

# **MORGAN COUNTY COURT**

## ***LOCAL COURT RULES***

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## CIVIL RULES

### **1.00 SCOPE AND EFFECTIVE DATE.**

These rules are adopted as Local Rules of the Court governing practice and procedure in the Civil Division of the Morgan County Court. They are adopted pursuant to the Court's inherent authority as reserved in Rule 83 of the Ohio Rules of Civil Procedure. These rules may be cited as "County Court Civil Rule \_\_\_". They are effective as of March 18, 2008, and govern all proceedings filed subsequent to that date except to the extent that such application would not be feasible or would work an injustice.

### **2.00 COURT SESSIONS.**

The hours for court sessions are eight o'clock a.m. until four o'clock p.m., unless otherwise ordered by the judge presiding at the session.

Sessions will be held on Monday through Friday except on any day designated by law or proclamation of the President of the United States, Governor of this State as national or state holiday, or the Morgan County Commissioners on which holidays the Court will be closed. Sessions will be held on Saturday when ordered by the Court. The Court will also close at such other times and on such other dates as may be prescribed by the Presiding Judge.

### **3.00 CLERK OF COURT.**

The office of the Clerk shall be open for the transaction of business from 8:00 a.m. until 4:00 p.m. Monday through Friday, except on such days as the Court is closed as provided in Rule 2.00. The office shall further be open at such other times as ordered by the Court.

#### **3.01 DOCKET RECORDS.**

The Clerk shall maintain such dockets, books of record and indices as are required by law or practical necessity as public records.

#### **3.02 ORIGINAL RECORDS.**

The Clerk shall permit any person to make a copy of any papers filed at a cost of \$.10 per page. Original papers filed in any case shall not be removed from the office without prior authority of the Clerk or Judge.

**3.03 OFFICER MAY NOT PREPARE PAPERS OR CHARGE FOR NOTARY SERVICE.**

Officers or employees of this Court shall not prepare or help to prepare any pleading, affidavit, entry, or order in any civil matter, except as provided under Section 1925.04 of the Ohio Revised Code.

No fee shall be charged by any officer or employee of this Court for notarizing affidavits or any other matter pertinent to the civil business of this Court.

**4.00 FORM OF PAPERS FILED WITH THE COURT.**

All papers offered for filing with the Court shall be type written or printed on 8 1/2-inch by 11-inch bond paper without backing. Original documents attached or offered as exhibits and official court forms supplied by the Clerk are exempt from the requirements of this rule.

**4.01 IDENTIFICATION.**

All papers offered for filing with the Court shall be identified by including:

1. A title containing the name and party designation of the party filing it and the nature of the document (e.g. Defendant John Doe's Answer); and
2. The typed name, signature, office address, and office telephone number of the designated trial attorney.

**4.02 PROOF OF SERVICE.**

All documents except the complaint offered for filing and required to be served on other parties, shall contain proof of service in the form provided by Civil Rule 5(D).

**4.03 COPIES OF THE COMPLAINT.**

Plaintiffs shall tender with the original Complaint a sufficient number of service copies for all defendants to be served.

**4.04 COPIES OF DOCUMENTS.**

The Clerk shall accept only legible copies of documents attached to pleadings or motions.

**4.05 CLERK'S DUTY.**

The Clerk shall, upon receiving papers for filing, docket the same and place the original of said papers in the file without delay. The Court may order stricken any filed paper which does not comply with Rule 4.00 through 4.04.

**5.00 FORCIBLE DETAINER.**

Complaints in actions in forcible detainer will be called as indicated in the summons. The time for serving a responsive

pleading to any claim for relief in addition to the possessory action will be governed by the Civil Rules.

**5.01 PROCEEDINGS IN AID OF EXECUTION.**

Proceedings in aid of execution shall be filed on forms prescribed by the Court and shall consist of the original to be retained by the Clerk, as many copies thereof as there are parties to be served in the proceedings, and one copy for the return of service. The name of the attorney filing the proceedings shall appear at the place provided on the original and upon all copies.

Fees for legal services rendered the debtor by counsel of record in the trusteeship may be added or increased only by entry endorsed by counsel and the debtor.

The trustee shall make distribution herein only to a creditor or his agent.

The Clerk or a deputy appointed by the Clerk shall supervise payments of debtors and distribute the funds in each case at least every six months, unless the amount available does not equal ten percent of the claims listed. Where the debtor pays directly, the Clerk shall require the debtor to produce payroll stubs or similar records and the Clerk may refuse to accept payments, or installments thereof, which do not equal the amount required by law. In the event that payments are not made according to law and when two (2) consecutive payments to the Court are not made or whenever the trusteeship is in arrears in the amount of two full payments, the trusteeship may be dismissed and the proceeds distributed equally to trusteeship creditors.

The order of dismissal of a trusteeship shall not be vacated, nor shall a trusteeship otherwise be reinstated, except as provided under Section 2329.70 of the Ohio Revised Code and upon payment of the amount required by law, unless otherwise directed by the Court.

**6.00 SUBPOENAS FOR WITNESSES.**

The Return for subpoenas of witnesses shall be filed with the Clerk before the date of trial.

The failure to appear as a witness for whom the return was not filed in accordance with this rule will not be grounds for a continuance of the case.

**7.00 DEMAND AND DEPOSIT FOR JURY.**

Requests for trial by jury shall be made in accordance with Civil Rule 38.

The Court may order the parties to pay a deposit for the jury, not to exceed \$400.00 as security for costs; unless an affidavit of hardship, approved by the Court, is filed in lieu of the deposit.

The failure of a party demanding a jury to comply with any of the provisions of this rule shall constitute a waiver of the jury, and the matter shall be submitted to and be decided by the Court.

#### **8.00 PRETRIAL PROCEDURE.**

A pretrial conference may be ordered by the Court. Upon notice of the scheduling of a pretrial conference, it shall be the duty of counsel to make a sincere effort to dispose of the matter by settlement, and agree on any matters of evidence about which there is no genuine dispute. Prior to the date of the pretrial conference, counsel shall exchange reports of expert witnesses expected to be called by each party, as well as medical reports and hospital records if such are involved. All pretrials shall be held at the Morgan County Court with all parties present. There shall be no telephone pretrials without prior approval from the presiding judge.

Failure of counsel to be prepared for pretrial conference may result in dismissal of the case for want of prosecution or in a default judgment or such other action to enforce compliance as the trial judge deems appropriate. It shall be the duty of counsel to do the following at the pretrial hearing:

1. The counsel who is fully authorized to act and negotiate on behalf of the party must be present.
2. All parties in interest must be present at the pretrial unless such presence is excused by the trial judge.
3. Each counsel shall present to the court in writing a statement of the issues involved, the matters stipulated, and the questions of law which are to be resolved by trial.
4. Each counsel shall bring to the pretrial, all exhibits if practicable, which are expected to be offered in evidence at the trial.
5. Each counsel shall present in writing to the Court an itemization of all special damages claimed, if any.
6. Each counsel shall file with the Court in writing a statement indicating the names of all witnesses, both expert and non-expert, expected to be called at the trial; whether a view will be requested; whether a jury trial, if previously demanded, will now be waived, and if not, the number of jurors demanded; and whether the case is one where the issue of damages should be tried separately if liability is found.
7. Each counsel shall come to the pretrial fully prepared and authorized to negotiate toward settlement of the case.
8. Each counsel shall provide in writing the text of, and citations of authority for, any instructions requested at least ten (10) days before the date of the jury trial.
9. Each counsel shall give his/her best estimate of the time



required to try the case. All written statements shall be filed at or before the pretrial hearing.

10. Following the pretrial hearing each counsel shall make a written report of the settlement negotiations including a statement of the issues involved, the matters stipulated, and the questions of law which are to be resolved by trial and file the same with the Clerk within seven (7) days.

#### **9.00 REQUEST FOR CONTINUANCE.**

Every request for a continuance shall be by written motion, unless made on the record in open court. The motion shall set forth the date from which a continuance is requested and the reasons for continuance.

Attorneys submitting motions for continuance shall accompany them with an entry providing blanks for the new trial of hearing time and date. If a continuation is requested due to a prior set hearing in another court, a copy of the notice of such hearing shall accompany said motion.

This rule does not restrict the judge's exercise of discretion in granting or denying continuance.

#### **10.00 MOTIONS.**

Any motion other than for continuance under Rule 9.00 shall be accompanied by a memorandum indicating the questions and authorities in support thereof; absent such a memorandum, motion shall be stricken from the files.

Opposing memoranda shall be filed not later than seven days from the service of the motion or on the day prior to the trial or hearing on the motion, whichever is earlier or at such other time as set by the assigned judge. Motions shall be deemed submitted when the opposing memoranda are filed or the time for filing expires, whichever is earlier. Motions filed late may be stricken from the record.

Assignment of any motion for oral hearing shall be at the discretion of the court. Failure of counsel to appear for oral hearing may be deemed an abandonment of the motion.

#### **11.00 ENTRIES.**

- (a) Entries on decision other than on the merits will be prepared and filed by the court unless otherwise ordered.
- (b) Counsel for the prevailing party shall prepare a judgment entry within five (5) days of an order of the court and submit the same to counsel for the adverse party who shall approve or reject the entry within five (5) days. If opposing counsel fails to return the entry within five (5) days, it shall be submitted to the trial judge who shall approve the entry in the form he considers proper.
- (c) No entry shall be accepted for filing unless signed by a judge.

- (d) Nothing in this Rule precludes the assigned judge from preparing and filing a judgment entry sua sponte.
- (e) An entry shall be drawn in language that is appropriate to the specific case in which it is to be filed.

**12.00 SALE AND CONFIRMATION.**

A copy of the notice of the sale of personal property shall be mailed by the bailiff, or clerk, to the parties and to attorneys of record in the case, by ordinary mail; however, failure to mail such notice shall not invalidate the sale. Entries of confirmation and distribution shall be prepared by the party who requested the sale and shall contain a statement that the sale was regular and proper in every respect, unless otherwise directed by the court, and also a statement of the balance, if any, still due on the judgment.

**12.01 CANCELLATIONS AND RELEASES.**

Releases and assignments of judgment shall be in writing and signed by a person authorized to execute the instrument. No release, assignment, or similar matter shall be written directly upon the dockets.

**12.02 BONDS.**

No attorney, officer, or attaché' of the court, nor any member of his or her immediate family, shall furnish bail or surety by the clerk of this court, in any civil matter.

**13.00 CIVIL COSTS.**

Fees and costs shall be as prescribed by the court by court order.

On Motion of the opposing party or at the request of the officer of the court, and if satisfied that the deposit specified is insufficient, the court may require said deposit to be increased from time to time so as to secure all costs that may accrue in the cause. If such security is not given after reasonable notice, the court shall dismiss the action, if before judgment, or shall dismiss the proceeding, if after judgment.

All costs and deposits shall be delivered to and disbursed by the clerk.

**14.00 SMALL CLAIMS DIVISION.**

The practice and procedure in actions in the Small Claims Division shall be as provided under applicable statutes and rules of this court.

**14.01 COSTS.**

Pursuant to Ohio Revised Code Section 1907.24, the Morgan

County Court establishes by this rule a schedule of fees and costs as shown on the attached schedules.

The Court may require said deposit to be increased from time to time so as to secure all costs that may accrue in the case. If such security is not given after reasonable notice, the Court shall dismiss the action, if before judgment, or shall dismiss the proceeding, if after judgment.

At the discretion of the presiding judge, the Court may waive any advance deposit requirement upon the presentation of an affidavit or other evidence that established that a party is unable to make the required deposit.

The County Court shall collect the sum as required, for additional costs in each new civil and small claim action or proceeding for the charitable public purpose of providing financial assistance to legal aid societies that operate within the state.

Pursuant to Ohio Revised Code Section 1907.261, there shall be charged in each cause of action or appeal a fee of \$3.00 for computerized legal research and there shall be charged in each cause of action or appeal, on the filing, docketing and endorsing of each certificate of judgment, or on the docketing and indexing of each aid in execution of petition to vacate, revive or modify a judgment a fee of \$10.00 for computerization of the office of the Clerk of County Court.

**15.00 TRIAL ATTORNEY.**

All documents filed on behalf of one or more parties represented by counsel shall be signed by one attorney in his individual name as trial attorney. All notices and communications from the court and all documents required to be served will be sent to the designated trial attorney. No attorney who has entered his or her appearance in a case may withdraw as trial attorney except upon written motion for good cause shown and after notice to the client.

**16.00 RECORDING OF PROCEEDINGS AND COSTS.**

Pursuant to Rule 8(a) of the Ohio Rules of Superintendence for Municipal and County Courts, the official method for recording court proceedings shall be by audio-electronic recording devices.

Either party to the cause of action may request the court proceeding be recorded by stenographic means if the court has received written notice of the request at least fifteen (15) days prior to the hearing. The cost for such stenographic recording shall be borne by the requesting party. Any party requesting transcript of any recorded hearing shall bear the cost of said transcript except as otherwise ordered by the court.

**17.00 CASE FLOW MANAGEMENT IN CIVIL CASES.**

- (A) Purpose: The purpose of this rule is to establish, pursuant to M.C. Sup. Rule 18, a system for civil case management which will achieve the prompt and fair disposal of civil cases.
- (B) Scheduling of Events: The scheduling of a case begins when a civil case is filed. Thereafter, the case is managed in five (5) clerical steps and (5) judicial steps.
- (C) Clerical Steps:
1. Summons shall be served in accordance with the Ohio Rules of Procedure. However, the Court prefers personal service on all Defendants. In the event there is a failure of service, the Clerk shall notify counsel immediately. If counsel fails to obtain service of a summons within six (6) months from the date the cause of action has been filed, then the Clerk shall notify counsel that the case will be dismissed in ten (10) days unless good cause is shown to the contrary.
  2. Upon perfection of service, the Clerk shall notify counsel of the Default and that a failure to submit a Motion for Default Judgment with an Entry within fifteen (15) days may result in the case being dismissed.
  3. After any responsive pleading is filed, the Clerk shall immediately forward said pleading and file to the Judge so the matter may be set for a hearing.
  4. If no action has been taken on a file for a six (6) month period and the case is not set for trial, the Clerk shall notify the party that the matter will be dismissed within two (2) weeks unless good cause is shown.
  5. When a file has been marked "settlement entry to come" and the Entry has not been received within thirty (30) days, the Clerk shall notify the party that his case will be dismissed unless the entry is received within ten (10) days.
- (D) Judicial Steps:
1. Status Hearing: After an answer is filed, the case will be assigned to a Judge and the Clerk will forward the file to said Judge. The Court may then set a pretrial hearing.  
The purpose of the status hearing is to set discovery and motion deadlines so a formal pretrial can be set.
  2. Motions: All motions must be in writing and accompanied by a written memorandum containing facts, citations and arguments of counsel. Opposing counsel shall answer in like manner within fourteen (14) days thereafter. There will be no oral hearings granted in said motions unless the parties request an oral hearing in writing

and the Court deems it necessary.

3. Pretrial: For the purpose of this rule, "pretrial" shall mean a court supervised conference chiefly designed to produce an amicable settlement. The term "party" or "parties" used hereinafter shall mean the party or parties to the action, and/or, his, hers, or their attorney of record.

Any attorney for a party to the action who fails to attend a scheduled pretrial conference, without just cause being shown, may be punished for contempt of this Court.

Notice of pretrial conference shall be given to all counsel of record by mail and/or by telephone from the assignment commissioner not less than fourteen (14) days prior to the conference. Any application for continuance of the conference shall be addressed to the Judge to whom the case has been assigned.

Counsel attending the pretrial conference must have complete authority to stipulate on items of evidence and must have full settlement authority.

The primary purpose of the pretrial conference shall be to achieve an amicable settlement of the controversy in suit.

The Court shall attempt to narrow legal issues, to reach stipulations as to facts in controversy and, in general, to shorten the time and expense of trial. The court will file a pretrial statement to become part of the record and the case embracing all stipulations, admissions, and other matters which have come before it in the pretrial. The Court shall, at that time, determine whether or not trial briefs should be submitted and shall set a date when they are to be filed.

Any judge presiding at pretrial conference or trial shall have the authority to dismiss the action for want of prosecuting on Motion of Defendant upon failure of Plaintiff, and/or his counsel to appear in person at any pretrial conference or trial; to order the plaintiff to proceed with the case and to decide and determine all matters ex parte upon failure of the Defendant to appear in person or by counsel at any pretrial conference or trial as required; making such other order as the Court may deem appropriate under all the circumstances.

If the case cannot be settled at pretrial, the case will then be set for trial.

4. Continuances: No party shall be granted a continuance of a trial or hearing without a written motion from the party or his counsel stating the reason for the continuance.

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 of this state, the case which was first set for trial shall have priority and shall be tried on the date assigned. Criminal cases assigned for trial have priority over civil cases assigned for trial. The granting of any other request for continuance of a scheduled trial, is a matter within the discretion of the trial court.

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 such cases, the presiding judge 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.

5. Judgment Entries: Counsel for the party in whose favor an order or judgment is rendered shall prepare a journal entry. That 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. Within fifteen (15) days of the decision, the journal entry shall be submitted to the Judge or thereafter, the Court will prepare the journal entry.

Entries of settlement may be filed at any time. The avoidance of trial by settlement shall be allowed without the filing of an Entry, but such entry shall be filed within thirty (30) days or the case will be dismissed for want of prosecution.

Upon notification from the Clerk that the case has defaulted, prevailing counsel shall submit an application of default judgment within fifteen (15) days or the case will be dismissed for want of prosecution. There is no need to serve the defaulting party.

The Journal Entry shall state which party will pay the court costs.

## CRIMINAL RULES

### **1.00 SCOPE AND EFFECTIVE DATE.**

These Rules are adopted as Local Rules of the Court governing practice and procedure in the Civil Division of the Morgan County Court. They are adopted pursuant to the Court's inherent authority as reserved in Rule 57 of the Ohio Rules of Criminal Procedure. These rules may be cited as "County Court Criminal Rule \_\_\_". They are effective as of November 3, 2003, and govern all proceedings filed subsequent to that date except to the extent that such application would not be feasible or would work an injustice.

### **2.00 CRIMINAL PROCEDURE - GENERAL.**

All Rules set forth above with reference to Civil proceedings shall, where applicable, be enforced in Criminal proceedings before this Court. In addition thereto, the following Rules shall prevail.

### **3.00 BAILIFF.**

A Bailiff, Clerk or Deputy Clerk selected by the Judge may formally open sessions in the Traffic and Criminal Court and shall enforce and maintain order.

### **4.00 NUMBERING.**

All criminal actions brought in this Court shall be numbered in accordance with the Ohio Rules of Superintendence for Municipal and County Courts, Rule 12(E). Thereafter, in filing any papers therein or calling the attention of the Court to any case, its number must be given.

### **4.1 USE OF ELECTRONICALLY PRODUCED TICKET.**

The use and filing of a ticket that is produced by computer or other electronic means is hereby authorized in the Morgan County 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.

### **5.00 WITNESSES.**

Failure of any witnesses to appear in Court may subject them to prosecution for contempt of court.

### **6.00 WITHDRAWAL OF CHARGES.**

All recommendations for withdrawal, reduction, amendment or dismissal of charges and the reasons therefore, shall be made in open Court by the prosecuting attorney or village solicitor,

and/or shall be specifically set forth in an entry. No reduction of charges shall be allowed after jury notices have been sent to prospective jurors one (1) week prior to trial.

**7.00 BOND FORFEITURE.**

Where bond or bail has been posted and the defendant fails to appear as scheduled, the court may issue a warrant for the arrest of the defendant, and/or suffer the forfeiture of the bond or bail as so posted. The forfeiture may be set aside with or without costs, as the Court deems proper, if the defendant, in such case, appears and shows good cause for non-appearance.

**7.01 BOND FORFEITURE OVERPAYMENT**

Bond forfeiture overpayments of \$10.00 or less will be placed into the general fund.

**8.00 BAIL.**

Officers in charge shall release any person arrested and charged with any of the offenses listed, who gives bail or executes bond according to law and satisfactory to the Clerk in the amount indicated in the bail and bond schedule for appearance in the Morgan County Court. These persons shall be given an arraignment date in accordance with the normal procedures where an arrest is not made.

**9.00 JURY.**

Demand for a jury must be filed at least ten (10) days prior to trial date, or on or before the third day following receipt of notice of the date set for trial, whichever is later. Failure to demand a jury trial as provided in this subdivision is a complete waiver of the right thereto.

**9.01 JURY COSTS.**

The costs of the jury shall be assessed to the defendant if the jury is waived after the notices of jury trial have been sent to the jurors unless otherwise directed by the judge presiding over said trial. No deposit for criminal jury trial is required.

**9.02 JURY SELECTION.**

Pursuant to Ohio Revised Code Section 1907.28, and with the concurrence of the Court of common Pleas, jurors shall be chosen and summoned by the jury commissioner of the County as provided in Chapter 2312 of the Revised Code. There shall be one master jury list from which jurors shall be chosen and summoned for both the court of Common Pleas and the Morgan County Court.



**9.03 JURY INSTRUCTIONS.**

Jury instructions for the offense charged and any defense are due from the Prosecutor and the defense attorneys, respectively, no later than at the time of the pre-trial. For those cases where the pretrial has already been scheduled, before the effective date of this Rule, the aforesaid jury instructions are due no later than seven (7) days before the scheduled trial date.

**10.00 JUDGMENTS, ORDERS AND ENTRIES.**

All Criminal and Traffic judgments and orders of this Court shall be shown as entered on the dockets of the Court as of the date the said judgments were announced by the Court.

**11.00 ENTRIES.**

It shall be the procedure of this Court that:  
All motions shall set forth clearly and specifically the grounds for such motions, along with supporting citations (copies of foreign and federal decision to be attached). In Motions to Suppress, the items of evidence in question shall be specified. Any motions filed which are not in compliance with this Rule shall be summarily overruled.  
All motions requiring oral hearing shall be set within fifteen (15) days of the date such filing is made and it shall be the responsibility of each party to secure the attendance of all witnesses necessary to establish their position.

**12.00 SERVICE OF PLEADINGS.**

Service of Pleadings shall be accomplished by following the applicable Rules of Civil or Criminal Procedure. No pleading shall be deemed served by leaving a copy with the Clerk or any other Court personnel. Neither the Clerk nor any other personnel of the Court have an obligation to forward pleadings left by counsel to the opposing party.

**13.00 PRETRIAL PROCEDURE.**

After entering a plea of not-guilty to a criminal or traffic offense, the Court, at its discretion may set a pretrial conference. When a pretrial conference is ordered, the following persons are required to attend: the prosecutor or village solicitor, trial counsel and the defendant. It is the duty of the trial counsel to enforce the appearance of the defendant.  
The prosecutor or village solicitor shall have available at the pretrial conference all the following material relevant to the case under consideration:  
1. Any written or recorded statement of the defendant or co-defendant or a summary of such oral statement.

2. Any prior criminal record of the defendant, and in a traffic case, the prior traffic record of the defendant. A statewide record summary or printout is preferred.
3. Documents or tangible objects, where practicable, which may be material to the defense or used at the trial, or which were obtained from or belong to the defendant.
4. Reports of test or examinations made in connection with the case; accident reports, and in O.V.I. cases, alcohol influence report forms and O.V.I. test results.
5. A written list of the names and addresses of all known witnesses intended to be called at trial.
6. A written statement of all known evidence favorable to the defendant and material either to guilt or punishment. The defense shall have available all information discoverable under Criminal Rule 16.

The prosecutor's or village solicitor's pretrial procedure does not restrict or prevent the assigned Judge of any criminal or traffic case from conducting additional pretrial conferences. No provision of this rule shall be construed to limit or otherwise modify the requirements and procedures prescribed by Rule 16 of the Ohio Rules of Criminal Procedure.

#### **14.00 RECORDING OF PROCEEDINGS.**

Any and all recording of proceedings shall be done only in accordance with Criminal Rule 22 and where a request is required by said rule. Such request must be made prior to the commencement of trial.

#### **15.00 COURT APPOINTED ATTORNEY FEES.**

Appointed counsel in criminal cases shall not incur expenses in excess of \$50.00 in the investigation or preparation of their case until they have first submitted to the Court a report disclosing the purpose of the expense, the approximate amount of such expense, and secured the Court's approval by way of an order therefore.

Counsel who wish to be paid for their services in criminal cases involving defendants will submit their statements to the Court within thirty (30) days from the date of the termination of said case. Otherwise, applications for fees will not be approved by the Court.

#### **16.00 TRANSCRIPTS.**

In every case reported, the court reporter shall make an appropriate entry in the case record taxing the statutory fee to be collected as other costs in the case. The compensation of reporters for making transcripts and copies shall be paid forthwith to the reporter by the party for whose benefit the same is made. No bill for any transcript ordered by a judge

shall be approved unless the same is certified by the reporter that the charge therefore is fair and conforms to the law. The reporter shall not prepare a transcript of the evidence in any case for anyone not a party thereto unless all parties to the case shall have consented thereto in advance.

Every transcript filed in this Court shall bear the name, address and telephone number of the court reporter making the same.

A reporter shall not be required to prepare a transcript until satisfactory arrangements for payment have been concluded. Copies of a transcript shall be made only by the reporter with arrangements for payment therefore.

#### **17.00 CASE MANAGEMENT IN CRIMINAL CASES.**

The purpose of this Rule is to establish, pursuant to M.C. Sup. Rule 18, a system for criminal case management which will provide the fair and impartial administration of criminal cases. These rules shall be construed and applied to eliminate unnecessary delay and expense for all parties involved in the court justice system.

- (A) Scheduling of Events: The scheduling begins after the initial appearance. Thereafter the case is managed in six (6) judicial steps.
  - (1) Preliminary Hearings: After the bond hearing in a felony case, if the preliminary hearing has not been waived by the Defendant, the preliminary hearing will be set in accordance with Criminal Rule 5, unless the Defendant has waived the time for a preliminary hearing.
  - (2) Motions: All motions shall be made in writing and accompanied by a written memorandum containing the facts and the arguments of counsel. Motions must be filed within the time limits established by the Ohio Rules of Criminal Procedure. Appropriate motions will be set for oral hearing.
  - (3) Status Conference: The Court may set a matter for status conference, by telephone or in person, as it deems necessary. Failure to attend a status conference, without just cause, may be punished by contempt of court.
  - (4) Pretrial: After the initial appearance, all first degree and second degree misdemeanors shall be set for pretrial by the assignment commissioner within thirty (30) days. All other misdemeanors shall be set for trial unless the judge orders a pretrial in said case. The pretrial shall be conducted in accordance with Criminal Rule 17.1 and a memorandum of the matters agreed upon should be filed in said case. Any attorney who fails to appear for pretrial without just

cause being shown, may be punished for contempt of court.

If the parties cannot resolve the case, it should then be set for trial to the court unless a jury is demanded.

- (5) Trials: Each case not resolved at pretrial shall be set for trial to the court. If a jury demand is timely filed, then the case will be moved to the jury trial schedule. All attorneys shall notify the court no later than 3:00 p.m., two days preceding their trial of any change in plea or jury costs will be attached to their case.
- (6) Sentencing: Sentencing hearing shall be set as needed.

#### **18.00 COURT COSTS-CRIMINAL CASES.**

Pursuant to Ohio Revised Code Section 1907.24, the Morgan County Court establishes by this rule a schedule of fees and costs as shown on the attached schedule.

The County Court shall collect the sum as required, for additional costs in each new criminal proceeding as mandated by Ohio Revised Code 2743.70 and 2949.091.

Pursuant to Ohio Revised Code Section 1907.261 there shall be charged in each cause of action or appeal a fee of \$3.00 for computerized legal research and there shall be charged in each cause of action or appeal, on the filing, docketing and endorsing of each certificate of judgment or on the docketing and indexing of each aid in execution or petition to vacate, revive or modify a judgment a fee of \$10.00 for computerization of the office of the Clerk of the County Court.

Pursuant to Ohio Revised Code Section 1907.24(B)(1), the Morgan County Court establishes, by court order filed May 31, 2001, a special projects fund. Said order assesses the sum of \$20.00, as court cost, to each traffic case (except seat belt violations) as well as \$20.00 on every civil case including post-judgment collection efforts.

Pursuant to Ohio Revised Code Sections 2951.02.1 and 321.44, the Morgan County Court establishes, by court order filed March 12, 2004, a Probation Supervision Fee. Said order assesses the sum of \$20.00 per month for each month on each individual placed on probation until which time they are officially released from probation.

**MISCELLANEOUS RULES**

**1.00 CASE FLOW MANAGEMENT IN SPECIAL PROCEEDINGS.**

- (A) Purpose: The purpose of this rule is to establish a case management system for special proceedings to achieve a prompt and fair disposition of these matters. The following civil matters are considered special proceedings and may be heard by a judge or referee, to wit: small claims, forcible entry and detainer, default hearings, rent escrow, replevin, motion to cite, garnishment hearings, and debtor's exams. The following criminal matters are considered special proceedings and they are to be heard by a judge, to wit: preliminary hearings, extradition hearings, and hearings involving the bureau of motor vehicles.
- (B) Scheduling of Events: 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.
- (C) Clerical Steps: In all new cases, if counsel fails to obtain service of summons 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.
1. Upon perfection of service, the Clerk shall notify counsel of said default and that a failure to submit an entry within fifteen (15) days may result in the case being dismissed.
  2. After any responsive pleading is filed, the Clerk shall immediately forward said pleading and file to the judge so the matter may be set for a hearing.
  3. If no action has been taken on a file for a six (6) month period and the case is not set for trial, then the Clerk shall notify the party that the matter will be dismissed within one (1) week unless good cause is shown.
  4. 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/her case will be dismissed unless the entry is received within ten (10) days.

**2.00 RETURNED CHECK CHARGE.**

Pursuant to Ohio Revised Code Section 1319.16, the Morgan County Court establishes, by this Rule, a \$25.00 fee for any check dishonored and returned unpaid.

This Court may require said fee to be increased from time to time so as to secure all costs that may accrue in the case.

**3.00 COUNTY COURT COMPUTERIZATION AND RESEARCH FUNDS**

Pursuant to Ohio Revised Code Section 1907.261 there shall be charged in each cause of action or appeal a fee of \$3.00 for computerized legal research and there shall be charged in each cause of action or appeal, on the filing, docketing and endorsing of each certificate of judgment or on the docketing and indexing of each aid in execution or petition to vacate, revive or modify a judgment a fee of \$10.00 for computerization of the office of the Clerk of the County Court.

**4.00 SPECIAL PROJECTS.**

Pursuant to Ohio Revised Code 1907.24(B)(1), the Morgan County Court establishes, by court order filed May 31, 2001, a special projects fund. Said order assesses the sum of \$20.00, as court cost, to each traffic case (except seat belt violations) as well as \$20.00 on every civil case, including post-judgment collection efforts.

**5.00 PROBATION SUPERVISION FEE.**

Pursuant to Ohio Revised Code Sections 2951.02.1 and 321.44, the Morgan County Court establishes, by court order, filed March 12, 2004, a Probation Supervision Fee. Said order assesses the sum of \$20.00 per month for each month on each individual placed on probation until which time they are officially released from probation.

**6.00 Use of E-Stats.**

The Clerk of Court shall submit in electronic format via the Ohio Supreme Court website reports as required by the Supreme Court Sup. R. 37.01 through 37.03. The reports shall be as prescribed by the Supreme Court and submitted no later than the fifteenth day after the close of the reporting period. One the Judge and the Clerk shall have access to the Supreme Court website login credentials. The Judge and the Clerk shall take all necessary steps to ensure and maintain the security of the Supreme Court website login credentials.

## **JURY MANAGEMENT PLAN LOCAL RULE FOR MORGAN COUNTY COURT**

### **INTRODUCTION**

This Local Rule is being implemented in compliance with Ohio Superintendence Rule 5, which requires that each court develop and implement a Jury Management Plan. It is the purpose of this Rule to implement an efficient and comprehensive system of jury use and management for the Morgan County Court.

### **JURY ELIGIBILITY**

To ensure that the jury pool represents the adult voting population of Morgan County, Ohio, all registered voters are eligible to serve on a jury, except as follows:

1. Persons less than 18 years of age.
2. Persons who are not residents of Morgan County.
3. Persons convicted of a felony that have not been restored to their civil rights.

Reasonable efforts shall be made to accommodate prospective jurors who have special needs.

### **PROCEDURE FOR JURY SELECTION**

Potential jurors shall be drawn from a "jury source listing." That list shall consist of all registered voters in Morgan County. Random selection procedures using automated data processing equipment in conformity with Ohio Revised Code (hereinafter O.R.C.) Section 2313.01 and O.R.C. Section 2313.21 shall be used to select a jury venire for the Morgan County Court no less than one time annually or as otherwise required by Ohio law, the Jury Commissioners, duly appointed by the Common Pleas Court pursuant to O.R.C. Section 2313.01, shall convene and select a jury venire for the Morgan County Court to cover potential jury trial dates throughout the calendar year. Unless otherwise directed, three hundred (300) eligible jurors shall be chosen for each quarter. "Venire" is the term used to describe those persons that the Sheriff is directed to cause to come before a court so that the truth of the matters tried may be better known.

In the event the jury venire drawn is insufficient to meet the needs of the court within the calendar year, the Jury Commissioners shall reconvene as is necessary to select additional jurors, also according to O.R.C. Section 2313.01.

If, in the opinion of the court, the jurors selected are not representative of the adult population of the jurisdiction, additional source lists shall be utilized as authorized by law.

The additional list authorized by law consists of licensed drivers who need not be registered voters. (See O.R.C. 2313.08)

Further, a pure random selection process shall be used to assign prospective jurors to specific periods of service and for assignment during voir dire.

Departures from random selection shall be allowed only as follows:

1. To exclude persons ineligible for service as set forth in this rule.
2. To excuse or defer prospective jurors. (O.R.C. 2313.12, 2313.13 or 2317.16)
3. To remove prospective jurors for cause or if challenged peremptorily.
4. To provide all prospective jurors with an opportunity to be called for jury service and to be assigned to a panel.

### **NOTICE BY SHERIFF OF SELECTION FOR POTENTIAL SERVICE**

The Sheriff of Morgan County, Ohio, shall notify each juror of his or her selection for a term of service not to exceed ninety (90) days. Ohio law defines the methods used to notify the jurors chosen from the source list that they have been selected. The Sheriff decides the method of service or notification. The court plans to carry out this rule in such a manner to reduce the number of persons required for jury service without discouraging litigants from requesting jury trials.

### **SUMMONING OF PROSPECTIVE JURORS FOR ACTUAL SERVICE**

Prospective jurors shall be notified by regular mail of their service requirement by the issuance of a summons directing them to appear on the date assigned.

Further, all prospective jurors may be requested to complete a jury questionnaire approved by this court and, if appropriate, a written request to be excused from jury duty.

The juror summons shall be phrased so it can be readily understood by an individual unfamiliar with the legal process. The jury summons shall clearly explain how and when the recipient must respond and the consequences for failing to respond. A parking pass shall be made available to any juror who makes a request for one on the day of the jury. Any person who fails to respond to a duly served summons may be served with a summons for contempt of court and must appear on the date specified in the summons. The juror may be fined and ordered to pay court costs of the preceding if the presiding judge deems such to be appropriate.

### **A DEMAND FOR JURY SERVICE IS NECESSARY**

Prospective jurors shall be summoned only upon the filing of a written "jury demand" or where the potential penalty is three hundred sixty-five (365) days or more for any single offense. The granting of a continuance at a defendant's request will not extend the time for filing a jury demand. In civil cases, an advance "deposit" of four hundred dollars (\$400) shall be assessed. The deposit shall be filed with the clerk at the time of the final pre-trial. In the event the deposit is not made, no jury will be summoned and the failure to make said deposit shall be deemed a waiver of any right to trial by jury at any subsequent time. A person without funds to pay a deposit may petition the Court for a waiver of the jury deposit requirement. In criminal cases, no deposit shall be required. Prospective jurors shall be summoned to appear in sufficient numbers to accommodate trial activity. A panel of thirty-five (35) persons per trial shall be summoned for service unless the court decides that a lesser or greater number is necessary for a particular trial.

### **PLEA BARGAINS**

Every reasonable effort shall be made by the parties to resolve cases by pleas or agreement before summoning juries.



A jury panel shall not be summoned unless it appears that there is a substantial likelihood of trial or multiple jury cases shall be set to insure jurors are utilized.

### **DUTY OF COUNSEL**

The counsel of record or the parties, whichever is appropriate, at least ten (10) working days before the scheduled trial date shall advise the court that a jury either will or will not be required. If it appears that a jury trial is required, the clerk shall summon the jury. No one shall be treated prejudicially for requesting a jury determination.

Those costs associated with the summoning of a jury shall be assessed against the party requesting the trial, unless acquitted or otherwise exonerated by trial.

If any civil or criminal matter is settled on the day of trial, all lawful jury costs shall be assessed against the party who requested the jury. In cases where multiple trials are set for the same date, jury costs shall be assessed to the last trial resolved on that date. Costs shall also include transportation arrangements made for views requested.

Persons summoned for jury service shall receive compensation in the amount of ten dollars (\$10) per day or as otherwise set by the Board of County Commissioners. Such fees shall be promptly paid from the City or County Treasury, as appropriate.

Any juror wishing to waive his fee and/or mileage for service shall be allowed to do so in writing in the Clerk's office. All waived fees shall be returned to the City or County Treasury, as appropriate.

The term of service for any prospective jury panel shall be one day or the completion of one trial, whichever is longer.

### **TALESMEN JURORS**

A "talesman" juror is someone summoned by the Sheriff to act as a juror when a jury panel is exhausted. A talesman juror is selected from bystanders. The Sheriff shall be provided a list of eligible persons who could be called as talesmen in the event insufficient jurors appear for service or if the panel is insufficient for any reason. If practical, no talesman juror should be associated by blood, affinity, employment or commission to any law enforcement agency.

### **EXEMPTION, EXCUSE AND DEFERRAL**

All persons except those who exercise their right to exemption are subject to service.

Eligible persons who are summoned may be excused from service **only** if it is determined that their ability to receive and evaluate information is so impaired that they are unable to perform their duties as jurors, or that service on a jury would constitute a significant hardship to them or members of the public. Persons excused from service shall be deferred and may be subject to jury service later.

The following factors are a partial, although not exclusive, list of excuses for which a person may be excused or deferred from jury service:

1. Any person who suffers from a substantial physiological or psychological impairment.
2. Any person who has a scheduled vacation or business trip during potential jury service.
3. Any person for whom jury service would constitute a substantial economic hardship.
4. Any person for whom service on a jury would constitute a substantial hardship on their family, clients or members of the public affected by the prospective juror's occupation.
5. Any person who has served on a jury within the last year.
6. Any person from whose attitude it may be readily determined is unfit for jury service.
7. Any person for whom it is readily apparent would be unable to perform their duty as a juror.

No person shall be excused from jury service, except by the Judge or an individual specifically authorized by the Judge to excuse jurors in the Judge's behalf. Once a prospective juror has submitted his request for excuse, the prospective juror must report for service unless otherwise notified by the Court.

## **EXAMINATION OF PROSPECTIVE JURORS-VOIR DIRE**

Voir dire is the preliminary examination of a prospective juror, under oath, to allow the Judge or parties to decide if the prospective juror is subject to removal from service for some cause or otherwise as permitted by law. On the day of the trial, examination of prospective jurors shall be limited to matters relevant to determining whether a juror must be removed for cause or to decide the juror's fairness and impartiality.

All prospective jurors shall be placed under oath according to the Ohio Revised Code. The oath administered shall incorporate an oath to assure the truthfulness of the answers provided on jury questionnaires.

Jury questionnaires showing basic background information concerning panel members shall be made available to counsel before the day on which jury selection is to begin. Counsel shall be allowed to record or copy the information contained on the questionnaires. The court upon the completion of trial shall retain all jury questionnaires. Under no circumstances may counsel or a party retain any jury questionnaire.

Neither counsel nor a party will be permitted to question prospective jurors as to matters contained in the questionnaire unless an answer is unclear. Parties and counsel may be allowed to ask follow-up questions concerning such information.

The Court may conduct a preliminary voir dire examination concerning basic and relevant matters. Counsel shall be allowed a reasonable period to question panel members after that. One hour of voir dire to secure eight (8) jurors is deemed reasonable. Counsel or parties shall conform their voir dire questioning to the following rules:

1. Counsel may not examine prospective jurors concerning the law or possible instructions.
2. Counsel may not ask jurors to give answers to hypothetical questions.
3. Counsel may not argue their case while questioning jurors.
4. Counsel may not engage in efforts to indoctrinate jurors.
5. Jurors may not be asked what kind of verdict they might return under any circumstances. No promises may be elicited from jurors.
6. Questions are to be asked collectively of the panel whenever possible.
7. Counsel may ask by general questions concerning the validity and philosophy of reasonable doubt or the presumption of innocence.

In the event there exists a potential for sensitive or potentially invasive voir dire questions, the Court or any of the parties may request a hearing preceding voir dire to consider these questions.

In all cases, voir dire shall be held on the record, but may be conducted outside the presence of other jurors to protect juror privacy, or to avoid juror embarrassment.

If the court determines it during the voir dire process that an individual is unable or unwilling to sit in a particular case fairly and impartially, the individual shall be removed from the panel. Such motion for removal for cause may be made by counsel, a party if unrepresented or upon the motion of the court. Further, O.R.C. Section 2313.42 and Ohio Criminal Rule of Procedure 24(B) set forth additional "challenges for cause" which may be made against potential jurors.

Peremptory challenges shall be exercised alternatively as presently established by O.R.C. Section 2945.23, and Civil Rule 47, and Criminal Rule 24, unless before trial the parties agree on the record to another method. Unless otherwise agreed, all challenges shall be made in open court. In special circumstances, challenges may be made outside the hearing of the prospective jurors. There shall be no limit to challenges for cause, however peremptory challenges shall be

limited to that number established by the Rules of Civil and Criminal Procedure. Objections to the manner in which peremptory challenges were exercised must be made on the record and before impaneling and swearing of the jurors after voir dire. No *Batson v. Kentucky* (1986) 476 U.S. 79 challenges shall be entertained without a specific supported pattern of discrimination. Challenges to the jury array shall be made according to Ohio law. In criminal cases, the jury shall consist of eight regular jurors and one alternate juror, unless there is an alternate agreement. In civil cases, the jury shall consist of eight regular jurors and one alternate juror, unless by agreement, the parties stipulate to a lesser number. In special circumstances, additional alternate jurors may be selected. The court shall entertain no motions the day of trial, except those that the court must consider by law or by rule of procedure.

### **JURY ORIENTATION**

Orientation is a brief tour of the court, its facilities, an introduction to staff personnel and an explanation of the court's programs. Jurors shall report for service on the trial date by 8:30 a.m. unless otherwise directed. After orientation, voir dire shall commence promptly. All unresolved trial issues must be brought to the attention of the court before the completion of orientation. Prospective jurors shall be provided with written and audio/visual orientation materials upon their initial appearance and prior to service. The court may give preliminary information to all prospective jurors, as well as preliminary instructions following the impaneling of the jury to explain the jury's role, trial procedures of the court, along with other basic and relevant legal principles to insure that jurors feel comfortable with their role as finders of fact.

Upon the completion of the case and prior to jury deliberations, the court shall instruct the jury on the law and the appropriate procedures to be followed during deliberations.

According to the Civil and Criminal Rules of Procedure, the parties or their counsel may request special instructions. Proposed written instructions shall be submitted not later than seven (7) days before trial.

A final jury charge or the salient parts, whenever possible, shall be committed to writing and provided to the jury for its use during deliberation. Jurors may be permitted to take notes during the presentation of evidence after proper instruction by the court. Jurors shall be allowed to ask questions of witnesses subject to court approval and upon appropriate instruction. The procedure for jurors asking questions shall be as follows:

- a. Upon impaneling, the court shall provide pens, pencils and paper to each juror.
- b. At the conclusion of direct and cross-examination of a witness, any juror may ask a witness any question allowed by the rules of evidence.
- c. The juror question must first be reduced to written form and reviewed by the Judge.
- d. If acceptable to the Judge, the question(s) should be reviewed for other objection by respective counsel or the party trying the case.
- e. Jurors will not be limited to the number of questions they may ask.
- f. Upon completion of juror questions, counsel for the respective party may reexamine based on juror questions.

Upon appearance for service, all prospective jurors shall be placed under the supervision of assigned personnel and shall direct any questions or communications to such court personnel for appropriate action.

After orientation, all communications, regarding the case being tried, between the judge and the members of the jury panel, from the time of reporting to the court through dismissal, shall be committed to writing or placed on the record in open court. Counsel for each party shall be informed of any communication and shall be given the opportunity to be heard as to such communication. Under no circumstances shall counsel, a party, or other witnesses, have any contact with jurors.

All jury deliberations shall be conducted in the jury deliberation room, which shall include space, furnishings and facilities conducive to reaching a fair verdict. Court personnel shall attempt to secure the safety of all prospective jurors and shall arrange and conduct all activities to reduce contact between jurors, parties, counsel and the public. Upon the commencement of deliberations, all jurors shall remain in the care of court personnel and shall not be allowed to leave the court without permission.

Deliberations shall not continue after a reasonable hour, unless the trial judge decides that evening or weekend deliberations would not impose an undue hardship upon the jurors. If jury deliberations are halted, jurors may be allowed to be separated, unless for good cause shown, the Court finds that sequestration is necessary. If a jury is sequestered, the court shall undertake the responsibility to oversee the conditions of sequestration. All such expenses shall be assessed as costs.

Upon reaching a verdict, all jurors shall return to the courtroom where the verdict or verdicts shall be read in open court. Upon the reading of the verdict, in criminal cases, either party may request that the jury be polled.

### **CONCLUSION**

The court shall collect and analyze information regarding the performance of this jury management plan to evaluate the representativeness of the jury pool; the effectiveness of the summoning procedures; the responsiveness of individual citizens to jury summons; the efficient use of jurors; the cost effectiveness of this plan; and general juror satisfaction.