

IN THE COLUMBIANA COUNTY MUNICIPAL COURT LISBON, OHIO

LOCAL RULES OF COURT

The Columbiana County Municipal Court ("Court") hereby adopts the following rules, which shall be applicable in all cases filed in this Court.

I. General Rules of Court

1. Hours and Sessions of Court.

The office of the Clerk of the Court shall be open Monday through Friday from 8:00 A.M. until 4:00 P.M. subject to the availability of personnel. All sessions of the court shall begin promptly at 8:30 A.M. and 1:00 P.M. unless otherwise directed by the Judge. The Court shall close for all legal holidays observed by the public offices of Columbiana County, Ohio or when the Columbiana County Courthouse and/or the Municipal County Courthouse is otherwise closed. The Court may be closed or its hours of operation changed at any time without prior notice by order of the Court.

2. Audio Record.

Unless otherwise provided in these rules, all proceedings before this Court shall be recorded by an audio electronic recording device provided by the Court. A party may provide a stenographic court reporter at the party's cost and expense. No record shall be required of any proceeding in the small claims division of this Court.

3. Court Records.

A. Inspection of Records. All indexes, docket, journals, and file records maintained in accordance with law by the clerk of the Court shall be open to public inspection during regular business hours in a manner that does not interfere with the normal operation of the clerk's office. Other case file material shall only be inspected with permission of the Court.

B. Transcription of Records. The audio electronically recorded court proceedings shall not be inspected but may be transcribed by a certified court reporter approved by the Court upon request and upon payment of appropriate deposit. All inspections shall be made under the supervision of Court personnel. Original papers shall not be removed from the office of the clerk.

4. Fee for Copies.

A charge of \$1.00 per page shall be made for a photo static certified copy of any document. Copy fees shall be paid in advance.

5. Counsel of Record.

When counsel is retained to represent any party, such attorney shall immediately notify the clerk in writing of such representation. Any counsel intending to withdraw from representation must submit a written request and such counsel shall appear at the next scheduled court proceeding for such case unless substitute counsel has appeared of record or unless the Court grants prior leave. Withdrawal considerations shall be in conformity with the Code of Professional Responsibility.

6. Probation and Community Service Fee. (amended 10/16/09)

A probation supervision fee of \$60.00 for each year of probation shall be charged for each person placed on probation with full amount imposed when probation is granted. A fee of \$10.00 per month is charged for each person placed on basic probation and a fee of \$20.00 per month is charged for each person placed on intensive probation. Early termination of probation shall not result in a refund of any probation fees. These fees shall be paid according to the Court's order. In cases where the Court orders the performance of Community Service without an order of probation, there shall be a setup fee of \$60.00 charged and a monthly supervision and maintenance fee of \$20.00 for each month until the Community Service is performed. Failure to pay any fee shall be considered a violation of the Court order and shall be subject to charges for indirect contempt of court or probation violation. All fees collected under this section shall be paid to the clerk of court *and* shall be placed in a separate fund to be disbursed upon an order of the court. If the Court determines that the amount of money in the fund is more than the amount sufficient to satisfy the purpose for which the fee was imposed, the court may declare a surplus in the fund and expend the surplus money for other appropriate expenses of the court.

7. Fees and Costs.

Pursuant to Ohio Revised Code Section 1901.26, the Court hereby establishes the Schedule of Fees and Costs for civil and criminal actions and proceedings in this Court as set forth in attached Exhibit A, which may be modified from time to time. Such schedule together with any amendments or modifications shall be posted in the office of the clerk of Courts. Pursuant to Section 2929.111 of the Revised Code, all sums received in criminal and traffic matters shall be allocated as follows:

- A. First, to satisfy local court costs.
- B. Second, to satisfy any State costs.
- C. Third, to pay reimbursements (costs of confinement, probation fees, etc.)
- D. Fourth, to pay fines.
- E. Fifth, to pay restitution.

8. Filings.

All court filings must be original documents, signed, and delivered to the Clerk of Courts. Facsimile documents will not be accepted for filing but may be provided for information purposes only.

9. Signature Stamp.

The Clerk is authorized to affix the signature stamp of a Judge of this Court to the types of routine Judgment Entries and Orders of the Court set forth below, in which case, the stamped signature shall be effective as the original signature of the Judge:

- A. Orders of Garnishment and Attachment.
- B. Orders for Debtor's Exam.
- C. Registration Block (Warrant Block), but not the Warrants themselves.
- D. Judgment Entries suspending operator or commercial driving license for failure to pay or appear.
- E. Judgment Entries ordering the Bureau of Motor Vehicles to correct or modify records.
- F. Limited Driving Privilege Form.

II. Case Management in Criminal and Traffic Cases.

10. Purpose.

The purpose of this rule is to establish a system for criminal and traffic case management that will provide for 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 Municipal Court system.

11. Judicial Steps.

All criminal and traffic cases shall be managed in the following judicial steps: Arraignment. All criminal and traffic arraignments shall be held at 8:30 A.M. each day the court is in session unless otherwise ordered by the Court.

12. Assignment of Cases.

In accordance with Rules 5 and 36 of the Supreme Court Rules of Superintendence, criminal and traffic cases shall be assigned as follows:

- A. The case shall not be immediately assigned to either judge, but shall be set for arraignment before the judge assigned to handle arraignments on the day of initial appearance. In the event the defendant enters a plea of Guilty or No Contest at arraignment, then the case shall be assigned to the arraigning judge.
- B. At the point when a case becomes contested (the entry of a plea of Not Guilty or the filing of a motion in a criminal/traffic case) the Clerk shall randomly assign the case to one of the two judges of this Court, unless the arraigning judge or Administrative Judge determines that for judicial economy or due to conflict, the case should be assigned to a specific judge.

13. Pre-Trials.

There shall be no pre-trial conference in any minor misdemeanor and/or fourth degree misdemeanor and/or third degree misdemeanor case unless the defendant files a written time waiver as to the time within which said case must be tried under Section 2945.71 of the Ohio Revised Code.

14. Plea Agreements.

Negotiated pleas, where a charge is reduced or dismissed, will be accepted by the Court only where the prosecuting attorney or Village Solicitor provides to the court in writing or on the record a statement that the complaining party, victim, and/or the arresting officer was consulted or given the opportunity to express an opinion concerning the proposed plea agreement and he or she approved the proposed plea agreement or that his or her approval was unreasonably withheld together with the Prosecutor's or Solicitor's reasons why the withheld approval was unreasonable. The arresting officer, victim, and/or the complaining party may also personally appear at the time of disposition and state his or her approval or disapproval along with any reasons therefore before the Court accepts or rejects the proposed agreement.

15. Personal Appearance.

Defendant shall appear at all hearings, except as otherwise provided in these rules. All cases resolved at pre-trial shall proceed immediately to disposition, unless otherwise ordered by the Court.

16. Exceptional Circumstances.

For purposes of Traffic Rule 12, the following shall be considered "exceptional circumstances" in all traffic cases where the defendant has previously appeared personally or through counsel.

A. The defendant is not a resident of Columbiana County, Ohio.

B. The defendant is a resident of Columbiana County, Ohio but defendant's personal appearance in court would cause the defendant to lose one half (1/2) day or more of gainful employment.

17. Written Appearance. If defendant meets either of these "exceptional circumstances", defendant may submit, through his or her attorney of record, a written motion pursuant to Traffic Rule 12 and an agreed judgment entry evidencing defendant's pleas of guilty or no contest to the original charge or to an amended charge. The judgment entry shall contain the agreed disposition of the case, a waiver of personal appearance and consent that judgment and sentencing may be pronounced against the defendant in his or her absence. The defendant, the defendant's counsel, and the assistant prosecuting attorney must

approve the agreed judgment entry. Before the Court will accept the agreed judgment entry it must be accompanied by the following:

- A. An attorney's trust check, money order, certified check or bank check covering the total amount of the unsuspended portion of the fine and the court costs.
- B. Defendant's driver's license, if the defendant's driver's licenses will be suspended and is not presently held by the Court.
- C. Proof that defendant's operation of the vehicle was covered by insurance or other proof of financial responsibility as required by Ohio Revised Code Section 4509.101 (A) and 4509.45.

18. Personal Appearance Not Required.

The defendant shall not be required to appear if a written plea of guilty or the defendant has signed no contest and payment of bond is received in the amount set forth in the bond schedule attached as Exhibit B, which may be modified from time to time.

19. Motions. The Court will not entertain motions, which fail to comply with Criminal Rule 47. To be in conformity, the motion must be in writing and filed within the time limits set by the Rules of Criminal Procedure, and must contain the following:

- A. The specific grounds upon which motion is based;
- B. A recital of facts asserted which, if uncontroverted, would be sufficient to establish a prima facie case for the submitting party;
- C. Citations to authority in support of the position of the submitting party. Ohio authority is to be cited in all instances where it exists and only thereafter will non-Ohio authorities be cited.

20. Trials.

Each case not resolved at pretrial shall be set for trial to the Court. If a jury demand is timely filed, the case will be moved to the jury trial schedule. Any party filing a demand for trial by jury shall notify the Court by 3:30 P.M. on the last business day preceding his or her trial of any withdrawal of demand for jury or change of plea, otherwise jury costs will be assessed to his or her case.

21. Status Conference.

All criminal and traffic cases set for jury trial and not resolved at pre-trial shall be assigned for a status conference to be held the week preceding the day set for jury trial, unless otherwise ordered by the Court.

22. Continuance.

No party shall be granted a continuance of a trial, pre-trial, or a hearing without a written motion by the party or his or her 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. A copy of the notice from the other court shall be attached to the Motion for Continuance. The granting of any other request for continuance is a matter within the discretion of the trial court. Continuance requests made within 24 hours of the scheduled hearing will be denied unless there are exceptional circumstances. If a designated trial attorney has such a number of cases assigned for trial so as to cause undue delay in the disposition of such cases, the judge may require the trial attorney to provide a substitute trial attorney.

23. Sentencing.

Sentencing shall take place after a plea of guilty or no contest; or after the court issues a finding of guilty by the Court or verdict of guilty by the jury, subject to the victim's rights as required under Ohio law.

III. Case Management in Civil Cases.

24. Purpose.

The purpose of this rule is to establish a system for civil case management, which will achieve the prompt and fair disposal of civil cases.

25. Court Costs Deposit.

Any person filing a civil action or proceeding shall deposit with his or her complaint the corresponding court cost deposit set forth in attached Exhibit A unless an affidavit or other evidence of such party's inability to make the required deposit is approved by the Court. The clerk shall refuse to accept the filing of any complaint if the required deposit is not included.

26. Assignment of Cases.

Upon the filing of a civil action, the Clerk shall randomly assign the case to one of the two judges of this Court, unless the Administrative Judge determines that for judicial economy or due to conflict, the case should be assigned to a specific judge.

27. Costs Deposit for Jury Trials in Civil Cases. Any party demanding trial by jury in a civil case shall deposit, in addition to the usual court cost deposit, the jury trial deposit with their written demand unless an affidavit or other evidence of such party's inability to make the required deposit is approved by the Court. The clerk shall refuse to accept the filing of a jury demand if the deposit is not included. The party shall also file the number of jurors requested consistent with Civil Rule 48.

28. Scheduling of Events.

The scheduling of a case begins when a civil case is filed. Thereafter, the case is managed in four (4) clerical steps and five (5) judicial steps:

A. Clerical Steps:

1. Summons shall be served in accordance with the Ohio Rule of Civil Procedure. In the event there is a failure of service, the clerk shall notify counsel (or Plaintiff, if unrepresented) immediately. If counsel or Plaintiff fails to obtain service of summons within six (6) months from the date the cause of action was filed, then the case will be dismissed unless good cause is shown to the contrary.
2. After any responsive pleading is filed, the clerk shall set the matter for 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 matter will be dismissed unless good cause is shown.
4. When the court is advised that settlement has been reached, the court shall receive the entry within thirty (30) days. If the entry is not received, the case will be dismissed.

B. Judicial Steps

1. Motions. All motions must be in writing and accompanied by a written memorandum containing citations or the arguments of counsel. Opposing counsel shall answer in like manner within fourteen (14) days thereafter. All motions will be considered submitted at the end of the fourteen (14) day period unless the Court extends time. There will be no oral hearings granted on the motions unless party requests an oral hearing in writing and/or the Court deems it necessary.
2. Pre-Trials. For the purpose of this rule, "pre-trial" shall mean a court supervised conference chiefly designed to produce an amicable settlement. The term "party" or "parties" shall mean the party or parties to the action and/or attorney of record.
 - a. Personal appearance shall be required unless otherwise ordered by the Court. Any attorney for a party, who fails to attend a scheduled pre-trial conference without just cause being shown, may be punished for contempt of court.
 - b. Notice of pre-trial conference shall be given to all counsel of record by mail not less than fourteen (14) days prior to the

conference. Counsel attending the pre-trial conference must have complete authority to stipulate on items of evidence and must have full settlement authority. 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 pre-trial entry to become part of the record setting forth all stipulations, admissions and other matters, which have come before it in the pre-trial.

- c. The Court shall determine whether or not trial briefs should be submitted and shall fix a date when they are to be filed. The Court may make such schedules and orders concerning discovery, as the Court deems appropriate.
 - d. Any Judge presiding at pre-trial conference or trial shall have the authority to dismiss the action for want of prosecution on motion of defendant upon failure of plaintiff, and/or his counsel to appear in person at any pre-trial 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 trial as required; or to make such order as the court may deem appropriate under all the circumstances. If the case is not settled at pre-trial, then the case will be set for trial at a time agreeable to all parties.
3. Trials. Each case not resolved at pre-trial shall be set for trial to the Court. If a jury demand is timely filed and the jury trial deposit is timely made or waived by the Court, the case will be moved to the jury trial schedule. The case will be set for a status conference approximately one (1) week prior to scheduled jury trial. All attorneys shall notify the Court by 3:30 P.M. of the day preceding their jury trial of any change in the status of the case or jury costs incurred by the Court shall be assessed to the case.
 4. Continuances. No party shall be granted a continuance of a trial, pre-trial, or a hearing without a written motion by the party or his *or her* 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 request for continuance is a matter within the discretion of the trial court. Continuance requests made within 24 hours of the scheduled hearing will be denied unless there are exceptional circumstances. If a designated trial attorney has such a number of cases assigned for trial so as to cause undue delay in the disposition of such cases, the judge may require the trial attorney to provide 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, if ordered by the Court. 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. 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 any 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 for default judgment within fifteen (15) days or the case will be dismissed for want of prosecution. The journal entry shall allocate the court costs between or among the parties.

IV. Case Management in Special Proceedings

29. Purposes.

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 acting judge, to wit: small claims, forcible entry and detainer, default hearings, rent escrow, replevin, motions to cite for contempt, garnishment hearings, debtor's exams, and B.M.V. hearings. The following criminal matters are considered special proceedings and may be heard by a judge or acting judge, to wit: preliminary hearings, extradition hearings and motions for temporary protection orders.

30. Scheduling of Events.

Special proceeding that has 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.

31. Clerical Steps.

- A. In all new special proceedings, if counsel fails to obtain service of summons within six (6) months, the case will be dismissed unless good cause is shown to the contrary.
- B. After any responsive pleading is filed, the clerk shall set the matter for hearing.

- C. If no action has been taken on a file for a six (6) month period and the case is not set for trial, the matter will be dismissed unless good cause is shown.

V. Jury Management

32. Selection.

Jurors for the Court shall be drawn at the time and place corresponding to when jurors are drawn for the Columbiana County Common Pleas Court and in the manner provided by Ohio Revised Code Chapter 2313. A separate jury pool will be drawn for each judge of this Court.

33. Notification.

The clerk or jury commissioner shall notify each prospective juror of being drawn for jury service. All jurors shall be notified of jury service at least two (2) weeks prior to the service and each juror shall be provided a telephone number to call for a recorded message concerning the current status of that service. Each juror shall call that number after 5:00 P.M on the day prior to his or her scheduled service. If a juror reports for service without calling the number as instructed, no jury service fee will be paid.

34. Excused absence.

Excuse from jury duty shall be limited to the statutory exceptions unless the Judge finds extraordinary circumstances or any of the following circumstances exist:

- A. Student. *A person is a full time student, who lives at or near the school he or she is attending shall be excused form service unless he or she chooses to serve.*
- B. Medical. A person may be excused for medical reasons if his or her request is accompanied by a physician's statement describing the nature of the condition and the doctor's opinion that the condition will interfere with jury service.
- C. Vacation. A person may be excused for a scheduled vacation if his or her request for excuse is accompanied by documentation verifying travel reservations.
- D. Prior Service During Term. A juror who has served on a jury during his or her term of service shall not be excused, but shall be rotated to the bottom of the potential juror list.
- E. Miscellaneous. A juror may, upon reasonable request, be allowed to

transfer his or her service to the next scheduled trial date.

35. Alternate Jurors.

Unless the trial is expected to exceed three (3) days, only one (1) alternate juror shall be selected, unless the court determines additional alternate jurors are necessary.

36. Jury Accommodations.

When juror reports of service, the bailiff shall seat the prospective juror in the courtroom to the exclusion of all persons except other jurors. All material except those needed for proper deliberation shall be removed from the jury room.

VI. Court Security.

- 37.** The court security policy is attached as Exhibit C, which may be modified from time to time.

VII. Specialized Criminal Docket

38. Creation of Specialized Criminal Docket.

The Court has created a specialized docket known as Successful Treatment And Recovery ("STAR") which provides substance abuse and mental health treatment, education, housing, employment and other services, along with intensive monitoring and supervision by the Court.

39. Placement on STAR Docket.

In order to have his/her criminal case placed on the STAR docket, a criminal defendant shall be a resident of Columbiana County; be charged with a misdemeanor of the third, second, and/or first degree; have a persistent mental illness which would benefit from court monitored treatment; and voluntarily enter the STAR program. Application for placement in the STAR program shall be subject to initial assessment by defense counsel, prosecutor, and probation officer subject to approval by the judge assigned to the criminal case, according to the criteria adopted by the Court. Upon initial acceptance into the STAR program, the criminal defendant is referred for diagnostic evaluation to confirm that he/she meets clinical criteria. The assessment team, subject to approval by the Judge assigned to the case, will determine if the defendant qualifies for the STAR program.

40. Case Management for STAR Docket.

Upon acceptance in the Star program, the case shall be transferred to the STAR docket. Defendant shall enter a plea of guilty and be sentenced. Sentence will be suspended subject to terms of probation that will include the mental health treatment plan. The judge presiding over the STAR docket shall have the primary responsibility for case management.

41. Removal of Case from STAR Docket.

If Defendant is unsuccessfully terminated from the STAR program for any reason, the case shall be returned to the regular docket.

VIII. Criminal Docket Diversion Program

42. Creation of Criminal Docket Diversion Program.

The Court has created a diversion program known as **Steps Towards Effective & Personal Solutions (STEPS)**, which provides an opportunity for first time offenders to avoid conviction.

43. Placement in STEPS.

In order to qualify for participation in the diversion program, the Defendant must be a first time offender; be charged with a violation of the underage consumption statute; and have no other pending cases. Application for acceptance into STEPS shall be subject to approval by the prosecutor after consulting with the arresting officer and a determination of admission by the Judge assigned to the case.

44. Case Management for STEPS.

Upon acceptance in the diversion program, Defendant shall enter a plea of guilty with the court making a finding of guilt. Sentencing will be stayed for one hundred eighty (180) days subject to Defendant completing community service and an approved substance abuse program; reporting to the community control department as directed; submitting to random drug screens and/or alcohol monitoring; and submitting a written report to the Court. Upon successful completion of the diversion terms, Defendant will withdraw the plea and the prosecutor will dismiss charges. If Defendant is unsuccessful in completing the diversion terms, the presiding judge will impose sentencing. The presiding judge shall have the primary responsibility for case management.

45. Fees.

A community control fee of \$180.00 shall be charged for each Defendant placed in the diversion program in lieu of the Probation and Community Service Fee described in Paragraph 6 of these Local Rules. In addition to the community control fee, each Defendant shall also pay \$200.00, which shall be remitted by the Clerk of Courts to the Arresting Community and \$20.00 for cost of random drug/alcohol testing.

EFFECTIVE DATE

These Rules will be in effect as of the 1st day of November, 2010.

Judge Mark A. Frost

Judge Carol Ann Robb

(Amended November 1, 2010)