

# BUTLER COUNTY AREA I, II AND III COURTS

Effective February 1, 2017

*Civil and Criminal  
Rules of Practice  
and Procedure,  
Case Management  
Plan and Jury  
Management Plan*

Civil and Criminal Rules of Practice and Procedure,  
Case Management Plan  
And  
Jury Management Plan

*Effective February 1, 2017*

**Area I Court**  
**Judge Robert H. Lyons**  
118 West High Street  
Oxford, OH 45056  
(513)785-7644

**Area II Court**  
**Judge Kevin C. McDonough**  
Butler County Historic Courthouse  
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Hamilton, OH 45011  
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**Area III Court**  
**Judge Daniel E. Haughey**  
9577 Beckett Road  
West Chester, OH 45069  
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Filed with the Supreme Court of Ohio

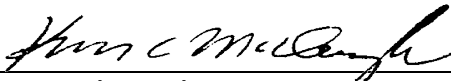
Date: February 1, 2017

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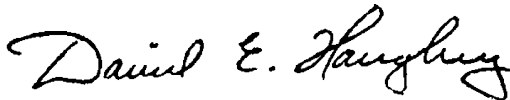
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Judge, Butler County Area I



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Judge, Butler County Area II



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Judge, Butler County Area III

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# I. JURISDICTION OF THE COURTS

## **Territorial Jurisdiction—Proper Venue**

Pursuant to R.C. §1907.01, the Butler County Court shall have jurisdiction throughout the Butler County Court district that shall consist of all territory within Butler County not subject to the territorial jurisdiction of any municipal court. The Butler County Court is also known as the Butler County Area Courts, consisting of Area I Court, Area II Court, and Area III Court.

The territorial jurisdiction of the Butler County Area I court includes the City of Oxford and all of Hanover, Milford, Morgan, Oxford, Reily and Wayne Townships. The territorial jurisdiction of the Butler County Area II Court includes all of Fairfield, Liberty Townships and the City of Monroe. The territorial jurisdiction of the Butler County Area III Court includes all of West Chester Township, and that portion of Sharonville which is in Butler County.

## **Subject Matter Jurisdiction**

### **1. Criminal Cases**

Pursuant to R.C. §1907.02(A) (1), county courts have jurisdiction over all misdemeanor cases that occur in their territory. A county court has jurisdiction to conduct preliminary hearings in felony cases that occur in their territory, to bind over alleged felons to the court of common pleas, and to take other actions in felony cases as authorized by Criminal Rule 5.

### **2. Parking Violations**

Pursuant to R.C. §1907.02(B), a County Court has jurisdiction over the violation of a vehicle parking or standing ordinance, as defined in R.C. §4521.01, if the violation is committed within the limits of the court's territory, and if the violation is not required to be handled by a parking violation bureau.

### **3. Civil Cases**

Pursuant to R.C. §1907.031, a County Court has original jurisdiction within its district in all of the following actions or proceedings and to perform all of the following functions subject to the monetary limits as set forth in 1 B 4 of these rules:

- in an action or proceeding at law for the recovery of money or personal property of which the court of common pleas has jurisdiction;
- in an action at law based on contract, to determine, preserve, and enforce all legal and equitable rights involved in the contract, to decree an accounting, reformation, or cancellation of the contract, and to hear and determine all legal and equitable remedies necessary or proper for a complete determination of the rights of the parties to the contract;
- in an action or proceeding for the sale of personal property under chattel mortgage, lien, encumbrance, or other charge, for the foreclosure and marshaling of liens on the personal property, and for the rendering of personal judgment in the action or proceeding;
- in an action or proceeding to enforce the collection of its own judgments and to subject the interest of a judgment debtor in personal property to satisfy judgments enforceable by the county court;
- in an action or proceeding in the nature of interpleader;
- in an action of forcible entry and detainer;
- in all civil actions pursuant to R.C. §3736.41(B) (1) that relate to public nuisance.

### **4. Monetary Limits - Civil Actions**

Pursuant to R.C. §1907.03, County Courts have exclusive original jurisdiction in civil actions for the recovery of sums not exceeding five hundred dollars (\$500) and original jurisdiction in civil actions for the recovery of sums not exceeding fifteen thousand dollars (\$15,000).

### **5. Small Claims Division**

Pursuant to R.C. §1925.02, the small claims division has jurisdiction in civil actions for the recovery of taxes and money only, for amounts not exceeding three thousand dollars (\$6,000), exclusive of interest and costs.

## **Filing Deadlines**

In the event that the court should close early because of inclement weather, Holiday time, or any other reason, the filing deadline for any civil or criminal case shall be extended until the next business day that the court is open.



## II. POWERS AND DUTIES OF COUNTY COURT JUDGES

Pursuant to R.C. §1907.18, County Court judges have jurisdiction and authority to:

- administer an oath authorized or required by law to be administered;
- take acknowledgments of instruments of writing;
- issue subpoenas to compel the attendance of witnesses to give evidence in causes or matters pending before the judges, or for the purpose of taking depositions or perpetuating testimony;
- proceed against sheriffs, deputy sheriffs, and constables failing to make return, making false return, or failing to pay over money collected on execution issued by the judges;
- try actions against other county court judges for refusing or neglecting to pay over moneys collected in their official capacity when the amount claimed does not exceed five hundred dollars;
- hear actions concerning the issuance and enforcement of, issue, and enforce temporary protection orders pursuant to R.C. §2919.26 and protection orders pursuant to §2903.213;
- hear actions concerning the enforcement of protection orders issued by courts of another state, as defined in R.C. §2919.27, and to enforce those protection orders;
- punish contempts and enforce its judgments, orders, and decrees in a manner authorized by the Revised Code or common law for the judges of the courts of common pleas;
- perform marriage ceremonies anywhere in the state.

## III. POWERS AND DUTIES OF THE CLERK OF THE COUNTY COURTS

Pursuant to R.C. §1907.20, the Clerk of the County Court shall have the power to and the duty to:

- take affidavits and issue execution upon any judgment rendered in county court;
- to issue and sign all writs, to process subpoenas and papers issuing out of the court, and to attach the seal of the court to them;
- to approve all bonds, sureties' recognizance, and undertakings fixed by a judge of the court;
- to file and safely keep all journals, records, books and papers belonging or pertaining to the court;
- record the court's proceedings;
- keep a book showing all receipts and disbursements, which shall be open for public inspection at all times;
- prepare and maintain a general index, a docket as prescribed by the Court and other records as the Court, by rule requires, all of which shall be the public records of the Court;
- receive and collect all costs, fees, fines, penalties, bail and other moneys payable to the office or to any officer of the court and issue receipts therefore;
- keep a separate account of all receipts and disbursements in civil and criminal cases;
- perform all other duties prescribed by rule or order of the Court or pursuant to R.C. §1907.20.

The clerk may refuse to accept for filing any pleading or paper submitted for filing by a person who has been found to be a vexatious litigator under R.C. §2323.52 and who has failed to obtain leave to proceed under that section.

## IV. CASE MANAGEMENT PLAN

### Purpose

The purpose of this rule is to establish, pursuant to Sup.R. 5(B)(1), a case management plan for the purposes of ensuring the readiness of cases for pretrial and trial, and maintaining and improving the timely disposition of cases. Separate provisions have been established for the following civil matters, which are considered special proceedings, and are not included in the case management plan: 1.) small claims; 2.) forcible entry and detainer; 3.) default hearings; 4.) rent escrow; 5.) debtor's examinations.

### Transfer of Cases

Transfer of cases among the Area Courts due to conflict of interest, shall be done by random lot drawing.

## **Scheduling of Events**

The time within which an act is required to be done under these rules shall be computed in accordance with Ohio Civil Rule 6 and Ohio Criminal Rule 45. Cases that have time limits established by the Ohio Revised Code shall be set within those time limits for hearing. In all other special proceedings, the case shall be set for hearing within a reasonable time not to exceed ninety (90) days.

## **Service of Process and Entry**

In cases where counsel fails to obtain service of process within six (6) months, the clerk shall notify counsel that the case will be dismissed in ten (10) days unless good cause is shown to the contrary. In cases where service of summons is perfected and the defendant fails to respond to the complaint within twenty eight (28) days the clerk shall, within fourteen (14) days, notify counsel for the plaintiff of the default and that failure to submit an entry within fifteen (15) days may result in the case being dismissed.

## **Pretrial Procedures**

### **1. Civil Cases**

The Court may, at its discretion and without a request or motion of a party, direct the attorneys for the parties to appear before it for a pretrial conference to consider and accomplish those objectives set forth in Rule 16 of the Ohio Rules of Civil Procedure.

### **2. Criminal Cases**

Pursuant to Rule 17.1 of the Rules of Criminal Procedure, the court shall not conduct pretrial conferences in any case in which a term of imprisonment is a possible penalty unless counsel represents the defendant or counsel has been waived pursuant to Crim. R. 44. In any case in which the defendant is not represented by counsel, any pretrial conference shall be conducted in open court and shall be recorded as provided in Crim. R. 22.

### **3. Hearings and Pleadings**

If no action has been taken on a file in a civil case for a six (6) month period and the case has not been set for trial, then the Clerk shall notify the parties that the matter will be dismissed within one (1) week unless good cause is shown.

In a criminal case, the Court will notify the prosecutor and the defendant, at his or her last known address, or his or her attorney of record, of any hearing date.

### **4. Jury Trial Demand or Waiver**

Demand for a civil jury trial shall be made as required by Civil Rule 38. In a criminal case, once a written demand for a jury trial has been filed, any subsequent waiver of the jury trial shall be made in writing at least five (5) working days prior to the trial date. This waiver must contain the signature of the defendant. Failure to abide by this rule shall result in the defendant paying all jury fees and expenses incurred by such jury demand. All other costs incurred as a result of a jury demand shall be assessed as provided by these rules.

### **5. Settlements**

When a file has been marked "settlement to come" and the entry has not been received within thirty (30) days, then the Clerk shall notify the party that his or her case will be dismissed unless the entry is received within ten (10) days of the party being notified.

### **6. Admissibility of Documents in Civil Cases**

Objections to the admissibility of any document or exhibit in a civil case will be deemed waived at any court hearing under the following circumstances:

- If that document or exhibit was provided to opposing counsel or the opposing party, if pro se, at least fourteen (14) days before the hearing, and;
- The party opposing introduction of the document or exhibit into evidence has not filed a written objection to the introduction of the document or exhibit at least seven (7) days before the hearing, setting out the particular objection raised.

### **7. Copies of Documents and Exhibits**

In all civil cases, all counsel and unrepresented parties are required to provide sufficient copies of documents and exhibits for the court, the witness, and opposing counsel or unrepresented party. Neither counsel nor any unrepresented party shall be permitted to make copies of any document or exhibit on court copy machines, nor shall any court employee assist counsel or an unrepresented party in making any such copies. The failure of

counsel or an unrepresented party to comply with this rule may result in the document or exhibit being ruled inadmissible into evidence.

## **F. Trial Orders**

### **I. Pretrial Statement**

For all civil trials, counsel for both parties (and the parties themselves, if not represented) shall file a pretrial statement by the date designated by the court. The pretrial statement shall contain the following:

- A concise statement of the claims and defenses of the parties;
- Those facts established by admissions in the pleadings, admissions by discovery, and stipulations of counsel;
- The contested issues of fact;
- The contested issues of law, together with counsel's (or unrepresented party's) citations of authority for his/her position;
- The names and address, together with a brief statement of the subject matter and expected testimony of each witness;
- A list of all special damages being requested;
- A list of all exhibits that the party intends to offer into evidence;
- Counsel's expectation of the trial time needed to present his/her side of the case.

### **2. Witnesses and Exhibits at Trial**

Each party will be limited at trial to the witnesses and exhibits identified in discovery and provided in their pretrial statement.

### **3. Proposed Jury Instructions**

If the case is to be heard by a jury, counsel for both parties (or an unrepresented party) is to provide a complete set of proposed jury instructions to the court by the date designated by the court.

### **4. Trial Exhibits**

All exhibits are to be marked and exchanged prior to trial. Plaintiff is to use numbers and the defendant is to use letters. Joint exhibits are to be marked with Roman numerals. Each party must bring at least three sets of exhibits to trial (one for the proponent of the exhibit, one for the witness stand, one for the court).

- It is the responsibility of each party to prepare and copy all of his/her exhibits in advance of trial. No party shall be permitted to use the court's copy machine for any purpose
- All multi-page documents shall be numbered

### **5. Sanctions**

The failure to submit a Pretrial Statement or otherwise comply with any other court order in a timely manner may result in the imposition of appropriate sanctions, including dismissal of the case or the granting of a judgment. The failure to furnish any of the material specified in this Order may result in the imposition of appropriate sanctions including exclusion of witnesses or exhibits, dismissal of claims, judgment for a party, or dismissal of the case.

## **V. JURY MANAGEMENT PLAN**

### **Purpose**

The purpose of this rule is to establish, pursuant to Sup.R. 5(B) (2), a jury management plan for the purposes of ensuring the efficient and effective use and management of jury resources. This plan, as required by Sup.R. 5(B) (2), addresses the provisions of the Ohio Trial Court Jury Use and Management Standards adopted by the Supreme Court of Ohio on August 16, 1993.

### **Administration and Monitoring of the Jury System**

All procedures concerning the jury selection and service shall be governed by the Ohio Rules of Court. The Clerk, acting under the supervision of the trial judge, shall be responsible for administering the jury system.

The Clerk, on a regular basis, shall request, collect and analyze information regarding the performance of the jury system in order to evaluate: 1.) whether or not the jury source list is representative of the potential pool of jurors available in the area; 2.) the effectiveness of the notification and summoning procedure; 3.) the responsiveness of individual citizens to the jury duty summons; 4.) the efficient use of jurors; and 5.) the cost-effectiveness of the jury system as administered by the courts.

### **Opportunity for Service**

The opportunity for jury service shall not be denied or limited on the basis of race, national origin, gender, age, religious belief, income, occupation, disability or any other factor that discriminates against a cognizable group in the jurisdiction, other than as specified in Rule 6E, below.

### **Jury Source List**

During the first week of August each year, by order of the Jury Commission of the Butler County Common Pleas Court, a list of jurors is provided to the Area Courts. The court may periodically review the list and determine whether or not it represents and includes the adult population in the jurisdiction.

### **Eligibility for Jury Service**

All persons shall be eligible for jury service except those who are less than eighteen years of age; are not citizens of the United States; are not residents of the jurisdiction in which they have been summoned to serve; are not able to communicate in the English language; or have been convicted of a felony and have not had their civil rights restored.

### **Random Selection Procedure**

Persons to be summoned for jury service shall be randomly selected by an automated mechanism from the list of prospective jurors. At least fifty persons per venire shall be summoned for jury service. The court shall ensure that each prospective juror who has reported to the court will be assigned for voir dire.

### **Notification and Summoning Procedure**

A notice summoning each person selected for jury service, and a background information questionnaire, shall be delivered by first class U.S. mail to each prospective juror. The summons shall clearly explain how and when the recipient must respond and the consequences for failure to report for jury duty.

The background information questionnaire shall request only information essential for: 1.) determining whether or not a person meets the criteria for eligibility for jury service; 2.) providing the court and counsel with basic background information to be used during voir dire; and 3.) efficiently managing the jury system.

## **Term and Availability for Jury Service**

Persons summoned for jury service will be required to be available to serve on a jury for a maximum of thirty (30) days. Each juror may be asked to serve on a maximum of two (2) trials during the thirty-day period.

## **Exemption Excuse and Deferral**

Eligible persons who are summoned may be excused from jury service for only one of two reasons. First, a person may be excused if his or her ability to receive and evaluate information is so impaired as to render him or her unable to perform their duties as juror. Only a judge can excuse a juror for the first reason. Second, a person may request to be excused because his or her service would be a continuing hardship to him or her or to members of the public. Either the judge or an authorized court official may excuse a juror for the second reason.

Performance of jury service may be deferred for a reasonably short period of time by the judge or by an authorized court official.

Requests for excuses and deferrals shall be written or otherwise recorded. All requests shall be reviewed by the judge or an authorized court official and answered at least seven days prior to the date of jury service. The disposition of each excuse or deferral shall also be written or otherwise recorded. Each juror requesting an excuse or deferral will be notified of the disposition of his or her request, either by telephone or in writing.

## **Cancellation**

In the event that a case is settled or dismissed prior to trial and it is not possible to notify all jurors of the cancellation, the party who requested the jury trial shall bear the costs of juror fees of those jurors who report for the day of trial. Each court will update a recording on its Jury Service phone line to inform the public of the status of the trial if it has enough advance notice regarding cancellation.

## **Magistrate to Conduct Civil Jury Trials**

Upon the consent of both parties in a Civil case, a magistrate of the Area Court has the authority to conduct a jury trial within the scope of the rules and Ohio Law.

## **Voir Dire**

### **1. General Process**

Voir dire examination shall be limited to matters relevant to determining whether to remove a juror for cause and to determining the juror's fairness and impartiality. In criminal cases, the voir dire shall be on the record. In civil cases, the voir dire process shall be held on the record unless waived by the parties. The trial judge shall conduct a preliminary voir dire examination and then counsel for each side shall be permitted to question panel members for a period of time deemed reasonable by the judge.

A copy of the background information questionnaire will be made available to counsel for each party three days prior to the day of trial. The judge will ensure that the privacy of prospective jurors is reasonably protected, and that the questioning by attorneys for both sides is consistent with the purpose of the voir dire process.

### **2. Removal for Cause**

If during the voir dire process, the judge determines that any individual is unable or unwilling to hear the evidence presented and decide the particular case at issue fairly and impartially, the judge may remove that individual from the panel. Removal of a prospective juror for cause may be made on motion of counsel or by the judge.

### **3. Peremptory Challenges**

In civil cases, counsel for each side is allowed no more than three peremptory challenges. If the court finds that there is a conflict of interest between parties on the same side, the court may allow each conflicting party up to three peremptory challenges.

In criminal cases, the number of peremptory challenges shall not exceed three for each side. One additional peremptory challenge shall be allowed for each defendant in a multi-defendant criminal proceeding.

In criminal and civil proceedings, each side shall be allowed one peremptory challenge if one or two alternate jurors are empanelled. These additional peremptory challenges shall be used against an alternate juror only, and the other peremptory challenges allowed by law shall not be used against an alternate.

#### **4. Facilities**

The court shall provide an adequate and suitable environment for jurors.

#### **5. Compensation**

Persons called for jury service shall receive a fee for their services. A juror who reports to the court, but is excused shall receive \$6.00 per day plus \$0.10 per mile for travel expenses incurred traveling to and from court. A person who is seated as a juror in a trial shall receive \$12.00 per day of service plus \$0.10 per mile for travel expenses incurred traveling to and from court.

Jurors will be paid by the Butler County Auditor's Office upon receipt of a voucher from the court stating the expenses were incurred.

#### **6. Juror Orientation and Instruction**

Persons called to serve as a juror will receive instructions: 1.) upon initial contact prior to service; 2.) upon first appearance at the court; and 3.) upon reporting to a courtroom for voir dire.

Immediately following the empanelment of the jury, the trial judge shall give instructions directly to the jury explaining the jury's role, the trial procedures, including note taking and questioning by jurors, the nature of the evidence and its evaluation, the issues to be addressed by the jury, and the basic relevant legal principles to be applied by the jury. Prior to the commencement of deliberations, the trial judge shall instruct the jury on the law and appropriate procedures to be followed during deliberations, and on the method for reporting the results of its deliberations.

Before dismissing the jury at the conclusion of the case, the trial judge shall: 1.) release the jurors from their duty of confidentiality; 2.) explain their rights regarding inquiries from counsel or the press; 3.) advise them that they are discharged from service; 4.) express appreciation to the jurors for their service, but not express approval or disapproval of the result of the deliberation.

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

#### **7. Presence of Witnesses**

The names and addresses of witnesses shall be available and revealed to the Court and the jury prior to the commencement of trial.

#### **8. Size and Unanimity**

The size of the jury and unanimity, in civil and criminal cases, shall conform to existing Ohio law.

#### **9. Jury Deliberations**

Jurors shall be provided with a pleasant, comfortable and secure place in which to conduct their deliberations. The judge shall instruct the jury concerning appropriate procedures to be followed during deliberations.

The jury shall not be required to conduct deliberations after normal business hours unless the trial judge determines that evening or weekend deliberations are required in the interest of justice, and would not pose an undue hardship upon the jurors. Counsel and court personnel shall remain readily available during jury deliberations.

#### **10. Sequestration**

The trial judge shall have the discretion to sequester a jury on the motion of counsel, or at the judge's discretion. The trial judge is responsible for overseeing the conditions of sequestration. A jury will be sequestered only for good cause, including but not limited to, insulating its members from improper information or influences.

Training shall be provided to personnel who escort and assist jurors during sequestration.

### **VI. BAIL BONDS**

It is the policy of the court that recognizance bonds and property bonds shall be used whenever approved by the Judge. A bond schedule is available from a deputy clerk at each of the three area courts and at the Butler County Jail. If a defendant wishes to post property for bond, the equity in the property must be twice the amount of the bond, and the property must be located in Butler County, Ohio. Bond for each court may be posted at any of the three Area Courts.

## **VII. FILINGS – GENERAL**

### **Costs/Federal Tax ID Documentation**

No civil action or proceeding shall be accepted for filing by the Clerk unless there is deposited as security for costs the amount required which can be obtained in person or via mail. In the event of claimed indigence, said indigent shall file an application to proceed in forma pauperis, accompanied by an affidavit of support thereof. The application to proceed in forma pauperis is subject to court approval.

An attorney filing a civil action shall either provide a properly completed Form W-9 or other documentation required by the Butler County Auditor to set up the attorney as a vendor within the county Auditor's accounts payable database, or provide written verification that the attorney is already an established vendor with the county Auditor.

Return of unused court costs shall be to the appropriate attorney of record, provided, however, that no check for unused costs will be issued to an attorney who is not an established vendor with the county Auditor.

### **Forms of Pleadings**

All documents filed with the Court on behalf of clients represented by counsel shall contain the name, address, telephone number, email address, facsimile number and attorney registration number of the attorney primarily responsible for the case. If the party is not represented by counsel, he shall provide his name, address, telephone number, email address and facsimile number on every pleading he files with the court. If an attorney's business address is located outside the State of Ohio, that attorney shall include his Ohio Supreme Court registration number with every document he files with the Court.

### **Claims for Relief**

County courts have original jurisdiction in civil actions for the recovery of sums not exceeding fifteen thousand dollars (\$15,000). See section 1 (B) (4) of these rules. Cases claiming damages exceeding \$15,000 will be certified to the Court of Common Pleas.

### **Return of Service**

Parties who wish to receive a copy of the return of service must provide a stamped, self-addressed envelope to the clerk.

### **Preparation of Filings**

The parties to a cause of action are responsible for the preparation of their own documents. Court personnel are not permitted to prepare or assist in the preparation of any complaint or pleading in any case pending in the Court, except as may be allowed by law in the Small Claims Division.

### **Copies of Filings**

A party filing a complaint with the clerk is required to present one copy of each document for each party to be served by the clerk, and one original of each document for the clerk to retain. If the clerk is required to make copies of any document, the expense associated with doing so will be charged as costs in the case. Original documents are not to be removed from the Court once they have been filed with the clerk. If a party wants additional file stamped copies, it is that party's responsibility to provide those copies to the court.

Subsequent to the filing of the complaint, it is the duty of the party or attorney filing a pleading, motion or other document to mail or deliver a copy to all other parties to the action. Failure to do so may result in the Court striking the pleading, motion or other document from the case. If the pleading, motion or other document is to accompany a summons, then the party making the filing may rely on the clerk to mail or deliver the filing to the adverse party. The clerk shall record the date of mailing or delivery on the original document.

### **Time for Filing and Response**

Unless the Court orders otherwise or unless otherwise authorized by law, a party responding to a pleading shall file such response with the court within fourteen (14) days of service of that pleading upon the party.

### **Oral Hearing**

A party filing a motion with the Court may request that the Court hear the matter on the record. Requests for an oral hearing must be made in writing and within seven days of the filing date of the motion. The request for an oral hearing may be made on the motion itself or on the responsive pleading. It is the duty of the party requesting the oral hearing to inform the adverse party, in writing.

The Court maintains the discretion to deny a request for an oral hearing. The Court, in its discretion, may order and schedule an oral hearing even in the absence of a request for such hearing by the parties.

## **VIII. FILING OF JUDGMENT ENTRIES**

### **Court Order for Judgment**

The judgment entry specified in Civil Rule 58 and in Criminal Rule 32 shall be prepared by counsel for the party in whose favor an order for judgment is rendered. Counsel shall prepare a journal entry and submit it to opposing counsel within five (5) days of the Court's decision. Opposing counsel shall approve or reject the entry within five (5) days of receipt. Within fifteen (15) days of the verdict, decree or decision, the judgment entry shall be filed and journalized. Failure of counsel to prepare and file the entry may be cause for the Court to impose sanctions to counsel or parties, including and up to dismissal of a party's claim. The Court has the discretion to require counsel and/or the parties to appear in order to show cause as to why the entry has not been prepared.

Approval of a judgment entry by counsel or party indicates that the entry correctly sets forth the verdict, decree or decision of the court and does not waive any objection or assignment of error for appeal.

### **Entry of Settlement**

Subject to the provisions of Local Rule IV (E) 5, as soon as the parties are aware that a case has been settled, they shall promptly notify the court of the fact of the settlement in order for the court to vacate any scheduled hearing date. The parties shall also promptly prepare an entry disposing of the case. The failure of the parties to file a dispositive entry may be cause for the imposition of sanctions upon the parties and/or counsel.

### **Default Judgment**

In all cases where no answer, motion or other pleading has been filed it shall be the responsibility of the complainant to prepare the appropriate default judgment entry and provide it to the court. An affidavit must accompany the entry for default judgment. If the action is on an open account, the complainant must file an affidavit stating the balance due on the account before the court will render a default judgment.

Upon notification from the Clerk that the case has defaulted, prevailing counsel shall submit an application for default judgment within fifteen (15) days of notification or the case will be dismissed for want of prosecution.

### **Reviving Dormant Judgments**

To revive a dormant judgment, a judgment creditor shall file a motion to revive dormant judgment, which the clerk shall serve in accordance with Civ. R 4(F). No conditional order of revival will be granted.

- If the judgment debtor fails to file a response within the time provided by the Ohio Rules of Civil Procedure, and if the judgment debtor is properly served, the judgment creditor shall present an entry granting the motion to the Clerk.
- If the judgment debtor files a response to the motion, the case shall be assigned for a hearing before the magistrate.

## **IX. FACSIMILE TRANSMISSION FILINGS (FAX)**

Except as provided in the second paragraph, all persons can fax documents to the court and do not have to follow-up by filing an original hard copy with the court. The top copy of each filing will be time stamped and the time stamped sheet will be faxed back to the filing person. All risks of transmission shall be borne by the sender. The Clerk of Courts assumes no additional responsibilities or liabilities by virtue of this local rule. All documents received after the close of business will be file stamped the next day.

Fax filings will not be permitted for any document, such as a complaint, which requires payment of court costs.

## **X. ELECTRONIC FILINGS/ E-CITATIONS**

The use and filing of a ticket that is produced by computer or other electronic means is authorized in the court. The electronically produced ticket shall conform in all substantive respects to the Ohio Uniform Traffic Ticket. If an electronically produced ticket is issued at the scene of an alleged offense, the issuing officer shall provide the defendant with a paper copy of the ticket. The issuing officer may scan a copy of the paper ticket to the court and follow it with a hard paper copy



## **Authorized Signatures**

Any signature of any judge, magistrate, or court employee on any document may be executed manually or by means of any device or machine, including electronic signature or signature stamp, as long as it reflects the present intention of the signor to authenticate the signature and the document. No document shall be signed for any judge, magistrate, or court employee without first obtaining permission from that judge, magistrate or court employee indicating the intention to authenticate the signature and the document.

## **XI. COURT APPOINTMENTS**

In felony cases and misdemeanor cases where incarceration is a possible penalty and if a defendant is indigent, he or she may request the Court to appoint an attorney to represent him or her. To support this request the defendant must file an affidavit setting forth his or her financial standing. A Judge or authorized Court official shall review the affidavit. The Court reserves the right to conduct an investigation to determine if the facts stated on the affidavit, in support of the indigence, are true and accurate. The defendant will be notified if the facts do not support the appointment of counsel.

## **XII. COURT COSTS AND DEPOSITS**

The Clerk shall not make any distribution, return of unused costs, or other payment to an attorney unless the Clerk is able to determine that the attorney is an established vendor with the Butler County Auditor. In the event that the Clerk defers a payment which is due to an attorney because the Clerk is unable to determine whether the attorney is an established vendor with the county Auditor, the Clerk shall notify the attorney in writing that a payment is due to the attorney but the payment will not be made until the attorney either provides the Clerk with a properly completed Form W-9 or other documentation required by the Auditor to set up the attorney as a vendor within the county Auditor's accounts payable database, or provides the Clerk with written verification that the attorney is already an established vendor with the county Auditor.

Pursuant to R.C. §1907.24, the court has established a fee and cost schedule, which is available at each court. Pursuant to R.C. §1907.26, judges of county courts shall not retain any of the costs or fees, except that they may retain a fee for performing a marriage ceremony and making return.

The filing of new civil complaints or counterclaims, actions in forcible entry and detainer, and replevins shall be accompanied by a security deposit, as required by the Butler County Sheriff's Office Civil Division. The Court may waive the requirement for a security deposit where the party making the filing declares in an affidavit that he or she is indigent.

If the captain of the Civil Division of the Butler County Sheriff's Office determines that the amount of the security deposit is insufficient to cover the costs associated with the case, a request for an additional deposit may be made. The case will not proceed until the additional deposit has been collected.

## **XIII. PRAECIPE FOR WITNESSES**

All praecipes for the issuance of subpoenas for witnesses in criminal cases must be made in writing to the clerk no later than seven (7) working days before trial. A continuance will not be granted if a witness fails to appear and this rule has not been complied with. All parties may cause subpoenas for witnesses to be issued by mail service in a manner and form as is consistent with the rules of service contained in the Civil Rules of Procedure.

## **XIV. RECORDING OF PROCEEDINGS**

### **Recording Devices**

In accordance with Sup.R. 11, proceedings before each area court are recorded by digital recording devices. Digital recording devices include systems for recording sound to storage devices. These digital recordings are backed up daily.

### **Appeal**

Transcripts of proceedings from digital media shall be prepared in accordance with Rule 9(A) of the Rules of Appellate Procedure.

### **Custody**

Digital recorded transcripts of proceedings shall be maintained and transcribed in the manner directed by the trial court.

## **Expense of Digital Recorded Transcripts of Proceedings**

The expense of copies of digital recorded transcripts of proceedings, or such portions as are considered necessary by a person, shall be borne by the requesting person. There shall be no cost to any person who wants to listen to a proceeding at a court facility. Any person who wants to listen to a court proceeding must make arrangements with a deputy clerk of the court where the case was heard. If a person wants a Compact Disc (CD) of a hearing, he/she may purchase it from the court for \$.50 per CD.

## **Written Transcripts**

Any person may request a written transcript of the proceedings by completing the Transcript Request Form found in the Forms section of the Area Court Website at [bcareacourts.org](http://bcareacourts.org).

The person requesting the transcript must deposit with the court reporter an amount sufficient to cover the estimated cost of preparing the transcript. After the transcript is completed, funds in excess of the amount retained will be returned to the requester. If the deposit is not sufficient to cover the cost of preparation of the transcript, the balance must be paid to the court reporter before the transcript is released to the requester.

## **Compensation for Reporters**

The Area Court Judges shall determine the compensation to be paid to court reporters for making transcripts. Additional copies of a transcript will be provided in accordance with ORC 2301.24.

## **Indigent Criminal Defendants**

In felony and misdemeanor cases, in the event that a case is appealed or bound over, a transcript will be provided to the defendant at no cost if the defendant is deemed by the court to be indigent. The Court shall determine whether the defendant is indigent based on an affidavit of indigency filed by the defendant and a report filed by the defendant's probation officer. The Court reserves the right to conduct an investigation to determine if the facts stated on the affidavit, in support of the indigence, are true and accurate.

## **XV. VIOLATIONS BUREAU FOR MINOR MISDEMEANORS**

Pursuant to Sup. R. 18 and Crim. R. 4.1, there is established a Violation Bureau for Minor Misdemeanors. Pursuant to R.C. 2901.02, a minor misdemeanor is any offense specifically classified as such. All minor misdemeanors are to be processed by the violation bureau. Certain offenses of Driving Under Suspension (DUS) are unclassified offenses and the maximum penalty is \$1,000.

The citation issued by a law enforcement officer upon the violation of a minor misdemeanor or unclassified DUS, shall inform the defendant that, in lieu of appearing at the time and place stated, he may, within that stated time, appear personally at the office of the clerk of court and upon signing a plea of guilty and a waiver of trial, pay a stated fine and stated costs, if any.

The clerk of court shall maintain a fine schedule listing the fines and court costs for each minor misdemeanor, traffic offense, and unclassified misdemeanor. The fine schedule is available at each area court and on the court's website at: [bcareacourts.org](http://bcareacourts.org).

Pursuant to Crim. R. 4.1(F), when a defendant fails to appear, the court may issue a supplemental citation or a summons or warrant under Crim. R. 4. Supplemental citations shall be signed by the clerk and served in the same manner as a summons.

## **XVI. WRITTEN PLEA OF NOT GUILTY**

A plea of not guilty may be entered in writing prior to the day of arraignment. The written plea of not guilty must be signed by the defendant or his counsel. Once a written plea of not guilty has been filed, neither counsel nor the defendant need appear in court for arraignment, unless any of the following apply:

- The written plea of not guilty does not contain a time waiver;
- The offense is domestic violence or another offense of violence;
- The judge requires a personal appearance by the defendant.

## **XVII. MAGISTRATES**

### **Appointment and Use**

Magistrates may hear cases assigned to them by an Area Court Judge in the following matters: (1) civil proceedings; (2) forcible entry and detainer proceedings under Chapter 1923 of the Revised Code; (3.) small claims proceedings under Chapter 1925 of the Revised Code; (4.) domestic violence prosecutions; (5.) initial appearances in criminal cases; (6.) traffic cases; and (7.) any other case that the area court judges refer to the magistrate.

### **Qualification and Procedure**

Magistrates shall be attorneys at law admitted to practice in the state of Ohio and have the qualifications specified in Civil Rule 53, Traffic Rule 14, and Supreme Court Rules of Superintendence 19.

## **XVIII. RECORD RETENTION SCHEDULE**

The Clerk of the County Courts shall direct that the docket and required records are maintained and retained according to Rules 26, 26.01 and 26.05 of the Rules of Superintendence for the Courts of Ohio.

### **Definition of Docket**

As used in Sup. R. 26.05, “docket” means the record where the Clerk of the County Court enters all of the information historically included in the appearance docket, trial docket, the journal, and the execution docket.

### **Required Records**

County courts shall maintain an index, docket, journal, and case files in accordance with Sup. R. 26(B) and Sup. R. 26.05(A) and (C). Upon the filing of any paper or electronic entry permitted by the court, a stamp or entry shall be placed on the paper or electronic entry to indicate the day, month, and year of filing.

### **Content of Docket**

The docket shall be programmed to allow retrieval of orders or judgments of the court in a chronological as well as case specific manner. Entries in the docket shall be made as events occur, shall index directly and in reverse the name of all parties to cases and shall include the following:

- names and addresses of all parties in full;
- names, addresses and Supreme Court attorney registration numbers of all counsel;
- the issuance of documents for service upon a party and the return of service or lack of return;
- a brief description of all records and orders filed in the proceeding, the date filed, and a cross reference to other records as appropriate;
- a schedule of court proceedings and its officers to use for case management;
- all action taken by the court to enforce orders or judgments.

### **Retention Schedule for Financial Records**

A “financial record” means a record that is related to the imposition of fines, costs, and other fees in cases and controversies heard in the court.

#### **1. Auditor Reports**

Auditor of State reports shall be retained permanently.

#### **2. Monetary Records**

Monetary records shall be retained for three years after the issuance of an audit report by the Auditor of State.

#### **3. Rental Escrow Account Records**

Rental escrow account records shall be retained for five years after the last date of deposit with the court.

#### **4. Yearly reports**

Yearly reports shall be retained permanently.

#### **5. Index, Docket and Journal**

The index, docket and journal shall be retained permanently.

## **6. Judge, Magistrate, Clerk Notes, Drafts and Research**

Judge, magistrate, and clerk notes, drafts, and research prepared for the purpose of compiling a report, opinion or other document or memorandum may be kept separate from the case file, retained in the case file or destroyed at the discretion of the preparer.

### **Retention Schedule for Case Files**

Pursuant to Sup. R. 26(H), the court may order the retention period for an individual case file extended beyond the time periods specified in subsections (1.) through (7.) below.

## **XIX. Civil Case Files**

Civil case files shall be retained for ten years after the issuance of an audit report by the Auditor of State.

## **XX. OVI Case Files**

Operating a vehicle while intoxicated or under the influence of drugs (OVI) case files shall be retained for fifty years after the date of the final order of the court.

## **XXI. First through Fourth Misdemeanor Traffic and Criminal Case Files**

Except for OVI case files, first through fourth degree misdemeanor traffic and criminal case files shall be retained for fifty years after the date of the final order of the court.

## **XXII. Minor Misdemeanor Traffic and Minor Misdemeanor Criminal Case Files**

Minor misdemeanor traffic and minor misdemeanor criminal case files shall be retained for fifty years after the final order of the court.

## **XXIII. Parking Ticket Records**

Parking ticket records shall be retained until the ticket is paid and the Auditor of State issues an audit report.

## **XXIV. Real Estate**

Case files of matters that resulted in a final judgment determining title or interest in real estate shall be retained permanently.

## **XXV. Search Warrant Records**

Search warrant records shall be indexed and the warrants and returns shall be retained in their original form for five years after the date of service or last service attempt.

### **Retention Schedule for Exhibits, Depositions and Transcripts**

At the conclusion of litigation, including times for direct appeal, a court or custodian of exhibits, depositions, or transcripts may destroy exhibits, depositions, and transcripts (hereinafter collectively referred to as "exhibits") if all the following conditions are satisfied: (1.) the court notifies the party that tendered the exhibits, in writing, that the party may retrieve the exhibits within sixty (60) days from the date of the written notification; (2.) the written notification informs the party that tendered the exhibits of their location and that the exhibits will be destroyed if not retrieved within sixty (60) days of the notification; (3.) the party that tendered the exhibits does not retrieve them within the sixty-day period.

### **Retention Schedule for Court Records**

#### **1. Administrative Journal**

Administrative journals that consist of court entries or a record of court entries, regarding policies and issues not related to cases shall be retained permanently.

## 2. **Annual Reports**

Two copies of each annual report shall be retained permanently.

## 3. **Bank Records**

Bank transaction records, whether paper or electronic, shall be retained for three years or until the issuance of an audit report by the Auditor of State, whichever is later.

## 4. **Cash Books**

Cash books, including expense and receipt ledgers, shall be retained for three years or until the issuance of an audit report by Auditor of State, whichever is later.

## 5. **Communication Records**

Communication records, including routine telephone messages on any medium where official action will be recorded elsewhere, may be destroyed in the normal course of business as soon as they are considered to be of no value by the person holding the records.

## 6. **Correspondence and General Office Records**

Correspondence and general office records, including all sent and received correspondence in any medium, may be destroyed in the normal course of business as soon as they are considered to be of no value by the person holding the records.

## 7. **Drafts and Informal Notes**

Drafts and informal notes consisting of transitory information used to prepare the official record in any other form may be destroyed in the normal course of business as soon as they are considered to be of no value by the person holding the drafts and informal notes.

## 8. **Employment Applications for Posted Positions**

Employment applications for posted or advertised positions shall be retained for two years.

## 9. **Employee Benefit and Leave Records**

Employee benefit and leave records, including court office copies of life and medical insurance records, shall be retained by the appropriate fiscal officer for three years or until the issuance of an audit report by the Auditor of State, whichever is later.

## 10. **Employee History and Discipline Records**

Records concerning the hiring, promotion, evaluation, attendance, medical issues, discipline, termination, and retirement of court employees shall be retained for ten years after termination of employment.

## 11. **Fiscal Records**

Fiscal records, including copies of transactional budgeting and purchasing documents maintained by another office or agency, shall be retained for three years or until the issuance of an audit report by the Auditor of State, whichever is later.

## 12. **Grant Records**

Records of grants made or received by a court shall be retained for three years after expiration of the grant.

## 13. **Payroll Records**

Payroll records of personnel time and copies of payroll records maintained by another office or agency shall be retained for three years or until the issuance of an audit report by the Auditor of State, whichever is later.

## 14. **Publications Received**

Publications received by a court may be destroyed in the normal course of business as soon as they are considered to be of no value by the person holding the publications.

## 15. **Receipt Records**

Receipts shall be retained for three years or until the issuance of an audit report by the Auditor of State, whichever is later.

## 16. **Requests for Proposals, Bids, and Resulting Contracts**

Requests for proposals, bids received in response to a request for proposal, and contracts resulting from a request for proposal shall be retained for three years after the expiration of the contract that is awarded pursuant to the request for proposal.

## **XXVI. DESIGNATION OF TRIAL ATTORNEY & ASSIGNMENT SYSTEM**

### **Designation of Trial Attorney**

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

If a designated trial attorney has such a number of cases assigned for trial in courts of this state so as to cause undue delay in the disposition of any case, the Judge may require the trial attorney to provide a substitute trial attorney. See Local Rule 20(C).

### **Assignment**

Upon the filing or transfer of a civil case, or upon arraignment in a criminal case, the case is immediately assigned to the judge presiding in the Area Court having jurisdiction over the case.

## **XXVII. PUBLIC RECORDS POLICY**

### **Purpose**

Pursuant to O.R.C. 149.43 (B) (1), the Butler County Area Court will promptly prepare and make available a public record for inspection to any person at all reasonable times during regular business hours. Upon request, the Court will make copies of the requested public record at a cost of \$.25 a page and within a reasonable period of time. If a requester seeks a copy of a compact disc recording of any trial proceedings, the cost is \$.50 for each such disc. The Court will mail, transmit, or deliver copies of a requested court record to the requester within a reasonable time from the date or time of the request.

If a request for a public record is denied, in part or in whole, the Court will provide the requester with an explanation, including any legal authority, setting forth why the request was denied. If the initial request was in writing, the explanation will also be provided to the requester in writing.

If the requester makes an ambiguous or overly broad request, or has difficulty in making a request for public records, such that the court cannot reasonably identify what public records are being requested, the Court may deny the request but shall provide the requester with an opportunity to revise the request by informing the requester of the manner in which the records are maintained by the court and accessed in the ordinary course of the court's duties.

Unless specifically required by state or federal law, a requester is not required to provide his identity or the intended use of the public record. In order to enhance the Court's response to a public records request to help identify, locate, and deliver a public record to a requester, the Court may ask the requester to put the request in writing, may ask for the requester's identity, and may inquire about the intended use of the information, but such a request is not mandatory and the requester may refuse to put the request in writing, may refuse to reveal his identity, and may refuse to reveal the intended use of the information, subject to the limitation, set forth below, regarding commercial purposes.

The Court may require the requester to pay a deposit, in advance, for the cost involved in providing a copy of the public record. The Court will permit the requester to choose to have the public record duplicated on paper, upon the same medium upon which the court keeps it, or upon any other medium which the court determines that it can reasonably be duplicated as an integral part of the normal operations of the Court. When a requester makes a choice as to the type of medium the record will be reproduced, the Court will provide a copy of it in accordance with that choice.

### **Exempt Information**

When filing a case document as defined in Ohio R. Superintendence 44(C), it is the party's responsibility to redact all personal identifiers. A personal identifier means social security numbers, except for the last four digits; financial account numbers, including, but not limited to, debit card, charge card, and credit card numbers; and employer and employee identification numbers. When personal identifiers are omitted from a case document submitted to the Court or filed with the court, the parties shall submit or file that information on a separate form provided by the Court. The responsibility for omitting personal identifiers from a case document rests solely with the filing party. The Court will not review case documents to confirm that the party has omitted personal identifiers, and the Court will not refuse to accept or file the document on that basis.

If any party or person who is the subject of information in a case document requests that the Court restrict public access to information contained in a case document, the party and the court will follow the procedures contained in Ohio R. Superintendence 45(E) and Ohio R. Superintendence 45 (F).

## **Copies**

The Butler County Area Court hereby limits the number of public records requested by a person to ten per month that the Butler County Area Court will transmit by United States mail, unless the person requesting the records certifies to the Butler County Area Court, in writing, that the person does not intend to use or forward the requested records, or the information contained in them, for commercial purposes. Commercial purposes does not include news reporting, the gathering of information to assist citizens in the understanding of Court activities, or non-profit educational research.

The Court hereby prohibits any person from making a copy of any public record at the Court. Instead, court personnel shall make a copy of a public record for any person who requests that public record.

## **Bulk Distribution**

Any person, upon request, shall receive bulk distribution of information and court records, provided that the bulk distribution does not require creation of a new compilation, as defined in Ohio R. Superintendence 44(M). The court has no obligation to prepare a new compilation for any person. The requestor of bulk distribution shall choose how the information is to be provided, whether on paper, on the same medium upon which the court keeps the information, or upon any other medium that the court determines can be reasonably duplicated as an integral part of its normal operations, unless the choice requires a new compilation. The bulk distribution shall include a time or date stamp indication the compilation date. The person who receives a bulk distribution of information in court records for redistribution shall keep the information current and delete inaccurate, sealed, or expunged information in accordance with Ohio R. Superintendence 26.

## **XXVIII. CASE TIME LIMITS**

### **Civil and Criminal Cases**

All civil cases shall be disposed of within a reasonable time as determined by the court. All criminal cases shall be tried within the time period provided in Chapter 2945.71 of the Revised Code. Whenever a hearing or trial time is extended pursuant to section 2945.72 of the Revised Code or Criminal Rule 5 or 45, the judge shall state the reason for the change in an order and journalize the order.

### **Felony Preliminary Hearing**

Pursuant to Criminal R 5(B), in felony cases a defendant is entitled to a preliminary hearing unless waived in writing. If the defendant waives preliminary hearing, the judge or magistrate shall order the defendant bound over to the court of common pleas. If the defendant does not waive the preliminary hearing, the judge or magistrate shall schedule a preliminary hearing within a reasonable time, but no later than ten (10) consecutive days following arrest or service of summons if the defendant is in custody and not later than fifteen (15) consecutive days following arrest or service of summons if the defendant is not in custody, unless the defendant waives time.

## **XXIX. RULINGS ON MOTIONS AND SUBMITTED CASES**

All motions in Civil cases shall be ruled upon within 120 (one hundred twenty) days from the date the motion was filed, except as otherwise noted on the report forms.

## **XXX. CONFLICT OF TRIAL COURT ASSIGNMENT DATES, CONTINUANCES AND ENGAGED COUNSEL CONTINUANCES**

### **Continuances**

The continuance of a scheduled trial or hearing is a matter within the sound discretion of the trial court for good cause shown. No party shall be granted a continuance of a trial or hearing without a written motion from the party or counsel stating the reason for the continuance, endorsed in writing by the party as well as counsel, provided that the trial judge may waive this requirement upon a showing of good cause. A proposed entry shall be filed with a motion for continuance, leaving the time and date blank for the court to set a new date. Before the continuance is granted, the court shall first set a definite date for the trial or hearing.

## **Conflict of Trial Assignment Dates**

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 another Trial Court, the case that was first set for trial shall have priority. A motion for continuance for this reason will only be considered if a copy of the conflicting assignment is attached to the motion and the motion is filed not less than (30) thirty days prior to trial.

## **Engaged Counsel**

If a designated trial attorney has such a number of cases assigned for trial so as to cause undue delay in the disposition of such cases, the administrative judge may summon such trial attorney who persistently requests continuances and extensions to warn the attorney of the possibility of sanctions and to encourage the attorney to make the necessary adjustments in the management of his or her practice. Where such measures fail, restrictions may properly be imposed by the administrative judge on the number of cases in which the attorney may participate at any one time. See Local Rule 16 (A).

# **XXXI. FORCIBLE ENTRY AND DETAINER**

## **Eviction Proceedings**

The provisions of R.C. §§1923 and 5321 govern actions involving forcible entry and detainer. A four-step process must be followed by a landlord before a Court will order a tenant to vacate the premises. First, the lease must be terminated either by a proper termination notice (R.C. §5321.17) or by breach, i.e. nonpayment of rent (R.C. §5321.05); second, a notice to vacate the premises is required (R.C. §1923.04); third, a complaint in forcible entry and detainer must be filed with the Court (R.C. §1923.05); and fourth, a hearing must be held no sooner than seven (7) days from the filing of the complaint and the service of summons.

## **Summons**

Pursuant to R.C. §1923.06, a summons shall be served at least seven days before the day set for trial. Service may be made to the person subject to forcible entry and detainer or to another person of suitable age and discretion found at the premises. In addition, service may be made by posting a copy in a conspicuous place on the premises or the clerk may mail, by certified mail with return receipt requested, a copy of the summons to the address set forth in the summons.

If a landlord files an eviction complaint for a drug-related eviction, the Clerk of Courts is required to serve and return the summons within three days, if possible and set the action for trial on the 30th day after the date of service of the summons.

## **Jury Trial**

Pursuant to R.C. §1923.10, either party to an eviction proceeding may request a jury trial. If a jury demand is not filed by the return day of the summons, the case may be heard by the County Court Judge or magistrate (R.C. §1923.09). A tenant who requests a jury trial may be required to advance a deposit pursuant to R.C. §1901.26(A) (3). If the tenant is indigent, the deposit may be waived (R.C. §1901.26(A) (3)).

## **Rent Deposit**

When the filing of a jury demand requires the Court to continue the trial date, the Court may require the tenant to deposit rent as it accrues pursuant to R.C. §1923.08. When a tenant files counterclaims in nonpayment of rent actions, all or part of the past due rent must be deposited with the Court (R.C. §1923.061).

## **Judgment For Landlord**

After a judgment for the landlord, the Court must issue a writ of restitution which instructs the bailiff to enforce the judgment (i.e., remove the tenant's person and property from the premises). Revised Code §1923.14 requires the execution of the writ by the sheriff within ten days after receiving the writ of execution.

## **Rent Escrow**

If a landlord fails to fulfill obligations imposed by R.C. §5321.04, or the rental agreement, the tenant can deposit rent into escrow, with the clerk of the court, to enforce the landlord's obligations. The clerk may require the tenant to sign an affidavit swearing that the statutory preconditions of R.C. §5321.07 have been met. A tenant will not be required to pay a fee prior to depositing rent. Pursuant to R.C. §5321.08, the clerk of courts is required to notify the landlord of the deposit.



The landlord may apply for a release of the rent if the tenant failed to comply with the statutory requirements or if the conditions have been remedied. R.C. §5321.09. The tenant may file an answer or counterclaim to the landlord's request. R.C. §5321.09(B). The landlord may also apply for a partial release of rent to meet certain operating expenses. R.C. §5321.10

## **XXXII. JUDGMENT DEBTOR EXAMINATION**

All judgment debtor examinations shall be held as assigned by the Judge or Magistrate handling the case. If a judgment debtor fails to appear at a scheduled examination, and the debtor was personally served, the creditor or, the attorney for the creditor, may request that the Court issue a bench warrant for the arrest of the debtor.

## **XXXIII.SALE OF GOODS**

### **Responsibility For Sale**

The judgment creditor shall follow the rules prescribed by section 2329.13 et. seq. of the Ohio Revised Code, in the advertising and conducting of all sales on attachments, execution or foreclosure of chattel mortgages.

### **Personal Property**

In all attachments or executions to be levied upon personal property, the attorney or party shall describe in detail those items which are to be levied upon and an instruction "levy upon all goods and chattels of the defendant" will not be sufficient. It is necessary for the Sheriff's Office to know the type, size and number of items to be levied upon so that they can make an accurate estimate as to the cost of the proceedings and estimate the amount of security deposit required.

### **Motor Vehicles**

If the item to be levied upon is an automobile or other motor vehicle, the attorney or party shall furnish the Court with an accurate description of the vehicle including the license number and vehicle identification number. The attorney or party shall furnish the Court with a written statement as to whether or not there is a lien or record on the vehicle in the office of the Clerk of Courts, Common Pleas Court of Butler County or of any other county in the state of Ohio.

The Sheriff shall determine the fair market value and whether or not there are any liens on the vehicle before the vehicle is levied upon. Where a lien exists, the name of the lien holder shall appear on the notice of sale.

If the Sheriff estimates that the sale price of the vehicle will be less than the cost of towing, storage, advertising and other costs associated with the sale, he or she shall require the party to pay an additional deposit to cover the expenses before proceeding with the execution.

## **XXXIV. SMALL CLAIMS DIVISION**

### **Proceedings**

Pursuant to R.C. §1925.01, each Butler County Area Court has established a small claims division. Proceedings in the small claims division are conducted by a magistrate appointed by the court. Decisions of the magistrate may be appealed to the judge. The appearance of an attorney at law on behalf of any party is permitted but not required. Notice to the attorney of record for a party is equivalent to notice to the party.

### **Jurisdiction**

The small claims division has jurisdiction in civil actions for the recovery of taxes and money only, for amounts not exceeding six thousand dollars (\$6,000), exclusive of interest and costs. R.C. §1925.02 A small claims division does not have jurisdiction in any of the following: 1.) libel, slander, replevin, malicious prosecution and abuse of process actions; 2.) actions on any claim brought by an assignee or agent, except a claim to recover taxes that is filed by any authorized officer or employee of the state; 3.) actions for the recovery of punitive or exemplary damages. See R.C. §1925.02(A) (2) for more detail.

### **Commencement of Action**

Pursuant to R.C. §1925.04, an action is commenced in the small claims division when the plaintiff, or the plaintiff's attorney, files a pleading stating the amount and nature of the plaintiff's claim to the Court. The commencement of a small claims complaint constitutes a waiver of any right of the plaintiff to trial by jury upon such action.

The plaintiff, or the plaintiff's attorney, shall provide the Clerk of Courts, the plaintiff's and the defendant's places of residence, and also provide the military status of the defendant. The claim shall be reduced to writing in a concise, non-technical form. The writing shall be signed by the plaintiff or the plaintiff's attorney, under oath.

A memorandum of the time and place set for trial shall be given to the person signing the writing. The time set for trial shall not be less than fifteen (15) or more than forty (40) days after commencement of the action.

All small claim complaints filed in the Butler County Area Courts shall be numbered consecutively with civil cases and shall carry a prefix of CVI. Claims filed shall be entered in the General Civil Index. All papers filed with the court must contain the case number and the clerk may refuse to accept any papers for filing that do not indicate the case number in the caption.

### **Corporations**

A corporation which is a real party in interest in any action in a small claims division may commence such an action and appear through an attorney at law. A corporation, through an officer or any salaried employee, may file and present its claim or defense in any action in a small claims division to which the corporation is an original party, provided that the corporation does not, in the absence or representation by an attorney, engage in cross-examination, argument or other acts of advocacy.

### **Fees**

At the time of commencement of the action the plaintiff, or the plaintiff's attorney, shall pay the filing fee determined by the court.

### **Notice**

Pursuant to R.C. §1925.05, notice of the filing shall be served on the defendant as provided by the Rules of Civil Procedure. If the notice is returned undelivered or if in any other way it appears that the notice has not been received by the defendant, at the request of the plaintiff or his attorney, a further notice shall be issued, setting the trial for a subsequent date, to be served in the same manner as a summons is served in an ordinary civil action. The court may charge an additional fee if further notices are issued.

## **XXXV. TRUSTEESHIP**

### **Governing Law**

Those provisions of sections 2329.70 and 2329.71 of the Ohio Revised Code and the rules herein established by the Court shall govern persons making application for a trusteeship.

### **Eligibility**

To be eligible for the appointment of a trustee, the debtor must be a resident of Butler County, Ohio and must be earning wages which are subject to garnishment.

### **Application**

A person making an application for a trusteeship must have in his possession a fifteen (15) day notice of garnishment that has been served on him or her by a creditor. The application for trusteeship must be made within fifteen (15) days from the date of the fifteen (15) day notice.

The application shall include the following information about the debtor: 1.) name and address; 2.) place of employment; 3.) present salary; 4.) statement as to whether or not debtor has previously been in trusteeship with this Court and if so, the date the trusteeship was closed out and reason for closing; 5.) all dependents claimed on most recent Federal Income Tax filing; 6.) names, addresses, account numbers and amount due to all secured and unsecured creditors with liquidated claims. The application shall be sworn to under oath, subjecting the party making the application to suffer the penalty of perjury if any false answers are given.

### **Addition Of Creditors**

If, after the trusteeship is opened, the debtor discovers that he or she has inadvertently omitted a creditor from the list included in the application, the debtor shall immediately submit a statement to the trustee clerk indicating the name, address, account number and amount due to the creditor and an explanation of why the creditor was omitted. It is within the discretion of the trustee clerk to either add or not add the creditor to the original list of creditors. If the creditor is added, it is the responsibility of the debtor to notify the creditor consistent with these rules.

If the trustee clerk refuses to add a creditor to the list, the debtor may appeal the clerk's decision to a Judge for a final determination. All requests for judicial review of trustee clerk decisions shall be in writing and filed with the Clerk.

Except as provided above, once an application for a trusteeship has been made and granted, the debtor may incur no additional debts. Once a debtor has been accepted into trusteeship, all of his or her transactions with merchants and professional or service providers shall be conducted in cash.

### **Proof of Employment**

At the time of making the application, the debtor shall furnish the Court proof of earnings (i.e. a pay stub) to substantiate earnings for a thirty (30) day period prior to the application. If the debtor has been employed for less than thirty (30) days at the time of making the application, the debtor shall submit proof of earnings to the Court after making the application sufficient to substantiate earnings for a thirty (30) day period. Thereafter, every two (2) months the debtor shall submit proof of earnings to the Court. The trustee may increase or decrease the payment due the Court based on changes in the debtor's earnings.

### **Fee**

The debtor shall pay a filing fee of Forty Five Dollars (\$45.00) and the costs of certified mail service to the creditors.

### **Notification of Creditors**

Within two (2) days of swearing to the information in the application, the debtor shall notify all of the creditors listed in the application by certified mail, with return receipt, or in person, that the application has been made for appointment of a trustee. The notification shall include the amount claimed by the debtor that is due to the creditor and a request that the creditor notify the Court if the amount is incorrect. All secured creditors must be notified that they have ten (10) days from the receipt of the notification to notify the Court if they wish to opt out of the trusteeship, otherwise they will be included. A secured creditor included in the trusteeship is estopped from asserting its lien as long as the debtor maintains his or her trusteeship agreement.

Where creditors are notified in person, the notification and any acknowledgements and statements that are to be returned to the Court must all be accomplished within five (5) days after the application is filed with the Court.

### **Payments to the Court**

Each debtor in trusteeship shall pay twenty five (25) percent of his or her monthly net income into the Court. Net income is defined as wages remaining after the following deductions: 1.) Federal Income Tax; 2.) City Income Tax; 3.) State Income Tax; and 4.) Social Security or other retirement amounts withheld. These are the only deductions that the Court will consider when calculating net income.

The debtor shall make payments to the Court on the same frequency as the debtor's employer pays the debtor. If the debtor is paid weekly, he or she shall make weekly payments to the court, etc. Payments to the Court must be made by cash, certified check or money order. No personal checks will be accepted.

### **Missed Payments**

If the debtor misses two consecutive scheduled payments, the trusteeship will be cancelled, unless the reason the payments were missed was that the debtor has not worked and has not received wages from his or her employer. Where the debtor has not worked and has not received wages, the debtor must submit to the Court, on the date the wages are due to the Court, a written statement from his or her employer indicating that no wages were paid.

If a debtor becomes unemployed while subject to trusteeship, he or she is excused from making payments to the Court, even if the debtor is receiving unemployment benefits from the state of Ohio. However, at the time each trusteeship payment is due to the Court, the debtor must submit a statement in writing that he or she is unemployed and either receiving no income or receiving unemployment benefits. The amount of the unemployment benefit received and the frequency must be reported to the Court. The debtor must continue to submit the statements each week until he or she is employed again.

A debtor whose trusteeship has been cancelled for failure to make payments cannot make another application for trusteeship until six (6) months have elapsed from the date of the cancellation. During this six (6) month period, the debtor's wages will be subject to garnishment.

### **Payments Made To Creditors**

Payments made by the debtor directly to any creditor do not excuse the debtor from making the full payment to the Court on the required date.

The debtor must make payments directly to any secured creditor who opted out of the trusteeship agreement. Failure to make payments to a secured creditor that holds a mortgage on property can result in the creditor repossessing the property.

The Court will make disbursements to creditors in April, August and December.

## **XXXVI. TRAFFIC VIOLATIONS**

Pursuant to the Uniform Rules of Traffic Procedure, there is established a Traffic Violations Bureau with the main office of the Clerk. The hours of operation shall be from 8:00 A.M. to 5:00 P.M., Monday through Friday, except that the office is not open on federal legal holidays. However, all payable traffic violations may be paid on the Internet at the Area Court's Website. Payments can be made seven days a week, twenty four hours a day by visiting [butlercountyohio.org/area courts](http://butlercountyohio.org/area_courts) and clicking on "Make Payments". Area I Court in Oxford and Area III Court in West Chester also have payment drop boxes outside the entrance to the court. Drop boxes are available twenty-four hours a day, seven days a week.

## **XXXVII. PROBATION DEPARTMENT**

Individuals sentenced to a term of probation are subject to the rules and regulations of the Probation Department of the Court of Common Pleas.

## **XXXVIII. LOCAL COURT SECURITY**

The Butler County Area Courts are charged with dispensing justice, resolving disputes, and protecting the constitutional rights of those 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 secure for all those who visit and work there. Therefore, pursuant to the Rules of Superintendence for the Municipal and County Courts, Rule 18, which is hereby incorporated into these rules, it is the intention of the Butler County Area Courts to adopt and adhere to the Model Court Security Operations Manual as funding and facilities become available from the Butler County Commissioners. All standards not requiring funding and facilities are hereby adopted immediately.

## **XXXIX. COURTROOM DECORUM**

### **Proper Attire**

All individuals using the Court, including, but not limited to court employees, attorneys, prosecutors, defendants, jurors, witnesses, media or observers will be properly attired. No shorts, tank tops, or shirts exposing midriffs or baggy pants worn below the waist line shall be permitted.

### **Behavior**

It is hereby declared to be the duty of every person in the courtroom to give respectful attention to the Court at all times when it is in session. Any person or persons may be found to be in contempt of court and subject to the reproof or punishment by the Court for any person or persons, by conversation or otherwise, who disturbs the attention of the court or jury while Court is in session.

### **Electronic Devices**

Individuals entering the courtroom will turn electronic devices, such as cell phones, pagers, PDA's and portable computers, to silent mode or off. No cellular telephone calls shall be initiated or received in the courtroom while Court is in session. There will be no recording of proceedings or taking of pictures from cell phones, etc. A violation of this section may result in confiscation of the electronic device and a finding of contempt by the Court.

### **Contempt of Court**

To ensure that the decorum and dignity which should characterize the practice of the law and to aid the Court at all times in the discharge of its duties, any person or persons may be found to be in contempt of court for using insulting, vulgar, or profane language in the presence of the Court while the court is in session.

## **XL. MEDIA IN THE COURTROOM**

The presence of the media in the courtroom shall be governed by the limitations and parameters contained in Supreme Court Rules of Superintendence 12.

## **XLI. SEALINGS/EXPUNGEMENTS**

All sealings/expungements must comply with ORC. 2953.32 and 2953. 52. All requests for sealings/expungements must be filed in the proper Area Courts and contain all of the information requested on the Sealing/Expungements Form found in the Forms section of the courts website at [bcareacourts.org](http://bcareacourts.org). All costs associated with the filings must be paid at the time of the filing. No personal checks will be accepted.

## **XLII. INTERPRETER SERVICES**

When interpretive services are needed, the attorney or party requesting an interpreter shall make the request to the Deputy Clerk of the Court at least one week prior to the hearing. The Court will arrange for an objective interpreter to be present for the hearing. It is the responsibility of the requesting party to notify the interpreter if there is any change in the date or time of the hearing. Failure to do so may result in the requesting party being held responsible for payment of the interpreter's fee for time spent at court by the interpreter as a result of not being notified of the change.

In accordance with Rule 83 of the Ohio Rules of Civil Procedure, the above rules of local practice in this Court were filed with the Supreme Court of the State of Ohio on the 1st day of February, 2017.