

LOCAL RULES OF COURT
FOR
DEFIANCE MUNICIPAL COURT

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LOCAL RULES OF COURT FOR DEFIANCE MUNICIPAL COURT GENERAL PROVISIONS

The Rules of Court set forth herein shall pertain to all procedures applicable to all proceedings of this Court in the exercise of its civil, criminal and traffic jurisdiction. These Rules are effective January 1, 2016, until otherwise provided, pursuant to Article IV, Section 5(B) of the Ohio Constitution and Rule 5 of the Ohio Supreme Court Rules of Superintendence for the Courts of Ohio. All former Rules and amendments thereto are hereby revoked.

RULE 1.01 CITATION FORM:

These Rules of practice shall be known as the Defiance County Municipal Court Rules of Court and each rule may be cited as "Defiance Rule" or "Local Rule" followed by the appropriate section number.

RULE 1.02 HOURS OF SESSION:

The sessions of this Court, shall, unless modified by the Trial Judge to meet emergency situations, begin at 8:00 a.m. and close at 4:00 p.m., Monday through Friday, each week except on those designated as a legal holiday.

The office of the Clerk shall be open to the public from 8:00 a.m. to 4:00 p.m. (lobby) and from 7:00 a.m. to 5:00 p.m. (drive thru) until the business of the Court is concluded on that day.

RULE 1.03 COURT SECURITY:

All visitors of the Defiance Municipal Court will follow the directives of Defiance Municipal Court Security personnel. Court Security Officers shall inspect everyone who wishes to enter the building. The inspection shall include the person, clothing, belongings, bags, briefcases, packages and/or any carried items.

RULE 1.04 CLERK OF COURT:

The Clerk shall file together and carefully preserve all papers delivered and/or filed therein for that purpose, in every action or proceeding. Court files may be examined at the office of the Clerk of Court under the supervision of the Clerk or a Deputy Clerk. The Clerk shall permit any party to an action or his/her attorney or agent to make a copy of any non-confidential papers filed with the Court, but original papers filed in any case shall not be removed from the office without prior authority of the Judge or the Clerk of Court. Copies of all papers shall be furnished to said attorney or party upon payment of applicable fees. Copies to the general public, upon proper request, shall be furnished upon payment of any applicable fees.

Officers or employees of this Court shall not prepare or help to prepare any pleading, affidavit, entry or order in any Civil or Criminal matter, except as provided under Section 1925.13 of the Ohio Revised Code.

All civil, criminal and traffic actions brought before the Court shall be numbered as required by Rule 43 (A) of the Rules of Superintendence for the Courts of Ohio.

RULE 1.05 RECORDS:

The Clerk of Court shall maintain separate civil and criminal records and dockets as required by Ohio Revised Code Section 1901.31(E). Nothing in this rule prohibits recording and storage of the Court's dockets and records by microfilming or computerization as permitted by law. The official court record

shall be the data stored on the electronic systems. All orders of the Court in the docket shall be validated by the original signature of the Judge. The docket and the original papers filed shall be the final record of the cases of this Court. The Judge and the Clerk of Court shall authenticate records with their signatures, with the Court's seal attached. Any forms and stamps used shall be authorized by the Court.

RULE 1.06 RECORD RETENTION SCHEDULE:

The Defiance Municipal Court adopts the Records Retention schedule as stated in Rule 26, 26.01 and 26.05 of the Rules of Superintendence for the Court of Ohio and in accordance with Section 1901.41 of the Ohio Revised Code. In the event of a conflict between Section 1901.41 and the Superintendence Rules then the provisions of Section 1901.41 shall govern.

RULE 1.07 DECORUM AND CONDUCT:

On opening of any Court session, all persons in the courtroom shall stand except those physically unable to do so. All persons in the courtroom shall conduct themselves in such a manner so as not to interfere with or obstruct judicial activities or proceedings. The bailiff shall see that no one impedes or disrupts the orderly conduct of the business of the Court. All persons appearing before the Court or attending proceedings shall appear in proper attire. Attorneys appearing for Court hearings or related proceedings shall wear appropriate attire (coat and tie for male attorneys and appropriate business dress for female attorneys).

Litigants and/or spectators are not permitted to smoke, eat, or drink in the courtroom nor are they permitted to bring food or drink in the courtroom. Attorneys and litigants involved in a trial or hearing may have water at counsel tables.

All cell phones, pagers and other sound making devices are to be silenced or turned off while in the courtroom.

RULE 1.08 COURT SESSIONS:

At all criminal/traffic hearings in the Court, the defendant's presence is required. Civil pretrials may be conducted without the presence of the parties if they are represented by counsel. Telephonic pretrials in civil matters must be arranged with the Court prior to the date scheduled.

RULE 1.09 RECORDING OF PROCEEDINGS:

A record shall be made of all proceedings before the Court by an audio electronic recording device. The Court shall maintain exclusive custody and control of the electronic recording of the proceedings.

(A) A court reporter may be supplied upon the request of either party or his counsel, provided such request is filed in writing at least five (5) days prior to the trial. The reporter's costs shall be borne by the party requesting same, who shall pay the costs directly to the reporter.

(B) The Court will maintain all recordings for a period of three (3) years. At the expiration of such period the recordings may be destroyed at the discretion of the Court except in the instance of an appeal in which event the subject recording will be retained while the appeal is pending.

(C) A party may obtain a full or partial transcript from a recording by arranging with the Court reporter to prepare same. A party may also purchase a copy of the recording from the court reporter on a compact disc. The cost of same may be found in Exhibit A. Payment for transcripts and/or compact discs must be made prior to release of the transcript and/or recording.

(D) No recording devices other than court-approved recording devices shall be permitted in the Court.

RULE 1.10 MEDIA:

In accordance with Rule 12 of the Rules of Superintendence for the Courts of Ohio, the procedures which follow are to be used when there is broadcasting or photographing of court proceedings.

(A) All requests for permission to broadcast, record, photograph or televise proceedings in the courtroom shall be in writing to the Judge as far in advance as reasonably practicable but no later than one-half hour prior to the courtroom session.

RULE 1.11 FILING REQUIREMENTS:

No written complaint, motion, brief, memorandum of law or proposed journal entry shall be accepted by the Clerk for filing unless the same is filed with sufficient copies for service upon any other parties. All papers filed with the Clerk shall be on 8 ½" x 11" paper with the exception of exhibits. All papers offered for filing with the Court shall bear:

(A) A case caption and court case number;
(B) A title identifying the name and party designation of the party filing the paper and the nature of the document; e.g. Motion to continue, Answer of Defendant, etc. , and;

(C) The typed name, office address, office telephone number, attorney registration number and signature of designated trial attorney, if applicable. If a party is unrepresented/pro se, said party shall include their name, address, and daytime telephone number. ALL PARTIES ARE RESPONSIBLE FOR ADVISING THE COURT, IN WRITING, OF ANY CHANGE OF ADDRESS.

(D) To protect legitimate personal privacy interest, social security numbers and other personal identifying information should be redacted from documents before the documents are filed. The responsibility for redacting personal identifying information rests solely with the attorneys and parties who present documents to the clerk for filing. The clerk will not review documents to confirm that personal identifying information has been redacted.

If personal identifying information is redacted or omitted from a document, the information should be provided to the court on a separate form that indicates what information has been redacted or omitted and provides the location of the redacted or omitted information. An example of a form acceptable for use may be found in the appendix to the Rules of Practice of the Supreme Court of Ohio.

(E) Any party filing a motion with the court should present at the same time a proposed entry that the party wishes the judge to sign.

RULE 1.12 APPEARANCE AND WITHDRAWAL OF COUNSEL:

All attorneys of record shall file an Entry of Appearance on behalf of their client. (Exceptions to this rule would include: a responsive pleading would be considered an entry of appearance and no need to file an entry of appearance for cases in which an attorney has been appointed by the court). An attorney who has entered an appearance as counsel of record must appear at all proceedings in the case unless an oral or written motion is granted by the judge. All documents filed on behalf of one or more parties represented by counsel shall be signed by one attorney and show their Supreme Court Registration number. All notices and communications for the Court and all documents required to be served will be sent to such designated trial attorney. Except for a withdrawal requested in open Court when a counsel's client fails to appear for a Court proceeding, no application for withdrawal will be considered except upon written motion filed with the Court that must include (a) the specific reason for withdrawal (b) name and address of a substitute attorney, if any (c) a certification of service to opposing counsel

and (d) the withdrawing counsel represents that, if the application is granted, a copy of the withdrawal entry will be mailed to the last known address of the client. A withdrawal of counsel after the cause has been assigned for trial shall not be permitted, except for cause shown and upon determination by the Court that the party will be adequately and properly represented at the trial.

(A) Pro Hac Vice: An attorney who is not admitted to practice law in the State of Ohio may not appear on behalf of another individual or entity in court without the permission of the Judge. The motion for permission shall be in writing and shall attach a copy of the Certificate of Pro Hac Vice Registration obtained from the Ohio Supreme Court and must comply with Rule 6.01 of the Rule of Superintendence and Rule XII of Supreme Court Rules for Government of the Bar of Ohio.

RULE 1.13 METHOD OF PAYMENTS AND PAYMENTS WITH COINS:

Payment will be accepted in the form of cash, money order, personal or certified check. The Clerk of Court is authorized to accept on-line payments in the Criminal/Traffic Division for any offense or minor misdemeanor in which appearance in Court is not mandatory. Court will not accept payment in coin exceeding \$5.00. Out of state personal checks may be accepted at the discretion of the Clerk.

RULE 1.14 OVERPAYMENTS:

Any overpayment received by the Defiance Municipal Court in the amount of ten dollars (\$10.00) or less will be retained by the Defiance Municipal Court and remitted to the Finance Director of the City of Defiance at the end of the month in which it was received in.

RULE 1.15 FAX FILING:

As provided for under Civil Rule 5(E), Civil Rule 73(J), Criminal Rule 12 (B) and App R 13(A) , the Court will allow documents to be filed through the Clerk of Court by facsimile transmission to (419) 782-2018 subject to the following conditions:

(A) Applicability: These rules apply to all divisions in the Defiance Municipal Court. Documents in which a fee or deposit is required will not be accepted for filing by facsimile transmission until the fee or deposit has been paid or arrangements have been made to pay the fee or deposit.

(B) Definitions: A "facsimile transmission" means the transmission of a source document by a facsimile machine that encodes a document into optical or electrical signals, transmits and reconstructs the signals to print a duplicate of the source document at the receiving end. A "facsimile machine" means a machine that can send and receive a facsimile transmission. "Fax" is an abbreviation for "facsimile" and refers, as indicated by the context, to facsimile transmission or to a document so transmitted.

"Source document" means the document transmitted to the Court by facsimile machine/system.

"Effective original document" means the facsimile copy of the source document received by the Clerk of Court and maintained as the original document in the Court's file. "Effective date and time of filing" means the date and time that a facsimile filing is accepted by the Clerk of Court for filing and time-stamped by the Clerk of Court and/or Clerk of Court personnel. "Failed fax filing" means that the transmitted document(s) failed to include required criteria as set forth by these rules and was NOT accepted by the Clerk of Court and/or Clerk of Court personnel for filing.

(C) Original filing: A document filed by fax shall be accepted as the effective original filing. The person making a fax filing is not required to file any source document with the Court but must maintain in their records and have available for production on request by the Court the source document filed by fax, with the original signatures as otherwise required under the applicable rules, together with the source copy of the facsimile cover sheet used for the subject filing. The source document filed by fax shall be

maintained by the person making the filing until the case is closed and all opportunities for post judgment relief are exhausted.

(D) Cover page: The person filing a document by fax shall also provide therewith a cover page containing the name of the Court, the title of the case, the case number or indicate that one has not been assigned, the title of the document being filed, the date of the transmission, the transmitting fax number, an indication of the number of pages included in the transmission, including the cover page and the name, address, telephone number, fax number, Supreme Court registration number, if applicable, and the e-mail address of the person filing the fax document, if available. If a document is submitted by fax to the Court without the cover page information listed above, the Clerk may deposit the document in a file of "failed faxed documents" with a notation of the reason the document shall not be considered filed with the Court. The Court will not send any form of notice to the sending party of a failed fax filing.

(E) Signature: A party who wishes to file a signed source document by fax shall either fax a copy of the signed source document, fax a copy of the document without the signature but with the notation "/s/" followed by the name of the signing person where the signature appears in the signed source document or a party who files a signed document by fax represents that the physically signed source document is in their possession or control.

(F) Exhibits: Each exhibit to a facsimile produced document that cannot be accurately transmitted via facsimile transmission for any reason must be replaced by an insert page describing the exhibit and why it is missing. Unless the Court otherwise orders, the missing exhibit shall be filed with the court as a separate document, not later than five (5) Court days following the filing of the facsimile document. Failure to file the missing exhibits as required by this paragraph may result in the court striking the document and/or exhibit. Any exhibit filed in this manner shall be attached to a cover sheet as outlined in section (D).

(G) Time of filing: Subject to the provisions of these rules, all documents sent by fax and accepted by the Clerk shall be considered filed with the Court as of the date and time the Clerk time-stamps the document received, as opposed to the date and time of the fax transmission. Facsimile transmissions may be sent at any time, however, any documents received by the Court outside of normal business hours of the office of the Clerk of Court will be file stamped in the order of their receipt the next business day. Fax filings may NOT be submitted to the Court by any other means but may only be transmitted directly through the facsimile equipment operated by the Clerk of Court. The Clerk of Court need not acknowledge receipt of a facsimile transmission. The risks of transmitting a document by fax to the Clerk of Court shall be borne entirely by the sending party. Anyone using facsimile filing is urged to verify receipt of such filing by the Clerk of Court.

(H) Length of document: Facsimile filings shall not exceed ten (25) pages in length.

RULE 1.16 COURT COSTS AND SECURITY DEPOSITS, GENERALLY:

Civil court costs shall be paid at the time of filing to the Clerk of Court. Costs paid on all original filings; i.e. complaints, counter-claims, forcible entry and detainer actions, replevins, trusteeships, small claims complaints, third party complaints, are to be considered as a non-refundable filing fee. All fees are set forth in Appendix A.

(A) In all cases in which it shall be necessary to seize, move or remove or store or to provide a custodian for any goods for property seized under any writ or order issued by the Court, the Clerk shall require an additional deposit in such amount as is deemed necessary to cover all estimated costs and expenses to

implement such writ or order. In addition, the party requesting such writ or order may be required to supply such labor at his expense, as the Clerk or bailiff deems necessary to enforce such writ or order.

(B) If at any time the Clerk determines, because of circumstances indicating extraordinary costs in any case, a deposit for costs in excess of the amounts specified herein should be made, the Clerk shall estimate such probable extraordinary costs and require an additional deposit commensurate therewith.

(C) Upon motion by any party or upon request of the Clerk or bailiff, and upon a showing that the probable costs may exceed the deposit, the Court may order a further deposit to be made before additional proceedings are held.

(D) MISCELLANEOUS COSTS AND CHARGES: All other fees and costs to be taxed in any action or proceeding in this Court not specifically provided for by law pertaining to municipal courts or by administrative order or rule of this Court shall be the same as those set out in the Ohio Revised Code for similar services in Courts of Common Pleas.

RULE 1.17 SPECIAL PROJECTS FUND:

It being determined that, for the efficient operation of the Court, additional funds are necessary to acquire and pay for special projects of the Court; effective January 1, 2004, pursuant to Ohio Revised Code Section 1901.26 (B)(1), there is hereby established a special projects fund and a fee shall be assessed in addition to all other court costs, on the filing of each criminal cause, civil action or proceeding, or judgment by confession. See appendix A for schedule of fees.

All monies so collected shall be paid monthly by the Municipal Court Clerk to the City Treasurer/Finance Director for deposit into the special projects fund.

Monies so paid shall remain in said fund for disbursal as necessary upon further Order of the Court.

RULE 1.18 BAIL BOND REGISTRATION:

Defiance Municipal Court requires a bail bond agent to register with the Clerk of Court before a bond may be filed in this Court pursuant to O.R.C. 3905.87. To register, a bail bond agent shall file with the Clerk of Court a copy of the agent's surety bail, a copy of the agent's driver's license or state identification card, a certified copy of the bail bond agent's appointment by power of attorney from each insurer that the bail bond agent represents.

The Clerk of Court shall make available a list of Court registered surety bail bond agents annually not later than the first day of September. If an agent registers after the last day of August, the Court shall add the agent to the list and make the update within twenty-four (24) hours of Court approval of that registration.

All Surety Bond Agents must comply with Ohio Revised Code Section 3905.932.

RULE 1.19 SUBMISSION OF E-STATS:

Under Sup.R.37(B)(2), the administrative judge is responsible for ensuring the security of the Court's e-stats login password. Therefore, the Judge shall advise the Clerk of the login and password in order for the Supreme Court Statistical Reports to be filed electronically. The Clerk shall not disseminate the login or the password unless prior approval has been granted by the administrative judge.

RULE 1.20 JURY MANAGEMENT PLAN:

The Court will provide a copy of this rule upon request. See Appendix B.

RULES OF PRACTICE GOVERNING CIVIL CASES:

The Defiance County Municipal Court shall follow the rules governing the Courts of Ohio and Rules of Superintendence. The Civil procedure of this Court shall be that which is prescribed by the Ohio Rules of Civil Procedure and amendments thereto. The Court shall follow Chapters 1923 and 5321 of the Ohio Revised Code as to Forcible Entry and Detainer Actions and Chapter 1925 of the Ohio Revised Code as to Small Claims actions.

RULE 2.01 CASE MANAGEMENT IN CIVIL CASES:

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.

(A) Scheduling: The scheduling of a case will begin when a civil case is filed and the Civil Division clerks shall perform the following steps:

(1) Issue summons in accordance with the Ohio Rules of Civil Procedure. In the event there is a failure of service, the Clerk shall immediately notify counsel. If counsel fails to obtain service of summons within six (6) months from the date the cause of action was filed, then the Clerk shall notify counsel that the case will be dismissed, without prejudice, in ten (10) days unless good cause is shown to the contrary.

(2) After any responsive pleading is filed, the Clerk shall immediately schedule the matter for a pretrial hearing and/or motion 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 filing party that the matter will be dismissed within ten (10) days unless good cause is shown to the contrary.

(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 their case will be dismissed unless the entry is received within ten (10) days.

(B) Motions: All motions must be in writing and accompanied by a written memorandum containing citations or the arguments of counsel. A proposed judgment entry for the Court's review and approval should also be submitted with the motion.

Opposing counsel shall file any response in opposition in writing, including citations to legal authorities and arguments within fourteen (14) days thereafter. All motions will be considered submitted at the end of said fourteen (14) day period unless the time is extended by the Court. There will be no oral hearings granted on said motions unless the Court deems it necessary.

No motion for summary judgment shall be filed in any case after it has been set for pretrial or trial without leave of Court as provided in Rule 56 of the Ohio Rules of Civil Procedure.

(C) Pretrials: For the purpose of this rule, “pretrial” shall mean a Court supervised conference chiefly designed to produce an amicable settlement and to establish a case management schedule. The term “party” or “parties” used hereinafter shall mean the party or parties to the action, and/or their attorney of record.

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

Notice of pretrial conferences shall be given to all parties or counsel of record by mail and/or by telephone from the assignment commissioner not less than fourteen (14) days prior to the conference. Pretrials will generally be set within thirty (30) days after all responsive pleading (i.e. answers, counter-claims, cross claims, Rule 12 motions, etc.) have been filed. Any application for continuance of the conference shall be addressed to the Judge.

Counsel attending the pretrial conference must have complete authority to stipulate on items of evidence and must have full authority to settle the case. The primary purpose of the pretrial shall be to achieve an amicable settlement of the controversy. In the pretrial conference, the parties and the Court will strive to narrow legal issues, reach stipulations as to facts in controversy and determine cut off dates for discovery, motions and other pretrial proceedings.

The Court may prepare a pretrial order reciting the action taken at the pretrial conference. The order, when filed, shall control subsequent proceedings in the case unless it is modified in order to prevent injustice to any one of the parties. At the pretrial the Court shall, if applicable, determine whether or not trial briefs should be submitted and shall fix a date when they are to be filed.

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

(D) Continuances: Attorneys must bring their calendars with them to all pretrial conferences; all matters set for hearing or trial at the pretrial will not be continued without approval of the Court.

No party shall be granted a continuance of a trial, pretrial or hearing without a written motion from the party or his counsel stating the reason for the continuance. Motions for continuance must also be accompanied with a judgment entry for the Court’s approval.

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 another court, counsel shall attach a copy of said assignment notice to the motion for continuance. The case which was set first 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 or a scheduled trial, hearing or pretrial is a matter within the discretion of the Trial Court.

(E) Judgment entries: Counsel for the party in whose favor an order of judgment entry is rendered shall prepare a journal entry, if requested to do so by the Court. That entry shall be submitted to opposing counsel within ten (10) days of the decision. Opposing counsel shall approve or reject the entry within ten (10) days of receipt. Within thirty (30) days of the decision, the journal entry shall be submitted to the Judge for approval and signature. If a journal entry is not submitted within the time period stated the Court may 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 after notice to the Court of settlement or the case may be dismissed for want of prosecution.

ALL JUDGMENT ENTRIES, INCLUDING SETTLEMENT ENTRIES SHALL STATE WHICH PARTY WILL PAY THE COURT COSTS.

RULE 2.02 LANDLORD/TENANT ACTIONS:

Ohio Revised Code Chapter 1923 shall govern landlord/tenant actions filed in this Court.

(A) The defendant shall be served a summons in accordance with O.R.C. Section 1923.06. The trial date will be set as close to fourteen (14) days from the date of filing as possible. The service of summons shall be at least five (5) days before the trial date. Return of summons shall be made as soon as practicable after filing of the complaint.

(B) Either party may demand a trial by jury in accordance with Section 1923.10 of the Ohio Revised Code. Said jury demand must be filed no later than three (3) days prior to the date set for trial. No continuances shall be granted longer than eight (8) days but for good cause and only in accordance with O.R.C. Section 1923.08. Plaintiff, and plaintiff's attorney if plaintiff is represented, are required to be present in Court at the time of trial or the case may be dismissed.

(C) If defendant fails to appear at the forcible entry and detainer (FED) hearing for possession of the premises, no default judgment on the first cause of action shall be ordered, unless testimony is taken from the plaintiff or witness having personal knowledge regarding the proper form and service of any statutorily required notices and regarding the grounds for the request for restitution of the premises.

(D) A copy of all notices required to be served upon tenants pursuant to Ohio Revised Code Chapters 5321, 5313, 3733, and 1923 or pursuant to federal regulations shall be attached to the complaint as well as any document required pursuant to Rule 10 (D) of the Ohio Rules of Civil Procedure.

(E) When a second cause of action in a FED has been filed alleging money damages, after the issue of possession of the premises has been determined, the case will be continued for defendant to answer within 28 days of service of the complaint. In cases where defendant files an answer, the case will be set for pretrial or motion hearing. If defendant failed to appear or otherwise defend, default judgment may be entered in accordance with these rules and the Ohio Rules of Civil Procedure.

(F) In FED cases based upon failure to pay rent where a counter-claim has been filed, the defendant shall be entitled to a single trial consolidating all claims in accordance with O.R.C. Section 1923.061. To initiate this procedure, defendant must first serve a counter-claim upon plaintiff and file same with the Clerk of Court before the trial date and shall deposit with the Clerk of Court all or part of the past due rent and rent becoming due during the pendency of the action, unless the Court waives the requirement for good cause. If the defendant complies, the case shall be continued no more than three (3) weeks for resolution of all issues between the parties.

(G) Rent escrow proceedings may be initiated pursuant to O.R.C. 5321.07 or 4781.42, by the filing of an application with the Court and depositing with the Clerk all rent money due to the tenant's landlord. The bailiff shall serve the landlord by personal or residence service in accordance with Rule 4.1 (2) or (3), Ohio Rules of Civil Procedure. A hearing shall be held within fourteen (14) days from the date of filing.

At the hearing the tenant must prove by a preponderance of the evidence that before filing the application for rent escrow:

1. Reasonable notice was given to the landlord;
2. The landlord violated a statutory or contractual duty justifying the action; and
3. The tenant was current in rent

(H) If the tenant fails to satisfy the burden of proof at a rent escrow hearing, the Court shall proceed in accordance with Section 5321.09 (C) or 4781.43 of the Ohio Revised Code in releasing to the landlord the rent on deposit, less costs.

RULE 2.03 DEFAULT JUDGMENTS:

In a civil case, when the Defendant is in default for appearance or answer, judgment shall be rendered in accordance with Rule 55(A) of the Ohio Rules of Civil Procedure.

(A) If the defendant has failed to plead or otherwise defend (having entered no appearance), the Court may grant a default judgment immediately upon written or oral motion in a case involving a liquidated claim, accompanied by an appropriate judgment entry.

(B) If the defendant has failed to plead or otherwise defend, the Court may grant a default judgment in the amount of the prayer if the action is for recovery of money only arising out of damages to personal property and if an affidavit with supporting documentation signed by a party with actual knowledge is filed verifying that the prayer of the complaint reflects a reasonable cost of repairing the property or its diminution in value, whichever is less.

(C) In forcible entry and detainer actions, if the defendant has failed to appear or otherwise defend on the second cause of action, default judgment may be entered upon an oral or written motion when judgment is based upon a liquidated claim and when the motion is accompanied by an affidavit with supporting documentation signed by a party with actual knowledge verifying the amount is accurate. A second cause of action claiming the unliquidated damages will be set for an assessment hearing.

(D) The party seeking relief by default judgment shall file with the motion an affidavit in compliance with the Servicemembers Civil Relief Act (SCRA). Failure to file the affidavit may render the judgment voidable as provided by federal law.

(E) If the defendant has entered an appearance in the action, in accordance with Civil Rule 55(A), a hearing shall be set on the application for the default judgment with defendant or defendant's representative being given at least fourteen (14) days notice before the hearing date.

(F) In a case seeking default judgment based upon a contract, account or note with a specified interest rate, interest shall accrue at the appropriate rate until date of judgment, when interest accrued will be added to the principal due. Upon date of judgment, interest will accrue at the statutory rate of interest as provided by O.R.C. 1343.03.

(G) A default judgment may only be vacated in accordance with rule 60 of the Ohio Rules of Civil Procedure.

RULE 2.04 COGNOVIT NOTE JUDGMENTS:

No judgment based upon a warrant of attorney to confess judgment against the defendant contained in any instrument executed after January 1, 1974 shall be rendered by the Court, unless the requirements of O.R.C. Sections 2323.13 have been met.

RULE 2.05 SATISFACTION OF JUDGMENT:

Satisfaction in whole or part, of any judgment shall be effected by filing an appropriate order or entry with the Clerk which has been approved by the plaintiff or judgment creditor, or his counsel. Payment of costs, unless otherwise excused by the Court for good cause shown, shall be required prior to any filing of an order or entry of satisfaction.

RULE 2.06 REVIVOR OF JUDGMENT:

All costs accrued in a case must be paid upon the filing of a motion to revive a judgment. Motions to revive judgment must be filed in writing and served upon the other party. A hearing shall be scheduled and notice given at least fourteen (14) days prior to the scheduled hearing date.

RULE 2.07 JURY TRIALS:

Jury trials will be conducted in accordance with the Ohio Rules of Civil Procedure, Defiance Municipal Court Jury Management Plan and the following local rules:

(A) In a civil case, other than forcible entry and detainer actions, either party may demand a trial by jury within the time specified by Rule 38 of the Ohio Rules of Civil Procedure by first filing a deposit with the Clerk of Court. Said jury demand and deposit must be filed fourteen (14) days prior to the date scheduled for trial. The failure of a party in a civil action to advance the security for jury costs as provided herein shall constitute a waiver of trial by jury.

(B) In forcible entry and detainer actions, a jury may be demanded as specified in O.R.C. Section 1923.10, and upon posting bond as specified in O.R.C. Section 1923.08.

(C) In any civil jury case, counsel for the plaintiff shall file a trial brief with the Clerk at least twenty (20) days before the date of trial. Copies of the trial brief shall be certified to all opposing counsel or parties unrepresented by counsel. Reply briefs shall be filed with the Clerk of Court at least ten (10) days before the date of trial with copies certified to all opposing counsel or unrepresented parties.

(D) Jurors for civil and criminal cases shall be chosen and summoned by the Clerk of Court provided by law.

(E) If there are not enough persons to constitute the required panel, the Court may order the panel filled from the bystanders, or from among the citizens from within the territorial jurisdiction of this court, or may order additional jurors from the Clerk of Court.

(F) The costs of a jury trial shall include the costs for jurors. The party demanding a jury shall be required to pay the jury deposit within fourteen (14) days after receipt of trial date and shall be charged for calling off the jury, regardless of the service of the jurors on a case, unless a jury demand is withdrawn by a party at least fourteen (14) days in advance of the scheduled trial.

RULE 2.08 WITNESSES AND SUBPOENAS:

It is the responsibility of counsel to ascertain the availability of witnesses and to arrange to have them available when their respective case is called.

(A) Counsel shall instruct witnesses to check in at the Civil Division Office upon arrival in order to verify their attendance and in order to be entitled to any witness fees.

(B) The Clerk of Court, shall process requests for subpoenas from a praecipe or written instruction, filed at least five (5) business days in advance of the trial, unless otherwise allowed by the Court. Subpoenas shall be served as provided in Rule 45(B) of the Ohio Rules of Civil Procedure.

Service of subpoenas to members of law enforcement agencies shall be by delivery from the Clerk's office to the command officer of the law enforcement agency. The command officer shall make service and return in an appropriate manner.

RULE 2.09 WARRANT REQUESTS:

Any warrant requested in a Civil action must be made by way of a praecipe and include the wanted person's social security number and date of birth and must include the appropriate fee per the cost schedule in Appendix A. Should the service fees exceed the processing fee, the party requesting the warrant will be billed for those amounts.

RULE 2.10 INVOLUNTARY DISMISSALS OF ACTIONS:

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

RULE 2.11 FINDINGS OF FACT AND CONCLUSION OF LAW:

Parties requesting findings of fact and conclusions of law shall submit concurrently with their request proposed findings of fact and conclusions of law.

RULE 2.12 MEDIATION:

Upon order of the Court, a matter filed in this Court may be submitted to mediation as provided in this Rule. The Court may issue the order on its own motion, upon the motion of counsel, upon referral by the mediator or upon agreement of the parties. A case may also be referred to mediation by random selection.

(A) Definitions: All definitions found in the "Uniform Mediation Act" (UMA) Ohio Revised Code 2710.01 are adopted by this court through this local rule including, but not limited to the following:

"Mediation" means any process in which a mediator facilitates communication and negotiation between the parties to assist them in reaching a voluntary agreement regarding their dispute. "Mediator" means an individual who conducts a mediation. "Mediation Communication" means a statement, whether oral, in a record, verbal, or non-verbal, that occurs during a mediation or is made for purposes of considering, conducting, participating in, initiating, continuing, or reconvening a mediation or retaining a mediator.

"Proceeding" means either of the following: Judicial, administrative, arbitral or other adjudicative process, including related pre-hearing and post-hearing motions, conferences, and discovery or a legislative hearing or similar process.

(B) Procedures: All remaining court orders shall remain in effect. No order is stayed or suspended during the mediation process. Continuances of scheduled mediations shall be granted only for good cause shown and by the Mediation Coordinator or the Judge or Magistrate who referred the case. Except as authorized by the Court, the existence of pending motions shall not be good cause for a

continuance and no continuance will be granted unless the mediation can be scheduled prior to the final pretrial.

Pursuant and subject to the provisions of the "Uniform Mediation Act" (UMA) Ohio Revised Code 2710.01 to 2710.10, the Rules of Evidence, and any other pertinent judicial rule, all communications related to the mediation or made during the mediation process shall be governed by the privileges as set forth in the "Uniform Mediation Act" (UMA). Upon written agreement, all communications may be confidential. The Mediator shall inform the Court who attended and whether the case settled. If the case has not settled, then the Mediator shall inform the Court whether the case is scheduled for further mediation or is returned to the Court for further proceedings. No other information shall be communicated by the Mediator to the Court. A Mediator acting pursuant to this Local Rule shall have all immunity conferred by statute, rule, and common law. The efforts of the Mediator shall not be construed as giving legal advice. In accordance with R.C. 2710.08(A) and (B), the Mediator assigned by the Court to conduct a mediation shall disclose to the mediation parties, counsel, if applicable, and any nonparty participants any known possible conflicts that may affect the Mediator's impartiality as soon as such conflict(s) become known to the Mediator. If counsel or a mediation party requests that the assigned Mediator withdraw because of the facts so disclosed, the assigned Mediator should withdraw and request that the assigned Judge or Magistrate appoint another Mediator. The parties shall be free to retain the mediator by an informed, written waiver of the conflict of interest(s). All parties shall attend the mediation sessions unless previously excused. Further, at the parties' choice, and pursuant to the UMA, all parties may have their attorney and/or other support person or persons attend the mediation session. The mediator however, shall have the right not to conduct the mediation session if a party insists upon bringing a person to the session that the mediator believes is inappropriate or would harm the process.

The Mediator shall also have the right to require the attendance of the attorneys at the session if he/she determines it is appropriate and necessary for the process.

Attorneys may, at their option, or must if required on a specific case by the Mediator, submit a mediation memorandum which shall contain the elements of each claim asserted by the party filing the mediation memorandum, a brief statement of the facts supporting the claims(s), a statement of admitted or undisputed facts, a statement of remaining issues of facts to be tried, any amendments required to the pleadings, any tender of issues in the pleadings that are to be abandoned, or a proposal for settlement of the claim(s). This proposal may be submitted in camera.

Mediation memoranda may be submitted in confidence or exchanged by counsel at their preference. However, any attorney who submits a Mediation Memorandum in confidence shall advise the opposing counsel it is their intention to file it in confidence. Any mediation memorandum submitted under this Rule shall be provided to the Mediator at least five (5) working days prior to the mediation session.

RULE 2.13 SMALL CLAIMS:

Small Claims Court proceedings shall be conducted in accordance with ORC Chapter 1925 and the guidelines specified herein.

(A) In all unliquidated damage claims where defendant appears personally or through counsel or files an answer, the case will be assigned to the Small Claims Court trial docket without further deposit of costs. Any written document received from the defendant before the hearing will be considered to be an answer and is to be considered as such in any application for default judgment.

(B) In all unliquidated damage claims in which the defendant has failed to appear or answer, the plaintiff shall have judgment in the same manner as provided in these local rules for the granting of a default judgment, regarding supporting documentation verified by affidavit or sworn testimony of the plaintiff.

(C) Once a hearing has been set, motions for continuance must be received in writing. Said motions should be filed at least five (5) days prior to the hearing unless otherwise approved by the Court.

(D) The Ohio Rules of Evidence do not apply to Small Claims Court proceedings, but certain rules of civil procedure do apply (see Ohio Revised Code Section 1925.16). No depositions or interrogatories shall be taken in small claims cases and all relevant evidence shall be admitted at the discretion of the Judge.

(E) At any hearing in Small Claims Court the parties are each responsible for providing the original and two copies (or adequate copies for all parties involved) of any exhibits which they plan to introduce.

(F) Plaintiff may file garnishments and other legal process/executions in order to enforce/collect any judgment received in Small Claims Court.

(G) A corporation which is a real party in interest in any action in Small Claims Court may commence an action and appear through an attorney at law. A corporation may, through any bona fide officer or salaried employee, file and present its claim or defense in any action arising from a claim based on a contract to which the corporation is an original party or any other claim to which the corporation is an original claimant, provided such corporation does not, in the absence of representation by an attorney at law, engage in cross-examination, argument, or other acts of advocacy.

(H) Transfer to Civil Docket: Motions to transfer the case to the regular civil docket filed by any party or cross-claims or counter-claims in the amount of \$3,000.00 or more will be referred to the Judge for ruling. In cases where motions to transfer a Small Claims Court case to the regular civil docket is granted, the party seeking the transfer shall pay the appropriate filing fee to the Clerk with the motion to transfer, along with the appropriate judgment entry. Failure to pay the fee will cause the motion to transfer to be denied.

RULE 2.14 MUNICIPAL COURT TRUSTEESHIPS:

The following rules and procedures are promulgated pursuant to O.R.C. Section 2329.70 and will apply to all trusteeships filed after the effective date of these rules:

(A) Upon the filing of the trusteeship, the debtor is required to provide the Court with a payroll check stub or payroll statement of earnings. No payment will be accepted from a debtor without a payroll check stub or payroll statement of earnings.

(B) Debtor's payments must be made either in cash, by personal check, bank draft or money order.

(C) Individuals with active trusteeship accounts must notify the Trustee clerk within five (5) business days of any change in work status, job or personal address. Income and employment verification shall be required to be provided every six (6) months.

(D) A trusteeship account will be automatically cancelled if there has been no payment received or no change in work status reported within thirty (30) days of the last recorded payment.

(E) Debtors must make a minimum payment of \$25.00 each month.

(F) Interest must be paid outside of the trusteeship on any interest bearing account listed on the trusteeship account.

(G) The only creditors which may be added to existing trusteeship accounts shall be those which were past due and owed by the debtor at the time of filing the trusteeship but were not listed due to mistake, and any medical bills acquired by the debtor before or after the filing of the trusteeship.

(H) A charge of \$3.00 per creditor will be assessed for each creditor added to the trusteeship account.

RULE 2.14 LICENSE SUSPENSION APPEALS:

All appeals filed in the Municipal Court from suspensions imposed by the Bureau of Motor Vehicles shall contain the following information:

- 1.) Copy of BMV suspension notice
- 2.) Petitioner's date of birth
- 3.) Last four (4) digits of Petitioner's Social Security Number
- 4.) Driver's License Number

Appeals from Twelve (12) Point Suspensions will be set for pretrial conference.

Appeals from Administrative License Suspension will be set for hearing in accordance with the law.

RULES GOVERNING CRIMINAL CASES:

RULE 3.01 APPEARANCE OF DEFENDANTS IN CRIMINAL CASES:

(A) Defendants in criminal cases shall be required to appear before the Court by notice to appear, summons, arrest or continuance from a former court date. Defendants must appear for arraignment and no waiver of arraignment shall be allowed unless made by defendant or legal counsel in person or in writing prior to the arraignment date, or upon express oral approval of the Judge.

If a waiver of arraignment is made in writing it must be accompanied by a plea to the offense charged, a statement that the defendant waives his/her right to personally appear for the purposes of arraignment, a statement that defendant has been advised as to his/her rights and the possible penalties of any conviction for the offense charged accompanied by a waiver of any applicable time requirements.

If a waiver to personally appear for arraignment has been orally approved by the Judge, a written waiver, containing the information specified in the preceding paragraph, together with a plea to the charge and a time waiver must be filed within five (5) days or defendant will be summoned to appear for arraignment.

(B) Service shall be made in accordance with the applicable Rules of Criminal Procedure and Traffic Rules.

RULE 3.02 CRIMINAL & TRAFFIC COURT COSTS:

The court costs in all criminal and traffic cases shall be set forth in Appendix A.

RULE 3.03 BENCH WARRANTS:

The Court may issue bench warrants pursuant to Rule 4, Ohio Rules of Criminal Procedure in accordance with the following guidelines:

(A) Defendants who fail to appear in court for the first time (initial arraignment) who have been properly notified to appear for arraignment by means of citation or summons and for whom there is a mandatory court appearance may have bench warrants issued against them by the Court.

(B) In those minor misdemeanor cases where defendants do not have a mandatory court appearance and fail to pay the fine and costs or to appear, bench warrant may be issued, with appropriate fees assessed. Further, pursuant to O.R.C. 2935.27(d) in minor misdemeanor traffic cases, the Court in addition to issuing a bench warrant or in lieu thereof, may declare a forfeiture of defendant's operator's license for failure to pay fine/costs or appear.

(C) In the case of bailed persons who fail to appear, the Court may issue a bench warrant and order forfeiture proceedings to commence regarding the bond posted.

(D) In cases where the defendant has failed to appear at the end of a stay of jail sentence, the Judge shall order the sentence enforced and further, that a bench warrant be issued for the arrest of the defendant.

(E) Where the Court has issued a bench warrant for the arrest of a person who has previously failed to answer a notice to appear, citation, or summons, or where the Court has issued a bench warrant upon the failure of a person to appear in accordance with bail release conditions, upon the apprehension or appearance of defendant upon the warrant, the case shall be brought before the next session of the Court whether or not the defendant is re-released on bond.

(F) In cases of defendants given a notice to appear, citation or summons to court, who have been previously notified in accordance with Rule 3.01, an arrest warrant shall issue, subject to proof of service.

RULE 3.04: MINOR MISDEMEANOR APPEARANCE AND WAIVER PROCEDURE:

(A) Pursuant to Criminal Rule 4.01 a Violations Bureau for the disposition of minor misdemeanor offenses other than traffic is hereby established. A person charged with a minor misdemeanor offense or such other misdemeanor offense as from time to time may be specifically included in this procedure by administrative order of the Court, may, in lieu of appearance in court and within the time specified in the citation, appear personally at the Clerk's office or by mail, sign a waiver of trial, plead guilty in writing, and pay the stated fine and costs established by administrative order of the Court. Payments received under the Traffic Violations Bureau are considered pleas of guilty to the ticketed offense.

(B) NOT GUILTY PLEA IN MINOR MISDEMEANOR CASES: If the defendant enters a not guilty plea to a minor misdemeanor traffic and/or criminal offense and it is not a companion offense to a higher degree misdemeanor and/or felony charge, then the matter will be scheduled for a pretrial or a trial to the Court within the time specified in the Ohio Rules of Criminal Procedure unless the time limitation is waived by the defendant.

RULE 3.05 : TRAFFIC VIOLATIONS BUREAU:

Pursuant to Ohio Traffic Rule (OTR) 13, a Traffic Violations Bureau is hereby established. A person [but not an organization as defined in section 2901.01(d) of the Ohio Revised Code] charged with a traffic violation waivable under OTR 13, or under administrative order of the Court, may in lieu of appearance in court, and within the time specified in the citation, appear personally at the Clerk's Office or by mail and sign a waiver of appearance, plead guilty in writing and pay the stated fine and costs as established by administrative order of the Court.

RULE 3.06 DOCUMENTS FILED WITH THE COURT:

In all issued traffic citations, the affidavit shall be filed within forty-eight (48) hours of the offense. The citing officer shall verify defendant's correct address and telephone number on the citation.

RULE 3.07 CASE MANAGEMENT IN CRIMINAL/TRAFFIC CASES:

The purpose of this rule is to establish a system for criminal case management which 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 criminal justice system.

(A) ARRAIGNMENTS: All criminal and/or traffic cases will be arraigned in accordance with the Ohio Rules of Criminal/Traffic Procedure and Local Rule 3.01(a). No plea or appearance will be accepted by telephone.

(B) PRETRIALS: At arraignment or upon the filing of a written plea of not guilty, all first and second degree misdemeanors shall be set for a pretrial conference by the assignment commissioner; all other misdemeanors shall be set for trial unless the Judge orders a pretrial, or defendant requests that a pretrial be scheduled in his/her respective case. When possible, said pretrials are to be scheduled within thirty (30) days after arraignment or at the Court's earliest convenience.

The pretrial shall be conducted in accordance with Criminal Rule 17.1 and a memorandum of the matters agreed upon may be filed in said case by the Law Department and/or prosecutor.

The respective parties are to exchange discovery and file any pretrial motions within the time specified by the Court prior to the pretrial conference. Defense counsel will bring with them to the pretrial their court calendars and information concerning any dates when their client/witnesses will not be available for motion hearing and/or trial.

Prosecutors shall bring with them to the pretrial the vacation and/or court schedule of their arresting agencies and should have available for review/discussion witness statements and log books.

At the conclusion of each Court ordered pretrial, the matter will be scheduled for either a motion hearing or trial. Nothing in this rule shall be construed to prevent defense counsel and/or the prosecutor to conduct informal pretrials as their respective schedules may allow prior to hearing and/or trial date.

Any attorney who fails to appear for pretrial without just cause being shown to the Court may be punished for contempt. If the defendant should fail to appear for pretrial and his/her absence cannot reasonably be explained by his/her respective counsel, a warrant will be ordered for said defendant's arrest.

At the conclusion of the pretrial, cases will be set for trial to the Court unless a jury trial is demanded in accordance with Rule 23 of the Ohio Rules of Criminal Procedure or unless a motion hearing has been requested.

(C) MOTIONS: All motions shall be made in writing and accompanied by a written memorandum containing the arguments of counsel. Motions must be filed within the time limits established by the Ohio Rules of Criminal Procedure.

Time within which a hearing or trial must be held shall be pursuant to Revised Code Sections 2945.71 and 2945.72.

(D) CONTINUANCES: Attorneys shall bring their calendars/appointment books with them to the pretrial conference. Any case set for a motion hearing or plea hearing or trial at the pretrial shall not be continued except upon motion with supporting memorandum, to be determined by the Court. 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 another trial court, counsel shall attach a copy of said assignment notice to the motion for continuance. The case which was set first for trial shall have priority and shall be tried on the date assigned. Criminal cases will have priority over civil cases and felonies have priority over misdemeanors.

Written motions and accompanying judgment entries must be filed within five (5) days after any oral requests for a new date.

An arraignment may be continued for no longer than one (1) week. Continuances of longer than one (1) week must be approved by the Judge. Continuances of arraignments may be made by telephone. There will be a fee assessed for a continuance (see appendix A).

RULE 3.08 TRIALS:

(A) TRIALS TO THE COURT: Each case not resolved at the pretrial and not scheduled for a motion hearing shall be set for a trial to the Court, unless a jury trial has been demanded in accordance with Rule 23 of the Ohio Rules of Criminal Procedure.

(B) JURY TRIALS: A Criminal and/or traffic defendant charged with other than a minor misdemeanor is entitled to a jury trial of eight (8) pursuant to Rule 23 (A) of the Ohio Rules of Criminal Procedure. Except as otherwise provided herein, a defendant shall be tried to the Court unless a jury demand has been filed with the Court.

A jury trial will be automatically scheduled in cases in which it is alleged that the defendant has violated a statute or ordinance prohibiting the operation of a vehicle while under the influence of alcohol or drugs of abuse and it is alleged to be a third or more such violation within the last five (5) years. The defendant must file a timely written waiver of this right to a trial by jury in these cases.

A written waiver of jury demand is required in all other cases wherein a written jury demand has been filed. Said waiver must be filed at least ten (10) days prior to scheduled trial date, or prior to the entrance of any plea or commencement of any trial to the court.

The written waiver of the jury trial must state whether the case is to be set for a plea hearing or a trial to the Court. An appropriate judgment entry should also be submitted to the Court for its approval.

Counsel for the respective parties should confirm the plea hearing date or trial to the Court date with the court assignment commissioner.

In any case in which a jury trial is demanded and the trial date scheduled, the attorneys must notify the Court at least fourteen (14) days prior to the day scheduled for trial of any change in plea or waiver of the jury or jury costs will be assessed against the case. The assessment for calling off the jury after jurors have been summoned is \$70.00 plus the \$30.00 juror fee for each respective juror whom the Clerk is unable to reach prior to the scheduled time of trial.

RULE 3.09 WITNESSES AND SUBPOENAS:

It is the responsibility of counsel to ascertain the availability of witnesses and to arrange to have them available when their respective case is called.

(A) Counsel shall instruct witnesses to check in at the Clerk's office upon arrival in order to verify their attendance and in order to be entitled to any witness fees.

(B) The Clerk of Court, Criminal Division, shall process subpoenas from a praecipe or written instructions, filed at least five (5) business days in advance of the trial, unless otherwise allowed by the Court. Subpoenas shall be served as provided in Rule 17 (D) of the Ohio Rules of Criminal Procedure.

Service of subpoenas to members of law enforcement agencies shall be by delivery from the Clerk's office to the command officer of the law enforcement agency. The command officer shall make service and return in an appropriate manner.

RULE 3.10 PROBATION FEES AND COSTS:

Effective February 1, 1998 there shall be assessed an additional court cost on all cases in which probation is ordered for the individual involved.

Each probationer shall be assessed a monthly fee as set forth in Appendix A, payable immediately upon signing for probation and each month thereafter.

All funds generated shall be held by the Clerk of Court for the Defiance County Municipal Court; shall be forwarded to the Defiance County Municipal Court Probation Services Fund; and shall be used only for probation services as Ordered by the Court pursuant to Section 737.41 of the Ohio Revised Code.

RULE 3.11 ON LINE PAYMENTS:

The Clerk is authorized to accept online payments on any minor misdemeanor and/or waiverable traffic offense.

RULE 3.12 ELECTRONICALLY PRODUCED TRAFFIC TICKETS:

The use and filing of a ticket that is produced by a computer or other electronic means is hereby authorized in the Defiance Municipal Court. The electronically produced ticket shall conform in all substantive respects to the Ohio Uniform Traffic Ticket. If an electronically produced ticket is issued, the issuing officer shall provide the defendant with a paper copy of the ticket. The ticket paper shall be of sufficient quality to allow the court record portion of the citation to remain unchanged for the period of the retention schedule for the various traffic offenses as prescribed by Supreme Court Rule 26.05.

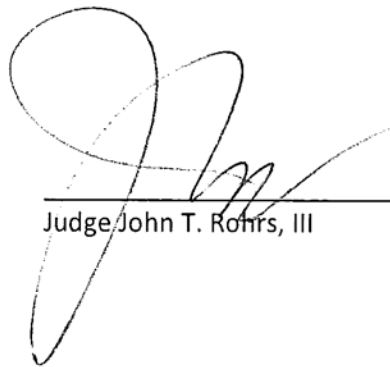
RULE 3.13 O.V.I. SPECIAL PROJECTS FUND:

It being determined that, for the efficient operation of the Court, effective October 1, 2008 and pursuant to Senate Bill 17, there is hereby established an OVI – Special Projects Fund.

All monies so collected shall be paid monthly by the Municipal Court Clerk to the City Finance Director for deposit into the OVI – Special Projects Fund.

Expenditures from the fund shall be by an order of the Defiance Municipal Court and are to be used exclusively for the purpose of funding immobilizing devices, disabling devices, including ignition interlock devices, and remote alcohol monitoring devices for offenders determined by the court to be indigent and are required by the judge to use these devices.

The foregoing rules of the Defiance Municipal Court shall become effective January 1, 2016.



Judge John T. Rohrs, III

FILED
DEFIANCE MUNICIPAL CT
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JULIE A. HIZEMERDEN
CLERK

NOTE: Proposed local rules were submitted for comment on October 22, 2015.

Appendix A:

Fees in the Civil Division are as follows:

1. Complaint for money only, including third party complaints, cross-claims and counter-claims involving new parties, but excluding cognovit complaints	\$ 85.00
a. Each additional defendant	\$ 7.00
2. Complaint for money, cognovit action	\$ 85.00
a. Each additional defendant	\$ 7.00
3. Amended complaints	\$ 8.50
a. Each additional defendant	\$ 7.00
4. Small Claims Division	
a. Original complaint for money only	\$ 64.00
b. Each additional defendant	\$ 7.00
c. Amended Complaint	\$ 8.50
(i) Each additional defendant	\$ 7.00
d. Filing of cross-claim or counter claim	\$ 64.00
e. Transfer from Small Claims docket to Civil docket	\$ 85.00
5. Forcible entry and detainer actions	
a. Eviction cause only	\$ 95.00
b. Eviction cause with second cause for rent and/or damages	\$105.00
6. Complaint for replevin	\$105.00
7. Landlord/Tenant	\$1% of Rent deposited
8. All other complaints/petitions	\$ 81.00
9. Application for court trusteeship	\$ 60.00
a. Adding creditor to trusteeship (per creditor added)	\$ 3.00
10. Petition/motion to revive judgment	\$ 20.00
11. Motion to vacate judgment	\$ 10.00
12. Certificates of Judgment	
a. Filing and docket certificate from another Court	\$ 25.00
b. Issuance from this Court	\$ 5.00
c. Release certificate of judgment	\$ 5.00
13. Exemplifications of judgment	\$ 5.00
14. Post judgment proceedings	
a. Proceedings in aid of execution	\$ 20.00

b. Garnishments: (all fees are non-refundable)	
i. Wage garnishment filing fee	\$ 70.00
ii. Non-wage garnishment filing fee	\$ 30.00
iii. Fee for garnishee (under separate check)	\$ 1.00
c. Execution of judgment/attachments of property	\$ 30.00
d. Motion to show cause	\$ 10.00
e. Financial statement (small claims)	\$ 10.00
f. Release garnishment	\$ 5.00
15. Subpoena	\$ 15.00
16. Jury deposit	\$500.00
17. Service of process	
a. Certified mail	\$ 8.00
b. U.S. ordinary mail, certificate of mailing	\$ 5.00
c. Residential/personal service (bailiff)	\$ 15.00
d. By sheriff or foreign county	\$ 15.00
e. Publication	\$ actual cost
18. Appraisal fee (attachment/replevin cases)	\$ actual cost

CRIMINAL COURT COSTS: The basic court costs in all criminal, quasi-criminal and traffic cases shall be as follows:

19. Moving violations	\$ 85.00
(\$16.00 local costs, \$10.00 computer fund, \$20.00 special projects fund & \$39.00 state costs)	
20. Non-moving violations (seat belt, parking & pedestrian violations)	\$ 56.00
(\$16.00 local costs, \$10.00 computer fund, \$20.00 special projects fund & \$10.00 state costs)	
21. Criminal cases	\$ 75.00
(\$16.00 local costs, \$10.00 computer fund, \$20.00 special projects fund & \$29.00 state costs)	
22. Probation violations	\$ 23.00
23. Companion/subsequent charges	\$ 30.00
(Special project fee allowed per O.R.C. 1901.26(B)(1) and Court Computerization/Improvement Fee allowed per O.R.C. 1901.261(B)(1))	
24. MOTIONS:	
a. Motion for modification of sentence	\$ 15.00
b. Motion for early release	\$ 15.00
c. Modification of license suspension (including petitions for limited driving privileges; petitions to terminate suspension)	
** for appeals of administrative license suspensions please see costs for civil cases	\$ 15.00
d. All other petitions/motions	\$ 15.00

25. Continuances:	
a. Arraignment	\$ 2.00
26. Public Defender Application Fee/State Fee	\$ 25.00
27. Bonds:	
a. General unsecured appearance bonds & written personal recognizance	\$ 2.50
b. Property bonds	\$ 10.00
28. Bond surcharge/State Fee (per ORC 2937.22)	\$ 25.00
29. No contact orders	\$ 2.50
30. Temporary protection orders	\$ 2.50
31. Waiver of extradition	\$ 2.50
32. Jury fees:	
a. Summoning jurors in for trial	\$ 30.00
b. Calling off jury trial after summons has been issued to prospective jurors (plus \$30.00 per juror whom the Court is unable to reach prior to the time scheduled for trial)	\$ 70.00
33. Witness fees:	
a. Requests for subpoenas (plus service fees)	\$ 5.00
b. Fee paid to witness for appearing (plus mileage)	\$ 6.00 half day \$ 12.00 full day
34. Plea agreements/hearings	\$ 2.00
35. Occupational driving privileges	
a. Occupational Driving Permits	\$ 10.00
b. Revised or subsequent cards to drive	\$ 5.00
c. Restricted/Family Plate Application	\$ 2.00
d. Ignition Interlock Fee (\$2.50 State Fee + \$2.50 Local Fee)	\$ 5.00
e. Immobilization Waiver Fee	\$ 50.00
36. Payment agreements	\$ 10.00
37. Summons to appear (plus costs of service)	\$ 5.00
38. Letters and written notices	\$ 5.00
39. Late Fee	\$ 10.00

40. Program fees	
a. Reporting Probation	\$30.00/month
b. Initial order for participation in alcohol/drug rehabilitation programs; work release programs; diversion programs; community service programs; AIP/DIP	\$ 10.00
c. Rescheduling or modification of any of the above	\$ 10.00
d. Modification of jail commitment	
- Change date/time of reporting to jail	
- Grant of work release	
- Furlough requests	
FEE PAYABLE AT TIME MOFICIATION REQUESTED	\$ 10.00
41. Expungements/record sealing	\$ 50.00
a. Fee for investigation and records check	\$ 20.00
b. Certified mail fee (per piece)	\$ 8.00
42. Post-sentence modifications of operator's license suspension(s) to Bureau of Motor Vehicles	\$ 15.00
43. Non-resident violator compact notices; Ohio operator's license forfeiture notice; license cancellation	\$ 15.00
44. Request and journal entry authorizing Bureau of Motor Vehicles to renew or retest defendant's driver's license	\$ 5.00
45. Bindovers to Common Pleas Court	\$ 48.00

MISCELLANEOUS COSTS AND CHARGES

All other fees and costs to be taxed in any action or proceeding in this Court not specifically provided for by law pertaining to municipal courts or by administrative order or rule of this Court shall be the same as those set out in the Ohio Revised Code for similar services in Courts of Common Pleas.

The following items shall be assessed in all cases, civil and criminal:

46. Copies:	1 to 19 sheets	\$ no charge
	20 sheets	\$ 1.00
	20 + sheets	\$.05 per sheet
47. Certification of court entry/papers		\$ 2.00
48. Supplemental summons:		
a. Certified mail		\$ 8.00
b. U.S. ordinary mail, certificate of mailing		\$ 5.00
c. Personal service		\$ 15.00
d. Publication		\$ actual cost
49. Capiases and warrants, each (plus costs of service)		\$ 20.00

50. Appeals:	
a. Deposit for the Clerk of Court of Appeals	\$ 100.00
b. Preparing file for appeal	\$ 40.00
c. Transcripts for appeal prepared by court reporter or reporting agency (plus amount charged by court reporter/agency)	\$ 10.00
51. Obtaining closed/stored files; record checks	\$ no charge
52. Certification of case to Common Pleas Court:	
a. base charge to prepare file	\$ 2.50
b. copy of each page of case file	\$.05 per page
53. Credit news per report/Criminal data extract	\$ 15.00
54. Returned check fee/credit card chargeback	\$ 25.00
55. Copy of Court proceeding on tape or CD	\$20.00/tape/CD

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 JULIE A. FITZGERALD
 CLERK

Appendix B

DEFIANCE MUNICIPAL COURT JURY MANAGEMENT PLAN

INTRODUCTION:

This local Rule of Practice is being implemented in compliance with Municipal Court Superintendence Rule 18(C), which requires that each municipal 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 Defiance Municipal Court.

JURY ELIGIBILITY:

To insure that the jury pool is representative of the adult population of Defiance County, Ohio, all persons 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 Defiance County;
3. Persons who are not citizens of the United States;
4. Persons who are not able to communicate in the English language; and
5. Persons who have been convicted of a felony and have not had their civil rights restored.

The opportunity for jury service shall not be denied nor limited on the basis of race, national origin, gender, age, religious belief, income, occupation, disability, or any other factor that discriminates against a cognizable group in the jurisdiction.

Jury service is a legal obligation of all qualified citizens of Defiance County, Ohio.

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

PROCEDURE FOR JURY SELECTION:

Jury Source List:

Pursuant to Court Order, the jury source list shall be obtained from the list of registered voters from the Board of Elections (and/or in combination with a list from the Bureau of Motor Vehicles of licensed drivers). The Court shall designate a key number based on the total number of registered names and the number of the jurors needed for a year of service. (Example, every 8th name.) The Jury Commissioners shall then receive printed address labels for those names chosen by the computer.

The jury source list shall be representative and should be as inclusive of the adult population in the jurisdiction as is feasible.

Should the Court determine that improvement is needed and necessary to assure representativeness and/or inclusiveness of the jury source list, then the Court shall exercise its discretion and take such appropriate corrective measures as it shall deem proper.

Random Selection Procedures:

The jury source list from the Board of Elections shall be cut into individual names/addresses and placed into a jury wheel. Names shall then be pulled at random during a public jury drawing for each term, or as otherwise provided in the Revised Code. The names shall be placed in the order drawn on lists as follows: Grand Jury, 20 names; Petit Jury, 120 names; Municipal Court, 200 names.

Departures from the principle of random selections deemed appropriate only when they are also found to be necessary to comply with lawful exceptions.

Term of Service:

The Defiance County Municipal Court's term of service are as follows: First term, January 1 to April 30; second term, May 1 to August 31; third term September 1 to December 31.

Jurors shall be "on call" for the term for which his or her name was selected. He or she shall not be required to report each day of such term. Instead the Sheriff shall notify each juror of the specific date and time he or she shall be required to report to the Court for such service, by post card mailed, through regular mail, approximately one week to ten days in advance of the specific trial to which he or she has been summoned for service. Between 25 to 35 jurors shall be called for each trial, such number to be determined by the Court. Once called, each juror's name shall be rotated to the end of the jury list maintained by the Clerk.

SUMMONING OF PROSPECTIVE JURORS:

The notice of summoning a person to jury service and the questionnaire eliciting essential information regarding that person should be:

1. Phrased so as to be readily understood by an individual unfamiliar with the legal and jury systems; and
2. Delivered by ordinary mail.

A summons should clearly explain how and when the recipient must respond and the consequences of a failure to respond.

The jury questionnaire should be phrased and organized so as to facilitate quick and accurate screening and should request only that information essential for:

1. Determining whether a person meets the criteria for eligibility;
2. Providing a basic background information ordinarily sought during *voir dire* examination; and
3. Efficiently managing the jury system.

Policies and procedures should be established for monitoring failures to respond to a summons and for enforcing a summons to report for service.

Jurors who fail to report for jury service may be scheduled for a contempt hearing to inform the Judge as to the reasons why he or she did not appear. Sanctions shall be imposed as warranted; and

ordinarily they shall be fined, with imposition of incarceration to be reserved only for the most egregious of circumstances.

Questionnaires completed by potential jurors shall be destroyed after the term of service has been completed.

In the event the trial is settled prior to the jurors arriving at the courthouse, the Court staff or Sheriff shall attempt to contact the jurors to notify them of the status of the case.

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 upon 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 at a later time. All requests for excuse, exemption or deferral must be made on the form provided (see Appendix C), and shall be accompanied by appropriate documentation. These documents shall be retained by the Court.

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

- 1) Over age 70 with request to be excused;
- 2) Personal/family illness;
- 3) Physician;
- 4) Fire fighter;
- 5) Lawyer;
- 6) Dentist;
- 7) Full time student;
- 8) Member of the Ohio National Guard or other branches of military service; and
- 9) A prospective juror may petition the Court for exemption or deferral for the following reasons:
 - a) Vacation;
 - b) Child care;
 - c) Financial; or
 - d) Employment hardships.

No person shall be excused from jury service, except by the Judge or an individual specifically authorized to excuse jurors. No person who does not complete the jury excuse deferral or exemption form shall be excused from service. 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 examination shall be limited to matters relevant to determining whether to remove a juror for cause, and to determine the juror's fairness and impartiality.

To reduce the time required for *voir dire*, basic background information regarding panel members should be made available to counsel in writing for each party on the day on which jury selection is to begin, or within two days of trial.

The trial Judge shall conduct a preliminary *voir dire* examination. Counsel shall then be permitted to question panel members for a reasonable period of time.

The Judge should ensure that the privacy of prospective jurors is protected, and that the questioning is consistent with the purpose of the *voir dire* process.

In criminal cases, the *voir dire* process shall be held on the record. In civil cases, the *voir dire* process SHALL be on the record unless waived by the parties.

Rules on Voir Dire:

- 1) The case may not be argued in any way while questioning the prospective jurors.
- 2) Counsel may not engage in efforts to indoctrinate jurors.
- 3) Jurors may not be questioned concerning anticipated instructions or theories of law. This rule, however, shall not prevent general questions concerning the validity and philosophy of reasonable doubt, or the presumption of innocence.
- 4) Excepting only representations concerning the relevant burdens of proof, JURORS MAY NOT BE ASKED WHAT KIND OF VERDICT THEY MIGHT RETURN UNDER ANY CIRCUMSTANCES.
- 5) Questions are to be asked collectively of the entire panel whenever possible.

Removal From the Jury Panel for Cause:

If the Judge determines during the *voir dire* process that any individual is unable or unwilling to hear the particular case at issue fairly and impartially, that individual shall be removed from the panel. Such a determination may be made on motion of counsel, or by the Judge.

Peremptory Challenges:

Rules determining procedure for exercising peremptory challenges shall be in accordance with the Ohio Civil and Criminal Rules adopted by the Supreme Court of Ohio, and applicable statutory authority.

JURY ORIENTATION:

Juror Use:

The Court shall employ the services of prospective jurors so as to achieve optimum use with a minimum of inconvenience to jurors.

The Court shall determine the minimally sufficient number of jurors needed to accommodate trial activity. This information and appropriate management techniques should be used to adjust both the number of individuals summoned for jury duty and the number assigned to jury panels.

Juror Orientation and Instruction:

The Court shall give information regarding jury service to all prospective jurors in any combination of written or oral instructions.

The jury commissioners shall provide information to prospective jurors on the phone or in person, and provide written jury instruction pamphlets in the jury room.

The Trial Judge should:

- 1) Give preliminary instructions to all prospective jurors at time of trial;
- 2) Give instructions directly following empanelment of the jury to explain the jury's role, the trial procedures, 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 method for reporting the results of its deliberations; such instructions may be made available to the jurors during deliberations;
- 4) Prepare and deliver instructions which are readily understood by individuals unfamiliar with the legal system; and
- 5.) Before dismissing a jury at the conclusion of a case:
 - a) Release the jurors from their duty of confidentiality;
 - b) Explain their rights regarding inquiries from counsel or press;
 - c) Either advise them that they are discharged from service, or specify where they must thereafter report; and
 - d) Express appreciation to the jurors for their service, but not express approval or disapproval of the result of their deliberation.

All communications between the Judge and the members of jury 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.

Jury Facilities:

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

The registration areas shall be clearly identified and designed to accommodate the flow of jurors in the courthouse.

Jurors shall be accommodated in pleasant waiting facilities, furnished with suitable amenities.

Jury deliberation rooms shall include space, furnishings, and facilities conducive to reaching a fair verdict. The safety and security of the deliberation rooms shall be ensured.

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

The Municipal Court Building having been designated as a “non-smoking facility”; jurors who smoke shall do so outside the building, and they shall be accompanied by a bailiff during all such periods after having been empaneled as a juror.

Juror Compensation:

Persons called for jury service should receive a fee for their services and expenses pursuant to statutory authority. (2015 compensation is \$30.00 per day.)

Any juror wishing to waive his/her fee for service shall be permitted to do so in writing in the Clerk’s Office. All waived fees shall be returned to the City or County Treasury, as appropriate.

Employers SHALL BE PROHIBITED from discharging, laying off, denying advancement opportunities to, or otherwise penalizing employees who miss work because of jury duty. (O.R.C. 2312.18)

Jury Size and Verdict:

Jury size and verdict in civil and criminal cases shall conform with existing Ohio law.

Jury Deliberations:

Jury deliberations should take place under conditions and pursuant to procedures that are designed to ensure impartiality and to enhance rational decision making and shall conform with existing Ohio law.

The Judge should instruct the jury concerning appropriate procedures to be followed during deliberations.

A jury should not be required to deliberate after a reasonable hour unless the Trial Judge determines that evening or weekend deliberations would not impose an undue hardship on the jurors, and are required in the interest of justice.

Training should be provided to personnel who escort and assist jurors during deliberation.

Sequestration of Jurors:

A jury should be sequestered only for good cause, including but not limited to insulating its members from improper information or influence.

The Trial Judge shall have the discretion to sequester a jury on the motion of counsel or on the Judge’s initiative, and shall have the responsibility to oversee the conditions of sequestration.

Standard procedures should be promulgated to:

- 1) Achieve the purpose of sequestration; and
- 2) Minimize the inconvenience and discomfort of the sequestered jurors.

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

MONITORING THE JURY SYSTEM:

The Court may collect and analyze information regarding the performance of the jury system annually in order to 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) General juror satisfaction; to achieve this goal, the Court shall use a jury service exit questionnaire (see Appendix D) which will be provided to jurors at the conclusion of the trial. Responses will be kept confidential to permit and encourage information that may enhance juror service and the court's handling of juror issues and concerns.

ADMINISTRATION OF THE JURY SYSTEM:

The responsibility for administration of the jury system shall be vested exclusively in the Defiance County Municipal Court.

All procedures concerning jury selection and service should be governed by Ohio Rules of Court.

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CLERK

Appendix C
DEFIANCE MUNICIPAL COURT
665 Perry Street
Defiance, Ohio 43512
Phone: (419) 782-5756
JURY EXCUSAL FORM

The following form must be completed and returned prior to the date you have been summoned to report for jury service if you are requesting to be excused/deferred. ***Until this request is submitted and approved by the Judge, you are NOT excused from jury service.***

Jury service is a legal obligation of all qualified citizens of Defiance County, Ohio. Eligible persons who are summoned for jury duty 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 upon 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 service at a later time.

Individuals disqualified from jury service in Defiance Municipal Court are:

- Persons less than 18 years of age;
- Persons who are not residents of Defiance County;
- Persons who are not citizens of the United States;
- Persons who are not able to communicate in the English language; and
- Persons who have been convicted of a felony and have not had their civil rights restored.

The following factors constitute a partial, although not exclusive, list of excuses for which a person may be excused/deferred from jury service.

- Over age 70 with request to be excused;
- Personal/family illness;
- Physician, Fire fighter, Lawyer, Dentist;
- Full-time student
- Member of the Ohio National Guard or other branches of military service; and
- A prospective juror may petition the Court for deferral/exemption for vacation, child care, financial or employment hardships.

NAME: _____

Reason for excusal/deferment:

*Home/cellular telephone number: _____

*Required field

Appendix D

JURY SERVICE EXIT QUESTIONNAIRE
All responses are voluntary and confidential

- 1.) Have you ever served on a jury before? yes no
- 2.) How would you rate the following factors? (circle one)
- | | | | |
|--|------|----------|------|
| A.) Initial orientation | good | adequate | poor |
| B.) Treatment by Court personnel | good | adequate | poor |
| C.) Physical comforts | good | adequate | poor |
| D.) Personal safety | good | adequate | poor |
| E.) Parking facilities | good | adequate | poor |
| F.) Scheduling of your time | good | adequate | poor |
| G.) Compensation/juror fee; i.e. \$30.00 | good | adequate | poor |
- 3.) Did you lose income as a result of jury service? yes no
How much? _____
- 4.) Did you serve as a juror on a case? yes no
- 5.) After having served, what was your impression of jury service? a.) the same as before – favorable
 b.) the same as before – unfavorable
 c.) more favorable than before
 d.) less favorable than before
- 6.) If you were selected as a juror on a case, how would you rate the Judge and/or the attorneys?

- 7.) In what ways do you think jury service can be improved?

- 8.) Additional comments?

The following information will help evaluate the results and responses to this questionnaire.

- 9.) Age: 18-20 21-24 25-34 35-44 45-54 55-65 65-over
- 10.) Sex: Male Female
- 11.) Occupation: _____

Thank you for completing the survey. Your participation as a juror is valuable and appreciated.

Please return the survey in the enclosed self-addressed stamped envelope to:

Defiance Municipal Court
Attn: Clerk
665 Perry Street
Defiance, Ohio 43512

**IN THE MUNICIPAL COURT OF DEFIANCE
DEFIANCE COUNTY, OHIO**

**IN RE: AMMENDMENT TO LOCAL RULE
 2.12 MEDIATION
 EFFECTIVE JANUARY 1, 2020
 (REPLACES FORMER RULE 2.12)**

JOURNAL ENTRY

Effective January 1, 2020, **rule 2.12, MEDIATION**, is amended as follows:

1. Ohio Uniform Mediation Act:

Defiance Municipal Court (hereinafter the Court) incorporates by reference the R.C. 2710 "Uniform Mediation Act" (UMA).

2. Cases Eligible for Mediation:

- a. **General:** The Court has discretion to encourage parties to use mediation in any civil action filed in this court. A case may be submitted to mediation as provided in this rule. The Court may issue an order on its own motion, upon the motion of counsel, upon the request of a party, or upon referral by the mediator.
- b. **Exceptions:** Mediation is prohibited in the following:
 - i. As an alternative to the prosecution or adjudication of domestic violence;
 - ii. In determining whether to grant, modify, or terminate a protection order;
 - iii. In determining the terms and conditions of a protection order;
 - iv. In determining the penalty for violation of a protection order.
- c. Nothing in this division shall prohibit the use of mediation in a subsequent divorce or custody case, even though that case may result in the termination of the provisions of a protection order; or in a juvenile court delinquency case, even though the case involves juvenile perpetrated domestic violence.

3. Confidentiality

- a. **General:** All mediation communications related to or made during the mediation process are subject to and governed by the Uniform Mediation Act. Mediation communications are confidential, and no one shall disclose any of these communications unless all parties and the mediator consent to disclosure. This court may impose penalties for any improper disclosures

made in violation of this rule. Disputes regarding confidentiality should first be addressed with the mediator or mediation department where possible.

By participating in mediation, a nonparty participant, as defined by R.C. 2710.01(D), submits to the court's jurisdiction to the extent necessary for enforcement of this rule. Any nonparty participant shall have the same rights and duties under this rule as are attributed to parties, except that no evidence privilege shall be expanded.

b. **Exceptions:** All mediation communications are confidential with the following exceptions:

- i. Parties may share all mediation communications with their attorneys;
- ii. Certain threats of abuse or neglect of a child or an adult;
- iii. Statements made during the mediation process to plan or hide an ongoing crime; and
- iv. Statements made during the mediation process that reveal a felony.

4. Referral to Resources

The Northwest Ohio Court Mediation Services (hereinafter **Mediation Service**) will maintain information for the public, mediators, and other staff as appropriate.

The information will include:

- a. Attorney referral contact information;
- b. Information regarding children's services; and
- c. Resource information for local domestic violence prevention, counseling, substance abuse and mental health services.

5. Mediator Training and Education

A mediator shall meet the qualifications of and comply with all training requirements of Sup.R.16.23 and adopted pursuant to Sup. R. 16.22 governing mediators and mediation.

6. Mediator Selection and Assignment

The following methods may be used to select a mediator for the case:

- a. Unless stated otherwise all cases will be referred to the **Mediation Service**;
- b. Specific appointments may be made by the court taking into consideration the qualifications, skills, expertise, and caseload of the mediator in addition to the type, complexity, and requirements of the case. If a specific selection is to be made, the Court will advise the **Mediation Service** who shall pay mediation fees out of contract mediator funds. If there are insufficient funds available the **Mediation Service** shall immediately inform the Court and further Orders as to payment shall be made.; and
- c. Parties may request leave to select a mediator without guidance from the court. The court shall not be responsible for the quality of a mediator selected by the parties without guidance from the court and who does not meet the qualifications, education, and training requirements set forth in

section five above. Should the parties select their own mediator they shall be responsible for all mediation costs.

7. Procedures

In accordance with all applicable provisions of this rule, if a case is deemed appropriate by the Court (if the mediator is selected by the court) or by the Mediation Services for mediation, mediation may be scheduled.

A mediator may meet with the parties individually prior to bringing the parties together for any reason including, but not limited to, further screening. A mediator may schedule multiple mediation sessions, if necessary and mutually acceptable for the resolution of the issues in part or in their entirety.

8. Party/Nonparty Participation

Parties to informal cases, such as pre-filing or diversion, may voluntarily attend mediation sessions.

Parties who are ordered to mediation in formal cases shall attend scheduled mediation sessions. The court may order parties to return to mediation at any time in formal cases.

If counsel of any party to the mediation becomes aware of the identity of a person or entity whose consent is required to resolve the dispute, but has not yet joined as a party in the pleadings, they shall promptly inform the mediator, as well as the assigned judge or magistrate.

If the opposing parties to any case are 1) related by blood, adoption, or marriage; 2) have resided in a common residence; or 3) have known or alleged domestic violence at any time prior to or during the mediation, then the parties and their counsel have a duty to disclose such information to the mediator and have a duty to participate in any screening required by the court.

By participating in mediation, a nonparty participant, as defined by R.C. 2710.01(D), agrees to be bound by this rule and submits to the court's jurisdiction to the extent necessary for enforcement of this rule. Any nonparty participant shall have the rights and duties under this rule attributed to parties except as provided by R.C. 2710.03(B)(3) and 2710.04(A)(2).

9. Termination

If the assigned mediator determines that further mediation efforts would be of no benefit to the parties, he or she shall inform all interested parties and the court that the mediation is terminated using the procedure required by this court.

10. Stay of Proceedings

Upon referral of a case to mediation, the court may elect to stay all filing deadlines for up to 60 days. The clerk of courts shall not accept for filing any documents while a case is in mediation, unless expressly permitted by these rules or by court order.

In the event that the Court elects to stay the proceedings it shall issue an Order reflecting said stay.

Only the following documents may be filed while a mediation stay is in effect:

1. Motion to lift the mediation stay;
2. Response to a motion to lift mediation stay;
3. Motion or stipulation to dismiss the case; and
4. Notice related to counsel.

11. Continuances

It is the policy of this court to determine matters in a timely way. Continuances of scheduled mediations shall be granted only for good cause shown after a mutually acceptable future date has been determined. The case may be continued by the Mediation Services Coordinator or the judge or magistrate who referred the case. Except as authorized by the court, the existence of pending motions shall not be good cause for a continuance and no continuance will be granted unless the mediation can be scheduled prior to the final pretrial.

12. Fees and Costs

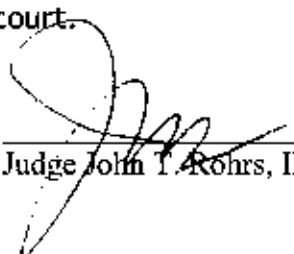
The court may impose upon the parties fees and costs for mediation. If there is a fee for mediation, unless otherwise agreed by the parties, the mediation fees shall be shared equally. The court may waive fees and costs for an indigent party. Mediation shall not be ordered if a party is indigent, unless the mediation is available at no cost to the party.

13. Attendance; Sanctions

If any individual ordered by the court to attend mediation fails to attend mediation without good cause, the court may impose sanctions, which may include, but are not limited to, the award of attorney's fees and other costs, contempt, or other appropriate sanctions at the discretion of the assigned judge or magistrate.

14. Evaluation, Comments, and Complaints

It is the policy of the court to use mediation to benefit the parties, to assist in reaching a resolution, and to provide a process that is timely, flexible, and maintains the trust and confidence of the people. Any mediation participant may submit written comments, complaints, or feedback regarding the performance of mediators receiving referrals from the court.



Judge John T. Rohrs, III

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CLERK OF COURT