the reasons for the application, (ii) the application contains a certification of service to opposing counsel, and (iii) the withdrawing counsel represents that if the application is granted, a copy of the withdrawal entry will be mailed forthwith to the last known address of the client. A withdrawal of counsel after the cause has been assigned for trial shall not be permitted, except for good cause shown and upon determination by the court that the party will be adequately represented at the trial.

RULE 1.10 TRUSTEESHIP

- A. Any person entitled to the benefits of Ohio Revised Code Sections 2329.70 and 2329.71, and desiring to receive the benefits thereof, may file with a clerk of the Perrysburg Municipal Court an application, sworn to under oath, which shall contain an accurate account and complete statement of the names and addresses of his/her unsecured creditors, with liquidated claims, and the amount due and owing to each of them, and also the amount if any due and owing to each for work, labor, and necessities. The clerk shall thereupon notify such debtor that said application would be presented to a judge of the Perrysburg Municipal Court upon a date to be fixed by the clerk. The clerk shall likewise instruct said debtor to be present for the hearing of said application.

- B. Any proof of claim by a creditor shall be verified before an officer authorized to administer oaths. Such proof of claim shall state the creditor's correct address, the amount which such creditor believes to be due him/her, the consideration for such claim, and the fact that it is for work, labor, or necessities if such be the fact.
- C. Any claimant or the debtor may, by motion, obtain a hearing to settle disputes concerning any proof of claim.
- D. The following rules are promulgated pursuant to Ohio Revised Code Section 2329.70:
 - 1. No payment will be accepted from 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 cancelled if there has been no payment received or no change in work status reported within thirty (30) days of 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: (a) 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, (b) any medical bills acquired by the debtor before or after the filing of the trusteeship.

RULE 1.11 SMALL CLAIMS

- A. Any plaintiff may file up to twenty-four (24) claims in any calendar year in small claims for the recovery of money where the amount sought does not exceed \$3,000. Small claims proceedings shall be governed by Ohio Revised Code Chapter 1925. Cases may be heard by a magistrate of the court with sessions set by the judge.
- B. In all unliquidated damage claims where defendant appears personally or through counsel or files an answer, the case will be assigned to the 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 default judgment.

- C. 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 Civil Rule 55 with regard to supporting documentation verified by affidavit or sworn testimony of the plaintiff.
- D. Once a hearing has been set before the magistrate, motions for a continuance must be filed within seven (7) days before the hearing.
- E. 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, and all relevant evidence shall be admitted at the discretion of the magistrate.
- F. If any defendant defaults on payments, which have been ordered by the court, plaintiff may file garnishment or executions.
- G. Motions to transfer the case to regular civil docket in accordance with Ohio Revised Code Chapter 1925.10 filed by either party or crossclaims or counterclaims in excess of \$3,000 will be referred to the magistrate for a decision. In cases where motions to transfer a small claims case to the regular civil docket have been granted, the party seeking the transfer shall pay the appropriate filing fee to the clerk with the motion. Failure to pay the fee will cause the motion to transfer to be denied.

RULE 1.12 ANNUAL PHYSICAL CASE INVENTORY

The judge of this court, or his designate, shall complete an annual physical inventory of all cases reported as pending on the monthly statistical report form filed by the judge. The initial physical inventory shall be completed by September 1, 1991 and subsequent inventories shall be completed on or before March 1st for each year commencing in 1992. This rule is effective July 1, 1991.

RULE 1.13 COURT SECURITY STANDARDS

The Perrysburg Municipal Court is charged with dispensing justice, resolving disputes, and protecting the constitutional rights of persons who appear before the court.

Accordingly, appropriate levels of security should exist in the court to protect the integrity of court procedures, protect the rights of individuals before it, deter those who would take violent action against the court or litigants, sustain the proper decorum and dignity of the court, and assure that court facilities are safe for all those who visit and work here.

RULE 1.14 TRANSPORTATION OF PERSONS IN CUSTODY

Wherefore, pursuant to the Rules of Superintendence for the Court of Ohio, Court Security Standard 6, the court has issued the following:

Not less than two (2) law enforcement officers shall transport all persons in custody to and from Perrysburg Municipal Court and the Wood County Justice Center. All persons in custody shall be secured by restraining devices placed on their legs and hands. The devices shall be double locked and remain on the person in custody during the time at Perrysburg Municipal Court. The hand restraints shall be removed only while the person in custody is in the courtroom.

The officers transporting persons shall follow current law enforcement procedure for the transportation of persons in custody.

RULE 1.15 SECURITY ADVISORY COMMITTEE

The court hereby appoints a Local Security Advisory Committee consisting of the following persons:

Judge S. Dwight Osterud, Perrysburg Municipal Court
Douglas C. Spencer, Chief Bailiff, Perrysburg Municipal Court
John Alexander, City of Perrysburg Administrator
Rob Gates, Retired Perrysburg Township Police Detective Sergeant
John Donahue, Esq., Wood County Bar Association
Thomas Stebbins, Esq., Toledo Bar Association
Chief Richard Gilts, Perrysburg Police Division
Mike Olmstead, Chairman, Service-Safety Committee
Janice I. Elkes, Court Administrator, Perrysburg Municipal Court

The Court has implemented a Local Security Policy and Procedure Plan which addresses the Ohio Court Security Standards adopted by the Supreme Court of Ohio on October 17, 1994.

The Local Court Security Advisory Committee has adopted a Security Operations Manual, which has established written directives for ensuring security within the court while maintaining accessibility to the community. This policy is effective March 16, 1995.

RULE 1.16 GENERAL ORDER OF REFERENCE FOR THE MAGISTRATE

In order to effectively and expeditiously administer the duties of the court, all powers authorized by Rule 53 of the Rules of Civil Procedure, Rule 19 of the Rules of Criminal Procedure, and Rule 14 of the Ohio Traffic Rules, are hereby referred to the magistrate.

CIVIL AND SMALL CLAIMS CASES

The civil and small claims cases of the court are hereby referred to the magistrate. The magistrate is hereby authorized to conduct the following hearings:

1. Any pre-trial or post-judgment motion in any case.
2. The trial of any case that will not be tried to a jury.
3. Upon the unanimous written consent of the parties, the trial of any case that will be tried to a jury.

The magistrate shall regulate all proceedings in every hearing as if by the court and do all acts and take all measures necessary or proper for the efficient performance of the magistrate's duties under this Order. The magistrate may do all of the following:

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

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

Any person may appeal to the court from any order of a magistrate entered under the authority of the previous paragraph by filing a motion to set the order aside, stating the party's objections with particularity. The motion shall be filed no later than ten (10) days after the magistrate's order is entered. The pendency of a motion to set aside does not stay the effectiveness of the magistrate's order unless the magistrate or the court grants a stay. The magistrate shall promptly conduct all proceedings necessary for decision of referred matters in civil and small claims cases. The magistrate shall prepare, sign and file a magistrate's decision of the referred matter with the clerk. Findings of fact and conclusions of law are not required unless requested by a party under Rule 52 or otherwise required by law or the court.

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

CRIMINAL CASES

In accordance with Rule 19 of the Ohio Rules of Criminal Procedure, the criminal cases of the court are hereby referred to the magistrate. The magistrate is hereby authorized to conduct the following hearings:

1. Initial appearance and preliminary hearings conducted pursuant to Criminal Rule 5.
2. Arraignments conducted pursuant to Criminal Rule 10.
3. Proceedings at which a plea may be entered in accordance with Criminal Rule 11.
4. In felony and misdemeanor cases, the magistrate may accept and enter not guilty pleas.
5. In misdemeanor cases, the magistrate may accept and enter guilty and no contest pleas, determine guilt or innocence, receive statements in explanation and in mitigation of sentence, and recommend a penalty to be imposed. If the offense charged is an offense for which imprisonment is a possible penalty, the matter may be referred only with the unanimous consent of the parties, in writing or on the record in open court. Pre-trial conferences conducted pursuant to Criminal Rule 17.1.
6. Motions filed pursuant to Criminal Rule 19 and Criminal Rule 47.
7. Proceedings for the issuance of a temporary protection order as authorized by law.
8. Proceedings to establish bail pursuant to Criminal Rule 46.
9. The trial of any misdemeanor case that will not be tried to a jury. If the offense charged is an offense for which imprisonment is a possible penalty, the matter may be referred only with unanimous consent of the parties in writing or on the record in open court.
10. The magistrate shall regulate all proceedings in every hearing as if by the court and do all acts and take all measures necessary or proper for the efficient performance of the magistrate's duties.

The magistrate may do all of the following:

1. Issue subpoenas for the attendance of witnesses and the production of evidence.
2. Rule upon the admissibility of evidence in misdemeanor cases.
3. Put witnesses under oath and examine them.
4. In cases involving direct or indirect contempt of court, and when necessary, to obtain the alleged contemnor's presence for hearing, issue an attachment for the alleged contemnor and set bail to secure the alleged contemnor's appearance, considering the conditions of release prescribed in Criminal Rule 46.
5. Issue search warrants to search and seize property located within the court's territorial jurisdiction, upon the request of a prosecuting attorney or a law enforcement officer.

The magistrate may enter pre-trial orders without judicial approval which are necessary to regulate the proceedings and are not dispositive of a claim or a defense of a part.

Any person may appeal to the court from any pre-trial order of a magistrate entered under the authority of the previous paragraph by filing a motion to set the order aside, stating the party's objections with particularity. The motion shall be filed within fourteen (14) days after the magistrate's order is entered. The pendency of a motion to set aside does not stay the effectiveness of

the magistrate's order unless the magistrate or the court grants a stay. A party's failure to appeal does not preclude review of the order on objections to the magistrate's decision.

The magistrates shall promptly conduct all proceedings necessary for decision of referred matters in criminal cases.

Within fourteen (14) days after the filing of a magistrate's decision, a party may file written objections thereto. If any party timely files objections, any other party may also file objections no later than ten (10) days after the first objections are filed. The magistrate's decision shall become effective when adopted by the court. No sentence recommended by a magistrate shall be enforced until the court has entered judgment.

TRAFFIC CASES

In accord with Rule 14 of the Ohio Traffic Rules and Rule 19 of the Ohio Rules of Criminal Procedure, the traffic cases of the court, including driving under the influence cases, are hereby referred to the magistrate.

The magistrate is hereby authorized to do the following:

1. Receive pleas, statements in explanation and in mitigation of sentence.
2. Recommend penalty to be imposed.
3. Hear contested cases for the taking of evidence and written report of findings and recommendations to the court of guilty or innocence and penalty, if consented to by the defendant.

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

Within fourteen (14) days after the filing of the magistrate's decision, a party may file written objections thereto. If any party timely files objections, any other party may also file objections not later than ten (10) days after the first objections are filed. The magistrate's decision shall become effective when adopted by the court. No sentence recommended by a magistrate shall be enforced until the court has entered judgment.

GENERAL AUTHORITY FOR ALL REFERRED CASES

Nothing in this order shall be construed as prohibiting a magistrate from the entry of orders when authority is specifically conveyed by statute to magistrate.

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

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

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

PART 2. CIVIL RULES

The Rules of Court set forth in Part 2, and bearing the designation "Rule 2.____," pertain to procedures applicable to civil proceedings (including small claims division cases when so indicated in the Rule) of this court in the exercise of its civil jurisdiction.

RULE 2.01 CIVIL CASE MANAGEMENT

These steps are implemented to establish, pursuant to Rule 5 of the Rules of Superintendence of Courts, a system for civil case management which will achieve the prompt and fair disposal of civil cases.

A. CLERICAL STEPS

1. SUMMONS

The summons shall be served in accordance with the Ohio Rules of Procedure. In the event there is a failure of service, the clerk shall notify counsel immediately. If counsel fails to obtain service of summons within six (6) months from the date that the cause of action has been filed, then the clerk shall notify counsel or plaintiff if not represented by counsel that the case will be dismissed in thirty (30) days unless good cause is shown to the contrary.

2. PLEADINGS

After any responsive pleading is filed, the clerk shall forward said pleading and file to the judge so the matter may be set for a hearing where appropriate.

3. DISMISSALS

- a. In accordance with Rule 40 of the Rules of Superintendence for the Courts of Ohio, cases, which have been on the docket for six (6) months without any proceedings taken therein, except cases awaiting trial, shall be dismissed after thirty (30) days written notice to counsel of record or to the plaintiff if plaintiff is not represented by counsel.

- b. When an action in this court is dismissed 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 subsequent 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.
- c. Cases dismissed under Rule 40 may be reinstated only upon written motion showing good cause filed within ninety (90) days of the dismissal. Upon granting of a motion to reinstate, movant shall pay appropriate filing fees to the court administrator.

4. SETTLED CASES

When a file has been marked “settled” and the entry has not been received within thirty (30) days, and then the clerk shall notify the party that the case will be dismissed unless the entry is received within thirty (30) days.

B. JUDICIAL STEPS

1. MOTIONS

- a. Any motion, unless made during a hearing or trial, shall be in writing and shall state with particularity the grounds therefore, and shall clearly state the relief or order sought. All motions must include a proposed order.
- b. All pre-trial motions must be accompanied by a copy of each unreported case cited in the motion.
- c. Any motion, unless made during a hearing or trial, shall be submitted and determined by the court upon the briefs served and filed as hereinafter provided, unless an oral hearing is required or allowed by the court. No oral argument will be allowed except by a party entered prior to final submission of said motion.
- d. The moving party shall serve and file with the motion a brief containing the reason and authorities which support said motion. If consideration of facts not appearing of record is required, movant shall serve and file copies of those documents, exhibits, and affidavits offered in support of the motion simultaneously with the motion.
- e. Unless otherwise ordered by the court, opposing counsel or party shall serve and file an answer brief, along with attachment and materials offered in opposition to a motion, within fourteen (14) days after service of such motion.
- f. Movant may file a reply brief only with the permission of the court, which shall be granted upon a showing of necessity. Therefore, any such brief permitted shall be

served and filed within seven (7) days of service of the brief opposing the motion unless otherwise ordered by the court.

- g. Any motion shall be deemed submitted to the assigned judge on the seventeenth (17th) day after such motion is filed with the court or when an answer memorandum is filed, whichever is earlier. In the event that leave is granted to file a reply brief, the motion shall be deemed submitted on the twenty-fourth (24th) date after such motion is filed or when the memorandum brief is filed, whichever is earlier.
- h. Any motion to strike a pleading shall quote all words which are sought to be stricken.
- i. Motions to withdraw as attorney of record and to revive action shall be considered *ex parte* in nature and shall be accompanied by an order for signature by the judge.

2. CIVIL PRE-TRIALS

- a. In any civil action, the court may, in its discretion with or without request or motion of a party, assign the case for pre-trial 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 with the completed pre-trial information sheet and be prepared to discuss 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. stipulation of facts;
 - 6. need for expert witnesses;
 - 7. need for trial briefs;
 - 8. determination of trial date and time required for trial; and,
 - 9. jury instructions.
- b. The court may prepare a written order reciting the action taken at the pre-trial 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.

3. CONTINUANCES

- a. Except in cases of emergency where good cause is shown, no party shall be granted a continuance of a trial or hearing without a written motion from the party or his/her counsel stating the reason for the continuance.
- b. When a continuance is requested for the reason that counsel is scheduled to appear in another case assigned for trial on the same date in the same or other trial court or state, the case which was first set for trial shall have priority and shall be tried on the date assigned. Criminal cases assigned for trial have priority over civil cases assigned for trial. The granting of any other request for continuance of a scheduled trial is a matter within the discretion of the trial court.
- c. If a designated trial attorney has such a number of cases assigned for trial to cause undue delay in the disposition of such cases, the court may require the attorney to provide a substitute trial attorney.

4. JUDGMENT ENTRIES

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

RULE 2.02 LANDLORD/TENANT ACTIONS

- A. In forcible entry and detainer (FED) actions under Ohio Revised Code Chapter 1923, the defendant shall be served a summons in accordance with Ohio Revised Code Section 1923.06. The trial date will be set as close to twenty-one (21) days from the date of filing as possible. The service of summons shall be at least seven (7) days before the trial date. Return of service of summons shall be made within five (5) days after receiving the complaint.
- B. A demand for trial by jury under Ohio Revised Code Section 1923.10 shall be filed no later than three (3) days before the trial date. Non-jury cases may be heard by a magistrate. No continuances shall be granted longer than eight (8) days but for good cause and only in accordance with Ohio Revised Code Section 1923.08. At the time of trial, both the plaintiff and plaintiff's attorney, if plaintiff is represented, shall be present in court or the case may be dismissed.
- C. 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

three (3)-day notice upon defendant and regarding the grounds for request for restitution of premises.

- D. A copy of all notices required to be served upon tenants pursuant to Ohio Revised Code Chapters 5321, 5313, 3733, and 1923 or pursuant to federal regulations shall be attached to the complaint as well as any documents required pursuant to Rule 10(D) of the Ohio Rules of Civil Procedure.
- E. When a second cause of action in a FED has been filed alleging money damages, after the issue of possession of premises has been determined, the case will be continued for defendant to answer within twenty-eight (28) days from service of the complaint. In cases where defendant files an answer, the case will be set for trial assignment to a judge. If defendant fails to appear or otherwise defend, default judgment may be entered in accordance with Civil Rule 55.
- F. 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. To initiate this procedure, defendant must first file a counterclaim upon plaintiff before the trial date and shall deposit with the clerk all or part of the past due rent and rent becoming due during the pendency of the action, unless the court waives this requirement for good cause. If the defendant complies, the case shall be continued no more than three (3) weeks for resolution of all issues between the parties.
- G. In rent escrow cases, a tenant may deposit with the clerk of court all rent money due to a landlord by filing an application in accordance with Ohio Revised Code Section 5321.07 or 3733.121. The bailiff shall serve the landlord by personal or residence service in accordance with Ohio Rules of Civil Procedure Rule 4.1 (2) or (3). A hearing shall be held fourteen (14) days from the date of filing before a magistrate. At the hearing the tenant must prove by a preponderance of the evidence that before filing the application for rent escrow:
 - 1. Reasonable notice was given to the landlord;
 - 2. The landlord violated a statutory or contractual duty justifying the action; and
 - 3. The tenant was current in rent.
- H. If the tenant fails to satisfy the burden of proof at a rent escrow hearing, the court shall proceed in accordance with Ohio Revised Code Section 5321.09 (C) or 3733.122(C) or (D) in releasing to the landlord the rent on deposit, less costs.

RULE 2.03 JUDGMENTS

A. DEFAULT JUDGMENT

1. 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.
2. 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.
3. 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.
4. 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.
5. 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 void as provided by federal law.
6. 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 fourteen (14) days notice before the hearing date.
7. Interest will accrue from the date of judgment at the statutory rate of interest as provided by Ohio Revised Code Section 1343.03. Pre-judgment interest may be granted by the court at the rate set annually by the tax commissioner.
8. A default judgment may only be vacated in accordance with Rule 60 of the Ohio Rules of Civil Procedure.

B. COGNOVIT NOTE JUDGMENTS

1. No judgment based upon a warrant of attorney to confess judgment against the defendant contained in any instrument executed on or after January 1, 1974, shall be rendered by the court unless:

- a. The complaint alleges that the instrument containing such warrant did not arise out of a consumer loan or consumer transaction as defined in Ohio Revised Code Section 2323.13.
 - b. On any instrument executed on or after January 1, 1976, the warning as required in Ohio Revised Code Section 2323.13 appears thereon.
2. The original instrument containing such warrant must be deposited and filed with the court before a judgment by confession shall be rendered thereon unless the court determines upon good cause shown that possession of the instrument should remain with the holder or that the holder is unable to deliver said instrument.

C. SATISFACTION OF JUDGMENT

1. Satisfaction in whole or part, of any judgment shall be effected by (i) filing an appropriate order or entry with the clerk which has been approved by the plaintiff or judgment creditor, or his counsel or (ii) endorsing the appearance docket by the plaintiff or judgment creditor, or his counsel over the authenticating signature of the clerk. Any endorsement shall be noted on the case jacket by the clerk. Payment of costs, unless otherwise excused by the court for good cause shown, shall be required prior to any filing of an order or endorsement of satisfaction.

D. POST-JUDGMENT PROCEEDINGS

1. Proceedings in aid of execution will be scheduled by the clerk. Judgment debtors who have been personally served and yet fail to appear may be held in contempt with a bench warrant being issued for their arrest.
2. If more than one (1) garnishment is filed against a debtor on a specific day, the earlier time-stamped garnishment will have priority over the later filed.

E. REVIVOR OF JUDGMENT

1. All costs accrued in a case must be paid prior to the filing of a conditional order or revivor of judgment.

RULE 2.04 DEPOSIT OF COSTS FOR JURY

- A. In a civil case, other than forcible entry and detainer actions, either party may demand a trial by jury within the time specified by Rule 38 of the Ohio Rules of Civil Procedure by first filing a deposit of \$80.00 for jury costs with the clerk of court. In forcible entry and detainer actions, a jury must be demanded within time specified by Ohio Revised Code Section 1923.10. In any civil jury case, counsel for plaintiff must file a trial brief with the clerk at least twenty (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 ten (10) days before the date of trial with copies certified to all opposing counsel or unrepresented parties. All counsel shall file proposed jury instructions and verdict forms at least ten (10) days before trial.

- B. The costs of a jury trial shall include the costs for jurors. The party *demanding* a jury shall be required to deposit \$500.00 within ten (10) days after the receipt of 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 at least two business days in advance of the scheduled trial.

RULE 2.05 INVOLUNTARY DISMISSAL OF ACTIONS

Any civil case which is on the regular docket for six (6) months or any small claims case which is on the small claims docket for four (4) months without a proceeding taken therein, shall be dismissed for want of prosecution after written notice has been sent to counsel, unless good cause is shown why such dismissal should not be effected.

RULE 2.06 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.

RULE 2.07 MEDIATION

Pursuant to Ohio Revised Code Section 1901.262, this court hereby adopts and creates a Mediation Program. The procedures for mediation are contained in Part Four of the Local Rules of this court.

PART 3. CRIMINAL AND TRAFFIC RULES

The Rules of Court set forth in Part 3, and bearing the designation “Rule 3.__”, pertain to procedures applicable to all criminal, quasi-criminal, and traffic proceedings of the court in the exercise of its criminal and traffic jurisdiction.

RULE 3.01 CASE MANAGEMENT IN CRIMINAL CASES

Pursuant to Rule 5 of the Rules of Superintendence for the Courts of Ohio, these steps are implemented to establish a system for criminal case management, which will achieve the prompt and fair disposition of cases.

Scheduling begins after arraignment. Thereafter, the case is managed as follows:

A. PRE-TRIALS

No cause will be assigned or continued for a pre-trial conference unless the pre-trial conference is requested by one of the parties, or the court orders the pre-trial conference upon its own motion.

B. MOTIONS

All motions, unless made during a trial, shall be in writing and shall state with particularity the grounds therefore and shall clearly state the relief sought. Motions must be accompanied by a proposed order and must be filed within the time limits established by the Ohio Rules of Criminal Procedure.

All pre-trial motions must be accompanied by a copy of each unreported case cited in the motion.

C. TRIALS

Each case shall be set for trial to the court, unless a jury demand is timely filed pursuant to Local Rule 3.08.

D. JURY INSTRUCTIONS

When a jury demand has been filed unless modified by court order, proposed jury instructions shall be filed in all criminal cases by all parties seven (7) days prior to the date scheduled for trial.

E. SENTENCING

Sentencing hearings shall be held upon entry of plea or after trial if no pre-sentence report is requested. When a pre-sentence investigation is ordered by the court, the probation officer shall set the sentencing date upon completion of the pre-sentence interview and inform the defendant and defendant's counsel no later than thirty (30) days from the date of the interview.

RULE 3.02 APPEARANCE OF DEFENDANTS IN CRIMINAL CASES

- A. Defendants in criminal and traffic cases shall be required to appear before the court by notice to appear, summons issued for that purpose, arrest, or continuance from a prior court date. Defendants must appear for arraignment and no waiver of arraignment shall be allowed unless made by defendant or legal counsel in person or in writing prior to arraignment date. If waiver of arraignment is made in writing it must be accompanied by a plea and waiver of time requirements.

- B. When the defendant resides in the Perrysburg area (Lucas, Ottawa, Wood, and Fulton counties, Ohio), 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 cities of Perrysburg, Rossford, Northwood, the villages of Walbridge and Luckey, the townships of Lake and Perrysburg, the Wood 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 ten (10) days from the date the complaint is filed to persons summoned to appear for arraignment in misdemeanor and felony cases as defendants.

RULE 3.03 SECURITY DEPOSITS FOR COSTS

Upon the filing of a complaint in a criminal or traffic case, a security deposit for costs in an amount equal to the basic court costs for such proceeding shall be advanced by complainant unless he/she is a law enforcement officer. Such deposit may be waived by the court if the complainant, prior to such filing, has received court approval of his/her written agreement to be liable for court costs if he/she fails to cooperate in the prosecution of the cause and is not otherwise in default of payment of other court costs accruing in other cases in which he/she is the complainant.

RULE 3.04 BENCH WARRANTS

- A. Defendants who fail to appear in court for the first time, who have been properly 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 seven (7) calendar days (or the next working day if the 7th day is not a working day), with the appropriate fees 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. In cases of a posted surety bond, a judgment may be taken against the surety for the full amount of the bond if the bailed person does not appear.
- 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 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 3.01, an arrest warrant shall issue, subject to proof of service.

RULE 3.05 MINOR MISDEMEANOR APPEARANCE AND WAIVER PROCEDURE

Pursuant to Criminal Rule 4.1, a Violations Bureau for the disposition of minor misdemeanor offenses other than traffic offenses is hereby established. A person charged with a minor misdemeanor offense or such other misdemeanor offense as from time to time may be specifically included in this procedure by administrative order of the court, may, in lieu of appearance in court and within the time specified in the citation, appear personally at the court administrator's office, sign a waiver of trial, plead guilty in writing, and pay the stated fine and costs established by the administrative order of the court.

RULE 3.06 TRAFFIC VIOLATIONS BUREAU

Pursuant to the Ohio Traffic Rule ("OTR") 13, a Traffic Violations Bureau is hereby established. A person (but not an organization as defined in Ohio Revised Code Section 2901[D]) charged with a traffic violation waiveable under OTR 13 or under administrative order of the court may, in lieu of appearance in court and within the time specified in the citation, appear personally at the court administrator's office and sign a waiver of appearance, plead guilty in writing, and pay the stated fine and costs as established by administrative order of the court.

RULE 3.07 CRIMINAL COURT COSTS

- A. The basic court costs in all criminal, quasi-criminal, and traffic cases shall be as follows:
 - 1. \$78.00 for all traffic cases except those involving traffic cases which are not "moving offenses" as that term is defined in Ohio Revised Code Section 2743.70: general court costs of \$30.00, state costs of \$39.00, a computerized legal research fee of \$3.00, and an administrative computer fee of \$6.00.
 - 2. \$73.00 for all criminal, quasi-criminal cases: general court costs of \$30.00, state costs of \$34.00, a computerized legal research fee of \$3.00, and an administrative computer fee of \$6.00.

3. \$53.00 in cases involving traffic offenses that are not “moving offenses”; and cases involving quasi-criminal matters: general court costs of \$40.00, a computerized legal research fee of \$3.00, and an administrative computer fee of \$10.00.
4. \$63.00 in cases involving traffic offenses that are not “moving offenses” i.e. safety belt, child restraint: general court costs of \$40.00, state costs of \$10.00, a computerized legal research fee of \$3.00, and an administrative computer fee of \$10.00.

B. The following items shall be assessed as costs in all criminal, quasi-criminal, and traffic cases:

	<u>Non-Moving</u>
1. Costs - Traffic	\$78.00 (seat belt - \$63.00) (parking - \$53.00)
2. Costs - Criminal	\$73.00
3. Appeal.....	\$25.00
4. Sheriff's/Commitment Fees	\$18.00
5. Probation Referral.....	\$50.00
6. JA/OVI Program/DV	\$10.00
7. FRA.....	\$15.00
8. Issue Subpoena.....	\$5.00
9. Plea Agreement.....	\$5.00
10. Ex Parte and Temporary Protection Orders, each.....	\$25.00
11. Witness.....	**\$6.00 (**plus roundtrip mileage pursuant to Local Rule 3.09)
12. Renewal Letter for drivers license	\$10.00
13. Driving Letter.....	\$15.00
14. Notices PT Susp. Hearing Forfeitures etc.....	\$5.00
15. Copies	\$0.10
16. Supplemental Summons.....	\$1.00
17. Call Jury	\$55.00

18. Warrants/Record Check	\$12.00
19. PR/Unsecured & Bail Bond	\$5.00
20. Expungement	\$50.00
21. Motions	\$4.00
22. Application for Public Defender	\$25.00
(fee increased from \$3.00 effective 9/29/05 pursuant to H.B. 66/R.C. 120.36)	
23. Driving Petition.....	\$5.00
24. Property Bond	\$25.00
25. Deferred Payment Plan	\$3.00
26. Compact Notices	\$15.00
27. Ohio Forfeitures	\$15.00
28. Facsimile Filings & Sending.....	\$1.00 per page
29. Certification of Court Entry	\$5.00
30. Warrants	\$25.00
31. Certified Mail.....	\$8.00

RULE 3.08 JURY TRIALS

A criminal defendant charged with a violation other than a minor misdemeanor is entitled to a jury of eight (8) pursuant to Rule 23 (A) of the Ohio Rules of Criminal Procedure. A defendant shall be tried by the court unless a jury demand has been filed with a clerk. The demand must be filed at least ten (10) days before the trial date is set or three (3) days after notice of the trial date is received, or defendant is deemed to have waived the right to jury trial.

Upon written demand for a trial by jury, the clerk shall cause notice to be sent to the proposed venire. Should defendant later withdraw said demand, costs of notifying the jury in the amount of \$55.00, if incurred, shall be assessed against the defendant only if he/she is found guilty or pleads guilty to the traffic or criminal offense. Any extraordinary expenses in connection with a jury shall be born by the party against whom verdict or finding is rendered.

All counsel shall file proposed jury instructions and verdict forms at least ten (10) days before trial.

The costs of a jury trial shall include the costs for jurors. The defendant shall be charged with full jury costs regardless of the service of the jurors on a case unless a jury demand is withdrawn at least two business days in advance of the scheduled trial.

RULE 3.09 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. Witnesses shall be reimbursed for roundtrip mileage incurred at the Internal Revenue Service's (IRS) standard business mileage rate in effect at the date of travel.
- C. The court administrator, or clerk in the criminal division, shall process subpoenas from a praecipe filed at least ten (10) days in advance of the trial date. Subpoenas shall be served as follows:
 - 1. When a subpoena praecipe has been filed at least ten (10) days before the trial date, except for members of a police division, all persons shall be served by regular U.S. Postal Service unless it is possible for the court's bailiff to serve in person or the clerk under Ohio Revised Code Section 2945.45. 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. When a subpoena praecipe is received less than ten (10) days before the trial date, service of the subpoena shall be made by personal or residence service by members of the police division, the court's bailiff, or other duly appointed process server.
 - 3. Service of subpoenas to members of the police division shall be by delivery from the clerk of court's office to the command officer of the police division. The command officer shall make service and return in an appropriate manner.
 - 4. 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(C) of the Ohio Rules of Civil Procedure or Rule 17(D) of the Ohio Rules of Criminal Procedure.

PART 4. MEDIATION

RULE 4.01

Through Local Rule 4 the Perrysburg Municipal Court incorporates by reference the R.C. 2710 "Uniform Mediation Act" (UMA) and Rule 16 of the Supreme Court of Ohio Rules of Superintendence.

RULE 4.02 DEFINITIONS

“Mediation” means any process in which a mediator facilitates communication and negotiation between the parties to assist them in reaching a voluntary agreement regarding their dispute.

“Mediator” means any neutral and impartial individual who conducts a mediation pursuant to an order of this Court.

RULE 4.03 DOMESTIC VIOLENCE

No case involving domestic violence shall be mediated.

RULE 4.04 REFERRAL TO MEDIATION

All civil small claims cases may be referred to mediation. All small claim cases shall be reviewed by the judge or his designee for referral to mediation. Mediation is voluntary and non-binding; however, the parties are strongly urged to participate in the mediation process. The court may issue an order to refer case to mediation on its own motion or upon the motion of counsel.

Before the initial pre-trial conference in a case, legal counsel shall discuss the appropriateness of mediation with their clients and with opposing counsel. At the initial pre-trial conference the parties and counsel shall advise the court of the results of their discussions concerning mediation. At that time and at subsequent conferences, if necessary, the court may explore with the parties and counsel the possibility of using mediation.

A party opposed to either the referral or the appointed mediator must file a written objection with the court, with copies to all parties, within seven (7) days of receiving notice of mediation and explain the reasons for any opposition. A party may withdraw from the mediation program upon application to and approval from the judge or magistrate provided written notification is given to all parties prior to the mediation.

RULE 4.05 COST

Mediation services are provided through this court at no cost to the public. The mediation procedure is generally voluntary, but because this court’s mediation program operates on a post-filing basis, it is necessary for all parties involved to consent to mediation. Post-filing simply means that all mediation cases originate from the filing of a small claim or civil complaint. The only fee charged is the filing fee at the time of filing the complaint. There is no additional fee for mediation. If the dispute is not settled in this manner, the claimant has lost nothing, and the case is referred back to the court for hearing or trial. If the case does settle at mediation, the inconvenience of a full-scale trial for claimant, respondent, and their respective witnesses is avoided. In addition, both sides win with neither side risking the loss of having the judge decide against them, saving the expense of attorney fees, and the time, effort, and money that could be spent gathering evidence.

RULE 4.06 MEDIATION CASE SUMMARY

Upon scheduling of the mediation, each party shall submit to the mediator a summary of facts and circumstances of the dispute together with any arguments in support of their respective positions. The parties shall promptly provide whatever additional information and materials they deem desirable to aid the mediator in understanding the dispute. The mediator may request the parties to provide clarification or additional information.

Attorney representation is not necessary, but all parties have the right to have an attorney present to advise them in the mediation. Parties may also designate other individuals to accompany them and participate in mediation.

RULE 4.07 COMMUNICATION

Unless otherwise agreed, the mediator is free to meet and communicate separately with each party. The mediator will decide when to hold separate meetings with one or more of the parties and when to hold joint meetings. The mediator will fix the time and place of each session and the agenda in consultation with parties.

RULE 4.08 CONFIDENTIAL

The mediation process is confidential. All mediation communications are privileged as described in Ohio Revised Code 2710.03-2710.05. The mediator will not convey information received from any party to another party without authorization. The parties and mediator will not disclose information regarding the process, including settlement terms, to others unless the parties otherwise agree. The parties and mediators will, however, furnish information concerning the mediation for purposes used solely to evaluate and improve the program. Information furnished for this purpose will not contain the names of the parties or the issues involved in any dispute and will be kept confidential except to the extent necessary to evaluate the program.

The mediation process shall be considered a compromise negotiation for purposes of the Federal Rules of Evidence and State Rules of Evidence. The mediator is disqualified as a witness, consultant, or expert in any pending or future action relating to the dispute between the parties, including actions between persons not parties to the mediation.

RULE 4.09 NO ADVICE

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.

RULE 4.10 CONTINUANCES

Continuances shall be granted only for good cause shown and after a mutually acceptable future date has been determined. No continuance will be granted if the mediation cannot be scheduled prior to the final pretrial.

RULE 4.11 NO STAY OF PROCEEDINGS

All remaining court orders shall remain in effect. No order is stayed or suspended during the mediation process.

The parties will refrain from commencing or pursuing additional further court proceedings during the mediation process, insofar as they are able to do so without prejudicing their legal rights.

RULE 4.12 LIMITED DISCOVERY

When the parties agree, limited discovery may be conducted under the supervision of the mediator and in accordance with the schedule approved by the mediator.

RULE 4.13 MEDIATOR REPORT

The mediator shall inform the Court in compliance with R.C. 2710.06 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.

RULE 4.14 SETTLEMENT AGREEMENT

If a settlement is reached, the mediator will write a settlement agreement listing all the settlement terms. The document shall be signed by the parties and the mediator. If the agreement calls for a money judgment or other action, the appropriate document shall be signed by the parties and reported to the judge for final disposition.

RULE 4.15 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.

PART 5. PUBLIC ACCESS RULES

Refer to Sup. R. 44 through 47

The foregoing rules of the Perrysburg Municipal Court shall become effective October 16, 2009.

Judge S. Dwight Osterud