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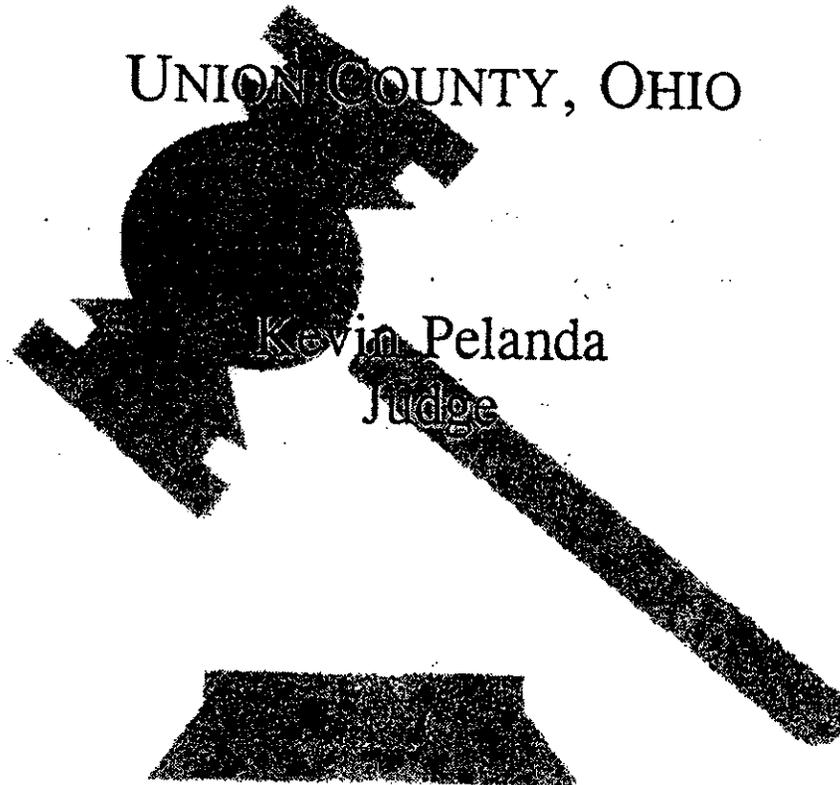
CLERK OF COURT
SUPREME COURT OF O 0

LOCAL RULES

OF THE

MARYSVILLE MUNICIPAL COURT

UNION COUNTY, OHIO



Kevin Pelanda
Judge

"Serving Union County by Advancing the Administration of Justice."

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MARYSVILLE MUNICIPAL COURT

LOCAL RULES

July 1, 1997

1. Terms of Court.

The Court shall be in continuous session for the transaction of judicial business. Each calendar year shall be divided into three Terms, designated as the January Term, the May Term and the September Term, each commencing at 8:00 o'clock a.m., on the first day of January, May, and September, respectively. [eff. 090191.]

2. Hours of Court Sessions.

The hours for the regular sessions of Court shall be from 8:00 o'clock a.m. to 4:00 o'clock p.m. on Monday through Friday of each week except for legal holidays. Hours may be modified by the trial judge to meet special conditions. [eff. 090191.]

3. Deposits for Security in Civil Cases.

A. No civil action or proceeding shall be accepted for filing by the Clerk unless the party or parties offering the same for filing have first deposited a sum of money to secure the payment of costs. Except as otherwise provided by law, deposits shall be as follows:

(1) A deposit of \$75.00 shall be made at the commencement of all civil proceedings, except in the Small Claims Division, to secure court costs which shall be borne by the plaintiff unless otherwise collected from the defendant and paid to the Clerk. This deposit includes the filing fee of \$15.00 for the Legal Aid Fund pursuant R.C. 1901.26(A)(9). Filing a Certificate of judgment issued by another court, and a Petition/complaint seeking relief from an impoundment, immobilization, or forfeiture order under R.C. 4503.235 shall be deemed the commencement of new actions.

(2) A deposit of \$75.00 shall be made with the filing of a Counter-claim, Cross-Complaint or Third Party Complaint. Costs shall be borne by the claimant unless otherwise collected from the opposing party and paid to the Clerk.

(3) A deposit of \$23.00 shall be made at the commencement of a proceeding in the Small Claims Division. This deposit includes the filing fee of \$7.00 for the Legal Aid Fund per R.C. 1901.26(A)(9). Costs shall be borne by the plaintiff unless otherwise collected from the defendant and paid to the Clerk. An additional deposit of \$6.00 shall be made by a requesting party for each piece of certified mail requested or required to be made due to a request by said party in this Division for service or otherwise. However, no such additional deposit shall be required for the first piece of certified mail issued by the Court in the case. [eff. 070197.]

(4) A deposit of \$150.00 shall be made by any party requesting a trial of any issue by jury in a civil case.

(5) A deposit of \$100.00, or such other amount as the Court of Appeals shall order, shall be made by any party filing a notice of appeal to the Third District Court of Appeals to be forwarded by the Clerk of this Court to the Clerk of the Court of Appeals. An additional deposit of \$25.00 shall be made at the same time to be applied to costs in this Court.

(6) Costs may be secured by a bond with surety approved by the Clerk. No member of the Bar shall be accepted as surety.

(7) If any deposit is insufficient, the Court may require an additional deposit.

(8) Where the plaintiff or defendant files an Affidavit of inability to pay or secure costs as

provided in R.C. 2323.31, the Clerk shall receive and file the complaint or other pleading without such deposit or security.

(9) At the termination of the litigation, the balance the deposit for costs shall be applied by the Clerk to unpaid costs. [eff. 090191; 0104-93; 081993.]

B. In criminal and traffic cases no motion for modification of sentence, including modification of terms or conditions of incarceration, driving privileges, and probation terms. civil action or proceeding shall be considered by the Court unless the defendant has first deposited the sum of \$5.00 to secure the payment of costs on each case in which modification is sought. The maximum cumulative deposit hereunder for companion charges shall be \$45.00. [eff. 050196.]

C. No application for special (family) license plates shall be considered until the applicant deposits the sum of \$15.00 to secure payment of costs imposed upon the order suspending operating privileges and impounding vehicle identification plates and registration under R.C. § 4509.101(B)(1)(c). [eff. 070197].

D. No application for participation in the Minor Traffic Violation Diversion Program shall be considered until an amount equal to that otherwise due under the Court's Bond and Fine Schedule for the same offense is first deposited with the Clerk to cover costs. [eff. 070197].

4. Court Costs.

A. In all cases a charge of \$15.00 shall be assessed for the proceedings from the commencement of the action to the rendering of judgment. Except in the Small Claims Division, the charge shall be \$5.00. Where one case gives rise to both an O.M.V.I. and a Concentration charge, costs will be assessed only in the case that results in a sentence. Concentration and O.M.V.I. charges arising out of the same facts shall be filed under the same case number even if not filed concurrently. R.C. §§ 1901.26(A), 1925.04(A). [eff. 050196, 07197.]

B. A charge of \$10.00 shall be assessed for all executions returned unsatisfied, in addition to the fees of the process server. [eff. 050196.]

C. A charge of \$10.00 shall be assessed for all garnishment proceedings, in addition to the fees of the Bailiff.

D. A charge of \$10.00 shall be assessed for the issuance of a Writ of Replevin, in addition to all Bailiff's charges. (Replevin Action Bond must be posted in twice the amount of indebtedness.)

E. A charge of \$35.00 shall be assessed for all executions issued for which a sale of chattel property is had pursuant to the Writ, in addition to the advertising.

F. A charge of \$5.00 shall be assessed for the issuance of a Writ of Restitution, in addition to the Bailiff's charges.

G. A charge of \$10.00 shall be assessed for a Judgment Debtor examination.

H. A charge of \$5.00 shall be assessed for making a Certificate of Judgment.

I. A charge shall be assessed equal to the actual postage cost of service by certified mail and regular mail with certificate of mailing. Except, however, there shall be no additional charge assessed for the first piece of certified mail in Small Claims cases. In trusteeships a charge of \$0.50 shall be assessed for each piece of regular mail that must be issued to a creditor.

J. In all cases a charge shall be assessed of

(1) \$3.00 for the Legal Research & Court Technology Fund. R.C. § 1901.261(A). [eff. 060196.]

(2) \$5.00 for the Special Projects Fund. R.C. § 1901.26(B). [eff. 070197.]

K. In all civil cases filed in, or transferred to, the regular division a charge of \$15.00 shall be assessed; and for all cases filed in the Small Claims Division, a charge of \$7.00 shall be

assessed, for the Legal Aid Fund. R.C. § 1901.26(A)(9). [eff. 050196.]

L. In all cases a charge of \$3.00 shall be assessed for Clerk's Office Computerization Fund upon the commencement of the proceedings. R.C. § 1901.261(B). [eff. 050196.]

M. In all criminal and moving violation traffic cases, except companion cases, a charge of \$11.00 shall be assessed for the State General Revenue Fund. R.C. § 2949.091. In all criminal and moving violation traffic cases, except companion cases, a charge of \$9.00 shall be assessed for the State Reparations Fund. R.C. § 2743.70. Waiverable companion cases paid by mail shall be assessed additional costs of \$20.00, which fee may be waived by the Clerk if the balance of the fine and costs are timely received.

N. If publication is required or requested, the party required or requesting shall arrange with the newspaper publisher for such publication, pay the costs thereof to the newspaper publisher and direct the publisher to file proof of publication with the Clerk of this Court.

O. In the event of a change of plea in a criminal or traffic case after the Pretrial Conference, a charge equal to the actual jury fees incurred, or \$175.00, whichever is greater, shall be assessed.

P. For all appeals to the Third District Court of Appeals a charge of \$25.00 shall be assessed for the proceedings from the filing of the notice of appeal to the conclusion the appellate process. This fee is in addition to fees assessed by and the Court of Appeals.

Q. In all criminal and traffic cases, a charge of \$5.00 shall be assessed for motions for modifications of sentence, including modification of terms or conditions of incarceration, driving privileges, and probation terms. The maximum cumulative charge hereunder for companion charges shall be \$45.00. [eff. 050196.]

R. In all criminal and traffic cases, a charge of \$15.00 shall be assessed upon the finding

that the Defendant has violated the terms of probation, or is in contempt for nonpayment of fines and/or costs. The maximum cumulative charge hereunder for companion charges shall be \$45.00 per related incidence of noncompliance. [eff. 050196.]

S. A charge of \$15.00 shall be assessed whenever the court issues an order impounding vehicle identification plates and registration under R.C. § 4507.164, R.C. § 4507.38, R.C. § 4509.101(B)(1)(c), or R.C. § 4511.195. [eff. 050196.]

T. A charge of \$15.00 shall be assessed in each traffic and criminal case in which

(1) the court allows thirty, or more days to pay fines and costs and all fines and costs are not paid before the thirty-first following the date of journalization of the original entry imposing sentence, or

(2) the offender fails to pay all fines and costs before the thirty-first following the date of journalization of the original entry imposing sentence. The maximum cumulative charge hereunder for companion charges shall be \$45.00.

U. For successful completion of the Traffic Safety Diversion Program a charge equal to the amount due under the existing Bond Schedule for the same offense shall be assessed. [eff. 070197.]

V. In criminal/traffic cases, where the Defendant fails to appear at initial appearance, arraignment, probation violation hearing or any other scheduled hearing a charge of \$25.00 shall be assessed. Where defendant fails to appear for trial, a charge of \$75.00 shall be assessed. For each failure to appear only one charge shall be assessed for each case or group of cases bearing the same case number regardless of letter designation. [eff. 050196, 07-0197.]

W. Additional fees and charges may be assessed as provided by law. [eff. 090191; 0106-92, 011492, 010493, 081993, 091493, 050196, 070197.]

5. Judgment by Confession or Warrant of Attorney.

Before a Judgment Entry is filed in cases of confession of judgment by warrant of an attorney on a promissory note, the original note shall be exhibited to the Court and presented to the clerk of this Court, who shall endorse thereon the fact that the note is in judgment. The Entry of Judgment shall not be filed until this is done. When Judgment is entered the Clerk shall notify the judgment debtor or debtors and note this fact upon the appearance docket. [eff. 090191.]

6. Bail or Surety.

A. No attorney at law or other officer of this Court shall be accepted or received as guarantor or surety on any undertaking of any kind in this Court, nor shall any bond or undertaking be approved having the name of any such person thereon as surety or guarantor.

B. Any pledge of property for bail shall have, accompanying the initial papers therefor, an attorney's certificate of title which includes a justification of sufficient equity to cover twice the bail amount. Said justification must appear to equal the requisite amount of equity, to the satisfaction of the Judge, before being accepted by the Clerk. Real property may not be pledged unless located in Union County.

C. Bond shall be required of defendants as set forth in the bond schedule adopted by this Court unless otherwise provided by the Court through journal entry. [eff. 090191.]

7. Rule Days Not Fixed by Law.

In all cases where the time for filing of a pleading or amended pleading is not fixed by law or rule, the pleading or amended pleading shall be filed on or before the fourteenth (14th) day after the file date of the entry requiring or granting leave for the filing of such pleading or amended pleading, unless otherwise specified in the entry. [eff. 090191.]

8. Hearing and Submission of Motions.

A. Motions to be ruled upon by the Court without a hearing shall be in writing accompanied by a memorandum stating with specificity the factual and legal grounds therefor. Memoranda must cite authority and relate the same to the specific facts of the case. Within seven (7) days after service of such Motion each party opposing the Motion on other than factual grounds shall serve and file a responsive memorandum. The moving party may file a reply memorandum within five (5) days after service of such answer memorandum. Upon expiration of the time for filing memoranda, the matter shall be deemed submitted, unless otherwise ordered by the Court. Failure to file a memorandum at the time required is a waiver and consent to submit the issue or case to the Court forthwith for decision.

B. Pretrial evidentiary hearings shall heard at the Pretrial Motion/Plea Hearing unless otherwise ordered by the Court.

C. A party requesting suppression or exclusion of evidence must appear at any hearing on such motion. Failure of the moving party to appear at a hearing, without good cause, on said party's motion shall be deemed to be waiver of any objection raised in the motion and a consent to the admission and acknowledgment of the sufficiency of the foundation of any evidence sought to be excluded thereby. [eff. 090191, 101593.]

9. Case Management in Civil Cases.

A. Process shall be served in accordance with the Ohio Rules of Civil Procedure. If certified mail service is requested, prior notice of return of service marked unclaimed or refused is waived unless reserved in writing. If certified mail service is so returned, the clerk shall forthwith issue regular mail service and notice thereof to the Plaintiff.

B. In the event there is a failure of personal or regular mail service forty-five days after filing of the complaint, the clerk shall notify counsel, or plaintiff if not represented. If plaintiff fails to request other service within ten

days, or fails to obtain service within ninety days after the date the complaint or petition was filed, the Clerk shall notify plaintiff, through counsel if represented, that the case will be dismissed in ten (10) days for lack of prosecution unless good cause is shown to the contrary.

C. If service is perfected and a defendant is in default, a motion for default judgment must be filed within thirty days of the answer or ten days of notice of default by the Clerk, whichever is earlier. Failure to file a motion for default will result in dismissal of the case for lack of prosecution.

D. Motions for default judgment not accompanied by a proposed judgment entry shall not be accepted for filing and will be returned by the Clerk. If the party in default has made an appearance or judgment is sought for an unliquidated sum, the case will be set for hearing on the motion within thirty days after the filing thereof.

E. If a responsive pleading is timely filed by any defendant the clerk shall set nonjury cases for bench trial not more than ninety days after the last responsive pleading was due. No pre-trial conference shall be scheduled unless requested in writing.

F. Where a timely jury demand is filed, the case shall be submitted by the Clerk to the Judge immediately upon the filing of the last, timely responsive pleading. The Court shall thereupon assign the matter for scheduling conference and/or pre-trial conference, and jury trial.

G. A pre-trial conference shall be set not later than ninety days after the last timely answer is filed; at the same time the case shall be scheduled for jury trial not later than one hundred and twenty days after the last timely answer is filed.

H. If no action has been taken on a case for a one hundred and twenty day period and the case is not set for trial, the clerk shall notify the parties that the matter will be dismissed within ten days unless good cause is shown.

I. All discovery must be completed thirty-five days prior to trial or on the last day prior to the pre-trial conference, whichever is earlier. Leave is granted without request until thirty days prior to trial to file motions for summary judgment, the Clerk shall immediately set a non-oral hearing for twenty days thereafter on said motion; no appearances will be required at said hearing. A party who opposes a motion for summary judgment, shall file a response within fourteen days of service thereof; the moving party may file a reply within five days of service of the filing of the response. [eff. 090191.]

10. Case Management in Criminal Cases.

A. Written pleas may be filed pursuant to Criminal Rule 10(B). Leave is granted hereby to enter a written plea in minor misdemeanor cases.

B. Only an attorney of record may file a written plea in cases where the maximum penalty includes incarceration or a fine exceeding one hundred dollars. In such cases defendants not represented by counsel shall enter a plea at arraignment in open court.

C. Written pleas must be filed before 4:00 pm on the day preceding the date on which the arraignment is scheduled or such plea shall not be filed by the Clerk.

D. In cases where a bench trial has been scheduled and a timely jury demand is filed, the bench trial date shall be vacated and the case shall be rescheduled pursuant to these Rules. Counsel, or the Defendant if not represented, shall immediately notify the prosecuting attorney that a jury demand has been filed so that unnecessary appearance of prosecuting witnesses at the time scheduled for bench trial may be avoided. (see pg 7.)

E. Where a defendant has a right to a trial by jury trial, a motion to continue a bench trial filed after the expiration of the time within which to file jury demand shall be denied unless accompanied by a waiver of the right to a trial by jury signed by the defendant.

F. Where a timely jury demand is filed and statutory and Constitutional speedy trial rights are waived, the Clerk shall assign the case as follows

(1) Discovery Conference shall be set no sooner than thirty-five days nor more than fifty days after the date that the plea was entered.

(2) Pretrial Motion/Plea Hearing shall be set as near as practicable to twenty-one days after the Pre-trial Hearing.

~~Discovery~~
(3) Jury Trial shall be set as near as practicable to seven days after the Pre-trial Hearing.

G. Where a timely jury demand is filed and the defendant does not waive statutory and Constitutional speedy trial rights the Clerk shall assign the case as follows:

(1) Pretrial Plea/Motion Hearing shall be assigned as nearly as practicable for thirty-five days after the date on which the defendant entered a plea;

(2) Jury trial shall be set as nearly as practicable for seven days thereafter.

If defendant is not incarcerated pending trial for more than twenty-four hours after the plea is entered, no continuance shall be granted even upon a waiver of time.

H. No case previously assigned for hearing, pre-trial conference or trial shall be advanced on the docket for any purpose except by the Administrative Judge of this Court or by written reassignment by the Clerk.

I. The Clerk may reject jury demands and written pleas not submitted on forms approved by the Court.

J. No Pre-trial Hearing or Discovery Conference shall be scheduled in minor misdemeanor cases. [eff. 090191, 010493.]

11. Special Proceedings.

A. Summons on complaints filed in the Small Claims Division shall be served as provided in

the Civil Rules. Local Rule 9(A) & (B) shall apply. A notice of trial shall be issued together with the summons and complaint to be served upon defendant(s) within seven days after the complaint is filed. Trial shall be scheduled for thirty-three days after process is issued to the bailiff or other process server for service of the complaint. Failure of a defendant to appear having been duly served shall be deemed a default. Small claims cases shall be heard by the Magistrate appointed by the Court. [eff. 090194, 070197.]

B. The Clerk shall set appeals of actions by The Bureau of Motor Vehicles for hearing on or before the twenty-eighth day after the petition is filed.

C. Forcible Entry and Detainer cases shall be set for eviction hearing within no less than five nor more than ten days after service of the summons. If the Court decides in favor of the issuance of a writ of restitution, the plaintiff shall submit a journal entry within five days of the hearing. If issuance of the writ is to be delayed by consent of the parties, a timely entry must be submitted setting forth the circumstances under which the writ shall be issued. At the same time that the eviction hearing is scheduled, final hearing shall be set for no more than sixty days after the date on which the complaint was filed. The provisions of Local Rules 9 & 13 not inconsistent with nature of the proceeding shall apply. [eff. 090191, 070197.]

12. Continuances and Rescheduling of Cases.

A. Requests to continue or reschedule cases shall be granted only upon a timely filed written motion. The motion must include either

(1) an endorsement by personal signature or telephone consent of approval of all other parties, or counsel if represented, or

(2) a statement that all other parties have been consulted and which, if any, party does not consent, to the continuance requested.

B. The motion must suggest at least two alternate dates that the movant has verified with all parties and the Clerk to be available as a rescheduled date.

(1) For hearings and bench trials, the rescheduled dates suggested shall be no more than ten days before or after the original date. For jury trials the rescheduled dates shall be no more than twenty-one days before or after the original date.

(2) Failure by the movant to suggest available dates shall constitute a waiver of any conflict the movant may have on the date rescheduled by the Court.

(3) Failure to provide a party requesting a continuance with available dates within one business day of receiving a request therefor shall constitute a waiver of any conflict the nonmoving party may have on the rescheduled date. Nonmoving parties who do not consent to the continuance requested must nevertheless provide available dates.

C. The motion for continuance or to reschedule must be accompanied by a proposed journal entry that

(1) Identifies the moving party;

(2) States the grounds for the request;

(3) Identifies the type of hearing (arraignment, preliminary, bond...) or trial (bench or jury) sought to be continued or rescheduled; and

(4) provides an appropriate blank space for the Court to fill in a rescheduled date.

(5) Shows by suitable marks, or otherwise, photocopy sent to counsel of record, and any party not represented by counsel, i.e., "cc:...", or "pc:...."

D. When requesting a continuance due to conflicting trial dates, a file-stamped copy of the assignment of the conflicting case must be attached to the motion.

E. If counsel has such a number of cases assigned for hearing or trial as to cause undue delay in the disposition of cases in this Court, the Court may require the trial attorney to provide a substitute trial attorney. If the trial attorney was appointed by the Court, the Court may appoint a substitute trial attorney.

F. The Court retains the exclusive authority to grant continuances. No continuance is granted until an appropriate journal entry is filed. Requests for continuances unavoidably delayed until the day of the proceeding sought to be continued, shall not be granted absent the personal appearance of the requesting party. [eff. 090191.]

13. Entries.

A. Counsel for the party in whose favor an order or judgment is rendered following a contested hearing shall prepare an appropriate judgment or journal entry. The entry shall be submitted to opposing counsel within five (5) days of the decision. Opposing counsel shall approve or reject the entry within five (5) days and return it or submit it to the judge. An entry shall be submitted to the judge for signature no more than fifteen days after the decision.

B. Entries of settlement may be filed at any time prior to the hearing or trial date, but not more than fifteen days after said date. Failure to timely submit a settlement entry may result in dismissal for want of prosecution.

C. A final judgment entry must be submitted within thirty days of the date set for trial. If a settlement agreement shall not be fully executed by that date, the judgment shall provide for dismissal subject to the terms of a written settlement agreement subject to the jurisdiction of the Court to enforce the agreement upon default and motion to reopen. Alternatively, a settlement entry may provide for judgment with terms delaying execution.

D. Final judgment entries shall state how costs will be assessed. Final entries shall be endorsed within the bottom two inches of the last page with the words "FINAL APPEAL-

ABLE ORDER." Said endorsement shall be in capital letters and shall be highlighted by bold face type, large print, underlining, or shading. [eff. 090191.]

14. Signing of Pleadings.

A. Every pleading and motion of a party represented by an attorney shall be signed by at least one attorney of record in his individual name, whose address, phone number, and Ohio Supreme Court Registration Number shall be stated. A party not represented by counsel shall sign his/her own pleading and state his/her address and phone number.

B. The signature of counsel or a party constitutes a certification that counsel or the party has personally read the pleading; and that to said person's best information, knowledge and belief there is good ground to support it; and that it is not interposed for delay. If a pleading is not signed or is signed with an intent to defeat the purpose of this rule, it may be stricken as a sham and false and the case shall proceed as though the pleading had not been served or filed. Willful violation of this rule may result in appropriate sanctions, on the Court's own motion or upon motion of one of the parties. Facsimile signatures shall be treated as original for purposes of this rule. [eff. 090191; 010692.]

15. Pre-trial Procedure in Civil Cases.

A. All civil jury cases, and such other civil cases as the Court may require, shall be assigned for pre-trial conference. Civil pre-trial conferences shall be held *in camera*.

B. Pre-trial statements shall be filed by all parties with the Court at least three (3) days before date of the pre-trial conference and shall include:

- (1) The facts giving rise to the claim for relief.
- (2) A brief statement of the issues.
- (3) Propositions of law with at least two authorities cited.

(4) A list of witnesses.

(5) Identification of exhibits.

(6) A demand, or offer for settlement.

(7) An estimate of trial time.

C. Trial counsel must appear at each pre-trial conference with authority to stipulate items of evidence, to make admissions of fact, and must have full settlement authority or have the client present.

D. At the pre-trial conference, the judge shall have authority to decide any undetermined preliminary matter; to record any admissions, stipulations or agreement; to hear and decide the case with the consent of the parties; to make; whatever finding, orders, judgment or decrees which may be warranted or proper under the circumstances, and within spirit of the rule, to set the case for trial or dismissal, or to take other appropriate action under Civil Rule 37.

E. Statements of counsel at the pre-trial conference shall not be binding upon the parties unless expressly made so in writing.

F. At the pre-trial conference, trial counsel shall appear and consider, with the assistance of the judge: simplification of the number and complexity of the issues; the necessity or desirability of amendments to the pleadings; obtaining of admissions of fact, and documents which will avoid necessity of proof; statement of the issues of fact and issues of law; the waiver of a trial by jury; such other matters as may expedite the disposition of the case. (See Civil Rule 16.)

G. Following the pre-trial conference, the trial judge may prepare an order reflecting matters stipulated by counsel and orders made. Said order shall control all further proceedings in the action, subject to the provisions of Rule 60 of the Civil Rules.

H. The Court and counsel may take any further action at the pre-trial conference as authorized by law. [eff. 090191, 010493.]

16. Pre-trial Procedure in Criminal Cases.

A. The Discovery Conference.

(1) Conferences shall be conducted by counsel who shall prepare, execute, and file a report immediately upon the conclusion thereof. Reports shall be on a form approved by the Court. Reports shall not be modified once filed. However, new reports relating to new matters or developments may be filed subsequent to the filing of the initial report.

(2) The defendant must be present. If the complaining witness is not present, the prosecuting attorney must be able communicate immediately with said witness by telephone should the need arise during the conference. The prosecuting attorney and defense counsel must be authorized to proceed with disposition and have complete authority to stipulate on items of evidence, admissions of fact and admissibility of evidence.

B. Pretrial Motion/Plea Hearings.

(1) The defendant must appear.

(2) All pending pretrial motions for which no separate hearing is requested shall be heard at the Pretrial Hearing.

(3) Any motion relating to a failure of either party to comply with discovery rules, which failure is known or should be known prior to the Pretrial Hearing, must be filed and served prior the Pretrial Hearing. Any failure to comply with discovery that is known or that should have been known prior to the Pretrial Hearing, but is not the subject of a motion filed pursuant to this rule is deemed waived.

(4) No plea bargain agreement that provides for reduction or amendment of the charge, and/or dismissal of companion charges will be accepted by the Court after the Pretrial Hearing. Absent a timely plea/plea bargain at the Pretrial Hearing, the prosecuting attorney will be required to try the case as charged or request dismissal of all charges pending in the case (or known, but not yet filed) with prejudice to future prosecution of the same.

(5) A time period in excess of that between the Pretrial Hearing and the date set for jury trial is required to effectively notify the venire of the status of the proceedings. Failure to timely enter a change of plea results in significant additional burden on the Clerk. In the event of a change of plea after the Pretrial Hearing, additional costs shall be assessed as provided in these Rules. [eff. 090191; 010493.]

17. Discovery in Criminal Cases.

A. Criminal Rule 16 discovery shall be complete at or prior to the Discovery Conference. All parties are ordered to timely comply with discovery requests without further application to the Court.

B. For purposes of Criminal Rule 16(F) a filed request for discovery shall be deemed to be a motion for discovery. The prosecution shall respond to defense requests for discovery within fourteen days after receipt of the request. If the defendant files a timely request for discovery more than fourteen days after arraignment, he/she shall be prepared to provide a complete written response to a timely request for discovery from the prosecution at the pre-trial conference. [eff. 090191.]

18. Subpoenas.

A. Except for good cause shown, the Clerk shall not be required to issue subpoenas, nor shall the Bailiff be required to serve the same, unless requests are filed with the Clerk at least three (3) working days prior to the time for trial. Within three (3) working days, the Clerk may issue a subpoena if the party requesting the same presents a completed subpoena ready for signature together with a precipe providing for service other than by the bailiff or law enforcement officer as provided by the Rules; the party requesting service shall be responsible for providing service. No continuance shall be granted for failure to obtain service if the precipe is requested three or less days prior to trial.

B. Precipes and subpoenas must be submitted on forms approved by the Court.

(1) all cases scheduled for jury trial on the date have been taken out of assignment as above provided; or

(2) Upon specific order of the trial judge.

F. An eligible person summoned for jury duty shall be excused from service for the full term only upon written request and only if:

(1) the person's ability to receive and evaluate information is so impaired that the person is not able to perform duties as a juror;

(2) the person is 70 years or older and service would be a continuing hardship to the person or to others.

(3) the person is a full time student, currently enrolled for, and attending classes.

(4) the person is the full-time care-giver of a child under the age of six years, or a disabled person and no other person is reasonably available to care for said person in the summoned person's absence.

(5) the person is previously scheduled to be out of the State of Ohio during the entire period of the juror's term.

(6) the person has served on a state or federal jury within the twenty-four months preceding the current term.

(7) the person suffers a permanent physical disability or chronic medical condition that would render jury service a hardship on said person.

G. An eligible person summoned for jury duty may be excused for a limited period during the term only upon written request, and only:

(1) during the period of a previously scheduled vacation involving travel of more that fifty miles one way;

(2) during the period of a previously scheduled business travel requiring an overnight stay

or travel more than fifty miles from the city of Marysville.

(3) during the period of illness or temporary disability of the juror, or dependant of the juror who requires the juror's full-time assistance to convalesce, where there is no other person reasonably able to care for said person in the summoned person's absence;

(4) in cases of undue hardship as determined by the Court.

Excuses from jury duty may be allowed only very conservatively in respect of litigants' Constitutional right to submit their case to a jury that is truly representative of the community. The Court recognizes that any summoned person may be required to miss a brief period of employment for jury duty, just as the person might miss work due to illness, death or accident. Assertions by a person summoned person, or an employer thereof, that the person is indispensable even for jury duty will rarely merit an excuse from jury duty.

H. Voir dire examination shall be limited to matters relevant to determining whether to remove a juror for cause or to determine the juror's ability to be fair and impartial. See Ohio Jury Instruction 2.01.

(1) Prior to commencement of the term each juror shall complete a background information questionnaire that shall be made available to counsel in writing for each party at least 24 hours prior to the day on which jury selection is to begin. Questions on the questionnaire shall not be repeated on voir dire.

(2) The trial judge shall generally conduct a preliminary voir dire examination. The Court may allow counsel to inquire for a reasonable period of time. Questions previously submitted by the Court, or counsel shall not be resubmitted by another counsel, or another party.

(3) Counsel shall respect the privacy interests of jurors. Each juror shall be afforded the privilege of requesting voir dire privately at the bench for purposes of avoiding embarrassment or invasion of privacy.

C. No party may excuse a witness prior to a trial or hearing if a precipe for a subpoena for said witness has been filed without first obtaining the consent of each other party. No party may excuse a witness whose appearance has been arranged by another party without benefit of a subpoena. [eff. 090191.]

19. Jury Management.

A. The oppotunity 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 any cognizable group. To the fullest extent possible, the Court shall provide handicapped access, hearing impaired equipment, and enhanced exhibits for sight impaired where required for jurors.

B. Selection of the Venire.

(1) The jury source list shall be the list of all voters registered at the Union County Board of Elections or as otherwise prescribed by law. The jury source list should be as inclusive of the adult population in the jurisdiction as is feasible.

(2) The Union County Jury Commission shall be select two panels for each term. Jurors shall be selected at the same time and in the same manner as selection of Union County Grand Jury and Petit Jury venires. The first panel shall serve during the first half of the term, the second panel shall serve during the second half. The jury commissioners may use manual or automated means to insure the each eligible and available person an equal probability of selection.

C. All persons shall be eligible for jury service except those who:

- (1) Are less than eighteen years of age; unless 17 years of age and registered to vote;
- (2) Are not citizens of the United States;
- (3) Are not residents of Union County.

(4) Are not able to communicate in the English language;

(5) Have been convicted of a felony and have not had their civil rights restored.

D. Jurors in each panel shall be available for service for two consecutive months, or completion of three trials, whichever occurs first. Prior to the commencement of each four month term, each juror shall be notified in writing of the first trial assignment for the panel. The notice shall include a phone number that jurors may call twenty-four hours per day, seven days per week, to receive a recorded message regarding the next assigned jury trial.

The status of the next assigned jury trial shall be available no later than 3:00 PM each day by recorded message. Jurors will be given the phone number to call to hear this message, and be advised to check the status of any jury trial the evening prior to the trial. In the event that jurors are advised that they need not appear, they shall be advised of the next scheduled jury trial. Only the Assignment Commissioner, or her express designee, may cause to be recorded a message to advise jurors that they need not appear for service. The Assignment Commissioner may take a previously scheduled jury trial out of assignment for jury only if one of the following applies:

(1) upon receipt of a written waiver of the right to a jury trial bearing the caption and case number and executed by the defendant. A jury waiver filed in cases involving two or more companion cases that bears a case number without the capital letter designation of one or more of the individual cases shall be deemed to be a waiver as to all cases bearing that case number. Oral notice or request by counsel or a party, or a written waiver executed only by counsel shall not be cause for taking a case out of assignment for a jury trial;

(2) upon specific order of the trial judge.

E. In the event that a trial is taken out of assignment for jury, the Assignment Commissioner shall cause the jurors to notified that they need not appear for service only if

(4) Voir dire shall be conducted on the record.

(5) Counsel and unrepresented parties shall not attempt to indoctrinate jurors, obtain commitments of any kind, instruct the jury, or argue the case during Voir Dire.

(6) The trial judge may invite jurors to ask questions of the Court and/or counsel prior to completion of Voir Dire.

I. Only the trial judge has authority to remove a juror for cause on upon the exercise of a preemptory challenge. Challenges for any reason shall be exercised with due regard and respect for effected juror, and only in the form of a request that the court remove or excuse the juror.

(1) A juror may be removed for cause if the person is ineligible to serve, or unable or unwilling to hear the particular case fairly and impartially.

(2) Peremptory Challenges will be allowed as provided by law. Use of preemptory challenges to remove jurors on the basis of race, national origin, gender, age, religious belief, disability, or any other factor that discriminates against any cognizable group is forbidden. If upon inquiry by the Court, a party cannot assert a nondiscriminatory basis for exercising a preemptory challenge, the removed juror may be restored, and the challenge waived.

J. The summons for jury duty shall include the background questionnaire and notice of the initial trial assignment above discussed. The summons, questionnaire, and trial assignment shall be written in plain, simple English, intelligible to persons unfamiliar with the legal and jury system.

(1) The summons shall be delivered by ordinary mail, and shall explain how and when the recipient must respond, and the consequences of failure to respond.

(2) The questionnaire should be phrased and organized so as to facilitate quick and accurate screening and should request only information

essential for determining eligibility and basic background information.

K. The Court shall annually evaluate:

(1) The representativeness and inclusiveness of the jury source list;

(2) The effectiveness of qualification and summoning procedures;

(3) The responsiveness of individual citizens to jury duty summonses;

(4) The efficient use of jurors; and

(5) The cost-effectiveness of the jury management system.

(6) Post-service juror questionnaires may be used for this purpose.

L. The Court shall determine the minimum number of persons needed to accommodate trial activity, and adjust the number of individuals summoned for jury duty as needed. Generally, forty persons shall be summoned for each of the two panels that serve each term.

M. Jurors must be provided suitable facilities within which to gather prior to trials, and to recess and deliberate during trials.

(1) Arrival and registration procedures shall be clearly explained in advance and the check-in area shall be clearly identified to accommodate the orderly flow of prospective jurors to the appropriate area.

(2) To the fullest extent possible, jurors shall be accommodated in pleasant waiting facilities furnished with suitable amenities, including but not limited to, adequate and accusable rest rooms and a drinking fountain.

(3) To the fullest extent possible, the jury deliberation room shall include adequate space, furnishings, and facilities conducive to reaching a fair verdict. The safety and security of the deliberation rooms shall be ensured.

(4) To the extent feasible, juror facilities should be arranged to minimize contact between jurors, parties, counsel, and the public.

N. Persons called for jury service shall receive fees and expense reimbursement as allowed by law. Jurors shall bear the responsibility of notifying the Court of any change of name or address during jury duty. Such sums shall be timely paid.

O. Employers are prohibited from discharging, laying off, denying advancement opportunities to, or otherwise penalizing employees who miss work because of jury service.

P. Immediately prior to the commencement of the first trial for each venire, the Court shall conduct a brief orientation program intended to increase prospective jurors' understanding of the judicial system and jury service.

Q. The trial judge shall:

(1) Give preliminary instructions as to the nature of the case and Voir Dire proceedings to the entire venire.

(2) Give preliminary instructions following Voir Dire to explain the jury's role, the trial procedures including note taking and questioning by jurors, cautionary instructions regarding fraternizing with litigants, witnesses, and/or attorneys, not discussing the case with others prior to deliberations, the nature of evidence and its evaluation, the issues to be addressed, and the basic relevant legal principles;

(3) Prior to the commencement of deliberations, 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. Whenever possible, the court shall make written copies of the full text of the instructions available to Jurors to read during this phase of the trial and to take into deliberations.

(4) Before dismissing a jury at the conclusion of a case

a. - Release the jurors from their duty of confidentiality;

b. Explain jurors' rights regarding inquiries from counsel or the press;

c. Either advise them that they are discharged from service or specify when they must report for the next trial; and

d. Express appreciation to the jurors for their service, manifesting neither approval, nor disdain for the outcome of the deliberations.

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

S. Every reasonable effort will be made to conclude jury trials on the same day they begin. This may require jury deliberations during evening hours. Deliberations will be carried over additional days, including weekends only on a finding that such will not impose an undue hardship upon the jurors and is required in the interest of justice.

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

U. A jury shall be sequestered only for good cause including, but not limited to, insulating its members from improper information or influences. In the rare event that sequestration is warranted, the Court shall impose procedures to achieve the purpose of sequestration; and to minimize the inconvenience and discomfort of the sequestered jurors. [eff. 090191, 010493, 090194.]

20. Conduct of Trial.

A. Except when making objections during testimony, counsel shall rise and remain standing when addressing the Court or jury.

B. The Court Reporter shall be the official custodian of all exhibits offered during the trial of any cause; the same shall be retained by the Reporter until otherwise ordered by the Court.

C. Any party desiring a Court Reporter for a non-jury civil trial shall be responsible for making appropriate arrangements therefor. [eff. 090191, 101593.]

21. Withdrawal of Counsel.

A. Counsel for any party shall be permitted to withdraw from an action upon written motion filed not less than fourteen days prior to the date set for trial only

(1) with the written consent of the client and the entry and appearance of substitute counsel, or

(2) upon showing of good cause and consent of the Court. Such consent will be granted only after written notice to the client stating the time, date, and place where such Motion will be heard. Counsel shall prepare the notice of hearing to be signed by the trial judge, leaving the date blank.

B. No motion will be considered unless accompanied by a proposed entry granting the relief sought. [eff. 090191.]

22. Court Case Files and Library Books.

No files or records shall be removed from the office of the Clerk without first obtaining written permission of the Clerk. No library books shall be removed from court premises without first obtaining written permission of the Clerk or the Judge. [eff. 090191, 010493.]

23. Retention of Court Records R.C. § 1901.41.

A. All case files opened after January 1, 1988 may be reproduced on microfilm as soon after the conclusion thereof as is practicable. Whenever a case is reopened, all new proceedings shall be similarly copied. Minor misdemeanor traffic and minor misdemeanor criminal

cases concluded prior to January 1, 1988 need not be so copied. [eff. 010493, 070197.]

B. Original files of all cases that have been finally concluded for more than twenty years prior January 4, 1993, shall be destroyed without copying.

C. If a case has been finally concluded for more than fifteen, but less than twenty years prior to January 4, 1993, the file shall be retained as follows:

(1) Original civil files which have been dormant for at least fifteen years, except for the return of cost deposits, shall be destroyed without copying.

(2) Original minor misdemeanor traffic and minor misdemeanor criminal files shall be destroyed without copying.

(3) All other files shall be retained unless a microfilm copy of the file is available, in which case the original documents may be destroyed.

D. If a case has been finally concluded for at least five years, but less than fifteen years, from January 4, 1993, the file shall be retained as follows

(1) Original minor misdemeanor traffic and minor misdemeanor criminal files shall be destroyed; microfilm copies, if available, shall be preserved, otherwise, no copy shall be made prior to destruction of the original.

(2) Original files in all other cases shall be destroyed only after a microfilm copy of the same is available.

E. Microfilm copies shall be preserved. [eff. 010493.]

24. Mechanical Requirements.

A. All pleadings and motions shall be legibly typewritten or printed on white paper 8-1/2 X 11 inches in dimension securely bound at the top, left corner. The first page of all pleadings and motions and entries shall provide blank space sufficient to accommodate a file stamp

that will not obscure any printed or type written material.

B. Motions and entries may not be joined on the same page or on opposite sides of the same sheet. The Clerk shall not accept any such motion/entry for filing.

C. Pleadings and motions must be printed on one side per page.

D. The margin of the top of each page shall be at least one inch (1.0 in.). [eff. 090191, 010493, 070197.]

25. Payments and Deposits.

Payments for fines, costs, deposits, bonds, waivers, or any other item which is to made to the Court must be in the form of cash, certified check, money order, check written on an office or trust account of an attorney of record, or MasterCard or Visa credit card. The Clerk may reject coinage in excess of one dollar for any payment. [eff. 090191.]

26. Criminal and Traffic Complaints.

A. The Clerk shall not accept for filing a new criminal or traffic complaint that does not comply with one of the following:

(1) In the case of a complaint other than a Uniform Traffic Citation

a. if the defendant has not been arrested, the complaint shall be accompanied by one of the following:

i. a precipe executed by the appropriate City, Village or County Prosecuting Attorney, or an assistant thereof, requesting issuance of an arrest warrant or a summons,

ii. a summons executed by the Clerk, a deputy clerk, or a person authorized by Criminal Rule 46 to release the defendant on bond, and a properly executed return showing service of both the complaint and summons upon defendant.

b- if the defendant was arrested without a warrant pursuant to law and has

i. not been released on bond, the complaint shall be accompanied by a precipe executed by the appropriate City, Village or County Prosecuting Attorney, or an assistant thereof, requesting issuance of an arrest warrant;

ii. been released on bond or personal recognizance, the complaint shall be accompanied by all of the following:

(a) a precipe executed by the appropriate City, Village or County Prosecuting Attorney, or an assistant thereof, requesting issuance of an arrest warrant,

(b) a summons executed by the Clerk, a deputy clerk, or a person authorized by Criminal Rule 46 to release the defendant on bond,

(c) a properly executed return showing service of both the complaint and summons upon defendant.

(2) In the case of a Uniform Traffic Citation, the complaint shall be accompanied by a summons executed by the appropriate law enforcement officer.

(3) A new complaint accompanied by a summons previously served shall not be accepted for filing unless the summons requires the defendant's appearance no sooner than four days, nor more than fifteen days following the date that the complaint is offered for filing, or unless the defendant has not been released on bond. If the defendant is subject to a pretrial suspension of driving privileges upon a complaint or an accompanying complaint, the complaint shall not be accepted unless the summons requires the defendant's appearance no sooner than twenty-four hours, nor more than fifteen days following the date that the complaint is offered for filing.

B. The Clerk shall not accept for filing any criminal or traffic complaint that does not include at least one of the following identifiers for the defendant:

- (1) Social security number,
- (2) Ohio driver's license number,
- (3) Date of birth.

C. Where a defendant is alleged to have passed more than one bad check to the same vendor, person, or entity prior to the filing of the complaint, all such individual offenses shall be joined in one complaint. The Clerk shall not accept for filing, without leave of Court, a complaint alleging a theft offense relating to passing bad checks if all of the following apply:

- (1) there has previously been filed in this Court a theft complaint against the same defendant relating to passing bad checks to the same vendor, person, or entity;
- (2) said complaint has not been dismissed;
- (3) the offense in such prior case was alleged to have occurred within ninety days of the date of the offense alleged in the last offered complaint. [eff. 090191.]

27. Electronic Filing and Service.

A. The Clerk may serve entries, assignments, and court correspondence by facsimile transmission wherever the recipient is so equipped or requests such service. Such documents may be transmitted without cover sheet. Original documents shall be stamped to indicate facsimile service or transmission, file-stamped where appropriate, transmitted, and then placed in the court file. The Clerk shall accept correspondence, except commercial solicitations not expressly requested, by facsimile transmission. Facsimile transmissions should include either a facsimile cover sheet or a cover letter which indicates facsimile transmission, but not both.

B. Where permitted by the Ohio Civil or Criminal Rules, nonverified pleadings and motions, may be filed by facsimile transmission. The Clerk may file facsimile transmissions received after 3:00 pm on the court date immediately following the date of receipt.

Pleadings and motions must be accompanied by a cover sheet or letter that identifies each individual document in the transmission by name and number of pages thereof.

(1) No pleading or motion transmitted by facsimile shall be deemed filed until received and file-stamped by the clerk. Illegible copies may be rejected by the Clerk.

(2) Equipment malfunction at the point of transmission or receipt shall not be deemed excusable neglect for untimely filings.

(3) Original documents (eg. exhibits, cognovit notes, photographs) shall not be filed electronically.

(4) Each pleading and motion received by facsimile shall be file-stamped by the Clerk as an original. The first sheet of such document, once file-stamped, upon written request, shall may be transmitted by the Clerk to the transmitting party at the facsimile number provided by cover sheet, cover letter, or on the document itself. Failure to provide a return-facsimile number shall be deemed a waiver of a return, file-stamped, copy. [eff. 010692, 0701-97.]

(5) Pleadings required to be accompanied by a deposit may be transmitted electronically if otherwise allowed and if accompanied by a valid MasterCard or Visa Credit Card number on an account in counsel's name (with expiration date and name of card holder) and a written request of counsel authorizing the charge. Such documents shall not be filed by the Clerk until the charge for the deposit or fee is verified.

C. Proposed entries otherwise in compliance with the Local Rules may be submitted by facsimile. [eff. 010692, 011492, 011592, 0901-94.]

28. Indigent Drivers Alcohol Treatment Program. R.C. § 4511.99.

A. The program shall be administered so as maximize the likelihood that offenders will timely access the most comprehensive treatment

available, for the most efficient use of funds, public and private.

B. Offenders required by the Court to attend a program under R.C. § 4511.99 will, as a matter of law be under substantial drivers license suspensions. Due to this restriction on mobility, offenders shall be required to attend programs conducted by providers in close geographic proximity to the offender's residence.

C. Offenders determined to be indigent by the Probation Department immediately following sentencing shall be referred to the Court for assessment of indigence and eligibility for Indigent Drivers Alcohol Treatment Funds to pay for treatment. The referral shall be in writing, filed with case showing the basis thereof.

D. The court will exercise its discretion in considering disbursements from the Indigent Drivers Alcohol Treatment Fund so as to ensure the best use of said funds and other government funds available for the same purpose. Only qualified providers shall be eligible for access to said funds. A qualified provider shall

- (1) be licensed to provide comprehensive substance abuse and mental health services; and
- (2) be able to provide in-patient mental health and/or substance abuse treatment on-site or have a contract with a suitable provider that can do so; and
- (3) be currently accredited by the Joint Commission for Accreditation of Hospitals Organization; and
- (4) make services available during regular business hours and during evenings or weekends.
- (5) provide twenty-four hour emergency services as needed; or
- (6) be previously approved by the court, in writing, if any one or more of the above indicators is not satisfied.

E. Payment from the Fund for services shall be made directly to the service provider. Services shall be billed at the conclusion of treatment, or within one hundred and eighty days of the date of referral by the Court or the last billing, which ever occurs earlier, unless otherwise approved by the Court. All payments shall be subject to availability of funds.

F. For persons receiving treatment in a county in which multiple agencies provide services, no payment from the Fund shall be made to an agency that is eligible to receive, or that does receive other government funding for substance abuse treatment, except upon written application to, and approval by, the Court. No such application will be approved where this would foster waste of government resources.

G. Invoices for payment from the Fund must include each of the following:

- (1) Name, address, and social security number of the offender, and the case number(s) of the case(s) in which the Court made the referral;
- (2) Verification of the referral by the Court for treatment, and the designation by the A.D.A.M.H.S. Board of the program;
- (3) For providers located outside of Union County, the invoice must include a certification from Union County A.D.A.M.H.S. Board, or its designee, that the provider satisfies all requirements set forth in this rule for payment from the fund.

H. Court records are public records available for inspection as such. Any invoice or other documentation received by the court that is marked "confidential" cannot, as a matter of law, be maintained as such.

I. If an offender is referred for treatment pursuant to R.C. § 4511.99 and the A.D.A.M.H.S. Board fails to timely designate a suitable program, then, in order to ensure timely treatment and to protect the public from potentially dangerous, untreated offenders, the Court will designate a qualified program. Failure to timely designate a program shall constitute a

request and authorization by the Board to the Court to designate a program. [eff. 010493, 101593.]

29. Administrative License Suspension, Immobilization, Impoundment, and Forfeiture Appeals and Hearings.

A. The following shall be made in the form of a motion filed in the underlying or related traffic case only if final judgment is not yet rendered in said case:

(1) Applications for hearing seeking termination of Administrative License Suspension. R.C. § 4511.191(H).

(2) Applications for modified or other driving privileges during Administrative License Suspension.

(3) Applications for relief from vehicle forfeiture or immobilization or I.D. plate impoundment [R.C. 4503.235] filed by any person claiming ownership of the vehicle.

B. The following shall be deemed miscellaneous civil actions:

(1) Applications for relief from an Administrative License Suspension filed after final judgment has been rendered in the related traffic case. R.C. § 4511.191(H).

(2) Applications for relief from vehicle forfeiture or immobilization or ID. plate impoundment [R.C.4503.235] if filed by any person claiming ownership of the vehicle after final judgment has been rendered in the related traffic case. R.C. § 4511.191(H).

C. Applications for hearing upon Administrative License Suspension and for occupational driving privileges during an Administrative License Suspension may be combined into one application whether filed in the traffic case or civil case.

D. Where an owner files a timely application for relief from forfeiture, immobilization, or impoundment, and the vehicle, previously seized, has not been returned to the owner, the

Clerk shall set the matter for hearing not more than ten days following the date on which the application is filed. If the vehicle was not seized, or has been previously returned, the matter shall be set no sooner than thirty nor more than forty-five days after the application is filed.

E. An appeal from an Administrative License Suspension filed after the initial appearance shall be set by the Clerk for hearing within thirty days of the date on which the appeal was filed. [eff. 101593, 083194.]

30. Alternative Dispute Resolution.

A. The court encourages use of Alternative Dispute Resolution (ADR) methods, but will not impose the same without consent of the parties.

B. All parties are expected to engage in good faith efforts to resolve disputes in litigation prior to the pretrial conference where a jury trial is scheduled, or prior to trial where a jury has not been requested.

C. Trials and pretrial conferences will not be delayed or continued for purposes of exploring Alternative Dispute Resolution methods except upon written assurance by counsel for each party, and each party not represented by counsel, that such method is reasonably likely to result in resolution of the dispute. Failure of any party thereafter to pursue resolution in good faith will be subject to appropriate sanctions by the court *sua sponte*, or on motion of any other party. [eff. 083194.]

31. Payment of fines and costs.

In criminal and traffic cases payments for fines and costs shall be applied as provided herein.

A. Between separate groups of companion cases and single cases with separate case numbers involving the same defendant

(1) Payment shall be applied to the case or group of companion cases as requested by the payor.

(2) Absent specific request, payment shall be applied to the case or group of cases on which the least cumulative amount of fine and costs is due.

B. Within a group of companion cases, payment shall be applied to the case requested by the payor. Absent specific request

(1) payment shall be applied first to liquidate all costs outstanding, beginning with the case on which the least amount of costs are due, before any amount is applied to fines.

(2) after costs are paid on all companion cases in the group, payment shall be applied to first to the case on which the least total fine is due, until all cases in the group are paid..

C. On any individual case all costs shall be paid before any payment is applied to outstanding fines in the case. [eff. 040196.]

32. Companion cases.

For purposes of these Rules companion charges shall be deemed to include related traffic and criminal charges whose case numbers are in the same alphabetical series. [eff 040196.]

33. Magistrates.

In all matters referred hereby, or by separate order, the Magistrate shall have all authority expressly provided in Civil Rule 53. All entries, except pretrial orders covered by Civil Rule 53(C)(3)(a), shall include a provision whereby the court may sign the same to become effective immediately without delay for objections.

Referral herein below notwithstanding, the trial judge retains discretion at any time to issue orders, rule on motions, and conduct hearings without advance notice to the parties. The following matters are referred to the Magistrate:

A. All matters in cases filed in the Small Claims division, including motions to transfer to the Regular Division.

B. In forcible entry and detainer actions, all hearings on petitions requesting writs of restitution.

C. All hearings in forcible entry and detainer actions where the prayer for relief alleges and claims money damages not in excess of the jurisdictional amount for the Small Claims Division under the law effective at the time the complaint is filed. Subsequent amendment to the complaint or the filing of counterclaims will not effect this referral. [eff. 040196, 070197.]

34. Traffic Safety Diversion Program.

A. The program is operated in cooperation with the offices of the Union County Prosecuting Attorney and the Marysville City Law Director to allow motorists to avoid conviction for minor traffic violations under predetermined conditions. The purpose of the program is to promote traffic safety by encouraging participation in a state certified remedial driving program.

B. To participate in the Program, applicants must:

(1) have no moving violations in the 365 days preceding the date of the currently alleged violation;

(2) pay a fee equal that on the Fine Schedule for each eligible citation;

(3) not have successfully participated in the Program during the two years preceding the date of the alleged violation;

(4) show proof of insurance valid at the time of alleged offense.

C. Violations eligible for dismissal upon successful completion of the Program include:

(1) any minor misdemeanor traffic offense which may be processed by the Traffic Violations Bureau.

(2) Up to two minor misdemeanor traffic violations plus one seat belt violation arising

out of the same incident may be dismissed upon successful completion of the program.

(a) Applicants with more than two citations may participate; but only two violations plus a seat belt violation may be dismissed.

(b) If one applies for participation in the program and timely complies with all requirements seeking dismissal of more than the above number of violations, violations for which conviction will result in assessment of points under R.C. § 4507.021 shall be processed first for dismissal. Excess violations shall be processed by the Traffic Violations Bureau.

D. Procedure for application and completion of the program:

(1) Applications must be in writing and must:

(a) certify that the applicant is eligible to participate;

(b) specifically refer to the citation(s) sought to be dismissed by citation number or case number, or by attaching a copy of the subject citation.

(c) be signed, in ink by the applicant.

(d) include full payment, equal to that which would otherwise be required for processing of the citation(s) by the Traffic Violations Bureau. Personal checks may be not be accepted.

(e) be filed prior to the date on which a plea would be required in the case under the Ohio Traffic Rules.

(f) include a written waiver of speedy trial requirements.

(g) include a written guilty plea, voidable upon timely, successful completion of the Program.

(h) include proof of insurance.

(2) Upon timely filing of a properly completed application the applicant shall file with the Clerk, within thirty days of the last day on

which a timely application could be filed, proof of completion of a driver safety course state certified for deduction of two points from the applicant's driving record under R.C. § 4507.021.

(a) Upon timely completion of program requirements, and motion of the prosecution (which may be in blanket form), the case shall be dismissed.

(b) In the event, the applicant fails to timely satisfy program requirements, the case shall be processed by the Traffic Violations Bureau upon the written plea included in the application.

E. Submission of an application without tender of full payment of the amount due, with an inactive credit card account number for payment, shall be held for naught, and upon failure of defendant to timely appear to enter a plea, the case shall be handled accordingly.

F. This rule shall be liberally construed to effectuate its purpose. [eff. 07/01/97.]